



Clearly communicating *your* needs and expectations to your lawyer means you receive better advice and, usually, better value. Eight simple rules will help you redefine your relationship to achieve more valuable advice

# How to achieve the most value from your lawyer

By Henry C Krasnow

AFTER MORE THAN 30 years of working with owners of family businesses, one of the most important things I have learned is that business owners who expect the right things from their lawyers receive the best value. US family businesses are receiving more value from their lawyers for less money by more clearly communicating what they expect their lawyers to do and how they should do it. These eight simple rules will help you define what you want from your lawyer, and definitely gain more valuable advice for a lot less money!

## **To see cheerleaders, go to a basketball game**

Value your lawyer's independent opinion! Years ago, a client came into my office outraged by the way his company had been treated by a supplier. He wanted to take revenge by suing the supplier. Resisting the temptation to earn a big fee by agreeing with him, I told him that not only was it a bad lawsuit, but it would also be bad for his business. I was shocked when he glared at me and said, "I thought you were on my side".

Your lawyer is on your side when he or she gives you brutally honest advice, even when it is disappointing. After all, the lawyer is passing up an opportunity to make money by merely agreeing with you. Wanting your lawyer to be your cheerleader and agree with you all the time at the expense of honest advice always results in you and your business being the losers.

## **If you have no alternatives, you have no problems**

Your lawyer's job should be to come up with alternative solutions or approaches for you to evaluate. When asked by a business owner to comment on a proposed course of action, many lawyers will simply advise the owner of the risks; this is the easiest thing to do – since everything has risks. Although it is important to know the risks of a specific course of action, this is only the beginning of the story. What is *really* valuable is

knowing the relative risks and benefits of each alternative. In the world of business, there are few perfect solutions, and no potential solution can be evaluated in a vacuum. Insist that your lawyer gives you a creative cost-benefit analysis of all the alternatives.

## **Don't be fooled by gunslingers or surrogate mothers**

Don't hire your lawyer to bully people or to pamper you. In the end, neither of these will make you feel as good as you think it will. You need to be realistic about what to expect from a lawyer. The 'gunslinger' may be an appealing image (after all, who wouldn't want to hire a professional bully), but the lawyer who tries to fill this role is merely selling a myth. Courtroom fighting is often a lose-lose proposition and can usually be avoided without making unattractive compromises. Likewise, a 'surrogate mother' who promises to protect you from risk often reduces your profits by rejecting solutions that make sense. Not taking risks is sometimes the biggest risk of all. A lawyer should be an intelligent, thoughtful and fearless consultant who gives you insightful analysis about your choices and lets you do your job by making the choices.

## **Think of negotiations as a test of character**

Business owners often think the goal of a negotiation is to get the best deal possible and a bullet-proof contract. But few contracts are bullet-proof and a lawyer who encourages you to think this way is encouraging you to be unrealistic. Rather, your lawyer should help you focus on the important intangible benefits of negotiations. Negotiations allow you to test the character of the person with whom you are about to do business and predict how he or she will react if problems arise. No matter how careful the lawyer, unforeseen problems arise with surprising frequency, and when they do, the underlying

character of the participants determines whether a 'win-win' situation will be found quickly and rationally. People who understand and respect each other's needs and concerns are more likely to reach fair solutions.

**Don't let your lawyer hijack your negotiations**

Many lawyers believe their job is to get every concession possible from the other side. They are trained to think that the only 'good' deal is one where you get everything that is 'on the table'. But sometimes the price of getting everything can be the destruction of the mutual trust you worked to build and are hoping to maintain. It often is this mutual trust which made you decide to do the deal in the first place. Don't let your lawyer's negotiating style destroy it! The best deal is usually one where each side gets only what it really needs. Make sure you hire a lawyer who recognises that you (and not the lawyer) should be deciding what you need and choosing what to leave on the table and when.

**Make sense... not war**

Most people get angry in the course of a dispute. It is a mistake, however, to hire a lawyer whose approach is to make you feel good by being insulting, dismissive or demeaning to the other side. Most disputes (even those that result in litigation) are solved by major compromises. Your lawyer's goal should be to persuade the other party to make compromises you can live with. Insulting or demeaning someone usually accomplishes nothing other than making it less likely that they will make the compromises you want. Regardless of how other people might act, your lawyer should not be the one encouraging war.

**The goal is not justice**

Litigation, while exciting drama on television and film, is, in reality, expensive and time consuming. In real life, your only goal should be to resolve the dispute so you make as much (or lose as little) money as possible. The lawyer who promises that litigation will bring justice or emotional vindication will drain your resources and time and expose you to unnecessary risk. Compromising a US\$400,000 claim for \$300,000 after spending \$20,000 in legal fees results in a net gain of \$280,000. 'Winning' a lawsuit for this same amount after spending \$150,000 in legal fees nets only \$250,000. It may be far more exciting, but you will have taken more risk and made less money! Focus on your bottom line.

**Don't be intimidated – lawyers are consultants, not rocket scientists**

Lawyers are not infallible and their skills do not involve magic. You can and should understand what they do and why. Their advice should not be taken as scripture, but as suggestion. Their contracts should be written in language you can understand. You will improve your lawyer's work product by insisting that it be explained to you in a way that you fully understand. The lawyer you understand and who really listens to you is the best lawyer you can have. ■

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