

Cost-Effective Use of Legal Counsel

Business Basics, Contract Matters, and Compliance Issues

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What

1. Role of Outside Legal Counsel
2. Cost-Effective Use of Services
3. Business Basics
4. Contract Matters
5. Compliance Issues



Role of Outside Legal Counsel

Pop Quiz

Q: What is the most important question to ask an attorney?



Role of Outside Legal Counsel

- Finding good counsel
- A lawyer is an advisor not a business manager
- Managing expectations



Role of Outside Legal Counsel

Rule of thumb

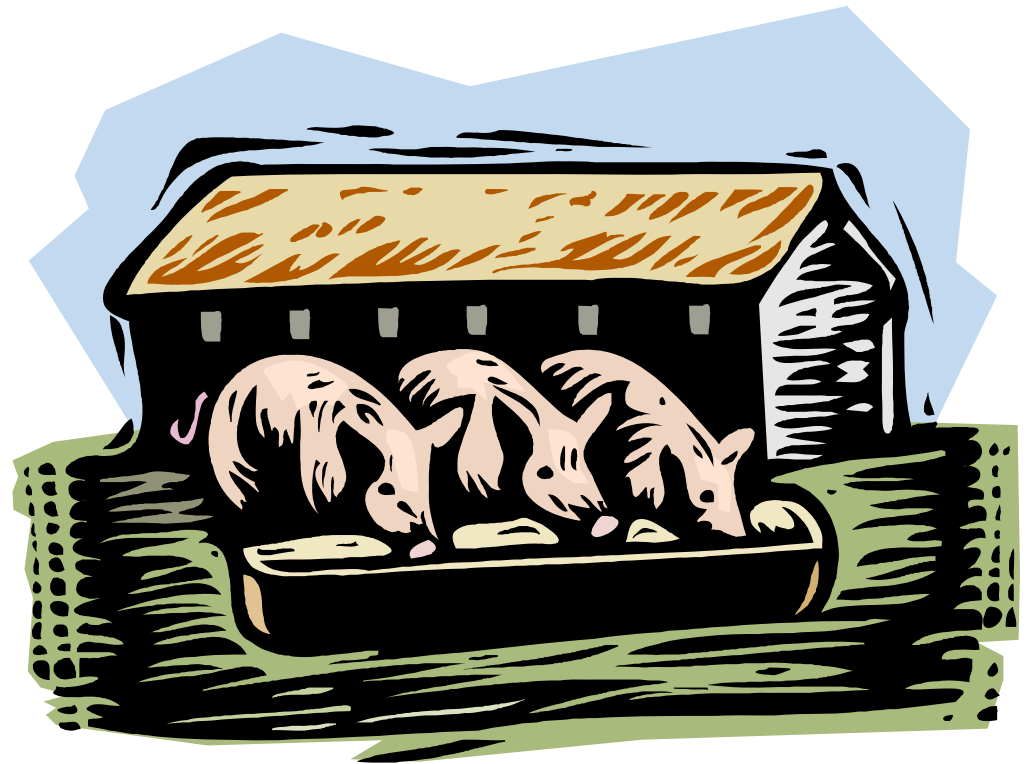
Outside legal counsel should help you build and protect your business, not run it



Cost-Effective Use of Services

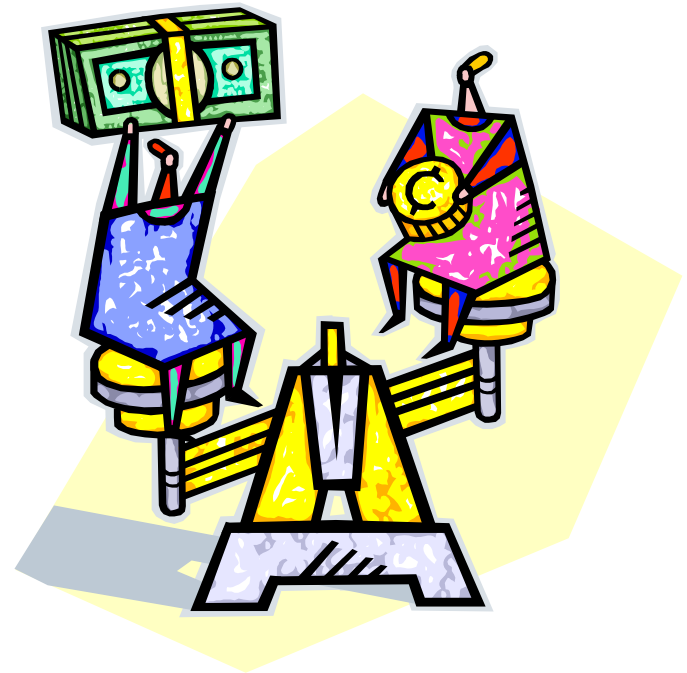
*“It’s like you guys
just feed at the
trough.”*

