

# How to Deal With a Lawsuit

BY ADRIANOS FACCHETTI

You wake up one morning and get ready for work, as you would any other morning. You step outside your door and a stranger lunges at you with a fistful of papers in his hands and says, "you've been served!" You are shocked, angry, and afraid all in the same moment.

What do you do?

Like most people, at first you do nothing. You place the stack of papers (which might as well be written in Greek) on your coffee table and ignore it for at least a few days. Then you build up the courage to read through the papers. You see something called a "Summons" and then another longer document called a "Complaint." The "Summons" advises you that you have only 30 days in which to respond to the Complaint. The Complaint describes, in strange and confusing language, a story you know well. Perhaps you made a comment at work about an employee whom you believed embezzled company funds. Or maybe you wrote a fiery anonymous blog post about your doctor. In any event, there you are, being described in cold, black print and you are being sued for [defamation](#), [libel](#), [slander](#), intentional infliction of emotional distress, and intentional interference with prospective economic advantage. You've heard of something called "defamation of character" but you're not really sure what that means, and you certainly don't know what the other terms mean. The first page of the Complaint says that you are being sued in the "[Los Angeles Superior Court, Central District](#)," and you think that is quite strange because you live in Orange County.

At some point you convince yourself that you need to take action and deal with this lawsuit. You call your uncle John and ask him if he knows of a good lawyer. He refers you to a very good criminal defense attorney whom he met at the golf course a few years back. You call the criminal defense attorney and schedule a consultation

with him. You meet with him at his office and he tells you that he will need an initial retainer of \$15,000.00. You don't ask him any questions about his qualifications. You assume that because he is a lawyer he can handle your particular case. You borrow money from you grandparents to pay the lawyer to defend you.

Your lawyer mounts an aggressive, but inefficient defense of your case. He asks you to answer sets of questions called Form interrogatories, Request for Admissions, Request for Production of Documents, and Special Interrogatories. You answer them. Then you are told you need to have your deposition taken. You prepare with your lawyer over the phone and then go to the other attorney's office. You answer questions for a number of hours.

Months later, and also about \$40,000.00 later, you are encouraged to mediate the case with a retired judge. While at the mediation, you are advised to write an apology and to pay the plaintiff a sum of money, which you do not have but will have to borrow to make this nightmare end. You pay it and sign some documents. It is over, but your life has changed dramatically. You now owe \$40,000.00 and your family is upset with you.

### **So where did you go wrong?**

If you have experienced something like the above scenario, then it will seem very familiar to you. If you have not, then you should listen up because I'm about to tell you how to deal with a lawsuit and how to properly select an attorney.

### **How to Deal With a Lawsuit**

Take Action Immediately: You normally have 30 days in which to respond to a Complaint. You will likely need the entire time for a number of reasons. First, you will need to find and interview at least two attorneys. Second, once you hire the attorney he will need time to prepare a response. In many cases, the attorney will be able to get a 2 or 3 week extension in which to file a response, but not always so you need to act fast. In the case of a potential anti-SLAPP

motion, for which you would have 60 days in which to respond, you would still need to act quickly because these kinds of motions are labor intensive.

Find the Right Attorney: There are many ways to find an attorney. One of the best ways is to get a referral from a friend or family member of an attorney who handles the specific problem you are facing. If that doesn't yield any worthwhile results, try calling your local bar association. Los Angeles, where I am located, has an excellent bar association and does provide referrals. Another option is to search the Internet. Do a "Google" search of the person's name and perhaps the practice area, e.g., "defamation lawyer", or "Los Angeles Defamation Lawyer." You will find a number of results. If the attorney has a website or blog, see if they have experience in the area. Once you find 2 or 3 attorneys that you feel have experience in the area of law, call them to schedule an appointment. The attorney will likely answer the phone and will ask you a number of questions. Be ready with a short speech (because lawyers are very busy and will be turned off if you ramble) and be respectful of the lawyer's time. Even better, e-mail the lawyer with a short summary of the case--no more than 2 or 3 short paragraphs and leave your contact information at the end of the e-mail and the best times to reach you.

Prepare for the Appointment: If the lawyer contacts you and advises you that he would like to meet with you, make sure to bring any documents which could possibly be relevant to the lawsuit. However, use some discretion. If you have three or four banker's boxes full of documents, don't bring all of them. You will only overwhelm the attorney. Make sure you arrive to the appointment on time and get ready to describe your situation. If the lawyer is truly experienced in the area, he will know exactly which questions to ask and will keep you on track. At the end of the meeting, if the lawyer is interested in the case, he will tell you what his fees are. Defense cases are almost always handled on an hourly basis with an initial retainer upfront, so be ready for that. If you feel that the lawyer is sufficiently experienced, and most importantly, if you feel comfortable spending the next year or two dealing with this person,

then you should hire them on the spot. If, however, you feel the lawyer is merely a generalist or has not treated you with respect, or he/she just doesn't seem like a good fit, then keep looking.

Litigating the Case: I could go into detail on this point, but I won't. Simply speaking, cooperate with your lawyer. Answer his phone calls promptly and his requests for information.