

Dispute Prevention Audits

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The dispute prevention audit is a new, innovative and proactive risk management tool. It enables businesses in a wide variety of industries, with a wide variety of legal or operational problems, to identify systemic weak spots in their business processes and formulate solutions for them. The dispute prevention audit can save significant cost, time and aggravation, and preserve customer good will.

What Is A Dispute Prevention Audit?

A dispute prevention audit is an investigation of a troublesome business segment, to learn why it is generating unexpected amounts of disputes or legal costs and to craft solutions for that situation for a fixed fee. The business segment can be of any size or complexity. The investigation is conducted by lawyers and, if appropriate, other professionals with the necessary expertise and appropriate experience for the specific task. The end product is a set of concrete recommendations for remedying the situation.

How Does A Dispute Prevention Audit Add Value to Business?

Dispute prevention audits are a risk management tool. They enable business to control legal spend by preventing disputes and other legal or operational problems, and by better managing those that do arise. In-house legal departments can conduct their own dispute prevention audits. But, with shrinking resources and increasing pressure to reduce legal spend, sometimes they just don't have the bodies, time or money to investigate significant problem areas. Businesses are often too busy dealing with their problems to investigate why they're happening. And sometimes in-house legal departments do not have the expertise or the objectivity necessary to investigate effectively.

An outside law firm can assemble a team with the necessary combination of expertise and experience to investigate virtually any business situation. They will also bring a degree of objectivity to that investigation in-house counsel may find difficult to achieve.

A fixed fee is a crucial characteristic of the dispute prevention audit. It provides the business with cost certainty. The business will be able to evaluate the future benefit from resolving the troublesome business situation against that known cost.

A dispute prevention audit may also add value beyond resolving the specific business situation it targets. Because business segments are often closely inter-related, recommendations for addressing a particular business situation may have a broader application across the business.

How Does A Dispute Prevention Audit Work?

The dispute prevention audit can be adapted to address almost any business situation. The key to its value will usually be in the specific details of that adaptation. But the basic concept is very straightforward.

First, the business identifies a segment causing unexpected problems. Perhaps the segment is generating an unacceptable number of legal disputes or incurring unexpected legal costs for some other reason. The problem can be legal or operational. The key is to identify a discrete business segment for investigation, something the audit team can "get its arms around."

Second, the business and the outside law firm review the segment and the specific problem to be addressed, so that the law firm knows what expertise and experience will be necessary on the investigating team.

Third, the business and the law firm agree on a fixed fee for the investigation and the resulting recommendations.

Fourth, the dispute prevention audit team does its work. It investigates the problem and recommends solutions. That investigation can involve a wide range of activities, depending on what is being investigated and what the team finds.

When Would Business Use A Dispute Prevention Audit?

The situations where a dispute prevention audit is useful are virtually infinite. Here are some specific examples.

- A financial services company sells a product line to consumers, using standard form contracts. But the contracts were developed without systematic oversight by in-house counsel, and several variants are now in use. The company is a defendant in several consumer class actions arising from those sales.
- A retailer sells a manufacturer's consumer product with an extended warranty, in addition to that offered by the manufacturer. Provincial consumer protection legislation imposes certain requirements on that process, which the retailer's employees do not always follow. As a result, the retailer is the defendant in several consumer class actions.
- A manufacturer of products used in large infrastructure projects, requiring coordination with other manufacturers and installers, consistently finds disputes arising in the "hand off" to it of the project from those involved in the previous stage of construction.
- An on-line retail business is suffering multiple data breaches, resulting in theft of customers' personal information.

Conclusion

The dispute prevention audit is designed to prevent disputes, and other legal and operational problems and to better manage those that do arise. It adds value by providing the targeted objective expertise and experience necessary to create solutions to significant business problems. And it achieves those objectives for a fixed fee, providing the business with both future benefits and present cost certainty.

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