

4 Strategies for Preventing and Handling Frivolous Lawsuits

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There are more than 40 million lawsuits in the United States alone every year. Yet **recent findings from the Rand Institute for Civil Justice** reveal that only 10% of Americans who have been injured, whether in a car accident, a workplace accident or a result of negligence, file a claim for compensation. And only 2% of those will ultimately proceed with a lawsuit. So who is doing all of this suing?

Contract and small claims cases comprise the bulk of the civil caseload, and unfortunately, most of these lawsuits are baseless claims, also known as frivolous lawsuits.

According to the US legal system, a frivolous lawsuit is by definition a legal claim with no facts or basis to support it, filed by an entity or individual who is well aware that it has no legal merit. Usually these types of claims are filed specifically for strategic reasons, and often even, dare we say— absurd.

Frivolous lawsuits are unfortunately a persistent issue in the legal system, particularly in the US. These trivial claims don't just cost individuals and businesses precious time and resources, but also legal professionals. Despite a handsome settlement amount, it's hardly enough to make up for the time and energy wasted. What's more, often these cases are filed with the sole intention of harassment. In other words, they can be a royal pain in the for everyone involved.

Consider these examples:

A person sues a manufacturer claiming that their product caused improbable injuries or damage. For example, claiming emotional distress caused by a scary Halloween mask.

An ex wants to get back at their boyfriend and falsely accuses them of violent behavior.

An obese customer sues a fast food chain because of the size of their small booths.

Like it or not, when these recklessly litigious people come your way you have to be ready for them. In this article, we'll go over some of the most effective strategies to not only handle frivolous lawsuits but effectively prevent them.

The Consequences of Frivolous Lawsuits

Photo of Time and Resources

Frivolous lawsuits clog up the court system and increase the backlog of cases that are waiting to be resolved. They slow down the entire legal process resulting in delays for people legitimately seeking justice.

These silly lawsuits waste the time of everyone involved and unfortunately divert attention and resources away from cases that actually matter. According to the US financial Education Foundation, each year excessive tort costs add up to well over 500 billion dollars.

Image of Reputation

When someone's name is attached to a frivolous lawsuit it tarnishes their name and reputation. It may even get to the point where the media covers the case which can change public perception of the defendant and negatively impact both personal and professional relationships. Not to

mention, it's costly to defend yourself against a frivolous claim. According to the National Federation of Independent Business, frivolous lawsuit cases cost small companies an average of \$100,000 to fight for the integrity of their reputation.

Walmart's reputation has been notoriously tarnished as they receive an average of 20 whopping lawsuits a day, totaling about 5,000 a year. Unlike the average small business, however, they are the world's largest retailer and have the means to defend themselves.

Legal Remedies and Penalties

Defendants may pursue a counterclaim against the plaintiff, and if successful, it could result in legal sanctions and penalties for the party that filed the frivolous lawsuit. Fortunately, the judges are just as frustrated as everyone else when a frivolous lawsuit gets filed. As such, you may have a pretty good chance of turning things around and suing for damages that include the cost you had to pay to defend yourself against a baseless lawsuit.

Remedies for Preventing and Handling Frivolous Lawsuits

Calculating Damages and the Consequences of Being Violated Damages

Although legal professionals are no strangers to frivolous lawsuits, your client may not be. It helps to educate them on the process and explain the potential risks, costs involved and consequences associated with what they plan on filing a claim for.

Start with a simple explanation. It helps to break down the concept of what the clear definition of a frivolous lawsuit is, and that the intention behind this

lawsuit is often frowned upon and seen as an attempt to intimidate or harass.

Highlight all of the negative consequences that could arise, from financial burdens to the amount of time and resources they're looking at to the potential stress they could anticipate. By educating your clients on the total negative impact that frivolous lawsuits have, the more lawyers can do their part to prevent these cases from bogging down the justice system and making room for cases that actually have merit.

Lastly, provide them with a breakdown of how much they're looking out for legal costs. From attorney fees to potential damages, it helps them to understand the total financial picture— it's often hardly worth it.

Conducting thorough case assessments before filing a lawsuit

Unfortunately, there are lawyers out there who are willing to file a lawsuit that they know to be entirely frivolous. All this does is perpetuate the stereotype that lawyers are crooks. Do your part to promote the integrity of lawyers by conducting thorough case assessments before filing a lawsuit. Evaluate whether the potential lawsuit has any likelihood of success and whether the resources and costs required outweigh the potential benefits.

