

## Art of Being – Using Outside Counsel

By VANESSA H. WIDENER, Esq.

No one ever said it is easy to foster and maintain relationships. Whether it be with friends, spouses, families, colleagues or clients, sustaining relationships takes hard work and constant self-evaluation. In the sometimes hectic life of an attorney dictated by deadlines and rushes, taking time to reflect on what clients want and expect from outside counsel is critical to sustaining and building strong relationships.

A recent survey illustrates the disconnect between how outside counsel perceive they are satisfying their clients and whether the clients feel the same way. 52% of outside counsel polled thought they were doing a “A” job while only 25% of the in-house counsel polled agreed. Even more surprising to the unsuspecting outside counsel, 34% of the in-house counsel polled indicated they intended to replace their outside counsel within the next year. The following are ten practical practice tips on the art of using and being outside counsel discussed by panelist Gregory Courtwright, COO and General Counsel for Lincoln Property Co. in Dallas, Texas, Todd Dickey, Senior Vice President and General Counsel for the University of Southern California, Ann Cargile, Madeline Kleiner, Executive Vice President, General Counsel and Corporate Secretary for Hilton Hotel Corp., and Patricia Sinclair, Senior Vice President and general Counsel for Playa Vista.

The first tip is to make sure you are dealing with the proper company person. To save time and resources, make sure the company person has proper authority to handle your matter. If risk decisions are being made, rely on the legal department to help you find the right person.

Second, know and understand your client’s business. Educate yourself on your client’s corporate culture and business environment, internal policies and procedures, business objectives, appetite for risk and strategies. Keep the legal department informed of the status of matters and of business decisions. The legal department relies on you to act as their “eyes and ears” with respect to decisions of other internal departments.

Third, understand the role of in-house counsel. The legal department is making business decisions based on assessment of risk and are ultimately responsible for the quality of the legal work and meeting company deadlines. To ease the burden on in-house counsel, understand their workload dynamics and give them plenty of time to respond to your inquiries. Give objective and well informed - yet narrowly tailored - advice applying the law to the company’s dynamics. This focused inquiry will assist the legal

department in making recommendations and with their own reporting requirements.

Number four – be practical. Fundamentally, understand your client’s goal and identify the least painful path to reach the goal. Avoid esoteric legal analysis and provide your client with useful, succinct information. Providing updates and summaries of pertinent cases or regulations are appreciated when it applies to specific business deals or litigation.

Create solutions for the legal department. Find a way to say “yes” and be a dealmaker. While it’s your job to identify risks and prioritize issues, don’t be an alarmist and be armed with recommendations to solve the problem. Bonus compensation of in-house counsel is often tied to successes, so they are motivated to work with you to find creative solutions to make deals happen.

In-house counsel expects you will provide legal expertise and quality work. The way you manage the work load is also important. One of the biggest complaints of outside counsel is that they not responsive. Don’t ignore your client - return emails and calls promptly. Even if you can’t provide a through response immediately, at a minimum, let your client know when they can expect a response. As a courtesy, use your “out of the office email assistant” or leave an outgoing message on your voice mail that you will be unavailable. Be available to your client after hours and be sensitive to you client’s time commitments.

Most clients hire the lawyer, not the firm. They appreciate the lawyer getting permission before staffing the case with other members of the firm. However, it is also critical to adhere to a budget and staff the case accordingly, i.e., using paralegals or other office staff where appropriate. Bonuses may be tied to budgets and there can be significant consequences for in-house counsel when the budget is overrun. There is a great incentive for you to staff and budget a case responsibly.

Lastly, be professional and courteous. John F. Kennedy, Jr. said “civility is not a sign of weakness.” As outside counsel, you are the face of the company. Put your best face forward when dealing with opposing counsel, juries and judges. You will go a long way if you represent your client well.

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## Anatomy of a Successful Brownfield Redevelopment Project: How Did They Do It?

By KEITH B. WALKER

When you are representing a client considering purchasing a very large and highly contaminated property with multiple owners, intending to develop the site with residential use, where do you start? Where will it end? Further, between those two points, how do you prevent the project from becoming mired in delays related to obtaining closure from the regulatory agency with oversight?

In the midst of a thus far remarkably successful remediation of a huge brownfield in Santa Fe Springs, California, Patricia J. Chen, an environmental attorney with Fulbright & Jaworski L.L.P., and Nancy Beresky, the Principal Hydrogeologist with Waterstone Environmental, Inc., took the opportunity to answer these and other questions in their presentation for

the Los Angeles County Bar Real Property Section, entitled “Anatomy of a Successful Brownfield Redevelopment Project: How did They Do It?”

The site at issue was a 55-acre oil field property that had been in use for approximately 100 years, and which was divided into approximately 250 lots owned by over 60 different entities. Environmental issues associated with the site included crude-impacted soil related to historical oil production operations, over 80 former sumps (which contained crude oil and drilling mud with heavy metals, and which all needed to be re-abandoned in accordance with current standards), miles of underground piping associated with the oil production operations, soil contaminated by the former presence of

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