

Outside counsel

Avoiding costly mistakes by partnering with the right attorney **Interviewed by Sue Ostrowski**

When business owners run into a potential legal issue, too often, they call an attorney, get an answer and move on. But developing a closer, long-term relationship with outside counsel can put a client in a stronger position when the need for services arises, says Michael P. Wippler, recently appointed managing member for Dykema Gossett LLP's Los Angeles office.

"Too often, businesses and individuals view lawyers like the dentist — they wait until their tooth hurts before they seek advice," says Wippler. "There's a complacency. Nine times out of 10, you're not going to have a problem, but there is that one time when getting early advice can prevent you from making a really big mistake."

Smart Business spoke with Wippler about what to look for in outside counsel to ensure you receive high-quality service at a fair price.

How can you find the right attorney to meet your needs?

Referrals are the best way to find the right person for your needs. Who do you know and respect in business that has had success with an attorney they like?

Once you've identified potential counsel, start asking questions. First, make sure they have the experience and expertise to properly handle your matter. If someone is a jack-of-all-trades, you have to wonder about his or her expertise for your specific area.

Then, ask the lawyer about the level of service you can expect. How quickly do they respond to requests and phone calls? In the past, it was OK to respond within 24 hours. But today, if you call or e-mail your attorney, you should receive a response right away. You should never have to call twice.

Ask the lawyer how they will keep you informed of matters pertaining to your case or transaction. Too often, outside counsel will know about an important issue for weeks or months but not notify the client until the last minute.

As part of these conversations, determine if you personally like and trust the attorney. Is the attorney someone you can work with? The relationship between an attorney and client is funda-



Michael P. Wippler
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mentally one of trust. Without trust, it's very difficult to obtain what the client really needs from their attorney.

How can a client get a good price and create predictability in billing?

You should expect quality legal services at a fair price.

Ask what the rates are, what the billing procedures are and what you can expect to pay for a given matter. A client should never be surprised by the bill.

Ask what the attorney can do to give you certainty and some control over expenses. Today's consumers of legal services can be more aggressive and ask for pricing models beyond the typical hourly rate. Asking for — and getting — pricing models such as flat fees, blended rates and volume discounts can provide increased predictability. For matters such as a real estate lease or a patent application, an attorney may agree to a flat fee. If you have a mix of timekeepers from a senior partner to a paralegal working on a matter, you can request a blended rate in which you would be charged the same hourly rate for all people working on the

matter. And with certain hybrid models, the attorney's compensation varies depending on whether there is a successful outcome. Other models include contingencies and partial contingencies. Clients can also request volume discounts and early payment discounts.

Should every business have outside counsel?

In today's legal environment it is important to have a good lawyer that you can call on short notice. Anyone dealing with employees, contracts, financing and/or products will eventually have legal issues.

Before you have a problem, it's a good idea to retain a lawyer you can trust. It is typically less expensive to pay for advice and guidance up front than for litigation or some other problem later on.

You may only need an attorney once in a while, but it's good to know that attorney before you need him or her, and for the attorney to know you and your business.

Every business has issues that are particular and important to it. If the attorney knows what is important to your business, it's easier for the attorney to give you advice that benefits you. However, this type of knowledge about you and your business can only be learned over time by working together on different matters.

Always consider your potential exposure on the downside. Not everything goes as planned. <<

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