



The Importance of Bringing in a Lawyer Who is a Good Negotiator Early

A common negotiation error for small business owners and entrepreneurs is calling your lawyer too late. As a business lawyer, one of my pet peeves is when a client brings us in halfway through a negotiation. Negotiation is all about strategy and positioning. If you're bringing us in once it's already started, you've already missed out on important opportunities to create and claim more value. So why do they wait?

We think it's a couple of things:

1. Cost Savings

The problem here is that although you may save a little bit upfront, you may be losing on the back end due to lower overall deal value.

2. Retaining a Sense of Ownership

Business owners often struggle to share responsibilities. When there's an important negotiation that could change the trajectory of their business, they want to own the victory or defeat *completely*. This leads them to want to handle it themselves. Then when it gets complicated or confusing they call us.

3. There is a general reluctance to bring in lawyers in a deal as there is a preconceived notion that:

- a. They will "unnecessarily" lengthen and complicate the deal closing; and
- b. It will seem to the other party that you don't trust them enough to not involve lawyers.

I do believe in part, that these two concerns are telling and indicate the business partners already know they are not getting the best or fairest of terms but would rather move forward since the

deal is either the best priced or there is an urgent business need that can't wait or both.

4. They believe that attorneys can't negotiate.

I've heard this a lot and experienced it myself. As a business lawyer who is a negotiation professor at the law school and MBA level and negotiates regularly with other attorneys, I can definitely understand this concern.

When vetting attorneys, you can't just look for legal skills, you have to look for negotiation skills blended with business savvy. Not all lawyers are well trained in negotiation. For example, there may



be certain instances where the "traditional" legal approach may negatively impact the business side of the transaction. This is where creativity comes into play. Your lawyer will need to create a solution that puts you in the best position to succeed in the negotiation while still providing maximum legal protection.

How to Choose the Right Lawyer for Your Business

Finding the right lawyer for your needs can feel

like a maze. Like many consumer transactions, research is essential. Start with the names of several attorneys, personal referrals are typically the best place to start. Ask business associates, friends and neighbors for their recommendations and why they feel they are the best choice.

Using resources like the state bar associations can help you narrow down your search to only those who practice law in the field you require assistance.

Just like many consumer products, online resources like Martindale Hubble, Avvo and Lawyers.com offer consumer and peer reviews, that way you can see how others have rated their experience with a specific attorney.

Once selected, it's time to being the evaluation process.

Be prepared with a list of questions, making notes along the way, so you can later compare the answers of each lawyer on your list. Important questions include:

- **Area(s) of expertise.** There are various areas of practice in the legal field, and many attorneys handle cases in specialized areas.
- **Potential legal fees.** It is important to know how much your attorney will charge, as legal advice can become quite costly. During your consultation, a lawyer should be able to provide you with an estimate, based on the information provided about your case.
- **Legal Team.** Depending on the size of the law firm, some lawyers work alone while others have paralegals on their team. This allows them to outsource some of the legal work and can help in keeping legal costs down. Legal teams in mid-size to large law firms can also provide expert legal advice outside of your counsels specialized area of expertise for future questions or concerns.
- **Communication.** What is their preferred method of communication? What does typical response time look like? Every attorney will be handling several cases in conjunction to yours, it is important to make sure the lawyer you hire will communicate with you in a timely manner.

- **Case studies.** Vetting an attorney based on their negotiation skills can seem difficult, but an easy way to understand how the lawyer handles unique cases can be seen in case studies. These provide broad descriptions of cases and their outcomes.

Asking these questions will help you evaluate your attorney's skills and make the right choice for you and your business.

5. They don't understand the negotiation process.

One of our followers shared this with us recently:

"I recently was asked to review a friend's email to a potential business partner from a purely proofreading/quality of writing standpoint – but it was clear that my friend needed legal advice because they didn't understand that this casual communication was part of their negotiation. Just because you aren't getting to the micro level doesn't mean the macro discussion isn't part of the negotiation."

Negotiation is a never-ending game of chess. You're constantly positioning yourself with each interaction. It's important to recognize that each interaction with the other side has the potential to impact the business and/or legal dynamics of the negotiation. Bringing your lawyer into the picture sooner helps to make sure that you avoid the possibility of inadvertently putting yourself in a problematic legal position.

Make sure to be proactive in your negotiations and seek counsel sooner rather than later.