

## **Franchise Lawyer – a new breed of legal eagle**

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A franchise lawyer is an attorney who specializes in franchise law. Typically, there are three types of franchise lawyers. Knowing which type of franchise attorney to use will ensure the best use of your valuable resources and result in the best end result.

### **THE THREE KINDS OF FRANCHISE ATTORNEYS**

The first kind franchise attorney are the franchise litigators. These are attorneys who represent disgruntled franchise owners in franchise litigation – usually arbitration, but sometimes in traditional courtroom proceedings. Don't use a franchise litigator unless you have problems with your franchise contract or relationship requiring franchise litigation. The rest of this article deals with the more typically-used franchise attorneys – the specialists who evaluate and set things up before the contract is signed.

The second type of franchise lawyer are those who represent persons interested in buying a franchise. The spectrum of legal services by these franchise lawyers include reviewing the FDD Franchise Disclosure Document, evaluating the provisions of the franchise agreement and helping negotiate the contact. Fees to do these tasks are usually an hourly rate that ranges from \$300 to \$600 per hour. If you can, find a franchise attorney who will help with your buying a franchise FDD due diligence on a set contract basis instead of an hourly amount. Hourly amounts can add up quickly to thousands and thousands of dollars.

The third type of franchise lawyer are attorneys who help successful firms become even more successful by entering the franchise industry. These franchise a business lawyers typically draft a FDD Franchise Disclosure Document, prepare and file franchise registration applications in the various registration states, as well as respond to comment letters issued by state examiners. The same \$300 to \$600 hourly rates apply for attorneys who franchise a business. Because these projects are extremely time-intensive, finding a franchise attorney who will do everything for a set contract amount is the best way to go.

### **FINDING A GOOD FRANCHISE LAWYER**

Using a franchise attorney early on is the proper starting point, whether you are trying to franchise a business or thinking about buying a franchise. But don't use any franchise lawyer – find one who also has an MBA and you've narrowed the field considerably. You can Google the search term "MBA franchise attorney." Now you're dealing with

someone who understands both the legal and business issues in buying a franchise. Good job, but don't stop here. You can narrow the field even more by finding a franchise attorney, with an MBA, who has also owned a franchise before. Buying a franchise or franchising a business advice is incredibly more meaningful when it comes from a former, successful franchise owner - as opposed to someone who never operated a franchise before. Finding a franchise attorney, with an MBA, who has owned a successful franchise will give you the cream of the crop.

## **QUESTIONS TO ASK A FRANCHISE LAWYER**

(1) Is their law practice devoted 100% exclusively to franchise law - and for how long?

(2) Total number of FDD Franchise Disclosure Documents (formerly called franchise offering circulars) they have drafted and reviewed?

(3) Experience filing franchise registrations and working with state examiners in all 14-plus franchise registration states?

(4) Experience representing companies that franchise a business as well as persons buying a franchise?

(5) Experience owning and operating a successful franchise? Knowing both sides of the fence is a tremendous asset.

(6) Does the franchise lawyer have an MBA? As discussed above, this is especially helpful to address both the business and legal aspects of the franchise industry. You can do a Google search with "MBA franchise attorney" as a search term and narrow the field considerably.

Subjective factors, such as being a member of the American Bar Association's Forum Committee on Franchising, for example, are of little value. Membership in a franchise committee or franchise association only means the franchise lawyer pays a yearly membership fee, usually with the motivating purpose being tax deductible travel expenses and learning about subjects they don't know very well.

*Author credentials and background*

Kevin B. Murphy, Mr. Franchise, is a [franchise attorney](#) and [franchise expert](#) based in San Francisco with a 30-year practice devoted exclusively to franchise law. Since 1993, Mr. Murphy has also been an Approved Minimum Continuing Legal Education (MCLE) Provider by the State Bar of California, teaching franchise law, franchising vs. licensing (franchise vs. license), and intellectual property courses to California attorneys. In 2002 -2003 he started, operated and sold a very successful franchise. Mr. Franchise holds degrees in business administration and law from the University of San Francisco and an MBA from San Francisco State University. He is the author of over 50 franchise publications, including 4 books on franchising and one book on trade secrets.