Client G



Cost-Effective Use of Services

- Document proposals
- Review costs of work
- Compare value



Cost-Effective Use of Services

Rule of thumb

Be frugal,
but not cheap



Business Basics

- Formation
- Operation
- Buying, Selling, or Winding Down



“Starting and owning a business can and should be fun because if it is not fun, why bother?”

Bonanno Truism #7



Business Basics

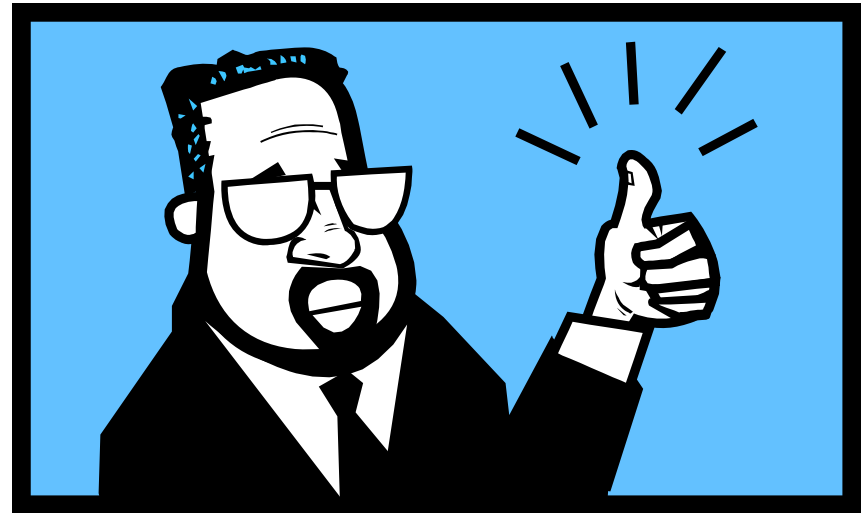
- Have a plan
- Get your lawyer talking with your accountant
- Know and watch your costs

Formation



Rule of thumb

Get good legal, tax,
and business advice
before forming a
business entity

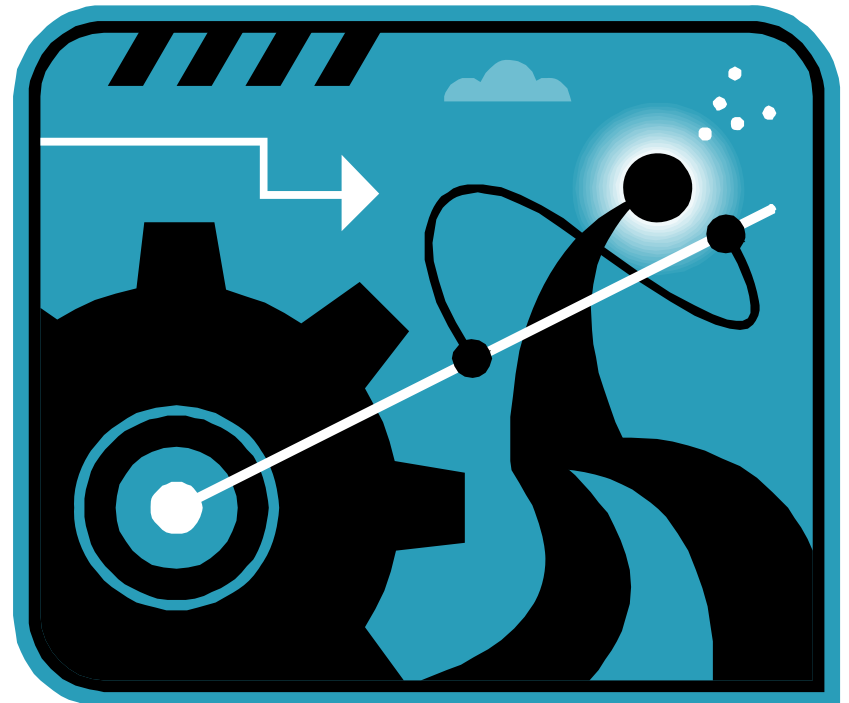


Business Basics

Operation

“Work on, not in, your business.”

