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# LAWYERS AGAINST LAWSUIT ABUSE, APC

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## **10 questions to ask any prospective attorney**

We think one avoidable part of the statewide lawsuit crisis comes from attorneys who take cases without enough experience to handle them properly or cost-effectively. We've seen clients who hire attorneys who don't have the experience they need for a particular case pay 5 to 20 times more than they'd pay an attorney who has handled a number of such matters.

In the same way you wouldn't want to hire a surgeon who hadn't handled at least 20 similar procedures, many clients just refer matters to their trusted corporate or family attorneys without thinking twice. Often, these attorneys will take the matters on because they want to help their long-term clients, only to discover that they have fallen victim to a carefully designed, mass-produced trap for the unwary.

### **Common Misconceptions:**

**Myth One:** The best way to find an attorney to handle your case is to find one who has done a good job for someone you know:

- This might work if your case is very similar to your friend's; if it is at all different, you should seek out the most qualified attorney for your particular matter
- Many clients are satisfied with their attorneys performance in a matter because they have not investigated the results of other attorneys in similar cases. We suggest that you speak with no fewer than 3 highly qualified attorneys with cases like yours before making a final decision

**Myth Two:** They all went to law school and passed the Bar, won't they have all the information they need?

- You want a taxi driver who knows not just how to drive, but how to get you where you need to go. Much of the information any lawyer uses to obtain results for a client is learned in practice after law school. Because of this, experience makes a tremendous difference in any attorney's ability to obtain results.

**Myth Three:** An attorney has to tell me if they don't have any experience with cases like mine, don't they?

- While we would hope any attorney would answer any direct question you ask truthfully, there is generally no requirement that they disclose to you the amount of experience they have in the area you need. In fact, the Rules of Professional Conduct allow an attorney to take a case in which they have no experience, provided they get the information they need through research, or association with more experienced counsel. You wouldn't want an inexperienced surgeon working on you, no matter how much research/investigation they'd done.
- Many of the attorneys who bring large numbers of abusive lawsuits can spot a lawyer who has not handled similar cases "miles away" and their tricks are usually most effective on those who have not seen them before.

**Myth Four:** I've used my trusted corporate or family attorney for years—they will definitely know how best to handle the case:

- Don't confuse a sincere desire to help a long-term client, or even expertise in the areas they've assisted you, with expertise in all areas. There is no harm to speaking with a few experts in cases like yours, and you can always go back to your current attorney if, after all your research, you conclude they are the best choice.
- You can learn a great deal about the law, the cost of litigation and common settlements, from speaking with a number of different attorneys. One told us she'd never been able to get one professional plaintiff below \$9,000, while we know of several others who've reached settlements in the \$3,000 range.

**Myth Five:** My attorney will check with an expert if s/he doesn't know what to do:

- The expression "you don't know what you don't know" also applies to even the brightest, most capable attorneys. Basically, there's probably no one who can handle your case better, and less expensively, than someone who's done it 20+ times.

**Some factors to consider in selecting a lawyer:**

- Highly-specialized, mass produced lawsuits are a new threat in California. Plaintiffs counsel have invested tens of thousands of hours in perfecting their procedures to have as many “traps for the unwary” as possible. **These lawsuits are designed to snare smart attorneys**; we’d suggest that your only chance of doing well with one is to find an attorney who has had verifiably good results in a number of cases like yours, all at a reasonable price.
- The right attorney can reduce your total expenditures by tens of thousands of dollars in a case.
- We all want to help. Sometimes attorneys become involved in a case because they see something bad is happening and desperately want to do something about it; the problem is that many predatory lawsuits are most effective against attorneys who haven’t seen them before. You need an attorney who is familiar with the tricks and traps.
- Don’t be sidetracked by an attorney’s hourly rate. Though it is significant, we’ve seen a \$400/hr. attorney bill 15 minutes for the same issue an \$125/hr. attorney too 8 hour to research. The attitude, experience and billing perspective of the attorney in question is far more important to the cost-effectiveness of your case.
- Things to look for:
  - State Bar website ([www.calbar.ca.gov](http://www.calbar.ca.gov)):
    - Has the attorney been practicing at least 5 years?
    - Did s/he attend an accredited law school?
    - Is any public record of discipline posted?
    - Is s/he involved in a multi-attorney firm?
  - Articles they’ve written on subjects which relate to your case
  - Look at the practice description they post on their website. This is what they hold out to the world as their areas of their expertise (and the sort of cases they’d like to attract). If the area of law you need is not listed in the first one or two practice areas they list, you might consider speaking with a few other attorneys who do emphasize the area(s) you need first.
  - Is the attorney listed by Martindale-Hubbell ([www.martindale.com](http://www.martindale.com))?
    - What practice areas are shown on their listing? Attorneys who list the area(s) you need in the first or second practice areas probably devote a large portion of their practice to these areas.

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- Is the attorney rated (“A-V” is the highest rating)? We think the lack of a rating or a low rating should not be held against any attorney, but a high rating certainly inspires confidence.
- Are they involved in organizations, groups or committees which relate to your case?
- If applicable: are they located close to the court in question? If you’re not, and you use a lawyer close to you, you may end up paying considerable travel time.
- Many local bar associations have lawyer referral services; often they carefully screen candidates for experience, insurance, etc.; Is a lawyer referral service available through your local bar association? What criteria do they require for attorneys to be listed on a panel? Are their panelists required to give you any period of free consultation?

Finally: **The 10 Questions You Should Ask Any Prospective Attorney:**

1. How many cases like this have you handled? [we think you’re best off if you’re dealing with an attorney who has handled at least 20-50 cases like yours]
2. Can you provide references of 3 satisfied clients you’ve helped with cases like mine?
3. What were your results in the other similar cases you’ve handled?
4. How much were your fees in those cases? How much were the settlements? How long did the process take?
5. Based on what you know about my case, can you provide a general estimate of what my overall fees and settlement expense might be?
6. What factors could cause my expenses to exceed your estimate?
7. Is there anything I can do to help keep my total expense in this matter to a minimum?
8. Are there any aspects of this matter you would consider handling on a flat-fee basis?
9. Could any aspect of my case be covered by insurance?
10. Are you insured for professional errors and omissions? How long have you been consistently insured? Have you ever practiced law without such insurance?

Finally, we'd add one more; perhaps the most important. Basically, the attitude of the prospective attorney can make all of the difference in a case. Unfortunately, too many attorneys are satisfied to profit from the Statewide lawsuit abuse crisis (whether in bringing or defending these lawsuits), and have no interest in doing anything to improve the situation. We think one of the best evidences of an attorney's interest in the cost-effective resolution of an abusive lawsuit is shown by whether they financially contribute to organizations like Citizens Against Lawsuit Abuse and the American Tort Reform Association. You might ask what they've personally done to improve the Statewide crisis.

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