

How to Control Lawyers



What You Need to Know

Self Interest

Lawyers are out for Number One.

No exception!

That's what "self interest" is.

Whether they win or lose, lawyers aren't much affected by the outcome of a case. When it's over they go home, sleep in the same bed, and wake up to just another day.

Clients, on the other hand, either enjoy the fruit of victory or the shambles they're left with when the dust settles.

Clients may be in prison or be executed by lethal injection.

Clients may be impoverished by legal fees, court costs, and the devastation of an adverse judgment that leaves them and their families penniless.

We all operate out of self interest; you, me, and absolutely *everyone*.

Even Mother Theresa, who did wonderful things while she lived, was motivated by the pleasure of helping others. If helping others hadn't given her pleasure, she wouldn't have done it.

Everyone operates from self interest.

We want what we want and we act accordingly.

It may be the goal of money, praise, love, or honor.

It may be hunger for a hot meal or a dry place to sleep.

We desire.

We do.

Always we act because we want.

Lawyers are no exception.

But!

Lawyer self interest affects you!

It may be your lawyer, if you have one.

Or, it may be your opponents' lawyers.

This class shows you what the world looks like through lawyers' eyes, what motivates them, *and what you need to know to avoid unpleasant consequences!*

You will learn how lawyers think, how they see the world, how they deal with clients, how they chum with judges, and what you must do to keep from losing your shirt.



What Lawyers Tell Clients

Nearly all of the lawyers I met in my 36 years as a practicing attorney, were cordial, polite, friendly, and anxious to make a good impression.

Of course the persons they most wanted to impress were potential clients who, they hope, will employ them for representation or other legal services. They will ask about the family. Even inquire about the family dog, if they know the dog's name. They give hearty handshakes, may slap you on the back, take you to lunch, and generally act as your long lost friend.

Do not be taken in.

The time to know if a lawyer is really your friend is after your case is closed, the money stops flowing from you to the lawyer, and the lawyer has no motive other than genuine cordiality. If your lawyer still wants to meet you for lunch, play golf, or share his or her tickets to a sporting event, you may have made a new friend.

Chances are that won't happen.

When you "employ" a lawyer to work for you, enter the relationship for what it is: you are hiring someone to do a job. You are not trying to make a friend ... at least not until the job is done and done to your satisfaction. Your well-being depends on the job being done well, not having the lawyer like you!

In the REFERENCE menu please study the How to Hire a Lawyer class for more information.

The lawyer may say, "We're going to win this case!" Don't believe it. Ask the lawyer, "What are you going to do to win? How do you intend to proceed? Do you have a plan? Is your plan written out? When may I see your plan?"

Some lawyers may say, "Don't worry. I'll take care of everything." This is a flaming red flag! You do not want the lawyer to "take care of everything". You want to be personally involved. Intimately involved in your case. After all, it is *your* case, not the lawyer's. See to it. You want to know *everything* the lawyer plans to do, and as much as possible you want to know *before* the lawyer does it. Lawyers

that make that ridiculous comment want your checkbook to be involved and for you to stay out of their hair so they can muddle through at your expense. Don't go for it.

If a lawyer says, "You won't pay a dime unless I win," get it in writing! Make *certain* you will not be on the hook to pay *anything*. No depositions, postage, travel time, or expert witnesses. Get a written contract with the lawyer. Spend some time reading it. Take it home with you. Read it over and over before signing and returning it to the lawyer.

Never forget that the lawyer's percentage is *negotiable*. Just because a lawyer asks for 33% (or some other percentage) doesn't mean the lawyer won't work for less, especially if your case is strong with a lots of money at the end of that litigation rainbow.

Make *certain* the contract requires the lawyer to get your consent *in writing* before agreeing to any settlement, stipulation, or other action that might limit your recovery. In the 25 years since launching this course on the internet, I've received too many reports of lawyers "settling" cases *without their clients' permission!* Don't let this happen to you.

Whatever a lawyer may say to you before you agree to employ him or her, *get it in writing!*

If the lawyer won't agree to a written contract for legal services, look for another. Approximately one out of every thousand human beings is a lawyer! There are plenty more out there eager to make some easy money. Be picky. When the fight is over, the lawyer goes home.

Choose wisely.

What Lawyers Don't Tell Clients

Your lawyer won't tell you he had to take the bar exam six times to pass.

Your lawyer won't tell you he doesn't know how to use requests for admissions, requests for production, and interrogatories as taught in the Discovery class in this course.

Your lawyer won't tell you he plans to confer with other lawyers because he is confused about the law of your case.

Your lawyer won't tell you he and the lawyer on the other side have been best friends for years, play golf together, and spend weekends at side-by-side cabins with their families at the lake.

Your lawyer won't tell you that he's had trouble with the judge assigned to your case and that the judge has sanctioned him in the past.

Perhaps most importantly, your lawyer may not tell you when he refuses to accept the other side's offer to settle, because he hopes to make more money dragging your case on or a few more hundred billable hours!

Similarly (and this I learned in a particular case I won some several years ago), your lawyer may not tell you when it is clear as crystal that your case cannot be won no matter what, because that make the lawyer's money train stop. In the case mentioned, I knew for more than a year before the final hearing that the other side could not win. And, moreover, I knew that the three lawyers on the other side *also*

knew they could not win. I will never forget walking past their table on my way out of the courtroom, overhearing one of them tell their client, "There was no way we could have known this would happen." Indeed, folks. Be aware. This *does* happen.

