



The 9 Best Ways to Reduce Your Legal Spend in Commercial Litigation

(If your Lawyer doesn't Charge fixed fees!)

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We help SMEs and entrepreneurs to manage their legal costs by offering fixed fee quotes (not hourly rates) for commercial litigation as part of the process of serving the best interests of clients.

The only way that an entrepreneur or a small-to-medium enterprise (SME) can truly control their legal spend is to find a lawyer that offers quotes for their work. Commercial litigation is a daunting prospect for an entrepreneur or SME because they face writing a blank cheque to their lawyers to deal with a case. Most lawyers are ethical and reliable but hourly fee rates encourage inefficiency and if your lawyer is unethical it puts your interests and your lawyer's interests in conflict. The 9 best ways to reduce your legal spend in commercial litigation are:

- Define your vision and exit strategy with your lawyer up front
- Ask for a monthly report with a snapshot of key information
- Insist on detailed, itemized billings
- Limit the scope of work in a matter
- Require the lawyer to prepare "to do" lists each month
- Require monthly billing
- Require communication by Skype and email
- Treat your lawyer as an insider
- Ask for a fixed price and not an hourly rate from your lawyer

Number 1: Define your vision and exit strategy with your lawyer up front

Are you frustrated because your lawyer isn't pushing the case in the direction you want? One of cost drivers in commercial litigation is the failure of a client and lawyer to clearly define objectives and vision for a case and an exit strategy. Litigation is not usually an end in itself and therefore an exit strategy is important to focus the client and lawyer towards achieving an outcome.

Number 2: Ask for a monthly report with a snapshot of key information

Ask your lawyer for a monthly report that sets out:

1. the fees and expenses paid to date
2. the tasks that have been completed in the last month
3. favourable and unfavourable events
4. cost drivers
5. progress toward your exit strategy

You could also ask for a quarterly report but you should expect 90% of litigation to be resolved within 12 months of commencement. This form of monthly report will give you a strategic snapshot of your case and will help you identify any directionless and expensive litigation.

Number 3: Insist on detailed, itemized billings

The invoices you receive should be clear and easy to understand. The methodology for charges should be consistent (hourly, fixed fee or retainer fees). Most lawyers do not apply an uplift to disbursements and all add-on charges should be consistent with your retainer agreement.

Number 4: Limit the scope of work in a matter

Before the legal work begins there should be a value conversation to identify what is important. By limiting the scope of the retainer to the real value-add this will focus your lawyer and maximise the benefits from your litigation. For example, if your lawyer isn't experienced in alternative dispute resolution why not hire an outside consultant to push settlement in parallel to Court proceedings?

Number 5: Require the lawyer to prepare "to do" lists each month

Experienced commercial litigators do not see each case as a moral challenge but instead a project that needs planning, consultation, strategic direction and execution. If your lawyer cannot give you a list of tasks (such as a completion plan) then how are they going to actually manage the litigation? The answer is likely to be that the lawyer will take a reactive approach that will adversely affect your bank balance and blood pressure.

Number 6: Require monthly billing

The benefit of monthly billing is that it will keep you in touch with your legal fees on a regular basis. It will also mean your lawyer will need to write off any Work-In-Progress (WIP) on your account that hasn't added any value to the case.

Number 7: Communicate with your lawyer by Skype, email and Dropbox

Technology has meant that you do not need to attend your lawyers offices for conferences or to sign documents. You can save legal fees by scheduling meetings on Skype and downloading documents from cloud-based applications such as Dropbox.

Number 8: Treat your lawyer as an insider

If you develop a negative relationship with your lawyer and make their work difficult this will be likely to increase your legal fees. Lawyers respond to negative client relationships by carefully documenting all exchanges with clients, being pedantic, writing detailed advices and terminating retainers when fees are unpaid. If you had a serious obstacle, wouldn't it be better if you and your lawyer worked together to overcome it?

Number 9: Ask for a price and not an hourly rate

It is possible for a lawyer to charge fixed fees in litigation and project manage the litigation (if it is already on foot). It is important to select a lawyer with business acumen and a good team of lawyers to deal with the tasks that will come up during the case. If your lawyer has no methodology for pricing your matter in proportion to the value they are creating or preserving this should be a red flag. You'll either walk away from the litigation unhappy or very unhappy.