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## Court system crippled

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Budget cuts are impeding justice

A man sues a doctor for failure to diagnose cancer. His trial is cancelled this month and continued to June. He will not likely be alive then.

A widow seeks return of money for a siding job that never happened. Businesses and doctors seek money from people who failed to pay for a product or service. But guess what? These cases are no longer heard in the biggest courts in our state.

The New Hampshire judiciary has been crippled by severe budget cuts.

There are 230,000 cases filed in New Hampshire courts each year. Judges cannot decide cases without someone processing them, scheduling them, getting orders out and otherwise processing paperwork. Additionally, each month thousands of orders have to go to the office of child support enforcement, various criminal law agencies and to parties involved in marital and civil cases. The cuts have slowed this process dramatically.

In the non-criminal area, the state Constitution says that everyone is entitled to a certain remedy for all injuries received and that they are to obtain it "completely, and without any denial; promptly, and without delay."

The purpose of that provision is to make civil remedies readily available and to guard against arbitrary denial of access to the courts. It is an equal protection clause because, whether you are suing someone or being sued, you want to have your case resolved as soon as possible.

Further, the Supreme Court has said the right to recover for one's injuries is an important substantive right under the New Hampshire Constitution.

The New Hampshire Supreme Court also said that this provision means "to make civil remedies readily available" and to guard against improper "infringement of access to the courts."

Canceling civil jury trials due to inadequate funding does not constitute protection of a "sacred" right to trial by jury under Part I, Article 20.

The denial of the right to civil jury trials has been among the hallmarks of tyranny from our earliest days. The right to trial by jury was often denied by the royal government of New Hampshire. One of the reasons given for the Declaration of Independence was that the government was "depriving us, in many cases, of the benefits of trial by jury."

Many court cases have time frames set by the Legislature.

Thus, work on such cases means others must be delayed if judge time is lacking due to vacancies. For instance, in 2009, there were 5,300 cases of domestic violence with hearings required between five or 30 days of filing, depending on the request.

Stalking cases were 1,470 in number, with the same time requirements. Landlord/tenant cases, about 9,600 a year, must be heard 10 days from service of process. Involuntary emergency admissions to the New Hampshire Hospital were filed 1,700 times last year, and they must be heard within three days of hospitalization.

Families are also heavily affected by the lack of a judge to help decide their disputes. There were 7,200 juvenile cases, 10,000 new divorce or family petitions and 7,000 closed cases reopened for parenting or lack of child support issues heard last year alone.

Last year, there were \$3.1 million of cuts out of a judicial branch budget of about \$65 million, with another \$2.2 million hit in May. Concord District Court, a three-judge court, is now operating with one full-time judge. Due to the reduction in personnel, a form letter went out this summer canceling all civil trials.

Small claims cases were all cancelled in the Manchester District Court this summer for an indefinite period.

On July 22, Merrimack County Superior Court began closing to the public daily from 1 to 4 p.m. As of June 30, it had nearly 500 case files with pieces of mail that had yet to be docketed in the court record, with some documents dating back to March.

Another 150 trial and hearing notices had not been sent out, and more than 350 files contained court orders that had not been issued.

That is why a number of citizens and lawyers will be filing suit against the state this month to protect your rights to a trial. If you have a case delay or horror story, e-mail us at [info@nojusticenrh.org](mailto:info@nojusticenrh.org).

***(Chuck Douglas is a former Superior and Supreme Court justice who is now an attorney practicing law in Concord.)***

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