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VEXATIOUS LITIGATION: **MALICIOUS CIVIL LAWSUIT WITHOUT GOOD CAUSE**

No claim shall be filed without any probable cause.
Defend yourself from harassing claim.

WHAT IS VEXATIOUS LITIGATION?

also known as Vexatious Proceeding/Vexatious Suit

Definition:

Vexatious Proceeding is a proceeding that is instituted maliciously and without probable cause. It is firstly defined in *Paramount Pictures v. Blumenthal*, 256 App.Div. 756, 11 N.Y.S.2d 768, 772. This type of malicious prosecution ~~differing principally~~ principally differ from regular proceeding because **based on civil action**. Vexatious litigation occurs when the party bringing proceeding is not acting bona fide, and merely wishes to annoy or embarrass his opponent, or when it is not calculated to lead to any practical result. Such a proceeding is often described as “frivolous and vexatious,” and the court may dismiss it on that ground.



In the case of *AG v Millinder* [2021], Mr Millinder cannot begin civil or criminal proceedings without first obtaining permission of the High Court. Mr Millinder became embroiled in litigation with Middlesbrough Football Club. He made applications and claims which had no legal basis. [Stressing point di case ini bukan ini – baca lagi arahan saya. Plus, bagian ini tolong buat kaya pemisahan dengan atasnya – ini lebih ke history]

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Vexatious Proceeding. Proceeding instituted maliciously and without probable cause. *Paramount Pictures v. Blumenthal*, 256 App.Div. 756, 11 N.Y.S.2d 768, 772. Type of malicious prosecution differing principally because based on civil action. When the party bringing proceeding is not acting bona fide, and merely wishes to annoy or embarrass his opponent, or when it is not calculated to lead to any practical result. Such a proceeding is often described as “frivolous and vexatious,” and the court may dismiss it on that ground.



Vexatious Suit. A lawsuit instituted maliciously and without good cause. – Also termed vexatious lawsuit; vexatious litigation; vexatious proceeding. Cf. MALICIOUS PROSECUTION.

