



Tips on interviewing law firms

Readers frequently request guidance on how to evaluate advisory firms. This series of articles presents information on how to interview and compare advisers in a variety of disciplines.

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There are more than 1.3 million lawyers in the United States, so most likely you know, or are even related to, a lawyer you might ask to help with a legal problem or challenge you are facing in your business or family. While proximity and familiarity can be valuable, they are not the best criteria for hiring a lawyer. It is important to understand the correct criteria for making this important decision.

When do you need a lawyer? Businesses operate in a heavily regulated environment, and litigation, even over trivial matters, is rampant. In addition, the complexities of the tax system, import and export sales and purchases, and the capital raising process could lead a family business owner to conclude that the business needs a regiment of lawyers on hand at all times. For some companies, this is true. But for many businesses, particularly smaller ones, there may be only an occasional need for a lawyer, and the type of lawyer needed will vary depending on the specific issues of concern.

Sometimes, it will be obvious that a lawyer should be called in — for example, if the family needs to raise money for the business or is thinking about an acquisition or sale of the business. Similarly, a lawyer will be needed if a lawsuit is being threatened (or has been filed) against the company, or if the business is trying to navigate a complex regulatory scheme. Estate

planning, setting up the basic legal structure of the business and its ownership, and other actions that have long-term ramifications or that cannot be readily reversed are other instances where counsel may be necessary.

While a business may frequently be able to navigate a legal challenge on its own, if there is any doubt about the best course of action, it is advisable to consult a qualified lawyer.

What kind of lawyer do you need? While some lawyers are generalists, a business should look for a lawyer who has specific experience in addressing the issues at hand. For example:

- If the business is looking to expand its manufacturing footprint, it may want to consult with a lawyer who can navigate zoning and real estate development issues, as well as financing for the project.
- If the next generation is planning to become more involved in the family business, it might be desirable to look for a lawyer with strong corporate and trusts and estates experience.
- An employment lawyer might be the best person to call when negotiating the hiring of a new senior officer.
- If the business is launching a new product that depends on imported components, the call should go to a regulatory lawyer specializing in international trade matters who can advise on whether the new product is subject to customs regulations.

Given the wide variety of practice areas among lawyers, it is important to specifically identify the issues you want to address.

How important is it that the lawyer be experienced in dealing with family businesses? While solving an export or import issue may not require particular sensitivity to family business dynamics, experience working with family firms would be crucial in a meaningful recapitalization or generational transfer of voting stock. If there are several family members in the business, consider whether they all will speak with one voice on the



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issue. If not, it may be important that the lawyer appreciate the often-complex dynamics of a family business.

Most lawyers work in law firms that offer a range of specialties. While you start by looking for the individual lawyer with the expertise you require, if you will need different sorts of legal expertise, it may be more efficient to find a firm with strength across those areas. A single firm can coordinate the efforts of all lawyers needed to address your matter and may be able to save you money, because there are efficiencies created by lawyers working on a team, dividing duties and sharing information. If this is the case, you should be comfortable with the entire team put forward by the firm, and if you are not, you may be better off using counsel from different firms to work together.

How do I find the right lawyer for the situation?

Ask around. Everyone in your business network has hired a lawyer. If confidentiality is not a concern, reach out to members of your network whose opinion you value and ask for a recommendation. Even if they do not know a specialist in the specific area your business needs, they may be able to refer you to a trusted legal adviser who can make a recommendation. Additionally, third-party reference services such as Chambers USA identify well-regarded lawyers across a range of legal specialties, as can your local Chamber of Commerce.

Once some likely possibilities have been identified, you should review the websites of each referral to see the work done by the firm or lawyer, as well as the background and training of individual lawyers. You should also search the internet to see what other information may surface.

Make the initial calls. After you have targeted some promising possibilities, contact them to introduce yourself. Plan on spending 30 to 45 minutes on each introductory call to describe your family business and the help you need. In this introductory discussion, ask the lawyer to confirm that any information you divulge will be held confidential under the applicable standard of legal ethics. Because of the ethical rules governing lawyers, they have obligations to keep confidential information provided by prospective clients (subject to limited exceptions) and ordinarily would not need to enter into a nondisclosure agreement. You may want to ask the lawyer to make sure there is no legal conflict that could affect their ability to represent your business before you share confidential information (e.g., if they represent the real estate developer that your business is considering using to build a new facility). If you are unwilling to hire a lawyer or firm

that represented a competitor, this introductory call is the time to make that clear.

