UNREASONABLE

The Dramatic Rise in Attorney Fees Charged to Tenants in Virginia Residential Eviction Proceedings

VPLC Virginia Poverty Law Center

VPLC Housing Advocacy

RVA Eviction Lab

VCU Research Institute for Social Equity
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TABLE OF CONTENTS

VIRGINIA POVERTY LAW CENTER &
VCU'S RVA EVICTION LAB

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WHO WE ARE

VIRGINIA POVERTY LAW CENTER

Virginia Poverty Law Center (VPLC) is a 501(c)3 nonprofit organization committed to breaking down systemic barriers that keep low-income Virginians in the cycle of poverty through advocacy, education, and litigation. Since 1978, VPLC has advocated for legislation that benefits low-income Virginians and provided training to legal aid organizations throughout the Commonwealth in the following areas: housing, consumer rights, domestic and sexual violence, elder rights, family and child welfare, health insurance, and public benefits.

VPLC is the only statewide organization that provides training to local legal aid program staff, private attorneys, and low-income clients relating exclusively to the legal rights of low-income Virginians.

Visit VPLC's website at www.vplc.org.

RVA EVICTION LAB

Created in August, 2018, the RVA Eviction Lab has a primary mission of collecting, analyzing and disseminating data and research that will:

- Inform policy-making that will support stable housing for low- and moderate-income households;
- Facilitate shared knowledge production about community needs and opportunities; and
- Support efforts of communities most impacted by housing instability to research and advocate for themselves.

RVA Eviction Lab uses two primary approaches to advance these goals. First, it provides data analysis and written reports to decision-makers, policy advocates and government agency staff about eviction-related trends, policies and structural bases. Second, it engages with community-based organizations to provide community-relevant research and data that can be used for knowledge-building and action.

Visit RVA Eviction Lab's website at RVAevictionlab.org.

ACKNOWLEDGEMENTS

Many generous individuals contributed their experiences and insights for this report, especially housing advocates (attorneys from Virginia's excellent legal aid programs and others) and residents throughout Virginia. Annika Schunn assisted with research and analysis. Karen Heredia provided valuable editing and layout help. VPLC's Christie Marra, Janae Craddock, and Daniel Rezai offered helpful feedback.

We want to particularly recognize the Legal Services Corporation's Civil Court Data Initiative, which provided the data collected from public court records for RVA Eviction Lab's analysis. Its excellent research can be viewed at civilcourtdata.lsc.gov.

Petersburg Courthouse

SUMMARY

On February 12, 2024, an attorney walked into a courtroom in Henrico County, Virginia to represent a pair of landlords in about 40 eviction cases. Many of the defendants didn't appear, and the cases proceeded swiftly, as is common with evictions. The attorney walked out of court about an hour later.

The court gave the landlords the right to evict, but also ruled that the tenants in those cases owed a combined $50,000 in fees to compensate the landlords' attorney—an amount strikingly disproportionate to the actual work involved: roughly one hour in court and a little time to prepare and file the paperwork.

Virginia law permits landlords to charge "reasonable" attorney fees to their tenants who are facing eviction. The Virginia Supreme Court has ruled that judges must verify that the fees are reasonable in each individual case. While some Virginia courts require attorneys to submit affidavits justifying their fees, observers report that many judges routinely award substantial attorney fees without any explicit justification or scrutiny.