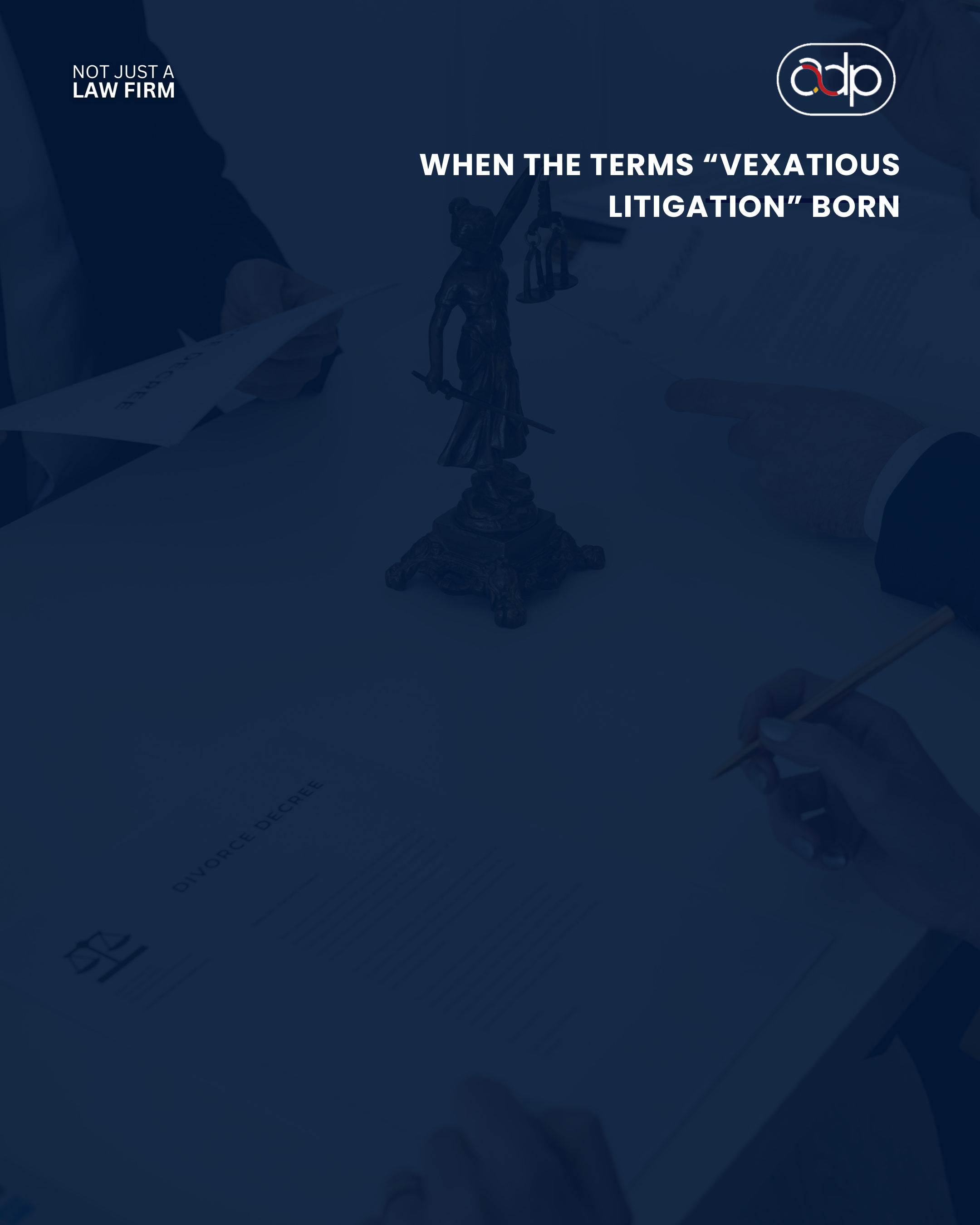
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The characteristic of vexatious litigation is the absence of a legal or contractual relationship between the Plaintiff and the Defendant. In Civil Law, lawsuits must be based on a legal relationship that gives rise to rights and obligations between the parties, whether arising from an agreement or from legislation/act.

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WHEN THE TERMS “VEXATIOUS LITIGATION” BORN



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In the 1890's, Parliament took action, largely in response to the litigation mania of **Alexander Chaffers**, an attorney and solicitor, who began claims against many of the leading figures of the day (the Prince of Wales, the Archbishop of Canterbury and the Lord Chancellor).

Mr. Chaffers' vexatious litigation led to the passing of the Vexatious Actions Act 1896. Vexatious litigation first emerged as a serious problem in the mid - 19th century. Initially, the court acted to protect itself from vexatious litigants by relying on its inherent jurisdiction to restrain abuse of its procedure.

Between the late 19th century and the early years of the 21st century, the courts and parties to litigation strove to curb the activities of vexatious litigants through the use of *Grepe v Loam* orders or in more extreme cases, the AG would apply for an order under s42 of the 1981 Act.

Malicious Intention of Vexatious Litigant

- Harassing;
- Defamation;
- Threat;
- Extortion;
- Evade Responsibility; and
- Postponement of Legit Legal Proceedings.

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HOW IS INDONESIA'S STANDINGS ON VEXATIOUS LITIGATION MATTERS



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In Indonesia, there is no specific laws and regulations yet made to handle the vexatious litigation practices. However, the Supreme Court has sought to prevent such practices by issuing a Supreme Court Regulation ("**SCR**") emphasizing the principle of *ne bis in idem*, with the aim of reducing vexatious litigation in the form of repetitive lawsuits involving the same subject matter and the same parties.

The Supreme Court requested the attention of all First Level Court Presidents regarding reports with repetitions that have permanent legal force from the first level court to the cassation level, and from all judicial environments. If such a lawsuit exists, the SCR requires the court clerk to carefully examine the case files and report to the Chief Justice; the Chief Justice is required to provide a note to the Panel of Judges; and the Panel of Judges is required to consider this in their decision on the exception and on the merits of the case.

