



FROM THE IUSTORIA BLOG

What You Didn't Know You Could Ask For in a Civil Lawsuit

Case law from the past two years shows that a party to civil proceedings can demand far more from the court than the textbook suggests. Seven procedural tools that decide cases which only look straightforward.

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22 April 2026 · 13 min read

Civil litigation is not just a matter of "file a claim, make a motion, and then quietly wait for whatever the court decides." Case law of the past two years has been a strong reminder that a party to civil proceedings can demand much more: a fair airing of the legal view, a non-surprising decision, proper procedural guidance, honest reasoning, sensible handling of costs, and serious treatment of evidence.

And there is an even sharper point: some of the most interesting procedural weapons have nothing to do with the merits of the claim — they concern how the court decides. That is often where cases are won or lost, even the ones that look "obvious" at first sight. On why **not every battle is worth fighting** and **what litigation and business negotiation have in common**, I've written before. This piece goes one step further — into recent case law itself.

1. You can ask the court not to surprise you. Costs included.

The Supreme Court reminded us in judgment file no. 30 Cdo 2630/2025 of 3 March 2026 that a surprise decision is one that could not be foreseen from the established facts, from the course of the proceedings, and from the parties' submissions to date. This matters most where the court reframes the case only at the very end.

The Constitutional Court went a step further in finding file no. II. ÚS 297/26 of 18 March 2026: the prohibition against surprise decisions extends to cost orders as well. If an appellate court silently changes its view on the tariff value and "recalculates" the costs differently without giving the party a chance to respond, that is a constitutional problem.

Don't just watch the merits — watch whether the court quietly turns the wheel on costs without opening the question first.

If an appellate court bases its ruling on a legal view that was never on the table before, raising the surprise objection is entirely appropriate.

Costs can be the site of a constitutional surprise too. The court is not allowed to blindside you procedurally even when the issue appears to be "just" the attorney tariff.

Many litigators still treat costs as an "accounting footnote." Case law says the opposite: you can lose constitutionally on costs alone.

2. The duty to give procedural guidance is not decoration. But the court is not your litigation coach.

Two recent Supreme Court rulings are extremely practical.

In judgment file no. 28 Cdo 2748/2025 of 17 March 2026 the Supreme Court stressed that the breach of the duty to guide parties under Section 118a of the Czech Civil Procedure Code is assessed on an objective basis. Why the trial court failed to guide is irrelevant. What matters is that it didn't — and the procedural defect is there.

Moreover, when an appellate court adopts a different legal view that would require supplementing the facts or evidence, it cannot simply "patch it up on the fly." The Supreme Court expressly linked such a situation to setting the decision aside under Section 219a of the Civil Procedure Code, because on appeal you are running up against the limits of concentration and the rules on new evidence.

At the same time, Supreme Court order file no. 28 Cdo 86/2026 of 18 March 2026 reminds us of the other side of the coin: the duty to guide comes into play only where the existing submissions and evidence are insufficient to clarify the facts. It is not a licence for the court to step in as the party's tactician. The strategic question of whether to go to court at all, or to choose **mediation or arbitration instead**, is best settled before the conversation about procedural guidance even starts.

If you lost because you "pleaded too little" or "proved too little," check whether you were properly guided beforehand.

When an appellate court suddenly pivots to a different legal classification, arguing that it could not decide properly without opening room for additional pleadings or evidence is a strong line of attack.

At the same time, don't expect the court to tell you how to win your case. Procedural guidance is not litigation coaching.

What the Supreme Court is really saying to the courts is uncomfortable: the excuse doesn't matter. If the court should have given guidance and didn't, it is a procedural defect — whether the omission was a mistake, inattention, or a belief that guidance wasn't needed.

3. Are you the defendant? You can block the plaintiff's elegant exit.

One of the most underused procedural tools is objecting to the withdrawal of a claim. Many people still assume the plaintiff can simply "back out" and that's the end of it. Not so.

In order file no. 33 Cdo 1588/2025 of 26 March 2026 the Supreme Court confirmed that the defendant may have serious reasons to oppose withdrawal of the claim. Those reasons can rest in particular on the following:

- the proceedings are already at an advanced stage,
- the defendant has meaningfully contributed to clarifying the case,
- a decision on the merits matters for the future legal position of the parties,
- the plaintiff is essentially withdrawing to escape an expected adverse outcome, without the dispute being truly resolved.

As a defendant, you do not have to consent automatically. If you have serious reasons, the court must engage with them.

If you have already invested time, evidence, and money in the dispute and need an authoritative outcome, insisting on continuation can be the right move.

