

10 TOP TIPS TO AVOID LITIGATION

Litigation should be avoided at all costs since once you are embroiled within formal court proceedings you can only extract yourself if your opponent agrees and such agreement would usually involve payment of your opponent's legal costs. This is often a costly price to pay given you will have your own legal bill to pay too.

I would encourage any party to a dispute to consider the following tips to avoid a claim whether as a "defendant" or "claimant".

1. Never admit liability - once liability has been admitted it is difficult to retract such an admission, the focus then simply moves to the question of how much you will be liable to pay whether by way of costs or damages to the other party.

2. Notes - make sure you maintain full contemporaneous notes of all meetings and telephone calls. You should also ensure all written correspondence is preserved, including emails and faxes. This paper trail will be invaluable evidence in preparing defences or claims and demonstrating the chronology of events.

3. Double check everything - You should ensure that you have checked and reviewed all documents, goods and all materials which have led to the dispute. You should ensure that you have not made any assumptions as to why the dispute has arisen. You should undertake a full investigation. You need a clear understanding of your position at the outset and an appreciation of the strengths or otherwise of the other side's case.

4. Lawyers - You should find a pragmatic commercial litigator who understands both the matter in dispute and who can properly advise at an early stage. You do not want a lawyer who is simply going to follow a process as the art of being a good litigator is being able to think outside the box in order to negotiate and reach an early settlement prior to significant legal costs on both sides. If a litigation matter goes to trial then, in our view, there have been some failings in the whole litigation process. Formulate a resolution strategy with your lawyer.

5. Expert - To the extent you are not able to analyse the matter in dispute, you should engage an independent expert so that you get an appropriate expert report from someone who is qualified to comment and whose view a court would value, whether on a forensic basis or otherwise.

6. Stay rational - Make sure that the dispute does not become a personal grudge against another party as otherwise you may find yourself becoming entrenched in a position which you may find difficult to extract yourself from. A small dispute can often escalate into litigation due to the emotions and personal and business relationships of the parties. You need to maintain a clear mind to ensure you achieve the most cost effective commercial resolution of the dispute.

7. Compromise - Take proper advice from your lawyers. Get an understanding of the costs risk involved in your case and be prepared to compromise, as holding out on principle, no matter how strong your case may be, is not always guaranteed to give you success in court and more importantly a protracted dispute could be commercially harmful to your business.

8. Distraction - Don't forget to the extent that you are engaged in litigation, this will be a distraction for you from your business and it will prevent you from devoting your full attention to your business. Litigation takes up valuable time for meetings with lawyers and internal meetings and that time would inevitably be better spent in developing other aspects of your business.

9. Golden Rule - There is no guarantee that you will win any litigation matter as this will depend on the judge on the day and the court that you are in. If you have good evidence, a strong defence or claim backed up by an expert report with a strong commercially focused lawyer, then the chances of compromising the claim before it gets to court and not facing a big cost risk will be very much in your favour. You retain control whilst negotiating outside the court, at trial the court has complete discretion and at the end of the day both sides can't be right so there has to be scope for compromise.

10. Hawkins Hatton - Having formulated the above rules we are best placed to implement the same. We adopt a refreshing approach to dispute resolution with your best interest being served throughout the entire process.

If you wish to discuss any of these aspects in any further detail, please contact Harminder Sandhu on hsandhu@hawkinshatton.co.uk or 01384 216840.



Harminder Sandhu

NO PRESSURE AS WE LEAD IN MULTI MILLION POUND SALE

We have advised on the multi-million pound sale of DH Budenberg, the world leading manufacturer of pressure calibration equipment.

DH Budenberg, which has manufacturing operations in the UK and France, as well as technical sales and engineering support satellite offices throughout the Middle East, Asia and Australia, has been acquired by the WIKA Group, whose headquarters are based in Klingenberg, Germany.

We provided legal advice to DH Budenberg's owner Paul Winters and eight other shareholders who are based around the world.

Colin Rodrigues our corporate partner worked alongside James Bell from Double A, a leading firm of corporate finance advisers who were retained by the shareholders of DH Budenberg to identify, contact and negotiate with the purchasers, thereby playing an instrumental role in the sale process from inception to completion.

With an annual turnover of around £7 million, DH Budenberg employs 94 staff including 30 in the UK at its manufacturing base in Manchester. Under the terms of the deal Budenberg Gauge and a separate machine shop business will remain under the ownership of Mr Winters.

DH Budenberg has grown to become one of the world's leading manufacturers of pressure calibration equipment since it was formed by Paul Winters in 1996 with the merger of Desgranges ET Huot SA of France (DH).

The company supplies a range of electronic pressure controllers, calibrators and pneumatic dead weight testing equipment for oil, gas, process, aerospace and defence applications and in recent years has successfully expanded into Middle Eastern and Far East markets.

Commenting on the sale Mr Winters, who originally comes from Birmingham, said: "The business was in excellent shape, but given the current difficulties in raising funds through the financial markets I felt that we had taken it as far as we could. The sale will enable the company to expand further through increased investment and the wider resources of WIKA who are world leading manufacturers of pressure, temperature and sensor instrumentation."

"I was recommended to Hawkins Hatton and they did an excellent job in leading me through the transaction which had the added complexity of including our international operations."

Colin Rodrigues said: "This was a significant deal for the shareholders. In advising on the sale we often had to work round the clock in order to accommodate the different international time zones."



John Stokes, Seller of DH Budenberg; Ruth Coleridge, Hawkins Hatton; Colin Rodrigues, Hawkins Hatton

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WE ARE POISED FOR GROWTH AS WE MARK OUR 5TH ANNIVERSARY



We celebrated our 5th anniversary with a dinner for clients and professional associates at Weston Park in Staffordshire.

When we opened our Dudley offices in 2006 we became one of the first niche corporate law firms outside of Birmingham to be launched in the West Midlands. Since then we have continued to grow fee income and develop a growing reputation in the merger and acquisition market, despite having to contend with the credit crunch and recession.



Our team of solicitors are led by corporate partner Colin Rodrigues and managing partner Harminder Sandhu. As well as advising businesses on sales, mergers and acquisitions, we have a growing commercial property arm and handle a full range of corporate and commercial transactions, including employment law and dispute resolution.



At the anniversary dinner Colin Rodrigues said: "Our whole ethos is about working in partnership and we've had tremendous support from both clients and associates within the professional services sector over the last five years. During this time we have continued to make steady progress despite the obvious challenges that all new businesses have faced over recent years.



"The fact that we are now handling deals on an international scale shows just how far we have come and we're looking forward to growing the firm further as the economic climate becomes more favourable for corporate transactions and in particular merger and acquisition activity."

