

THE LITIGATORS EIGHT QUESTIONS

Eight Questions about *The Litigators*

1. When a lawsuit is filed, even the people who “win” often come away with a sense that they actually lost, feeling “I was right and had to pay all this money to prove it.” Which parties in *The Litigators* feel this way? Are they justified in their feelings? Is there any way a lawyer can measure or explain the quality and necessity of his services in this situation?
2. Which lawyers seemed to understand their client’s needs; which seemed only to be interested in the verdict, with almost any means to reach that verdict justifiable?
3. Today, lawyers set many fee arrangements, including contingency fees, as happens in *The Litigators*; do you feel lawyers are tempted to take on a case just for the fees and not because they feel the client’s best interest is served by pursuing legal recourse in the courts? What ethical issues are raised by contingency fee arrangements? What ethical issues are raised by hourly fee agreements?
4. Civil cases between private parties still impact the general public; time is used in the courts, and decisions that have profound impact on the lives and businesses of countless people are made without their advice or consent. Do either of the lawyers involved in such cases have any responsibility to represent the greater public good in such cases? Does this happen in *The Litigators*? Should someone be responsible for striking a balance between the rights of individuals and the common right of the general public?
5. Is it too easy to file lawsuits these days? Should good faith mediation of the dispute be required before a lawsuit can be filed?
6. In *The Litigators*, both lawyers admonish their clients to have no contact with the other side. What are the pros and cons for such instructions?
7. To what extent do you think the digital age has affected the quality of justice in America? Current rules of civil procedure allow virtually unfettered and open-ended discovery. Has this altered the quality of justice? Has this inflated the cost of justice, and has it limited access to justice for those who cannot afford giant law firms?
8. As you worked through *The Litigators*, who did you think would win the case? And why do you think the author creates ambiguity about the final outcome?

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