

How to Hire a Lawyer

By Ron Bamieh

Forward

This book is for anyone looking to hire a lawyer for any purpose in Ventura or Santa Barbara County. I limit this book to these two California counties because it's where I work and where most of my cases are located. I know the lawyers in these counties well, and while I will not identify them by name, I will identify what makes a good lawyer and what makes a bad one. Those of you who don't live within Santa Barbara or Ventura County may be wondering why you should read this amazing piece of literature.

If you live in a different area, you will still find this book very helpful. Throughout my life and career, I have traveled all over the country. During this time, I have noticed many similarities in the lawyers and law offices that litter the nation. The keys to hiring a lawyer are similar in all parts of America. Lawyers, good ones and bad ones, are remarkably similar. The same qualities that make a good lawyer in Ventura make a good lawyer in Madison, Wisconsin, and a bad lawyer in Santa Barbara is just as easy to identify as a bad lawyer is in Warren, Ohio.

The goal here is to relieve some of the stress that usually accompanies hiring a lawyer, by giving readers expert insight into the process. I know this material may cause some in my profession to call me a traitor or criticize me for exposing the tricks of the trade (what are they going to do—sue me?). My peers may even say that I am exposing other lawyers for my own benefit. I admit that I will expose those who attempt to obtain clients through advertisement instead of their service. I will explain how many of the promises made by these lawyers are either generic, meaningless, or are actually legal obligations required by state bars.

After reading this book, consumers should be more critical, be able to ask better questions, and, with any luck, be more discerning in deciding who should represent them. If my

firm becomes more closely scrutinized by prospective clients due to what I've written, I would call this book a great success. When potential clients become more selective, my firm (and others) must step up to meet people's expectations. More discerning potential clients mean my firm has to provide superior service—giving people the help they deserve. Of course, I hope this book benefits my firm. Do you think I wrote this epic for your interest only?

A Bit About Myself

For the past twenty years, I have been practicing criminal law, both as a prosecutor and as a defense attorney. I spent ten years at the Ventura County District Attorney's Office, prosecuting everything from DUI to murder cases. During my last five years in the DA's Office, I worked with a team of investigators on unsolved murder cases. I led investigations using some of the most innovative techniques in law enforcement. Some of my cases were featured on national television shows (Fox Special Report, The O'Reilly Factor, and 48 Hours) and Dateline NBC did a one-hour special on my most difficult case. I was considered by most to be one of the top prosecutors in the DA's Office during my time there (I have the plaques to prove it).

In 2002, my former partner, Philip Erickson (1959-2005)¹, and I opened the law firm I currently run, Bamieh and Erickson, PLC. Since 2002, I've tried dozens of criminal, family, and personal injury cases. The people who pay attention to such things would note that my experience and the results I've obtained from high profile cases prove that I am one of the top defense attorneys in the Ventura and Santa Barbara area (I have one of these plaques too). While I have always enjoyed practicing criminal law, I went into private practice with the goal of expanding my areas of practice. I am a trial attorney. My gift as a lawyer is my skill in the

¹ Phil Erickson passed away on September 15, 2005. Since this firm was both of our dreams, his name remains in the firm's title.

courtroom. Once I began private practice, I realized there were other practice areas in which I could capitalize on my strength in the courtroom.

Over the last ten years, I've tried many family law cases. I have become extremely familiar with both the practice of family law and the lawyers in my community who specialize in this field. The reason my firm is successful in family law, an area many lawyers distaste, is simple; a skilled trial lawyer can be extremely useful in difficult cases. Many family law lawyers in my community are not comfortable trying cases. They have limited knowledge of the evidence code and they don't like the pressure of trial. There are exceptions in my community (I am referring to the family law lawyers reading this now), but there are some truly bad ones, and they are easy to spot if you know what to look for.

How do I know this? When I first opened my practice, I sat in family law courtrooms, observing other lawyers. Watching others practice law was a great way to learn. After three days of observing, I knew the good, the bad, and the ugly of the family law bar in my community.

Early on, my firm developed a personal injury practice. Before his death, this field was mainly my partner's province. When certain cases got close to trial, I would get involved in order to prepare for and take the case to trial. However, the nuts and bolts of personal injury was not my background. When my partner died suddenly, I had quite a few personal injury cases needing attention. I brought in an experienced personal injury attorney and began to learn as much as I could. Since I was not initially comfortable in this area, I took the time to learn from experienced personal injury lawyers and watch them in court. In doing so, I learned what makes a good lawyer and more importantly, what makes a bad one.

I have watched high-profile personal injury lawyers literally walk away from hundreds of thousands of dollars on the negotiating table. I have also seen lawyers who, with their skill and understanding, have obtain verdicts and settlements that far exceeded most estimates when the case was brought to their office.

I am in and out of courtrooms just about every workday and I am familiar with the vast majority of lawyers who practice in Ventura and Santa Barbara counties. Besides having trial experience, I am also an avid observer of trials. I take notes, or “scouting reports,” about the lawyers. I write down my opinions concerning which lawyers are competent or incompetent in handling various types of cases. I speak to clients, both my own and other lawyers’, to find out what they expect, in an attempt to improve the services my firm provides.

I am not just a lawyer, I am also a business owner. I pay close attention to what other lawyers in my community are doing in terms of marketing, case results, and legal practices. I do this to maintain a competitive advantage. In terms of marketing, I am constantly amazed that effective marketing supersedes effective trial advocacy. I personally know lawyers who are not qualified, or at least not capable of handling certain types of cases. Yet, I frequently see them with clients. I am shocked that people blindly put their trust in a lawyer, not based on his or her ability or prowess, but based on a phone book ad or web page.

A Bit More About My Law Firm

My law firm has four full time lawyers and three contract lawyers. I have assembled a team of investigators and experts who help me prepare defenses whenever their services are required. Unfortunately, we can’t take every case because we don’t have the time. For a variety of reasons (workload, my interest, finances), we reject more cases than we accept. Early in my

practice, I learned that you never regret the cases you reject, and I have practiced this philosophy consistently throughout my career.

My firm has two lawyers dedicated to an active criminal law practice. We have defended everything from petty theft cases to murder. The practice also has two lawyers who work on family law cases. The firm has represented everything from minor dissolutions to multimillion-dollar community property disputes and from same-sex couples' child custody matters to domestic violence.

Our largest area of practice is personal injury. We represent plaintiffs who have been injured in various accidents, both intentional and unintentional. We try a fair amount of these cases and have obtained millions of dollars in settlements and verdicts. I have found my extensive experience as a criminal lawyer has provided a substantial advantage to my personal injury practice. Some of the types of cases we try are wrongful death, sexual molestation, wrongful termination, and medical malpractice. Basically, if you were injured at the hands of another or due to another's negligence, we want to talk with you.

As you can see, I run a diverse practice in a number of very litigious areas. This is the experience and understanding I bring to *How To Hire A Lawyer*. The reason I provide the previous information is not to brag (ok, I'm bragging a bit), but so you understand the advice I offer comes from an experienced, well-seasoned lawyer who has used his knowledge both for and against people over the last twenty years. I know how cases are investigated, what a prosecutor is looking for when she considers filing a case, and how a defense attorney examines a case. I understand what it's like when a person comes to you injured and looking a way to be made whole through civil litigation. I know the look of fear on client's faces when they have

lost their marriage and they're worried about how they will survive financially and take care of their kids. Most importantly, I know how lawyers try cases and what makes a good or bad lawyer.

This book is just the start to help you at the outset of your problem. It is by no means the be-all-end-all book of what to do in sticky legal situations. This information is one man's opinion. Others may disagree based on their own experiences (but they would be wrong, of course). However, if you are looking to hire a lawyer, this book will provide you with a basis to make one of the most important decisions of your life.

CHAPTER 1

How Do You Pick a Lawyer?

“How do I go about hiring a lawyer?” I hear this question all the time and usually feel insulted. I tell friends, family, and potential clients that if they need an attorney, they should hire me. I realize my response isn’t very helpful. As much as I hate to admit it, the reality is I may not be the right fit for some cases. Considering how often I am asked about hiring a lawyer, there must be thousands of people out there wondering who they should hire for their specific need. Most people know a few lawyers in their community, but they usually don’t know which lawyer is right for their case, and are likely confused by the various advertising claims. People want to know what to look for and, more importantly, what to avoid when hiring a lawyer. If you are one of these people and you need to hire a lawyer, this chapter is for you.

Thinking about how to answer this basic question and putting it in book form is more complicated than you would think. When I began thinking about how to answer the question, I considered what people with legal issues are going through and how difficult it must be to sort through the avalanche of material available, while under the stress of an important decision.

The other day, I spoke to a client who was new to the courthouse. She was there for her case and had never experienced the courthouse environment. As she sat in the hallway, watching lawyers and clients walk by, I was taken aback by the look of concern on her face. I asked my client why she looked so troubled. She said something that, as soon as I heard it, I knew I would include in this book because it illustrates an important point. She said, “All of these lawyers have nice suits, they are dressed well, and they look professional. How does somebody like me

know which ones are the goods ones and which ones are the bad ones? You can't tell by looking at them.”