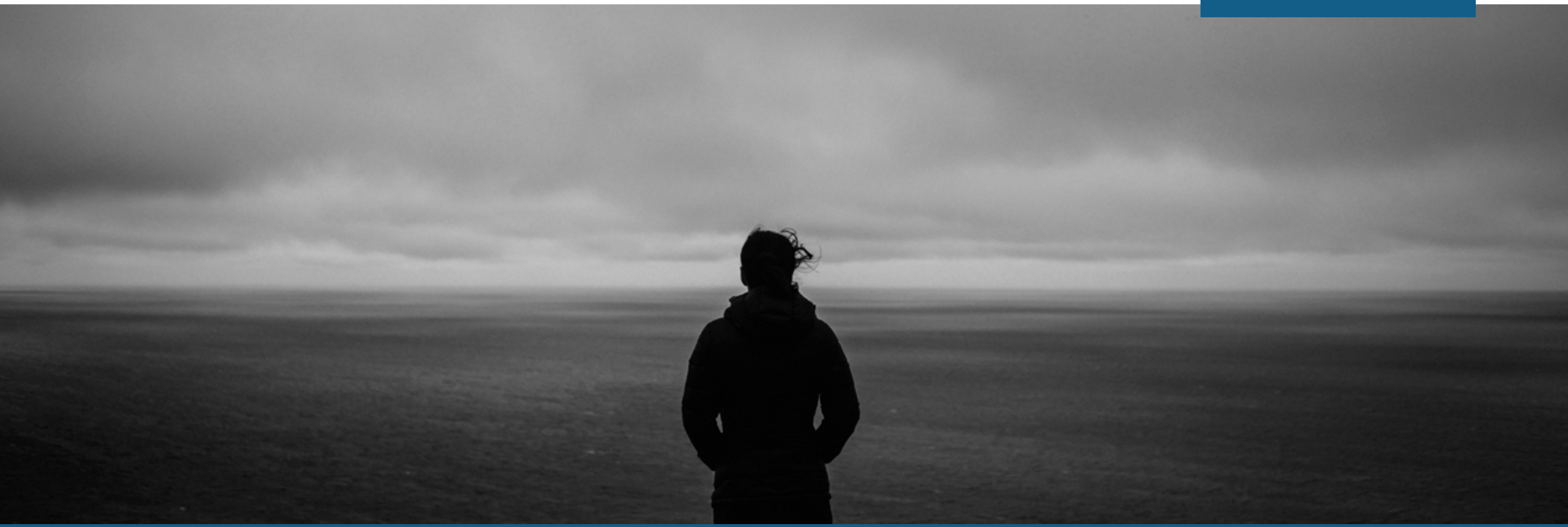
The $50,000 combined award is an outlier, but in 2024 it was not uncommon throughout Virginia for eviction dockets (groups of cases heard together) to end with attorney fee awards of $15,000 or more for a single attorney. The out-of-court preparation time for each case was often minimal, as many landlord attorneys benefit from economies of scale when handling multiple similar cases.

In 2024, in residential eviction cases across Virginia, judges awarded nearly $18 million in attorney fees. This represents a 48% increase from pre-COVID levels in 2019 (adjusted for inflation), even as the number of eviction judgments decreased by 19%.

More and more tenants, already struggling financially and unable to make ends meet, are now burdened with significant additional debt, often without explanation.

Inflated attorney fees don't just create financial hardship. Excessive fees can prevent tenants from exercising their legal rights to avoid eviction—either by making it impossible to pay off their total debt or by creating bond requirements too high for them to appeal court decisions. The additional debt that remains on public court records also makes it harder to find new housing after eviction.

This report documents how excessive attorney fees have become a growing burden for tenants across Virginia despite clear legal standards requiring these fees to be "reasonable." It shares court data indicating the frequency and scope of the issue as well as stories of affected tenants. Finally, it concludes with practical recommendations that courts, legislators, and tenants can implement to ensure attorney fees align with legal requirements and the actual work performed.



1. THE PROBLEM

Excessive attorney fees threaten to undermine tenant rights and contribute to housing instability across the Commonwealth.

By the time most Virginia tenants go to court for an eviction case, they already face a growing debt of unpaid rent and late fees. On top of this, many landlords charge tenants for court costs and attorney fees. While Virginia law requires attorney fees to be reasonable and determined by a judge, housing advocates across the state report that many judges frequently approve whatever fees landlords request without ensuring they are reasonable and justified. As a result, too many tenants face excessive debt that makes it harder to catch up and stay in their homes or find new housing.

This problem is compounded by the rapid pace of eviction proceedings, which leaves little time for proper review of fee requests. Most eviction cases are decided in a single, quick hearing. In 2024, 79% of eviction filings in Virginia were resolved at the first court date.

Many landlord attorneys file large numbers of cases at once, allowing them to secure judgments on dozens of cases with just one brief court appearance. In many courtrooms, eviction proceedings operate like a well-oiled machine, with judges rapidly issuing one judgment after another, often with few tenants present or able to raise objections.

Despite the minimal time and effort typically required to obtain an eviction judgment, landlords are increasingly requesting—and judges are granting—larger attorney fee awards. This includes what we characterize as "egregious" awards: $1,000 or more for a judgment at a case's first and only hearing.

These escalating fee awards may not only violate the legal standards meant to protect tenants from unreasonable costs but also create a system where the most vulnerable renters bear an increasingly disproportionate financial burden at their moment of greatest housing instability.

2. THE LAW

Understanding the legal standards for attorney fees in eviction cases is essential to recognizing how current practices often contradict established law. Virginia's legal framework already provides clear guidelines for what constitutes "reasonable" attorney fees, but advocates report these standards are frequently overlooked in practice.

