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What in-house counsel really, really wants



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What in-house counsel really, really wants

Corporate counsel offer their external brethren some helpful food for thought.

By Heather Suttie

Unless you're clairvoyant, it can be tricky to learn what's on the mind of in-house counsel. For lawyers seeking to earn and retain the position of "trusted adviser," the following synopsis of a recent in-house counsel panel discussion can shed some light.

"What In-House Counsel Wants" was the topic of the Toronto Legal Marketing Association's second annual general counsel panel last October. The panel featured inhouse counsel from large and small companies, and a government agency:

- Michael J. Killeen, Chief Legal Officer, Davis + Henderson Income Fund
- Jennifer Warren, Senior Vice President and General Counsel, CIBC
- Karen Louie, Vice President, General Counsel & Secretary, Harlequin Enterprises Ltd.
- Victor Wong, Vice President Legal, Toronto Waterfront Revitalization Corporation



The discussion centred on in-house counsel's needs and expectations when working with outside lawyers and focused on the following seven areas, which are readily applicable to any firm and any client.

1. When does in-house counsel seek help and what do they look for?

Help is sought on "high-end" work that is complex and one-off in nature and that requires in-depth expertise, as well as for commoditized work that is more rote.

Outside firms are judged on:

- technical abilities
- responsiveness
- culture (the firm's "personality")
- breadth and depth of talent
- pragmatism (including judgment)
- leadership

For "high-end" work, the top criteria are leadership skills, technical ability, and responsiveness. For commoditized work, the top criteria are consistency, understanding of cost versus value, and forethought on files — for example, after working on a number of files, firms are expected to show judgment on trends they are seeing and advise in-house counsel accordingly.

2. How should outside counsel respond to an RFP?

There is an expectation of transparency: being open, honest, and displaying humility. This includes defining what you do best and acknowledging where you're challenged, as no one does everything equally well and in-house counsel knows this. Therefore:

- Respond to strengths only.
- Be clear about industry-specific expertise and experience.
- Provide thoughts on a client-tailored approach.
- Consider diversity of team members in terms of gender, race, etc.
- Provide bios for all firm members chosen to be on the client team, not just the team leader.

3. What are key factors in getting and keeping the work?

Sharing your clients' passion for their type of work and their industry is vital. Providing long-term thinking and creative views on issues they may be facing is also imperative.

Responsiveness is critical: 12- to 24-hour response time is expected whether it comes from the lawyer or an assistant. Acknowledging receipt of a message and providing a date and time when in-house counsel should expect a lawyer's response was identified as key. If in-house counsel is at work on a particularly tough file, they expect outside counsel to be working on it as well, regardless of time of day.

4. What can outside counsel do to further the relationship?

Invest in your clients — focus on them, understand their work challenges and environment, and study their industry — *on your own time*.

Stay focused on your client's business needs when communicating. Sending information on legal changes that could affect their particular business is appreciated. Sending information about their industry in general, is not, as it's a sure bet they'll know their industry better than anyone. Ask more questions, both general and specific. Examples of general questions: "What are you seeing that's changing within your client base?" and/or "What trends are you seeing?" Example of specific questions: "In your company, who decides on outside counsel for litigation?" and/or "What is your expectation around budget?"

Don't bill for small stuff — small stuff done well will be remembered and rewarded with larger files.

Be strategic rather than technical. While it's generally accepted that technical ability has value, especially for commodity-type work, good technicians are relatively easy to find. Creative, strategic thinkers are not, and therefore are worth their weight in gold. Strategic means never presenting a problem without providing a choice of possible solutions. Given the rarity that even a routine issue will follow a straight line, it's especially important that client-facing team members are those who are more strategic and who can present creative ideas with ease.

5. How important is the "right fit"?

The "right fit" is as important as knowledge about a client's industry. In-house counsel will have a huge stake in the outcome of an issue, so working hand-in-glove with outside counsel is critical. In-house counsel looks for a partner relationship with advisors who demonstrate a deep understanding of their industry and who have excellent communication skills.

6. How does in-house counsel use social media?

A law firm's website has become more critical in deciding who gets work. Content is key with the most looked-at areas being bios (that clearly illustrate expertise), listings of client work, and thought-leadership (opinion pieces, white papers, and other items that provide evidence that the firm has a point of view.)

Twitter, Facebook, etc., are time-consuming, as are legal news feeds even though they may contain good information. These types of social media tend to be dealt with by using the delete key.

7. What about fees?

In-house counsel are relatively comfortable with the billable hour; however, fees per hour need to be viewed with sensitivity to their industry and an eye on business in general.

Hourly fees tend to follow the market: when the market rises, fees rise as well. However, in tougher economic times, inhouse counsel and senior management are finding annual increases (that can be as high as 15%) are causing them to rethink relationships with outside counsel who can expect to be pushed back hard.

Alternative fee arrangements, such as capped fees, are appreciated as they enable in-house counsel to budget more effectively.

The bottom line

Finally, when asked what in-house counsel really, REALLY wants, panelists responded with the following five critical points:

1. Client care must be job one.
2. Attention must be paid to what in-house counsel does, as well as to what is happening within their industry.
3. There is an expectation of careful scrutiny and selection of outside counsel's client team members.
4. Actively demonstrate wanting in-house counsel's business. Ask for it.
5. Show appreciation for even being considered.

This group of in-house lawyers spoke frankly and with passion about what they need and expect from their advisors. In doing so, their views provide outside counsel with helpful food for thought.

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