It's true. You can't tell the good lawyers from the bad ones just by looking at them. If you're a first-time client with no legal experience, you probably would not realize you are being poorly represented by your lawyer until you are far into your case. Hopefully, this book will help you avoid the lawyer who isn't right for you. You will learn to be cautious of choosing a lawyer based on his or her advertising. You will learn why it's important to hire a lawyer who actually practices in the county where your case is being heard and who is experienced in the law that is at issue in your case. You will also learn that the lawyer's ability to put time and resources into your case will have a great impact on your success.

One of the best ways to find a good lawyer is to scout them. What do I mean? When sports agents or professional teams are looking for the best athletes, they go to games and scout the players. They watch whether the players can hit the curve ball, field their position, run quickly, and jump high—all the talents that make someone a great athlete. You can apply this same principle to hiring a lawyer. Go to your local courthouse and sit in a courtroom where your type of case is being tried. Some of you may say you don't have time for this. I would counter with, “you have to make the time.” When an individual is facing a life-altering situation, I think it's reasonable for him or her to invest a few hours to get fully educated (just like you would if you were diagnosed with a rare disease).

When I first opened my firm in 2002, I wanted to practice family law. Besides educating myself in the law, I spent time observing cases being argued in family law courts. It was a great way to familiarize myself with a new practice area, to learn what judges respond to and how

family law issues are litigated. I was surprised to learn that some of the family law lawyers with good reputations in my community are not strong advocates for their clients. Rather, they are lawyers with great marketing tactics.

I have an advantage in evaluating the lawyers who bring their cases to the courtroom because I'm one of them. Fortunately, you don't have to be a lawyer to observe a lawyer. In the past, I have paid non-lawyers to sit in courtrooms and evaluate lawyers based on specific guidelines. I also ask my paralegals to observe trials periodically so they can see how the issues they prepare are litigated. I have found that any layperson can distinguish the good lawyers from the bad ones. You can make judgments based on legal arguments, the reaction of the judge, the points raised, and the lawyer's confidence in his or her presentation.

Another important component of "scouting" is watching lawyers communicate with other people (judges, clients, lawyers, bailiffs, and witnesses). Communication practices provide telling signs about a prospective advocate. If you witness a lawyer enter a courtroom and no one acknowledges the person or treats him or her with disrespect, take the lack of positive interaction into careful evaluation. If you notice a lawyer who appears to be well thought of, someone with whom other lawyers and the court staff engage, you may be looking at a competent professional. Watch the interaction between lawyer and client. Does the lawyer seem responsive or dismissive toward his or her client? Do lawyer and client appear to have a decent relationship? Is there mutual respect? Any observant person can pick up on these cues.

In a criminal court, you can evaluate the prospective lawyer's relationship with the other lawyers and the prosecutor. "Presence" in the courtroom is a valuable trait in a lawyer. What is presence? I don't know how to describe it, but I can tell you that you will know it when you see

it. Ask yourself, does the prospective lawyer look comfortable in the courtroom? Is he or she able to articulate legal positions effectively? Does the lawyer appear organized and prepared for trial? You can evaluate these qualities if you pay attention to what is happening in court. If the lawyer doesn't have presence, doesn't look comfortable in the courtroom, and doesn't appear competent, seriously consider whether this is the lawyer for you.

You don't have to rush into hiring a lawyer; you have time to scout. If you keep your head and do a little leg work, you will be well off when it comes to hiring your lawyer. Rushing into a long-term relationship in any area of your life is never a good idea, and that includes your lawyer.

CHAPTER 2

The Stressed Lawyer Hire

When people really need a lawyer, they are often in a tough position. Most people aren't looking for a lawyer to help them figure out what to do with their lottery winnings. No, lawyers are usually in demand during difficult times—when you or a loved one has been arrested or is being questioned by the police; when you've suffered a life-altering injury at the hands of another; when you've been served with divorce papers. You are most likely stressed, you probably have many questions, and you want help right away. The problem is that you really have no idea whom to call for help.

The Yellow Pages seems like a good option. However, all of the ads appear the same. They are littered with words like “experienced,” “aggressive” (it is amazing how few lawyers advertise their passive approach and easy-going demeanor), they offer free consultations, and there is usually a picture of one or more people dressed professionally and looking concerned (my personal favorite). You check out the Internet. Everything looks the same as the Yellow Pages ads, except most lawyers' sites provide details on various topics that may or may not be of interest to you. Do the blogs, newsletters, videos, statistics, and years of experience mean someone is a good lawyer?

If you have been arrested, you do not even have to look in the phone book or search the web to find a lawyer. You can take the lazy approach to hiring a lawyer and just wait for your mail to arrive. Lawyers will actually solicit you through the mail. If you live in Ventura or Santa Barbara County, you can expect between sixteen and twenty letters from criminal law firms, all worried about you and ready to protect your rights (aggressively, I'm sure). Receiving

mail from a bunch of lawyers, who all talk about what they can do for you, is certainly a convenient way to hire a lawyer. After all, who doesn't love it when the take-out place also delivers? If you are comfortable choosing a lawyer based on a mail campaign, you can save yourself some time and stop reading this book now. For those of you who don't feel comfortable making one of the most important decisions of your life based on junk mail, I encourage you to keep trudging your way through this masterpiece.

It's important you go about hiring a lawyer as you would make any large purchase (assuming you are not a professional athlete). You need to think through the process and come up with a way to analyze potential prospects.

Marketing studies reveal that people who hire lawyers based on phone book ads, Google searches, or someone's referral are likely to hire the first lawyer they meet. Think about how ridiculous this is (unless I'm the first lawyer you meet). While most people would call this extremely foolish, lawyers call it good cash flow. Are you really willing to pay thousands of dollars to the first lawyer who takes your phone call or is available to meet with you? Did you marry the first person you dated? (I know there are people out there who did, and I enjoy handling their divorces). Most people like to get to know a person first before they proclaim their love. Now, if it's just dating, the only thing you risk by proclaiming your love on the first date is a little embarrassment, and maybe a restraining order, but that is relatively minor compared to the consequences of hiring the wrong lawyer.

I've gotten many urgent phone calls from desperate people, wanting my opinion on who they should hire for their specific case. These friends, family members, and acquaintances

believe their entire future is in the toilet if they don't get a lawyer right away. These conversations usually go something like this:

Person: *Hello, Ron. You don't practice in (INSERT CITY NAME THAT IS NOT IN VENTURA OR SANTA BARBARA COUNTY), do you?*

Me: *Not unless it's a personal injury case (in personal injury cases, the location of the case is less a factor, as long as it's within the licensing state) or someone wants to pay an exorbitant amount of money and doesn't mind the fact that I don't know anyone in that area.*

Person: *Could you recommend a good lawyer for my criminal/family law case?*

Me: *I don't think I can recommend a specific lawyer because I don't really know anyone well enough in _____ County.*

Person: *What am I going to do? I have to be in court soon and I don't have any representation. I'm so screwed. I'm going to lose everything! For the love of God, please help me! (This may be a bit of an embellishment.)*

It is often the fear and stress caused by legal issues that make people think they must find a lawyer immediately. This is the first mistake people usually make in hiring a lawyer: they believe there is a time-crunch and they give themselves only a few hours or days to find representation. If you think this way, you're probably increasing your stress level, therefore making it much more likely that you will choose a lawyer with an attractive ad or website instead of a quality lawyer who will be effective for your case.

I realize there are situations in which people cannot do a thorough search for the right lawyer. If the statute of limitations for a cause of action is going to expire, you must act now.

This applies to lawsuits where you are suing someone for money. Or, if the police are at your door and you require advice immediately. In these circumstances, you need an advocate right away to prevent you from waiving important rights.

If your matter is time sensitive, meet with a lawyer who is competent in the field in which service is required to advise you on a limited portion of your case. Tell the lawyer you want to hire him or her for a specific purpose, tell the lawyer the purpose, and then pay him or her to get you through the emergency. Lawyers should be happy to do this because it's their chance to show you the quality of their work. Once you've dealt with the emergency, you can begin the process of finding the right lawyer.

In the vast majority of cases, you will have time to make an educated decision. I'm talking about a couple of weeks, a month, or more. In most civil cases, you have months to hire a lawyer without your case being negatively impacted.

Lawyers know that people panic when they are investigated, arrested, or served with court documents. Most lawyers take advantage of this fear. Some lawyers add to their potential client's stress by attempting to get hired at their first meeting. There are lawyers out there (I hope you are sitting down for this) who take advantage of this situation in order to capitalize financially. They mention certain catastrophic events that could occur if the potential client remains unrepresented for any period of time.

As you begin the search for a lawyer, keep in mind that a stressed and panicked decision does not typically work out well. When I receive a frantic phone call from someone wanting instant representation, I can't help but think the caller is creating pressure from within that doesn't exist outside of their mind.

The people who are often the most stressed, the ones who think they need a lawyer right away, and who make the biggest mistake in choosing their representation, are those being charged or investigated in a criminal case. I'm sure you can understand why. The threat, no matter how remote, of spending a few days, weeks, months or years in jail or prison usually ranks high on people's stress list.

