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Strategies for Fostering Productive Corporate Counsel Relationships

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Productive relationships between corporate and outside counsel are essential to efficient management of corporate legal matters. While every matter and relationship is different, the strategies shared below could be applicable to a range of matters, from bet-the-company litigation to small stakes transactional work, and can be used to help define and create an environment for mutual success.

1. Set Up Effective Communication at the Beginning of the Relationship

Effective communication between corporate and outside counsel creates the high level of trust and confidence needed to achieve the client's business goals. In order to achieve clear and strong communications at the outset of a legal matter or relationship, both corporate and outside counsel should openly discuss their needs and as well as how they prefer to communicate. For some, email communications are the best way to manage a busy practice, but for others a phone call is a better way to differentiate an important communication from the overwhelming number of email correspondence received. Whatever the mode of communication, counsel should take care that it is tailored to the matter and the individual participants. One of the first topics of communication should be creating a strategy for the matter. Outside counsel is often responsible for providing a proposed and defined strategy – with the assistance and approval of corporate counsel – and should give the in-house counsel team updates as that plan necessarily changes over the course of the matter. It is important for corporate counsel to participate in the creation of the strategy, as these early decisions will be guiding outside counsels' actions and costs for the duration of the matter.

2. Discuss Cost and Budgeting Issues

The cost and budgetary parameters of the matter must be addressed up front and revisited throughout each stage of the engagement. An open line of communication between both corporate and outside counsel should be established to discuss budgetary constraints and expectations. Both counsel should look not only at the cost of the individual matter, but to the extent possible, the big picture budget realities that the corporate counsel may be facing. Some corporations make quarterly or annual legal budgets and these budgets can affect the decision-making process in individual legal matters. Outside counsel's responsibility includes providing corporate counsel with as detailed a budget as feasible, providing estimates of tasks and timing, while also factoring in the level of uncertainty inherent in any legal matter, perhaps by giving a budget range. Alternative fee arrangements and other ways to work around budget issues should also be explored.

3. Plan for Deadlines and Scheduling

Ideas of appropriate turn-around and lead-time can vary greatly from lawyer to lawyer, as well as by company, corporate culture and matter. For the creation of a smooth relationship, it is important for corporate and outside counsel to communicate about their expectations for timing and responsiveness. Outside counsel should focus on providing work product

with enough time to allow corporate counsel to review in a meaningful manner. Similarly, corporate counsel can address these issues by taking special care to give a problem or task to outside counsel as soon as possible in order to give sufficient time to completely address the matter.

4. Understand and Manage Expectations

One key to a successful relationship between corporate and outside counsel is understanding and managing expectations. Outside counsel should quickly seek and discover what the company would deem a "win" or successful outcome. This goal may also change over time based on newly discovered facts, budget considerations or business objectives. Likewise, what may be an acceptable outcome in one matter may not be in another. Effective outside counsel will check in with the corporate client to confirm the understanding of the present objective in each particular matter.

5. Updating Expectations and Goals

Outside counsel should provide updates at each phase or significant event during the engagement. This will help all parties monitor the legal budget, as well as eliminate unnecessary surprises. This procedure also allows corporate counsel to achieve a high level of control over the matter, as well as allow them to communicate that control to internal management. Additionally, conducting an analysis at the end of a matter can be crucial to cementing a successful partnership between corporate and outside counsel. This review may examine what went well and what needed improvement during the matter. By understanding the strengths and weaknesses better, both corporate and outside counsel can implement new approaches and improve the relationship.

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