

Avoid a bad lawyer: 7 tips

Legal / Michelle Collins

Let's tell it like it is: A lot of us aren't fond of lawyers.

But what can magnify an already touchy relationship is an attorney who also is difficult to work with or provides you with shoddy legal advice.

To illustrate: What would you do if a partnership went sour and the lawyer that once represented both of you goes on to represent your former partner? Conflict of interest, yes. However, in this case, you also signed a legal document agreeing to this without being informed of the possible implications.

So what was bad legal advice back then — no forewarning about what might happen if your partnership ended — has morphed into a bigger problem now.

What can you do to avoid becoming one of these cautionary stories? First, know that finding a good lawyer, and avoiding a bad one, can be a process as detailed as finding a new employee. And it could potentially mean even more to your business.

Tanya Starnes, an attorney and author of "[Mad at Your Lawyer](#)," offers these seven tips for avoiding a bad lawyer.

1. Don't go for a general practitioner when you need a specialist.

Using the same business lawyer you've trusted from the beginning may lead to a bad experience if you really need a specialist. Should the case end up in court, you don't want a lawyer who has never performed litigation cutting his teeth at your expense. The word "specialist" may cause you to cringe and think of high cost.

However, Starnes argues that a specialist may turn out to be less expensive, depending on your needs. Where a general small-business attorney may take days to research and draw up the right documents, a real estate or tax specialist may solve your problem in a matter of hours.

2. Do some legwork to find a good attorney.

Simply put, don't let your fingers do the walking when it comes to tracking down competent legal advice. "Don't be lazy," Starnes says. "You can't go to the mall and get a lawyer."

If you need a specialist, ask your current lawyer for a referral. Don't stop there, though; ask people you know with some connection to your legal community. Get references and do background checks.

The more time you put into your search, the better your chances of getting a competent lawyer who's also suited to your business.

3. Do some due diligence on lawyers' costs and fees, too.

Before you contact a lawyer, consider how much time and money you are willing to spend on one. Make sure to account for time away from your business.

Do some research on the Web and make some phone calls to get basic understanding of lawyers' costs and whether your problem is worth what it might cost.

If you decide that the issue is big enough, then it's time to meet with a lawyer to discuss the problem and the fees required to solve it. But proceed cautiously: In the hands of the wrong lawyer, your \$3,000 problem can quickly escalate into \$30,000 and take months to resolve. If you lose, you now have to deal with both the original problem and a hefty legal fee.

4. Don't sign up unless you're completely comfortable with the fee arrangement and relationship.

Make sure an attorney is worth what you're spending — agree only to a fee structure that suits you. Small-business owners are often asked to sign blank checks or retainer fees. Avoid doing this if at all possible, Starnes says. It means that you are dependent on the honor system and likely will have no idea how much time your lawyer actually spends on your case.

Instead, ask your lawyer for an estimate at the beginning. This will allow you to set up a budget and to avoid any unexpected surprises when the bills arrive. Take it as a serious red flag if the lawyer balks.

As an attorney, "I can give you an estimate on just about anything that I know how to do," Starnes says. "At the very least, I can give you a range and tell you the factors that will make it higher or lower."

Also, insist on a written fee agreement where all anticipated costs and fees are specified. In other words, get it in writing

5. Understand what an attorney is doing for you.

The last thing you want is for a legal problem to bite you later because your lawyer neglected to file the documents with the right government department — or, just as bad, did not let you know what the documents meant. That said, another warning sign is your lawyer failing to explain any sort of legal document he or she is drafting.

To keep your relationship running smoothly, keep a written account of all interactions that you have your attorney. As Starnes says in her book, "One of the most helpful things you can do, especially early in your relationship with your lawyer, is to provide a written summary and chronology of what happened."

This is particularly important in discussions concerning money. By documenting your understanding of fee changes or potential settlement discussions along the way, you will ensure a fair and quick resolution of any future disputes.

As you move through each stage, question the things that you don't understand. A good lawyer will take the time to explain and answer these questions.

6. Insist on a good system of communication.

Insist in advance on how and how often you should communicate.

If you have to wait days or weeks to hear back from your lawyer, either you didn't relate your expectations well enough, or you have a lawyer too busy to take on your business. Give some thought to finding a new one as soon as you can.

Starnes points out that you could have the best lawyer in the country, but if she is too wrapped up in a high-profile case, she isn't devoting much time to you. That means your problem is unnecessarily going to take more time, and more money, to resolve.

7. Be wary of the "slam dunk" claim.

"Any lawyer who tells you you've got a slam dunk case is probably not a very good lawyer," Starnes says. "I have seen very few slam dunks in my time. The law is rarely black and white. Often times, there is a disagreement, and who will win and lose is difficult to predict."

Depending on the case, an attorney likely will have to do some research and talk to several people before making any kind of assessment. While his confidence may be reassuring, his actions on your behalf are more important.

Also, trust your gut. If you feel doubts about a lawyer's comments or competence, you may be best to cut your losses, terminate the relationship and move on.

Michelle Collins is a staff writer at CanadaOne.com, Canada's premier business channel on the Internet, with articles, tools and other resources.