



# SELF-REPRESENTED

Tips and Information for Self-represented Litigants

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## Why sometimes good court cases are lost?

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You are the plaintiff. You think you have a very good case. Your relatives and friends tell you that you can never lose. It has been the experience of this author that sometimes good cases are lost due to the following ten main reasons.

### *Failing to prepare*

Preparation is one of the keys to a successfully court outcome. This means meticulous preparation from start to finish- gathering documents, preparing witnesses, organizing your documents, submitting expert reports, complying with the rules of procedure. Knowing what to submit and what to leave out is the key.

### *Overconfidence*

Confidence is a good thing, but overconfidence can give you a false feeling of security. It is a good thing to be humble with your case and to be a little nervous about it. Being a little anxious will prompt you to do what is necessary to ensure that you improve your chances of success.

### *Having unreasonable expectations*

This may relate to overconfidence but has an aspect on its own. If you expect to get a million dollars and your case is worth only \$1,000.00 you create an image of you of someone who is greedy and unreasonable. It's one thing to want to be compensated adequately for your losses and damages and is another thing to have unrealistic demands that will portray you as a greedy individual.

### *Failing to have a theory about your case*

You did not go to law school, but you probably learned that every case must have a so called 'theory', which means you have to be prepared to make persuasive arguments about logical and probable reasons that caused a particular situation to exist.

### *Suing the wrong person*

If you sue the wrong person, you may end up empty handed. If you suspect someone may be jointly or separately liable for your damages and losses – even in an insignificant way – joint him/her/it in the action.

### *Suing after the limitation period has lapsed*

Be cognizant of the limitation period that applies to your case, for if you wait too long, your case may be dismissed. The issue of limitation periods tends to be esoteric, and legal advice is highly recommended.

### *Not sufficient evidence*

You may have a good case, but if you do not have sufficient evidence to satisfy the judge or the jury, then your case will be dismissed. What is sufficient? Every case depends on its own facts. Sufficiency usually means adequate evidence to satisfy the onus on you to prove your case on the balance of probabilities (for civil cases).

### *Moral right versus 'legal' right*

Just because someone is morally wrong for something done to you, it does not necessarily mean that he/she also liable to pay you something for that wrong. The wrong complained of must belong to a category of wrongs recognized by law.

### *Focusing on the wrong outcome you want to accomplish*

You must know what you want. If you sue for the wrong remedy, you will not get what you really deserve. Thus, before you sue, make sure you know what exactly is you want to accomplish.

### *Failure to mitigate your damages*

Even if you have the law on your side, this does not mean that you are automatically entitled to receive any amount you ask. As a plaintiff, you have a duty to mitigate your losses, which means you must take steps to minimize your losses and maximize your benefits under the circumstance instead of doing nothing and expecting the wrong doer to compensate you for 'everything'.