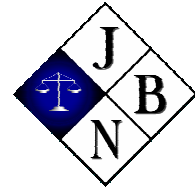


Controlling Legal Expenses for the Business Owner

BUSINESS MEMORANDUM



TO: Illinois Business Owners
FROM: Johnson, Bunce & Noble, P.C.
DATE: December 1, 2008

Controlling your business's legal costs in a soft economy is essential. On the one hand, you, as a business owner, want to keep expenses down. The need for keeping expenses low is obvious and a successful business cannot survive without scrutinizing both mandatory and discretionary expenses.

On the other hand, protecting your business through the use of competent legal advisors is equally as essential. For example, legal counsel should be reviewing all material contracts with an eye on protecting the company. Additionally, without up-to-date employment manuals and written policies, employers significantly increase their exposure to various legal claims.

So, in a time of decreasing consumer confidence, what are some ways to keep your business's legal expenses down?

1. Get organized and stay organized.

Consider the following: a business is involved in an audit by a state administrative agency or is in litigation concerning an employment matter. The business owner hires XYZ Law Firm to handle this matter. The business owner and Attorney X, a partner in XYZ, meet for the first time to discuss the matter. The owner brings a box full of unorganized and illegible pieces of paper or worse, doesn't have any documentation at all. Attorney X will need to spend considerable amounts of time piecing together all of the important data. The result will be a high invoice from Attorney X.

If the business owner had the company's affairs organized, the attorney's time would have been greatly reduced. Although the attorney would still need to review everything to make sure there were no surprises, the need to reconstruct all data would be eliminated and the invoice would be much lower.

It is suggested that businesses use the year-end slow time to clean up its affairs and loose ends. It is time well spent.

2. Ask for a cost estimate first.

Clients are often faced with pressing legal issues with a short amount of notice. As a result, the need to get the matter done is greater than the need to ask questions regarding the attorney's fee arrangement and time it will take to competently handle the matter. As a result, the business has no indication of the fee.

Although there may not be an exact quote to handle a matter (it is almost impossible to do so), an attorney should be able to give a rough estimate of the total time the matter will take if: (1) everything goes well and (2) if everything goes wrong. These two answers will at least give a business owner an idea of what the total cost will be. The answer will not be definite, but it beats knowing nothing at all.

3. Consider alternatives.

Is the biggest law firm really the way to go? Many large law firms have high overhead and, as a direct result, must bring in more revenue. That revenue comes from, of course, its clients.

The perception that large firms offer better legal advice is a complete falsehood. As anyone knows, it's the person that matters, not the firm.

Smaller law firms are many times more flexible and provide the same level of competence that larger firms offer. Additionally, smaller firms are generally willing to work with their clients on a modified billing arrangement.

4. Ask for associates or paralegals to handle routine matters.

There is no reason why a partner in a law firm should be drafting the company's annual report to the Secretary of State's office or drafting the business's annual minutes. Often, partners' hourly rates are substantially higher than the firm's associates or paralegals.

The business owner should ask: (1) what are the hourly rates of everyone involved and (2) can an associate or paralegal handle the business's routine matters. A word of caution - many times, a business should have a partner handle complex or out of the ordinary matters because of the level of experience needed.

5. Consider a monthly retainer agreement.

A once popular arrangement, a monthly retainer agreement is a set amount of money per month that a business will pay to its legal counsel to handle an unlimited quantity of work within the agreement's limits.

For example, a parts manufacturing business that produces approximately \$5 million a year in gross revenue may enter into a monthly retainer agreement with a law firm to handle routine matters such as: drafting annual reports to the Secretary of State, drafting the company's annual minutes, attending monthly board or member meetings, reviewing all material contracts the company is considering, and drafting and reviewing employment policies and procedures. Typically, matters concerning litigation will be excepted from the agreement and handled on a per hour arrangement. In return, the business will pay the law firm a set amount per month to handle this work.

As a result, the business knows exactly what its routine legal expense will be. Also as a result, the business will be more apt to use its legal counsel and be generally better protected.

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