

A Guide to Civil Litigation for Non-Attorneys in Local Government

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It is well-documented that litigation can be complex, burdensome, expensive, time-consuming, and stressful.¹ A single lawsuit can take years to resolve and cost tens or even hundreds of thousands of dollars. But local governments cannot altogether avoid litigation. In some ways, it is the cost of doing public business. Litigation can feel especially daunting and overwhelming for public officials and employees who are unfamiliar with the litigation process. This guide seeks to demystify and explain the various phases of litigation for employees and public officials in local government who are not lawyers.²

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1. See, e.g., Susan Evans, [Civil Litigation 101](#), N.C. ADVOCS. FOR JUST. (Dec. 14, 2016), <https://www.ncaj.com/news/civil-litigation-101>.

2. This explainer discusses civil litigation concepts that are not unique to local government litigation. Rather, it applies civil litigation concepts to the local government context. As such, this resource may also be useful to lawyers new to local government law.

I. Pre-Litigation

Underlying any litigation is a dispute between two or more parties, including individuals, businesses, units of government, or other organizations. A lawsuit may be filed for nearly any reason, legitimate or not. And the filing of a lawsuit does not necessarily mean that a local government unit or its officials and employees have done anything wrong or will be found liable.

Many things can happen before a lawsuit is even filed. For example, an aggrieved party, often through an attorney, could write a *demand letter*. This type of letter typically provides an informal overview of the factual basis for a party's legal claims, with a spoken or unspoken threat of litigation if the issue goes unresolved. Upon receipt of a demand letter or any other type of informal complaint threatening litigation, a local government employee or official should immediately notify their unit's legal counsel. Even if there is not an explicit threat of litigation, employees and officials should alert the local government attorney.³ In some instances, it may also be prudent to notify the local government's insurance carrier.⁴

A. Risk Assessment

Upon learning of potential litigation, a local government's attorney may formally advise employees and officials to preserve documents and other evidence related to the underlying dispute through a *litigation hold* letter. Compliance with the guidance in the letter is critical to ensure that relevant evidence is preserved for assessment of legal risk, the discovery process, and potential litigation. Additionally, depending on the allegations, the local government attorney may initiate an informal investigation to gather information and assess legal vulnerabilities through staff interviews and document collection. Local government employees and officials may be called upon to assist with this process.

B. Settling Differences

At any time, the parties may attempt to settle the dispute through methods of *alternative dispute resolution* such as negotiation, mediation, or arbitration. Under a *settlement agreement*, typically one party pays the other party some amount of money and the parties release claims against one another, thereby forgoing a lawsuit. Some settlements may also include terms that do not involve monetary payments.⁵ Most settlement agreements will be public records, subject to public inspection upon request.⁶

3. State law requires local governing boards to appoint an attorney to "serve at its pleasure and be its legal adviser." [Chapter 160A, Section 173 of the North Carolina General Statutes](#) (hereinafter G.S.) (municipalities); [G.S. 153A-114](#) (counties). The role of the local government attorney is to advise and advocate on behalf of the local government throughout all phases of litigation: assessment of legal risk, formal and informal settlement, trial preparation and strategy, and advocacy in the courtroom at hearings and trial. See, e.g., N.C. RULES OF PRO. CONDUCT [rs. 1.2, 1.13, 2.1](#). See also Chris McLaughlin, [Ethics and the Role of the Local Government Attorney](#), COATES' CANONS: NC LOC. GOV'T L. (Oct. 9, 2014), <https://canons.sog.unc.edu/2014/10/ethics-and-the-role-of-the-local-government-attorney/>. Sometimes outside counsel may be enlisted to represent a local government client on a particular matter.

4. Insurance policies often impose conditions upon the covered party, such as reporting certain serious claims.

5. It is worth noting that if a local government arbitrarily settles some claims against it and not other, comparable claims, it may be liable for denial of constitutional rights of due process and equal protection. See *Dobrowolska v. Wall*, 138 N.C. App. 1, 18–19 (2000).

