

How to Find the Right Attorney

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Help. I think I need to hire a lawyer, but I'm not sure how to do that. My business is growing, and I have more and more questions about contracts, employee relations, vendor issues, patents, trademarks and copyrights, and international trade. Additionally, in the next year I expect to purchase a building for my business, so I'm going to need an attorney to handle that transaction. And, I want to more closely tie my employees to my company, through profit distributions, ownership, and non-compete agreements. I know that some of these things require specialists, and some a generalist can probably handle. I don't want to spend all my profits on attorney fees, and at the same time I don't want to be doing this without the advice of counsel. What should I do?

Great question! It's really good that you're asking it before you get to a problem. Most attorneys will tell you, it's best to get their advice going into situations, rather than after the fact. If you get your attorney involved upfront, they can guide you. You can agree on how to handle the situation, what wording to use in documents, and so on. That way, if things unravel later, and you've followed their advice, they are in a better position to make a case that's favorable to you.

Let's start by talking at how to define what you need for legal advice and counsel. We'll look at

how to find an attorney that's right for you and your situation. And we'll discuss when and how to make a financial arrangement with your attorney.

Define what you need. Make a list. Our reader brought forward quite a list, with a lot of variety: contacting, human relations, vendors, patents & trademarks, international trade, real estate, ownership and competition. And our reader quite rightly observed that these various functions require different skills, filled by different attorneys. The legal field is broad, with many disciplines, and there's no attorney out there who can do everything. Some of what needs to be done requires the attorney have special training and credentials, such as patent work. Other activities do not require special credentials, but are best done by attorneys who have chosen to specialize. By now, you may be getting the idea that your company may need several attorneys.

The first thing you probably want to do is find one attorney to act as overall advisor. You want someone with a business law practice, who you can trust to look out for your company's best interests. You want a generalist, with good connections to other attorneys who are skilled in various business law disciplines, and who all have sound reputations. If you find an attorney who says he, or she, can do it all, watch out. You want an

attorney who is confident, and willing to refer business out to other attorneys, whether to other attorneys in his or her own firm, or to other firms.

Look for an attorney with several years of experience with a law practice, at the partner, or owner, level. Interview several attorneys, including sole practitioners, and people who are partners in firms. Remember, the first attorney you hire is probably a generalist, who isn't going to do everything you need, who is willing to refer business to other attorneys, and who has the skill, experience and connections, to know how to find the right attorney for each situation that might come up.

You are looking for someone you can talk with openly, someone with whom you can be comfortable working. You want someone who asks insightful questions, and helps you get clear about what you're trying to accomplish. Also, take a look at the attorney's track record in growing his or her own practice. If this person is going to advise you on growing your firm, you want someone who has done the same.

You also want an attorney with a basic business law practice. Your primary attorney should be someone who can handle many of the routine activities your firm will encounter. Typical basics you're looking for might include contracting, handling basic

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employee issues such as setting up simple employment agreements, and dealing with vendor disputes.

Ask for references. Speak to other business owners of size and experience similar to yours. Find out what those clients like about the attorney who referred you to them. Ask about the kinds of business they entrust to that attorney, and what gets farmed out to other firms. Ask how long they've worked together, and when they think they will be likely to outgrow the firm. Ask how the attorney does at managing fees – more on this in a minute.

You want an attorney who will treat you with respect, and explain what's going on in a way that you can understand. You need to understand why they recommend one action over another – which means you two can communicate well. You also want an attorney who is discriminating in the referrals they make. A good attorney will have a deep rolodex of connections, other attorneys with whom they have done work, people they know they can rely on to do a good job in a variety of situations.

A good attorney has to be out in the world regularly, not just sitting behind his or her desk, waiting for the phone to call. Look for an attorney who can do more than bail you out of sticky situations. You want someone who will stand up to you, and tell you

when they think you're wrong. You want someone who can play a role in expanding your business, introducing you to other business owners, helping you uncover additional opportunities to expand your business.

Ask detailed questions about the attorney's rolodex and referrals. How many attorneys does he or she regularly refer to? Who are they, and what types of law do they practice? How does the attorney decide about whether to work on, or refer out, a case? How does the attorney qualify the attorneys they will be referring to? How does the attorney follow up to find out if the attorneys they refer clients to do a good job? What does the attorney do when a referral is needed and that type of attorney isn't in their rolodex? How do they find a qualified attorney to refer to?

Also ask about credentials. An attorney has had 4 years of college, followed by 3 years of graduate study in a credentialed law school, to obtain a law degree, followed by passing the bar exam.

Many attorneys will pursue an advanced law degree, called a LLM or Masters of Law. Or, the attorney may get a complimentary degree, such as a master's of business. Patent attorneys must have a special license to practice, and patent work is probably most, or all, of what they do. Human relations

attorneys might have a master's degree in human relations, or have gained on the job expertise, dealing with employee benefits, compensation, and managing human resources.

Most business issues are handled in town, city and state civil courts, and civil attorneys usually practice at both the state and federal level. Criminal attorneys have extensive trial experience at the state or federal level, or both. Trust and estate lawyers have experience and training in that area. All attorneys must pursue a specific number of continuing education credits each year – when interviewing, ask about the kinds of continuing education courses they have pursued in the past couple of years.

You also want to ask about billing practices. Some firms will charge for every call you make. Some will have a retainer, which covers certain basics. Some will vary their billing, depending on what the client needs. Billing rates will vary widely, and it's not the hourly rate, but the total bill, that counts. You may find some attorneys who have a higher hourly billing rate, but who will spend a few minutes chatting without billing. That may compare favorably with another firm that has a lower rate but charges every time you, or they, call to say hello. Check references on this one, too. You want to be sure that fees are



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reasonable, and don't get out of hand.

Finally, ask where your firm will fit in, priority-wise, to this attorney's portfolio of clients. If you think you need a big firm, be sure that your attorney makes a habit of staying in touch with his or her smaller clients. If you pick a small firm, make sure the attorney has the time and support structure to take on another client. You don't want your interview to be the last time that you ever see the partner in charge, nor do you want your attorney to be unavailable because he or she is overwhelmed. Ask what time of day your attorney typically returns phone calls and emails, and how long it usually takes for him or her to get back to callers. Verify that information by checking references.

Looking for a good book? Try *How You Can Avoid Legal Land Mines: A Laymans Guide to the Law* by Joseph Lyles.

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