

## WHAT HAPPENS WHEN A LAWYER GOES ROGUE?

*by*  
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Lawyers are a very formidable group of people. According to some estimates they constitute the fastest growing voting block in our society. (Well maybe only in the Washington, DC metropolitan area.) And lawyers can be very intimidating, even to other lawyers. I mean, for example, who really knows what constitutes defamation of character; who decides that kind of stuff? Judges - and most of them are ..... lawyers.

So consider a totally hypothetical case of a lawyer going rogue. No connection with any real world situation. Just hypothetical, REALLY! It is a sort of allegory. But feel free, if it resonates with you, to substitute the names of people, groups, and/or companies YOU know.

Anyway. Imagine a small group of neighbors get together as a sort of neighborhood organization. To protect the neighborhood, etc. Then they find a CAUSE. Let's say they are really pissed at PEPCO (pure fiction here) because every time the wind blows they lose power and they want PEPCO to fix the wires and stop trashing all the neighborhood trees, which are not really the problem - in this neighborhood.

So they hire a lawyer and try to use County laws (zoning, etc.) to force PEPCO to stop trimming the trees and FIX the damn wires. And this legal battle drags on for several years; which is not too implausible because anything involving lawyers takes a long time (after all, they bill by the hour) and anything involving PEPCO takes at least a quarter of a century.

Anyway, this neighborhood group has by-laws and all that stuff and they have elections and, after one election they end up with a bunch of new officers, essentially all of whom are lawyers. Well the fight with PEPCO has been going on for YEARS by now and everyone is kinda tired and getting cranky. Snarky Emails are flying through the ether. So one of the new officers (one who is a lawyer) decides enough is enough and it is up to him/her (gender is irrelevant here) to smooth things out.

So this officer decides to meet with PEPCO to try to arrange some kind of settlement. You know, like fix some of the damn wires and save some of our trees. Trouble is, the new officer simply forgets (or maybe ignores) a crucial element of the lawyers code: THOU SHALT NOT MEET WITH THE ENEMY WITHOUT YOUR LAWYER OF RECORD!!

Somehow a group of the members of this neighborhood group get word of what is happening and get really quite upset. They form a splinter organization with a catchy name: Committee to Saw Down PEPCO. [Actually, they formed CSDP somewhat before they heard about the actions of the rogue lawyer, but that fact kinda gets in the way of this story - remember it is just a story - but it HAS a point, so hang in there!] It turns out that the statute of limitations on the legal battle runs out (something to do with the trees in question have died) and the original

neighborhood group is not so sure they want to start a new battle. And the rogue lawyer is not going to encourage the initiation of a new battle.

Here's where the rubber meets the road. The splinter group wants to hire the Counsel of Record for the old case to help fight the new case. After all, it's a no brainer right? The splinter group wants to keep fighting. The lawyer is willing to sign on with new clients because the old ones seem burned out. And any people in the first battle are welcome to join the new battle. [I know, it is getting VERY boring here, but we're almost there.] But that rogue lawyer/officer is pissed that the splinter group did not ask her/his permission. So s/he begins sending rather nasty Emails to everyone, including the lawyer who was Counsel of Record, threatening that lawyer with all kinds of nasty lawyer stuff.

Cooler heads step in and try to make nice-nice, but it all blows up. Meetings that turn into food fights, etc. More nasty Emails. Finally the lawyer who was Counsel of Record says "FORGET IT, I cannot work with this zoo, good luck". So now everyone is pissed at everyone, no one has a Counsel of Record, and PEPCO gets off the hook. Because of that one rogue lawyer?

Well maybe it is not just because of the rogue lawyer. Maybe we all place too much weight on legalities in situations where simple civility ought to be the law. Maybe lawyers should remember that they are human beings first and lawyers only by profession. I mean, I'm a scientist (was actually; retired a few years ago); but when I become the leader of a local group to host say a book signing (don't laugh), I don't try to pull all my scientist stuff. Why should lawyers get away with this??

They shouldn't. Law schools and bar groups should tell lawyers that there are limits and should censure them when they exceed the limits. And the limits do not just apply to the courtroom. They apply to life.

What happens when a lawyer goes rogue? It depends on the situation, but it is not usually good. You should remember that when you entrust a lawyer with responsibilities that have nothing to do with "the law". And lawyers should remember it too. Otherwise a lot of people get hurt.

End of story. Oh - PEPCO is still cutting up trees and you should pray we don't have a storm anytime soon. But this was just a story so it's not really about PEPCO or the trees. But maybe the metaphor applies to a situation in your neighborhood. Forewarned is forearmed. Right?

MRA 12/21/12