Winning Strategies used by Pro Se Litigants

By NAPSL Staff Writer

I have had people approach me to ask if I can put them in touch with pro se litigants that have won their case. My standard answer is ‘no,’ because I think they are asking the wrong question, and I don’t want to mislead them with my answer. Litigation consists of several small battles fought over an extended period of time. Just because someone wins a battle, doesn’t mean they’ve won the war; and someone could win the war despite having lost all of the battles. The war isn’t truly won until someone gives up or the parties reach a settlement agreement. And that is why I think the right question to ask is whether I can introduce them to pro se litigants that have established winning strategies that have helped them overcome one or more litigation hurdles.

I also think that for strategic purposes, there is value in studying cases where a pro se has not been successful in their endeavors. This is because we can learn just as much from someone’s mistakes as we can from someone’s successes.

So to answer all of the people who have approached me at one time or another; here is a compilation of techniques that pro se litigants have used to help them successfully resolve their legal matter:

1. They didn’t exhaust their resources answering every motion or going to every hearing; they answered only those motions and went to only those hearings were they cared about the outcome.
2. They sued the opposing party’s insurance company in addition to suing the opposing party, then they offered the insurance company a settlement that would cover the cost of their damages, but would still be less costly to the insurance company than if the insurance company had to pay a lawyer to go to trial.
3. Before they entered trial court, they had already prepared their strategy for appeal.
4. They researched the backgrounds of the opposing party to look for weakness that they could exploit.
5. They researched the opposing party’s attorney to ascertain his/her litigation techniques.
6. They researched the backgrounds of judges for judge agendas that they could manipulate.
7. They read the entire rules of civil procedure and rules of evidence.
8. They researched and read litigation strategies used by the country’s best litigators.
9. They didn’t try to reinvent the wheel for every paper they needed to file. One pro se litigant said “Someone paid good money for lawyers to write winning case filings, why not use what has already been paid for?” Smart pro se litigants have looked up some of the winning filings lawyers have written and adapted the filing to meet the facts of their case.
10. They read appellate court decisions related to their case to gain an understanding of the appellate court’s way of reasoning. Understanding this has helped pro ses understand not only why an appellant judge ruled in someone’s favor, but also why the appellate judge ruled against them.

The proper way to utilize these strategies is to apply them as if each battle were a hurdle. In hurdling, there is a technique that is desirable to accomplish efficient hurdling action during a race. Many runners rely mainly on raw speed (i.e. attorneys rely on the court’s quid pro quo system), but proper technique and well-planned steps leading up to and between each hurdle can allow an efficient hurdler (a pro se) to outrun faster opponents.