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HOW TO WORK WITH YOUR LAWYER TO CUT YOUR LONG-TERM COSTS

BY KIM CARRASQUILLO

Paying a lawyer may be the last thing you want to think about. But when it comes to keeping your company afloat, seeking counsel can be your life vest.

During troubled times, you need an adviser who understands your business and your leadership personality. While many CEOs see trips to the lawyer's office in terms of dollar signs, keeping ahead of the legal curve will pay off in the long run.

"A good lawyer, thinking about long-term relationships, should be sympathetic to the client's need to control cost and maximize the value of legal service," says Bill Kleinman, partner in the corporate practice group, Haynes and Boone LLP.

Your attorney can be a valuable member of your cabinet who provides strategic advice to boost your bottom line. By viewing your lawyer as a business partner — and his or her fee as an investment in your company — you can capitalize on your lawyer's legal training and experience.

Develop an effective relationship

By understanding where you've been and where you're headed, your attorney can help you navigate the corporate waters and avoid legal icebergs. But the only way he or she is going to acquire that knowledge is through open discussions.

"A good lawyer is going to want to know as much about the company and the business and the challenges the business faces as possible; that helps the lawyer do his job," Kleinman says. "A company should pull together some background materials about the company generally ... and talk about the key challenges and opportunities that a company is facing."

While some matters, such as tax tips, can result in tangible savings, others may



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not show an immediate fiscal return. Still, it's hard to image what costly bumps you may encounter without the foresight of a seasoned professional.

"It would be best to get a good counsel at the beginning and determine what's necessary for their business and periodically get with counsel to review what's going on and where there might be a need for preventive legal advice as well as actual things that are occurring or transactions that give rise to legal issues," says Thomas R. Helfand, shareholder and chair of the taxation, employee benefits and private business practice group, Winstead PC.

The best advice at the right time can save a bundle. However, you can't be shelling out for unnecessary discussions. Thinking through an issue before calling your lawyer makes the best use of his or her time and your money. Routine situations, such as hiring matters, may be handled by your human resources department, where more complex situations, like harassment claims, require immediate legal attention.

"The place businesses should not try to do it themselves is anything with litigation or the threat of litigation," Kleinman says. "Once there is a threat of litigation, anything that passes back and forth between the parties will become evidence."

If a matter requires a meeting with your lawyer, prepare notes, gather documents and create an agenda in advance. Sending information to your attorney ahead of time lets him come prepared to address the issue. Ensuring that the appropriate people are in the meeting, or available on-call, can avoid a costly follow-up.

"The best thing would be to give the lawyer as much information as possible ahead of time so that the lawyer can actually have at the meeting the particular people from an expertise standpoint nec-

essary for the meeting," Helfand says.

Investing in appropriate communication builds a long-term partner. However, it's important to trim away excess chatter. Designating one contact person in your company eliminates the chance of your lawyer giving the same advice twice. If you have a recurring document, such as a purchase agreement, ask your attorney to approve a form you can use repeatedly, without getting his or her OK each time.

If you are hesitant to call your lawyer for fear of being charged by the hour, you may find relief in negotiating a flat rate for some services. Flat fees work best with a finite project, such as trademark filings. With many companies anxious to budget their costs, most attorneys will discuss fee structures.

The billable hour makes sense when it is unclear how much attention the matter will require, such as litigation. In hourly situations, it's wise to ask for the person with the lowest billing level who can perform the work well. A junior associate can handle smaller issues in exchange for a slimmer bill. With complex matters, it is more efficient to pay a higher hourly rate for a fast-working, experienced partner.

"Most of the time, clients focus only on the hours and they don't focus on the rates and the staffing associated with those hours," Helfand says. "Efficiency is a func-

tion of the amount of time, who is doing it and their rate."

No matter the billing structure, be sure to get a written contract that includes not only the services and the rate but also builds in checkpoints where the lawyer will call to discuss progress.

"The best suggestion is to try to establish a target number of hours with the lawyer at the outset of the project," says Kleinman. "A businessperson might expect that a project might take 100 hours but might say to the lawyer, 'Spend 15 hours, and then let's talk about where we are and what you see.'"

When your business is moving along, it's beneficial to check in with your attorney at least once a year. Such interactions make you a household name in the firm and can result in better overall service.

"A lawyer should be a partner, recognizing that there are times when minimizing cost is the most important objective for a company, like in a down economy," Kleinman says.

Find the right fit

Before you turn over your spreadsheets, make sure your attorney complements your style. You may be eager for your day in court, but your attorney is best in settlements. Being on the same page is imperative to long-term success.

"Think about what your business needs

in a lawyer," Kleinman says. "Businesses are different; lawyers are different. Some people want simple, clean, practical advice. Other businesspeople want complete protection against a variety of risks."

Finding a legal mind that matches your corporate spirit is no small task. As with other services, it's wise to get recommendations from your colleagues. Referrals from your current professional team, such as your banker and accountant, can be especially helpful.

Consider where others in your industry get their legal advice. Intimate knowledge of your market is priceless when it comes to staying on top of regulatory changes. And the legal relationship is bound by attorney-client confidentiality, so you can sleep easy knowing your company's dark secrets aren't being broadcast.

Once you've identified a few lawyers, schedule brief meetings with each. While many firms can handle the technical work, it's important to find someone you feel comfortable with. Ultimately, the better you and your lawyer know and understand each other, the more hazards you can avoid.

"Once you get some names, you don't just hire them," Helfand says. "You need to talk to them, visit them and develop a trusting relationship." <<

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