

NFIB Research Foundation



National Small Business Poll

NFIB National

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Small Business Poll

The Use of Lawyers

NFIB National Small Business Poll

The *National Small Business Poll* is a series of regularly published survey reports based on data collected from national samples of small-business employers. Eight reports are produced annually with the initial volume published in 2001. The *Poll* is designed to address small-business-oriented topics about which little is known but interest is high. Each survey report treats different subject matter.

The survey reports in this series generally contain three sections. The first section is a brief Executive Summary outlining a small number of themes or salient points from the survey. The second is a longer, generally descriptive, exposition of results. This section is not intended to be a thorough analysis of the data collected nor to explore a group of formal hypotheses. Rather, it is intended to textually describe that which appears subsequently in tabular form. The third section consists of a single series of tables. The tables display each question posed in the survey broken-out by employee size of firm.

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NFIB National
Small Business
Poll



The Use of Lawyers

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National Small Business Poll



The Use of Lawyers

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Executive Summary

- Despite frequent policy disputes with parts of the legal profession, 69 percent of small-business owners say that they have trust and confidence in lawyers and the legal profession compared to 31 percent who do not.
- Most small-business owners use lawyers in a given year. Sixty-five (65) percent of small employers (defined as employing 5 to 250 people) sought advice or other assistance from a lawyer in the last year. The figure for those seeking legal help rises to 78 percent when the reference period is the last three years.
- Median legal expenses, of those who incurred them in the last year, were between \$4,000 and \$5,000. However, 10 percent (6-7 percent of the population) incurred expenses of \$25,000 or more. Legal costs in the last year appear to be atypically high.
- Seventy-eight (78) percent claim to have an on-going relationship with a lawyer or law firm. Those relationships appear reasonably stable over time. Just 13 percent changed their primary lawyer/law firm in the last three years. The most frequently cited reason for changing is the need for expertise followed by a lack of legal competence.
- Fifty-five (55) percent of those who consulted a lawyer in the last year asked him/her to prepare one or more legal documents. The most frequent documents prepared include a letter(s), contract(s), and papers surrounding the filing of, or response to, an actual or potential law suit.
- Forty-one (41) percent of those seeking a lawyer's help or over one in four in the population were involved in at least one legal dispute during the last three years. The median number of disputes involved in was between one and two.
- Overwhelmingly, most disputes are resolved informally out-of-court. A less frequent, but common method of out-of-court settlement is more formal arbitration/mediation. Only 12 percent of legal disputes between small-business owners and other parties are resolved in court, the least frequent method of dispute resolution.
- A substantial portion of legal disputes appear to have modest stakes. The most frequent topics are debtor/creditor relations and/or debt collection (21%), and contracts (19%). The most frequent party to these disputes are customers (47%) followed by suppliers (25%). The median total legal cost to settle a dispute is about \$5,000. Two-thirds of resolved disputes result in no money or anything of monetary value exchanging hands.
- Legal disputes often require considerable time to resolve. The median time between engagement of a lawyer to handle a dispute and its resolution is four to five months. However, 30 percent took more than one year to settle while 16 percent took more than two years.
- Twice as many small-business owners are satisfied with the resolution of a legal dispute as are dissatisfied suggesting that small-business owners are on balance pleased with the performances of their lawyers.

The Use of Lawyers

Small-business owners use lawyers to perform a variety of tasks on their behalf. The execution of these tasks is often expensive and frequently considered by owners to be a dead-weight loss for the firm. However, the legal system, particularly in its capacity to protect property rights, is critical to small businesses in a market economy. That significance makes people knowledgeable of the legal system's rules and procedures, that is to say, lawyers, essential to its functioning regardless of occasional abuses, perceived and actual. Many small-business owners complain that lawyers govern every aspect of business these days. While exaggerated, there is little doubt that legal considerations once thought remote can now be central to business decisions. As a result, this issue of the *National Small Business Poll* focuses on the small business use of lawyers.

The legal profession has generated considerable negative publicity for itself over the past several years, at least from the small-business owner perspective, due to the numerous and seemingly frivolous law suits filed. Yet, a healthy majority of small-business owners (including legal practices, most of which are small) respect the profession. Twenty-eight (28) percent have a great deal of trust and confidence in lawyers and the legal profession while another 41 percent have some (Q#1). A non-trivial number disagree, however. Nineteen (19) percent have only a little trust and confidence in lawyers and the legal profession while 12 percent have none at all. It is difficult to assess these results. Since we lack a benchmark against which to measure current small-business owner views of lawyers, it is not clear whether these numbers are favorable or unfavorable, improving, or digressing. However, 69 percent are favorably disposed compared to 31 percent who are not.

Seeking Legal Help

Whatever the degree of confidence and trust in lawyers, 65 percent sought legal advice from or consulted with a lawyer in the last

year (Q#2). Owners of the largest small firms, that is to say, those employing 20 to 250 people, were 17 percentage points more likely to do so than owners of the smallest, that is to say, those employing 5 to 9 people. Moreover, 35 percent of those who did not use a lawyer in the last year used one in the last three years (Q#2c). That means about 78 percent of all small employers have sought legal advice/help within the last three years. Only a modest positive relationship exists between those who have recently engaged lawyers and trust and confidence in them.

