

LESSONS LEARNED FROM MANAGING LARGE MULTIPLAINTIFF LAWSUITS

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If you work in a solo or small firm, you don't have much support staff to help you manage large multiplaintiff lawsuits. It's up to you to use your resources wisely; otherwise, you can quickly lose track of the details. I have learned a few lessons, sometimes the hard way, from handling these types of cases in my own small firm.

How to get multiplaintiff cases is another topic, so let's assume you already have one. Assume too that you have the financial resources to fund such cases, since most of them will be on contingency. You will have to pay for costs of the lawsuit out of your own pocket. Furthermore, you will not be earning income unless the case is settled or the jury decides in your favor.

Some of these cases will take eighteen to twenty-four months or more to resolve. Therefore, if you don't have the assets to allocate, then consider partnering with another law firm that does.

DRAFTING THE COMPLAINT

I have found that drafting the complaint and handling discovery demand superb organization. Being organized will save you from wasting time in the long run and help you best serve your clients.

QUESTIONNAIRE

After you have signed retainer agreements, provide each plaintiff with a questionnaire you have created for this specific case. Each questionnaire should be thoughtfully prepared to help you draft the complaint. The time you take to develop the questions will save you time in the future.

My forms have the client name and contact information at the top in an easily readable format. Then the forms generally have “yes” or “no” questions that help separate the clients based on what I think are the issues of the case.

The form has open-ended questions for clients to write about their experiences. Leave plenty of space for these answers, because if the plaintiffs write in detail, it may provide you with helpful information.

While you might be tempted to design the questions as if you were cross-examining a witness, resist this impulse. Nor should your questions be the same ones you would use in discovery. Most clients do not have a lot of court experience. Since this is likely your first real interaction with your clients, you will want questions that are easily understandable. You can still elicit the information you need.

INFORMATION FOR THE COMPLAINT

After reflection and research on the many probable causes of actions, the next job is to interview the plaintiffs to obtain more specific details. This will help you determine what causes of action concern each plaintiff.

The interview process takes a considerable amount of time. If you do not have a paralegal or attorney in the office with time to contact the clients, then hire another attorney whose work you trust to do this task. The interview process is important because it helps you obtain facts to write your complaint, as well as build relationships with the clients that could help you later in the case.

A quick-thinking interviewer can ask questions spontaneously, but I suggest that the interviewer have a list of questions at the top of the paper on which the notes will be written. This way, the interviewer can ensure that your main questions were all asked.

Sometimes clients have an idea of the causes of actions. For example, many of my clients, who are residential tenants, will say that they have been “defrauded.” However, a skilled interviewer will ask details that will help you determine whether their experience is applicable to the cause of action.

The interviewer should ask follow-up questions to elicit more details, particularly if the plaintiff is reticent for some reason. Many tenants are fearful of retaliation because they are taking a stand by speaking against the actions of the landlord and are fearful of management retaliation. During the interview, reassure the client that since he or she is represented by an attorney, it may guard against retaliation.

At the end of the conversation, I prefer the interviewer to ask clients whether there is anything else they would prefer to be known and whether they know of any other people who might want to be part of the lawsuit.

The interviewer should type up the notes and highlight issues that naturally fall under the proposed causes of actions. If any additional questions arise, by all means contact the client again and emphasize the importance of accuracy. Most people do not mind being called a second time if the interviewer handles the telephone contact professionally.

Getting this aspect of the case right is an important part of drafting a good complaint.

DIFFERENT CAUSES OF ACTION IN THE COMPLAINT

I once had a multiple-client case that involved a large apartment complex and a landlord that attempted to downplay the scope of a construction defect and minimize the time it would take to remedy the defect.

In order to keep track of the details, a spreadsheet proved handy for organizing the data. I divided the clients into three groups, depending on their move-in date. These groups allowed me to draft the complaint with several different causes of action, some of which did not involve all plaintiffs. For example, some plaintiffs were told about the construction when they toured the complex. Others were not told about the construction before they moved in and woke up to find workers and scaffolding outside of their windows.

After I drafted the complaint, I noted in my spreadsheet the specific paragraph in the complaint where each client was mentioned. Later, when proofing the complaint, I could refer to the spreadsheet for accuracy.

You may not be a fan of spreadsheets, but they are useful for showing the big picture on one sheet of paper and manipulating the data.



ORGANIZING DISCOVERY

Spreadsheets are also helpful to organize discovery. Yes, it demands discipline, but it is worth taking the time to keep your information up to date. It will pay off when something is due from the plaintiffs or defendants.

Organization is key to handling multiplaintiff lawsuits for solo and small firms.

PLAINTIFFS' DISCOVERY

A spreadsheet listing all the plaintiffs' names is extremely helpful for keeping track of the mailing dates for forms and special interrogatories, requests for admissions, and requests for documents. I also use this spreadsheet to list whether a plaintiff reviewed the discovery responses and signed the verifications. How do I know they reviewed the responses? The verifications are the last page of their responses after my signature.

DEFENDANTS' DISCOVERY

In my multiplaintiff cases, I frequently have multiple defendants and it is particularly important to keep track of discovery. This spreadsheet grows as different discovery is sent to the defendants.

A spreadsheet format that works well for my cases is set up as follows: The first column notes the date when the discovery is mailed and the second column is the type of discovery. Next come the names of each defendant, followed by the dates defendants mailed the discovery back, and whether the discovery was verified.

I also have a column for the date discovery is due, and the date I send out my meet and confer letter. The next column has the date to file a motion to compel.

In one of my cases, a large law firm sent out a meet and confer letter objecting to the plaintiffs' responses regarding their requests for admissions. A review of my spreadsheet helped me to respond quickly that the defendants were out of time to file a motion to compel. Having that information at my fingertips paid off.

ORGANIZATION IS KEY

Organization is the key to handling multiplaintiff lawsuits for solo and small firms. Once you know how to organize your information, you will be able to handle this type of case more easily. It will help you compete with other firms, save you time and stress, and most of all, benefit your clients.

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