Ignorance of the criminal justice system leads people to do things that end up hurting them more than anything. Frequently, people come to my office and say, "I didn't know who to call or what to do." I also hear, "I've never had this experience before; I've never even had a traffic ticket, so I didn't know what to do." Most people don't have a criminal defense lawyer on their speed dial. When they are first told they're being investigated or charged, people often ask those closest to them what to do. Unless someone in your sphere of influence is a qualified and experienced criminal defense attorney, this usually does not bode well.

No matter how serious the charges, you can usually postpone any court proceeding at least a couple of weeks to give yourself time to hire a lawyer. I don't know of a judge who would not allow you an extension to find representation. Judges typically allot two to four weeks, but you may be able to get more time if you ask.

While it would be nice to have a lawyer at your first court appearance, it's not essential to the outcome of your case. Trust me, you will be better off not having a lawyer at your first court appearance than having a bad lawyer for your entire case.

If you're in custody, you will probably want a lawyer sooner rather than later to help you with bail. If your case has been filed, you have time to find a lawyer because no legal professional can affect the filing of the case at this point. Do not let short-term issues create

long-term consequences. Although it's inconvenient, you will be better off remaining in custody on a high bail for two weeks, rather than getting convicted of a serious crime that will change your life forever. Maintain perspective regarding your situation, because it will help you make better decision. You, or someone on your behalf, have time to find the right lawyer for your case. Using this time effectively will go a long way in determining the quality of you representation.

The solution to reducing your bail² or convincing a judge to release you on your own recognizance is simple: hire a lawyer for this purpose only. Again, most criminal practitioners will agree to this arrangement, because they can make easy money and show you the quality of their work.

In most circumstances, you have at least one or two years before you have to file any personal injury claims or lawsuits. Time ticks a little faster if you were hurt by a governmental agency. In this case, you usually have six months. If you are talking to a lawyer the day after you were injured and you want to hire someone right away, you are rushing when there is no need to rush.

If you have a family law case, meaning you want to file for divorce or for custody of your children (assuming you or your children are not in danger), there is no urgency. It will not affect your life nearly as much to be divorced a week or two later as it would if you hire the wrong lawyer. If you receive divorce papers, you usually have thirty days to respond to your spouse's complaint.

² What most clients don't know is bail is set at scheduled amounts in every courthouse in California. This is called the bail schedule. Bail can be higher or lower based on the specific facts of your case. Courts are usually reluctant to go below the set schedule in most cases. Be wary of the lawyer who makes promises about lowering your bail.

Be cautious of lawyers who pressure you. If a lawyer mentions the time factor, be sure to ask what the time parameters are and what rights would be affected by waiting to think things through. In an attempt to sign clients, some lawyers don't act with the integrity they should. If you feel as though you are being manipulated or you don't trust the lawyer, seek out a second opinion. Being pressured into making a hiring decision is a poor reflection on the quality of the legal services you would receive.

When hiring a lawyer, time is always an asset. If you have it and don't use it, you are wasting a valuable resource. Time allows you to meet with people, look at their offices, do some research, compare, ask for referrals, see them in court, and think through your decision.

Before you jump into bed with the first lawyer you meet (metaphorically speaking, of course), read through the next few chapters. They deal with helpful hints on how to hire a lawyer—shockingly, I call these chapters...

Bamieh's Helpful Hints on How to Hire a Lawyer

CHAPTER 3

Bamieh's Helpful Hint No. 1:

Hire a lawyer who has an office within thirty miles of the area where you are being charged or investigated or where your family law case will be litigated.

I am betting that everyone reading this has heard of the “home court advantage.” In sports, it’s common knowledge that the home team has an advantage in any contest. This principle applies to law; there is a home court advantage in the courthouse.

Hiring an out-of-town lawyer for an in-town case is a huge mistake. As a lawyer who works mainly in Ventura and Santa Barbara counties, I know many of the investigators and prosecutors in the area. Just as importantly, they know me. When I work on a case in Ventura or Santa Barbara, I am extremely comfortable and I have a pretty good idea of what is going to happen. Based on the judge or prosecutor, I also know what position everyone will take. If I don’t know what will happen, I know who to call to find out. I know the judges and court staff, I know where to park and where to eat, and most importantly, I can sleep in my own bed at night. Imagine how difficult it is for lawyers who are practicing in unfamiliar territory and don’t have these conveniences.

I don’t know many judges or lawyers in Orange or Riverside counties. It’s a huge pain to go to these jurisdictions and make a court appearance because of the time, effort, and my lack of knowledge of the environment. I do not like it, do not like it, so don’t call; I don’t want any Orange or Riverside court appearances not one bit at all (my ode to Dr. Seuss—I have little kids).

I refuse most cases outside my area of practice unless the client also hires local counsel to even up the odds. The exception to this rule is if I am being hired solely to do the trial. At that point, what the client wants is a good trial lawyer and I can do that job in Ventura or in Texas. However, if I am going to spend nights away from my family, trying a case in a jurisdiction in which I don't practice, the client is going to pay a much higher rate than I would charge for a case in Ventura or Santa Barbara counties.

Knowing the judges' names, being familiar with the layout, and knowing the opponent are all advantages that are lost when you hire a lawyer who does not maintain a practice in the specific courthouse in which your case will be heard. When you interview a lawyer, be sure to ask, "How many cases do you have in (INSERT CITY NAME HERE) courthouse? Are you familiar with the judges? When was the last time you were in the courthouse? Do you know the prosecutors (in a criminal case), the judges (in any case), and do you know where the cafeteria is in the courthouse?" Most lawyers will anticipate the judge question, but they will not anticipate the cafeteria question.

It has become a popular trend for lawyers to rent office spaces by the hour or day. There are companies throughout the state that lease office space to lawyers and other business professionals. This allows the lawyer to appear as though he or she has office space in a city other than where their office is actually located. Lawyers use this service to expand their area of practice. Knowing most people want local counsel, lawyers feign a local presence.

When the lawyer arrives at the rented space, which often comes with a receptionist (so it looks official), he puts out a family photo, sets up his business cards, and organizes paper on his desk for a lived-in look. The client shows up for an appointment and is greeted by the

receptionist, who offers water or coffee, sees the cards, and then is ushered into what appears to be the lawyer's office or conference room. For all appearances, the office looks like a law practice. Since the phone number is a 1-800 number, the area code does not give it away. The lawyer never says that 95% of his practice is in Los Angeles and the client never asks. The most sophisticated practitioners may have a P.O. Box with a local address and area-specific business cards. And, of course, they only meet with clients on the days of court appearances.

With a little sophistication, you can figure out whether the lawyer who claims to practice regularly in the county where your case is located actually does so. Here are some clues that reveal you are dealing with an out-of-town lawyer pretending to be in-town:

1. A 1-800 number is a clue. Many lawyers use 1-800 numbers for convenience, but if the lawyer calls you and it's from a different area code than yours, you need to be suspicious.
2. Closely examine the lawyer's office. A family photo is a nice touch, but look beyond the photo. Look at the furniture, the waiting room, and who else works in the office. If you get the feeling that you are looking at a transient office, you are probably looking at a transient office.
3. Ask direct questions. "Do you come to this office every day? Do you work from any other offices?" If they have more than one office, ask them where their main office is located. Do not accept the answer, "both are my main offices."
4. Look at their website. If there is no mailing address or there are multiple addresses or P.O. Box addresses, these are clues.
5. Check the California State Bar website. Most lawyers will designate a location and have a specific address or phone number (with area code) listed on the bar website.

In every county there is a community of lawyers in any given practice area. If you are part of that community in Ventura County, other lawyers trust you because they know your reputation or have worked with you. This group works together to resolve cases. If you have offended the community, you can be shunned and others will not work with you. In Ventura, the family law lawyers know who the jerks are in the profession, who they can negotiate with to a fair settlement, and who they will have to fight the whole way. Once I know who the opposing counsel is on any matter in Ventura or Santa Barbara, I can tell my client what type of experience we will have in court.

If I had to resolve an issue in a San Francisco family law court, I am at a disadvantage. I cannot afford to trust the opposing counsel because I don't know them. As a result, I have to take a much more aggressive and potentially more expensive approach. From experience, I know if I take a case in San Francisco, I will not be treated the same as a local lawyer who works in the San Francisco courthouse every day.

Personal injury cases are the exception to this rule. Usually, these cases are not courtroom driven until the end. When it comes time to try the case, it's always good to have local counsel on hand who knows the area, the judge, and, most importantly, the good places to eat. In some instances, none of the lawyers hired for a case are local because they aren't required to be in court on a daily basis. Unlike criminal and family law, the community of lawyers you find in personal injury cases are not as close or as knowledgeable about each other. This is not to say that many of the local personal injury lawyers do not know each other, it's just that there is a much larger pool of lawyers involved in these cases, and relationships and bonds are not as strong.