6. [G.S. 132-1.3](#).

Settling the case allows the parties to exercise control over the outcome of the dispute and saves the parties the expense of attorneys' fees and other litigation costs. The parties may choose to continue voluntary efforts to settle the dispute even after a lawsuit has been filed. Courts now impose mandatory mediation in most civil disputes.⁷ Mandatory mediation often occurs after the parties have gathered information through discovery, discussed below.

State law expressly permits local governments to "appropriate funds for the purpose of paying all or part of a claim" against any current or former employee, public official, or local government unit in certain circumstances.⁸ Local governments are also authorized (but not required) to cover litigation costs in defense of current and former employees or officials, if the litigation is based upon any act or omission that allegedly occurred in the scope and course of the individual's employment or duty.⁹

II. The Lawsuit

If dispute resolution efforts are unsuccessful, the aggrieved party may initiate legal proceedings by filing a *complaint* with the court, along with payment of a fee, and serving the complaint and a *summons* upon the other litigant. A summons is the official notice of a lawsuit. Whoever initiates the lawsuit by filing the complaint is called the *plaintiff*. Whomever the lawsuit is filed against is called the *defendant*. Lawsuits can have multiple plaintiffs and defendants.¹⁰

Where the plaintiff files the lawsuit depends on the nature of the dispute. For example, a lawsuit alleging negligence against a local government, its officials, or its employees is typically brought in state superior court. A case may be filed in federal district court when it involves an alleged violation of an individual's right under the federal constitution or other federal laws. Depending on the amount in controversy, the case may be filed in state district or small claims court.

Media coverage, whether through formal news outlets or social media, is another reality of modern litigation. Local government officials and staff should anticipate media inquiries about pending litigation and be prepared to respond in whatever way is most prudent (e.g., directing all questions to counsel or a communications officer, reporting to a supervisor, etc.).

A. Complaint

Traditionally, the complaint¹¹ has a case caption identifying the parties, the name of the court, the county or federal district in which the lawsuit is filed, and the case number. The legal filing states the basis upon which the court can exercise jurisdiction over the subject matter, makes factual allegations, asserts legal claims and relief sought, and may allege that certain legal defenses and immunities do not apply. The parties should make their allegations in good faith,¹² though they routinely disagree about the facts. These allegations are typically formatted in a list of numbered paragraphs. In a suit against a local government, the complaint often alleges

7. [G.S. 7A-38.1\(a\)](#).

8. [G.S. 160A-167\(b\)](#) (municipalities); [G.S. 153A-97\(1\)](#) (counties).

9. [G.S. 160A-167\(a\)](#) (municipalities); [G.S. 153A-97\(1\)](#) (counties).

10. As in the pre-litigation stage, the parties may agree to settle a lawsuit at any time.

11. An excerpt from a recent complaint against a North Carolina local government is attached as [Appendix A](#) for reference.

12. [N.C. R. Civ. P. 11\(a\)](#).

waiver of governmental immunity.¹³ Among other remedies, the complaint may seek money to compensate the plaintiff for purported harm they have suffered (called *damages*) or an *injunction*, which is a court order requiring a person to take or cease a particular action.

Complaints can be written by *pro se* litigants, non-lawyers representing themselves. A *pro se* complaint may not look like a typical court filing. But again, any document with a court caption, even handwritten or informal, should be sent to counsel.

By way of illustration, each of the following legal claims against local governments in North Carolina has been considered by the state’s appellate courts within the last year:

- negligence for a city’s installation, maintenance, and timing of traffic signals, causing a car accident;¹⁴
- gross negligence in a town’s failure to warn of a depression in a bike lane during construction, where an e-scooter driver was injured;¹⁵
- violation of a student’s constitutional right to a safe learning environment, free from harassment, because a teacher physically assaulted the student;¹⁶
- negligence resulting from an injury to a news reporter by a town-owned truck in the town hall parking lot;¹⁷
- breach of easements, inverse condemnation, negligence, nuisance, and trespass after a city’s stormwater discharged into a private neighborhood’s dry lake beds during a hurricane;¹⁸
- breach of contract, negligent misrepresentation, and negligent hiring and retention for the loss of significant business opportunities and goodwill allegedly suffered by a contractor when there was a purported delay in the disbursement of funds through a city’s loan program for small businesses;¹⁹ and
- negligence against a city and firefighter after a motorcyclist was injured in a collision with a firetruck.²⁰

