

Successful attorney-client relationships

How to use attorneys as a strategic advantage in your business **Interviewed by Leslie Stevens-Huffman**

According to search results from the State Bar Association of California's Web site, there are more than 10,000 licensed attorneys in Orange County; that's one lawyer for every 300 Orange County residents.

For many CEOs, that ratio creates angst because businesses need to engage and manage relationships with attorneys, and there is a large pool from which to choose.

In fact, attorneys are needed to start, run and protect all businesses, says Mark Himmelstein, partner with Newmeyer & Dillion LLP. He says that even if a CEO views the need for attorneys as a necessary evil, an attorney can actually be a competitive advantage for your business — when you have the right one.

Smart Business spoke with Himmelstein about what criteria CEOs should consider when selecting an attorney and the best practices for successfully managing the relationship and performance of lawyers and their firms.

What are the criteria that CEOs should consider when selecting an attorney?

First, the CEO should consider the experience and qualifications of the attorneys to make certain they are skilled for the area of need. Lawyers have become extremely specialized. Even within an area of expertise, you must make sure that the lawyer is right for that matter. If you have been sued and you foresee that you will be trying the case, you will want not only a litigator, but one who has significant trial experience with similar types of matters. In addition to technical skills, many lawyers have connections, whether with governmental entities or potential adversaries, that can help facilitate a positive outcome.

Second, meet with prospective attorneys face to face, as a means of evaluating the match between you, the culture of your organization and the attorney's style. Remember that publicly, this person becomes an extension of your



Mark Himmelstein
Partner
Newmeyer & Dillion LLP

organization from a communications standpoint.

Third, make certain the law firm has the 'horsepower' and the time for your project and inquire as to who will actually be performing the work. Prevailing positively in some cases requires a team approach. You are entitled to know who will be working on the case and just how much time the lead attorney (usually the person you hired) will devote to the matter. This will avoid the scenario in which you hire the big name lawyer and then are disappointed to learn later that he or she may not have the necessary time to devote to your case and have delegated much of the work to an associate with less experience.

Fourth, ask for project cost estimates, hourly rates and references. Much like hiring other consultants, it is important to actually check the attorney's references and ask why that law firm was originally selected and how it performed.

How should CEOs establish and communicate performance expectations to an attorney?

There are two aspects to the attorney's performance. First are the goals for the

outcome of the matter. Second are the client's reporting and procedural requirements that the attorney must satisfy. The attorney and client should develop these goals at the outset and revisit them throughout the engagement. Establishing deadlines that keep in mind those items that are within the attorney's control, and communicating in advance your company's process for decision making will help assure that results and timeliness expectations are met.

What types of on-going communication should a CEO require from an attorney?

The CEO should establish up front the frequency of expected communications and the best means to communicate such as phone, fax or e-mail. Many companies require scheduled written communication such as a monthly report that is supplied to the board updating them on all pending legal matters. By communicating those requirements at the outset of the engagement, you will ensure that your attorney sets aside adequate time each month to meet the deadline.

In order to get the most out of your phone calls, try to schedule them in advance. This avoids the potential for 'voicemail tag' or an unproductive call with an unprepared counsel, and potentially helps to lower costs in that the calls are less frequent and more efficient.

What types of information should a CEO supply to an attorney?

Tell and give your lawyer absolutely everything. Don't leave anything out. Even if some of the facts are detrimental to the case, it is important to know those up front. Your communications with your attorney are privileged, so err on the side of telling everything. The bad facts usually come out eventually, so you want to formulate a plan to deal with them at the beginning.

MARK HIMMELSTEIN is a partner with Newmeyer & Dillion LLP in Newport Beach. Reach him at (949)271-7217 or mark.himmelstein@ndlf.com.

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