

Working with Foreign Counsel

By Ignacio Pinto-Leon

As part of my solo practice as a consultant in Mexican law, I am often retained by lawyers in the United States to locate, hire, and sometimes supervise counsel in Latin American countries. Interactions among citizens of different countries are inescapable, so points of contact between two or more different legal systems are only natural—and potentially challenging.

Solos and small firm practitioners may find themselves in one of many scenarios that requires the assistance of an attorney licensed in a country other than the United States:

- The client experiences buyer's remorse after "inadvertently" buying a time-share in Costa Rica and needs to ponder opting out from the contract.
- The client's customer sues the client in Mexico for fundamental breach of contract.
- The client has been charged with the commission of a crime in Argentina while vacationing in Bariloche.
- The client wants to execute in the United States a judgment rendered by a Brazilian court against a subsidiary of a former partner to a joint venture.
- The client's product liability case filed in local court suddenly requires moving—or opposing—to dismiss based on forum non conveniens in favor of an alternative forum in another country.

The need to work with foreign counsel can come in cases that are sophisticated or straightforward. Yet the common denominator in all of them is that (1) your client needs legal assistance, (2) one of the legal systems involved is outside your own country, (3) you may not be an expert or even familiar with the legal system in question, and (4) your client may ask you to facilitate the hiring of and interaction with foreign counsel.

So, how to find the right lawyer in another country? First, locate a candidate with colleagues handling similar cases in the United States. If that produces no satisfactory results, ask the client for names of trusted contacts—if any—in the foreign country. Contact the U.S. embassy or consulate in the relevant jurisdiction for a list of

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screened local attorneys. Or consult with their national or local bar. As a last resource, Google it!

Next, define your level of involvement: It can range from simply passing a candidate's name to your client, to assisting in locating and retaining foreign counsel, to serving as a liaison between your client and foreign counsel or even directly handling the case abroad.

Once your level of involvement is defined, establish how you or your client will exchange information with the foreign counsel. If the foreign lawyer does not have a command of the English language, you will need somebody fluent in the language of the non-English speaker.

Set your expectations and conditions in advance and in writing. As a rule of thumb, be aware of the differences between the U.S. and the foreign legal system and legal practice—but also of their similarities. Among the latter, common sense is a prevailing characteristic of most systems of law; cordiality between the U.S. and the foreign attorney also should generally be expected—yet not taken for granted.

Next, recommend your client to make direct contact with the foreign lawyer before retaining him or her. There are good and bad lawyers everywhere, but it is generally more difficult to get the second type of attorneys accountable if faraway from their jurisdiction, hence the importance of minimizing the risks.

Working with colleagues from different countries can be a very enriching and pleasant experience. It also should be a good opportunity to learn something new about the law and lawyering abroad, and to share your own perspective of what it means to practice law in the United States.

Remember that the need for interaction with foreign counsel goes both ways: A lawyer in another country may very well require the services of an attorney in the United States. You could be that U.S. counsel—except that in this case, you would be the *foreign* lawyer. **GPSOLO**