

## Inside Out > column



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## Keeping open lines of communication

Here's another installment of Inside Out with law firm partner Christina Martini and in-house counsel David Susler. They are not only lawyers who practice on different sides of the table, but they are also married. Watch them talk more about this topic with the Better Government Association's Andy Shaw at [chicagolawyer.com](http://chicagolawyer.com).

**Talk about the importance of keeping the lines of communication open between in-house counsel and law firm lawyers when they work together on litigation and projects.**

**Martini:** Strong communication is at the heart of any good attorney-client relationship. Keeping those lines open is critical to ensure that outside counsel understands the scope of the project and what the client wants and needs. It is also fundamental in enabling the client to monitor the progress of a matter and ensures that the project stays on task and that there is an opportunity to adjust outside counsel's approach if necessary. Clients do not like surprises and strong communication helps minimize the chances that they will occur.

**Susler:** The importance and necessity of good communication cannot be overstated. Communication is the key to reaching the desired results of any engagement as well as to delivering the kind of client service that outside counsel wants to deliver and that the in-house client wants to receive.

**How does communication change as cases and projects advance through various stages of litigation and development?**

**Martini:** You generally see changes in the frequency and substance of communications between clients and their outside counsel as a matter progresses. Initially, outside counsel strives to understand the scope and subject matter of the project, the issues of primary

concern to the client and how they define a successful outcome as well as potential legal and business pitfalls. As the matter progresses, the communications tend to become more frequent and substantive and, depending on the depth and breadth of the assignment, they may involve more individuals from both the client's organization as well as from the outside law firm. The most frequent communications will likely occur as the matter reaches various critical junctures.

**Susler:** I would recommend that, especially during a lull in a given matter, outside counsel not go "radio silent" and allow your client to think you've forgotten about them and their matter. Send a short status report from time to time even if all there is to say is that nothing is happening, explain why and give an estimate of when activity will pick up again.

**What are some bad communication habits that law firm lawyers and in-house counsel should avoid?**

**Martini:** As with any relationship, there are both good communication practices between clients and outside counsel, and bad habits. It is an attorney's responsibility to gauge the proper frequency and scope of the communications that their clients expect. Every client is different, as is every matter. Outside counsel should ask the right questions but should also have an intuitive sense as to what is appropriate in a given situation. This will help eliminate issues around poor communication such as not being communicative enough, especially regarding important matters; communicating too much, particularly about issues of relatively low importance; making significant decisions without discussing them with the client first; and failing to properly prioritize developments in the matter for the client's consideration. There is often an optimal rhythm of

communication, and it is outside counsel's responsibility to figure that out.

**Susler:** Well said. Another bad habit is not being in communication at all or allowing the monthly invoice to double as a status report. A pet peeve is receiving a bill for work I had no idea was being done, especially when it involves important developments and decisions.

**How do you track progress without micromanaging the work? And who is responsible for tracking?**

**Martini:** It is a delicate balance, particularly since one client's idea of micromanaging is another's belief that you were doing a great job. My advice is to stay close to your clients and get a good sense of what they need and want. Micromanagement tends to happen when you do not fully trust or have confidence in the people with whom you are working. I recommend that you work with attorneys whom you respect and trust to avoid this tendency.

Generally, it is outside counsel's responsibility to track the progress of a project. It is always a good idea to make sure that everyone involved is clear about their responsibilities.

**Susler:** I tend to be actively involved in any matter assigned to outside counsel and don't worry about whether I am micromanaging — it is my matter and my company involved. The level of my involvement in a particular engagement often is a matter of trust, as Tina said. If I feel like I have to manage my outside counsel, push them to move the matter along or ask for an update, it likely means there is a trust issue and trouble brewing. If the lines of communication are open and flowing, this isn't an issue. ■

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