

# A Practical View of How to Cope with Being Sued

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So you have been sued . . . Now what?

Here are steps you can follow if (heaven forbid) you get sued.

## **Don't freak out**

It may be your first, but lawsuits are a relatively common experience. It is not the end of the world. Stay calm.

## **Act promptly**

Don't ignore the papers you receive. The problem will not go away or get better if ignored.

In fact, it could get dramatically worse.

## **Don't try to be your own lawyer**

As Lincoln said: "A man who represents himself has a fool for a client." Lincoln said this and he was a lawyer! Find the right lawyer.

## **Get referrals**

Hiring a lawyer is something like hiring a good carpenter. The carpenter who spends a lot on advertising may not be the one you want to hire. A personal referral from a trusted source can be the best way to make an informed decision about retaining a lawyer for the particular kind of case you have.

## **Size up the problem early**

Quantify the most amount of money which can be awarded against you. An honest evaluation of the worst case scenario will enable you to decide how much you should be ready to spend on legal representation.

## **Become knowledgeable about the problem**

It is your duty to be well informed, no matter how repugnant the process may be to you. Any good attorney will tell you that a case inevitably turns out better with a client who is actively involved and genuinely interested in the process.

## **Get a budget and a timeline**

You are entitled to know up front how much the litigation will likely cost and how long it will likely take to resolve. Due to the variables of litigation, the budget and timeline will almost certainly need to be modified as a case progresses, but ask your lawyer for regular updates based on developments. A budget and timeline is a good, practical tool for monitoring your lawyer's activities.

## **Know your judge**

Different judges have different levels of experience, preferences, habits, and proclivities. Also, a particular judge may have already ruled on an issue similar to your case and that would be very useful information. If it is important enough to you, do your research. Maybe even go sit in your judge's courtroom and watch what happens in other cases.

## **Expect the unexpected**

Many cases will be driven by the emotions of the other side. The other side may even be irrational. If so, be ready for litigation to drag out until cooler, calmer heads prevail.

## **Be reasonable**

Even if emotions drive the litigation, disputes ultimately come down to money. Very, very few can afford to litigate over "principles." Cases that are litigated over principles usually pay the lawyers' kids' college.

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## **The case will likely settle**

Litigation can be an expensive process. Most courts will expect the parties to attempt to settle the case, usually through a mediation process. As litigation costs rack up, settlement becomes more attractive. Statistics prove that most cases settle and few ever go to trial.

## **If there is no settlement, there still may be no trial**

Summary judgment motions are granted in many cases. In that event, there will be no trial. In the alternative, a case may be whittled down by making one or more motions to the judge before trial. This may result in a renewed settlement opportunity as well.

## **Be flexible and open minded**

Nothing in litigation is static. Litigation is a human process and the law (and even the facts) can change along the way. Be ready to adjust your strategy.

## **Don't worry about it**

While it is good for a client to be informed and involved in the case, do not let it consume you. You have a life outside of litigation and other things to focus on in your professional and private life. Be involved enough to be a good client, but beyond that, let your attorneys worry about the case.