"UNREASONABLE ATTORNEY FEE AWARDS CAN ROB FAMILIES OF THEIR LEGAL RIGHT TO REMAIN IN THEIR HOMES."

ATTORNEY FEES MUST BE REASONABLE

Any attorney fees charged to defendants in court cases in Virginia must be "reasonable." The Virginia Supreme Court established this rule more than a century ago and has consistently upheld it for decades.[1] Judges are required to evaluate the attorney fees in each individual case based on several factors to determine if they're reasonable "under the facts and circumstances of the particular case."[2]

Many leases will attempt to set attorney fees by formula, such as a fixed percentage of unpaid rent and other charges—usually 25% but sometimes more. These percentage-based formulas often still result in fees of hundreds or sometimes thousands of dollars, even for cases that require minimal effort.

If the renter objects to the amount, the court is required to review the fees to make sure they are reasonable. The judge must assess each case according to a set of factors the Virginia Supreme Court has identified.[3] This requirement applies even when a landlord claims attorney fees will be needed in the future to collect on the judgment.[4]

ACTUAL COURT PRACTICES

Despite the Virginia Supreme Court's clear guidance, tenants and their advocates report that in many General District Courts throughout Virginia, judges rarely review attorney fee amounts or mention any of the factors they are supposed to consider.[5]

Instead of weighing the time and tasks actually performed by the landlord's attorney, judges often approve attorney fees calculated as a percentage of rent and other amounts due, either because the lease specifies this formula or as a simple rule of thumb. The Richmond General District Court formalized a percentage rule in 2016, but advocates report that many other courts appear to follow similar unwritten practices.[6] This practice burdens thousands of families, already in debt to their landlords, with additional unreasonable costs that should not be permitted under the law.

ERODING TENANTS' RIGHTS

The effects of unreasonable, inflated attorney fee awards are not just the millions of dollars in increased tenant debt. They can effectively rob some families of their legal right to remain in their homes.

RIGHT OF REDEMPTION

Virginia law gives tenants who have fallen behind on rent two opportunities to save their housing:

1. Tenants have the right to get an eviction case dismissed if they can pay what they owe their landlord, including attorney fees, before the first court date.
2. Even after losing in court, tenants still have the right to stay in their home if they pay their entire debt at least 48 hours before their final eviction scheduled by the sheriff.[7]

Inflated attorney fees can push the amount needed to exercise this right out of reach for families already struggling to pay their back rent. As described in section 4 of this report, some tenants who might otherwise qualify for emergency rental assistance programs end up evicted anyway because these programs won't cover unreasonably high attorney fees.

RIGHT OF APPEAL

Virginia law makes appealing eviction judgments nearly impossible for many. While most poor Virginians can appeal General District Court decisions without paying a bond, tenants behind on rent face a different standard.[8]

To appeal an eviction judgment, these tenants must pay the court—within just 10 days—the full amount of:

- All unpaid rent
- Any damages awarded
- All attorney fees approved by the court

When attorney fees are inflated, this can effectively block access to the appeals process. A tenant who might have been able to gather enough money to cover their legitimate rent debt may find it impossible to also pay hundreds or thousands of dollars in excessive attorney fees within the short 10-day window.

These legal rights—redemption and appeal—provide critical protections for tenants, but only to the extent they are financially accessible.

3. THE NUMBERS

While Virginia law and Supreme Court precedent clearly require attorney fees to be "reasonable" and individually assessed, the data suggests the reality may be different in many courtrooms across the Commonwealth.

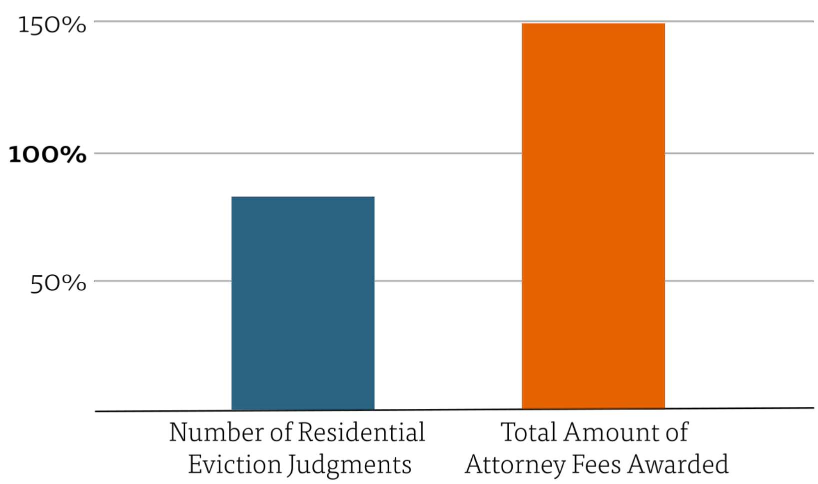
Before COVID-responsive eviction protections came into effect in 2020, Virginia courts ordered tenants to pay millions in attorney fees each year. When those protections ended, something unexpected happened: while eviction filings and judgments remained below pre-pandemic levels, attorney fee awards increased dramatically.