Local governments are not always the defendants in litigation. As a corporate power, they may sue and be sued.²¹ As referenced above, depending on the size of a fine, a local government may, for example, initiate an action to seek an injunction or collect a civil penalty following an ordinance violation.²²

13. See Trey Allen, [Pleading Waiver of Governmental Immunity: What’s Enough?](https://canons.sog.unc.edu/2017/11/pleading-waiver-of-governmental-immunity-whats-enough/), COATES’ CANONS: NC Loc. Gov’t L. (Nov. 14, 2017), <https://canons.sog.unc.edu/2017/11/pleading-waiver-of-governmental-immunity-whats-enough/>. In fact, if the complaint does not specifically allege a waiver of governmental immunity, the complaint “fails to state a cause of action.” *Paquette v. County of Durham*, 155 N.C. App. 415, 418 (2002).

14. *Orsbon v. Milazzo*, 297 N.C. App. 96 (2024).

15. *Saad v. Town of Surf City*, 297 N.C. App. 127 (2024).

16. *K.H. v. Dixon*, 296 N.C. App. 62 (2024).

17. *Creech v. Town of Cornelius*, 297 N.C. App. 31 (Dec. 2024).

18. *Devonwood-Loch Lomond Lake Ass’n v. City of Fayetteville*, 296 N.C. App. 26 (2024).

19. *Flomeh-Mawutor v. City of Winston-Salem*, 295 N.C. App. 104 (2024).

20. *Smith v. Lane*, ___ N.C. App. ___, 915 S.E.2d 465 (2025).

21. [G.S. 160A-11](#) (municipalities); [G.S. 153A-11](#) (counties).

22. See, e.g., [Complaint](#) at 1–2, *City of Greenville v. Camping World Prop., LLC*, No. 25CV004175-730 (N.C. Super. Ct., Pitt Cnty. June 4, 2025).

B. Service

The plaintiff must also ensure that the summons and complaint are properly served on the defendant. *Service* is the formal delivery of litigation documents that notifies the party being sued of the lawsuit.²³ The plaintiff must deliver a copy of the summons and complaint to all parties to the litigation. For municipalities, personal service on the mayor, city manager, or clerk is appropriate.²⁴ For a county, the county manager, chairperson, clerk, or any member of the board of commissioners may be served.²⁵ Service on other political subdivisions, including boards of education, is described in [Rule 4\(j\)\(5\)c](#) of the North Carolina Rules of Civil Procedure.

Generally accepted methods for service under the North Carolina Rules of Civil Procedure are service by an authorized individual, such as the sheriff of the county where service is to be affected, or delivery by registered or certified mail, return receipt requested.²⁶ Local government employees and officials should notify the town or county attorney (as well as its insurer) immediately upon receipt of a summons and complaint (or any other legal document). They should also follow their own internal policies on notifying supervisory officials. As the next section discusses, time is, quite literally, of the essence because there is a deadline to respond.

C. Answer

In North Carolina, a party has thirty days after service of the summons and complaint to respond,²⁷ whereas in federal court a response is generally required in twenty-one days.²⁸ Failure to respond to the complaint could result in the entry of default judgment against the defendant, meaning the defendant would lose the dispute without having the opportunity to present their side.²⁹ The response to the complaint is, quite appropriately, called the *answer*. Together, the complaint, answer, and other filings with the court make up the *pleadings*. Each phase of litigation, including the pleadings, is governed by state or federal rules of civil procedure and the local rules of the tribunal.³⁰

In many ways, the answer mirrors the complaint by admitting or denying each allegation in the complaint. In some circumstances, the defendant may determine that there is not enough information to admit or deny an allegation contained in the complaint. However, if the responding party fails to deny an allegation, it is deemed admitted.³¹ In the local government context, the answer often asserts affirmative defenses such as governmental immunity,³²

23. [Service](#), LEGAL INFORMATION INSTITUTE: WEX LEGAL DICTIONARY AND ENCYCLOPEDIA (Apr. 2025), <https://www.law.cornell.edu/wex/service>.

