

# Case Study #1: Killing the Initiative

# 16

## **Your Role**

You are the CEO of the Iowa Bar Association, the statewide professional association of lawyers. You have served as CEO for five years, having grown up professionally within the organization, first as a political operative, then as legislative director, then as COO, and finally as CEO when the board's first choice of CEO abruptly departed.

You are not a lawyer but have just recently completed an Executive MBA. You are highly regarded professionally, have a reputation as brilliant and forceful, are quite young for the responsibility, and are married to the CEO of a medium-sized hospital in Des Moines.

You have a fabulous COO and you two have a well-deserved reputation for working superbly together.

## **The Scenario**

A long-standing, miserable relationship between the state's insurance companies and the state bar association recently went from low simmer to full boil when the insurance companies put an initiative on the state ballot. This new law would lower the

standard of proof for legal malpractice and allow treble punitive damages for legal malpractice.

It is now February. The initiative will be voted on in November.

While ostensibly designed, in the words of the glossy PR campaign, to protect the hapless public from slick lawyers, the ultimate goal of the initiative is widely believed by insiders to be the weakening of the ability of lawyers to sue insurance companies.

The insurance companies have put together a huge war chest, almost five times the currently available amount in your bank account.

Initial polling indicates that voters are highly supportive of reining in, in the words of the already airing TV spots, “those greedy leeches/lawyers.”

### **The Assignment**

In ten days, you will convene a meeting of all the key players at a retreat to map out the plan for defeating the initiative.

You have fenced two hours on your schedule to meet with your COO.

Your goal is to identify the key questions that must be answered at the upcoming retreat.

**State the problem**

---

---

---

---

**List your top 10 questions and the answers that would give you pause:**

Q1: 

---

---

---

Bad answers to Q1:

---

---

---

Q2: 

---

---

---

Bad answers to Q2:

---

---

---

Q3: 

---

---

---

Bad answers to Q3:

---

---

---

**11 QUESTIONS GREAT MANAGERS ASK & ANSWER**

---

Q4: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q4:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q5: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q5:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q6: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q6:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q7: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q7:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q8: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q8:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q9: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q9:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Q10: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Bad answers to Q10:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

### **My problem statement:**

Iowa's lawyers and their clients are in an existential fight at the ballot box in eight months with the state's insurance companies.

If the initiative passes, it will result in a major reduction in the ability of Iowa's citizens to combat rapacious behavior by Iowa's insurance carriers.

### **My ten key questions:**

1. Why is killing this initiative important?
2. Who (plural) speaks for the citizens of Iowa?
3. What do history and best practices tell us about killing an anti-lawyer statewide ballot initiative?
4. Have we done a pre-mortem?
5. Who is going to do what?
6. How will we engage the passions of the hometown lawyers?
7. Can I see the master calendar?
8. How much will it cost?
9. Can I see the budget?
10. What system are we using to track progress?

### **My discussion**

The solution to this problem is in four parts: first, creating a compelling and non-self-serving argument for killing the initiative, then building a coalition, then raising lots of money, and finally running a successful grassroots campaign.

Let's face it, nobody likes lawyers (until you need one). So why would anyone vote *against* something that appears to rein in slimy/greedy lawyers?

The first and most important step is to make sure that there is a compelling argument for Iowa's voters to reject this initiative. And that means making the case that killing the initiative is good for the voters. I would suspect the only group more loathed than lawyers is insurance companies. So as CEO of the bar association, I

want to make this about greedy insurance companies making you (the voter) less able to access insurance in general and health insurance in particular. It's really is about crafting the right message.

But simply standing by yourself shouting your message on the street corner is not enough - you need friends. Influential friends. Many friends. Friends who hate insurance companies more than they hate you. And you don't have to look very hard for these friends. The hospitals have to be convinced that this initiative is not in their interests. The patients' rights advocates need to be brought on board. The farmers who need flood and crop insurance also need to jump on your bandwagon. And so on... The CEO knows he cannot go it alone, so getting as many partners on board is critical to success.

The next major hurdle is money. You might win on the merits, but success is not likely if you cannot get your message out. You need every highly paid attorney to contribute. Every law firm needs to be assessed. The hospitals need to be convinced to contribute. The farm cooperatives need to be major public donors. And so on down the line of parties that could feel the impact of the law. It's not pretty, but no money, no message, and no victory.

Finally, the entire Iowa legal ecosystem needs to be an energized force. Your entire team needs to be fired up. The local bar associations need to be fired up. The local lawyers need to be fired up. Every lawn needs a sign. Every farm needs a huge sign next to the freeway. Every voter needs to be contacted. Every chapter of the Rotary Club in the state needs a presentation. If you have a message, and you have money, then the icing on the cake is your ground game. And that means you need a state-wide plan for local success.