COMPARING 2024 TO 2019

EVICTION JUDGMENTS HAVE FALLEN, BUT ATTORNEY FEES HAVE GROWN

In 2024, compared to the last pre-pandemic year of 2019, the number of attorney fee awards in eviction cases and their aggregate amounts showed a notable pattern: while the total number of eviction judgments dropped by 19%, the total amount of attorney fees charged to tenants increased by 48% (after adjusting for inflation). This means fewer tenants are being ordered to pay substantially more in attorney fees than before the pandemic.

Statewide Totals: 2024 Compared to 2019 (100% = 2019 totals)



STATEWIDE NUMBERS

KEY INDICATORS

Eviction judgments were ▼ **down 19%**.

- 87,663 in 2019
- 71,336 in 2024

Attorney fees were ▲ **up 48%**.

- $12 million in 2019 (in 2024 dollars)
- $17.8 million in 2024

OTHER INDICATORS

The share of judgments with attorney fee awards ▲ increased by **nearly 50%**:

- 44% in 2019
- 61% in 2024

Cases with the most egregious attorney fee awards ($1,000 or more for a judgment at the first hearing) ▲ increased by **more than 250%**:

- 346 cases in 2019
- 1255 cases in 2024

COMPARING JURISDICTIONS

The statewide trends are concerning, but several key Virginia jurisdictions show even more dramatic increases in attorney fee awards.

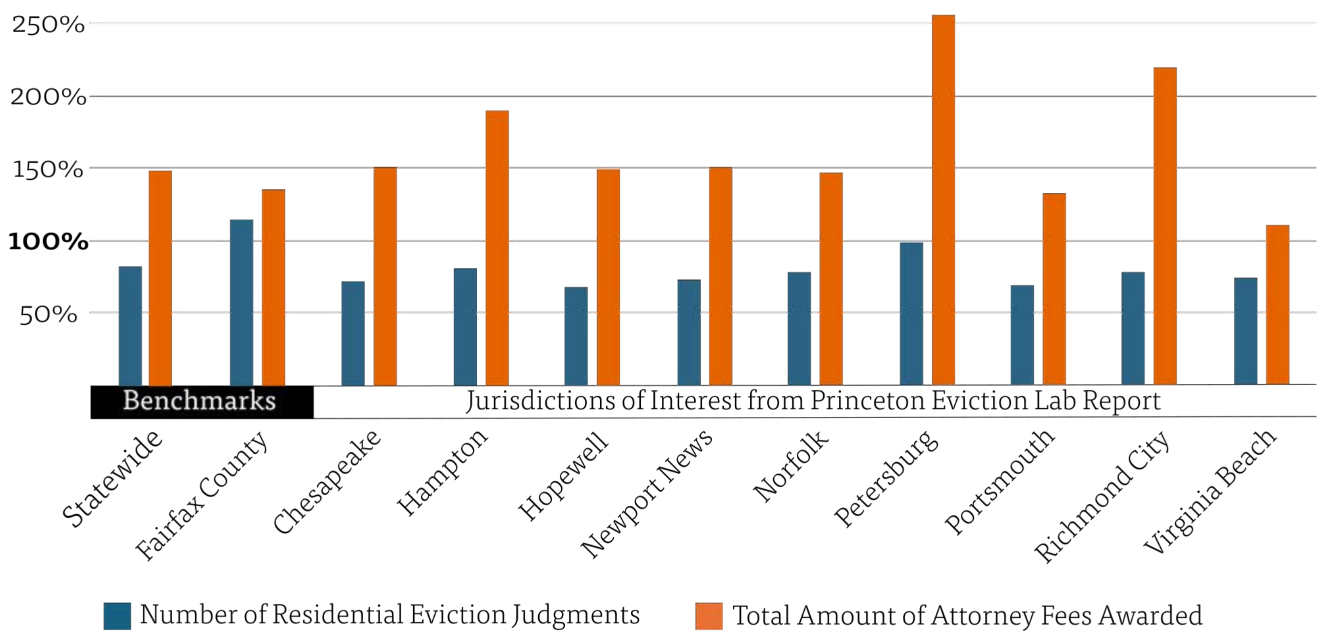
In 2018, Princeton's Eviction Lab released nationwide data on eviction rates and listed several Virginia cities among the highest-evicting jurisdictions in America.[9] The data show that most of these same jurisdictions also seem to disproportionately burden tenants with attorney fee awards.

