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HOW TO SETTLE A CLAIM

Let's assume that you have received a complaint from a client. You talk to the client and maybe even go back to the house. It appears that they may have a claim or at least it's debatable. What you want to do as a home inspector is to extricate yourself from the situation, without incurring a lot of court fees, arbitration fees, or attorney's fees. You may even wish to resolve the situation without involving your insurance company.

The first principal that you want to keep in mind is that you do not want to give the client the idea that they have a great case and are deserving of large sums of money. If you make a generous offer, or admit to fault, you may create problems for yourself later on. If you give your client the idea that you've definitely made a mistake, and they are entitled to substantial damages, they will be unlikely to settle the case for a reasonable amount of money.

If it appears that your client is definitely going forward with some type of claim, your first step should be to send them a letter asserting the fact that you believe you did nothing wrong, but as a gesture of good faith, you are willing to refund them half the amount of your inspection fee. This letter starts the negotiation process without allowing the other side to get the impression they are justified in their beliefs or that there is a pot of gold down the road.

If this does not resolve the matter, the next step should be to obtain a written opinion from a third party, an expert or other home inspector, which supports your position and also minimizes the amount of damages. This letter should be sent to the client along with a statement denying liability, but offering to refund the entire amount of the inspection fee. Again, the client is not given the impression that you feel they are going to be successful or that there is a possibility of big money if they hang in there.

If the case cannot be resolved at this point, you might want to respond with a third letter indicating that you have talked to your lawyer, that he or she believes you have a defensible case, but in an effort to save on legal fees you are increasing your offer. Again,

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asserting your belief that you will be successful in court or at arbitration and that you want to avoid additional costs.

If the client files for arbitration files a lawsuit or hires a lawyer, another effort should be made to settle the case. At this point in time you may need to bring in legal counsel, or expert testimony. Again, a contact should be made with the client reaffirming the fact that you do not believe there is any liability, but in order to save money you are willing to raise your settlement offer. This settlement offer may be substantially more than the earlier ones, but look at your potential costs and expenses; it may be worthwhile offering more money. You should also mention that if funds are going to be used to pay for an attorney and/or arbitration expenses, there will be less money for settlement purposes.

Prior to any hearing is the time to make your last and best offer. At this point in time you need to assess the total costs of going through the process and your likelihood of victory. You may consider offering more than you planned strictly as a business decision. You should talk to other home inspectors and possibly get some legal advice as to what you believe your ultimate exposure is and what you feel your legal costs will be. Consider also offering to mediate the case with a mediator. Mediation is non-binding, and can often get stubborn clients to be realistic.

Sometimes home inspectors or other defendants wait until they have incurred substantial costs both in attorney's fees, arbitration costs and other expenses before any serious negotiation is undertaken. By following this process, you may be able to head off claims and settlement negotiations is not acknowledging fault and starting off with small offers, increasing them over a period of time. If you follow this general procedure, the odds are that you will settle the claim for a reasonable figure. Once you have offered a substantial sum of money, or admitted fault, settlement becomes difficult. These are the procedures used by successful insurance company negotiators whose job success is based upon paying out as little money as possible.