Plaintiffs, for their part, should think twice about a late withdrawal — the timing of a withdrawal can cost more than a poorly drafted claim.

The financial undertone of the same case: at an earlier stage, after the proceedings had been stayed, the plaintiff was ordered to pay costs of over CZK 1.19 million. The appellate court reversed the stay, and costs will be decided only at the end. In plain terms: withdrawing at the wrong moment can cost you more than you ever sought in the first place.

4. Costs are not just mechanical arithmetic. They are emotion, tactics, and the right legal classification.

Costs are often treated as a technicality. And yet this is where case law is most likely to surprise you.

In order file no. 25 Cdo 1603/2025 of 17 March 2026 the Supreme Court applied Section 150 of the Civil Procedure Code and declined to award costs to the successful party because doing so would have been disproportionately harsh on the plaintiffs. The relevant factors included the nature of the claim, the loss of a close family member, the defendant's passive response to earlier out-of-court demands, and the defendant's economic strength.

This matters: costs are not simply "winner takes all." Exceptionally the court can say yes, you won procedurally, but in the particular case full reimbursement would be inappropriate.

Alongside that, the Constitutional Court delivered another strong message in finding file no. III. ÚS 3062/25 of 2 April 2026: cost orders must rest on the correct legal classification of each kind of cost. The Constitutional Court expressly held that the cash expenses and fees of a court-appointed attorney are not "costs of the State" within the meaning of Section 148(1) of the Civil Procedure Code. Saying otherwise is a qualified error of interpretation and an interference with the right to judicial protection.

On the gap between what you actually pay your attorney and what the court awards you in costs — with five real examples — see my separate piece, [Attorney's fees in court: who reimburses them and how much](#).

When arguing Section 150, argue hard: the human dimension of the case, the other side's conduct, the economic disproportion, the particular harshness that full reimbursement would impose.

"They are costs" is not enough. Costs between the parties, costs of the State, and costs of the court-appointed attorney are three different categories — mixing them up is a qualified defect.

Cost disputes must be won mainly at first instance and on appeal. Under the current wording of the Civil Procedure Code, an appeal on points of law against a costs-only ruling is generally inadmissible — don't count on the Supreme Court to clean it up later.

The biggest misconception in practice: that costs are "just the bill." They are not. Sometimes they matter more than the merits. And sometimes you can win the case and lose the invoice — or keep the invoice despite losing on procedure.

5. A small case does not mean small reasoning.

A powerful procedural message came with Constitutional Court finding file no. III. ÚS 232/25 of 30 April 2025. The Constitutional Court criticised the appellate court for failing to reason its conclusions properly and essentially settling for a reference to the intervener's submission. According to the Constitutional Court, this is a problem not just of reasoning but also of judicial impartiality.

The second layer matters too: this was a low-value dispute, yet the Constitutional Court still stepped in because the case had broader implications and could influence other decisions.

If an appellate court fails to engage with your objections on its own and merely "refers" to what the other side or the trial court said, that is not automatically fine.

A low-value case does not give the court licence to abandon quality reasoning.

Where a case is typical, recurring, or has broader impact, weak reasoning can be a far bigger problem than it looks on the surface.

Put bluntly: copy-paste from the other side's brief is not judicial reasoning. And it is not a detail. It chips away at the very confidence that it was the court, and not a procedural forwarding service, that decided the case.

6. Stop repeating the myth that you cannot prove a negative.

One of the most practical evidentiary points came in Supreme Court judgment file no. 21 Cdo 1993/2024 of 10 December 2024. The Supreme Court expressly said that the old "negative theory" of the burden of proof is obsolete: negative facts can be — and often must be — proven, typically through circumstantial evidence.

The underlying case was an employment dispute, but the conclusion has wider procedural reach. The party who sits "closer to the evidence" cannot just comfortably claim that something can't be proven. The Supreme Court took into account that the employer holds the records and therefore has objectively better access to proving certain facts.

When you say something didn't happen, don't default to "that can't be proven." Build a chain of circumstantial evidence: records, logs, absence of entries, the ordinary course of business, documents, internal systems, the sequence of dealings between the parties.

Argue from who is actually closer to the evidence and who has it at their disposal — the explanatory duty of the party in the better evidentiary position.

Before the court decides against a party for failing to meet the burden of proof, it must still honour the procedural guidance regime under Section 118a of the Civil Procedure Code.

The worst evidentiary defence today is: "That's a negative fact, you can't prove it." Not only can you. Sometimes that is exactly where the case is won or lost.