The median number of consultations in the last year was between three and four (Q#2a). Owners of the smallest businesses consulted with a lawyer between two and three times (median) compared to owners of the largest who consulted them between five and six times (median). However, 14 percent consulted with their lawyer 11 or more times, suggesting the presence of important on-going legal issues.

The median amount of legal costs including filing fees and other associated costs incurred in the last 12 months among those who used a lawyer was between \$4,000 and \$5,000 (Q#2b). The median fig-

ure conceals large differences, however. Seventeen (17) percent incurred expenses of less than \$1,000 compared to 10 percent who incurred expenses of \$25,000 or more. The 12-month period in which these costs were incurred appears to be atypically high. While 66 percent report their legal expenses about normal for the year, 26 percent report them unusually high (Q#2b1). Four percent say that they are unusually low.

On-Going Relationships

Seventy-eight (78) percent of small employers (employing between 5 and 250 people) maintain an on-going relationship with a lawyer or law firm, to the point where the firm/individual can be referred to as “my lawyer” (Q#3). In 58 percent of cases, “my lawyer” is a firm; in 40 percent of cases, it is an individual who may or may not be associated with a multi-lawyer practice (Q#3a). There are again substantial differences by employee-size of firm. Owners of largest small businesses are 10 percentage points more likely to have “my lawyer” than are owners of the smallest ones. Of those who have “my lawyer,” owners of the largest are 17 percentage points more likely to have a firm (68%) rather than an individual than are owners of the smallest (51%).

Relationships between small employers and their lawyers appear quite stable over time. Just 13 percent have changed their principal lawyer/law firm in the last three years (Q#3b). The most frequently cited reason for change was the need for expertise (33%) (Q#3b1). The perceived lack of legal competence (21%) was the second most frequently cited reason followed by attorney died/moved away/retired (12%) and availability when needed (12%). Other reasons were mentioned infrequently. The distribution of reasons for switching should be viewed with caution, however. The question had just 75 respondents which creates a large margin for error. Still, the primary reason for change appears to focus on legal capacity rather than associated issues such as price, availability or style.

Types of Legal Documents Required

While lawyers often represent small-business owners in disputes (addressed later in text), much of the work they do for small-

business owners is more routine. Providing advice and preparing documents are just two examples. Fifty-five (55) percent of those who have contacted a lawyer in the last 12 months indicate that he prepared a legal document other than a tax return for them in that time frame (Q#6). Only a non-mutually exclusive 2 percent had their lawyer prepare their last tax return (Q#5). (Ninety-one (91) percent say the return was prepared by an accountant and 6 percent by someone else.) Completing and filing tax returns are clearly not an important function for most lawyers who deal with small-business matters.

The most common type of action taken by a lawyer on behalf of a small-business owner/client is a simple letter. Seventy (70) percent of those who had a legal document prepared for them in the last year asked a lawyer to prepare (and presumably send) a letter (Q#6aF). That means about one in four small employers (25%) had a lawyer write at least one letter for him/her. The purpose of the lawyer’s involvement in this act of notification is to imply or explicitly state that legal action may (will) be forthcoming should the recipient not respond favorably. Hence, the frequency of the task.

The second most frequent type of document prepared is a contract. Fifty-eight (58) percent of those having a document prepared by a lawyer requested that one or more contracts be prepared (Q#6aA). That figure represents about one in five (21%) small employers.

Documents surrounding potential or actual law suits were prepared in 44 percent of instances where small-business owners sought to have legal documents prepared (Q#6aE). These documents could have been prepared either to file or potentially file suit, or to respond to a suit or a potential suit. Over 15 percent of the population had such documents prepared in the last year. As will be shown subsequently, about 27 percent over the last three years, or 9 percent a year, were involved in legal disputes. About 40 percent of those who request such documents, therefore, apparently avoid legal disputes for which the documents are presumably prepared.

Small-business owners often form a second or a third business while operating the original. They will also incorporate a

segment of an operating business to separate the liability of one portion from that of another. An example is a construction firm whose owner may incorporate different projects. Thus, 38 percent of those seeking a legal document prepared over the last year or less than 15 percent of the population wanted one or more incorporation documents prepared (Q#6aB).

Other legal documents are less frequently requested. Twenty-five (25) percent or just fewer than 10 percent of the population wanted a will or other estate planning document in the last year (Q#6aC). Seventeen (17) percent or about 6 percent of the population wanted paperwork prepared for an administrative hearing of some type, for example, a zoning change (Q#6aD). Less frequent were needs for a written employment policy (15%) (Q#6aH) or a written consumer credit policy (4%) (Q#6aG).

