

— PROFIT —

LITIGATION



VIDEO
TRANSCRIPT
FIVE



COACHING ACADEMY SPECIALIST
Where Small Businesses Grow

Video Transcript Five

Litigation

In litigation there are seven key factors that you have to seriously take into account before you commence litigation.

1. The first one is goodwill.

Once you appoint a lawyer who writes to the other side, any goodwill that might have been present tends to evaporate instantly. So I say you must take that into account.

As much as you might want to hold onto a relationship with the other person, once you hire a lawyer, the other side is quite likely to say, "If that's the way they want to play it, if that's their attitude, so be it." So they hire a lawyer. And what happens then is their lawyer writes to your lawyer and your lawyer writes to the other lawyer, and nobody talks to you anymore. And that's what the two lawyers will do.

So any goodwill that might have been present tends to evaporate. And you should know that from the outset. That's a key factor. Number one is goodwill.

2. The next key factor is the cost.

And you'll find every lawyer will be very good in telling you what the cost is likely to be, and you have to be comfortable with that. They'll write to you and put it in black and white. And you'll think, "I know where I stand, I know exactly what my legal costs are going to be". I say be careful that might just be the cost of commencing litigation.

There's not a lawyer in the country who could possibly estimate what the total cost is going to be, because that's going to be dependent on the level of response from the other side.

So when you get an estimate of what the cost is going to be, that might just be to get the show on the road. So understand that very clearly, even if you push your lawyer, they cannot guarantee the full cost. I would say to you, whatever cost is estimated, you maybe should multiply it ten times so as to give you any feel for the full potential.

So the cost is a huge issue and you must have a budget for it. Because once you start, you're going to want to keep going. You must take that seriously into account before you start.

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3. The next point I want to talk about is justice will be done.

I say to you, don't kid yourself. Your lawyer will tell you almost certainly once you start litigation that he cannot guarantee the outcome. And even though you're absolutely clear in your mind that there's a clear breach of contract and the other guy owes you some money or compensation, you're thinking, "Surely justice will be done." And your lawyer might nod and say, "That's a nice idea." And you're thinking, "Well, away we go."

I say to you, that may not happen at all. Justice is a nice idea.

The outcome is going to be based on the evidence that's produced. And you might be lacking in some of the evidence and the other side might have more than you thought they had. And the judge has to make a decision based on the evidence presented.

So when I talk about justice being done, I say to you, be very careful because it may not be done how you see it.

4. The next issue I want to talk about is becoming emotionally involved.

It is so easy when you've had a breach of contract that somebody has let you down and there's been some damage to the goodwill and your trust. If you become emotionally involved and commence litigation, I say, you're taking on a high risk, because your lawyer will be totally devoid of emotion. He's going to talk about the legal case and the legal argument.

And the problem with being emotionally involved is that when the weekend comes and the lawyers have all gone home, you're going to be thinking about it. You'll be thinking about it in your private life and your business life, it can dominate your life. I say you have to be very, very careful.

You've got to be able to try and deal with it as a project and stand back from it; or else that could have a huge cost over and above any money you send to your lawyer.

You need to be able to avoid becoming too emotionally involved in the litigation.

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5. The next point I want to talk about is called the principle of the matter.

Time and time again, people will respond to the question, “Why did you sue him,” with “It’s the principle of the matter.” they might say something like, “Why should he or she get away with it?” I say you have to, again, be very, very careful.

Litigation is not just about trying to ensure that people don’t get away with it. It’s about the court looking at the evidence that’s produced and making a judgement. It again sounds like you might be emotionally involved when you say, “It’s the principle of the matter.”

I say you have to measure that principle.

Would you be prepared to pay however much money it might be for that principle? And you might say, “Well, that’s too much.” That’s when I say that maybe there’s a price on your principle.

So I say it’s easy to start off with the principle of the matter, but you must take into account the cost. And it’s not just the pound sign or the dollar sign. It’s the cost of your emotional involvement and the time it takes you from your business life and your private life in dealing with the litigation.

So be careful on the principle of the matter, that there is a cost to it.

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6. The next point I want to talk about is what I call legalese talk.

You hire a solicitor and he'll write to you confirming the meeting, he'll confirm his understanding of the litigation, and he'll outline costs and everything else, and he will protect his business and his practice that they've advised you properly. And included in that letter will be some legalese talk.

And what I say to you right from the outset, if you don't fully understand it, stop the lights because this is just the beginning. If you accept something inside in that two-page letter or three or however many pages there are that you don't fully understand, I say go back to your lawyer instantly and say, "Could he put that in a simple language that you understand?"

And if he's unable to do that, I suggest you should seriously consider moving lawyers; or else you're going to have to hire a lawyer who speaks in a simple language, and that's another cost.

So legalese talk – there's nothing wrong with them doing it, but it's for you to decide whether you understand it. And if you don't, don't carry on.

You must stop the lights and get them to speak to you in a language that's comfortable with you.

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7. And the final point I will make is that I think litigation should come with a government health warning.

And what I mean by that: It is so easy to commence litigation. Your lawyers will do a fine job outlining the risks, they'll outline the costs, they'll outline the possible outcomes, and they will give all of that to you.

But the trouble is, in your mind you'll be thinking, "Justice will be done." In your mind you'll be thinking that "I will get the outcome because I didn't do anything wrong."

And I say to you, you should be careful.

You should also be careful how emotionally involved you're going to be. And that while the litigation seems like a simple legal process, you're going to be thinking about it night and day. And it could affect your business, it could affect your private life, and it could affect your health. And indeed, even if you get a positive outcome, the cost could be far greater than you could ever have imagined.

So those are the key factors, that you should take into account before you commence litigation.

**DON'T FORGET TO WATCH THE
"LITIGATION" VIDEO.**