24. [N.C. R. CIV. P. 4\(j\)\(5\)a](#).

25. [Id.](#) at 4(j)(5)b.

26. [Id.](#) at 4(j).

27. [Id.](#) at 12(a)(1).

28. [FED. R. CIV. P. 12\(a\)\(1\)](#).

29. [N.C. R. CIV. P. 55\(b\)](#).

30. See generally [G.S. 1A-1](#) (North Carolina Rules of Civil Procedure); H.R. COMM. ON THE JUDICIARY, [FEDERAL RULES OF CIVIL PROCEDURE](#) (Dec. 1, 2024), <https://www.uscourts.gov/file/78323/download>.

31. Pleadings may also include *affidavits*, sworn personal statements that set forth facts to support allegations. Affidavits are based on personal knowledge and treated like testimony, offered under penalty of perjury. An affidavit accompanying a pleading filed by a local government might, for example, attest that the local government had neither purchased nor was covered by liability insurance.

32. See Trey Allen, [Local Government Lawyers: Take Care in Asserting Governmental Immunity](#), COATES' CANONS: NC LOC. GOV'T L. (Aug. 1, 2017), <https://canons.sog.unc.edu/2017/08/local-government-lawyers-take-care-in-asserting-governmental-immunity/>. An explanation of the doctrine of governmental immunity

expiration of the statute of limitations, failure to state a claim upon which relief can be granted,³³ or contributory negligence. Some defenses must be asserted in the answer or another pleading, or else they are waived.³⁴ The answer can also include *counterclaims* against the other party or assert claims against a third party through a *crossclaim*. For example, in one recent appellate case, the local government counterclaimed for breach of contract and unjust enrichment after a business owner sued the city, alleging breach of contract and negligence over the disbursement of funds from the city's small business loan program.³⁵

D. Motion to Dismiss

The answer is routinely accompanied by a *motion*, a written request made to the court to take a particular action in a case. A motion to dismiss, for example, seeks to dispose of certain claims or issues in a case. It is not uncommon for a local government defendant to file a motion to dismiss. This can be based on, among other things, arguments that the plaintiff does not have standing to file the lawsuit or that, even if the factual allegations are true, the complaint does not state a claim recognized under the law. If at least one claim in the lawsuit survives a motion to dismiss, the parties proceed to the next stage of litigation: discovery.

E. Discovery

Discovery is the pre-trial process for gathering evidence from the other parties. For local government officials and employees, discovery is probably the most arduous and tedious of all the phases of litigation. In a lawsuit against a local government, litigants often use public records requests as an informal discovery measure to gather information and documents before a lawsuit is filed or even during litigation.³⁶

For formal discovery, a party to civil litigation is generally required to produce, upon request, all documents, records, information, and tangible things relevant to the dispute that are within the party's possession, custody, or control. This includes information within the possession, custody, or control of the party's employees, officials, and contractors.³⁷ To satisfy

