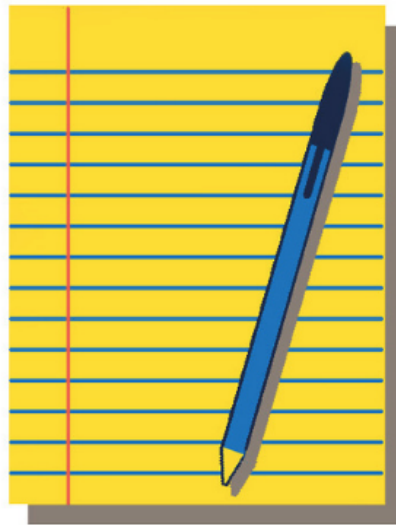


# **Parable #1 - Your client has the right to counsel, but not to you**



## Advocacy Club Parable #1:

### Your client has the right to counsel, but not to you

by John Hollander, 1,000 words

*As lawyers, we understand that it's the client's case, not ours. The client succeeds or fails, but we just do our professional best. Unfortunately, our clients don't always see it that way.*

*South Park, April 2020*

An assignment. That's all it was. But mess up, and the client pays the price. Jake Murphy's formula should have been simple as he was completing his first year of law practice. Get meaningful work from worthy clients. Do it well to persuade a judge that the worthy client should prevail. Then get paid. Repeat.

Unlike the other lawyers in his new firm, Jake worked his files solo. He had learned his lessons the hard way through trial and error, lots of error, and no one to guide him. His clients were an eclectic lot, gathered by referrals and serendipity.

Jake stared at the blank screen on his laptop one weekday evening. He had received a reply to a demand letter he sent the previous week for his new client, a contractor who repaired a roof for a customer. This client had recently arrived at his office, carrying a binder of unpaid invoices, much like this one. When he asked how the client learned of Jake, the answer came back, "My banker that says you make things happen. You can't be intimidated."

The client wanted payment, and this customer refused. The reply to his demand suggested that the contractor's work was lousy. Worthless. After reviewing the response, Jake wondered whether some invoices were just not worth the effort to collect.

Jake tried to think of why a court should believe his client and not the customer. What if there really were a good defence here? It wasn't as though all Jake's clients gave him the whole story.

His laptop beeped to alert him to an incoming message. It arrived from the customer's lawyer, a decent sort who Jake knew well enough. The message attached a video. The lawyer wrote only, "Watch this, Jake." Holding his breath, Jake clicked 'play'. Jake knew before the video started that he wasn't going to like what it showed.

A drone-view panned the customer's sloped roof. The video showed one of the client's crew crouched, with several asphalt shingles at his feet. Jake had a sinking feeling. The roofer brushed some liquid on the shingle's base and stuck it onto the exposed dark wood of the underlying roof. The wood was visibly damp. He then repeated the process.

Jake reviewed the contract, "High-quality shingles to match existing, over a new self-sealing membrane, with 30-pound felt paper, secured with 1.5-inch, galvanized roofing nails." He watched the video again. Hmmm. No membrane. No felt paper. No nails. He replayed the video to study the shingles. They were old, used junk, even to Jake's untrained eye. Sheesh.

Then Jake replayed it again to focus on the worker. Nothing prevented the guy from falling twenty feet to the driveway below. Not only was the repair performed as poorly as the customer claimed, but it was an accident waiting to happen.

Now what? Confront the client or not? Jake took the easy way out. He forwarded the lawyer's email with its damning attachment to his client with the note, "Please watch this and call me ASAP."

His cellphone vibrated a few minutes later to alert Jake to his client's incoming call. Well, here goes...

"Jake Murphy here."

Jake heard a loud, angry voice at the other end say, "What the f\*\*\*! How does the bastard get to take videos of my crew?"

Jake considered both what the client said and the tone of his voice. He thought back to when he hadn't stood up to such aggression. He felt his temper rise. Enough was enough. "So that is your crew on the roof?"

"Yes, but..."

"And that is your customer's roof?"

"Yes, but..."

"Is there supposed to be a platform with safety rails to protect your worker?"

"In most cases, yes, but..."

Jake interrupted. “Look. Sorry to cut you off, but no judge will listen to this. Do you really think a court will order this customer to pay you this price for this job?”

The client’s voice raised a notch. “And my questions for you, Jake Murphy, are, whose side are you on anyway? And do you still want my business?” Those were both good questions.

Jake said, “I’m on your side. And here’s my best advice. If you pursue this case, you’ll regret it. The safety inspector and the local newspaper will line up to get a piece of you. And that’s before a judge tosses your claim and orders you to pay another contractor to remedy the shoddy work shown on the video.”

“I’m never going to pay your bill or give you any more work. Murphy, you’re a wuss.”

“I’m sorry you feel that way, but here’s how it is. You’re entitled to a lawyer, but not to this lawyer.” With that said, the client ended the call abruptly.

Jake recalled his first meeting with this client. Something about intimidation. Jake composed a polite email to opposing counsel to thank him for his message and say that his firm would no longer represent the roofer.

He had learned a valuable lesson. Just as the client’s best choice was to cut his losses, so, too, was it Jake’s. His first loss was his best one. Life was too short to associate with unappreciative jerks.

*This story forms a part of the Advocacy Club Fiction series, featuring short stories and a novel (only Murphy's Law, so far, but a sequel in progress, tentatively titled, The Kitchen Cabinet).*