Court Decisions on Vexatious Litigation Matters

Supreme Court Decision Number 769 K/Pdt/2015

"The Defendant has kindly waived the debt in accordance with all policies permitted by banking regulations, and this should be considered an effort to help ease the Plaintiff's financial burden."

"The Plaintiff used this kindness to file an unreasonable lawsuit, so it must be concluded that the plaintiff filed the lawsuit in bad faith."

Provisions regarding the expiration date are regulated in Book IV of the Civil Code concerning Evidence and Expiration. In general, Article 1946 of the Civil Code states that expiration is a means of obtaining something or being released from an obligation after a certain period of time, based on the conditions determined by law. [Tambahin Pasal 1967 KUHPerdata - 30 tahun]

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HOW VEXATIOUS LITIGATION MAY IMPACT YOU IN INDONESIA



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Cost of Trial

Supreme Court Decision Number 3557 K/Pdt/2015

"That the Judex Factie (High Court) was correct in applying the law, with consideration: That the attorney's fees are the responsibility and obligation that has been agreed upon by the Plaintiff himself, so it is not appropriate to charge them to the Defendants."



Regulations regarding the attorney's fees can serve as an instrument to prevent vexatious litigation.

The application of the cost shifting principle, namely the imposition of legal costs on the losing party or on the party proven to have acted in bad faith, can increase caution before someone files a lawsuit.

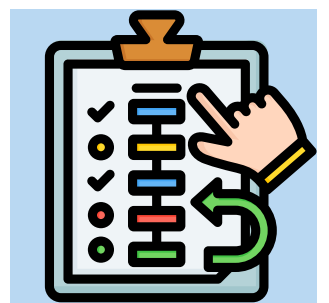
The risk of bearing the costs of the opposing party's legal services encourages the parties to only file cases that have a strong legal basis and facts. [Salah cara pemasukkan - diskusi verbal]

In Indonesian Civil Procedure Law, the court adheres to the principle of passive judges and open trials for everyone. This means that as long as a lawsuit meets the formal requirements for case registration, such as the identities of the parties, the facts of the case, and the prayers for relief, the lawsuit cannot be rejected at the registration stage. There is no preliminary dismissal mechanism that allows judges to automatically dismiss a lawsuit simply because it is deemed unreasonable or potentially vexatious from the beginning.



Right to Sue Principle that anyone who feels that their rights or legal interests have been violated has the right to file a lawsuit in court. This right is individual and subjective, meaning that the court does not first assess whether a person has actually suffered harm at the stage of filing the case. Simply by the plaintiff claiming harm, the right to file a lawsuit is established. The court may not deny access to someone simply because the alleged damages have not been proven.