can be found in Rebecca Fisher-Gabbard, [Governmental Immunity Insights from the Court of Appeals](https://canons.sog.unc.edu/2024/09/governmental-immunity-insights-from-the-court-of-appeals/), COATES' CANONS: NC LOC. GOV'T L. (Sept. 19, 2024), <https://canons.sog.unc.edu/2024/09/governmental-immunity-insights-from-the-court-of-appeals/>. If a lawsuit names a public official, an "individual" immunity, such as legislative, public official, or quasi-judicial immunity, might be available. See Rebecca Fisher-Gabbard, [The State of Legislative Immunity for Local Government Officials](https://canons.sog.unc.edu/2025/05/the-state-of-legislative-immunity-for-local-government-officials/), COATES' CANONS: NC LOC. GOV'T L. (May 2, 2025), <https://canons.sog.unc.edu/2025/05/the-state-of-legislative-immunity-for-local-government-officials/> (discussing legislative immunity); Trey Allen, [Public Official Immunity for Intentional Torts? The Split Continues](https://canons.sog.unc.edu/2019/06/public-official-immunity-for-intentional-torts-the-split-continues/), COATES' CANONS: NC LOC. GOV'T L. (June 20, 2019), <https://canons.sog.unc.edu/2019/06/public-official-immunity-for-intentional-torts-the-split-continues/> (discussing public official immunity); Trey Allen, [Do Intentional Tort Claims Always Defeat Public Official Immunity?](https://canons.sog.unc.edu/2016/09/do-intentional-tort-claims-always-defeat-public-official-immunity/), LOC. GOV'T L. BULL. No. 139 (UNC School of Government, Sept. 2016) (discussing the same). For a full treatment of each immunity available to local governments in North Carolina, consult TREY ALLEN, LOCAL GOVERNMENT IMMUNITY TO LAWSUITS (UNC School of Government 2018).

33. [N.C. R. Civ. P. 12\(b\)\(6\)](#). See also Joseph Laizure, [When Can You File a Rule 12\(b\)\(6\) Motion to Dismiss?](https://civil.sog.unc.edu/when-can-you-file-a-rule-12b6-motion-to-dismiss/), ON THE CIV. SIDE: A UNC SCH. OF GOV'T BLOG (June 4, 2025), <https://civil.sog.unc.edu/when-can-you-file-a-rule-12b6-motion-to-dismiss/>.

34. [N.C. R. Civ. P. 12\(h\)\(1\)](#).

35. *Flomeh-Mawutor v. City of Winston-Salem*, 295 N.C. App. 104, 106 (2024).

36. DAVID M. LAWRENCE, PUBLIC RECORDS LAW FOR NORTH CAROLINA LOCAL GOVERNMENTS 230–32 (UNC School of Government 2009).

37. [N.C. R. Civ. P. 26, 34](#).

its production obligation, a litigant has a duty to preserve and retain all potentially relevant information (including relevant information created after the filing of the lawsuit), once it anticipates litigation.³⁸ A party must suspend its typical practices of deleting data and records with relevant information across the life of the case. In fact, a party may be subject to *sanctions* by the court for failure to preserve or produce relevant information.³⁹ The intentional destruction of evidence could also have serious consequences at trial. Under the doctrine of *spoliation*, “a party’s intentional destruction of evidence in its control before it is made available to the adverse party can give rise to an inference that the evidence destroyed would injure its (the party who destroyed the evidence) case.”⁴⁰

There are several common tools of discovery.

- *Subpoenas*⁴¹ are legal, written orders to compel an individual to provide testimony at a particular time and place or provide certain documents, where failure to comply may be punishable by contempt.
- *Interrogatories* are written lists of questions requiring written responses under oath.
- *Requests for production* are written lists of requests requiring the other party to produce particular documentation, evidence, or information.
- *Requests for admission* are written lists of requests that the other party admit or deny statements about specific facts or evidence under oath.
- *Depositions* are out-of-court testimonies given under oath in the presence of a court reporter, who produces a transcript.⁴²

Written discovery, such as admissions or interrogatories, can be served with a state court complaint. All discovery must be answered within the applicable deadline. Failure to respond timely can result in admitting facts that cannot later be challenged or in waiving otherwise valid objections.

The parties also identify and exchange information about witnesses during the discovery period. *Witnesses* are individuals who might be called upon to testify or provide evidence at trial by offering firsthand accounts that can support or refute claims.⁴³ The most common types are

38. [N.C. R. Civ. P. 37](#).