7. Procedural activity is not automatically "your fault."

Worth noting too is Supreme Court judgment file no. 30 Cdo 2630/2025 of 3 March 2026, this time on compensation for unreasonable length of proceedings. The Supreme Court reminded us that ordinary procedural steps by a party cannot simply be charged against them as a "contribution to delay" unless the conduct amounts to harassment or manifest abuse. The link to [limitation — the silent claim killer](#) is indirect but important: the longer the proceedings drag on, the higher the risk that parallel substantive-law periods start running against you.

Put politely: defending yourself is not procedural rudeness. Motions, excused absences, procedural defence, and legitimate appeals are not, in themselves, a transgression. And if anyone later tries to paint them that way, case law is not particularly sympathetic.

Summary: seven procedural weapons at a glance

Weapon	When to use	Key ruling
Surprise-decision objection	Court rests its ruling on a legal view never put on the table — costs included.	30 Cdo 2630/2025; II. ÚS 297/26
Breach of duty to give procedural guidance	You lose for "pleading too little" or "proving too little" without Section 118a guidance.	28 Cdo 2748/2025; 28 Cdo 86/2026
Objection to withdrawal of claim	Defendant needs a ruling on the merits; plaintiff is retreating from an adverse outcome.	33 Cdo 1588/2025
Section 150 + correct classification of costs	Full reimbursement would be disproportionately harsh; costs of State vs. court-appointed attorney conflated.	25 Cdo 1603/2025; III. ÚS 3062/25
Attack on appellate reasoning	Appellate court merely "refers" to the other side's submission — even in a low-value case with broader reach.	III. ÚS 232/25
Proving a negative fact	The other side is closer to the evidence; "it can't be proven" no longer flies.	21 Cdo 1993/2024
Defence against "contribution to delay"	Ordinary procedural steps cannot be recast as obstruction without more.	30 Cdo 2630/2025

Heading into a dispute, or already in one and needing a second pair of eyes? These are exactly the procedural nuances we work with daily in our [dispute resolution practice](#). [Get in touch](#) — an initial consultation is non-binding and usually makes clear whether litigation is the right path, or whether the dispute should be run differently.

The bottom line: civil litigation is not a spectator sport

What should you take away from the past two years? That in a civil lawsuit you can ask for and do more than the overview textbooks suggest:

You can ask the court not to surprise you — on costs as well as on the merits.

You can ask the court to honour its duty to guide, while knowing that it won't serve as your litigation strategist.

As a defendant, you can sometimes legitimately insist on a ruling on the merits rather than the plaintiff's convenient exit.

You can fight over costs not only on arithmetic but on fairness, harshness of impact, and the right legal classification.

You can attack rulings that are just thinly disguised rewrites of the other side's argument.

And you can prove even what "didn't happen" — if you know how.

The real practical lesson is simple: a well-run civil case today is fought not only through substantive law, but very often through the court's procedural hygiene. Whoever watches it has a head start.

Case law cited

Full texts of the cited decisions can be looked up in the official Czech databases: [NALUS \(Constitutional Court\)](#) and [the Supreme Court website](#).

- Constitutional Court finding file no. II. ÚS 297/26 of 18 March 2026
- Supreme Court judgment file no. 30 Cdo 2630/2025 of 3 March 2026
- Supreme Court judgment file no. 28 Cdo 2748/2025 of 17 March 2026
- Supreme Court order file no. 28 Cdo 86/2026 of 18 March 2026
- Supreme Court order file no. 33 Cdo 1588/2025 of 26 March 2026
- Supreme Court order file no. 25 Cdo 1603/2025 of 17 March 2026
- Constitutional Court finding file no. III. ÚS 3062/25 of 2 April 2026
- Constitutional Court finding file no. III. ÚS 232/25 of 30 April 2025
- Supreme Court judgment file no. 21 Cdo 1993/2024 of 10 December 2024

Related reading

The procedural weapons in this text work better the more you understand *who* is actually deciding your dispute, and *how* — a judge affected by decision fatigue and anchoring, a client with hidden interests, an opposing party you instinctively demonise. That is the subject of a dedicated popular-science piece, [The Psychology of the Parties: How a Judge Decides](#). The scientific background of negotiation itself (Kahneman, Cialdini, Voss, BATNA) is in [Statutes Are Just the Foundation: Psychology and Tactics in a Legal Dispute](#). And on the fact that

the choice of procedural weapons depends heavily on *which game* you are actually playing — chess (full information), poker (signalling, credibility), or Monopoly (exhausting resources) — see [Chess, poker, Monopoly — and Snakes and Ladders](#).

This article is for information only and does not constitute legal advice. It refers to the case law cited as at the date of publication; the legal conclusions in any specific dispute will always depend on the circumstances of the case and the current state of judicial practice.

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