

By Joel Grossman

How to Keep In-House Counsel Happy

Corporate clients depend on outside counsel for professional courtesy

After spending 15 years as the head of Sony Pictures' in-house litigation and labor relations groups, I have seen it all when it comes to how outside counsel relate to their in-house counterparts. Pleasing in-house counsel requires more than just being a good lawyer; you also need to pay close attention to the client's needs beyond the use of your legal skills. The following advice, drawn from my experiences, indicates some of the ways to ensure a smooth relationship with in-house counsel.

Submit bills with no surprises. It sounds simple, even obvious, but lawyers often forget that clients should not be surprised by the amount of time spent on a case or the identity of the lawyers charging time. Clients who think that a matter is generating only minimal billing time will be most unhappy if the bill reveals that two or three lawyers are working on the matter almost full-time. Similarly, after meeting a partner and perhaps an associate or two, a client will not be pleased to find another half-dozen, unknown names billing time. The best practice is to make sure that the client has a realistic idea of how much work is going into the file and who is doing it.

Provide pleadings to the client in draft form in sufficient time to make changes. In-house lawyers generally like to review pleadings before they are filed. They are overseeing the matter, and they want the chance to mark up the document just as a partner might want to mark up an associate's draft. More important, the client may know certain facts that the outside lawyer does not and may be able to correct mistakes. Also keep in mind that inside counsel's time may be at a premium. A draft that arrives two hours before the filing deadline may, technically, provide enough time to review it, but if the attorney has a previous meeting scheduled with the CEO, those two hours are of no use. Give inside counsel a day or two to review the pleadings so that enough time remains to make changes.

Keep inside counsel involved in all strategic planning. It is critical for inside counsel to participate in the decision-making process on strategic questions. If outside counsel is considering removal to federal court or filing a demurrer or motion to dismiss, inside counsel may have special knowledge that would militate against taking these steps. For example, an outside attorney may want to base a summary judgment motion on a fact that the client does not want to become part of a public record.

Advise in-house counsel when speaking to the client's executives. There are often good reasons why outside counsel needs to speak directly with company executives, perhaps even without in-house counsel present. But in-house counsel must be kept abreast of all such communications, lest they look foolish to their internal clients.

Return phone calls or e-mails promptly. Returning phone calls or e-mails promptly isn't just courteous, it's critical. You simply have

no way of knowing whether the call is about a trivial matter or one that is truly important, and you cannot rely on the caller to tell you which it is in the message.

Invite in-house counsel to attend depositions or court hearings. While in-house lawyers are surely not needed at every deposition or court hearing, they can and do add a lot. If nothing else, think of it as your chance to make a good impression.

Don't change horses in midstream. If you have been telling your client for a long time that you will be the trial lawyer, he or she does not want to hear that someone else (no matter how good a lawyer) will be substituting for you. Unless you are in the hospital, try the case.

Stick to the budget, or if you cannot, tell the client as soon as possible. The biggest problem with budgets is not making a poor estimate when first preparing one; the biggest problem is failing to alert the client as soon as it becomes clear that the budget needs to be revised. Any client can accept the fact that unexpected developments require a revised budget, but clients cannot accept huge bills that arrive with no prior warning.

Don't talk to the media or bar association without client authorization. Many companies have strict policies about who can talk to the media or speak publicly about company matters. When a press inquiry comes to you, always consult your client first, and let him or her decide who, if anyone, will return the call. And after the case concludes, do not assume that your client will be happy for you to speak on the matter at a bar association meeting. Ask first.

Keep the big picture—repeat business—in mind at all times. Your greatest accomplishment is to achieve a long and prosperous relationship with a good client, not what happens in a single case. That, put simply, is the big picture. Consider how you would respond if you were asked to represent a party in an action adverse to your client's subsidiary or sister company on a matter completely unrelated to the client's business. There may not be a technical conflict of interest, but your representation adverse to the client's sister company may embarrass inside counsel. At the very least, discuss the issue in advance and seek clearance. If you are denied clearance, remember the big picture. ■



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