

THURSDAY, MAY 13, 2010

## Re-cap of ALM's Law Firm Marketing & Business Development Leadership Forum: The Changing Nature of the In-House and Outside Counsel Relationship



On Wednesday, May 12th, I was fortunate enough to attend a couple of sessions at American Lawyer Media's Law Firm Marketing and Business Development Leadership Forum. The ILN was a marketing partner for the event, and I spoke on a panel called "Going, Going...Global? The Worldwide Marketing for Legal Services." Unfortunately, I have not yet mastered the art of tweeting from a panel I'm participating in (and so don't have comprehensive notes for a re-cap), but the first session of the morning on the changing nature of in-house and outside counsel relationships was full of great takeaways for law firms and their marketing departments.

On the panel were ILN member, Martin Beirne, founding and managing partner of Beirne Maynard & Parsons LLP in Texas, Anne Chwat, General Counsel and Corporate Secretary for Burger King Corporation, Kenneth Handal, Former Executive VP and General Counsel and Head of Global Risk and Compliance for CA, Inc (retired), Bob Robertson, Chief Marketing Officer for Greenberg Traurig, LLP, and moderator Anthony Paonita, Editor-in-Chief of Corporate Counsel Magazine.

While there was a lot that came out of the panel, the overwhelming sentiment, from Ms. Chwat especially, was the importance of relationships. She let the audience know that although she does go to well-known large firms for some work, she's not going after name brands anymore. She wants a good relationship

with a good lawyer, which broadens the competitive landscape for law firms.

In terms of re-capping the panel, they started with a fictional scenario of a new general counsel coming into a company and being told that she needs to significantly cut her legal budget. The GC invites in her top 12 law firms of the 100 that the company uses (which the panelists commented was on the low side for most companies), and asks them how they can work with her to reduce fees. Immediately, two of the firms say that they don't do alternative fee arrangements and leave. The panel then addressed some questions that might come up and how outside counsel can better serve their inside counsel in this situation.

Ken Handal said that it's the job of the GC to try to preserve the choice of outside counsel that they make in this new cost-cutting environment, which can be difficult because as Chwat pointed out, non-lawyers at major companies see in-house counsel who are purchasing legal fees as a cost center. Chwat advised law firms to start thinking of themselves as competing for business, because they are. She suggested that they ask themselves "how can I help my client? How can I be their partner and help them through this?"

Bob Robertson agreed, saying that the attitude should be that firms need to do all that they can to help their clients. If a firm gets a letter from their client about cutting costs, they should reach out to have a conversation with them. Chwat confirmed this, saying that outside counsel build loyalty and trust with the attitude of "what can we do to help you," and this keeps in-house counsel coming back. She said that firms need to make themselves part of the team and show they're willing to work with their clients. She added that in-house counsel are "not trying to steal from you," they just want value for their dollar and help in dealing with the cost-cutting pressures that their companies are putting on them.

Chwat did caution that a need to cut costs doesn't mean she will compromise on quality. She wants her attorneys to think like businesspeople, to be thinking about how they can help their clients to save money.

Practically, this can take the form of more efficient staffing on legal matters. She used outsourcing to India as another example of how firms can help to cut costs, though she admitted that Burger King has yet to do this. Marty Beirne agreed, saying that firms are in the service business, and some firms forget that. He said that they need to have a budget that works and has some predictability for their clients.

Robertson added that when lawyers have done a lot of one type of work, they know what things costs

and can estimate fees for fixed arrangements or budgets.



Chwat said that if a firm comes in and says that they want to work with you and they know your business, the client will keep using that firm. She told the audience that she never pays full price for anything, and for any legal services that she purchases that cost over \$50,000, she automatically requests an RFP. An audience member asked how involved her non-attorney colleagues are in the decision to purchase legal services, and Chwat responded that they're not usually involved. She generally chooses the pricing structure that BK goes with, but she has to be prepared to defend it and will sometimes talk on a case by case basis with the CEO. She also talked a little bit about relationship-building, relating a story about when she first joined Burger King and a number of the attorneys in her department were out on maternity leave. She said that she seconded attorneys from an outside firm, and the firm sent her great attorneys, not the ones they just wanted to get rid of, and they didn't charge their full hourly rates. Because of this, she was not only very happy that the firm was willing to work with her, but she also developed relationships with these attorneys and now reaches out to them when she needs assistance. She emphasized that ***companies are willing to expand the work that they give a firm based on their relationships*** (so lawyers, get out there and build your client relationships!).

Another audience member asked about the role of a firm's reputation. Chwat answered that it gets them in the door, but that's it. After that, the firm has to be able to show how they're different. She echoed what we've been hearing a lot lately in the legal industry - by the time a company wants to talk to you, they already consider you talented and high quality. They want to know what else you can offer them. She

focused a lot on firms being flexible in terms of fees, and said that even at the RFP level, firms must be willing to discuss them. She added that many times, she's made the point of asking about alternative fees in her RFPs, and firms will come in to talk about the business and either won't be willing to talk about alternative fee arrangements or won't be prepared to talk about them. Alternative fee arrangements are not going away, Chwat emphasized.

Someone in the audience asked Chwat about the importance of diversity and she said that it's very important to her that not only is the firm diverse, but that her matters are staffed by a diverse group - she considers women to be a part of the minority group she looks for. Another audience member asked about outsourcing some work, and Chwat admitted she's a little nervous about taking legal work to India, but said that the more GC roundtables she participates in, the more she's hearing that other companies are doing it and finding value in it. She cautioned firms again about overstaffing and Handal agreed with her. Chwat added that the more efficiently a firm staffs a matter, the more engaged the attorneys working on it are, and the more loyal they are to their firm. Another audience member asked her about recent statements by a GC that companies don't want to pay for first year associates and that they're totally useless, and Chwat said that she considers first year associates to be in training to be good third and fourth year associates. She doesn't have many staffed on matters for her, but doesn't mind it. She did point out that she will not pay \$300 an hour for a first year associate, and believes that firms should look at paying their first year associates as a training cost that should not be passed along to their clients.

Paonita asked the panelists if they felt the new relationship between in-house and outside counsel is permanent or if it will go back to the way it was. They all agreed that it's permanent and said that 70% of law firms interviewed believe that the change in billing and fee arrangements is similarly permanent. This was the point at which Chwat emphasized that she's not going after name brands anymore, but that she just wants a good relationship with a good lawyer. She said it's about asking what it is about your firm that's going to make you a good part of her team. It's about chemistry. She advised firms to do their homework before meeting with a client and said that one constant that will always help a firm to get hired is when a firm is able to set themselves apart.

An audience member asked how much legal rankings mean to her when choosing a firm. She answered that they don't mean much; she cares more about relationships. The panel finished up with a final



audience question about how useful GCs consider client alerts. Chwat said she does read and archive them. She told a recent story about being surprised with a piece of litigation that she didn't know much about - she had a member of her team search through their files and saw one firm's name come up in connection with that area of law, in a client alert. Because they set themselves apart as experts in that area, she called that firm and gave them the business. So client alerts do help to set firms apart as experts in certain areas.

The lessons of the panel were overwhelmingly clear: work at the in-house/outside counsel relationship by showing how you can be a business partner for your clients and show your understanding of the cost-cutting pressures they're under by offering real, valuable solutions, whether in the form of alternative fee arrangements, more efficient staffing, discounts, or outsourcing.