Lawyers in Disputes

One of the most important functions of lawyers is to assist and support their clients in disputes. The survey did not define “legal dispute,” but allowed the interviewer to tell an inquiring respondent that a dispute means potential law suits, threats of suits or actual suits. Forty-one (41) percent of small-business owners report that they engaged a lawyer to assist them in a legal dispute within the last three years (Q#7). That number represents about 27 percent of all small businesses employing 5 to 250 people. The median number of different business disputes handled in the last three years was between one and two (Q#7a). However, 10 percent of the 41 percent report being involved in six or more. Since these are different business disputes, the 10 percent did not simply involve a single dispute with six or more parties.

Those who were involved in at least one dispute in the last three years were asked several specific points about the dispute most recently resolved. The following focuses on that one resolved dispute.

Disputes create uncertainty for business owners and generate legal expenses. Both create problems for small-business owners. Moreover, resolving disputes takes time which simply draws out uncertainty and cost. The median time it took to resolve

the most recently settled dispute for small-business owners was between four and five months (Q#8). However, 30 percent of those disputes lasted more than one year; 16 percent lasted two years or more. Lengthy disposition of disputes can be a serious issue. If a lengthy disposition is associated with large financial consequences, and the larger the consequences the more likely the dispute will take more time to resolve, the more difficult it is for a business owner to make major decisions, such as on investment and growth. The result can cause delay or even abandonment of business plans with subsequent negative consequences not related to the issues of the dispute.

Most disputes are settled informally out-of-court. Fifty-three (53) percent of the most recently resolved disputes reached an agreement in this manner (Q#8a). However, if out-of-court is broadened to include more formal arbitration/mediation, the total being settled out-of-court is 75 percent (22% arbitration/mediation) of disputes. In addition, 14 percent who had one recently resolved were uncertain whether their dispute was settled informally out-of-court, through arbitration/mediation, or in-court. It is likely that those who went to court would have remembered, perhaps less so if they had been involved in arbitration/mediation. The “don’t knows” are, therefore, likely to have been out-of-court resolutions of one variety of another. That leaves just 12 percent settled in-court.

Insurance considerations are alleged to often play a role in keeping cases out-of-court. The rationale from the insurance company is that quick settlement is typically cheaper than trial. However, just 14 percent who resolved their dispute out-of-court or through arbitration/mediation say that insurance (or an insurance company) caused them to pursue the settlement route taken (Q#8a1). While insurance may have pushed some small-business owners not to pursue an in-court settlement and had those recommendations rejected, insurance plays a mediating role in a limited number of disputes involving small-business owners.

The topic of these disputes varies. While a modest number of topics define most of them, potential overlap often makes it difficult to categorize a dispute. Twenty-one (21) percent of the most recently set-

tled disputes involved debtor/creditor relations and/or debt collection (Q#8b). The next most frequent topic was contracts (19%). Contracts was followed by liability (14%), employment (10%), real estate (10%) and accident/injury/Workers' Compensation (5%). Accident or injury could easily have fallen under the liability or employment rubric and Workers' Compensation under employment. Similarly, debtor/creditor relations could involve contracts. Despite the possible duplication, the data offer a reasonably clear portrayal of the disputes in which small-business owners are engaged.

Disputes most frequently involve customers. Forty-seven (47) percent of the most recently resolved disputes involved at least one of them (Q#8cA). Suppliers were the second most frequent party involved. They were concerned in one of four (25%) instances (Q#8cB). The third group most often participating were employees (17%) (Q#8cC). Competitors followed employees in frequency, but competitors were cited as a party only 8 percent of the time (Q#8cE). The least frequent was government at 7 percent (Q#8cD). Two points are worth noting in this regard. The percentages total more than 100 percent because more than one type of party listed could be involved in a particular dispute with a small-business owner. For example, both employees and customers could have been involved in an incident and decided to sue. In addition, there are potential parties that did not appear on the questionnaire. One respondent mentioned that he had had a dispute with a neighbor.

Hiring lawyers to help resolve disputes costs money, at least initially. The median estimated unreimbursed legal expense for the most recent settled dispute from the time an attorney was first contacted to the dispute's ultimate resolution was about \$5,000 (Q#8d). However, the dispute cost 11 percent of involved owners more than \$25,000 in legal expenses, a significant sum for most small businesses. Twenty-seven (27) percent could not/would not provide an estimate. The likely reason is that the costs of the dispute are tied in with other legal costs and/or disputes often occur in more than one fiscal year leaving costs spread over more than one budget. It is also possible that legal

costs were minimal and therefore did not come to the owner's attention.

The most common method of payment to lawyers in these disputes is an hourly fee. Sixty-one (61) percent of the time small-business owners paid their lawyers by the hour (Q#8e). Other forms of payment were employed much less frequently. The second most often used form was a flat fee (17%) followed by a retainer (5%) and a contingency fee (5%). Twelve (12) percent did not answer adding further evidence to the proposition that many disputes about which we do not have data (no answers) are relatively minor.

