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NACM Webinar

Tips for Controlling Legal Costs

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Overview

1. Tips for Controlling Legal Costs
2. Attorney Fee Structures
3. Finding/Interviewing Lawyers
4. Attorney Billing
5. Malpractice insurance
6. Expect Professionalism
7. Overview of Litigation Process



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Tips for Controlling Legal Costs

Controlling Legal Costs

Tips for Minimizing / Controlling Legal Fees

1. Budgets
2. Prepare / Organize the matter
3. Ask for a discount
4. Always remember the attorney is on the clock
5. Don't use a bazooka to kill a mosquito
6. Don't delay in responding / providing information
7. Utilize in-house resources
8. Consider alternative fee arrangements



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Attorney Fee Structures

Most Common:

- Hourly
- Contingency
- Flat Fee / Fixed Fee
- Hybrid



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Fee Agreements

Hourly

- Attorneys are paid based on the time spent on the matter
- Less profit potential for attorney, but also less risk
- Retainer – upfront payment



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Fee Agreements

Contingency

- Attorney's fee is based on a percentage of the amount collected
- Creates a partnership between attorney and client
- For clients: pay more for the certainty that they will not pay unless the case is successful
- For attorneys: opportunity for greater profit, but there is also a greater risk



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Fee Agreements

Flat Fee / Fixed Rate

- Flat Fee – will handle the entire matter for a specific amount, regardless of how fast / long
- Fixed Fee – will handle certain parts of the matter for a flat fee;
 - Example – discovery, trial, appeal
- Clients (and their bosses) like the certainty of the flat rates
- Typically only for cases that the attorney works on regularly and can quote a realistic cost



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Fee Agreements

Hybrid

- For some cases, a combination of fee options are used
- Example:
 - Attorney takes a case for \$125/hour ($\frac{1}{2}$ their standard \$250/ hour rate)
 - Attorney also receives 15% of the amount collected if the case is successful, or $\frac{1}{2}$ their standard contingency fee



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Finding a Good Attorney

- A good fit is important!
- Attorney & Client – Relationship
- Life is Short
- Customer Service is Important



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Verify Qualifications

- Research the lawyer and firm online
- Recommendations:
 - Other Lawyers
 - Colleagues
 - NACM



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Verify Qualifications

Interview the Lawyer:

- What percent of practice is devoted to collections / litigation?
- Would other attorneys be working on my case? If so, can I meet them?
- Based on what you know so far... what are the strengths and weaknesses of my case?
- How much will it cost?



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Attorney Billing

- Demand understandable bills!
- Require detailed billing which includes per entry:
 - Date
 - Description of work
 - Hours worked in tenths of an hour
 - Total fee
- Make sure the bills are consistent with your fee agreement
- Don't wait to raise questions



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Expect Professionalism

Attorney is representing your business so consider:

- Personal appearance
- Office appearance
- Language
- Organization
- Punctuality
- Responsiveness



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Malpractice Insurance

- What is it?
- Confirm attorney has malpractice insurance!
- Ask to see declaration page
 - Need to know the policy limits



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Overview of the Litigation Process

Overview of the Litigation Process

- Who do I sue?
 - Credit Application
 - Personal Guaranty
 - Name on the Invoices
- Venue
 - Where the lawsuit will be filed
- Filing of the Lawsuit
 - Cause of Action
 - Sworn Account, Breach of Contract



Overview of the Litigation Process

- Service of Lawsuit
- Answer vs Default Judgment
- Motion for Default Judgment
- Discovery
 - Questions to Prove Liability



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Overview of the Litigation Process

- Motion to Compel Answers to Discovery
- Motion for Summary Judgment
- Trial: Bench Trial vs Jury Trial
 - Time Frame



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Questions?
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