After the initial call and confirmation that there are no conflicts, you should schedule a follow-up interview where the lawyer or firm can explain in further detail how they would approach the issue and why they would choose that approach, as well as expected costs, risks, timing, staffing and other details.

Prepare for the follow-up interview. Before the follow-up interview, identify your goals and desired outcomes for the representation and be prepared to answer detailed questions about them from the lawyer. Transparency will greatly assist the lawyer in assessing the best approach to resolving your issue.

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Prospective law firms may need to know about the family dynamics at the company. Be candid about any family disputes or tensions because such dynamics will often inform the advice the lawyer will give you. For example, if the company is seeking assistance with raising money for a project, the lawyer will need to understand the relationship dynamics among family members, which could affect whether the required funding could be obtained and the funding terms.

Ask the lawyer for a list of documents required for their review of your matter. Gather those documents and organize them in a format that can be easily shared with the lawyer. You can scan the requested documents and send electronic versions to the lawyer so that you can maintain the original files; however, if a document is particularly sensitive, you may consider requesting that the lawyer visit your office to review the document or describing the contents of the document over the phone.

Interviewing lawyers

When you interview lawyers, questions to ask include:

- What is the lawyer's experience with similar matters? How many and how similar were they, and what curveballs or unexpected issues arose? What does the lawyer think would be the likely issues that would need to be addressed in the matter at hand?
- What is the lawyer's experience in the industry in which your company operates? Frequently, although not always, industry experience can be more import-



ant than experience with the particular issue. In any event, the lawyer engaged should understand the industry dynamics and legal/regulatory background that are specific to your industry and are relevant to the issue.

- How is the lawyer or firm positioned to handle your matter compared to other firms? Lawyers obviously do not all possess the same skills or have access to the same resources. Ask whether the firm possesses the right mix of professionals to address all of aspects of your matter.

- What is the lawyer's experience with family businesses? The lawyer should be familiar with the unique challenges and circumstances family businesses face and should be able to navigate them.

- Who will be working on your matter, and what are the respective skills and backgrounds of those people? It is fair to ask whether the lawyer you are interviewing will be the one primarily working on your matter, and whether that person has enough time to take it on. It is important to understand what role the lawyer presenting the pitch will play in handling the matter and whether the other lawyers who may work on the matter have the right expertise.

- Ask the lawyer to provide two or three client references. Selecting a lawyer is a personal decision as well as a business decision. Consider not only whether the lawyer has the substantive skills you need, but also whether their style and personality are a fit for you and your company.

- How will the lawyer charge for their services, and is there more than one option for how they are compensated?

Checking references

Client references can be powerful predictors of your own experience in working with the lawyer. When contacting references, questions to ask include:

- Why did you select the lawyer (or firm)?
- How did they do in the project?
- Were they responsive?

- Were you satisfied with the outcome and quality of the work received?

- Are there any negative experiences with the lawyer (or firm) that you would mention?

- Was the matter completed within the agreed fee arrangement and schedule?

- Would you use the lawyer (or firm) on other matters?

Comparing fee structures

As with other specialists, different lawyers price their services differently. Consider how much realistically to allocate to legal fees, recognizing that the final cost may exceed the front-end estimate. Also, the lowest hourly rate may not be the most price-efficient solution. Many lawyers are willing to use alternative billing arrangements, including fixed fees, success incentives (and discounts for less desired outcomes) and other approaches designed to align their economic incentives with those of the client.

The type of fee arrangement should be agreed upon in an engagement letter between you and the lawyer (or firm) before work commences. Flat or fixed fees, as well as hourly billing with a cap, are frequently used. Similar to a capped fee arrangement, under an hourly billing fee arrangement the lawyer will bill you based on a set hourly rate for each hour (or fraction of an hour) of work performed; however, there is no cap. The type of fee arrangement that will work for you and the lawyer depends on your budget and the complexity of your matter.

Finally, as you look for counsel, remember that if you are successful, you may be able to develop a long-term relationship with someone who will be one of the most trusted advisers for you and your family. The advantages to you, your family and your business of having that kind of adviser can be invaluable, and certainly makes the search worth the effort it may take.

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