Two-thirds (67%) of disputes in which small-business owners procured legal help resulted in no money or anything else of monetary value exchanging hands among disputants (Q#8f). In 31 percent of cases, it did. Most disputes, therefore, are settled with the primary costs to the parties being legal expenses.

Twice as many are satisfied with the outcome of the dispute as are not satisfied. Sixty-one (61) percent of disputants report that they were satisfied (25% very satisfied) with 31 percent dissatisfied (15% very dissatisfied) (Q#8g). Ten (10) percent did not express an opinion. The survey did not attempt to elicit an assessment of who won and who lost. The reason is that not only is it often difficult to determine a winner, but disputes do not always have winners and losers; both parties can feel good or bad about an outcome. The substantially greater number who expressed satisfaction with the resolution reflects a "multiple parties as winner" experience. The survey also did not elicit who was the plaintiff and who was the defendant in the dispute. However, the positive relationship between satisfaction with the outcome and no value exchanging hands suggests that small-business owners were more often than not defendants.

Final Comments

Lawyers continue to play a prominent role as advisors and service providers to small-business owners. Nearly two of three of owners have consulted a lawyer in the last year and over three of four in the last three years. With notable dissent, small-business owners say that lawyers and the legal profession enjoy their confidence and trust.

Undoubtedly, that confidence and trust is continually reenforced by numerous, routine interactions between lawyers and their small-business owner/clients. Most of these involve consultation and the preparation of legal documents, such as letters and contracts.

People focus on the lawyer's role as an advocate for his/her small-business owner/clients in a legal dispute. Advocacy is clearly an important function. However, about one in 10 small employers a year become embroiled in a dispute that requires the services of a lawyer. The overwhelming majority of these disputes are resolved out-of-court, involve modest legal expense, and require no exchange of money or value between parties. While resolution of these disputes requires competent legal services, they are not the high profile cases that the public has come to expect. Nor are they necessarily time-consuming nor expensive to resolve. Still, there are obvious instances involving perhaps an additional 2 percent to 3 percent of small employers each year where the time and expense required to resolve a dispute can paralyze owner decisions for extended periods and possibly result in substantial financial loss. But, the fact that about one-third of these disputes do result in some exchange of value suggests that costs often extend beyond associated legal expenses. It is this minority of disputes that small-business owners fear and stimulate them to take defensive measures, defensive measures which may or may not be necessary and which may or may not be economically beneficial.

The data presented here merely outline the relationship between small-business owners, lawyers and the legal system. More detailed information would be helpful for a series of practical reasons. Still, lawyers are an increasingly critical service provider to small-business owners and even modest amounts of information can help distinguish between television portrayals and reality.

The Use of Lawyers

(Please review notes at the table's end.)

	Employee Size of Firm			
	5-9 emp	10-19 emp	20-249 emp	All Firms
1. How much trust and confidence do you have in lawyers and the legal profession?				
1. A great deal	27.5%	23.4%	33.7%	28.0%
2. Some	41.4	46.9	34.7	41.2
3. A little	17.4	19.1	20.4	18.7
4. None at all	13.3	10.5	9.7	11.6
5. (DK/Refuse)	0.3	—	1.5	0.5
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752
2. In the last year, did you seek legal advice or consult with a lawyer about any matter involving your business?				
1. Yes	60.0%	67.6%	76.9%	66.5%
2. No	39.7	32.4	22.1	33.1
3. (DK/Refuse)	0.3	—	1.0	0.4
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752
2a. About how many times? (If “Yes” in Q#2.)				
1. One	19.3%	24.1%	13.3%	18.9%
2. Two	29.5	25.5	12.0	23.1
3. Three	13.5	13.5	10.7	12.7
4. 4 - 5	12.6	16.3	20.7	16.1
5. 6 - 10	12.1	7.8	20.7	13.5
6. 11 or more	11.1	12.1	19.3	13.9
7. (DK/Refuse)	1.9	0.7	3.3	2.0
Total	100.0%	100.0%	100.0%	100.0%
N	204	134	156	494
2b. In the last year, how much did your business pay for legal expenses, including filing fees and associated costs? (If “Yes” in Q#2.)				
1. < \$1,000	20.4%	19.7%	8.0%	16.5%
2. \$1,000-\$2,499	23.8	20.4	18.0	21.1
3. \$2,500-\$4,999	11.7	6.3	8.7	9.2
4. \$5,000-\$9,999	17.0	14.1	17.3	16.3
5. \$10,000-\$24,999	6.8	9.9	18.0	11.0
6. \$25,000 or more	4.4	7.7	18.7	9.6
7. (DK/Refused)	16.0	21.8	11.3	16.3
Total	100.0%	100.0%	100.0%	100.0%
N	204	134	156	494

2b1. Were those expenses unusually high, unusually low or about normal for a typical year?

1. Unusually high	22.3%	26.1%	31.8%	26.3%
2. Unusually low	4.4	4.2	4.0	4.2
3. About normal	70.4	66.2	60.9	66.3
4. (DK/Refused)	2.9	3.5	3.3	3.2
Total	100.0%	100.0%	100.0%	100.0%
N	204	134	156	494

2c. Have you used a lawyer in the last three years? (If “No” in Q#2.)

