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## How to Interview an Attorney to Handle a Business Dispute on a Contingency Fee Basis

by Mark B. Wilson, Partner, Klein & Wilson

If you want to convince an attorney to handle a business litigation matter on a contingency fee basis, you must approach this task as though you were giving a sales pitch. Below are steps to set you up for success. The more efficient and prepared you are, the more interested the attorney will be in accepting your case.

Attorneys must first check for conflicts of interest. Be ready to state the names of all people/entities at issue so the attorney can ensure there is no conflict.

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When interviewing attorneys, clients typically want to tell their story. Contingency fee attorneys are more interested in the economic viability of the case. Accordingly, in advance of calling an attorney, prepare an accounting of damages and be ready to explain how you will prove them. Be prepared to prove that if a jury awarded the damages you suffered, the target has sufficient assets to satisfy a judgment. If the target is not a public company whose financials are available, consider hiring an investigator to prepare an asset report. Attorneys do not want to pursue cases on a contingency fee basis unless they are convinced collection will not be an issue.

Most firms who accept business cases on a contingency fee basis expect the client to advance litigation costs (e.g., filing fees, deposition transcripts, expert witness fees, etc.) In my experience, most business cases which go to trial generate at least \$150,000 of costs, and often these costs are higher. If you cannot afford to advance costs, tell the attorney right away.

Successful lawyers are picky about which cases they accept on a contingency fee basis. The client's story should be easy to present to a jury. To assist the attorney in evaluating the case (and developing the story), prepare a chronology of key events and assemble the most critical documents. You will lose credibility if you do not disclose bad facts and damaging documents.

If you have a business dispute you want handled on a contingency fee basis, and the damages exceed \$10 million, call us at (949) 631-3300.

### Mark B. Wilson

Mr. Wilson, a trial attorney, has won nearly every case he has tried or arbitrated. He lost only one jury trial, but then obtained a complete reversal on appeal. This year, Mr. Wilson was listed in the Super Lawyers® Top 50 Orange County list, and he is a past Chair of Orange County Bar Association's Business Litigation section.



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- Twice Named OCTLA Trial Lawyer of the Year
- Chaired OCBA's Business Litigation Section

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