

§ 33.1-387. Civil action.

As to such portion of the claim as is denied by the Commonwealth Transportation Commissioner, the contractor may institute a civil action for such sum as he claims to be entitled to under the contract for himself or for his subcontractors or for persons furnishing materials for the contract by the filing of a petition in the Circuit Court of the City of Richmond or where the highway project which is the subject of the contract is located. Any civil action brought on behalf of a subcontractor or person furnishing materials for the contract shall only be brought for costs and expenses caused by the acts or omissions of the Department of Transportation and shall not be brought for costs and expenses caused by the contractor. Trial shall be by the court without a jury. The submission of the claim to the Department of Transportation within the time and as set out in § [33.1-386](#) shall be a condition precedent to bringing an action under this chapter and the Department of Transportation shall be allowed to assert any and all defenses in a case brought by or on behalf of the subcontractor or a person furnishing materials to the contractor which are available to the contractor.

(1976, c. 230; 1982, c. 320; 1991, c. 691.)