Business mantra



Business Basics

- Managing business documents
- Negotiating employment agreements
- Getting answers

Operation



Business Basics

Operation

Rule of thumb

Take time to think
ahead



Buying and Selling

*“One ... Hundred ...
Billion Dollars!”*

Dr. Evil in Austin Powers:
International Man of
Mystery



Buying and Selling

- Driving a car versus getting on a bus
- Negotiating value
- Documenting the details



Buying and Selling

Rule of thumb

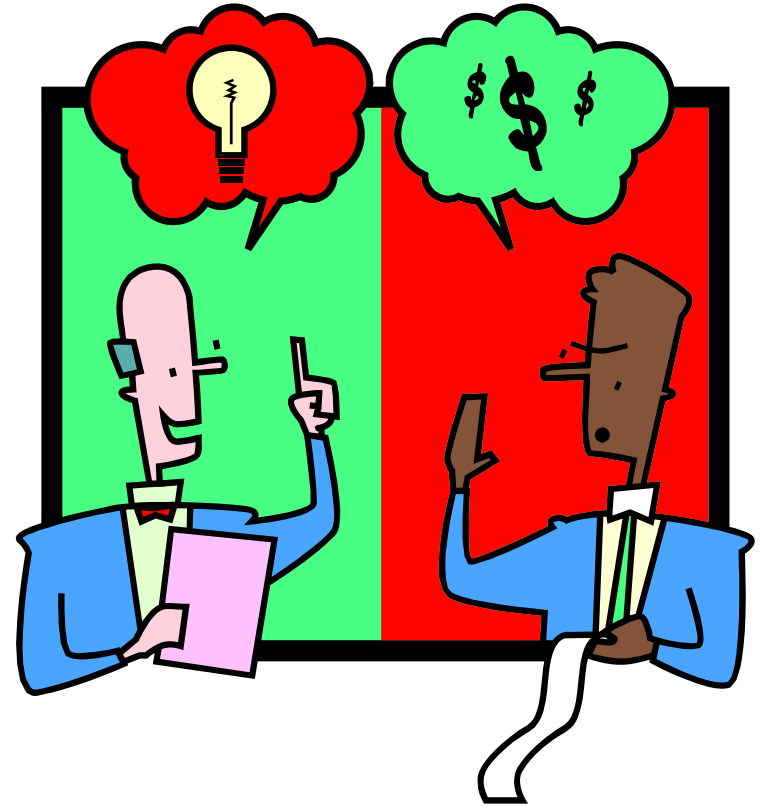
Keep your eye on the goal, be open to negotiation, and get it all in writing



Business Basics

Cost-Effective Tips

- ✓ Be clear on costs before work is started
- ✓ Ask if there are tasks your office could do
- ✓ Review invoices



Contract Matters

- Getting into the deal
- Living with the deal
- Getting out of the deal



Contract Matters

Getting In

“If you buy a new car, you have bought a new car. You cannot return it in three days.”

First Year Lawyer Most
Frequent Cold Call Advice



Contract Matters

- Understand the contract
- Clarify vague language
- Get it reviewed *before* signing

