

# Beyond Blocks and Bricks

Number Fourteen

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## Popcorn

"5 Things Your Lawyer Doesn't Want You to Know." How many of these lists have we seen? The one that follows actually has a bit of really bad advice in the fifth item: drafting a will by yourself.

"Don't sue" and "It is often better to settle, or quit" are frequently really good ideas. When you estimate the cost of a particular bit of litigation, don't forget to include the cost of the time your employees will spend training your lawyer to understand your organization, training your lawyer to understand the construction business, and training your lawyer to understand the particular problem that took you to their door. Once you have a total, double the amount: when employees are training lawyers, they are not selling anything.

Oh, and leave emotion at the door. No anger, no outrage, no righteous indignation, no thoughts of revenge. Just cold, hard logic. You'll make better decisions.

Don't ignore "Their fees are not set in stone." I've seen some of the bricks that you sell, over and over. If you can sell those dogs, you can convince your lawyer that some bits of their fee schedule will be negotiable. Pay particular attention to "Popcorn," below.

## 5 Things Your Lawyer Doesn't Want You to Know

By [Steve Strauss](#) | July 12, 2011



[Small Business Advisor](#)

## Steve Strauss

I practiced law for 10 years (before I came to my senses!) and there were things I liked and disliked about the practice. On the plus side, helping people out of jams was very rewarding and on the whole the job was intellectually stimulating. It also paid well.

On the down side, the hours can be brutal and, at least for me, suing people was a drag; no one ever seemed happy with the results. So maybe it is not surprising that the joke I heard most often from my legal colleagues back then was, "It's a great profession... if it weren't for the clients!" That many lawyers did not like the people they worked for is probably no real surprise. The truth is, like many people in service occupations, lawyers have plenty of things that they want to keep from their clients.

Here then are the top 5 things your lawyer doesn't want you to know:

**1. Their fees are not set in stone:** The essence of a law firm is to exude a certain power and authority, as if to say, "Your problems are safe here — no one would dare mess with you with us at your side." And that's a good thing... except when it's not. And it's not when that same authority seems to hold sway over the client.

The truth is, that firm or attorney may be a little more flexible than you imagine when it comes to fees and costs. After all, they too are in business and they have competitors and overhead. They need your business.

Negotiable items can include:

- Their retainer
- Their hourly rate
- Costs, such as the amount you will pay for copies, faxes, short phone calls, etc. The managing partner at the first firm for which I worked called these things "popcorn," reminding us that just as a movie theatre makes the lion's share of its profit not from films but from selling popcorn (\$5 for that little bag), the firm made its money from simple things like charging \$5 bucks a page for a fax. That was our popcorn.

Secret: It's all negotiable.

**2. Don't sue:** Anyone who has ever been in protracted litigation can tell you that lawsuits are expensive, time-consuming, exhausting, minutiae-oriented, cumbersome ways to settle a dispute, and they don't even do that last part very well.

On the other hand, for many a lawyer, a big lawsuit is the goose that laid the golden egg. How do you think those big firms can afford those fancy digs? Charging clients \$400 an hour to sue the bum, that's how. But for the client, lawsuits can be a financial and emotional black hole with no way out once you are in. They can cost a fortune, take years, and end with hazy results.

So beware the lawsuit.

Are there times when you need to sue to protect your rights or get what's coming to you? Of course, but just know that the path is not always as clear as it may seem, especially at the start, and litigation is not always the best way to resolve a dispute.

Which brings me to,

**3. Often it is better to settle, or quit:** People have disputes — that's the nature of life. Sometimes those disputes are so upsetting, or expensive, that you lawyer up. While that can be emotionally satisfying, as discussed above, it can also be financially devastating.

Not infrequently, it is better to compromise. Give in a bit. Settle. The money you may lose down the road by not fighting to the bitter end will usually be made up in saved attorney's fees and increased peace of mind.

**4. Sometimes, even a simple letter will do the trick:** While all of my warnings about litigation are legit, it is equally legit that having a lawyer gets people's attention. A lawsuit may not be necessary at all when a nastygram written on letterhead can often do the trick.

**5. These days, you may not even need a lawyer at all:** The Internet has changed everything, including the law. Today, there are just so many online legal resources that when it comes to simple legal matters especially — creating a will, drafting a lease — you can often do it yourself with the help of some great software.

That said, please notice that I said you can do it yourself when it comes to simple things. You can put a band-aid on a cut, but you don't perform surgery on yourself. When your legal problems are big, it still is smart to get a lawyer.

Just be careful.