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The Modern Partnership: In-house and Outside Counsel

Litigation and Dispute Resolution



As lawyers take on increasingly sophisticated business advisor roles in today's marketplace, the partnership between in-house and outside counsel has become more important than ever. And while every lawyer wants to provide the best possible service to the client, the practical steps for achieving

outstanding service in this context are not always clear. Drawing on our shared experience, we have identified four key steps lawyers on both sides of this relationship can take to help them build their credibility and deliver solutions that advance their business.

1. Develop a commercial point of view, and base the legal strategy on business goals

So many skilled lawyers bring a nuanced understanding of the law to their work, but when it is time to apply that knowledge and counsel to the company's business strategy, they have difficulty bridging the divide between the worlds of law and business. The key to becoming a valued business advisor and in-house lawyer is understanding not just the legal risks for the company on a given matter, but also the interplay between those risks and the company's larger business goals.

In a legal practice, that means having a conversation early on to ensure an understanding of the desired result. And that conversation needs to continue as a matter unfolds and new information comes to light.

An understanding of what the company is trying to achieve — where they are now and where they want to be — should drive the legal strategy and lead you to the legal remedy that furthers those goals. That may mean litigating or not, finding a resolution outside of litigation, or coming at the problem from another angle, such as a new approach to a deal or contractual language.

2. Educate each other and constantly reflect on what you are learning

It is crucial for both sides of this partnership to make time to educate each other — for the outside counsel to educate the client on the most pressing legal issues they may face, and for the in-house team to educate the outside counsel on how their business works. To facilitate communication that extends beyond just the discovery phase, develop a work process that includes shared folders, files, timelines, and project plans, and encourage both teams to check in regularly.

Designate time for reflection at important milestones throughout the project so that the in-house and outside teams may ask of themselves and each other what they have learned and how it might alter the goals or process going forward. Finally, make sure both teams are speaking the same language by using the right tools and a shared vocabulary.

While written word is the order within law firms, the business community tends to rely on tools like PowerPoint for communication. Sometimes translating a lengthy document into a more visual mode can facilitate understanding and even yield creative, new solutions to the problem.

Always be thinking not just about communication between the inside and outside teams, but also how to enable the in-house team to present ideas to their internal clients, the business leaders.

3. Build a shared roadmap that can evolve, and demonstrate good judgment

The in-house counsel is continuously juggling big priorities with the day to day responsibilities of the job. The best outside counselors help their clients anticipate what is on the horizon and determine whether the current approach and practices will put the company on the right trajectory.

Timeliness is an important factor in building a workable roadmap. Good business advisors understand how to foreshadow what is to come so business leaders have time to digest information and then decide. The partnership also depends on crystal clear communication and a willingness to use technological tools to improve efficiency.

Because skillful navigation involves looking both at your feet and the path ahead, teams must constantly be asking what's coming next, what's the precedent if we do X, and what are the potential costs and benefits? This is where creative problem solvers can demonstrate significant value. Nothing beats good judgment, a great strategy, and a thoughtful plan to execute it.

4. Move beyond a transactional mindset and nurture the relationship

Good client service cannot be merely transactional, so outside counsel can truly demonstrate their worth by providing value outside the billable hours. That means making time to learn their client's business, conduct on-site visits, and make themselves available as a resource. It's also important for other members of the outside team beyond the billing partner — including associates and paralegals — to take ownership of the work.

The in-house counsel can create these connections by inviting everyone on the team to an on-site visit to learn the business and understand the goals of the project. This is an investment in the outside team, which is just an extension of the in-house team, and the work will be more efficient and effective if everyone works together as one entity. The complex legal matters businesses face today require that everyone is on board and invested in achieving the optimal outcome.

In-house and outside counsel see legal and business challenges through distinct lenses that are shaped by their respective training and approach to problems. We need both perspectives to create innovative legal strategies. By embracing the key steps we have outlined above, lawyers can build a thriving, long-lasting inside-outside partnership that yields creative solutions for the company and its outside partners.

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