



Your Case Can Be Lost If Your Accident Lawyer Isn't Computer Literate

From: New York attorney Gary E. Rosenberg (personal injury and accident attorney and lawyer; serving Brooklyn Queens Bronx; Queens Accident Injury Attorney)

Feels funny to be writing this piece, but two things have just popped up to get me thinking.

FIRST: A potential client met with me yesterday. In 2005 she was buying tea in a coffee shop in Queens County that's part of a well-known chain. In an unfortunate accident the cup was slid to her on the counter and dropped off, burning her. Luckily, she only [suffered first and second degree burns](#). Like a bad sunburn; nothing that would scar her.

Sensing correctly that this accident was due to the carelessness or negligence of a coffee shop employee, she decided to sue. Hiring a local attorney a few days after the accident, she got on with her life, just needing a few months of doctor's care for her burn injury. And then she got mostly better.

The attorney that she hired, an older lawyer, did nothing with the case for 2½ years. Apparently he recognized that the deadline to sue ("statute of limitations") was three years and so he started her case in New York State's Supreme - which is New York State's lowest-level court of general jurisdiction, even though "Supreme Court" makes it sound like our highest court.

And the case moved slowly along.

Then it gets interesting. Because the accident victim and the defendant coffee company were both from outside New York State, the coffee shop's lawyers were able to transfer ("remove") the case to New York Federal Court. And the game changed.

Federal Court requires all documents to be filed electronically. Everything is "email this" and "email that" which is a pain, but that's how it's done in the 21st Century. But the accident victim's lawyer couldn't seem to get on board with the program. From the papers his (still) client showed me it appears that he wrote to the Federal judge to ask for special permission to not have to file stuff with the court by computer. And the judge told this lawyer, "no."

Then the accident victim's lawyer started missing court dates and not filing papers, until the judge wrote and order that the burn victim's case was on the verge of being dismissed for "failure to prosecute" because her lawyer seems not have known what the heck to do.

A simple and proper solution would have been for this lawyer to recognize he was in over his head when the case got moved from state court to federal court and get another, computer-savvy lawyer to assist him. But, alas, such was not the case.

So I had to advise this woman to return to her lawyer and find out if he had [managed to keep her accident case from getting thrown out of court](#). And when she calls me back, whatever she tells me, I'm not sure what I'm going to suggest to her.

SECOND: I saw a news piece out of Philadelphia, Pennsylvania. A Philadelphia attorney lost the right to recover a fee of \$35,000 because he did not receive an email notifying him of an [upcoming fee arbitration hearing](#). Now I don't know if this was an accident case or divorce case or what kind of case it was. It appears that this lawyer relied on his wife, who was also his office manager, to work his computer. She had fractured her arm and missed work for a long time. Her husband, the lawyer, did not hire a temporary replacement. Or even a high school or college student who could read this email.,

Needless to say, this attorney didn't know how to use Philadelphia's electronic court filing system. And never advised the court that he couldn't check, or wasn't going to be checking, his email for a while. So rather than learn the technology or get help, my Philadelphia colleague did nothing - in his case, only hurting himself and only costing himself money. Like the ostrich, Philadelphia lawyer stuck his head in the sand. Much like the New York attorney who seems to have blown the case of his burn-accident-victim-client who came to consult with me.

Comment:

What have we learned here, Dear Readers? While your attorney doesn't need the best website or the greatest blog, he or she should be computer literate and not stuck in old technologies. Unfortunately, [clients must sometimes protect themselves](#), which is not the way it's supposed to be when you hire a lawyer. Ask lots of questions.

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