

Why Your Business Divorce Lawyer Needs the Whole Truth and Nothing but the Truth

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If you seek legal advice because of a shareholder dispute issue, one rule that you absolutely must keep in mind is – tell your lawyer *everything*.

It is human nature to want to emphasize the positive and downplay the negative. Some clients take this to the extreme thinking that if they don't lie to their attorney, they're doing the right thing. But not telling your attorney all of the facts and omitting key points may not be as bad as outright lying but it is not going to help your case. In fact, it may hurt it.

Case-in-point: One minority shareholder in a New Jersey company complained about several things his business partner was doing, all of which made their way into a filed complaint. When the other side responded by stating that the minority shareholder was doing the exact same things, it was not only an embarrassment, but undermined the very arguments that shareholder was trying to make. Because that attorney failed to ask the client the pointed question of whether they had ever done the same things, that client switched attorneys and requested our services.

An attorney should not have to cross-examine their own client. If you are complaining because the majority shareholder has placed family members on payroll, but you also have family members on payroll, that should be information that you volunteer and should not be something your own attorney pries out of you like a hostile witness.

The reason for not being forthcoming is obvious – you fear that certain facts might hurt you, and you want your case to be as strong as possible. But you are only hurting your self if you don't "come clean" about everything, especially in instances where this information may come up in cross-examinations. Your attorney should be skilled enough to look for differences and distinctions between your actions and your business partner's conduct.

Make sure your attorney knows everything and work with them to put all of the facts as they actually exist in the most positive light possible. If there is no way to "spin" things positively and you really don't have very much of a case, why would you want to spend legal fees pursuing a losing case? Wouldn't you rather know the weakness of your position at the outset? Moreover, you could be counseled to change your behavior going forward. You might not have a strong case right now, but you could position yourself to have a strong case a year from now.

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