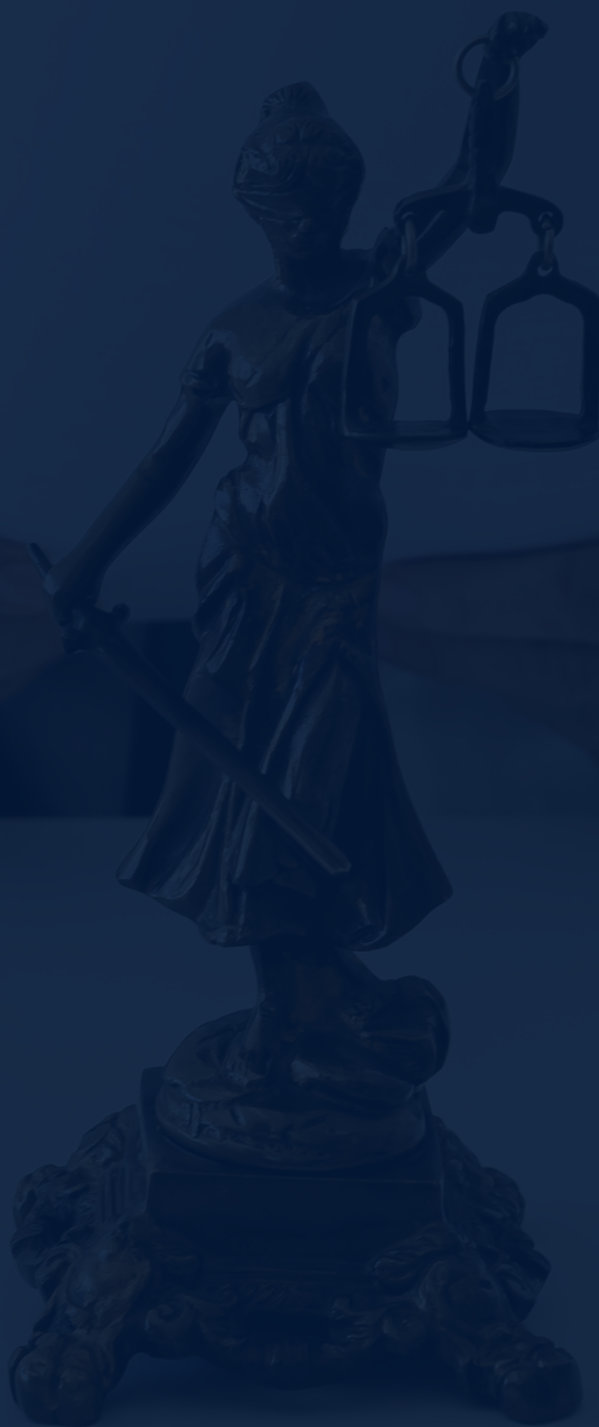
Within the framework of Indonesian Civil Procedure Law, there is no formal classification of vexatious litigants, so there are no legal instruments that explicitly provide sanctions or specific legal consequences for plaintiffs who file repeated, baseless, or malicious lawsuits. As long as the lawsuit meets the formal requirements, such as the identity of the parties, the facts of the case, and the relief sought, the lawsuit must still be accepted and examined by the court.



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DEFEND YOURSELF AGAINST VEXATIOUS LITIGANT



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DEFEND YOURSELF AGAINST VEXATIOUS LITIGANT

Every Indonesian citizen who is sued in court has the constitutional right to defend themselves, including the right to refute all or part of the arguments presented by the opposing party. This right is a manifestation of the principle of due process of law and the principle of a fair trial.

Legal compliance is a condition in which a legal entity conducts all of its business activities in accordance with applicable laws and regulations, legal standards, and established internal provisions. This legal compliance covers various aspects, including business licensing, fulfillment of administrative obligations, implementation of standard operating procedures (SOPs), employment, taxation, and compliance with safety and environmental regulations.

When facing a legal problem, choosing legal counsel is a step that determines the direction and outcome of the case. Therefore, it is only fitting that those seeking justice choose a lawyer who has experience, competence, and a deep understanding of procedural and substantive law. [*Ketiga bagian di sini - buat dalam pointers*]



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Don't hesitate to reach out, **we're ready to help!**

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DEFEND YOURSELF AGAINST VEXATIOUS LITIGANT

Do You Have a Right to Be Heard?

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Strengthen Your Legal Positioning

Legal compliance refers to a state in which an entity carries out all business activities in line with applicable laws and regulations, recognised legal standards, and its own internal rules. It encompasses areas such as licensing, administrative obligations, adherence to SOPs, employment practices, taxation, and observance of safety and environmental requirements.

Competent Lawyers, Better Outcomes

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HOW VEXATIOUS LITIGATION MAY IMPACT YOU **IN INDONESIA**

Cost of Trial

The court held that attorney's fees were the Plaintiff's own agreed responsibility and therefore could not be imposed on the Defendants. Accordingly, legal costs arising from bad-faith litigation remain the Plaintiff's own financial burden and cannot be shifted to the opposing parties.

