

# If Talk Fails, Will Your Attorney Take Action?

*by Bruce Stanger*

Lawyers are known to talk, sometimes to excess. This is partly because negotiation - both before and during litigation - can lead to a great result for the client at a fraction of the cost of a trial. Put simply, talking makes sense, and in most cases saves the client time, money and aggravation. Usually, both sides engage in negotiations throughout the process, and nationally over 90% of cases settle before trial.

There is talk and then there is TALK. Lawyers show teeth as they talk. Lawsuits can and should be filed, or in a business context you can walk away from a deal to show the other side you are serious. In other words talking while taking action often means a lot more than saying you will take action if things don't work out.

## **WHAT HAPPENS WHEN TALKS FAIL?**

When talks fail, it is critical to know that your lawyer has the experience, willingness and preparation to take your case through trial and beyond. Two recent cases tried to judgment by our office illustrate this point. In the first case, we represented a buyer of real estate against a seller who refused to return his deposit after the sale fell through. Despite lengthy negotiations, the seller refused to return the deposit, forcing a trial. After hearing the evidence, the judge awarded our client not only the amount of the deposit, but

additional damages totaling nearly five times his deposit for the seller's wrongful conduct. We had to show that we meant it when we said "pay now or else" because the defendant would not settle for the lesser sum that our client would have taken.

In two recent cases our clients were willing to share custody of their children. In both cases the other parent wanted it all - denying our clients access to their children. The other parent made what we believed and a judge decided were baseless accusations. In the end, after trials, the judge saw it our client's way and because of the conduct of the other parent in alienating the child from our client, the judge awarded our clients custody. Talking is best, especially in family situations a compromise is best, but in the end if the other side won't engage in a meaningful resolution be sure you have a lawyer willing to go the distance.

Trials became necessary because talk failed. If a lawyer is not willing or able to see a matter through trial, his opponent will use that fact to their advantage. Even though over 90% of cases settle, having an attorney that will go the distance for you can be a critical advantage both while talking and if talking fails. We are willing, able and we do go the distance. ■

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