Collectively, the nine jurisdictions identified in the Princeton Eviction Lab report had a larger drop in the number of judgments and an even greater increase in the total attorney fees, compared to statewide.

KEY INDICATORS IN THE SELECT JURISDICTIONS

- Eviction judgments were ▼ **down 24%**.
- Attorney fees were ▲ **up 68%**.

Select Jurisdictions: 2024 Compared to 2019 (100% = 2019 totals)



OTHER INDICATORS IN THE SELECT JURISDICTIONS

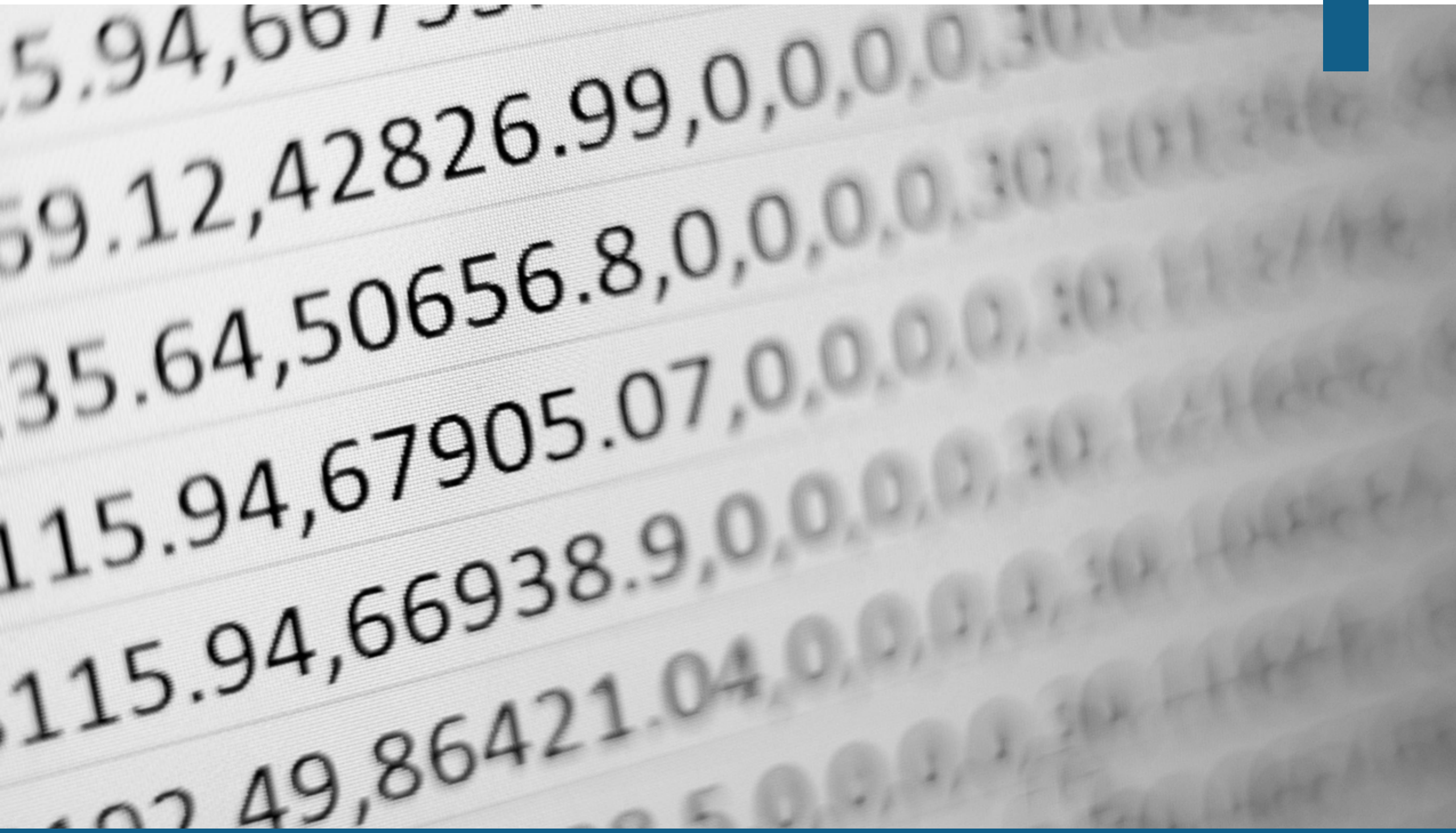
The number of cases resulting in egregious attorney fee awards ($1,000 or more for a judgment at the first hearing) **grew at least 500%** in several of the jurisdictions:

- Hampton (6 in 2019, 47 in 2024)
- Newport News (15 in 2019, 92 in 2024)
- Petersburg (5 in 2019, 40 in 2024)
- Richmond (20 in 2019, 186 in 2024)

By contrast, Fairfax County—which has more than twice as many renter households as any other jurisdiction in the state[10]—shows a different pattern: the change in its relative burden of attorney fees assessed in eviction cases is much less than the statewide average.

- Number of eviction judgments were ▲ **up 15%**.
- Total amount of attorney fees assessed to tenants was ▲ **up 35%**.

Notably, advocates report that the court in Fairfax (and many other General District Courts in Northern Virginia) typically will not award attorney fees in eviction cases unless supported by an attorney's affidavit to describe and justify the fees.



4. THE HUMAN IMPACT

Behind the statistics are real families whose lives have been upended by excessive attorney fees. These simple examples show how inflated legal costs trap tenants in cycles of debt and housing instability.

"THEY PUT ME IN A DEEPER AND DEEPER HOLE I COULDN'T GET OUT OF."

JUSTIN

Justin moved into his apartment in October 2023 with his wife and their toddler son. He started falling behind on rent in January 2024 when his car broke down, costing him his job.

His landlord began filing eviction cases against Justin monthly, each time charging him around $350 in attorney fees, though the cases were brought as part of large dockets requiring only nominal attorney time.

The attorney fees kept Justin from catching up on rent, snowballing his balance. "I could have caught up on my rent without those $350 fees every month," according to Justin. "One hundred percent, I would have. But they put me in a deeper and deeper hole I couldn't get out of. And because of that I couldn't even qualify for financial help from the YMCA."

After scrambling to pay each court judgment for months, Justin and his family were finally evicted in early 2025. Luckily, they had family that could take them in, but they are still digging out from the deep debt that includes more than $4,000 in attorney fees alone.

"I need to find us a new place to live and I don't know how I can do that" with the debt on his credit records, Justin says. "That's the thing that stresses me out the most."

WYNTON

In 2023, Wynton moved to central Virginia with his wife and child. His wife hasn't been able to work since their move, making him the sole income provider. After he was laid off and had to join the gig economy, their monthly rent consumed over 50% of his earnings, even in good months. If their rent is more than 10 days late, their landlord immediately begins the eviction process and adds another 25% in attorney fees to their debt.

Each month this happened, Wynton had to pay that extra $400 or more to bring his account current and have the case dismissed from court, exercising his "right of redemption."

These large attorney fees significantly increased their housing costs, pushing the family further behind financially. Wynton managed to avoid an eviction judgment against him for a year, but paid the landlord over $2,000 in 'attorney fees' in that time.

Wynton explains, "We could almost get caught up, but then a big new fee would hit us and knock us back again. It was like quicksand. We started to lose hope we could ever dig out of it."

After a year, he could no longer catch up on rent before court dates. His landlord then received eight eviction judgments against him, all of them including large attorney fees that the judge approved. With the help of family, Wynton has continued to scramble to pay off the judgments while staying housed, having already paid nearly $7,000 in attorney fees in two years.

"A BIG NEW FEE WOULD HIT US AND KNOCK US BACK AGAIN. IT WAS LIKE QUICKSAND. WE STARTED TO LOSE HOPE WE COULD EVER DIG OUT OF IT."

"I lost sleep over this so many nights, worrying about keeping a home for my family," he reflects. "Without the big attorney fees we would have been okay. It really seems like they were just exploiting us for a very quick legal process that shouldn't cost that much."

A SERVICE PROVIDER'S PERSPECTIVE

Jordan Crouthamel is the Senior Program Manager for the Virginia Eviction Reduction Pilot with ForKids, a nonprofit service provider in the Tidewater region. He and his team regularly see the effects of large attorney fees in eviction cases. He states the following.

