



AN ARTICLE FROM COLEMAN & HOROWITT, LLP, ATTORNEYS AT LAW

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HOW TO EFFECTIVELY USE OUTSIDE COUNSEL WHEN YOU NEED A PART-TIME GENERAL COUNSEL

When companies are started, the need for legal advice is often minimal as resources are focused on getting business. With few employees, the need for counsel to advise management, prepare contracts, prepare an employee handbook or to assist with a termination of difficult employees is nearly nonexistent. However, as businesses grow, the need for legal advice to protect the business and help it grow can increase.

Larger corporations have long understood the benefit of having an in-house attorney. It has, in fact, been a trend over the last 10 to 15 years that in order to reduce the cost of outside lawyers, corporations are creating larger legal departments to handle most, if not all, of their legal needs. Outside counsel are used sparingly, generally for certain litigation and specialty areas where it is more cost-efficient to use outside counsel. When you are a large corporation, resources exist to fund a legal department, but that is not always the case for growing businesses – yet such businesses still need good legal advice.

Fortunately, growing businesses have options. Here are some ways to minimize your legal expenses while getting the legal advice you need:

1. Establish a relationship with an attorney who understands you and your business. There are numerous areas for lawyers to practice and not all lawyers understand the needs of businesses and their owners. Find one that has experience representing businesses and understands you and your business.
2. Investigate the attorney. Most state bar websites allow you to check whether an attorney is licensed in the state and to determine if the attorney has been disciplined (and, if so, the nature of the offense and the discipline imposed). Even though discipline may not be a disqualifying factor, remember that for every one (1) lawyer that has been disciplined, there are significantly more that have not and have the same or better qualifications. Check also to see if the lawyers have been recognized by their peers as being outstanding lawyers from rating services such as Martindale-Hubbell®, (www.martindale.com), Super Lawyers® (www.superlawyers.com), Best Lawyers®, and Avvo® (www.avvo.com).
3. Talk candidly with your attorneys about

what you can afford. Each business has different needs and different budgets. Most experienced lawyers and law firms understand this and have varying rates depending on the sophistication of the legal needs, the ability of clients to pay as well as different billing rates depending on the experience level of lawyers within the firm. If cost is a factor, a lawyer with a lower billing rate can be assigned for day to day matters, supervised by more experienced lawyers, who remain available on an as-needed basis. The client can then benefit from lower billing rates while being assured of having access to the more experienced lawyers when needed.

4. Where there is a more consistent need for legal advice, negotiate a monthly rate. Ask your law firm if they have a program that will provide a dedicated attorney to serve as a part time general counsel for your business. The designated attorney can then be available for an agreed-upon number of hours per month that can include in-person meetings, as well as telephone and e-mail communications. For work that is beyond the agreed-upon hours, an agreed hourly rate (often a reduced rate) can be negotiated. The same would be true for more specialized advice, which would be performed within the law firm, including

litigation, document preparation (where the hours exceed those that had been agreed upon) and special projects.

5. Look for alternative fees where appropriate. Many law firms will offer alternatives to the hourly fee including: (a) a reduced hourly fee for volume work; (b) contingent fees (the attorney receives a percentage of the amounts recovered – often used for collection cases); (c) part hourly/part contingent fee; (d) fixed fees for specific transactions and routine litigation; and, (e) hourly fee with a success component. Selecting a part time general counsel who is part of a firm also provides for other services your business may need will often provide the greatest flexibility and maximize communication as the part-time general counsel is able to more closely supervise any special projects such as litigation.

Coleman & Horowitz, LLP represents businesses and their owners. We offer businesses the flexibility to have an experienced lawyer available to serve as a part-time general counsel along with the breadth of service for representation beyond the needs of a part-time general counsel. If you have any questions regarding our program, please contact our managing partner, Darryl J. Horowitz at (559) 248-4820/(800) 891-8362 or djhorowitz@ch-law.com.

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