How Lawyers Bill Time

Lawyers who don't work for a percentage of the outcome typically bill in one-tenth hour increments. If you phone the lawyer to ask a question about your case, it will cost you one-tenth of the lawyer's hourly rate ... even if the lawyer only talks to you for 20 seconds.

If you email the lawyer, expect to be billed for at least two-tenths of an hour. One tenth to read your email. One-tenth to answer.

I knew a lawyer who billed a minimum of two-tenths of an hour, no matter what he was doing.

I knew another who billed clients for time spent "thinking" about a case, whether he was in his office or driving home at the end of the day!

Lawyers have just two things to sell:

- knowledge
- time.

Though all you need to win in court is this course and a few hours of your time, lawyers must pass the bar to represent clients. To pass the bar (in nearly all states) one must graduate from an accredited law school. That is typically three years of study and more than \$100,000 for tuition and books (not counting the cost of housing, food, and other expenses).

Time, therefore, must be billed (or recovered as a percentage of successful judgments), and it is rare these days for a lawyer to charge less than \$300/hour ... more than 20 times what most people earn for 60 minutes of work!

This is why, as stated above, you must know what your lawyer is doing, why it is necessary to be done, and what your lawyer plans to do going forward *before* you are billed for the time.

As you learn in this course, much of what lawyers do is *not necessary to win for you!*

Require your lawyer to keep a "time sheet", wherein he or she records what he or she does to advance your cause and how long he or she spends doing it. Require the lawyer to provide these time sheets *before* you are required to pay the bill each month! If the time sheet indicates a half-hour telephone conference with opposing counsel, demand to know why it was necessary to spend so much time, what was discussed, etc. If you're paying for it, you have a right to know.

Why Lawyers Take Depositions too Soon

I knew a lawyer who flew from Florida to Paris on his client's dime, because he said he needed to take several days of depositions ... billing for every minute, airfare, food, lodgings, etc.

As you learn in this course, nearly everything you need to learn from your opposing party or a non-party witness can be obtained *in writing* at the cost of a few hours drafting documents and a few dollars in postage.

Still, it is commonplace for lawyers to start off on a new case by scheduling depositions instead of using the written evidence discovery tools you learn about in this course.

If you are paying a lawyer by the hour, *do not put up with this!*

After the written discovery methods are used, it may be necessary to take a deposition or two just to clear up any loose ends.

If your lawyer chooses to depose you or non-party witnesses, *do not fail to attend the depositions*. Do not let your lawyer ramble, asking questions that have nothing to do with your case. Depositions are intended to get answers into the court record, not to "visit" with opposing counsel or get "chummy" with a witness.

If you're paying your lawyer, hold his or her nose to the grindstone and put up with no nonsense waste of time *and your money!*

A Lawyer's Typical Work Day

Any lawyer worth his or her salt will spend time doing legal research, drafting documents, and on occasion attending hearings or preparing for trial.

Everything else is a waste of your money!

Professional Responsibility Standards

Every state bar is set up to discipline lawyers who do not obey the "Professional Responsibility Standards" established by the bar. They may be called something else (e.g., Ethical Standards, etc.), however every lawyer is required to abide by the published standards.

You can find these easily by using Google[®] to search for your state's bar website. You will find a host of information there to help you control your lawyer *and* possibly to put a bit in the mouth of your opposing party's lawyer if he or she is in violation of the rules. First, of course, you need to read the rules on your state bar's website.

What Non-Lawyers Can Do

Since you are not a lawyer and have no fear of being "disbarred", there are some things you can do to help your case that a lawyer working for you cannot do. If you have a lawyer you should not do these things, but if you are *pro se* and completely on your own, there are no rules against it.

For example, lawyers are forbidden to talk with their opposing party. They can talk to the opposing party's lawyer all they want. No rules against that. But, they are not allowed to talk directly to the

opposing party. If they wish to offer a settlement, for example, they must go through the opposing lawyer.

If the opposing lawyer fails to communicate such offers with his or her client (which violates the Rules of Professional Responsibility) as some lawyers intentionally do so they can keep their time clock running and make more money by keeping their clients in the dark about offers their client might accept rather than continue fighting) your lawyer can do nothing about it. Your lawyer cannot communicate directly with the opponent.

You, on the other hand, are not a lawyer and therefore are not subject to bar regulations. Check your local jurisdiction's rules and appellate opinions before going forward, and if there are no such rules you can communicate with your opponent without going through your opponent's lawyer. Your opponent may insist you go through his or her lawyer, in which case you should not try again ... but absent their objection you are free to talk to them by phone, email them, write letters to them, or meet them in person over lunch to discuss possible settlement or other matters mutually beneficial to you.

There are advantages to *not* being a lawyer.

Conclusion

In conclusion, knowing how lawyers think will help you deal with your opponents' lawyers and your own lawyer, if you have one.

Never assume lawyers think like you do. They don't.

Never assume they have your best interest first. They don't. They and what's best for their family and their firm come first, regardless of the hearty handshakes and inquiries into the welfare of the family pet.

I've had the honor to know many kind, thoughtful, honest lawyers over the past 36 years. I've also known quite a large number of skunks.

To see them in their expensive suits, highly polished shoes, silk ties, and shiny leather briefcases it's impossible to tell the difference.

That's why you probably should go back and read through this class again.