

Liability & Litigation

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The Attorney-Client Relationship

Choosing the right lawyer and helping him/her help you

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Perhaps you view litigation the way you would a typhoon that ravages a remote country--as unfortunate and from afar. However, in our complex litigious society, this possibility hovers like a specter over every HVAC and plumbing engineer. Win or lose, both the process and the result of legal action can prove disheartening, sometimes devastating, and always expensive.

There are steps you can take to improve your odds when you need a lawyer to defend your business from a legal attack.

As you use these techniques, you will discover answers to your most significant questions: Is my lawyer qualified? Can I trust this person to work diligently for me?

A Cooperative Effort

When defending against a potentially ruinous lawsuit, you may feel tempted to lay your problem at your attorney's feet, step back, and hope for the best. This is the most common lawyer/client relationship. It also is the least effective and most expensive.

Except for basic legal work, the interaction between client and lawyer should be cooperative. Obviously, you pay for and expect the lawyer to do the heavy lifting, but do not discount the value of your participation.

Preparing For Your Consultation

Preparation is essential. Write a synopsis or "facts statement" of your situation. List the events, in chronological order, that brought you to the lawyer.

In the first draft, aim for a "Just the facts, ma'am" type of summary. Reduce your final draft to one or two pages, something your lawyer can read in a few minutes. Next, gather the documents pertaining to your situation. Put these in chronological order, and add contact information for every person involved with the case. Include a sentence or two describing this person's involvement.

This represents the first significant service you can contribute to the cooperative effort.

What To Tell Your Lawyer



A well-qualified lawyer is predisposed to your benefit from the beginning, mentally calculating strategy as you talk. Still, from your lawyer's perspective, only specifics move the process forward. With this in mind, prepare what you want to say as carefully as you prepared the written material.

Don't be dismayed if your lawyer interrupts your story or redirects your narrative. In all likelihood, he or she is more concerned with potential legal solutions than your feelings at this point.

If you want to stimulate your lawyer to put forth his or her best effort, you must be organized. If you can place the facts before him or her in an organized manner, he or she is more likely to think, "This is someone I can work with."

Evaluate Your Lawyer's Response

It is possible that your lawyer will immediately lay out a strategy. Equally likely, your lawyer will need time for research and thought before committing to a course of action. Whatever the circumstances, expect a reasonable explanation of the preliminary steps.

According to Hartley & Hartley Attorneys at Law of Santa Monica, Calif., "A well-qualified lawyer can give you an estimate in your first conversation about what he or she thinks the legal issues are, and any lawyer who's worth hiring will tell you what he or she doesn't know."

Be wary of any lawyer unable to communicate in simple and clearly understandable language. If he or she cannot communicate adequately with you, it is doubtful they will do better with a judge, a jury, or opposing counsel.

Develop a Reporting Schedule

Do not rely on your lawyer's discretion to determine a reporting schedule. One of the complaints clients most frequently make is that their lawyer kept them in the dark.

Discuss specifically how often you want a progress report, how much detail you require, and if you want the report by phone or in writing. Find out how the lawyer will charge you for this.

Memorialize Your Discussions

Take careful notes whenever you talk with your attorney. At your first meeting and thereafter, ask your lawyer to memorialize your discussion in a letter. This letter, or précis, summarizes the essential points and becomes a key element of the reporting system. Compare any discrepancies between your notes and the lawyer's, and discuss them openly.

Resolve the Relationship Early

Human nature dictates that people make accommodations more readily at the beginning of a relationship. This includes your lawyer. Every point you fail to resolve with your lawyer early in the process, including fees and expenses, will prove more difficult to correct later.

Your lawyer will prepare a "representation agreement." This is a critical contract between you and your attorney, so read each word carefully. Ask questions, and request changes to anything that seems unreasonable or unclear.

Trust Your Instincts

Trust yourself. Are you comfortable with the tone and quality of the meetings, your attorney's answers, and the questions he or she asks you? The best time to change lawyers is early in the process. But do not hesitate to keep looking if your instincts and gut feelings tell you to select different legal counsel.

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