Procedural Harrasment

Under Indonesian civil procedure, courts follow passive-judge and open-access principles: any claim meeting basic formal requirements must be registered and heard. There is no preliminary dismissal mechanism to screen out unreasonable or vexatious suits at the outset.

Numerous and Non-stop lawsuit with malicious intent

The right-to-sue principle allows anyone who claims their rights or interests were violated to file a lawsuit. Courts do not assess actual harm at filing and cannot deny access merely because the alleged damage is unproven.

No legal consequences for vexatious litigant

Indonesian civil procedure does not formally recognise vexatious litigants or provide specific sanctions for repeated baseless claims. As long as a suit meets basic formal requirements, the court must accept and examine it.

HOW IS INDONESIA'S STANDINGS ON VEXATIOUS LITIGATION MATTERS

Indonesia has no specific law addressing vexatious litigation. However, the Supreme Court has attempted to curb it through a regulation reinforcing the ne bis in idem principle to prevent repetitive suits involving the same parties and subject matter.

The Supreme Court requested the attention of all First Level Court Presidents regarding reports with repetitions that have permanent legal force from the first level court to the cassation level, and from all judicial environments. If such a lawsuit exists, the SCR requires the court clerk to carefully examine the case files and report to the Chief Justice; the Chief Justice is required to provide a note to the Panel of Judges; and the Panel of Judges is required to consider this in their decision on the exception and on the merits of the case.

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Time limits are regulated in Book IV of the Civil Code on Evidence and Time Limits. Article 1946 defines time limits as a means of acquiring rights or being released from obligations after a period of time specified by law. Article 1967 further stipulates that all claims, whether property rights or personal rights, shall expire after 30 years, and the party relying on the time limit does not need to prove ownership or respond to allegations of bad faith.

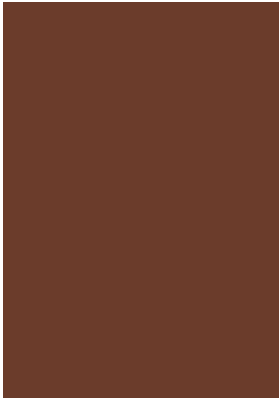
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Vexatious litigation has long been treated in England and Wales as an abuse of the court's process by individuals who repeatedly advance meritless claims. Section 42 of the Senior Courts Act 1981 enables the High Court to restrict such litigants from commencing proceedings without permission. Mr Millinder reflects this modern application: after baseless actions, including against Middlesbrough Football Club, he has been added to the vexatious litigants list on Gov.UK.

The characteristic of vexatious litigation is the absence of a legal or contractual relationship between the Plaintiff and the Defendant. In Civil Law, lawsuits must be based on a legal relationship that gives rise to rights and obligations between the parties, whether arising from an agreement or from legislation/act.



LEAST ADVICE!

- Black's Law Dictionary, 8th Edition.
- Paramount Pictures v. Blumenthal, 256 App.Div. 756, 11 N.Y.S.2d 768, 772.
- Supreme Court Decision Number 3557 K/Pdt/2015.
- Green, David. 2021. "Vexatious Litigants." Civil Watch, August. Goldsmith Chambers.
- Hartono, K. A. (2025). Gugatan vexatious litigation (Studi komparasi antara Indonesia, Belanda, dan Perancis). Jurnal Ilmu Hukum Humaniora dan Politik, 5(3).

LEAST ADVICE!

Vexatious lawsuits should not become normal in the court system. It is the role of judges to gradually define what a proper lawsuit is and where its limits lie.

Another possible step is to build communication and correspondence with legal or judicial authorities to express awareness of vexatious litigation issues and, where feasible, encourage the development of civil procedure guidelines or regulations addressing them. However, it should be recognised that not everyone has equal access, resources, or capacity to engage directly with institutions at this level. This point is noted only to emphasise that, in principle, any citizen may convey aspirations or input to lawmakers or regulators in support of future legal reform.