

Creating A Win-Win Relationship With Corporate Counsel

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Building strong relationships between your company's in-house corporate counsel and outside counsel is crucial to developing trust, effective representation, and retention to meet your corporate needs.

The keys to doing so are:

- Understanding what's important to the business client in the relationship
- Setting specific goals for each project
- Developing workable budgets
- Fashioning clear fee arrangements
- Creating a quality work product that relates to goals
- Achieving desired outcomes

These things take effective communication, continual effort and focus.

An ideal relationship between corporate and outside counsel should include outside counsel participation in strategic business planning to help evaluate potential risks, consider the impact of new laws, and offer guidance that can prevent problems in a proactive manner, rather than merely responding to issues once they arise.

At its core, a strong relationship should help your in-house corporate counsel meet their goals, while compensating outside counsel in a reasonable manner.

Fee arrangements are of special interest to both parties. In recent years the traditional hourly billing arrangement has remained prevalent between companies and law firms. New alternative fee structures are also becoming acceptable, and may more acutely focus on achieving goals and demonstrating value of service.

Fixed fee arrangements are possible for the handling of a particular matter, or all work within a specific subject area.

Contingent fees can also be used. These have historically been the realm of personal injury and product liability lawyers, but have some value in a corporate setting. If there is no recovery amount against which to apply a contingency percentage, corporate and outside counsel may agree to a contingency based on other results or outcomes. These types of contingency structures may resemble bonuses, e.g. a set amount payable only if the result is achieved.

The examples noted above merely scratch the surface of potential fee arrangements. The important thing with any fee agreement is that it be clear and workable for both parties, consistent with rules of legal ethics.

Tharpe & Howell has experience with alternative fee agreements, and has used such with insurance companies and corporate clients. Our experience demonstrates that a "one size fits all" approach may no longer be the best approach. Effective corporate counsel relationships depend on cooperation, trust, and communication concerning all aspects of the relationship to prepare a custom approach that meets the needs of the corporation, as well as the needs of your outside counsel.

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