1. Yes	32.4%	38.2%	—%	35.3%
2. No	66.2	61.8	—	63.5
3. (DK/Refuse)	1.4	—	—	1.2
Total	100.0%	100.0%	100.0%	100.0%
N	144	67	47	258

3. Do you have an ongoing relationship with a law firm or individual lawyer such that you consider the firm or individual to be “your lawyer?”

1. Yes	73.3%	80.9%	83.7%	78.1%
2. No	26.4	18.2	15.8	21.3
3. (DK/Refuse)	0.3	1.0	0.5	0.6
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

3a. Is your lawyer a firm or an individual? (If “Yes” in Q#3.)

1. Firm	51.4%	57.4%	68.1%	57.8%
2. Individual	46.6	39.6	30.1	40.0
3. (DK/Refuse)	2.0	3.0	1.8	2.2
Total	100.0%	100.0%	100.0%	100.0%
N	252	167	170	583

3b. Have you changed the principal lawyer or law firm that you do business with in the last three years?

1. Yes	11.9%	13.0%	14.0%	12.8%
2. No	88.1	87.0	86.0	87.2
3. (DK/Refuse)	—	—	—	—
Total	100.0%	100.0%	100.0%	100.0%
N	252	161	170	583

Employee Size of Firm
 5-9 emp 10-19 emp 20-249 emp All Firms

3b1. What was the most important reason you changed? (If “Yes” in Q#3b.)

1. Legal competence	—%	—%	—%	20.5%
2. Cost	—	—	—	6.4
3. Availability when needed	—	—	—	11.5
4. Legal approach	—	—	—	6.4
5. Needed greater expertise in an area	—	—	—	33.3
6. Attorney died, moved away, retired	—	—	—	9.0
7. (Other)	—	—	—	11.6
8. (DK/Refuse)	—	—	—	1.3
Total	100.0%	100.0%	100.0%	100.0%
N	30	21	24	75

4. Think of the most recent instance you consulted a lawyer. Was the general topic of the consultation:?

1. Employment	5.1%	10.7%	12.4%	8.8%
2. Liability	9.8	11.3	11.8	10.8
3. Contracts	20.9	22.0	18.8	20.6
4. Debtor/creditor or collections	15.7	16.7	14.1	15.5
5. Taxes	6.7	3.0	4.7	5.1
6. Real estate	14.6	11.9	14.1	13.7
7. Corporate/business filings	4.7	8.9	3.5	5.6
8. Probate/Estate Planning	1.2	2.4	2.9	2.0
9. M&A, buyouts	1.6	1.2	1.8	1.5
10. Copyright, trademarks	2.0	0.6	2.4	1.7
11. (Other)	12.5	7.1	8.2	9.8
12. (DK/Refuse)	5.2	4.2	5.3	4.9
Total	100.0%	100.0%	100.0%	100.0%
N	250	159	175	584

5. Who prepared your business’s most recent tax return? Was it an accountant, a lawyer, or someone else?

1. Accountant	91.3%	91.0%	92.9%	91.7%
2. Lawyer	2.0	1.8	1.8	1.9
3. Someone else	6.0	6.0	4.7	5.6
4. (DK/Refuse)	0.8	1.2	0.6	0.8
Total	100.0%	100.0%	100.0%	100.0%
N	250	159	175	584

6. In the last year, did a lawyer prepare any legal documents, other than a tax return for your business?

1. Yes	48.0%	50.0%	70.2%	54.9%
2. No	49.6	49.4	29.2	43.7
3. (DK/Refuse)	2.4	0.6	0.6	1.3
Total	100.0%	100.0%	100.0%	100.0%
N	250	159	175	584

6a. Did a lawyer prepare the following at least once in the last year? (If “Yes” in Q#6.)

A. A contract

1. Yes	54.5%	54.2%	62.7%	57.5%
2. No	44.6	45.8	36.4	41.9
3. (DK/Refuse)	0.8	—	0.8	0.6
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

B. An incorporation document

1. Yes	38.3%	42.9%	34.7%	38.2%
2. No	60.8	56.0	63.6	60.6
3. (DK/Refuse)	0.8	1.2	1.6	1.2
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

C. Will or estate planning document

1. Yes	25.6%	20.2%	28.8%	25.4%
2. No	73.6	79.8	70.3	74.0
3. (DK/Refuse)	0.8	—	0.8	0.6
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

D. Paperwork for an administrative hearing

1. Yes	13.3%	14.3%	22.9%	17.1%
2. No	85.0	83.3	75.4	81.1
3. (DK/Refuse)	1.7	2.4	1.7	1.9
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

	Employee Size of Firm			
	5-9 emp	10-19 emp	20-249 emp	All Firms

E. Filed a suit or responded to a suit or potential suit

1. Yes	43.8%	31.0%	53.4%	44.0%
2. No	55.4	66.7	45.8	54.8
3. (DK/Refuse)	0.8	2.4	0.8	1.2
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

