

WORKING MUSICIAN

When Musicians Need Lawyers

by Ramon Ricker, Member Local 66 (Rochester, NY)

At some point in our lives most of us will need a lawyer. I know there are hundreds of jokes out there that question their character, but my experience with them has always been positive. Used properly, they can save musicians much time, money, and aggravation. But the first thing you have to get over is the fact that they will charge you for their expertise. Students frequently come to me asking for advice on contracts that they have been given to sign. They almost always ask me if they will need an attorney, and if so, how much it will cost. I can tell in their voice that they don't want to use a lawyer—like it's going to be a waste of money or something.

If you sign a contract and you don't fully understand what is in it, you could be making a big mistake that could impact you for many years to come. We are all aware of enterprises such as "Divorce Yourself" or "Set Up Your Own Corporation." Maybe they work and are perfectly legal, but if for some reason the legality of an action is ever challenged, you will feel much more confident if your contract has been prepared by an attorney, rather than yourself. Don't be cheap. Do it right. After all, it will be deductible on your taxes!

When do you need a lawyer?

If you are asked to sign something, like a recording or a publishing contract, or a contract with a personal or business manager or agent, you should have legal advice. If you have the sense that a wrong move could be costly in time or money, or you don't completely understand the language or meaning in the contract, you need a lawyer. And if the other side has a lawyer you definitely need one!

How to find the right lawyer

So how do we find a knowledgeable and trustworthy lawyer? Start by asking around. Friends and other musicians are a good place to begin. You can also call the local bar association or a large law firm for a recommendation. If you go the large firm route, they will have a cadre of attorneys each specializing in different aspects of the law. There are entertainment lawyers, as well. At the outset, however, unless a record company is courting you, you probably don't

need a New York or Los Angeles entertainment lawyer.

In choosing an attorney it is perfectly normal and acceptable to interview them. It can be a short meeting in their offices, or better yet, you can meet them for lunch. This is a "get to know you meeting." In this first meeting, a good lawyer will tell you if you need legal services and whether their skill set is right for the job.

As an example, let's say you have decided to set up a Subchapter S corporation. The lawyer will ask you questions about your business, for example, its current status and future business plans. Just in this initial conversation, you may discover that you really don't need to set up a corporation, but an LLC would be better. A shrewd lawyer will also be interviewing you, getting a sense of whether you are level-headed, have the ability to pay, and won't turn out to be a high-maintenance pain in the you know what!

You also should discuss legal fees. They could be straight time (hourly), fixed fees for particular jobs, or based on an hourly rate, but not to exceed a certain amount. Always ask for an estimate. My experience has been that my attorney's estimates have been very close, if not spot on.

There is another type of payment that is sometimes used, called a contingency fee. With this arrangement the attorney is paid contingent upon winning the case, and legal fees are limited to one-third of the settlement. This fee structure is often used for lawsuits where personal injury has occurred and large sums of money are at stake.

Once you have selected an attorney, it's your job to be prepared for consultations. He is "on the clock" when you call. The meter is running, so get to the point. Be clear in your thinking and what you are asking him to do. If the two of you are looking over a contract, skip over the things you already understand. Ask your lawyer to review the entire document, but to explain points seven and 15, for example. In addition to preparing legal documents on your behalf, use him to teach you, explain, advise, and if necessary, be your advocate, negotiator, and—if worse comes to worst—a scapegoat.

Ramon Ricker is author of *Lessons from a Street-Wise Professor: What You Won't Learn at Most Music Schools*, and professor emeritus of saxophone at the Eastman School of Music.

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