

## Get the Best Results for the Greatest Value from Your

# EMPLOYMENT ATTORNEY

BY Kristy L. Albrecht

Your employees are one of your company's most valuable assets, but they also can be one of your biggest challenges. When you are dealing with difficult personnel issues or working to develop legally compliant employment policies, your employment attorney can provide valuable assistance to you. Here's how to get the best results for the greatest value from your attorney.

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### Know When to Ask for Help

Not every employee problem requires legal advice. However, waiting too long to call your employment attorney can turn what could have been a small problem into a much larger (and much more expensive) one.

So how do you strike the right balance? To begin with, consult with your employment attorney regarding which topics typically call for legal advice and which typically do not. Employee terminations tend to be a high-risk area, as do employee medical leaves, worker classifications, and wage and hour issues. Checking in with your attorney early on in these situations to make sure you are heading down the right path is much more cost-effective than waiting until later when you are forced to defend a lawsuit.

Sometimes you have the answer on an employment law question, and you need only confirmation that you are correct. Or perhaps you have a question about a basic legal standard. In those situations, a quick email communication is sufficient and cost-effective. Other times, your attorney will need additional factual information from you, and a phone call or in-person meeting is the most efficient way to communicate. Regardless, your employment attorney can work with you to manage your personnel policies and

practices in a way that will help you avoid legal claims (or build your best case if a claim becomes unavoidable).

### Generate a Shared Understanding of Your Business and Your Goals

Having an attorney who understands your business and your goals creates tremendous value and efficiency in the legal work performed for you. This kind of knowledge allows your attorney to tailor his or her advice to your specific needs, rather than giving you a one-size-fits-all answer that does not work for you.

Examples of ways your attorney can gain this knowledge include anything from lunches and happy hours to more structured annual or quarterly planning meetings. This face-time, which is typically off the clock, is extremely helpful in educating your attorney about your business, developing a relationship of trust,

and ultimately assuring you will receive the kind of legal advice and assistance most helpful to you.

For large projects, including employment litigation, having a kick-off meeting specifically to discuss your goals and objectives for that project or piece of litigation is critical. Consider this example – a former employee files a lawsuit claiming age discrimination. You hire an aggressive litigation team and barrel forward into litigation, expending large amounts of money in legal fees and devoting countless hours of your management team's time in strategy discussions, written discovery matters, and depositions.

This approach may be entirely appropriate in some circumstances, but perhaps it is not the strategy that makes sense for your business in this particular situation. Failing to have up-front, specific conversations about your goals and objectives could result in misunderstandings about what you expect and how to achieve the best outcome for you.

### Look for Creative and Proactive Solutions

Another strategy for managing legal costs while still getting great value is to work with your attorney to find creative and proactive solutions rather than traditional, reactive approaches.

For example, does your employment attorney offer training or other employment-law compliance programs tailored to new and growing businesses to help you comply with federal, state and local laws? A proactive approach can save substantial amounts of money later because if you train your employees, they will more likely comply with applicable legal standards. Additionally, the fact that you work to assure compliance through training is excellent evidence of your good faith efforts if litigation should come to pass. Training sessions can also improve morale in the workplace because the employees will feel better informed and that they have been included in matters of importance. All of this serves to increase economic efficiencies and decrease legal expenses.

A related issue is whether your employment policies are up to date and legally compliant. When is the last time you had your handbook

reviewed? Does it contain policies and notices required by the applicable federal, state, and local laws? Do your policies reflect your actual practices? We have found that in the process of updating handbooks for our clients, an important educational process occurs. Clients learn what is required legally and how to resolve certain personnel issues as we work through and update the company's employment policies. Additionally, a good handbook provides important evidence when defending against employment claims. Again, all of this serves to increase economic efficiencies and decrease legal expenses.

Another creative approach is to have access to some checklists or other guides covering employment law topics, such as hiring, wage-and-hour laws, and departing-employee best practices, as well as to work with attorneys who provide seminars and webinars on employment law topics. While these checklists, guides, and presentations are not a substitute for consultation with your attorney on the difficult issues, the information you gain may answer the easy questions and help you spot the issues that present risk to the company.

### Have Open Communication About Expectations and Fees

As is true with marriages or other significant partnerships, open communication is key to a successful attorney-client relationship. In that regard, we recommend that you discuss fees and costs up front. This does not mean simply asking the attorney for his or her hourly rate but also having an open discussion about your budget. Some large projects or litigation matters evolve. When the project changes, you should ask about how those changes may impact the time the attorney needs to devote to the project. These open discussions help your attorney work within your expectations and help you understand what you can reasonably anticipate as to fees and costs.

Companies face many challenges in staying on top of ever-changing employment legislation and in managing legal risks related to their employees. You do not, however, have to meet those challenges alone. Instead, develop an attorney-client relationship that maximizes value and focuses on meeting your company's needs and objectives. ■

## TIPS

1

**Ask your employment attorney about which employment-law topics typically call for legal advice and which typically do not.**

2

**Figure out ways to educate your employment attorney on your business and your goals.**

3

**Work with your attorney to address compliance issues proactively.**

4

**Have kick-off meetings for large projects and/or pieces of litigation, and maintain ongoing communication throughout the matter.**

5

**Discuss fees and costs up front and put agreements in writing.**