F. A letter

1. Yes	64.5%	71.4%	73.7%	69.7%
2. No	34.7	28.6	26.3	30.0
3. (DK/Refuse)	0.8	—	—	0.3
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

G. A written consumer credit policy

1. Yes	5.8%	2.4%	2.5%	3.7%
2. No	94.2	96.4	96.6	95.7
3. (DK/Refuse)	—	1.2	0.8	0.6
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

H. A written employment policy

1. Yes	9.9%	14.3%	21.2%	15.2%
2. No	90.1	84.5	78.8	84.5
3. (DK/Refuse)	—	1.2	—	0.3
Total	100.0%	100.0%	100.0%	100.0%
N	120	78	123	321

7. In the last three years, have you used a lawyer to assist you in a legal dispute involving your business?

1. Yes	38.1%	34.1%	53.6%	41.4%
2. No	61.1	65.3	45.2	57.8
3. (DK/Refuse)	0.8	0.6	1.2	0.8
Total	100.0%	100.0%	100.0%	100.0%
N	250	159	175	584

7a. About how many different business disputes occurred over the last three years for which you used a lawyer? (If “Yes” in Q#7.)

1. One	51.0%	52.6%	33.3%	44.9%
2. Two	22.9	22.8	23.3	23.0
3. Three	11.5	14.0	12.2	12.3
4. 4 - 5	5.2	7.0	10.0	7.4
5. 6 or more	8.3	1.8	17.8	10.3
6. (DK/Refused)	1.0	1.8	3.3	2.0
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8. Think of the dispute that was most recently RESOLVED one way or another. How long was it between the time you contacted a lawyer about the matter and its settlement?

1. < 4 weeks	7.3%	12.3%	6.7%	8.2%
2. 4 - <12 weeks	18.8	12.3	12.2	14.8
3. 12 - < 26 weeks	29.2	33.3	22.2	27.6
4. 26 - < 52 weeks	5.2	10.5	11.1	8.6
5. 1 year - < 2 years	10.4	14.0	17.8	14.0
6. 2 years or more	18.8	8.8	17.8	16.0
7. (DK/Refuse)	10.4	8.8	12.2	10.7
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8a. Was the matter settled in-court, informally out-of-court, or through formal arbitration or mediation of some type?

1. In-court	9.5%	15.8%	11.1%	11.6%
2. Out-of-court	57.9	54.4	45.6	52.5
3. Arbitration/Mediation	17.9	19.3	26.7	21.5
4. (DK/Refused)	14.8	10.5	16.3	14.4
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8a1. Did insurance or an insurance company play an important role in the decision to pursue an out-of-court settlement/arbitrated or mediated settlement? (If “Out-of-court” or “Arbitration/Mediation” in Q#8a.)

1. Yes	9.6%	—%	15.4%	14.0%
2. No	90.4	—	84.6	86.0
3. (DK/Refuse)	—	—	—	—
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	72	38	68	178

	Employee Size of Firm			
	5-9 emp	10-19 emp	20-249 emp	All Firms

8b. What was the general topic of the dispute?

1. Employment	7.4%	10.5%	13.2%	10.3%
2. Liability	9.5	21.1	13.2	13.6
3. Contracts	25.3	10.5	17.6	18.9
4. Debtor/creditor or collections	20.0	17.5	25.3	21.4
5. Real estate	14.7	8.8	4.4	9.5
6. Taxes	—	—	3.3	1.2
7. Accident/injury/ Workers' Comp.	4.2	5.6	4.3	4.6
8. Copyrights/Trademarks	2.1	—	2.1	1.6
9. Corporate filings	2.1	3.7	2.1	2.5
10. (Other)	11.4	14.9	10.2	11.9
11. (DK/Refuse)	3.3	7.4	4.3	4.5
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8c. Who was the other party or parties in the dispute? Was it:?

A. Customer(s)

1. Yes	45.3%	49.1%	47.8%	47.1%
2. No	52.6	49.1	50.0	50.8
3. (DK/Refuse)	2.1	1.8	2.2	2.1
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

B. Supplier(s)

1. Yes	12.5%	8.6%	11.1%	25.4%
2. No	85.4	89.7	87.8	74.0
3. (DK/Refuse)	2.1	1.7	1.1	0.6
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

C. Employee(s)

1. Yes	12.5%	17.5%	21.1%	16.9%
2. No	84.4	80.7	77.8	81.1
3. (DK/Refuse)	3.1	1.8	1.1	2.0
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

D. Government

1. Yes	6.3%	8.8%	5.6%	6.6%
2. No	91.6	89.5	93.3	91.7
3. (DK/Refuse)	2.1	1.8	1.1	1.7
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

E. Competitor(s)

1. Yes	11.5%	10.5%	3.3%	8.2%
2. No	86.5	87.7	95.6	90.1
3. (DK/Refuse)	2.1	1.8	1.1	1.6
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8d. Please estimate the unreimbursed legal expenses for the dispute between the time you first contacted a lawyer about it and its eventual settlement?

