

How GCs Can Build A Cohesive Outside Team

By **Melissa Maleske**

Law360, New York (January 31, 2017, 1:22 PM EST) -- Assembling the best outside counsel teams typically means hiring experts from different firms, which can lead to miscommunication, competition and infighting. Here's how GCs can assert their leadership skills to create a united, effective team.

Eliminate Competition

Whether it's on a specific matter or an ongoing, on-call basis, lawyers from competing firms are often called on to work together for one client. It's natural for their competitive instincts to arise from time to time: They may jockey over who takes on what task or what direction to take with a task or matter, or they may try to one-up the others to impress the client.

It's the legal department's job to make it clear that infighting won't be tolerated, lawyers say. When Frank Vecella was associate general counsel of litigation at Ericsson Inc., he frequently managed outside teams composed of different firms and learned to make his expectations clear.

"It's really, really important to make sure they know that as the client, I'm not keeping score," said Vecella, who is now a principal at McKool Smith. "All that matters is that we get the best result in the end, and I'm counting on each of these firms and the attorneys in them to act as one virtual law firm and remember that they share a common client who doesn't really care about keeping score."

Vecella had some other rules too. If infighting did arise, he expected the lawyers to work it out themselves — he didn't want to know about it. And on the few occasions outside counsel didn't seem to get the message, Vecella says he read them the riot act.

Stanton Dodge, the general counsel of Dish Network, says the best way to ensure different firms work well together is to emphasize that they're all working on the same team toward the same goal.

"I hope people realize that if everyone does a good job, there's work for everyone, and the best way to ensure that is to be a good team player, to help out and not to complain about the other person," Dodge said. "If people are infighting, I'm going to be turned off by that and it's probably going to result in less business. Infighting like that is very shortsighted."

Require Systematic Coordination

To avoid redundancy and stay on track toward the company goals, legal department leaders need to

establish clear lines of communication and make sure the outside counsel know their roles. When the lines are clear, they're less likely to be crossed or challenged.

"Our lawyers very actively manage cases, so our in-house people act as the generals, keeping the trains running on time," Dodge said. "No one's really jockeying for that role, and everyone knows their spot and what to do, so that fosters better collaboration."

Vecella presided over complex litigation that could involve multiple related cases spanning multiple jurisdictions. Once, Ericsson faced 11 different IP suits against one common adversary and recruited five law firms to handle them. Here, coordination was key, Vecella says.

Every week, for example, lawyers from each of the firms and from Ericsson participated in a conference call to bring everyone up to speed.

"It's really important at the outset of a case that involves multiple firms to establish some formalized channels of communication," Vecella says.

Ericsson appointed a person from each firm to take responsibility on written discovery, and the five attorneys stayed in close contact to ensure they weren't duplicating efforts and that they were all taking advantage of the discovery responses that Ericsson was getting in the other cases. Similarly, a lawyer at each of the firms was appointed the quarterback for depositions, not only to keep costs down but to preserve the sanity of the employees who were being asked to sit for depositions, Vecella says.

Vecella also typically appointed one firm to serve in a leadership role. He told all of the firms on a matter to act cooperatively and constructively and to allocate resources appropriately, and if they had differences in opinion as to how to accomplish that, they were to bring the issue to a specific partner at one firm to referee. If they couldn't work it out, he would serve as the ultimate adjudicator, but he says that rarely happened.

"It was unbelievable how seamless it was, and we had no fewer than five different law firms," Vecella says. "They all got along great and I don't think even one time I had to call them all together and give them a reminder that they weren't playing nice with one another."

Vet Your Team

Vecella doesn't take all the credit for his well-coordinated teams: "[When we don't have any problems], I attribute that not to any eloquent speech on my part but rather the good fortune of choosing really good lawyers and really professional, respectable and respectful law firms who were able to put their egos on the shelf," he said.

So if you want a smoothly running outside team, Vecella advises, vet them well not just for their expertise but their professionalism. He instills in law firms — and looks for firms that understand — that good work and an investment in the long-term client relationship will pay off. And he cautions that if companies are looking for the biggest, baddest, toughest litigator out there, they shouldn't expect that type of lawyer to play nice with others.

If Vecella were adding a new firm to a team, he says, he would also check in with the lead firm already working on the case to make sure it didn't anticipate any problems working with the firm to be added.

“I think if a client is smart about how it goes about choosing outside law firms; if it hires honest, ethical, professional lawyers; and if it instills in the law firms that really good work will be rewarded, I don’t see any reason why clients can’t count on and expect lawyers from multiple firms to get along and work well together for the common good of common clients,” Vecella said.

Encourage a Rapport

At Dish, Dodge’s legal department has hosted an annual legal retreat for around a decade. Typically set in the mountains of Colorado, the idea of the event was part education and part teambuilding. In-house lawyers learn from outside counsel, and vice versa. And all of Dish’s lawyers — typically long-term partners of the business — get to know each other.

Pantelis Michalopoulos, a partner at Steptoe & Johnson LLP who serves as outside regulatory counsel to Dish, says it’s astounding to him that a similar practice hasn’t been adopted by the Fortune 500, particularly as companies and their legal teams grow in size. The retreats, he says, are a way to cross-pollinate with lawyers that he isn’t always exposed to in the normal course of business, and a great way to get to know them in an informal setting so that when pressing issues arise, the lawyers are already familiar with one another, have put names to faces and developed a rapport, and know when they need to reach out to another member of the team.

“There is intellectual property litigation, for example, that often depends on regulatory issues and vice versa,” Michalopoulos said. “Sometimes if you’re working on a litigation project you don’t think to wonder, ‘Should I check that with regulatory counsel?’ The retreat gives the opportunity to do this both in an informal way through conversations and also through presentations [from in-house and outside counsel] which are very instructive.”

From Dodge’s perspective, the retreats help build know-how in-house and out and have helped to establish strong relationships among Dish’s in-house staff and law firms, many of which have counted Dish as a client for a decade or more.

“A lot of members of these outside firms have built friendships over the years, and I’m pretty darn proud of the team we’ve cobbled together,” Dodge said.

--Editing by Rebecca Flanagan and Kelly Duncan.