**KNOW YOUR LEGAL RIGHTS**

**Legal avenues in dealing with bad neighbors**

Know Your Legal Rights is a bi-monthly column distributed by the State Bar of Wisconsin. It is written by members of the State Bar of Wisconsin’s Lawyer Referral and Information Service (LRIS), which connects Wisconsin residents with lawyers throughout the state. To find an attorney in your area, visit [wislaw.org](http://www.wislaw.org/).

By Ralph E. Johnson

Abraham Lincoln is undoubtedly the best-known lawyer in American history. His quote about neighbor disputes was to discourage litigation. “Persuade your neighbors to compromise whenever you can,” Lincoln once said. “Point out to them how the nominal winner is often a real loser – in fees, expenses, and waste of time.”

This quote always comes to mind with a dispute between neighbors who, regardless of the outcome, still must live next to each other. Litigation can and will resolve the dispute, but it won’t make you like each other any better.

With that caveat, litigation results from one or more neighbors engaging in bad behavior or otherwise acting unreasonably.

**Harassment or intimidation**

You have called law enforcement and they have helped you avoid a breach of the peace, but they tell you they can’t really do anything about the neighbor who is instigating the dispute. It’s a civil matter. In other words, it’s between you and them, and no crime has been committed.

A harassment restraining order and injunction is the most frequently used tool to control bad behavior. It is often granted immediately upon filing of a petition with a court evidentiary hearing scheduled for a week or two later.

When granted, the injunction is usually because someone was “engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose.” The length of the injunction against the prohibited behavior is within the discretion of the Court and can be as long as 10 years. It can be considered criminal conduct to violate the injunction.

**Small claims**

Let’s say the neighbor neglected to remove a dead tree in his or her backyard. During a storm, it falls and damages the new privacy fence you put in. It will cost $2,000 to fix.

You’ve spoken to your neighbor politely about paying for the fence repair, but your neighbor declines. You could sue your neighbor in small claims court, which is limited to claims of $10,000 or less for breach of contract, property damage, or money owed. Small claims court is also the best forum for personal injury claims where the amount claimed is $5,000 or less.

Small claims court provides a faster and more inexpensive means to resolve disputes than circuit court, and there are resources available to help individuals file a claim without a lawyer.

For instance, the Wisconsin Courts website publishes a guide called “[Basic Steps for Handling a Small Claims Case for Recovery of Money](https://www.wicourts.gov/formdisplay/SC-6020V_instructions.pdf?formNumber=SC-6020V&formType=Instructions&formatId=2&language=en).” It includes information on each step in the process, with links to forms that must be completed along the way.

Although small claims cases are less daunting that larger cases in circuit court, having legal representation is always advisable, even in small claims court.

Attorneys with experience in small claims court understand the process and can help you navigate each step. Having an attorney on your side can often reduce the stressors of handling the case yourself, as well as the time it will take to get your ducks in a row.

**Boundary disputes**

Your new next-door neighbors are saying your flower bed that you have been cultivating for a decade is on their property and they want to put up a fence and declare it as theirs.

Warning: boundary issues can be very complicated and expensive to resolve. They can involve surveyors, multiple witnesses, and laws relating back to English feudalism. If they become litigated, legal costs will far exceed the value of the actual land involved. Do your best to find a resolution outside of the legal system if possible!

**Avoiding court, but getting resolution**

There are also alternatives to litigation, which could involve mediation or other alternative dispute resolution processes, but you and your neighbor would need to agree to that process.

As Honest Abe said, do your best to get along with your neighbors. It will probably be a bumpy ride if you don’t.

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