1. < \$1,000	14.9%	19.3%	6.6%	12.8%
2. \$1,000-\$2,499	17.0	10.5	11.0	13.2
3. \$2,500-\$4,999	7.4	14.0	7.7	9.1
4. \$5,000-\$9,999	10.6	12.3	13.2	12.0
5. \$10,000-\$24,999	13.8	8.8	19.8	14.9
6. \$25,000 or more	7.4	8.8	16.5	11.2
7. (DK/Refused)	28.7	26.3	25.3	26.9
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8e. Was your lawyer paid with an hourly fee, a retainer, a flat fee, or a contingency fee?

1. Hourly	55.2%	54.4%	70.3%	60.7%
2. Retainer	7.3	3.5	4.4	5.3
3. Flat	19.8	26.3	8.8	17.2
4. Contingency	8.3	—	4.4	4.9
5. (DK/Refused)	9.4	15.8	12.1	11.8
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

	Employee Size of Firm			
	5-9 emp	10-19 emp	20-249 emp	All Firms

8f. Aside from legal expenses, did money or something else of monetary value exchange hands between participants as a result of the dispute?

1. Yes	30.5%	27.6%	32.2%	30.5%
2. No	67.4	69.0	64.4	66.7
3. (DK/Refuse)	2.2	3.4	3.3	2.8
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

8g. How satisfied were you with the dispute's outcome? Were you:?

1. Very satisfied	21.1%	33.3%	23.3%	24.8%
2. Satisfied	41.1	29.8	34.4	36.0
3. Somewhat dissatisfied	14.7	10.5	18.9	15.3
4. Very dissatisfied	11.6	19.3	14.4	14.5
5. (DK/Refused)	11.6	7.1	8.9	9.5
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	95	54	94	243

Demographics

D1. Which best describes your position in the business?

1. Owner/manager	82.1%	83.7%	80.1%	82.0%
2. Owner but NOT manager	4.9	3.8	7.7	5.3
3. Manager but NOT owner	13.0	12.4	12.2	12.6
4. (DK/Refuse)	—	—	—	—
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D2. Is your primary business activity: (NAICs code)

1. Agriculture, forestry, fishing	2.0%	1.4%	0.5%	1.5%
2. Construction	7.5	9.0	11.2	8.9
3. Manufacturing, mining	11.3	6.7	10.7	9.9
4. Wholesale trade	6.7	7.6	4.1	6.3
5. Retail trade	18.8	19.0	13.7	17.6
6. Transportation and warehousing	3.2	3.3	6.1	4.0
7. Information	0.9	0.5	1.5	0.9
8. Finance and insurance	3.2	5.2	1.0	3.2
9. Real estate and rental leasing	5.5	2.9	2.5	4.0
10. Professional/scientific/ technical services	10.4	12.9	11.7	11.4
11. Adm. support/waste management services	2.3	5.7	3.0	3.5
12. Educational services	0.9	1.0	2.0	1.2
13. Health care and social assistance	4.3	5.7	8.1	5.7
14. Arts, entertainment, or recreation	2.6	1.9	3.0	2.5
15. Accommodations or food service	7.5	8.1	12.7	9.0
16. Other service, incl. repair, personal care	11.6	8.6	5.6	9.2
17. (Other)	0.6	0.5	1.0	0.6
18. (DK/Refuse)	0.6	—	1.0	0.5
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

	Employee Size of Firm			
	5-9 emp	10-19 emp	20-249 emp	All Firms

D3. Over the last two years, have your real volume sales?:

1. Increased by 30 percent or more	17.1%	16.7%	19.5%	17.6%
2. Increased by 20 to 29 percent	13.0	11.0	8.7	11.3
3. Increased by 10 to 19 percent	28.9	27.6	31.8	29.3
4. Changed less than 10 percent one way or the other	24.0	25.7	25.1	24.8
5. Decreased by 10 percent or more	13.6	15.7	8.7	12.9
6. (DK/Refuse)	3.5	3.3	6.2	4.1
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D4. Is this business operated primarily from the home, including any associated structures such as a garage or a barn?

1. Yes	11.0%	9.1%	5.6%	9.1%
2. No	87.9	90.9	93.3	90.1
3. (DK/Refuse)	1.1	—	1.0	0.8
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D5. How long have you owned or operated this business?

1. < 6 years	24.9%	22.5%	19.4%	22.8%
2. 6-10 years	22.0	17.2	21.9	20.7
3. 11-20 years	22.9	25.4	29.1	25.2
4. 21-30 years	18.6	19.1	19.9	19.1
5. 31 years+	10.7	15.8	8.2	11.5
6. (DK/Refuse)	0.9	—	1.5	0.8
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D6. What is your highest level of formal education?