39. See *id.*; Kara Millonzi, [Mayor Learns a Harsh E-Discovery Lesson](#), COATES’ CANONS: NC LOC. GOV’T L. (Dec. 22, 2014), <https://canons.sog.unc.edu/2014/12/mayor-learns-a-harsh-e-discovery-lesson/>. School of Government faculty member [Kara Millonzi](#) has written extensively on other electronic discovery issues. See, e.g., Kara Millonzi, [E-Discovery in North Carolina Courts: An Overview of Recent Amendments to the North Carolina Rules of Civil Procedure](#), COATES’ CANONS: NC LOC. GOV’T L. (Sept. 22, 2011), <https://canons.sog.unc.edu/2011/09/e-discovery-in-north-carolina-courts-an-overview-of-recent-amendments-to-the-north-carolina-rules-of-civil-procedure/>.

40. *Holloway v. Tyson Foods, Inc.*, 193 N.C. App. 542, 547 (2008) (quoting *Red Hill Hosiery Hill, Inc. v. Magnetek, Inc.*, 138 N.C. App. 70, 72 (2000)).

41. [N.C. R. Civ. P. 45](#). A portion of the North Carolina subpoena form ([AOC-G-100](#)) is attached as [Appendix B](#).

42. The North Carolina Rules of Civil Procedure also allow a party to depose an organization (as opposed to an individual), including a governmental agency. For this type of deposition, the local government must designate one or more officers, directors, or others to testify on behalf of the organization. The designated individuals testify to “matters known or reasonably available to the organization.” Serving as the local government’s designee for this deposition is critically important and requires extensive preparation. [N.C. R. Civ. P. 30\(b\)\(6\)](#).

43. [N.C. R. Evid. 601](#).

fact and expert witnesses. A *fact witness* testifies based on personal knowledge of the facts or events in a case,⁴⁴ while an *expert witness* is a witness qualified as an expert through “knowledge, skill, experience, training, or education” to assist the trier of fact with understanding a complex scientific, technical, or specialized issue.⁴⁵ As with an initial investigation, the local government attorney may require the assistance of certain employees or officials in locating relevant documentation (in all forms) and identifying staff or public officials to testify as fact witnesses at trial.⁴⁶

Depending on the nature of the information requested, discovery for local governments may interact with confidentiality laws, such as those protecting personnel⁴⁷ or student education⁴⁸ records. In those instances, local government lawyers will provide necessary redactions and evaluate whether a particular record should or must be withheld. The local government attorney may even seek a protective order from the court to limit or withhold certain information entirely⁴⁹ or assert some privilege, such as attorney work product or attorney-client communication.⁵⁰ The parties may also file motions during discovery seeking court rulings on issues of evidence or procedure, some of which require hearings, in anticipation of trial.

At the close of discovery, the parties may move for *summary judgment*. A motion for summary judgment must demonstrate that there is no genuine dispute as to any material fact such that the party making the motion is entitled to judgment as a matter of law.⁵¹ Put differently, the motion asks the court to decide the case without a trial, based only upon the pleadings, discovery, and arguments. If a judge grants a motion for summary judgment on a particular claim, that legal claim is resolved and does not move forward to trial. However, if the motion is denied on one or more claims, those claims proceed to trial.

III. Trial

The good news for litigants on both sides is that very few civil cases are ever tried.⁵² If the parties fail to settle and the case has not been resolved through a motion, the case will be scheduled for trial. Many individuals participate in a trial: the plaintiff, the defendant, the judge, the jury (if demanded), the clerk of superior court, the court reporter, courtroom security, the attorneys, and various witnesses. Local government employees and officials with knowledge of the dispute or relevant documentation may be called to testify at trial or served with a subpoena to compel their attendance. Counsel for the local government is responsible for preparing witnesses. If the parties waive their right to a jury trial, a judge will hear the case in a bench trial.

44. *Id.* at 602.

45. *Id.* at 702.

46. [N.C. R. Civ. P. 26\(b\)](#).

