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Attorneys at Law

THE CURE IS WORSE THAN THE DISEASE

You find yourself in a dilemma. Maybe you have been sued, maybe there is a complaint filed against you by the Department of Regulation and licensing, maybe there has been a demand for arbitration or maybe you have a claim against someone. The thought of having to go to a lawyer's office is scary. You will be asked to sign a fee agreement with an hourly rate ranging from \$125.00 to \$250.00 an hour. The lawyer will probably only give you a vague idea of what the total bill will be. Once embroiled into the tangled web of litigation and legal maneuvers, you feel kind of helpless. Soon the bills are mounting astronomically and you don't know what to do.

I have seen too scary examples of this situation in recent times. In one case, I filed lawsuit against a seller who had misrepresented the condition of the basement. The buyer spent approximately \$12,000.00 fixing the basement and that was the extent of his claim. The buyer lived out of state. The seller hired a lawyer on the south side who saw this as an opportunity to keep himself employed for a substantial period of time. The seller's lawyer took depositions lasting ten hours each. Prior to any motions being filed, or the court even scheduling a pretrial hearing, the seller had run up legal fees in excess of \$30,000.00. The lawyer that was hired didn't have much business.

Another recent situation involved arbitration. Arbitrations are supposed to be simple, quick and inexpensive. The lawyer representing the home inspector had the home inspector sign a fee agreement at \$225.00 an hour. The lawyer decided to turn this arbitration process into a grand extravaganza of hiring experts, court reporters, and audio visual display, in addition to filing numerous motions. What started out as a two-hour arbitration. Ended up going for three days and the home inspector stated that his defense bill was in the area of \$20,000.00. No wonder that the legal profession has such a bad reputation.

When you get in a jam and you cannot resolve things yourself, sometimes you are forced to seek the services of a lawyer. In doing so, you need to make a wise business decision.

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First of all you need to look at the situation the way that an insurance company evaluates a claim. Initially you must decide what your reasonable exposure is. Or your potential gain. Let's say that you realistically believe that your maximum exposure in a case is \$20,000.00 using that figure you must then evaluate your risk of losing. Everyone sees things from their own perspective and underestimates their risk of losing and overestimates the chance of winning. You need to get an outside opinion in this regard and a lawyer is often a good person for that. However, if you realistically evaluate your chance of success at 50% then the case has a value of about 10,000.00. From a defendant's standpoint, this is the amount that you should expect to pay, or from a claimant's standpoint, this is the amount you should agree to settle for.

The next issue that you need to address is, considering the numbers involved, how much you want to budget for attorney's fees. In the above situation, it would be unrealistic to spend more than \$3,000.00 to \$4,000.00 in attorney's fees at a maximum. With a \$20,000.00 maximum loss, and a \$10,000.00 potential settlement value, if your attorney's fees get in the area of 10,000.00 or more, it would have been just as easy to resolve the case by paying the claimant \$20,000.00 up front and avoiding all of the stress and aggravation of litigation.

First of all you need to hire a lawyer that you can trust. Talk to other clients of that lawyer and see what his or her charges have been. Ask them if they think they have gotten good value for their representation. The idea isn't to hire the greatest hotshot lawyer in the world and end up paying exorbitant legal fees for the privilege. Secondly, when you meet with the lawyer discuss your concerns regarding the total fees. See if the lawyer can commit to a cap on the fees involved. Lawyers are reluctant to do this, but if you press them and explain your concerns, it possible to reach an agreement in this regard. Demand to get regular monthly billings. Keep on top of the charges that you are incurring. When the charges start getting out of line, don't be afraid to terminate your lawyer and hire someone else. Press your lawyer to settle or resolve the case. Many lawyers encourage clients to continue to fight, to continue to litigate and continue to assert their claims while the legal fees mount. You should repeatedly encourage your lawyer to make efforts to settle your case. A lawyer who is constantly

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contacting the other side attempting to negotiate a settlement or resolution of a case will ten to resolve the case a lot quicker than a lawyer who is trying to prove to the world what a great lawyer he or she is.