

Inside Out > column



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Challenges for law departments and law firms

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 Andy Shaw at chicagolawyer.com. To submit a question for future columns, e-mail questions.insideout@gmail.com.

What are the biggest challenges facing law departments today?

Susler: Though the details may differ depending on the size of the department and whether it is new or established, there are several overarching challenges, including: Risk management, with compliance and regulatory issues, such as anti-bribery laws and employment-related class actions being paramount today. Resource issues, including staffing, IT resources, data privacy/security and outside counsel spending. Defining value and ensuring alignment between outside counsel and law department needs, including the critical connection between client service and budgets/legal spending. For global companies and those going through acquisitions, integration issues and legal differences between countries can be quite challenging. Focusing internally, ensuring alignment between the legal department and the businesses it serves.

What are some of outside counsel's top priorities in ensuring a satisfactory attorney-client relationship?

Martini: There are a number of key priorities, such as understanding the client's overall business objectives and where its legal needs fit within that context. You need to figure out how the various tasks and responsibilities will be apportioned between in-house and outside counsel and who will be the driving force on a given matter. Sometimes, outside counsel plays

more of a supportive role to in-house counsel. And, at other times, those roles are reversed. As demands change, outside counsel must confirm that it can provide the client with all of the necessary resources. They must also educate the client on what it will take to get the job done and ensure that there is consensus among all of the interested parties. There also needs to be alignment with regard to the fees and costs which are likely to be generated by outside counsel and how in-house counsel values those contributions. These discussions should happen as early as possible. The common theme across each of these points is effective, timely communication. Outside counsel needs to ask the right questions and listen carefully to the answers.

How are in-house counsel's needs likely to evolve over time and how can outside counsel effectively address them?

Susler: Again, the details will vary depending on the law department. But I think one major theme applies across the board — increasing collaborative partnering between law departments and law firms.

First, consider the evolution of in-house counsel over the past 20 years, from what many considered low-skilled, traffic-cop jobs to prestigious, destination positions attracting the best and the brightest. Today's in-house lawyers are talented practitioners. They know their clients' businesses and handle a large amount of their clients' day-to-day legal needs. Increasingly, they turn to outside counsel only when they need a depth of expertise, possibly a larger talent bench, to partner with on complex matters that are beyond the expertise or staffing capabilities of the in-house department. Outside counsel should learn the client's business so they speak the same language and bring their expertise to bear in a more collaborative

way. In-house departments are typically proactive; outside counsel need to be as proactive as in-house counsel, thereby enhancing their collaborative partnership. To accomplish this, outside counsel should regularly visit their clients' facilities; consider seconding lawyers in law departments; conduct periodic reviews and feedback meetings to find out what works and what doesn't. Law firms should strive to be seen as an extension of the law department.

What are some of the most meaningful differentiators among outside counsel?

Martini: There are numerous differentiators, with the more obvious ones being the substantive expertise, quality and reputation of the outside lawyer and law firm. Outside counsel's experience in the client's business sector is very important as well, since it provides the context within which the legal advice is given. Meeting or exceeding client expectations with regard to the value proposition is also very important, as well as being willing to share some of the uncertainty and risk with the client.

Clients do not want lawyers who merely punch the clock. They also do not want lawyers who are just talented technicians. They want trusted advisers who demonstrate a willingness to go the extra mile and are willing to put themselves in their client's shoes. This enables outside counsel to make their client's problems their own and to take ownership in resolving them. Outside counsel should also take the time to better understand the client's business and help foster relationships which could prove fruitful to them. These are just a few of the many steps which lawyers can take to develop an understanding and perspective that clients truly value and to garner a level of trust and loyalty that will set them apart from the competition. ■

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