

Wednesday, January 9, 2013

Trials require substantial payment for full firepower, but the price interferes with equal access to justice.

Photo from website of U.S. District Court (W.D. Mi.). By Fairfax County/Northern Virginia/Maryland/Beltway criminal defense lawyer Jon Katz. Defending DWI/ DUI/ Drunk Driving, drugs, marijuana/medical marijuana/cultivation, sex cases, felonies and misdemeanors. Fighting tirelessly for the best possible results for his clients. <http://katzjustice.com>. One day a man charge with burglarizing a house for something no more valuable than a run-of-the mill DVD player came to my office. He experienced sticker shock when I quoted my fee. He asked if he could add his father to the conversation, since his father would be paying his legal fees. When the father heard my fee -- a moderate fee quote for me, this not being a complex-seeming case, but a huge amount of money for the father -- he became very upset, and expressed his dismay that a lawyer would cost that much for the alleged burglary of such a small value of belongings. The father was also upset about having to pay to defend his "innocent son." I empathized, and said I have no doubt that they can find a lawyer charging less, but that for me to put my full firepower into the son's defense -- which is the only way I go --my fee quote was necessary to cover my time and opportunity cost to provide an effective defense. As I always feel and often express, I told the defendant and his father that my primary interest is in seeing the son get the best possible result, regardless of whom he hires as a lawyer. As much as I glowed when hearing Maryland's Court of Appeals judges underline the importance of pro bono work on my swear-in date (better swear-in than swear at), neither lawyers nor anyone else can live on love alone. I proudly do pro bono work each year, which for court appearance work ends up meaning that I have not only worked for no pay, but have paid out of my own pocket to do the work, when considering the clients who end up hiring another lawyer when my court time prevents me from appearing in court on the same date for a potential client, or meeting with the potential client sooner. Time management sticklers will find a true challenge with trial work, where rules and court orders dictate deadlines, where getting to court is often a hurry up and wait exercise, and where getting productive work done while waiting in the courtroom is a true challenge, particularly in courtrooms that ban cellphones and laptop computers. Lengthy trials translate into limited time on trial days for a lawyer to communicate with his or her staff, clients, witnesses, opponents, and courts other than for the trial at hand. This is what the battle is all about, focusing on the combat at hand, persuading in the moment, and getting the ultimate opportunity to vindicate the lawyer's client. Moreover, once opponents know a lawyer knows how to effectively and persuasively prepare for and try a case, the more successful the lawyer will be at obtaining favorable settlements to avoid trials. As the saying goes, when a lawyer prepares a case to go to trial it is more likely to settle; when a lawyer prepares a case to settle, it is more likely to go to trial. I wish there were better solutions to equal access to justice, which are hampered by the fees that lawyers must bill for litigation-- even by lawyers who are not money-hungry but who will not try to live on love alone. Trial combat is expensive.

Posted by Jon Katz in Criminal Defense at 00:00