

Working With Your Attorney: What You Should Expect; What To Do If You Have Problems; and Common Mistakes

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What You Should Expect From Your Attorney:

- To be treated with respect
- To have your telephone calls returned within a reasonable period of time, usually 24 hours unless he/she is in trial (in which case, the time will be longer) or it's an emergency (in which case, the time should be very short)
- To receive an itemized bill, detailing every expense
- To be made to feel comfortable, and under no circumstances intimidated, during your meetings
- To receive an honest assessment of your legal matters, and the anticipated time and costs involved
- To be informed of the progress, or problems encountered, of all legal work being conducted
- To advise you, but leave the decision-making to you
- To keep your confidential information private

What To Do If You Have Problems With Your Attorney:

Of course, the best way to handle problems is to prevent them. Most problems with attorneys stem from lack of communication. So, one of the most important factors to consider when selecting an attorney is how accessible he/she is. You want to look for accessibility in two ways:

- Can he/she be reached when needed, and
- Is he/she mentally accessible (in other words, is he open with his thoughts, and does she give you her full attention when you are speaking)

Another way to avoid problems is to make clear what you expect from your attorney. Don't assume that your attorney knows everything you want. If you are looking for someone to hire only in the event of a legal problem, say so. On the other hand, if you want your attorney to act as a business advisor and mentor, let her know. Attorneys play different roles. When you hire yours, talk candidly about the role you want her to play in your business. If you aren't sure what role you want your attorney to play, ask him about the possibilities. Work together to establish what your needs are, and if your attorney is the right person to meet them, or if another type of professional would be better.

Other than communication, the biggest problem with attorneys is the fee. In order to avoid surprises when the bill comes, have your attorney put in writing exactly what services he is going to perform for you, and exactly how much these services are going to cost.

After doing all this, if you encounter a problem with your attorney, discuss it very frankly with him/her. Your attorney will not be able to resolve the problem if you

don't tell him/her about it. If you've carefully chosen an attorney with whom you can comfortably communicate, you will be able to tackle any problems openly with him/her. If you're not comfortable talking face-to-face, write your attorney a letter, or send an e-mail if that's how you're communicating with him/her.

No matter what method you choose to communicate, give your attorney the chance to correct the situation that's bothering you. If you and your attorney can't resolve the problem, and you feel that your attorney has acted inappropriately, you can report him/her to the state bar association. Your state bar association, probably located in your state's capital city, will investigate the matter, and can take action, if necessary, to discipline the attorney. Obviously, reporting an attorney to his/her state bar association is a serious step, only to be undertaken if attempts to resolve the matter first with the attorney fail.

If you and your attorney can't resolve your problem, and you don't feel that he has done anything to warrant your going to the state bar association, it's time to terminate your relationship and hire a new lawyer. You are entitled to receive your important documents from your former attorney's files. A new lawyer can't accept you as her client until you have ended your relationship with your former attorney. To avoid the same problem you were unable to resolve with your former attorney, make sure you interview several attorneys before hiring your new one. For more information on how to select an attorney, see the Spring '99 issue of *Heritage* on "You Need To Hire A Lawyer Today" and the Fall '99 issue on "Interviewing A Prospective Attorney: What to Ask."

Common Mistakes Clients Make With Attorneys

- Hiring the first attorney you talk to: You should think of your attorney as you do other employees. When you hire a new employee, you interview several applicants, in order to select the best one for the job. Approach your selection of an attorney the same way.
- Not putting the fee agreement in writing: You should have the attorney you have chosen put whatever fee arrangement you've made in writing. This written agreement should clearly state for what services you will be charged, and the amount. If it doesn't spell out items like photocopies, filing fees, etc., have your attorney include them. There could be some items you can save money, like:
 - doing your own photocopying, if the attorney's charge seems too high, or
 - doing some of the legwork, if it looks like the attorney's going to be paying a gopher, or
 - doing some of your own research. (For more information on this, see the next issue of *Heritage* on "Legal Research On Your Own".
- Not preparing for a meeting with your attorney: The more attorney-time you burn, the more it's going to cost you. In preparing for your meeting, write down every question you want to ask, bring all documents that relate to your case, and bring an outline of the facts (in the order in which they occurred) which led to your case. This will prevent you from leaving out an important detail.

- Not telling your attorney the truth: Your attorney is on your side. He/she needs to know everything in order to make the decisions that are going to serve you best. Don't leave anything out! Let your attorney decide whether the information is relevant.
- Not paying bills on time: If you want to maintain a good relationship with your attorney, pay her. Just as you get upset with customers who don't pay you, attorneys are not happy with clients who don't pay. If you pay on time, you also give your attorney a good incentive to give you a price break. Ask!
- Waiting until you have a huge legal problem before finding an attorney to work with: An attorney can save you money by consulting with him ***before*** taking action. A \$20 phone call to ask your attorney whether you can enter a house with an open front door to repossess a VCR you sold on credit can save you from being sued for trespass, breaking and entering, etc. (which will cost you a lot more than \$20!)
- Not negotiating on the fee: There are so many attorneys out there today that very few can afford to turn away a good client. Assure the attorney you want to hire that you will be a dependable-paying client, but that you need a price break while your business is getting started, or ask for a discount because you are going to be a long-term client.
- Not making clear to your attorney what you want out of the relationship: The best type of relationship for an entrepreneur getting started is one in which the attorney not only provides legal services, but also acts as a mentor and confidant with whom to brainstorm. If this is what you are seeking, let your attorney know up-front. He/she may not be interested, in which case you need to find someone who is. If he/she is interested, you and your attorney need to candidly discuss whether you will be charged, and how much, for the part of the relationship that involves mentoring and brainstorming. That part of your attorney's services may be cheaper; and may also be the most valuable!

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