Getting In

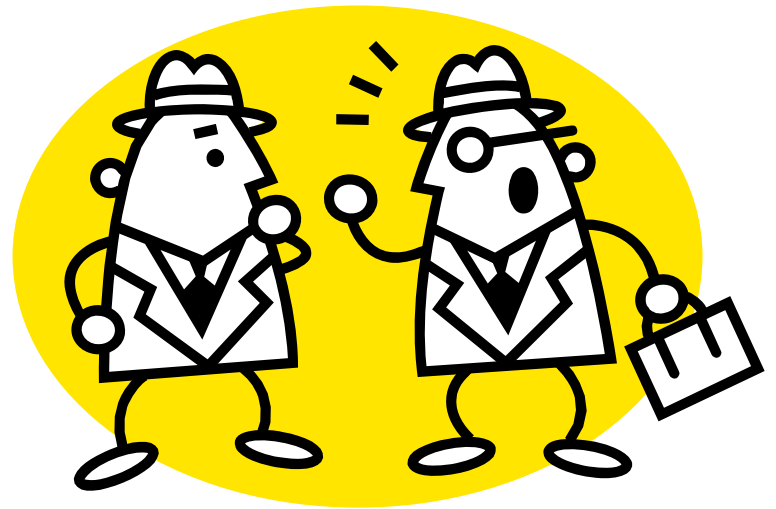


Contract Matters

Living With

“I want to sue them because they are not following the contract, and I will pay you part of what we get back.”

Second Year Lawyer
Routine Cold Call Inquiry



Contract Matters

- Actively manage agreements
- Use of amendments
- Resolving disputes

Living With



Contract Matters

Getting Out

“I need you to write a letter telling them I will never pay them, and we will sue them if they complain.”

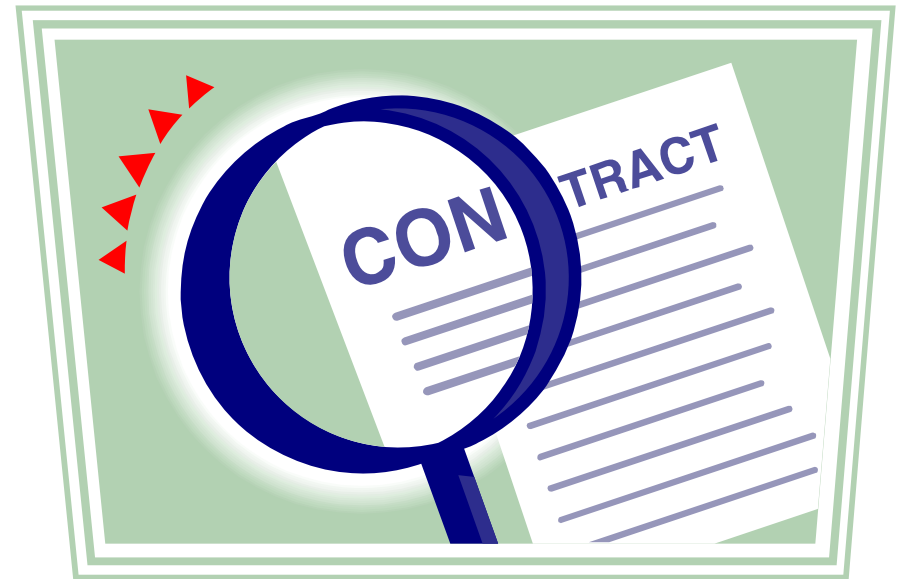
Third Year Lawyer
Cold Call



Contract Matters

Getting Out

- Follow the terms for termination and notice
- Avoid the temptation to breach
- Watch out for clauses that survive termination



Contract Matters

Cost-Effective Tips

- ✓ Negotiate clarity of terms before drafting
- ✓ Have the other party draft documents
- ✓ Build in mediation process



Compliance Issues

- Heeding HIPAA
- Seeing Stark
- Fearing Fraud

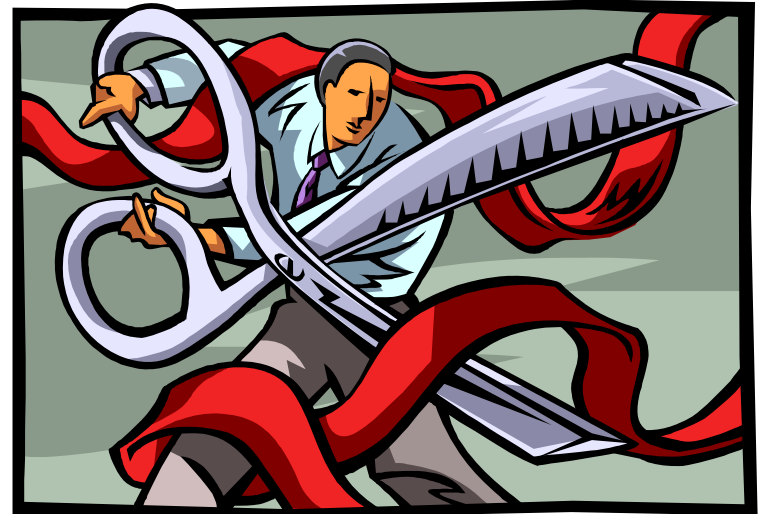


Compliance Issues

Heading HIPAA

“Administrative Simplification.”