47. [G.S. 160A-168](#) (municipalities); [G.S. 153A-98](#) (counties); [G.S. 115C-321](#) (schools). For a full discussion regarding the discovery of nonpublic or confidential records, see LAWRENCE, *supra* note 36, at 125–28.

48. [20 U.S.C. \(United States Code\) § 1232g](#) (Family educational and privacy rights); [34 C.F.R. \(Code of Federal Regulations\), pt. 99](#) (Family Educational Rights and Privacy).

49. [N.C. R. Civ. P. 26\(c\)](#).

50. *Id.* at 26(b)(1), (3).

51. *Id.* at 56.

52. [Lawsuits](#), N.C. JUD. BRANCH, <https://www.nccourts.gov/help-topics/lawsuits-and-small-claims/> (last visited July 10, 2025).

A jury trial typically includes the following phases: jury selection (*voir dire*), jury instructions, opening statements, witness examinations (direct examination, cross-examination, and redirect examination), objections, closing arguments, a second round of jury instructions, jury deliberations, and verdict. In many civil cases, the burden rests with the plaintiff to demonstrate by a preponderance of evidence (i.e., more likely than not) that the defendant is responsible for harming the plaintiff.

A. Appeal

Unless the parties reach a settlement, the reality of litigation is that one party wins and the other loses. The party not satisfied with the result may appeal the decision to the next highest tribunal, such as an appellate court. Appellate litigation entails briefing (and more motions) as well as the potential for oral arguments. Only issues preserved at trial may be appealed. The appellate court's review is not a retrial but is limited to evaluating whether legal error existed at the trial court level based on the appellate record. A final appeal may lie with the North Carolina Supreme Court or United States Supreme Court (depending on the underlying action), though very few petitions are granted. A case may take several years⁵³ to move through the appellate process and reach final resolution. In part, this is because an appellate court may *remand* a case—that is, send a case back to the trial court for further consideration or action—and subsequent appeals may follow.

B. Judgment

Upon the exhaustion of all appeals, the losing party must comply with the *judgment* of the court. A judgment is a “court’s decision about the parties’ rights and obligations in a case, including the amount of money one party must pay another.”⁵⁴ The default rule is that each party must pay its own attorneys’ fees, but some statutes provide for the recovery of fees against local governments.⁵⁵ For example, state law mandates the award of reasonable attorneys’ fees to a party that successfully challenges local government action that exceeds the “unambiguous limits” on its authority (and it authorizes fees in other instances).⁵⁶ Where an individual compels the disclosure of public records, they may recover reasonable attorneys’ fees from the local government or, in some instances, a public employee or official.⁵⁷ A similar remedy exists for the prevailing party in a dispute alleging a violation of the open meetings law.⁵⁸ If a local government is found liable for injuries caused to an individual while on government property, for example, it may be required to compensate them for emotional distress or permanent injury or to pay for

53. In conversation, an experienced local government litigator once said that her “personal record” was seven years for a single case.

54. [N.C. R. Civ. P. 58](#); N.C. JUD. BRANCH, *supra* note 52.

55. *See, e.g.*, [42 U.S.C. § 1988\(b\)](#) (permitting the recovery of reasonable attorneys’ fees for the prevailing party in civil rights actions).

56. [G.S. 6-21.7](#).

57. [G.S. 132-9\(c\)](#).

58. [G.S. 143-318.16B](#).

their medical bills (or both).⁵⁹ As with their power to settle legal claims, local governments are authorized to appropriate funds to pay a judgment entered against the unit or any employee or official based on an act or omission in the scope of their employment.⁶⁰

The judgment only establishes the prevailing party's right to collect payment of a certain amount from the other party. Many parties reach an agreement about the terms of payment after the judge or jury decides how much money one party must pay the other. If there is no agreement, the winning party can begin the collections process. The clerk of court records the judgment, and if the judgment is not paid, interest may begin to accrue.⁶¹

IV. Conclusion

As this guide demonstrates, civil litigation can be exceedingly complex, especially for those without legal training. A basic understanding of the various stages of litigation is a good first step. Following internal trainings, policies, and procedures goes a long way too. The local government attorney will accompany and guide staff and officials along the journey. And the sooner the lawyer knows about potential litigation, the sooner the lawyer can "right the ship."

