

## U.S. Judge Rejects Norfolk Southern's Bid for Legal Fees in CSX Lawsuit



### Disputed Legal Fees: Judge Denies Norfolk Southern's Request

In a significant legal development, Chief U.S. District Judge Mark Davis in Norfolk, Virginia, has rejected Norfolk Southern Railway's bid to recover over \$14 million in legal fees incurred during a lawsuit with CSX Transportation. The lawsuit by CSX alleged that Norfolk Southern had unlawfully restricted access to a central marine terminal in Virginia. The judge's decision hinges on judges' discretion under a Virginia business-conspiracy state law regarding fee awards, emphasizing that such distinctions are neither presumptive nor automatic.

### CSX's Antitrust Lawsuit and Appeal

CSX had initially filed an antitrust lawsuit against Norfolk Southern, seeking hundreds of millions of dollars in damages. Following the dismissal of their case, CSX appealed to the 4th U.S. Circuit Court of Appeals in Richmond. This legal battle stems from CSX's claims that Norfolk Southern engaged in anti-competitive practices related to on-dock rail access at the Norfolk International Terminals, the largest container ship dock under the Virginia Port Authority.

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### Norfolk Southern's Rarely Applied Legal Move

As the prevailing defendant in the lawsuit, Norfolk Southern sought legal fees under a relatively infrequently invoked state law. Chief Judge Davis acknowledged the rarity of such a request in his ruling. However, he concluded that Norfolk Southern had failed to provide a "convincing argument" that awarding fees would be "equitable or just." Moreover, he expressed concerns that such a decision could deter legitimate future claims instead of discouraging "improper" lawsuits.

### No Immediate Responses from Involved Parties

In response to the judge's ruling, a spokesperson for Norfolk Southern declined to provide any comments. Likewise, CSX did not immediately respond to a similar request for comment, leaving the legal battle's next steps uncertain.

### Freight Rail Giants Competing for Port Access

Norfolk Southern and CSX, major U.S. freight rail industry players, fiercely compete to transport containers arriving at U.S. ports. This competition has led to legal disputes like the one in question, which could have significant implications for the industry's landscape.

### Legal Window Closes for CSX

Earlier in the legal proceedings, Chief Judge Davis ruled in favor of Norfolk Southern by barring a trial on CSX's antitrust claims. This decision was based on the conclusion that CSX's allegations fell outside a four-year legal window, making them time-barred.

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### Battle Over Legal Fees

Following the dismissal of the case, Norfolk Southern's legal team, represented by Troutman Pepper Hamilton Sanders and Skadden, Arps, Slate, Meagher & Flom, requested that the court award them legal fees. In contrast, lawyers for CSX,

represented by McGuireWoods, argued that even a discretionary fee award was unjustified because their claims were brought "in good faith."

#### **Uncertain Future in the 4th Circuit**

CSX's appeal in the 4th Circuit will focus on challenging the limitations period of antitrust law. Currently, no argument date has been set for this critical appellate proceeding.

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