

# The Metropolitan Corporate Counsel®

www.metrocorp-counsel.com

Volume 11, No. 7

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July 2003

## Consultants Corner

### Partnering: The Future Of Legal Services Has Arrived

By Jacqueline Pennino Scheib

Over 10 years ago, E.I. du Pont de Nemours and Company adopted a model for the procurement of legal services that is based on strict legal spending rules, including early case assessment measures, consolidation of law firms and service providers handling DuPont work, and implementation of numerous other cost-saving measures. The DuPont model, which is commonly referred to as "partnering," has become a platform for the efforts of an increasing number of companies to revamp their legal service expectations and implement changes that embrace partnering between in-house and outside attorneys.

Despite the amount of time that partnering has survived and the increasing number of companies adopting a partnering model, most outside counsel still meet the concept of partnering with great skepticism. This skepticism is bred from both an inability to envision the future of the legal services market and the misconception that the sole goal of partnering is to reduce legal bills for corporations at the expense of law firm revenues.

To understand where the legal market is headed, it is helpful to examine why partnering has been so successful. The concept was embraced largely because the role of in-house counsel has changed dramatically. Many in-house attorneys used to act solely as a liaison between the company and outside counsel. Today, in-house attorneys work longer hours, deal with more sophisticated work, and are expected to better manage the "business" of their department, in part, by ensuring that the fees paid to outside counsel are comparable to the value of the achieved

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results. Of course, these elements do add up to a reduction in legal bills for corporations. However, to conclude that this reduction is the sole purpose of partnering and is always at the expense of reduced revenues for law firms is to view partnering too simplistically.

The heart of partnering is establishing efficiencies to better serve the business goals of the client. Admittedly, these efficiencies often reduce legal bills for clients but that does not necessarily mean that they reduce revenues for the law firms who engage in partnering. Rather, any effective partnering arrangement should focus on sharing risk and reward. For example, a law firm could provide certain fixed fees, a rapid callback time, and consistent advice for a practice such as immigration. In exchange, the company would pay invoices faster, receive a reliable base of work in the immigration area, and gain approval to market the preferred counsel relationship to other companies. It is easy to see how this sort of relationship benefits both partners.

So what exactly are the rewards to outside counsel? There are at least five potentially big rewards, some of which are alluded to in my example above.

1. Partnering arrangements can be structured in a way that secures a base volume of expected work for the outside firm, coupled with opportunity to grow that base as a reward for delivering good services.

2. The relationships fostered in a partnering model are typically allowed to grow on a more meaningful level since outside and inside counsel work together more seamlessly as a team to service the company.

3. Partnering often results in faster payment of invoices or other beneficial payment arrangements such as bonus payments for achieving certain results.

4. Referral work can result from other dedicated outside firms servicing the same client. This is accomplished by recognition that outside counsel are all on the same team.

5. Partnering arrangements usually provide invaluable marketing leverage. Outside counsel can show other corporations that they adopt flexible approaches to providing effective legal services by using the names of the corporations with which they partner and promoting the tools they have developed to achieve efficiency in the partnering context. For instance, to better capitalize on partnering relationships and provide more efficient services, firms can create e-learning systems that can be utilized by in-house counsel and clients to obtain a deeper understanding of the law in a certain area and/or to problem solve in highly regulated areas of law such as HIPAA compliance. These tools can be tailored for a variety of uses and promoted to potential new clients.

With all of these benefits, why are some firms still reluctant to embrace partnering? Firms have valid concerns that partnering requires extensive administrative time associated with management and oversight of the relationship. This time is not billable and, therefore, not valued by the traditional law firm model. Firms also cite simple economics

and claim that many types of legal services, such as litigation, should not be awarded on a lowest bid basis because the results are highly uncertain. These concerns focus on short-term realities rather than the long-term rewards that can be achieved by solidifying the relationships through teamwork that is fundamental to a partnering relationship.

So how can a firm begin to shift its focus and capitalize on partnering relationships? The most critical step is to work with the in-house attorneys to improve communication and create efficiencies in the working relationship. The goal should be to eliminate barriers, such as different answers to the questions of "Who is the client?" or a lack of understanding of the stresses placed on in-house attorneys as compared to outside counsel. Improved communication and greater efficiencies also mean that both in-house and outside attorneys take the time at the outset of any particular project to define the goal. The typical outside counsel approach is to engage in a thorough examination of the law, uncovering every bit of minutia and buttoning up every single detail. Unfortunately, the corporate client often feels that this approach is

over the top in comparison to the value to the corporation resulting from the particular project. Of course, the work has to be done correctly, but lawyers can assess the risk level associated with their concerns on an ongoing basis and communicate that risk so the client can determine what matters and what does not. Finally, improved communication means understanding the client's operations, the risks the client is willing to take, critical business issues, and less important concerns. This often means rolling up your sleeves and taking that extra time to fully understand the business.

Often, the best way to simultaneously achieve the goals of efficiency and better communication is through the use of technological tools. By way of example, a computerized litigation management system not only catalogues, sorts and searches for documents and images, but also stores, digests, and searches transcripts. This system, which allows the firm's attorneys and in-house counsel to access or input documents as required, results in fewer hours spent on status updates and document requests. It also lowers hourly rates for document manage-

ment in discovery and trial preparation. Similar types of shared databases might be used in other practices to provide a real time connection for outside counsel and in-house attorneys on the status of all projects. For instance, trademark practitioners can establish direct links to client docketing systems. This allows them to enter and obtain critical information in one location that is readily accessible by the firm's lawyers and the client's in-house attorneys. In this fashion, both can truly work as a team, avoiding duplication of effort and sharing key data efficiently.

Partnering is a process. Outside counsel may not realize immediate benefits. Over time, though, partnering teams develop synergy and create their own life force that ultimately feeds into other areas of practice, creating rewards for everyone involved.