59. See Trey Allen, *Governmental Immunity for Local Government Buildings: What Are the Current Rules?*, COATES' CANONS: NC LOC. GOV'T L. (July 25, 2014), <https://canons.sog.unc.edu/2014/07/governmental-immunity-for-local-government-buildings-what-are-the-current-rules/>.

60. [G.S. 160A-167\(b\)](#) (municipalities); [G.S. 153A-97\(1\)](#) (counties).

61. See [N.C. R. Civ. P. 58](#); [G.S. 24-1](#) (fixing the legal rate of interest at 8 percent).

Appendix A. Sample of a Filed Complaint

STATE OF NORTH CAROLINA

COUNTY OF FORSYTH

LIVINGSTONE FLOMEH-MAWUTOR,
GEORGINA MICHAEL SHENJERE and
KONSIKRATED MORINGA FARMS d/b/a
MORE THAN MANNA,

Plaintiffs,

vs.

CITY OF WINSTON-SALEM,

Defendant.

FILED

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

2022 AUG -9 P 3:03 22 CVS 3734

FORSYTH CO., C.S.C.

891

COMPLAINT

NOW COMES Plaintiffs Livingstone Flomeh-Mawutor, Georgina Michael Shenjere and Konsikrated Moringa Farms d/b/a More Than Manna (collectively as "Plaintiffs") complains of Defendant City of Winston-Salem ("Defendant") as follows:

PARTIES, JURISDICTION AND VENUE

1. Plaintiff Livingstone Flomeh-Mawutor is a citizen and resident of Forsyth County, North Carolina.
2. Plaintiff Georgina Michael Shenjere is a citizen and resident of Forsyth County, North Carolina.
3. Plaintiff Konsikrated Moringa Farms d/b/a More Than Manna, is a sole proprietorship that has a principal place of business in Forsyth County, North Carolina.
4. The Defendant City of Winston-Salem is a municipality in North Carolina.
5. This court has jurisdiction over the parties pursuant to N.C. Gen. Stat. §1-75.4 and venue is proper.

Appendix B. North Carolina Subpoena Form

STATE OF NORTH CAROLINA		File No. _____
_____ County		In The General Court Of Justice ☐ District ☐ Superior Court Division
_____		Additional File Numbers _____
VERSUS		SUBPOENA G.S. 1A-1, Rule 45; 8-59, -61, -63; 15A-801, -802

Party Requesting Subpoena ☐ State/Plaintiff ☐ Defendant	NOTE TO PARTIES NOT REPRESENTED BY COUNSEL: Subpoenas may be produced at your request, but must be signed and issued by the office of the Clerk of Superior Court, or by a magistrate or judge.	
TO	Name And Address Of Person Subpoenaed Telephone No. _____	Alternate Address Telephone No. _____
YOU ARE COMMANDED TO: (check all that apply) ☐ appear and testify, in the above entitled action, before the court at the place, date and time indicated below. ☐ appear and testify, in the above entitled action, at a deposition at the place, date and time indicated below. ☐ produce and permit inspection and copying of the following items, at the place, date and time indicated below. ☐ See attached list. (List here if space sufficient)		
Name And Location Of Court/Place Of Deposition/Place To Produce		Date To Appear/Produce, Until Released Time To Appear/Produce, Until Released _____ ☐ AM ☐ PM Date _____
Name And Address Of Applicant Or Applicant's Attorney		Signature _____
Telephone No. Of Applicant Or Applicant's Attorney		☐ Deputy CSC ☐ Assistant CSC ☐ Clerk Of Superior Court ☐ Magistrate ☐ Attorney/DA ☐ District Court Judge ☐ Superior Court Judge