If you are thinking about hiring an out-of-town lawyer for your personal injury case, keep in mind the costs of the case will increase by doing so. Personal injury cases are usually handled on a contingency basis. This means the lawyer gets paid a percentage of the amount the client gets (from $\frac{1}{3}$ to $\frac{1}{2}$ of the total recovery). The lawyer fronts all expenses needed for the case and gets paid back all expenses either before or after the percentage is taken from the recovery. If you are negotiating a fee agreement with the lawyer, make the lawyer take his expenses before he receives a portion of the proceeds — hint: you can save lots of money).

Knowing your costs will go up by hiring an out-of-town lawyer is to your advantage when you are negotiating with the lawyer. You need to ask the lawyer if he is going to bill you for the cost of being an out-of-town lawyer, if he will reduce his contingency percentage, and how that cost can be offset from his percentage. You also have to be conscious of the fact that most of the experts the lawyer will be working with are closer to the lawyer's office than to the courthouse where the case is located. Experts charge travel fees, and if the expert must travel to a deposition or trial, you will eventually pay those costs out of your recovery.

Now, it's just as inconvenient to go to Orange County on a personal injury case as it is a criminal or family law case. In personal injury cases, I do what I can to minimize this burden on my clients. Usually there is a good chance opposing counsel also practices out-of town so there is no advantage or disadvantage to either side. Additionally, I am willing to take the burden of additional costs out of my fee, as opposed to my client's recovery. If I am even considering an out-of-town case, it is usually a larger case and is well worth it for both me as the lawyer and my client.

CHAPTER 4

Bamieh's Helpful Hint No. 2:

Don't be fooled by advertisements.

It's a competitive market—lawyers advertise hoping potential clients make decisions about which lawyer to hire based on an Internet, phone book, or mail advertisement. In criminal cases, I often advise clients not to trust the police investigating their case. The reason is the police have an incentive to mislead a suspect (this is not meant as a slight against the police. It's legal for officers to lie to crime suspects and good police officers do so effectively to their advantage). The same logic applies to legal advertising. You have to be careful trusting people who have an incentive that may be against your interests. The lawyer's incentive is to gain clients and make money. Your interest is to get the best lawyer for your case. Are you going to make the big decision of who is going to represent you based on a marketing campaign?

When you go about hiring a lawyer, you should be aware of how lawyers advertise. There is nothing wrong with advertising (I love lawyer ads, especially our own); however, you need to realize that choosing a lawyer based on his or her ad is not exactly making an educated decision. You can choose a restaurant or a plumber through advertising, but paying lots of money to a lawyer because you like their ad or because they claim to have years of experience, or because they are aggressive litigators, is setting yourself up for disappointment... or worse.

I always tell my clients there are consequences, both positive and negative, to all decisions they make in a case. My job as their lawyer is to advise them of the consequences (both good and bad) to their potential decision. The one important legal decision most lawyers do not advise clients on and that happens to have a large influence on the outcome of a case is

which lawyer to hire. I've advised people on cases involving millions of dollars and years in prison, but I have never advised anyone to hire Ron Bamieh for their case (even though I frequently hold that opinion). I tell potential clients that I can handle their case and that I've been successful on similar cases, but I don't tell them which lawyer to hire.

There are three main ways lawyers advertise. I know this because my firm uses two of these three methods. For criminal, personal injury, and family law cases, lawyers market heavily in the Yellow Pages, on the Internet, and for criminal cases only, through the mail (this is known as jail mail). The consumer needs to understand how these forms of advertising work and why they're successful. If you understand lawyers' marketing, you can separate their advertising claims from their ability to actually help you.

The Yellow Pages used to be the way most people selected a lawyer. If you didn't know any lawyers, you would open up the phone book and pick one. Phone books ads are expensive, sometimes costing as much as \$5,000.00 - \$20,000 per month (depending on the area and size of your ad). Well, of course, certain ads work better than others and, over time, the people who sold the ads came up with some tricks of the trade to make the ads more effective, so they could sell them to lawyers, who in turn sell themselves to clients. Over the last ten years, people have been drifting away from phone book marketing and are leaning more toward the Internet. Some lawyers still view the phone book as an effective marketing tool, so they keep advertising there. Phone book companies charge more for certain ad positions in the book and ad location is a big deal to most law firms. Lawyers want to be as close to the front of the Attorney Section as possible, or on the back cover, front cover, or spine. As yourself, "Why?"

Lawyers (and other business owners) want coveted ad locations in order for consumers to see their ads first. This is a tried-and-true marketing theory, and it's why most people will choose the first service they believe fits their need. Based on this premise, lawyers fight over ad positions. My firm has benefited from phone book location-based marketing strategies in the past.⁴

The reason location matters is not because people are lazy (though I am not disputing this fact). Location is a big deal because most people make decisions quickly. The lawyer with the first ad that speaks to a prospective client's issue will likely receive the phone call and the case. Lawyers know the better their ad placement, the higher the probability a prospective client will call their firm first. Lawyers make a big deal of ad location because they are counting on potential clients to be ignorant of the lawyer-hiring process. When you think about it, this concept makes sense. If I am looking for a lawyer in the phone book and I don't know one from the other, what does it matter if I chose the first ad I see or the eighth ad? Consumers chose the first ad because it's the easiest. Lawyers hope prospective clients will not be discerning enough to compare ads. Both lawyers and phone book companies know the location of the ad is more important than the quality of the lawyer (in terms of getting hired). They are betting, with their advertising dollar, that most people don't put much thought into the lawyer they hire. This has been a winning bet for decades. There is really no difference to the ignorant consumer ("ignorant" meaning lack of knowledge and not lack of brains; however, if you are lucky enough to suffer from both, I am told you are not unique and most likely work in a government office—this is a joke, Ms. DMV, so relax a little).

⁴ My law firm no longer advertises in the phone book because it isn't cost-effective.

In phone book ads you will see statements like, “Voted the Best Law Firm in Ventura County,” “Aggressive Litigators,” or “35 Years of Combined Experience” (I love the “combined experience” approach. Obama and I have four years combined experience as President of the United States). These ads are not so much trying to convince you that this law firm is the best law firm, their purpose is to convince you to look no further. Being the discerning consumer you are, ask yourself the following questions when you come across legal ads: “Why does this lawyer have to pay so much for advertising? Who exactly voted you (INSERT WINNING TITLE HERE)? What do you mean by “aggressive” (as opposed to being a passive lawyer)? Does my type of case even require an aggressive lawyer? Is your 35 years of combined experience any good?”

Almost all legal ads offer a free consultation, 24/7 access and service, “no recovery, no fee,” and they habla Español (I do not habla, but people in my office do). All of these claims and solicitations are designed to draw your interest and get you to call them. Trusting an ad to determine who will defend your case, or more accurately, your livelihood, is not the same decision as what toothpaste to buy. Although these offers sound impressive, look beyond the surface. If someone is trying to hire you for thousands of dollars, would you not meet with them once for free? If you had the chance to make a lot of money, wouldn’t you make yourself available at any hour? (By the way, 24/7 doesn’t mean a lawyer is at his desk on a Saturday night, waiting for your phone call. It means the firm has an answering or call-forwarding service.) Free consultation doesn’t mean the lawyer will answer legal questions about your case or even do an analysis. The consultation usually means the lawyer will be more than happy to discuss how much you will pay him, the basic facts of your case, and how the case in *general* (I emphasize the “general” part) will be handled. Most lawyers know if they give away the milk,

you won't buy the cow (this concept may apply to other areas of life, so feel free to use it on your college-aged kid). Legal professionals won't give out free advice or expose themselves to a malpractice claim when they haven't even been paid. I'm not saying legal advertising in the phone book is dishonest; rather it's a lousy way to pick a lawyer (however, it is a good way to see what he or she looks like).

The Internet is another advertising approach that most law firms use, and it's becoming the most prevalent and effective marketing tool. Lawyers pay online marketing specialists to put their law firm's site on the first page of search engine results. When you type "Ventura Criminal Defense Attorney" in Google, all lawyers want you to see their name first on the list of results. The way to do this is to use key words and optimization techniques marketed by web designers. Law firms pay extra for this service. Once again, lawyers are betting you will not put much effort into researching the lawyer you hire.

The biggest difference between online and print advertising is the web allows for more content than any phone book ad could ever offer. Much of the online content does nothing to educate the consumer on the lawyer or law firm. Nor does it distinguish one lawyer from the next. There is a lot of content on websites about various legal issues and laws, but often there is little information about how the lawyer will help you in *your* specific case.

Sophisticated marketers know the key to getting new clients is to draw traffic to their website. One of the most basic ways lawyers do this is by putting specific content on their webpage that people will search for if they have a legal problem. If you are charged with drunk driving and are looking to educate yourself about the consequences, you may head online. Wanting to know how your future will be impacted, you Google "Effects DUI has on California

Driver's License." That search brings up a number of law firms that defend DUI cases because those firms were smart enough to put informative DUI content on their sites. Lawyers provide answers (online content) to the types of questions clients frequently ask. They hope you will do a search, end up on their webpage, and then, because you are smitten by the fact that the lawyer was smart enough to plagiarize content from the DMV site (I'm not implying anything here; actually, it is the opposite of implying), you will hire that lawyer.

