

## Answering the tough questions



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**H**ere is a portion of the conversation. An extended version is on video at [www.chicagolawyer magazine.com](http://www.chicagolawyer magazine.com).

**How do you conquer an unfamiliar legal issue?**

**Tina Martini:** ... Sometimes I do get questions where I'm not immediately familiar with the answer and which are outside my specialty. Given my years of experience, I will usually have an initial gut reaction as to what the proper answer should be. When practicing law, you must develop a balance between going with your gut, especially when you've been practicing for a while, and being honest with yourself and knowing where those boundaries lie between what you know and what you don't know. When it comes to issues that I'm not immediately familiar with, there are a couple of buckets that those fall into. The first are those issues that fall within my practice area that I might not have an immediate answer to. In those cases, what I will typically do is pull a treatise or do some quick online research, or I will talk to a colleague of mine down the hall or in another office who is in my practice area who may have dealt with that specific issue. If we're talking about issues that are outside my practice area, given that I'm in a global firm with many hundreds of attorneys who have different specialty areas, often the quickest and most cost-effective way for me to get answers to those questions is for me to pick up the phone and talk to somebody with that specialty. ... Even when I'm dealing with issues like that where ultimately another partner in my firm will handle the matter, I still like to stay involved, especially if I am the relationship partner for that particular client. ...

**David Susler:** As an in-house generalist I often find issues that I haven't dealt with before. Because of this I've developed a comfort zone

of working outside my comfort zone. ... I have a strong foundation to draw upon when I confront new matters I haven't dealt with before. So what do I do? I ask enough questions to make sure I understand the issue. Depending on what the matter is, I might do some research on the [Association of Corporate Counsel] website's virtual library, maybe Westlaw, or put out some questions on one of the ACC Listservs and seek feedback from other in-house attorneys. I will also draw upon my experience. Even if I haven't dealt with the exact matter before, I will likely have dealt with something like it. ... If it's a complex area requiring a depth of knowledge I don't have, then I will go to outside counsel who has that expertise. It is rare that any issue I deal with is purely legal, but usually a mix of legal and business. I will often talk to the business people in my company and make sure I understand the business aspects of the matter. This is where being in-house really gives me a distinct advantage because I have direct access to the business folks. Handling issues I've never dealt with before, for me, is where the fun is. This is why I love being an in-house generalist. The ability to conquer new matters I've never dealt with before is how I grow as an attorney to become a better counselor and adviser. ...

**Have you ever had to tell a client that you don't have the answer?**

**Martini:** I have had to tell a client I didn't know the answer and I think there are a couple scenarios in which that might happen. The first is when the client is asking me a question outside my substantive area. ... The second is when the issue is in my practice area but the client is asking for a level of certainty to the answer that I may not be able to deliver off the cuff. ... The easier one is when the client asks me, "Can I do this?" or "Will I get sued if

I do that?" for an issue in my practice area. Depending on the circumstances, those can be very tough questions to answer. Law is a very gray area and there are oftentimes questions lawyers get asked that they can't answer with 100 percent certainty. ... More often than not, even if I don't have 100 percent certainty, I am able to get the client to a level of certainty that enables them to make the business decision they need to make based on the legal risk presented. ... The second instance is when we are talking about an issue outside my specialty, and I may or may not have a gut reaction about it. ... Generally what I'll tell the client is I need to do some additional leg work to get them the answer they need. Clients are generally very appreciative of that. I think they would much rather have you be honest as to what you can deliver right away versus what you can deliver after you consult with somebody else. ...

**Susler:** ... If it is a more technically discrete area, I will tell my client I need to consult with outside counsel and get back to them, and there is no problem with that. I think Tina made an excellent point that lawyers can't really give a 100 percent absolute answer. My job ultimately is to manage risk. My clients are sophisticated business people and they understand that risk is an inherent element of doing business. They're looking to me to give them the confidence to know that our risk is acceptable and appropriately managed. This is where having experience is an asset in giving that kind of answer. I have had to tell clients that I don't know what the answer is. But I've also developed trust and credibility with my clients and they know that even if I need to do research or talk with outside counsel, ultimately, I will give them sound advice. ... ■

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