

RAISING THE BAR

A DECATO LAW OFFICE NEWSLETTER

ISSUED November, 2008 (this issue written by Peter Decato)

Published the 2nd week of Each Month

Issue #2008-11

IF YOU'RE GOING TO REPRESENT YOURSELF, AT LEAST DO A GOOD JOB

I continue to be intrigued by the statistics: 50%-75% of the cases on file in our local courts (New Hampshire and Vermont) have at least one contestant who appears on their own behalf (as in representing themselves). While representing oneself is a person's right, I offer one admonishment: if you are going to represent yourself, at least do a good job!

To help you do a good job, Decato Law Office is prepared to consult with you and offer you advice. Consider us your coach. We can give you advice whether you are the person who brought the action or whether you are on the defense. Our advice, at a minimum, will cover the following:

1. A "proof analysis". We will tell you what needs to be proved/disproved to be successful.
2. An "evidence analysis". We will go over the evidence with you. We will examine what witnesses are expected to say. We will look through the documents that pertain to the case. Finally, we will examine whether your case has any physical evidence (the forgotten evidence). What's a good case if it doesn't have blood in it!
3. A "procedure analysis". We will go over the rules of court with you. We will tell you about the court's procedures and what is expected of a litigant.
4. Strategy and tactics. What should you do if your opponent does this? What can you do to put your opponent "off stride".
5. Trial aids. We will help you prepare such documents as "requests for findings and rulings." This is a document that can give the judge a "road map" of your case. It can help lead the judge to a verdict in your favor.

I don't know why so many people want to represent themselves. I can't quite figure it all out. I'm sure, though, for many people, it has to do with costs. If being frugal is leading you to represent yourself, then how much more frugal can you be than to buy just a few hours of a lawyer's time? Investing in a few hours of a lawyer's time can often be the difference between a well prepared litigant and a poorly prepared one.

For those of you who are considering suing someone without the help of an attorney, I have a quiz for you. I will wait until you get a pad and paper.....Are you ready? Please assume you've been involved in a "fender-bender." As a result, your clunker (a 2000 Ford pickup) has been totaled. You've received some personal injuries, but you're not certain of the full extent. You've lost two weeks of work and you expect to lose some more work in the future as you attend doctor's

appointments, undergo an MRI, etc. Please answer the following:

1. Where can you bring suit? What are the jurisdictional limits of our courts?
2. Can you simply fill out a form when bringing suit or must you say something definite covering a variety of subjects (e.g., duty, breach, causation and damage)?
3. Do you have to say your opponent caused the accident?
4. Do you have to indicate what your damages are, when you really don't know yourself?
5. After suit is brought, can you ask your opponent questions? Can you obtain documents from them? How do you get information from other people (like the investigating police officer)?
6. You've received some questions from your opponent and some of the questions seem very personal and totally unnecessary (e.g., they want to know if you are having sexual relations). Do you have to answer these questions? How can you avoid answering questions in an appropriate situation?
7. Do you have to wait to go to trial or can you file a motion with the court asking for judgment "summarily." Are there shortcuts to getting to where you want to get?
8. Once the final hearing arrives, what do you do? Who do you call as witnesses? How do you ask them questions? How do you question your opponent? (By the way, your opponent has a "fancy lawyer" from the "big city").
9. How do you prove what your clunker was worth?
10. What do you do with your medical bills? How do you get them into evidence?
11. How do you get your doctor to testify? He/she is telling you they are way too busy to come to court.

How do you think you did on this test? I suspect you got some questions "right" and some questions "wrong." If you got any questions wrong, you could benefit from a consultation. If you got them all wrong, you better get in here right now!

The quiz I gave you dealt with a personal injury case, but I could have given you a quiz on a case involving a breach of contract, a divorce, or a defamation case or any other type of case. Whatever the case, there are court rules and court procedures to know about. It can get a bit complicated, but it isn't so complicated that you can't figure out what to do.

Remember: if you're going to represent yourself, at least do a good job. As you know, when you're not well prepared, a person who represents themselves has a fool for a client.

