

Should I Use an Attorney When Purchasing a Franchise?

What Type of Legal Counsel Should I Use & Is It Worth It?

The first question to ask yourself is what do you really want to accomplish by using an attorney? Do you just want another pair of (legal) eyes looking over the paper work, are you expecting changes to be made to the agreement, etc.? Define your requirements first.



Hiring an attorney can be expensive and at the rate of \$300 to \$500 per hour you will easily rack up a several thousand dollar bill and extend the franchise project by a few weeks, so be prepared for this.

Make sure that you hire a **franchise attorney** – this is critical! Do not make the mistake of hiring your general attorney simply because they did your will, a real estate lawyer because they are a friend or a personal injury lawyer because they are your brother-in-law. Just like you would not use your regular doctor for heart surgery, you'd find a cardiologist, you need to find someone who specializes in franchise law, i.e. a franchise attorney.

There are many different disciplines within the legal system and franchise attorneys are well versed in franchise law. They do not need to spend hours learning all about franchise law (which a non-franchise attorney would have to do - at your expense).

Franchise attorneys also understand that franchise agreements between franchisor and franchisee are non-negotiable. All franchisees play by the same set of rules and all have the same agreement. Imagine if basketball teams played by a different set of rules or franchisees were allowed to do whatever they pleased within their business without regard for the brand or the rules, it would be chaos. There would be no consistency, no uniformity - the very thing that makes franchising so successful.

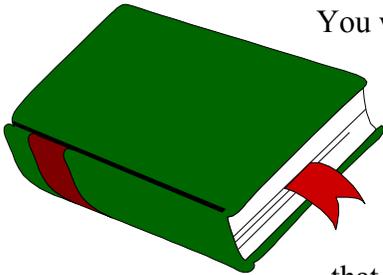
Most attorneys make a living via billable hours through legal consultation, creating documents and altering existing contracts. If you were to use a non-franchise attorney, the typical scenario would look like this:

- ◆ Attorney would review the franchise agreement over a couple of weeks
- ◆ He/she would have a few telephone consultation calls with you (increasing their billable hours)
- ◆ Document would be marked up with the proposed changes
- ◆ You would receive the altered agreement in the mail together with a several thousand dollar invoice



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You would then forward the revised agreement to the franchisor, who would smile and push it back to you with a polite “No”. Franchisors do not make alterations to their agreement simply because a candidate wants to make changes and play by a different set of rules. The very reason that you want to join a franchise is because of their proven and successful processes, systems and rules that they have in place. That’s why everything works so well!

So now you are stuck in the middle, with a “No” from the franchisor and a \$5,000 legal bill for the attorney’s service (and you want to feel good about the money you just spent).

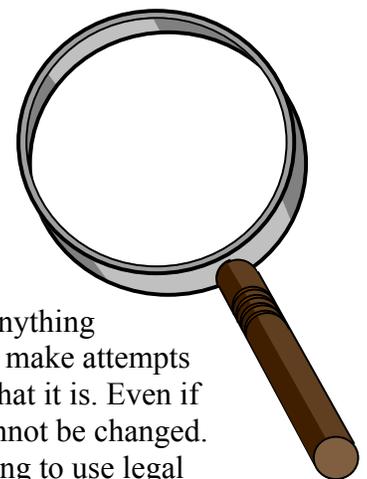
The typical result is a guilty feeling on your part because you want to get value from your purchase and not feel like you threw your money away, but at the same time you are possibly scared and hesitant to move forward with the franchisor, because doing so would be against the advice of your attorney (as the franchisor will not accept the new agreement that your attorney created). As a result, most candidates freeze, do nothing, get upset for wasting 5 grand and the franchise project quickly comes to a halt...it’s another casualty - an attorney killed a franchise deal once again!

Net-net, you lose, the franchisor loses...the only person that wins is the attorney. They are happy, they made their legal consulting fee, they delivered their promised service to you, but it is really not what you wanted or expected.

From my personal experience over the years:

- ◆ Less than 1% of my clients actually used an attorney when purchasing a franchise
- ◆ Of those that did seek legal advice from a non-franchise attorney, not one purchased a franchise. The attorney killed the deal every single time!

If you are going to use an attorney, make sure they specialize in franchising and have your expectations set properly. They know what they are looking for. They will simply review the document, go over anything with you and explain any parts that require clarification. They will not make attempts to change the agreement. Remember that the franchise agreement is what it is. Even if you or the attorney does not like something about the agreement, it cannot be changed. Working with a franchise attorney is the right individual if you are going to use legal counsel – you should also save some time and money.



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In summary, if you have the extra cash and don't mind giving it up for a little piece of mind, then hire yourself a franchise attorney. If on the other hand, money is tight, or you'd rather spend it on your new business and/or you already feel very comfortable with the franchisor and the other franchisees you have spoken with, then go with your gut feeling...don't use an attorney – most people do not and of the few that do, most feel afterwards that it really was just a waste of time and money.

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The Frantreprenuer Mentor helps folks just like yourself, to quickly find and match you with the ideal franchise; one that fits who you are, will work well in your area, you'll enjoy operating and have the opportunity to be highly successful at. Some clients call us a "Franchise Match-Maker". In addition, as a franchise consultant and advisor, I mentor, coach and support you throughout the entire franchise process with regular coaching, communication, mentoring and advice.

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