

Three Things Litigators Must Do During COVID-19

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Body

Litigators are dispute solvers. They are called upon to settle disputes and make problems go away. A global pandemic has swarmed across the globe and although disputes are still prevalent, clients and their attorneys are adjusting on how to solve them. Litigators are being put on the spot to deal with an economy that is on its heels and a legal industry that is fighting to remain strong. To continue to adhere to the calling that requires litigators to be the custodians of the ideals of our society, there are a few things litigators must do in order to uphold that calling during this global pandemic.

Litigators Must Be Closers

The best hat litigators can wear right now is their closer hat. More than ever, litigators must be closers. Clients are losing money because the economy is taking a downturn and it is unknown when the economy will bounce back. Clients are in complete shock and disarray. They are looking to get rid of lawsuits and focus solely on business operations. Litigators must take heed to this.

During this time, litigators should be trying to settle many of their pending cases. The art of lawyering is centered on helping clients solve their problems as efficiently and quickly as possible. Although some cases, due to the complexity of the case, take longer than others to solve, the foundation of a litigator's duty is to solve the dispute-be a closer. During these times, calling opposing counsel and coming to the table to discuss solutions is the act of an effective closer.

With backed-up court dockets and trial delays, courts will appreciate the notion that litigators are using civility and settling disputes outside the courtroom. Although legal disputes are still arising, judges across this nation are counting on litigators to be closers.

Litigators Must Be Efficient

COVID-19 has taught the nation more than the importance of washing one's hands. It has taught-in many ways-the laws of how to be efficient. Nearly every law firm has become remote and all the attorneys are working from home.

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At home, attorneys are juggling kids, family time and work. And work is a time-consuming job. It's a job that requires a lot of strategy, planning, reading, analyzing, writing, rewriting and editing. All of which require an environment that lends itself to silence. So how are attorneys juggling life and work under one roof? It's simple-be efficient. And being efficient requires litigators to use one commodity effectively: time.

President Abraham Lincoln once said, "A lawyer's time and advice are his stock in trade." During this time, litigators can trim the excess of their cases and focus on the meat-the viable claims. There isn't much time to continue to drag on pending cases to search for new far-fetched claims. Time will more wisely used analyzing the claims as they are and strategizing on how to best advocate for the client effectively. Litigators must use this time to manage communications with clients. This may require early mornings before the kids wake up or late evenings when the kids are settled in bed. Clients need to be kept abreast of the events that occur during a pending matter, especially now. Concise emails and quick phone calls relaying occurred events or new findings are ways to keep the client informed, and they are time efficient when done consistently. Furthermore, this time should be used to get ahead on several assignments. In analyzing a case, there is potential that a motion to compel may be coming or a motion to dismiss may be in the pipeline. Get ahead of it. Begin research now. Start drafting now. Frontload a lot of the work now so that your time will be better used later. Keep in mind during this pandemic, billables will be affected, yet the firm's bills must get paid. Efficiency matters.

Litigators Must Use Discovery

There is one thing that the courts do not need to be involved in that litigators should use to their advantage and that's serving discovery. Serving requests for admissions, requests for production, interrogatories, and taking depositions are perfect ways to use this time effectively. There are several answers that can derive from succinct and clear RFAs. Facts and possible deponents can derive from clearly stated Interrogatories. Responsive documents from RFPs helps provide the proof necessary to either establish one's claims or establishing one's affirmative defenses. Depositions may be difficult to do during the social distancing, but it is still an effective way to gather valuable information via tools like Zoom.

Discovery will call for litigators to act with civility and patience. Discovery is not a new process, but it will be leaned on more than before. Meet and confers will need to be more frequent. Objections will need to be used effectively rather than frivolously. Parties-although adverse to one another-must work together to protect the civility of the legal profession and the laws that govern discovery.

Litigators must be patient with one another. This may not be the advice one would seek who is averse to another, yet these times require it. Clients may have trouble accessing documents to respond to a RFP, or a third party may not have a quiet room to get deposed. These are scenarios to keep in mind. The art of litigating and the competition in which it breeds does not need to die, but not at the sake of civility. As custodians of society's laws, lawyers must use this time to be effective and efficient, while not losing the zeal that is required in the art of litigation.

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