Actual Heading of Section in
Federal Bill That Became
Known As HIPAA



Heading HIPAA

Compliance Issues

- More than just a privacy law (security too)
- HIPAA is about awareness (as well as paperwork) and it does not cover everything (e.g., genetic information, personal health records)
- Look to CMS and trade associations for answers



Compliance Issues

Heeding HIPAA

Rule of thumb

Question HIPAA myths, use CMS FAQs, and look for cost-effective compliance tools from your trade associations

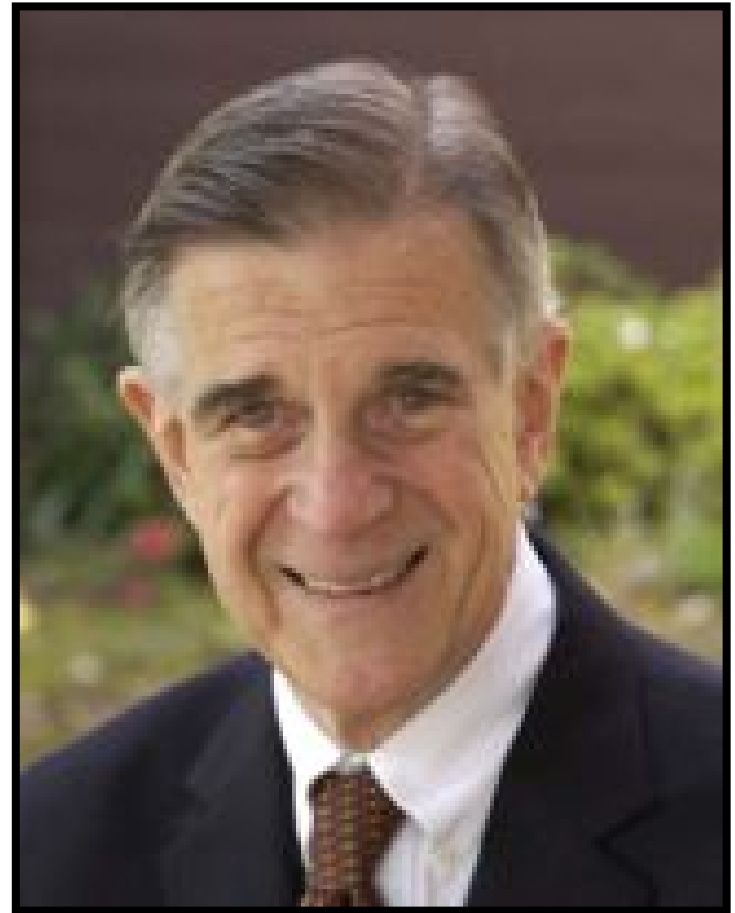


Compliance Issues

Seeing Stark

“I get little thanks for it.”

Congressman Fortney
“Pete” Stark (D-Calif.)
Forbes.com 11/2007



Seeing Stark

Compliance Issues

- Applies only when physicians refer Medicare patients (and Medicaid too someday)
- Applies only to designated health services
- Different from the kickback law and other reimbursement rules



Compliance Issues

Seeing Stark

Rule of thumb

Get help determining whether Stark applies, and if it does, follow the exceptions to the rule



Compliance Issues

Fearing Fraud

“Have you seen fraud happening here?”

OIG Agent
Questioning of an
Employee



Fearing Fraud

Compliance Issues

- Understand the difference between fraud, false claims, and overpayments
- Analyze the problem carefully and come up with a rational plan
- If you become a target, you may need a good team on your side



Compliance Issues

Fearing Fraud

Rule of thumb

Calm down, correctly identify billing problems, and take appropriate corrective action



Compliance Issues

Cost-Effective Tips

- ✓ Have a point person watch costs
- ✓ Research if legal costs are covered by insurance
- ✓ Look for agency and trade association materials



Thank You For Listening

- Additional materials in handouts
- Newsletter sign up
- Questions or feedback are welcome at any time