The final form of advertising tactics only applies to criminal cases. It is commonly referred to as jail mail. If you are arrested, your information, such as your listed phone number and mailing address, gets pulled into a data system. Direct-marketing firms can obtain that information and then sell it to law firms. Anyone arrested for anything from a DUI to a serious felony gets about sixteen to twenty letters in the mail from law firms. Some of these letters may tout prior successes, tell you what they have done for other clients (although your results may vary), or offer common legal information. Make no mistake, these letters are sent out under the same assumption as phone book ads and websites. The advertisers want to reach you as soon as possible because they believe you will make a quick decision about which lawyer you'll hire.

What Legal Advertising Should Teach You About Hiring a Lawyer

Now you know advertisers believe people in need of lawyer representation are going to make a rapid decision based on very little information. This lesson we learn from lawyer advertising should be a warning to any prospective client.

Most situations warranting legal help—a criminal investigation, getting a divorce, working out child custody issues, or being injured—are difficult at best. You are naturally looking for someone to be on your side, to represent your interest, and to fight for your rights.

Few people in these situations can manage their stress and educate themselves well enough to make a good decision about hiring a lawyer.

Lawyers know that their prospective clients are stressed out. If they can get you in the door, they know you may attempt to ease your stress by hiring the person sitting in front of you; the lawyer who appears ready, willing, and able to take your case. It's all about getting that first phone call in lawyer-advertising. As a consumer, you have to make sure the lawyer who was voted "Best Lawyer in Ventura County" by the Mothers Daily Bulletin (produced and printed by his mother) is the best lawyer for you.

CHAPTER 5

Bamieh's Helpful Hint No. 3:

Meet with at least two or three lawyers. Be prepared.

Most lawyers advertise that they offer a free legal consultation. This sounds appealing if you have a legal problem. You're getting divorced and want to know if you'll get to see your kids again; you are facing a criminal charge and want to know if you'll go to prison for the rest of your life for trespassing; or you were hit by a semi-truck and want to know how many millions of dollars you will soon be depositing. A free legal consultation—what could be better than that? Who doesn't love free? Throw in some legal knowledge and it's almost too good to pass up.

Most people mistakenly assume they will receive the free advice they need at a legal consultation. If the lawyer knows what he's doing, he isn't providing much legal advice. Instead, the lawyer will explain the terms of his contract and the deposit required to get him started on your case. Some lawyers will impart some legal information, but the good ones will answer just answer general questions. If you are go to a legal consultation to talk strategy, as in what you should do, you don't understand the law business.

A legal consultation is not the time or place to collect information about your future or to get educated about the law of your case. Prospective clients should use the meeting as an opportunity to interview the lawyer; to find out if he or she is the person you want to pay for advice and to represent you. Use this meeting as a chance to get educated on the lawyer. After all, the lawyer you hire will give you much better advice than the lawyer who is trying to get your retainer.

A free legal consultation should be your chance to interview the person who could represent you. It is also an opportunity to examine the lawyer's office and staff and see if it's a good fit for you. Arrive as your legal consultation prepared to ask questions.

Questions You Should Ask A Prospective Lawyer:

- If I leave a message for you, what is your return-call policy?
- Who in your office will be working on my case?
- Who will be primarily responsible for the handling of my case?
- How often do you expect to meet with me?
- What fees, contingency rate, and costs should I expect?
- Can I email you questions, concerns, and information?
- What type of resources will be spent on my case?
- Can your firm access these resources?

These Are The Appropriate Answers You Should Receive:

- If I leave a message for you, what is your return-call policy?
 - *Within 48 hours.*
- Who in your office will be working on my case?
 - *You should be given lawyers' names.*
- Who will be responsible for the handling of my case?
 - *Once again, you should be given names.*
- How often do you expect to meet with me?
 - *At least once a month, but more often as big events in your case approach.*
- What fees, contingency rate, and costs should I expect?

- *Expect to be given specific figures.*
- Can I email you questions, concerns, and information?
 - *Yes.*
- What type of resources will be spent on my case?
 - *Whatever it takes to be successful.*
- Can your firm access these resources?
 - *Yes.*

For An Extensive Interview, Here Are Questions And Recommended Answers:

1. How many cases do you handle?

You are not looking for a hundred cases, but you also don't want to hear, "you are my only case." Find a lawyer at a thriving practice; not an overwhelmed one. If the lawyer's office phone never rings, you may have a problem. There are many reasons why any given lawyer doesn't have many clients. One could be the lawyer is semi-retired. That's great for that lawyer who is retiring, but is that good for the prospective client? It could also be that the lawyer is new to law and still has not built his practice. It's great that there is a new lawyer out there trying to make a go of it on his own, but is that any good for the client? Maybe the lawyer just doesn't get any clients because nobody has ever heard of her, she hasn't built a successful reputation, and she is hoping to get her name out there. Well, once again, you need to ask yourself if that is good for the client.

The alternative is also a problem. Let's say that you have a lawyer who has thousands of clients, whose phone rings off the hook; a lawyer who has more clients than he knows what to do with. Again, you have to ask if that is good for

the prospective client. I advise people to be leery of either extreme. You need to ask your prospective lawyer about her caseload, how many cases she handles at once, and whether she has support staff to assist with her cases. If you are not satisfied or, more importantly, feel uncomfortable with the lawyer's answer to these questions, you need to find someone else to represent you.

2. Where did you go to school?

It doesn't really matter where, so long as they went to an accredited law school. If the lawyer has an online degree, you should be worried.

3. Tell me about your professional experience. Where have you worked?

The lawyer should have some experience. Be cautious of the recent law school graduate. Training at either a large firm, a large government office, or with a respected, seasoned lawyer is ideal. Good lawyers learn from other good lawyers. They have mentors who show them the ropes. Lawyers who spend their time in insulated environments (like one or two lawyer practices) are usually lacking the training and mentorship that create talented legal professionals. Lawyers who have worked for large government agencies, like US Attorney Offices, District Attorney Offices, and Public Defender Offices, have received plenty of training. However, does a prospective lawyer have any experience in the area in which you need representation?

4. How many trials have you had in the last year?

If you have a case that *could* end up in trial (most cases don't), find a lawyer who has tried a case in your area of interest in the last three years. Don't hire a criminal defense lawyer who has never tried a case, who tells you, "I never

try my cases,” or who claims that his last trial was so successful years ago that the District Attorney fears him in court. If you think you are going to do well in your family law or personal injury case with a lawyer who never tries cases, you are in trouble. Once again, you don’t need a lawyer with ten trials per year, but you better find someone who has tried at least one case in the area of your interest in the last three years.

5. What were the results of your last three trials?

By asking this follow-up to the last question, the lawyer will know you’re going to check up on him. The results of the litigation aren’t as important as the fact that the lawyer went to trial. In saying that, if you meet with a lawyer who always loses at trial, this could be a clue.

6. Tell me about your last case that was similar to mine. What was the result?

You do *not* want to be someone’s first experience in the law. Would you want a surgeon performing his first brain surgery to cut you open? It’s important that the lawyer you hire has some experience with your type of case. You also want honest representation. If a lawyer admits he has never heard of a case like yours, let alone worked on one, you must consider whether his honesty makes up for his lack of experience. If your case is unusual, you may not be able to find a lawyer who has represented someone in a similar situation. The honest lawyer who admits his weakness should be looked upon favorably.

There are also lawyers with too much experience. I’m 47 and I believe at maximum I have about ten years left in me trying cases. It takes a tremendous amount of energy, late nights, and it’s very stressful. At some point we have to

acknowledge that time takes its toll. A lawyer with 40 years of experience is a plus, but if you are trial lawyer that has tried cases for 40 years, you are likely burned out. I call this my speed limit rule (if the speed limit was 60 MPH). I caution you to hire anyone over 60 years old to try their case.

Avoid the lawyer who wants to learn a new practice area on your dime. If a lawyer does not practice family law, but tells you he is willing to take your case, this is the wrong lawyer. If you were having a heart attack, you wouldn't consult a podiatrist. Although the podiatrist is a doctor, everyone knows not to hire a foot doctor for a heart problem. This common sense applies to law. If the law firm you are consulting does not commonly practice the area of law that your case involves (when I say "commonly", I mean the everyday practice of that type of law), think twice before hiring this firm.

7. What type of resources do you put into a case like mine? What kind of experts would you use? What are their names?

In family law and criminal defense practice, the amount of resources exhausted correlates to the client's ability to fund the case. If the client can afford it and we need it, we will do it. Conversely, if the client cannot afford it, we do without. Make sure your lawyer is knowledgeable of the type of resources necessary for your case. My firm has an extensive list of experts in every area we practice and we work closely with three private investigators. Since we pay their bills, those professionals are always eager to work with us. We have almost immediate access to these professionals' opinions and skills.

Question a lawyer's ability to adequately represent you if he or she doesn't have the resources necessary for your case. A criminal defense lawyer who doesn't work closely with an investigator is the wrong lawyer. Since the client fronts the cost of resources, make sure you get estimates, so you can budget accordingly.

