

SUMMARY

Key Words:

Subject matter: The concept and types of a claim in civil proceedings

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The supervising organization: -

The relevance of the research topic:

The Constitution of the Russian Federation and the Code of Civil Procedure of the Russian Federation enshrine the right of every citizen to judicial protection, freedom of choice of the method of protection of the right.

A lawsuit is one of the key means of initiating civil proceedings in a particular case. In modern conditions, the claim becomes a universal means of protecting the right. The effectiveness of the use of the claim as a means of protecting the right largely depends on the further theoretical development of this ancient procedural institution.

In Russian legislation, there is no legal definition of the concept of a claim, although there are many doctrinal and popular scientific definitions of a claim. A claim is the most important procedural means of protecting a violated or disputed right, and the form in which this right is defended is called the claim form. In general, all definitions of the concept of a claim can be divided into four main groups according to the criterion from which position – substantive or procedural-the claim is considered, in what ratio is material and procedural in the claim.

Attempts to create a classification of claims were made at various stages of the development of civil procedure law. The doctrine of the types of claims is found in the works of scientists of both the pre-revolutionary period and the present. Perhaps throughout the history of the science of civil procedure law, there have been discussions about the types of claims. Such disputes do not stop to this day, which makes it possible to draw conclusions about the relevance of this issue.

The purpose of the work: the purpose of the study is to study the features of the claim in civil law on the basis of a comprehensive analysis of normative and literary sources, judicial practice.

Objective:

- define the concept and meaning of the claim proceedings;
- identify the concept, meaning and elements of the claim;
- highlight recognition and award claims, transformative claims;
- investigate a class action lawsuit;
- study vindication and negator lawsuits.

The theoretical and practical significance of the research: the theoretical significance of the work consists in a comprehensive and systematic coverage of the issues of the object of research.

The practical significance lies in the fact that the conclusions formulated by the results of the study can be used to improve the practice of applying the norms of the current Russian civil legislation.

Results of the study:

A claim, being a way of protecting a subjective right, is the basis of substantive law, since it serves as a means of protecting civil, family, labor and other rights. Also, the claim as a means of defense determines the form of proceedings in a court case - claim proceedings, i.e. it is a category of procedural law.

A claim is a procedural means that, in order to protect its claim against the defendant, its subjective rights or interests protected by law, the plaintiff applies to the court with an application for consideration and resolution of a dispute arising from a civil legal relationship.

Currently, there are three "mandatory elements" of the claim - the subject, the basis and the content. The law and judicial practice use these elements to exhaust the content of the claim as a single concept.

One of the types of classification of claims is the substantive classification, its criterion is the

nature of the disputed substantive legal relationship in civil, labor and other branches of law. Then each type of claims, for example, claims from civil legal relations, is divided into claims from binding legal relations, from causing non-contractual harm, from inheritance law, etc.

Traditional in the theory of procedural law is the classification of claims on a procedural basis, which is the procedural purpose, the subject of the claim (state of law), the method of protection. Depending on the subject of the dispute, claims are divided into claims for recognition (establishing), for award (executive), and transformative (constitutional).

So far, a large number of claims filed in accordance with the norms of Chapter 22.3 of the Civil Code of the Russian Federation (at least, according to publicly available sources) is not observed. But even the small number of claims accepted by the courts for production, the information about which is known, already allows us to identify a number of problems in the practical application of these rules.

Since the joining of members of a group of persons to a claim after its acceptance by the court for production entails an increase in the price of the claim, it is necessary to take into account the probability of transferring a collective claim, the initial cost of which is small, to another court.

Recommendations:

1. We propose to fix the rule in the Civil Procedure Code of the Russian Federation, according to which class actions, regardless of the size of the claims, will belong to the jurisdiction of district courts.

Another inconvenience that applicants will face, especially those who are not members of the same collective and live in different regions, and this situation is usually characteristic of so – called consumer lawsuits, is the consideration of the claim at the location of the defendant. Such exclusive jurisdiction is established for all collective claims (Part 4 of Article 30 of the Civil Code of the Russian Federation), although individual claims for consumer protection, we recall, can also be brought at the place of residence of the plaintiff or the place of conclusion or execution of the contract (Part 7 of Article 29 of the Civil Code of the Russian Federation).

2. We propose to fix the place of filing a class action, the place of one of the plaintiffs.

Summarizing the judgments and conclusions contained in the final qualifying work, it should be noted that the main importance is the development of a unified classification of claims, which includes conditionally material and procedural classifications based on the essential features of the object in question as a whole and its individual types.

One of the prerequisites for the effectiveness of justice in civil cases is the procedural legislation, which needs to be changed. It seems that the conclusions and suggestions expressed in the work will help in developing a systematic scheme for improving legislation in the field of civil proceedings.