By examining the legal merits of your case you can discourage your clients from pursuing baseless claims and reduce the burden you put on courts and defendants.

What is a SLAPP lawsuit

A SLAPP lawsuit (short for Strategic Lawsuit Against Public Participation) is a lawsuit filed with the intention of silencing or intimidating an individual or an organization exercising their right to free speech. The objective of a SLAPP lawsuit isn't necessarily to win, but rather to burden the defendant with costly legal fees and stress

Usually, these SLAPP lawsuits are fired off by powerful businesses or individuals with the intention of silencing critics or whistleblowers.

An anti-SLAPP motion is a legal mechanism designed to protect businesses and individuals from these circumstances and can be a powerful tool for stopping frivolous lawsuits in their tracks.

The purpose of an anti-SLAPP motion is to dismiss these lawsuits in the early stages before the defendant risks being burdened with defending themselves against baseless claims.

A successful anti-SLAPP motion must prove that the defendant's actions or speech were within their constitutional rights and that the plaintiff's claims lack merit.

If the court determines the defendant meets both of these elements, the motion is granted and the lawsuit is dismissed before it even gets started.

Seeking attorney's fees and costs is an effective strategy to discourage the filing of meritless claims. By demanding compensation for any expenses incurred by the defendant for legal fees and costs you may be able to deter a frivolous lawsuit in its early stages and prevent the abuse of the legal system.

Examples of frivolous lawsuits

Frivolous lawsuits happen every day all over the United States. However, the ones we hear about most are often the most outlandish ones. After all, who hasn't heard of the infamous hot coffee lawsuit of 1992 when a customer sued McDonald's after ordering a hot coffee and spilling it on herself?

Here are some other notable lawsuits that have gone down as some of the most frivolous in history.

In 1996 a groom claimed that an exotic dancer gave him whiplash from her breasts while performing a lap dance on him at his bachelor party.

According to the defendant, he was “too embarrassed” to see a doctor for three months. Finally, two years later he was still in pain which is when he sued the club for refusing to pay his medical bills.

Luckily, the case was dismissed on the famous television show the People's Court as a judge ruled that the injuries he were claiming to have sustained were physically impossible based on the size and weight of the defendant's breasts.

Michigan Was Sued Anheuser-Busch For "Telling Advertising"

In the 1990s Budweiser ran a series of commercials which depicted a group of people cracking open a can of Budweiser and magically manifesting a tropical setting with buxom ladies. After seeing this commercial, the defendant claimed he purchased a pack of beer only to find that no beaches or babes appeared. He sued Anheuser-Busch for \$10,000 claiming it caused emotional distress, mental injury, and financial loss.

Needless to say, the Michigan Court of Appeals dismissed the case based on his failure to state a claim upon which relief could be granted. In other words, the court found that since the dangers of drinking beer are already well known amongst the public, Anheuser-Busch was not required to explicitly state the risks in a commercial.

Was Budweiser Sued For Telling Women's Breasts Were Too Large?

In 2005 a man named Roy Pearson was just about to start his new job as an administrative judge. After bringing his pants to the dry cleaners, they were lost. The owners of the dry cleaner offered \$12,000 for the missing pair of pants, but this wasn't enough for this angry customer. He went on to sue the dry cleaners for a whopping \$67 million which included emotional damages, legal fees, and demanded 10 years worth of car rental fees to visit a different dry cleaner. Ultimately, not only did he lose the case but a judge ruled that his litigation tactics were “beyond aggressiveness and crossed the boundary into abusiveness.”

Unfortunately, despite winning the case, the dry cleaners were forced to close as a result of the legal bills they had to pay to represent themselves. How could this case have been prevented from taking up any time in the courts at all? Unfortunately, this was one of those cases that despite the defendant attempting to settle early on, the plaintiff insisted on prolonged litigation. Had the dry cleaners hired an experienced attorney who specializes in frivolous cases, they may have been able to successfully file a motion to dismiss in the early stages of the lawsuit, highlighting the lack of legal basis before reaching trial.

Empower Your Legal Defense Against Frivolous Lawsuits

It's safe to say that frivolous lawsuits burden the legal system. Justice should be accessible to people who have genuine claims, which is why it's important that lawyers are familiar with the best strategies to prevent these cases from reaching trial at all.

From anti-SLAPP mechanisms, to thorough case assessments, lawyers can help individuals and businesses protect themselves with these strategies and prevent clogged up court dockets that cause major delays for legitimate legal disputes.

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