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Why Litigation Is Nothing More Than A Business Tool – 26 Unbreakable Rules of Litigation!

By Daniel S. Peña, Sr

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From Bill Gates at the end of the last century to John D. Rockefeller at the end of the previous century; from Rick Scott, founder of Columbia Health Care, to AT&T; from Richard Branson and British Airlines to Dan Peña and The Financial Times; from government, banking, insurance and every other facet of world commerce – to grow geometrically and stay around, litigation must be (prudently) used and mastered.

I will, as briefly as I can, memorialize the salient points of using litigation as a business tool.

Now before I start, I want it on the record, some 50% of my 30-year track record of litigation has had nothing to do with winning money, i.e., many lawsuits have been over principle, some were to right a heinous wrong such as slanderous remarks made about me; and some were because an entity just needed a good comeuppance and nobody else would carry the flag into battle.

I, like Don Quixote, have fought many a windmill.

As you've heard me speak and write about, when building your 'Dream Team,' you want Big Five accountants and a large national or international firm of lawyers – the best representation you can't afford!

Unlike the success-oriented fees I coach you to use when facilitating transactions, no law firm will litigate initially on this basis.

Perhaps if your case is especially strong, they will do it on a contingency basis. Unfortunately, you will be using, from time-to-time, litigation as a positioning tool and your case may not be something you can seriously leverage.

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A year or two ago, being left with a pig-in-a-poke, I had to litigate a case having specious facts at best to support my desired outcome. Fortunately, our (my) apparent lust for litigation was stronger than their desire to fight a hard fight, so a reasonably good settlement was finally arrived at.

Of course, during this process my good lawyers counseled us, advising our case needed to be much stronger, etc. Even with great lawyers, it is their job to tell you the downside risks. Again, what happens is you are often scared from pursuing your case.

Good lawyers win so-so lawsuits. Great lawyers can win lawsuits in which you have little or no chance to win.

Three of my favorite litigators over the years are Steve Susman and Cyrus Marder IV of Susman Godfrey in Houston, Dallas, Los Angeles and Seattle and Tim Harris of Charleston Revich & Williams in Los Angeles. All three have dug me out of some pretty big black holes.

I've dealt with them 10 and 20 years respectively. They are worth every penny they charge!

Our judicial system works, but we grow up being afraid of it. It's way out of our comfort zone so we preclude ourselves from benefitting from it. Normally the cost associated with it keeps us from using it.

In fact, I'm currently embroiled in litigation where the ancillary players to the litigation have rights which are being severely violated. A large group of people could bring great pressure to bear, but they're afraid because of previous bad experiences. They could get what they deserve but aren't pursuing their best interests.

There are lawyers who take on cases for humanitarian reasons, if the case warrants, in business as well, i.e., big major corporations taking advantage of the system because of their size alone.

Why do you want to initiate the lawsuit so you are the plaintiff? As the plaintiff, you pick where and when the lawsuit is fought and probably ultimately adjudicated.

This can be a huge advantage. And secondly, the plaintiff is allowed two closing arguments, meaning you (your lawyer) gets to address the judge and/or jury once and then again after the defendants' closing argument. This can also be very important.

26 Unbreakable Rules of Litigation

#1 CHOOSE YOUR BATTLES

#2 CHOOSE THE VENUE

#3 BE THE PLAINTIFF

#4 HAVE THE BEST REPRESENTATION

#5 LISTEN TO YOUR HEART

#6 DON'T LISTEN TO YOUR SICK STOMACH WHEN YOU'RE OUT OF YOUR COMFORT ZONE

#7 DON'T LISTEN TO RELATIVES, FRIENDS, ET AL

#8 LISTEN TO EXPERIENCED LITIGANTS – LIKE ME!

#9 GENERALLY SPEAKING, DON'T WORRY ABOUT THE COST (THIS IS VERY HARD!)

#10 BIG LAWSUITS ARE BETTER THAN SMALL ONES

#11 ELECT JURY TRIALS, AS OPPOSED TO A JUDGE ONLY

#12 PREPARATION (YOURS) IS EVERYTHING – KNOW THE FACTS

#13 PRACTICE DEPOSITIONS AND TRIALS

#14 IF YOU ARE THINKING OF A BETTER STRATEGY, GET A NEW LAWYER (NOT TRUE IN MY CASE)

#15 NEVER GIVE UP

#16 DON'T BE INTIMIDATED BY THE PROCESS

#17 USE MOCK TRIALS (PRETEND TRIALS YOU DO IN FRONT OF A HIRED JURY)

#18 DRESS SIMPLE AND CONSERVATIVELY IN COURT – NO JEWELRY EXCEPT A WEDDING BAND; WHITE SHIRT, PLAIN TIE AND DARK SUIT FOR MEN AND THE EQUIVALENT FOR WOMEN; SHORT GROOMED HAIR FOR MEN

#19 DON'T LOSE YOUR TEMPER IN COURT – IT'S OKAY TO CRY IF IT'S REAL

#20 HAVE YOUR SPOUSE IN THE FRONT ROW EVERY DAY. CHILDREN ALSO IF POSSIBLE. OTHER FAMILY MEMBERS IN SECOND ROW IS OKAY

#21 NO QUOTES TO THE PRESS OTHER THAN 'WE BELIEVE IN OUR CASE AND THAT IS WHY WE WENT TO COURT'. YOUR WORDS CAN EASILY BE TURNED AROUND.