In personal injury cases, the lawyer funds the case and gets paid at the end from a percentage of the proceeds. So, in the family and criminal law cases, you want to know the people your prospective lawyer works with what you will have to pay for their service. The fact of the matter is you have to spend money to win. In personal injury cases, you want to hire a lawyer who can afford to handle the costs associated with your case. If you hire a lawyer who is going to work on your case for a low cost (since it minimizes the lawyer's risk on a contingency case) you are putting your case in danger.

Be wary of lawyers who do not have the resources to finance your case. Even though the lawyer took your case on the prospect it will lead to a recovery, some firms do not have the cash at hand to fund a case. Pay attention to the lawyer's office; if she is a one-man shop, be concerned. If the lawyer looks like he has outdated equipment, or let's put it this way, if he looks as though he is living cheaply, there is a good chance your case will be handled cheaply. I am not saying you need to hire a lawyer who drives a Mercedes and works out of a high-rise on Park Ave., but if the lawyer is driving a 1990 Hugo and his office is decorated with tacky furnishings, you have a problem.

8. If you needed a lawyer, but couldn't represent yourself, who would you hire?

I love this question. A lawyer who has an active practice in his community knows the good and bad lawyers. I would never be critical of the lawyers in my community. If someone asked me what I thought of lawyer X, someone I don't like, I would encourage the person to meet lawyer X and form their own opinion. However, if I'm asked about the lawyers I think highly of, I have no problem naming them. I am confident in my abilities to represent people well. If a prospective client thinks they will be better off with another lawyer, I will name other talented lawyers. Lawyers who are that worried about losing a client worry me and they should worry you too.

CHAPTER 6

Bamieh's Helpful Hint No. 4:

Look at the obvious.

When researchers want to understand animals, they examine them in their environment, their natural habitat. The same holds true for lawyers; their habitat, more than the courthouse, is their offices. Pay attention to the office environment when you meet your lawyer. If it looks unprofessional or the staff is unprofessional, ask yourself what you are expecting from the lawyer. There is a reason most people don't eat in dirty restaurants, and the same logic applies to a lawyer whose office looks unprofessional or unkempt.

When I go to a new restaurant, I always check out the bathroom. Why? Well, it's not because I'm obsessed with public restrooms. Rather, I have learned over the years that if a restaurant cannot keep a restroom clean, a room the customers see, they are most likely not doing a good job of keeping a room the public does not see clean—the kitchen. It's the little things, in most cases, that make the difference in the quality of the service and product that you receive.

A law firm that has a poor receptionist, who makes mistakes with your appointments, who doesn't respond to your emails, who is rude or inconsiderate to you on the phone, or who never has time to book your first meeting or follow-up meeting, is not a firm that is going to treat you well long-term. There is a reason that you try to make a good first impression, and a law firm that puts no effort into their first impression should cause you some concern. If the first part of your relationship with a law firm is rocky or difficult, do not expect it to get better. At the end of the day, a law firm is a service business. If you get bad service at the initiation of your relationship, you should expect that to continue.

I often am criticized on this point and am told that my standards make me superficial. People say I shouldn't judge how another person decides to live and work. I recognize that we shouldn't judge how others someone live, in general, but if you are putting your life in another person's hands, they better not be living like a pig. If I went to a dirty doctor's office, I would walk out. If my CPA had a mess of files on the floor and his office looked unkempt, I would not be comfortable handing him my finances. The same goes for a lawyer's office. If it looks like a dump, will the lawyer be meticulous with his clients' cases?

Thanks to the Internet, you can research any lawyer. Pull up the California State Bar website and type in a lawyer's name. The California Bar is basically lawyers policing lawyers (which means we get all kinds of breaks because lawyers have no issue forgiving other lawyers). So, if your potential lawyer has been disciplined by the Bar Association, you need to ask him or her why. Trust me, the disciplinary action is never triggered because the lawyer fought too hard for his clients or was too successful in litigation.

While you're researching, see what the Google machine (the computer, for those humor-impaired) says about your prospective lawyer. I love Google—you'd be surprised what you can find out about a person with a simple Google search. It's better to be surprised online than in court. When my wife and I bought a new refrigerator, we researched different brands online. We looked at reviews and read what other consumers thought about the various brands. Although we ended up with a great appliance, the fridge has not changed the quality of my life. Had we gone with a different brand or size, I am confident my family would be no better off, but also no worse off. The same cannot be said about choosing the wrong lawyer. The few hours you spend researching and comparing lawyers online is well worth every second. Don't overlook this free and valuable resource.

CHAPTER 7

Bamieh's Helpful Hint No. 5:

Be leery of hiring “the shark.”

I commonly hear people say, “I want a lawyer who is aggressive.” Prospective clients ask me, “Will you fight for me in court?” When people require legal representation, they typically picture the pompous and loud lawyer as the person they need to hire. People seek out the Al Pacino-type who will yell in court, “You’re out of order; this whole courtroom is out of order!”⁵

I am always amazed that some lawyers continue to get clients simply because they have a reputation of being extremely aggressive. In court, these lawyers fight with anybody and everybody. Clients appear to love the lawyer who gets in the DA’s face, who accuses the DA of all kinds of misconduct, and who fights with opposing counsel. In divorce battles, clients want representation who will call their ex nasty names. People want a personal injury lawyer who claims the case is worth millions and who acts insulted when they are offered anything less. Others want to feel as though they have hired a fighter, a lawyer who will be belligerent at all stages of the case. Clients incorrectly assume the more their lawyer fights, the better the representation.

I belong to a profession where a portion of the population assumes that being a jerk is an advantage in the job. Contrary to most other professions, this character trait is somehow valued. This public misperception leads people to hire lawyers who will end up hurting their case.

Aggressive can be a huge advantage in some instances, but it’s rarely effective at all stages. Most of the time, aggressiveness is detrimental to the client’s interest. People have to

⁵ ...And Justice For All. Dir. Norman Jewison. Perf. Al Pacino. Columbia, 1979. Film.

understand what's in their best interest and how that interest can be best served. Depending on the case and the circumstances of the case, client needs to be careful with the lawyer who presents himself as "the shark."

There are lawyers in my community who are known for being mean, argumentative, and "always looking for a fight." If a lawyer presents himself as a shark, you should wonder what type of litigation you are buying. I will let you in on a tip: sharks sell an expensive and ineffective form of litigation. These lawyers do not look out for their clients' best interests; instead, they only care about themselves. If you're in any type of litigation and your goal is to upset the other side, then this is the lawyer for you. However, if your goal is to do the best you can for your side as efficiently as possible, I advise you to stay away from the lawyer who is proud of the fact that he picks a good fight.

I know a lawyer who has a reputation for being verbally abusive to opposing lawyers, opposing parties, and even to his own clients. Many of his clients loved his technique during the onset of their case, but they eventually get tired of spending thousands of dollars to have their case go nowhere. Eventually, his clients get tired of paying for "the shark" and want a real lawyer to fix their problems. I know about this individual because I have represented many of his former clients. I don't mind opposing this type of lawyer because I know how the case will end: the client eventually breaks under the financial burden of the shark. The best way to defeat a bully is with a fair fight. Bullies hate fair fights because their tactics don't work. Fortunately, my profession provides a venue to conduct a fair fight; it's called a trial. The angry, abusive shark is no match for the professional trial lawyer.

In a criminal case, the lawyer's first responsibility is to mitigate the client's exposure. If the client is charged with a felony, the lawyer should be trying to reduce the charge to a misdemeanor. The next step is to reduce the potential sentence for the charge. The goal is not to pick a fight with anyone involved in the case, be it the prosecutor or the judge. There may come time for disagreement, but it's not at the commencement of the case.

I have a general rule: I don't argue about a case unless I am in front of a judge in a courtroom. I refuse to argue with the prosecutor or the judge when we are not on the record. The reason is simple; there is no need to do so. Every defense lawyer has a personality, so does every prosecutor and judge. If you hire a lawyer who treats the prosecutor and judge poorly, how do you think they will feel about the lawyer? Who do you think will be more affected by the hard feelings of the prosecutor or the judge—you or your lawyer?

I am considered to be one of the most aggressive defense lawyers in my jurisdiction. I don't have a problem picking a fight with a prosecutor because I choose fights based on calculated thought processes. In 99% of my cases, I get along well with the prosecutor. I am respectful and I never speak cross words. Even if the prosecutor and I argue different positions in trial, I rarely make it personal. On three occasions, I made the fight personal. Of those three times, only one benefited my client because I had made a strategic and well thought out decision. On the two other occasions, I made the fight personal because I reacted out of anger rather than reasoning. I learned from these mistakes early on in my criminal defense career.

In a family law case, the shark rarely serves the client well. From personal experience, I know clients benefit from an efficient resolution to their case. The emotions naturally attached to any divorce case, especially those dealing with child custody issues, make a diplomatic

resolution difficult. I look at family law cases in terms of distribution of marital assets as business deals, and encourage my clients to view them this way. Custody is a different matter; in those cases, the pertinent question is, “what is best for the child?” The shark is rarely effective in these cases because he drags on litigation and depletes his clients’ assets.

