

Lawyers who lunch

Brainstorming cases and maintaining relationships


Cooper

By Miles B. Cooper

The lawyer tucked into the hamburger. Delicious. The person sitting across from the lawyer continued the discussion. "Frankly, I think the witness's felony is a huge issue. I've got a motion in limine for you there. Email me and I'll send it to you." The lawyer pulled out a phone to send the email right away, lest the suggestion be forgotten. They continued discussing the case.

The breaking of bread

It can be lunch, dinner, a pastry, coffee, or a drink. A face-to-face session outside an office's pressure provides a welcome opportunity to catch up with colleagues and former (or even current) opposing counsel. Discussing cases is great. But there's also the importance of checking in with folks. It gives one a chance to hear about what others are working on – what verdicts, cases, and issues are resonating in the practice. This is one way creative ideas get shared.

Planning to be social

But sharing ideas requires human contact. Litigators tend to go through phases. Trial and deadline phase (way, way, too busy), normal phase (busy), and case-just-settled phase (wow, I suddenly have a few days to catch up!). This makes social planning tough. Consider a reminder system. It can be as simple as putting a reminder on calendar a few weeks to a month or two out. A little nudge so one remembers it has been too long. The lack of spontaneity is offset by the ability to maintain a regular connection.

Some people think leaving the office during a busy period is a luxury. But an hour or two of focused strategy (and time away) can be enlightening (and fun). But stay focused. Sometimes a throw-away comment, "Jane Doe had a trial with that expert," is the comment that leads to the information that tilts the case in one's favor.

While the focus here is on brainstorming cases, don't let one's eagerness to discuss work overshadow the human element. Presumably you've reached out because this is a friend. My excitement over a case has sometimes led me to realize midway through a meal that I've hijacked the conversation with manic case talk. Don't be that person, no matter how interesting you think your case is.

While talking about decorum, don't ignore the phone issue (actually, ignore phones). Aside from sending short reminders, keep phones tucked away. The power-lunching lawyers staring at phones, not talking to each other, is part of the smartphone zombie apocalypse.

The pitch

A meal is a great way to work through a case. It is an opportunity to practice the pitch – the short version that captures the decision-maker's attention. What is this case really about? Some lawyers use the first part of a meal to do what amounts to an opening.

Whether you are pitching the case or listening to someone do so, ask yourself what is the objective? Typically, one wants feedback on a case. But watch out for the "Atta boy!" A lawyer has an agenda and has no real interest in hearing what the other person has to say. An example: a lawyer has already decided on how to proceed and simply wants someone to agree. I'll admit that I am sometimes unintentionally that lawyer, hoisted by my own petard. There are some lawyers who simply want an audience to mentally work through the case and don't really want input. That's an approach, but it is a wasted opportunity. A central reason to talk to others about a case is to absorb honest feedback. If you find yourself too defensive and trying to steamroll rather than absorb weaknesses raised in the discussion, you have an unintentional atta-boy tilt.

Diversify the network

Most of us meet with a regular battery of plaintiffs' lawyers. That's great, but consider expanding beyond the usual suspects. Different people bring different perspectives. Defense lawyers, by their nature and training, offer different insight than plaintiffs' counsel. What a plaintiffs' lawyer might see as brain injury symptoms may be perceived completely differently by a skeptic. One wants to know this. Don't get defensive – figure out what data may help an adjuster or defense counsel see it your way.

Civilians provide great perspective as well. You know – non-lawyer friends. You've still got a couple of those, right? They tend to highlight issues and language lawyers take for granted. Is the defendant in course and scope of employment or was the defendant on the clock? Civilians help de-legalize one's language. Listening and absorbing this helps in trial. Jurors are more likely to understand the lawyer who speaks English rather than spitting out jargon. But that should be res ipsa…

Outro

Back to our hamburger-eating lawyer. The lawyer listened to the points raised by the lawyer's lunch companion. The lawyer received a useful motion in limine later that day via email on the felony evidentiary issue. The legal argument was dropped into a Mandatory Settlement Conference Statement and the case settled soon after.

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