

How to Pick the Right Trial Attorney

I belong to a networking group. I was told last week by the President that someone in the group does not want to refer cases to me because I argue too much at our meetings.

Huh? You don't want to refer a litigation case to me because I argue too much at meetings? I argue for a living.

But the President did raise a good issue. What makes a good litigator? If you need to sue someone, what should you look for in a trial attorney?

◆ **First**, you don't want an attorney who is afraid to fight. I once referred a case to a nice attorney I met at the Quaker Church. I received a frantic call from the client the day before the court hearing. Evidently, the nice lawyer had confessed to the client that she was scared to go to court and, in fact, had vomited thinking about the case. The client, who risked losing her child to an abusive husband, was noticeably shaken by the thought her case was resting on the shoulders of a lawyer who was puking on the side of the litigation trail. Lesson One: Make sure your lawyer is comfortable with battle.

◆ **Second**, avoid the dysfunctional, mind-warped lawyer who loves to fight more than bringing matters to a satisfying, quick conclusion, when possible. Many lawyers had a disturbed childhood and relish the temporary sense of power that comes from dominating in the courtroom. They may not have a repertoire of negotiation skills, resulting in cases being tried unnecessarily. Trials and court hearings are expensive. They should be used sparingly, like sugar and fat in a diet.

The right balance to look for in a litigator is a lawyer with a sense of comfort and strength in the courtroom countered with a desire to see cases resolved cheaply through compromise and mediation. An example of a good litigator is my friend Jeff Herman, a personal injury attorney. He prepares a case fully before submitting his first settlement proposal to the insurance company. His settlement proposals may be an inch or two thick with medical records and witness statements. The point of his early preparation is to give the insurance adjuster all that the facts the adjuster needs to come to a fair settlement. He is realistic about the possible outcomes and encourages his client to take a fair settlement offer. If the case doesn't settle, he looks forward to waging a winning campaign. After years of playing Dungeons & Dragons in college, he sees litigation as invigorating.

Evidently, I like arguing. Maybe I should quit the networking group and join a Dungeons & Dragons club.