#22 WHEN YOU BREAK FOR LUNCH OR A RECESS, REMEMBER NEVER TALK IN PUBLIC ABOUT THE CASE – YOU NEVER KNOW WHO MIGHT OVERHEAR

#23 WHEN YOU FIND A LEGAL TEAM THAT WINS, STAY WITH THEM

#24 ALWAYS TELL THE TRUTH, NO MATTER WHAT. THE TRUTH SHALL SET YOU FREE.

#25 DURING VIDEOTAPED DEPOSITIONS AND IN COURT, LOOK AT THE CAMERA AND THE JURY. MAKE EYE CONTACT.

#26 WHEN TESTIFYING IN A DEPOSITION/TRIAL, IF YOU DON'T KNOW THE ANSWER, SAY YOU DON'T KNOW THE ANSWER

It's a closed world of top litigators. Virtually all big law firms have good to super-good lawyers. All big law firms don't have great litigators. You don't always need a great lawyer, but sometime if you grow geometrically, you will.

Like any other project management, litigation must be managed. Unfortunately, like speech-giving, you become a great litigator by going through a learning curve.

I don't mean you have to get involved in losing efforts (like making bad speeches so after some time you make good speeches) to get in a position to win in court. Large law firms will allow you to get ahead of the learning curve.

The Quantum Leap methodology talks ad nauseam about following your dreams. Life without dreams is like a bird with a broken wing – it can't fly. I wrote this newsletter because sometimes you'll need litigation to follow your dream.

Go out and kick some butt, and don't let conventional wisdom keep you from achieving your dream.

Conventional wisdom says Don't Litigate.

All high-performance people and the great organizations of the last one hundred years did and do litigate as I write this letter.

Don't litigate frivolously – but don't be afraid to either.

To Your Quantum Leap,

Daniel S. Peña, Sr.

Mr. Peña turned \$820 into \$400 million market-valued energy company in 8 short years! Now he's coaching others how to duplicate his success. Visit:

Asbestos Litigation Facts

By Kirsten Hawkins

What is Asbestos Litigation?

Asbestos Litigation or Mesothelioma Litigation refers to legal aid to Mesothelioma victims.

Mesothelioma is a cancer that is caused by exposure to asbestos. It primarily affects the lining of the lungs and organs in the abdominal cavity. Asbestos litigation helps victims to seek compensation from their employers (if asbestos exposure was occupation related) or from manufacturers of asbestos containing products. The compensation may be for damages relating to medical expenses, loss of income and pain and suffering endured by the victim.

Dangers of Mesothelioma

Mesothelioma affects the linings of the lungs and abdomen and can affect heart and reproductive organs. Mesothelioma causes shortness of breath, chest pain and persistent cough. The dangerous fact about Mesothelioma is that it can lie undetected in the victim's body up to 20–50 years. The average survival time for mesothelioma victims is not more than 12–24 months. . About 70–80% of the persons suffering from Mesothelioma have history of exposure to asbestos. Asbestos litigation is the legal recourse available to mesothelioma victims for claiming compensation for their sufferings.

Effects of Asbestos on Human Health

Asbestos is fibrous material that easily disintegrates into small particles that float into the air. The workers, their families or people who remain in proximity to an asbestos industry are vulnerable to asbestos diseases including mesothelioma cancers. These particles settle down in the respiratory tract and lungs and cause asbestos diseases. Asbestos was mainly used in construction, boilers, railroad, shipyards, insulation and in a variety of products because of its stability and fire resistant properties. Growing number of Asbestos litigation has drawn attention to the evil affects of asbestos on human health.

Legal aid for Mesothelioma victims

If you have developed Mesothelioma or any other asbestos disease due to exposure to asbestos in the workplace or any other reason, you are eligible for Mesothelioma compensation. The compensation is, however, available to employees facing the risk of asbestos exposure during and after 1940s. The people staying in buildings having asbestos materials or using asbestos based products can claim compensation if they develop symptoms of Mesothelioma and asbestos diseases. You can file an Asbestos litigation with the help of a qualified and experienced asbestos attorney if you have developed Mesothelioma due to exposure to asbestos. Asbestos litigation Attorneys help the victims to maximize the claim amounts and help protect their interests in the asbestos case.

Kirsten Hawkins is a asbestos and mesothelioma specialist from Nashville, TN. Visit

for information on asbestos reform, mesothelioma lawsuit news, and

more.

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