"As a regional eviction prevention program and a partner to a regional crisis hotline, ForKids sees firsthand the negative effects of many types of extra fees on tenants of all income levels in our area. We have taken to calling these accumulated fees 'effective rent' due to the consistency and additional burdens they place on tenants.

"One of the most detrimental fees we see on nearly every ledger that comes through our teams' hands is the Legal/Attorney fee. A typical participant in our program might be a single parent who just missed a rent payment after covering an unexpected medical or high utility or car repair bill.

"In Virginia, where eviction filings can happen within days of a missed payment, this person may find themselves already facing legal action by the time they've earned their next paycheck. They may only miss that deadline by 2-5 days to gain another paycheck. By then, they've been charged $500 or more in legal and attorney fees, on top of late fees. For someone paying $1,200 in rent, that's a 40% increase in their monthly housing cost.

"These fees can make people ineligible for rental assistance, push them deeper into debt, and force impossible choices between rent, food, childcare, and utilities. These choices cause our neighbors who are already struggling with skyrocketing rents to face eviction proceedings sometimes month after month after month.

"These fees are counterproductive, as they often only serve to pay for a case to be filed and immediately be dismissed after the tenant is able to scrape together funds to become current.

"There is no refund, no recourse for being awarded this money back in court, and often no record of the case for which this money was charged after dismissal. There is however, a trail of impossible family and financial decisions that will all too often end up in another attorney fee as they continue to fall behind, thus starting this vicious cycle once again."

"THESE FEES CAN MAKE PEOPLE INELIGIBLE FOR RENTAL ASSISTANCE, PUSH THEM DEEPER INTO DEBT, AND FORCE IMPOSSIBLE CHOICES ... SOMETIMES MONTH AFTER MONTH AFTER MONTH."

5. RECOMMENDATIONS

The evidence presented in this report shows that excessive attorney fees in Virginia eviction cases create substantial financial burdens and erode tenant rights. While Virginia law already requires fees to be "reasonable," advocates report that landlords' attorneys and courts too often seem to ignore this standard in practice. The following recommendations offer concrete steps to address this issue and better align courtroom practices with legal requirements.

JUDICIAL EDUCATION

For the first time, in late 2024, the updated District Court Judges' Benchbook included guidance on assessing attorney fees in landlord-tenant cases—a welcome development. We believe formal training for General District Court judges in Virginia has never covered how to assess and award reasonable attorney fees. Given the wide variation in fee awards across courts, judicial education should include this topic. Such training would promote greater consistency throughout the Commonwealth's courts and better adherence to Virginia Supreme Court precedents.

LEGISLATION

The Virginia General Assembly could codify the best local practices that ensure attorney fee awards in unlawful detainer cases are reviewed for reasonableness. Courts like that in Fairfax County already require parties requesting attorney fees to submit an attorney's affidavit with relevant information for the judge to evaluate and assess a reasonable amount. This is a good starting point.

Legislation should require a proper attorney's affidavit to include the following information:

1. Work already performed by the attorney or their staff:
   - Specific tasks completed
   - Number of hours spent on each task
   - Hourly rate charged for each task
2. Future work the attorney is reasonably certain they will perform on the case, such as court appearances or filing for a writ of eviction:
   - Specific tasks anticipated
   - Number of hours anticipated for each task
   - Hourly rate charged for each task
3. Work the attorney or other counsel for the party is likely to perform in the future, such as collection activities:
   - Specific tasks anticipated
   - Conservative estimate of hours for each task
   - Hourly rate charged for each task

Requiring judges to review such attorney affidavits—even if the lease purports to set the attorney fee amount—would bring much-needed transparency to the fee award process, ensuring courts have the information necessary to fulfill their legal obligation to assess reasonableness.

TENANTS CHALLENGING ATTORNEY FEES

Tenants without legal representation rarely contest a landlord's request for attorney fees. In what are often fast-moving eviction hearings, it is easy for judges to skip the required reasonableness analysis and award fees without justification. Unrepresented tenants should challenge attorney fees in court and demand the judge perform the required analysis.

. . .

These recommendations aim to bring attorney fee practices in line with existing legal standards and ensure fair treatment for tenants facing eviction. Without these reforms, the consequences will continue to fall hardest on Virginia's most vulnerable residents: families like Justin's, Wynton's, and Jordan's clients, who find themselves trapped in unwarranted cycles of debt and housing insecurity. By implementing simple measures to ensure attorney fees are truly reasonable, Virginia can protect tenant rights while still allowing landlords to recover legitimate legal costs—supporting a more equitable housing system for all.

