

Identifying a Great Law Firm for Your Growing Business: Finding the “One Percenter”

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PURPOSE. The purpose of this tutorial is to provide growing minority- and women-owned businesses with information they can use to find competent legal representation for their companies.

INTRODUCTION. Fortunately for the consuming public, most lawyers are reasonably competent in the particular practice area in which they concentrate. In my experience, however, only about 10% of lawyers are excellent legal technicians who can spot issues which may affect your business five, ten or fifteen years down the road. The elusive “one percenter” is a rare gem who can not only provide your growing business with technically excellent service but can help you grow your business to the next level of profitability.

TYPES OF LAW FIRMS. Law firms generally fall into three broad classifications:

1. **Large firms** which typically represent Fortune 500 companies. Principals of these firms typically bill out at \$450.00 to \$550.00 per hour;
2. **Boutique specialty business firms** which are smaller firms which specialize in addressing business issues (they typically do not handle divorce or criminal matters, for example) and may contain several “large firm refugees.” Lawyers at these firms often have received their initial training at the largest and most demanding firms in the nation and can now be retained at a fraction of their large firm hourly rates; and
3. **Solo or small firm** who tend to be general practitioners.

Each category of law firm has its advantages and disadvantages. The largest firms bring depth, breadth and sophistication to your business problems. They retain lawyers on staff who have narrow and esoteric specialties which your business may or may not ever require. They also have principals who as a result of their reputation and involvement in the community may afford your business with unique access to ancillary resources, such as financing opportunities. However, the disadvantages to these types of firms are myriad. Topping the list of disadvantages is hourly rates. Hourly rates for principals of the largest firms in the Chicagoland area currently range from \$450-\$550 per hour. In addition, such firms hire virtual armies of associates from the best law schools in the country and pay them, to start, in excess of \$100,000 per year. To justify the costs of these associates, they must be quickly staffed on transactions and litigation matters, regardless of experience, and trained at your expense. Moreover, billing rates for these novices generally begin at \$250 per hour. On the other end of the spectrum is the sole practitioner or the small firm generalized practitioner who may take in cases in diverse areas such as small criminal or divorce matters to bring in a steady income but lack a depth of expertise in a particular area of law or the benefit of training a large firm provides. While these firms may initially seem like a bargain, they may end up costing your business the most in terms of overall risk exposure and lost opportunity cost. With the complexity of the law today, it is impossible for one practitioner to be a true master of all issues which now or in the future may affect your business especially if your attorney does not concentrate solely on business issues. Moreover, in the context of a closely held or family owned business it is critical that your attorney understands the relationship between your personal financial and estate planning requirements and the needs of your business.

The best option for most growing businesses is a sophisticated, business boutique firm which provides expertise at more reasonable rates than those of large law firms. If within such a firm you can also find the qualities listed below, you have found your elusive “one percenter” who can help make your bottom line soar.

QUESTIONS TO ASK WHEN LOOKING FOR A LAW FIRM. Choosing the right law firm for your company takes research and time. Below is a list of questions you need ask when considering a law firm.

1. **Can your lawyer provide value-added access to ancillary services essential to your business?** The “one percenter” is an experienced business lawyer who over the course of a career has established credibility and relationships with accountants, investment bankers, venture capitalists and financiers which can be leveraged for the benefit of your business. He or she is a valuable business advisor who can assist you in positioning your business to best take advantage of opportunities in the marketplace. A “one percenter’s” phone call is returned by presidents and chief financial officers of lending institutions and when this person recommends a business prospect, people trust him or her and give your business a fair hearing. This is not to say that any lawyer can guarantee that a bank, or venture capitalist will elect to underwrite your business. However, simply affording you the opportunity to meet with important decision makers is an invaluable asset. On a related note, find out whether your attorney ever makes introductions within his or her own client base. A lawyer with the resources to introduce a willing business buyer to a willing business seller or a potential tenant to an office building owner clearly has “one percenter” potential.¹
2. **Is there a hierarchy of billing rates?** While you as a business owner want to deal directly with an experienced, sophisticated business principal, you do not want that same principal personally handling your daughter’s condo closing. The principal is simply too expensive and handling such matters is not the highest and best use of that principal’s time. A law firm which has qualified, experienced, lower rate associates and para-professionals can more cost effectively deal with your legal problems.
3. **Is the firm positioned to not only address your business needs today but help your business grow into the enterprise you want it to be five years from now?** Although only the largest and most expensive firms will maintain on staff a full time cadre of narrow specialists, and you will pay through the nose for the cost of maintaining such a staff, a “one percenter” will have in place strategic relationships with other legal specialists outside his or her own firm which stand ready, willing and able to provide a specialized network of expertise without the client’s having to pay the costs (through exorbitant billing rates) of maintaining such specialists on a full time, permanent basis. Accordingly, a “one percenter” will be able to direct your business to an environmental specialist when you are considering relocating your plant to an inner city brown site; a “one percenter” will have an established relationship with an experienced patent attorney who can assist you in determining whether a prospective business acquisition has properly perfected the protection of all intellectual property; and a “one percenter” will have a pre-existing relationship with an ERISA specialist who understands the nuances of employee benefits. While most small to medium sized firms cannot afford to retain these narrow specialists on a full time basis, a “one percenter” has a well established network of outside experts whose advise and counsel he

1. Keep in mind, however, that the Canon of Ethics will preclude your lawyer from representing both sides of a transaction absent full disclosure and certain waivers.

or she can access on an as-needed basis, frequently at a lower cost than what you as a client would pay were you to attempt to obtain this advise directly from these professionals.

4. **Can your lawyer effectively coordinate the legal needs of your business with your own personal wealth goals?** Business lawyers may or may not know anything about estate planning. However, most small and middle market business owners view their businesses as an extension of and perhaps the most important component of their personal wealth. A business lawyer who does not understand how your business fits in to your overall wealth strategy misses a tremendous opportunity. Tax free gifting opportunities, employed over time, which may allow a business owner to transfer to his or her children an economic stake in a family owned business while retaining control thereof may potentially save millions of dollars in estate taxes and prevent the forced sale of a business upon the principal's death. A "one percenter" has on-staff resources to properly integrate a business' needs with the needs of its owner.
5. **Is your lawyer "streetable?"** Who you choose as your attorney reflects on who you are and what you expect your business to become. Always meet your business lawyer personally. Do you have a rapport with this person? Is he or she easy to speak with? Does he or she strike you as intelligent, well spoken, insightful? Would you be proud to walk into a meeting with this person?
6. **What is your lawyer's specific background.** In an ideal world your lawyer has received exceptional academic training, has spent years in the largest and most sophisticated law firms in the country, has seen a broad variety of transactions and legal issues and is now practicing outside the confines of a large firm so that his or her rates will be affordable to someone other than Bill Gates. These lawyers are extremely rare but can sometimes be found, generally in boutique business firms. While you may believe, correctly, that your business today does not require that level of sophistication, remember, you should hire your business lawyer based not on where you are today but where you want your business to be in five years. If in five years you want your business to be a growing source of personal wealth, you must hire an attorney who has the sophistication, experience and resources to guide your business to its goals.

SUMMARY. Selecting a lawyer to represent you and your business is one of the most important decisions you will make as a business owner. Who you choose not only reflects on your personal business acumen but may mean the difference between ultimate business success and failure.

About the Author:

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