The family law lawyer who does more fighting than resolving is an expensive lawyer. Family law clients are billed by the hour. Therefore, the longer the case goes and the more court appearances required, the more expensive the case will be. Some lawyers in my community take years to get cases through the system. Ultimately, these types of lawyers are not present at the conclusion of the case because the client’s resources have been exhausted. Clients hire the shark because they want representation to be vicious to a soon-to-be-ex-spouse (which probably explains why the client is getting divorced in the first place). The reality is that the only parties who really benefit from this type of approach are the lawyers. When this lawyer opposes my firm in a case, I always warn the client their expenses will be more because we have to respond to a variety of nonsense created by the opposing lawyer. One of the clues that your lawyer specializes in billing rather than resolving is when you see several letters being sent on the same topic by your lawyer, but nothing is being said (well except for your lawyer calling the opposing party or lawyer names).

The personal injury lawyer who engages in slash-and-burn litigation is also someone to avoid. If you are suing someone in a personal injury case, the defense is handled by insurance companies who hire lawyers to oppose your case. The insurance defense lawyers have little to no incentive to settle a case quickly because they get paid by the hour and want to earn a little something extra before recommending the claim be paid out. Knowing this, why would you want a lawyer who will increase litigation or motivate the other side to engage in more litigation?

This does the client no good since he doesn't make more money the more he goes to court. Most personal injury cases are settled well before trial and there is really no reason to be unnecessarily litigious before trial. You can always be an ass, but if it is not going to help your case, why would you choose to be so or hire a lawyer who will do so in the hopes of impressing his client with his aggressiveness?

You should want a lawyer who will aggressively represent your case, who will advocate strongly on your behalf, but who will also have a professional relationship with his or her opponent. I have settled dozens of cases for large amounts of money due to my relationship with opposing counsel. I allow the opposing lawyer to speak to me honestly, I return their phone calls, and I only raise issues in court that are relevant to the case. The lawyers in my firm try to keep positive relationships going with the other side to promote open dialogue. We do all we can to avoid alienating the other side, because we know that once that happens, any conversation with them becomes difficult, especially the ones about money. We never want an insurance defense lawyer to take pleasure in extending a case or in trying to find a way to hurt our client.

If you are hiring a lawyer to be vicious and to attack someone, you are not doing yourself, your case, or your wallet any favors. Sharks usually don't help anyone efficiently or effectively resolve their cases. There are talented, aggressive lawyers out there, but they are not the type to brag about being aggressive or prey on the weak. These lawyers don't act like a shark in or out of the courtroom and their opponents respect them. This is the type of lawyer you want representing you; this is the person you want on your side.

CHAPTER 8

Bamieh's Helpful Hint No. 6:

Beware of the lawyer who does not have the resources for your case.

Or

Fear the cheap lawyer.

Lawyers in personal injury cases accept clients on a contingency basis. The lawyer is paid a percentage of the proceeds recovered from a successful lawsuit. Most contingency relationships are set up with a sliding scale of percentages, from 30% to 50% of the recovery. The lawyer, for a percentage of the recovery, takes the risk of extending money for expenses. In many personal injury cases, it's not unusual for a lawyer to spend upwards of \$50,000 to \$100,000 in expenses. Expenses include investigators, experts, depositions, courts costs, and most importantly, the lawyer's time and energy on the case.

Some lawyers will tell you they will do all they can to keep the expenses low because those expenses will come out of the client's recovery. This is seductive to many clients because they think they're saving money. This concept shouldn't be alluring; clients should want their lawyer to spend whatever it takes to make their case as successful as possible. When you think about it, keeping the cost down reduces the lawyer's risk and increases the client's risk. If the lawyer can save \$50,000 in expenses, he is risking less should he lose your case. Your risk is increasing by the proportion your case suffers from not expending resources to give you the best chance of prevailing. You may still succeed, but how much was your recovery reduced by the fact that your lawyer was lowering his risk by reducing his expenses? When expenses are minimized, so is recovery.

I love saving money, but what are you trying to save when you hire a lawyer—a buck or something more valuable? Lawyers value their time and bill accordingly. If a lawyer's time is not worth much, you need to question if the lawyer is worth hiring. I'm not saying the most expensive lawyer is the best lawyer, but I am saying that when you need to hire a lawyer, you shouldn't be looking for the best deal on the market. There is usually a reason why a lawyer is charging substantially less than other lawyers in certain practice areas. Family law cases are billed by the hour, so if you have more than a \$50 to \$75 difference in per hour rate, you need to ask why. The same holds true of personal injury lawyers. Most lawyers ask for 30% to 40% of the recovery depending on the stage in which the recovery is obtained (pre-filing, filing of the case, trial setting). A 5% percent difference either way on those fees is not cause for alarm, but 10% should set off sirens because something is not right.

One of the criminal defense lawyers in my community is about 25% to 50% cheaper than the other reputable lawyers in town. This gentleman is considered to be one of the worst criminal defense lawyers by the defense bar, prosecutors (who love seeing him in court), and most judges. This lawyer sends more people to prison than most prosecutors. His clients save a buck or two, but at what cost?

I advise clients who cannot afford to pay a certain price for a particular case to use a public defender (if they qualify). I do this because I know the public defender will find the necessary resources to put on a strong defense. Since most public defenders are damn good lawyers, I know the client will be well represented.⁶ In my opinion, most people have a much

⁶ The problem with public defenders is they have very big caseloads. This makes it difficult for even the best of them to be closely in-touch with all of their clients.

better chance at a good defense with a local public defender than they do with discount lawyer du jour.

I try to give people a realistic expectation of what their case will cost (both for my time, investigators, experts, and any necessary testing). If you can't afford the price, I won't take the case—not because I don't want the case, but because I know I can't provide the best defense possible. I am not willing to give a half-effort, nor are most of the reputable criminal defense lawyers. There are, however, some in my profession who don't have this problem and they will take as much money as they can get for themselves, while cutting back on the defense. This ultimately hurts the client.

You need to make sure you know the budget for your case. Regardless of the case, a competent lawyer should know the approximate budget for your case and should be able to give you a good idea of what it will ultimately cost. If you feel you have the right lawyer, and can afford the lawyer's fees and costs, you need to hire the lawyer. Cutting back in this area is far more expensive than any legal fee.

CHAPTER 9

Bamieh's Helpful Hint No. 7:

Hire a lawyer who will agree to represent you before your case is filed.

People often make an appointment with me to tell me about their potential case—they are thinking about getting divorced, believe they are being investigated, or they are being harassed or bothered at work. Most lawyers do not enjoy spending time with this type of client because there may not even be a case. Since the lawyer isn't guaranteed work, they don't have any interest in helping the prospective client. "Come back when you have an actual case," the lawyer says. If this is the lawyer you originally meet with, this should not be the lawyer you hire if the day comes when you actually have to engage a lawyer for your divorce, criminal law, or personal injury case.

When one of these potential clients comes into a law office, the lawyer should want to hear the person's story and should be able to at least generalize a strategy. Some lawyers will just excuse the client and say, "We are not interested until you actually have a case, want to get divorced, or really want to sue." Those are the lawyers you should avoid.

Our policy, at Bamieh and Erickson, is to give prospective clients a general idea of what they are facing. In a criminal case, I charge a small fee to get involved right away. I realize money is an issue for some clients, but a good lawyer, early on, can save a lot of money later down the line. A competent lawyer can actually defend someone before they are charged, and during an investigation they can frequently prevent charges from being filed. The money, time, and pain that can be saved can actually make this a money-saving decision. We advise new clients to hire us before the case is filed, so we can have some influence on the filing decision.

With family law cases, we encourage clients to gather information about their finances, to document their property, and to secure relevant documents (such as tax returns and pay stubs).

In personal injury cases, clients usually have questions regarding what they should do before they decide whether or not to go forward with their case.

In all of these situations, a good lawyer should be more than happy to give a little assistance before being retained or he or she should do something formal for a small fee. A smart lawyer (which is the type of lawyer you want) knows they are ultimately helping a case they will most likely get anyway. The only downside is the client may get free help, but then hire a different lawyer. Any lawyer with confidence in his or her skill and ability should not fear this possibility.

CHAPTER 10

Bamieh's Helpful Hint No. 8:

Hire the right type of lawyer.

Hiring a personal injury lawyer is different than hiring a lawyer for a criminal or divorce case. It's important that you know the difference between the lawyers. When you hire a lawyer for a criminal or family law case, you are offering to pay up front for legal services. When you hire a personal injury lawyer, the lawyer pays for the case and then receives part of the money you get after trial. Meeting with a criminal or family law lawyer is very different from a meeting with a personal injury lawyer. In the criminal or family law meeting, the lawyer is trying to impress you and convince you to hire him. In a personal injury case, the lawyer may be trying to convince you to hire her, but before she does that, she needs to be convinced you're worth it.

