

# Insights from a Panel Discussion on Client Service

By Jack Minnear and Caroline Placey

As outside counsel, we operate under our own assumptions about what it means to partner with and provide first-rate service to clients. But, the best judges are the clients themselves. To help us understand better what partnership and first-rate client service mean to inside counsel, we asked three in-house lawyers to provide us their perspectives at a panel discussion on December 9, 2009. The participants were Jerry Liu (Senior Patent Counsel at ARRIS Group, Inc.), Cheryl Tubach (Chief Intellectual Property Counsel at J.M. Huber Corporation), and Bernard Zidar (Chief Intellectual Property Counsel at McKesson Provider Technologies). Each participant conveyed a unique perspective drawn from his or her own career experiences, but the panelists shared a common view about three characteristics of an effective and reliable outside counsel partnership: good communication, attention to budget, and timeliness.



## Listening and Responding

Good communication is key to any successful business relationship—including the relationship between inside and outside counsel. And, of course, the first key to good communication is listening. Only by listening can outside counsel clearly understand expectations regarding deliverables, deadlines and budgets. As a project progresses, successful outside counsel will initiate conversation to ensure that those expectations are being met and have not changed. This is especially true when the outside lawyer is taking on a project beyond the scope of a previous representation.



While the views of inside counsel vary on a number of subjects, one concern is nearly universal: inside counsel needs to be able to contact outside counsel easily. A clear point of contact for inside counsel should be given. If it is necessary to have multiple points of contact, outside counsel should identify the best contacts for specific issues. Also, outside counsel should make a point of learning the proper contacts at the corporation. In some circumstances, inside counsel may want outside counsel to directly conduct businesspeople at the corporation on issues. In other circumstances, this may be strongly disfavored.

Clients need straightforward advice delivered in a useful format. Outside counsel's advice should be practical and understandable. Effective outside counsel think about issues and risks from the

client's perspective and make clear recommendations by identifying and assessing the risks of different approaches. Clients want to understand the recommendations and the reasons for them without having to draw their own conclusions from overly hedged advice.

In other words, outside lawyers should give their in-house contacts confidence that they are "in it together." However, this does not mean outside lawyers should simply parrot back what they think their clients want to hear. If outside counsel thinks the client is going down the wrong path, most inside counsel want the benefit of the outside counsel's opinion.

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Providing alternative recommendations is particularly helpful. Of course, inside counsel makes the final decision. Outside counsel also should keep in mind that the in-house contacts usually have unique information and a better perspective on corporate goals. Therefore, a decision that may initially seem counterintuitive from the outside may in fact best serve the needs of the client.

## Be Budget Conscious

One of the key metrics by which corporate legal departments are judged by their management is their ability to operate efficiently and within budget. The people to whom in-house lawyers report often are highly focused on the financial bottom line. This requires in-house counsel to spend a significant amount of time forecasting and tracking expenses. Effective outside counsel help the client by keeping an eye on the client's budgetary concerns.

Budget surprises are not good for inside or outside lawyers. It is important for both to be aware of the assumptions that inform the budget for a particular project. If a project is unavoidably going over budget, outside counsel should notify the client as soon as possible. This allows the client to accommodate the overage or refocus outside counsel's priorities.

Time is money, especially in the legal world, and this influences the client's bottom line. Inside lawyers have the best perspective on what initiatives warrant top priority. Inside counsel not only cares about the aggregate amount of a law firm's bills but also that the money is being spent in the right places. Outside counsel should learn how the client prioritizes projects and make sure not to spend excessive time on low priority projects. Good communication can considerably help in this area.

Dealing with law firm bills often consumes a much larger percentage of inside counsel's time than outside lawyers assume. Outside counsel can ease the load of inside counsel by providing invoices that clearly describe the work performed. Outside counsel will benefit as much as the client: clear and detailed invoices usually can be processed more quickly than invoices with vaguely described time entries.

## Communicating by E-mail

It is important for outside lawyers to consider what means of communication is the most appropriate for a particular client and for a particular message. In-house lawyers have different preferences in this regard, and it is important for outside lawyers to learn what works best in a given client relationship.

As most clients have a full e-mail inbox, it is important that outside counsel's e-mails are written to convey information as clearly and efficiently as possible. Outside counsel can help inside counsel prioritize the importance of an e-mail message by clearly stating what is needed and by when in the subject line. An empty subject line or "Re: X Corp. v. Y, Inc." may not be helpful.

E-mail may not be the best way to communicate all information. For example, if outside counsel has a difficult message to deliver to inside counsel, it is often better to pick up the telephone. E-mail can read differently than intended by the writer. Additionally, inside counsel may take the e-mail as a sign that the setback is not that important to the outside lawyer.

## Beat the Clock

Lack of timeliness by outside counsel creates enormous headaches for inside counsel. In-house lawyers often seek advice or work product from outside counsel in response to queries they have received from their own internal clients. By delivering on or ahead of schedule, outside counsel helps inside counsel make good on promises. Outside counsel should never assume that inside counsel will be free to drop other work and turn to a project at the last minute.

While the first goal always should be to deliver reliable advice and work product in a timely fashion, deadlines should never pass without explanation. If a project is running late because the scope of the project turned out to be larger than expected, outside counsel should communicate this to inside counsel as early as possible. Outside counsel's communications about deadlines enables the client to make informed judgments and adjust schedules as necessary.



## Understand the Client

Outside lawyers are fortunate when inside counsel looks at them as an extension of the corporate legal department, and, as outside counsel, we should work to live up to that. Outside counsel acts as an extension of the department by understanding the client's strategic goals and working hand in hand with inside counsel to achieve them. There are numerous opportunities, formal and informal, through which we can make sure we are living up to expectations. The bottom line is that better understanding of the client equals better client service.

In-house lawyers are sophisticated consumers of legal services who retain outside firms that help them meet the needs and expectations of their own internal clients. Delivering effective and reliable advice and work product is a baseline expectation, not the end of the story. By maintaining clear channels of communication and delivering work product in a timely and efficient way, we can provide the level of service our clients expect and deserve.

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