1. Did not complete high school	2.9%	2.4%	0.5%	2.1%
2. High school diploma/GED	17.6	19.0	17.9	18.1
3. Some college or an associates degree	27.2	24.8	21.4	25.0
4. Vocational or technical school degree	4.0	1.4	1.5	2.7
5. College diploma	31.2	37.6	37.8	34.7
6. Advanced or professional degree	15.9	14.8	19.9	16.6
7. (DK/Refuse)	1.2	—	1.0	0.8
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D7. Please tell me your age.

1. <25	0.3%	—%	0.5%	0.3%
2. 25-34	8.1	11.0	8.7	9.1
3. 35-44	22.3	18.7	16.9	19.9
4. 45-54	34.7	36.8	32.8	34.8
5. 55-64	22.8	21.5	27.7	23.7
6. 65+	9.5	11.5	9.7	10.1
7. (DK/Refuse)	2.3	0.5	3.6	2.1
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D8. What is the zip code of your business?

1. East (zips 010-219)	13.0%	12.3%	15.8%	13.5%
2. South (zips 220-427)	19.4	17.5	21.4	19.4
3. Mid-West (zips 430-567, 600-658)	27.2	25.6	26.5	26.6
4. Central (zips 570-599, 660-898)	25.4	24.6	20.4	23.9
5. West (zips 900-999)	13.6	18.0	14.3	15.0
6. (DK/Refuse)	1.4	1.9	1.5	1.6
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

Employee Size of Firm
5-9 emp 10-19 emp 20-249 emp All Firms

D9. Urbanization (Derived from zip code.)

1. Highly Urban	11.5%	12.4%	11.3%	11.7%
2. Urban	16.7	21.4	16.3	17.8
3. Fringe Urban	19.3	22.4	22.7	21.0
4. Small Cities/Towns	20.1	17.9	22.2	20.1
5. Rural	26.7	20.9	21.7	23.8
6. (DK/Refuse)	5.7	5.0	5.9	5.6
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

D10. Sex

Male	77.2%	77.0%	76.9%	77.1%
Female	22.8	23.0	23.1	22.9
<hr/>				
Total	100.0%	100.0%	100.0%	100.0%
N	348	201	203	752

Table Notes

1. All percentages appearing are based on **weighted** data.
2. All “Ns” appearing are based on **unweighted** data.
3. Data are not presented where there are fewer than 50 unweighted cases.
4. ()s around an answer indicate a volunteered response.

WARNING – When reviewing the table, care should be taken to distinguish between the percentage of the population and the percentage of those asked a particular question. Not every respondent was asked every question. All percentages appearing on the table use the number asked the question as the denominator.

Data Collection Methods

The data for this survey report were collected for the NFIB Research Foundation by the executive interviewing group of The Gallup Organization. The interviews for this edition of the *Poll* were conducted between May 3 - June 27, 2005 from a sample of small employers. “Small employer” was defined for purposes of this survey as a business owner employing no fewer than one individual in addition to the owner(s) and no more than 249.

The sampling frame used for the survey was drawn at the Foundation’s direction from the files of the Dun & Bradstreet Corporation, an imperfect file but the best currently available for public use. A random stratified sample design is typically employed to compensate for the highly skewed distribution of small-business owners by employee size of firm (Table A1). Almost 60 percent of employers in the United States employ

just one to four people meaning that a random sample would yield comparatively few larger small employers to interview. Since size within the small-business population is often an important differentiating variable, it is important that an adequate number of interviews be conducted among those employing more than 10 people. The interview quotas established to achieve these added interviews from larger, small-business owners are arbitrary but adequate to allow independent examination of the 10-19 and 20-249 employee size classes as well as the 1-9 employee size group.

For this particular issue of the *Poll*, the 1-4 employee size class was excluded. A random sample might, therefore, have been employed. The decision was made to continue using the stratified random sampling method and a weighting scheme to be consistent.

Table A1

Sample Composition Under Varying Scenarios

Employee Size of Firm	Expected from Random Sample*		Obtained from Stratified Random Sample			
	Interviews Expected	Percent Distribution	Interview Quotas	Percent Distribution	Completed Interviews	Percent Distribution
5-9	345	46	350	47	348	46
10-19	210	28	200	27	201	27
20-249	195	26	200	27	203	27
All Firms	750	100	750	101	752	100

* Sample universe developed from the Bureau of the Census (2002 data) and published by the Office of Advocacy at the Small Business Administration.

The Sponsor

The **NFIB Research Foundation** is a small-business-oriented research and information organization affiliated with the National Federation of Independent Business, the nation's largest small and independent business advocacy organization. Located in Washington, DC, the Foundation's primary purpose is to explore the policy related problems small-business owners encounter. Its periodic reports include *Small Business Economic Trends*, *Small Business Problems and Priorities*, and now the *National Small Business Poll*. The Foundation also publishes ad hoc reports on issues of concern to small-business owners. Included are analyses of selected proposed regulations using its Regulatory Impact Model (RIM). The Foundation's functions were recently transferred from the NFIB Education Foundation.



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