If you go to any competent and professional lawyer with a personal injury case, you will have to sell your case to the lawyer. Selling the case does not mean making up facts or exaggerating the elements of the case. Rather, it means representing yourself as a client who is serious about pursuing your claim. Personal injury lawyers want to know their clients will do whatever is necessary to cooperate and will always be respectful and appropriate when dealing with all aspects of the lawsuit.

In my practice, personal injury cases are the most lucrative ones. Part of the reason these cases are so profitable is we interview prospective clients as though we are hiring them for a job. If I am going to accept a client, authorizing thousands of dollars in expenditures to hopefully win their case or to increase the value of the case, I need to know the client is not only reliable, but is

also someone I will enjoy working with. Since I invest so much time and money on personal injury cases, I want to know that I am making a good investment.

You can say, “Well, I am the client, and I have a case that is worth money to the lawyer, so he should put up with whatever I do or say.” For some lawyers, that is the case, and, invariably, these are not the most successful lawyers. Litigation is a difficult process for both lawyers and clients. If you are going to work with someone for an extended period of time, you better make sure you get along. When prospective clients come to my office, I am evaluating their case to see if it has merit and can be proven. I also evaluate the client. I don’t want to work with a difficult person, no matter how much money is involved. Most lawyers evaluate personal injury cases on a risk-and-reward basis. From my experience, I know the greatest risk is always the prospective client. If I have a flakey client who is difficult to work with, I have reduced my potential reward and increased my risk.

Prospective clients should engage in the same evaluation system with their prospective lawyers. If you don’t get along at the beginning of your case, your relationship won’t get any better over time. If the first few meetings aren’t enjoyable or you think it’s going to be difficult, jump ship and find another lawyer. If I won’t take a case because I don’t like the client, why would a client hire a lawyer he doesn’t like? I will not take such a case because if I cannot have a good relationship with client, we will not be successful. The client must make a similar evaluation.

Do you think that because this is a professional, business relationship it doesn’t matter if you like the person or not? That’s an ignorant point of view. If you work with someone you

don't like, you won't believe in the lawyer nor will the lawyer be passionate about your case.

Litigation can get stressful. Work with someone you like.

CHAPTER 11

Bamieh's Helpful Hint No. 9:

Remember, anyone you hire you can fire.

When you hire your lawyer, you should always look for an exit strategy—that is, what are your options if your relationship with the lawyer doesn't work out? However, I don't recommend changing lawyers casually. Only resort to this measure if you notice a real lack of performance or production. For instance, your lawyer has stopped calling you back, is advising you to do things without giving any explanation, or acts like you are a nuisance.

Most competent lawyers will make clients sign a fee agreement. This contract usually includes language about how your relationship will be governed and how it can end. My strong suggestion is to pay close attention to both of those areas. Clients rarely pay attention as to how the relationship ends if things do not work out. For the same reason, most couples don't get prenuptial agreements; it's the beginning of a relationship, the honeymoon period, the best part.

Taking this into consideration, you shouldn't be quick to fire a lawyer, unless you were really quick to hire that same lawyer. When you fire your lawyer, you are at a disadvantage, and you are usually double paying for another lawyer to read through the work that the other lawyer has finished. I am cautious of accepting clients that have been with other lawyers because these clients complain about their previous lawyer. Their new search is usually the result of a decision by the court that went against the client, who is now upset with the lawyer and wants new representation. Having done this for a little while, I know to be wary of this type of client. I make sure the client understands I cannot guarantee any results. Generally, I don't criticize the previous lawyer, as that is bad taste. With that said, there are cases I get where I just can't figure

out for the life of me, what the previous lawyer was thinking. In these cases, I understand why the client pulled the plug.

If a potential client was previously represented by three or four different lawyers in my community, I usually will not accept them. I know that if a client has been dissatisfied on multiple occasions, I won't be able to keep them happy. A client who needs a couple of lawyers to get through a case is typically not a client worth having. Before a client decides she is going to fire a lawyer, she needs to think about the consequences of her actions. If your representation is not going to get better, if the court is going to view you negatively, or if you cannot afford the additional expense of switching lawyers, than you should consider staying with the same lawyer. There are exceptions to every rule, but switching lawyers is a big decision, and one that should be considered from all angles.

SO, HOW DO I DO THIS? WHAT IS THE MAGIC ANSWER?

HOW DO I PICK A LAWYER?

Hopefully, what you have learned from this short book is there is no magic formula to hiring a lawyer. You must take an active role in finding the right lawyer for your case. Put in the time, do your homework, and follow my helpful hints. You won't be able to make an educated decision if you haven't done all the leg work. I've pointed out some simple things you should do, however, there is no easy answer to this question. The answer is learned after prospective clients take the time to educate themselves on potential lawyers for the case.

If you are going through a high-stress, high-stakes litigation, it's your responsibility to make sure you are working with the right lawyer. You, as the client, are the one with the most to lose. It's up to you, and only you, to make sure have the right lawyer on your side.

Final Words

The fact that you are reading this book means you may have a legitimate legal concern. I am not trying to answer all of your questions or appease all of your concerns (I have to charge for that), but I am trying to get you started by warning you of life-altering mistakes. If I can help you avoid hiring the wrong lawyer, this publication has accomplished my goal.

A lawyer calling you usually doesn't make for a good day. Nor is it a good day when you have to call a lawyer. However, the day you select the right lawyer may end up saving you many a bad day down the road.

About the Author:

Ron grew up in the San Francisco Bay Area. He went to the University of Southern California for his undergraduate degree, later obtaining his law degree from Loyola University Chicago School of Law.

After graduating from law school, Ron was appointed to work in the George H.W. Bush White House as the Assistant to the Assistant Chief of Staff. Later, during his service to President Bush, he worked in the United States Department of Justice as the Assistant to the Assistant Chief Deputy. At the DOJ, Ron tried cases in the Federal Court on behalf of the federal government.

In 1993, Ron joined the Ventura County District Attorney's Office and became the youngest attorney ever promoted to Senior Deputy District Attorney. Ron was awarded the Prosecutor of the Year Award in 1996 and 2000. During his career at the District Attorney's Office, he tried over eighty cases to verdict, earning the reputation of having never lost a felony case as a prosecutor. Ron handled some of Ventura County's most complex and high profile criminal cases as a prosecutor in the Major Crimes Unit. From 1997 through 2001, Ron and his team of investigators, solved and prosecuted four unsolved murders in Ventura County. In the process, Ron helped end the reign of terror of one of Ventura's most violent street gangs, convicting over twenty members of serious and violent felonies. In 2002, Ron was featured on Dateline NBC for his innovative use of wiretaps and informants in both prosecuting a violent skinhead gang and solving old murder cases.

In December 2002, Ron founded Bamieh & Erickson with his good friend, Philip Erickson (1959-2005). Under Ron's leadership, Bamieh & Erickson represents people injured in

accidents, due to sexual abuse, or in civil rights actions. In addition, the firm represents businesses in a variety of civil matters, including contract disputes and civil defense cases. The firm maintains a thriving criminal law practice, and also handles family law cases. Bamieh & Erickson, PLC has grown every year since its inception and now has over ten employees. The firm represents interests in some of Ventura and Santa Barbara County's most high profile cases. In 2006, Bamieh and Erickson, PLC purchased a historic building in downtown Ventura, which has housed the firm since the summer of 2007. In 2003, the Pacific Coast Business Times named Ron one of the "40 Under 40 Top Businessmen in Ventura County." Ron received the "Positive Image for Action in the Community Award" from Baseballers Against Drugs in 2004. Bamieh & Erickson, PLC was awarded "Small Business of the Year" in 2006 by the Ventura Chamber of Commerce. In 2008, Ron was awarded a Paul Harris Fellow Award by Downtown Ventura Rotary Club for his tangible and significant assistance to furthering friendly relations among the nations. In 2009, Bamieh & Erickson, PLC was given a Circle of Excellence Award in recognition of the firm's achievement of attaining "The Best of the Best" in small law firm business.

In 2011, the Ventura County Criminal Bar Association awarded Ron the Richard Erwin Award as Ventura County Defense Attorney of the Year. The award symbolizes excellence in advocacy and a dedication to clients. Ron is now the only individual in Ventura County history to be named both Prosecutor of the Year (1996, 2000) and Defense Attorney of the Year (2011).

Ron consistently remains active in his community. He has taught law as a professor at the Ventura College of Law; teaching Advanced Evidence and Criminal Procedure. Ron volunteers his time at La Reina High School, coaching his daughter's mock trial team. Over the last three years Ron has coached La Reina Mock Trial. The team has won 3 Ventura County

Championships, 3 California State Championships (this was the first time in the history of the State Competition that one school won three consecutive years), two Empire World High School Mock Trial Championships in New York, and they finished second in the country at the National Championships in Indiana in 2013. Ron was a board member of Big Brothers/Big Sisters, he was on the Board of the Rubicon Theater, and he is actively involved in Downtown Rotary and the Ventura Chamber of Commerce. Ron is also a key fundraiser for the Children's Cancer and Blood Disease Program and Resource Library at the Ventura County Hospital.

Ron and his wife, Jennifer, and three of their children reside in Ventura.