

A glimpse behind-the-scenes - understanding the value of an attorney

In a criminal case, the defendant has a **right** to counsel. Sadly, this is not true in civil legal matters.



by Jodi Roberts, communication manager

Thinking about the law, the system, and its impact on us is an everyday activity for me. Even though I am not an attorney, I am immersed in the legal world and constantly thinking about it from all angles. As a former paralegal with our volunteer program, I was exposed to a broad spectrum of legal matters ranging from family law to probate to consumer debt. I saw firsthand how inaccessible the system can be for those who are unable to hire an attorney. In my current role on the communications side, I work to highlight the impact legal aid has on our clients and community.

So you can imagine my surprise when a recent experience in the legal world turned out to be eye-opening.

Last month I was seated as a juror on a federal criminal case. I was excited to see the justice system from this behind-the-scenes vantage point. What I saw gave me a renewed appreciation for the advocates I work with on a daily basis and deepened my understanding of the vital work they do.

Sitting on the jury exposed me to the complexity of the legal world. Since this was a criminal case, the defendant had a right to counsel. But I couldn't stop thinking how an unrepresented party would have little hope of success. That's precisely why we have such a safeguard in place - one that assures legal counsel even if the defendant can't afford it.

Sadly, this is not true in civil legal matters, even though the outcomes in these cases can be just as life-changing.

And as I sat through the trial, I thought about -

KNOWLEDGE OF THE LAW

Obviously knowing the law and its application is a starting point for building a case. The prosecutor used knowledge of the law to make decisions on what charges to bring and what evidence to present. The defense attorney likewise used it to decide which defenses were viable. Having this knowledge and a basic understanding of how the law may or may not apply in a specific matter is critical.

The same is true in the civil legal arena. Take, for example, an eviction case. There are certain laws that govern the eviction process. It's possible a tenant can rightfully assert an unlawful eviction defense in a proceeding that is about to cost them their home. But would they know that, and, if so, would they be able to advocate for themselves in the matter - especially if their landlord is represented by an attorney?

Knowledge of the law, its application, and even local rules of procedure are areas of expertise that are foreign and unfamiliar to individuals outside the legal world. And even though self-help tools may be available, they may be difficult to understand and apply.

EVIDENCE

[Evidence](#) is an “ item or information proffered to make the existence of a fact more or less probable. Evidence can take the form of testimony, documents, photographs, videos, voice recordings, DNA testing, or other tangible objects.” To be sure, the case I sat for involved a plethora of evidence. And all it had to be gathered, reviewed, and properly submitted to the court for consideration. Additionally, it had to be used throughout the presentation of the case to either support or refute the allegations. Of course, the rules of evidence can change depending on the type of case. But that doesn't change the need for specialized legal knowledge to successfully leverage the right evidence in the right way.

I thought a lot about the importance of evidence in civil protection order cases for survivors of domestic violence. To expect a survivor to filter through potential evidence, secure evidence through a subpoena process, or make decisions about how to use it in a complicated trial is unreasonable. And this is only compounded by the realities of retraumatization and the power and control dynamic in domestic violence relationships. Think of all the evidence that might help - police records, photos, witness statements, phone records, possibly even financial records. This would be difficult, if not impossible, to do on your own. Then imagine the ways

opposing counsel could shut you down as you attempt to present these in court. All this as the outcome of the case - and ultimately your safety - depends on it.

Collection and presentation of evidence could also be a pitfall for our clients in many other types of cases. Imagine you are contesting debt and the creditor has an attorney but you need their documentation. Imagine your car has been repossessed and there may be evidence that could work in your favor - but you don't even know where to start. Imagine a landlord-tenant dispute where you have text messages from your landlord to support your claim. Can you admit them? Should you even try?

WITNESSES

Witnesses are people who “can serve as sources of evidence, offering firsthand accounts that can corroborate or refute claims made by parties involved.” In my jury duty case, many witnesses were called - forensic accountants, investigators, caseworkers, and everyday people who had some experience or exposure to the allegations. It struck how this was one of the most complicated and perhaps unpredictable ways to submit evidence. It was clear that well before the trial, there were interviews and prepping of the witnesses so they knew what to expect. Subpoenas were issued. During the trial, counsel on both sides had to be attentive and object when needed.

It was hard to imagine successfully prepping and calling witnesses on your own. Could you even find your best witnesses? Would you have the skill to get them to a place where they were comfortable sharing their story? In the courtroom, what would happen when opposing counsel objected? What if your witness was being led? Would you know - or know what to do about it?

From where I sit at CLA every day, I don't see the trial side of our advocates' work. The jury duty experience was an important reminder of how heavy this work can be. It's complicated, it requires knowledge, research, intense preparation and concentration, and things can get adversarial. To top it off, the path of a client's life or wellbeing hangs in the outcome. Will they lose their home? Will they have a layer of protection against further abuse or be able to disentangle from an abuser? Will their wages be garnished?

Consequences in civil cases can be just as life changing as those in a criminal case - yet parties may be left to navigate the system without the benefit of an attorney. Serving on a jury was a strong reminder of the importance of legal representation - and the critical work our advocates do every day.

Last updated on January 03, 2024.

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