METHODOLOGY

This analysis draws on comprehensive court data from across Virginia to document patterns in attorney fee awards. The following explains our data sources and analytical approach.

COURT DATA RETRIEVAL

In Virginia, eviction cases are heard in civil courts at the city or county level and are classified as "unlawful detainer" cases in court records. For this analysis, RVA Eviction Lab obtained unlawful detainer data from Legal Services Corporation's Civil Court Data Initiative, which gathers public court data from Virginia's General District Court Online Case Information System. The dataset includes case numbers, filing dates, plaintiff and defendant names, defendant city and zip code, attorney names, fees, and other case details.

JUDGMENT AND ATTORNEY FEE AWARD TOTALS

We calculated eviction judgment totals based on the number of unlawful detainer cases with a judgment in favor of the plaintiff. We assigned jurisdictional totals using each case's geographic FIPS (Federal Information Processing Standards) code. We identified the date of each judgment as the date of the case's last hearing.

DATA DEDUPLICATION AND CLEANING

We deduplicated court record data to remove true duplicate filings, defined as cases with identical filing dates, judgment outcomes, case costs and fees, plaintiff names, defendant names, and defendant addresses.

To address data entry errors, we standardized plaintiff and attorney names. We identified residential evictions by comparing defendant names against character strings that typically indicate commercial entities.

CITATIONS

1. *Cox v. Hagan*, 125 Va. 656, 679 (1919) ("[T]he judge… should allow only such an amount as may be reasonable, considering the services of the attorney actually performed in and about the collection of the debt in view of the customary charges of the profession in the locality for such services, not exceeding the maximum amount stipulated in the obligation."); *Lambert v. Sea Oats Condominium Ass'n,* 293 Va. 245, 257 (2017) ("[I]t is the court's duty to assess the necessity of those [the attorney's] tasks, the time spent on them, and the rate charged under the facts and circumstances of the particular case." Internal quotes and citations omitted.); *Portsmouth 2175 Elmhurst, LLC v. City of Portsmouth*, 298 Va. 310, 334 (2020) ("Under settled law, when a litigant seeks to pass along to an adversary the cost of attorney's fees, whether pursuant to a statute or a contract, a reviewing court must satisfy itself that the fees sought are reasonable." Internal citations omitted.). With the exception of a few decisions from the 1920s through the 1940s, the Virginia Supreme Court has held that the party requesting attorney fees bears the burden of establishing prima facie that the requested fees are reasonable.
2. *Lambert* at 257, 185, quoting *Mullins v. Richlands Nat. Bank*, 241 Va. 447, 449 (1991).
3. See *Cox* and *Portsmouth 2175 Elmhurst, LLC*, supra.
4. *Mullins* at 449 ("If future services of an attorney will be required in connection with a case, the fact finder should make a reasonable estimate of their value. In so doing, the fact finder should estimate the time to be consumed, the effort to be expended, the nature of the services to be rendered, and any other relevant circumstances."); *Airlines Reporting Corp. v. Sarrion Travel, Inc.*, 846 F. Supp. 2d 533, 540 & n. 9 (E.D. Va. 2012) ("…a fact finder may only do so on the basis of a record that allows the fact finder to make a reasonable judgment as to future fees that, more likely than not, will be incurred." Internal citations omitted.).
5. A number of jurisdictions, especially in Northern Virginia, require attorneys to file affidavits justifying the award they seek.
6. Standing Order, City of Richmond General District Court, September 1, 2016. Such local rules may not overrule Supreme Court holdings. *Shapiro v. Younkin*, 279 Va. 256, 260 (2010).
7. Va. Code §55.1-1250(B)-(D).
8. Va. Code §16.1-107(B), (C).
9. https://evictionlab.org/rankings/#/evictions?r=United%20States&a=0&d=evictionRate&lang=en (last visited 9/23/2025). Ranked in the top 15 large cities for highest eviction rates: (2) Richmond City, (3) Hampton, (4) Newport News, (6) Norfolk, (10) Chesapeake, (15) Virginia Beach. Ranked in the top 5 mid-size cities for highest eviction rates: (2) Petersburg, (4) Hopewell, (5) Portsmouth. Using 2016 data.
10. US Census Bureau, 2023 ACS 5-Year Estimates Detailed Tables, Table B25011.
11. Legal Services Corporation (LSC) Civil Court Data Initiative. 2024, https://www.lsc.gov/initiatives/civil-court-data-initiative.
12. https://eapps.courts.state.va.us/gdcourts.

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