

Control your lawyer

by Phillip C. Freytag

All lawyers can't be blamed for the failures of our legal system any more than all teachers can be blamed for the failures of the public education system. When you hire a lawyer *you* have considerable power – if *you* wish to use it. The main thing you have in your favor is the money that turns the lawyer on or off just like a light switch. If you fail to use this power it is your own fault.

Most lawyers will probably not admit it, but much of the time they do not know in advance what the product of their work will be or how much it will cost. They can only be 50% successful on the average in litigation. Therefore, lawyers generally work by the hour.

Before you see a lawyer on a significant matter decide that you are going to remain in control at all times. Remember that you are the employer and he is the employee. You can remain in charge at all times because you have the money that will pay him.

Check with your friends and acquaintances for their recommendations of a lawyer. Do not look in the telephone book for the biggest ad. The biggest ad may belong to the lawyer who has the highest overhead, charges the most and is the one who depends on fear, desperation and impulse to get his clients.

When you first meet your prospective lawyer, observe his office. It should be functional, equipped with modern business machines and staffed by people who appear competent.

Start your conversation by telling him that *before* he starts

keeping time on your case and *before* you even talk about the details of your case, you have a few business matters to discuss:

- * Ask if he is qualified in the area of law you may need advice on and find out briefly what his experience is.

- * Ask if he bills for the first conference which you are about to start.

- * Ask how he bills his and his staff's time, the rates and how often he sends statements.

- * Ask for a sample of his billing so you can see if it contains enough detail to keep you advised of charges on your account. *Beware of the lawyer that bills for his work in very broad terms without reference to date, number of hours, specific task or who did the work.*

If he reacts adversely to this line of questioning, or you get a doubtful feeling, get out of his office before you owe him any money and become his next victim. If he reacts favorably, and you are satisfied with what you have heard and see, state that you are *now* ready to discuss your case.

Present your case briefly and ask for his assessment. Do not make a decision to hire him at this time, but rather ask for his bill, pay him, and say that you need some time to consider whether you will hire him and will advise him of your decision in a day or two.

If the matter involves a large sum of money or potential high liability, see another lawyer and go through the same process. The extra money you spend at this point will not be wasted. Seeing more than one lawyer will also give you confidence that you

are proceeding correctly.

Assume now that you have found a lawyer that you feel comfortable with and that you think you can afford. Tell your lawyer that you have hired him but that you would like to discuss the rules that he will follow in pursuit of your case with his billing clock turned *off*. Make it clear, *in writing*, that he will proceed with work or expenditure of funds only when previously approved by you. Include the amounts of any retainers or deposits in your agreement and their disposition when work is ended. Be sure you do not commit to more cash flow than you can handle.

Supply all information requested promptly. Be cooperative at all times, but if you do not understand, ask questions. Insist on a being copied with everything related to the case. This serves two purposes, it keeps you advised of the status of your case and in the event anything goes wrong with your relationship with your lawyer you will be prepared to step into his place "pro se" or go to another lawyer. *Study your case until you understand it thoroughly.*

Be a good employer; check what your employee is doing periodically, encourage him, keep him paid, but also expect good prompt work on his part.

Always remember that any mistakes your lawyer, the Court or anyone else makes will ultimately be born by *you*. Your lawyer represents and hopefully helps you, but *you are responsible* for everything he does.

