

Attorneys: Who Needs Them?

By

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In this inaugural article, I wanted to provide general insight into the profession of law and also some guidance as to when legal assistance may be beneficial. In future articles, I will be addressing more specific topics such as landlord-tenant issues, business formation and maintenance, contract negotiations and perhaps even venture into the realm of commercial litigation. But for now, let's start by delving into this thing called the "law."

Every day we navigate a labyrinth of laws designed to structure an orderly society in a world of increasing complexity. These laws are promulgated by the legislative branches of government and implemented by the executive branches. Where gaps in the law exist, courts may apply legal principals called "common law," which are court implemented rules established over hundreds of years. The combined result is tens of thousand of volumes of fine print text to which applies the maxim "Ignorance of the law is no excuse". Yet the sheer volume of laws presents an insurmountable challenge to understanding even our basic rights and obligations.

Even the most competent of attorneys may find themselves reading and re-reading legislative enactments before comprehending what is written. "Therefores" and "whereases" of long ago have given way to sentences that are paragraphs long and embedded with strings of commas, parentheticals, semi-colons and the dreaded dashes. Once an attorney feels certain about the law's meaning, a court may later interpret it in a manner that seems completely at odds with its express language. And to convolute matters even more, different courts within the same state may interpret and apply a law inconsistently.

With all this complexity, how are you to know what you can and cannot lawfully do? Fortunately, following one's common sense will often result in compliance with the law. Speed limits may be set based on the average speeds of drivers. Contracts are enforced according the parties' intent. We know that theft is wrong because we would not want to be the victim of one.

But what of those times when common sense provides no guidance? Do we act on instinct and accept that unknown negative consequences may later result, or do we exercise caution now in hopes of preventing future liability? The legal profession exists because these difficult decisions involving unknown legal rights and obligations arise everyday. Our goal as attorneys is to help those without our training and experience to understand the legalities of their acts. What seems acceptable from a moral

perspective may, in fact, have legal consequences that no reasonable person could anticipate. Sometimes those consequences are life changing, and not always for the good.

So when is the right time to seek the assistance of an attorney? In my 22 years of practice, I have represented clients who have come to see me too late, have come to see me too early and have come to see me when the time is just right. There is no one answer as to when seeking legal assistance is prudent. Even so, within each of us lies a zone of comfort that some call their “gut feeling.” If we stay within that zone, we remain confident in our decision making. Comfort exists because we usually possess the information necessary to make an informed decision. Since we know what the risks are, we know what the likely outcome of our decision will be.

When we leave that zone, however, we make decisions without informed consideration of the probable consequences of our acts. If you find yourself out of your comfort zone, it is then that you should seek legal advice.

Be truthful with your attorney and as your advisor, your attorney will be truthful with you. As an advocate, your attorney will champion your cause. And as a confidant, your attorney will hold your secrets in confidence and remain loyal throughout. Attorneys are bound by strict ethical rules, and the vast majority of practitioners steadfastly adhere to the standards of professionalism. We take pride in our roles and we appreciate our clients’ trust and willingness to listen to and consider our advice.

So the next time you ponder whether to start up that dream business or to sell that real estate or to walk away from a contract, and you find yourself outside your zone of comfort, just remember, your advisor, your advocate and your confidant is just a phone call away.

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