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FOCUS

President's Message

Robert Gage

CO-ACC's Silver Anniversary

The year 2009 will mark the 25th anniversary of the founding of the Central Ohio Chapter of the Association of Corporate Counsel. Already, plans are in place to make CO-ACC's "silver anniversary" a year to remember.

Challenges and Opportunities

We could not have predicted the economic turmoil that is likely to get worse in 2009. But it is obvious that this is going to be a year in which in-house counsel are going to be asked to stretch resources and respond to new challenges as our companies look for innovative ways to cut costs, increase revenues and weather the different economic storm we are facing.

As ever, CO-ACC will be leading the way by providing programs that are designed with the in-house bar in mind. In January, CO-ACC hosted an important program: "Advice From the Experts: Successful Partnering Between Inside and Outside Counsel." This program focused on ways in which inside and outside counsel could work together more effectively in connection with matters such as selection of outside counsel, fee arrangements and billing procedures, litigation, transactions, compliance,

and ethics and professionalism. Moderated by Robert L. Haig, editor-in-chief of the critically acclaimed treatise and practice guide entitled *Successful Partnering Between Inside And Outside Counsel* (jointly published by West and the Association of Corporate Counsel), the program included a panel of chief legal officers from major corporations and leaders from prominent firms.

The event was well-timed, as CO-ACC will seek to sponsor an ACC Value Challenge program later in the year. The ACC Value Challenge reconnects value to costs for legal services. Hosting an ACC Value Challenge could allow the themes explored in our January program to be more fully developed. To learn more about the Value Challenge initiative, I invite you to review the ACC's summary description at www.acc.com/advocacy/valuechallenge/Overview.cfm.

Promoting Leadership

In April, CO-ACC will sponsor the Corporate Law Leadership Forum. This is another timely program that will focus on the role of in-house counsel as leaders within their organizations and on challenges of balancing business needs and costs with the necessity for legal compliance. The

program will include a keynote address from the president of Marathon Petroleum Company LLC on what the CEO expects from in-house counsel in times of change. For more information on this program, check out our website at centralohio.acc.com.

If there is a "silver lining" to the economic storm clouds of 2009, it is that CO-ACC will continue to focus on providing relevant and cost-effective CLE opportunities to its members. We recognize that this is one of the most important ways that CO-ACC can add value to the already considerable value one gets with membership in the Association of Corporate Counsel.

Finally, notwithstanding the relative gloom expected in 2009, we also hope to take time to celebrate CO-ACC's milestones. This will also be a year to recognize the many leaders in the central Ohio legal community that helped build CO-ACC into the premier organization it is today.

I hope you'll be able to join in some of the events planned to recognize CO-ACC's 25th anniversary and that you will continue to look to CO-ACC as an important resource for you, your law department and your company.

Three Essential Reminders for Saving Money On Outside Counsel Bills

Susan Hackett

Senior Vice President and General Counsel, Association of Corporate Counsel (ACC)

Contact: hackett@acc.com

Everyone's talking value: how to define and focus on value, how to assure that inside and outside counsel are adding value to the client's legal work, how to reinsert, reconnect or recalculate value into the cost of legal services.

When we launched the ACC Value Challenge last year, our premise was to help members drive greater value into their inside/outside relationships and management. We had no idea the markets would tank, that large firms would lay off lawyers by the thousands, that household-name companies would be going under, and that those still standing could be capable of cutting back to such a great extent.

So is it fair to say our timing was good with this project? Sure. But the client's tipping point of disgust had been reached even before the economy went south. Bad markets or good, when it comes to the cost of sophisticated corporate practice, especially at big firms, the emperor has no clothes. The downturn is "convenient" because it makes it impossible for lots of folks who'd prefer to continue to admire the emperor's wardrobe to do so.

You know you can't keep doing things the same way if you wish to respond to your client's directive to reinvent the company's cost structure, and yet the company's legal work will not conveniently cooperate and taper off. For many, their client's legal needs are expanding as their budgets and internal staff are shrinking. I'm here to help by offering what we have learned through the ACC Value Challenge.

Given the short space allotted here, here are my first three suggestions:

First, resist the urge to ask your firms for a rate cut. I know it seems like an easy and obvious fix, especially since the inelasticity in yearly firm rate increases is the only dependable metric we have in corporate practice. But trust me: it's not going to save you money at the end of the day and it's not going to create an incentive for

firms to re-think the way they do your work.

You've got a seismic change agenda to implement, so you need to ask your firms for something far more fundamental by way of change. And 10, 20, even 50 percent off of the inefficient way it's always been done is still going to leave you mired in the "way it's always been done."

Everything we're learning suggests that the all-in costs of a matter do not shrink when the firm agrees to cut their rates or discount their services. They simply bill more hours, assign less efficient staff to your work or add costs in other ways. They're not necessarily evil folks, but there seems to be this "gravity" that pulls them toward a higher bill regardless of what you negotiate for their rates. And this is the wrong result. If you want your firms to focus on value, you both need to rethink the way that the firm is charging for work and not just their hourly price tag.

Problem is, of course, that darned few of us know how to actually assess the value of a lawyer's contribution to a matter by standards other than how many hours they worked on a project multiplied by whatever rate the local or industry law firm services market will bear. This creates a financial disincentive for a smart lawyer to give you a 20-minute answer to your problem, rather than a 40-hour memo and 12 strategy meetings between four lawyers in the firm.

So here's my second suggestion: even if you've never done it before, spend some really serious time mining the knowledge that many of us either ignore or don't understand. Ask your firms to give you reports on the kinds of matters they've handled for you and the all-in costs for each. Then ask them to provide sub-reports on major functional portions of your matters that are regularly repeated: depositions, contract drafting, negotiation or settlement costs, whatever. Not law firm or lawyer tasks, such as meetings to discuss

strategies, research or phone calls with clients—all-in costs of every service provider and expense that led to the completion of the major functions that the lawyers were performing.

Then look at what you know about how much it costs you to do such things in-house (if you also share some of those jobs), and see if you can find out more about the costs that others in your industry or locality are paying. Then benchmark it. (Hey kids, that's what ACC local chapter meetings and committee listservs are for, right?)

I know the process won't be exact or perfect. Indeed, the accumulated costs you're researching are likely all-based amounts that were generated by the hourly system that we're trying to move beyond. But you have to start somewhere. This data is available and if it's not already packaged, then it's a first great exercise for you and your firm in looking at what the stuff we do really costs. And there are vendors out there with matter management systems that are designed to help you and your firms enter data going forward in ways that allow easy manipulations and, perhaps best of all, firm-to-firm comparatives.

Ah, comparatives. Now you'll know more about whether you've got a couple of firms that are doing great and doing it for less. How come? What do they do that's replicable in other firms or in your future management of matters? Is it fewer people billing the project? Is it the lawyers' location that makes them cheaper? Is it an ethic within the firm simply not to gauge clients? Do these firms have a better grasp of legal process management and available staff and technology options? Whatever it is, those firms should get rewarded with more work from you, and you can suggest price reductions to others—not on their rates, but as a percentage off of the accumulated bills that represent the total fees charged for the matter.

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So the conversation goes: “I’d like to retain you to do this matter at this cost—all in. If you can’t agree that this is a price you can live with, or if you can’t figure out if that’s profitable for you since you don’t know what it costs you to do my work, that’s fine. The X firm will take the work. If you take this work at this cost, there will be no additional fees (unless these predefined kinds of unlikely events happen). I don’t need to see weekly or monthly bills, and I don’t care how you staff the matter so long as Cathy is in charge of the project. I don’t care if you fly first class or take two associates with you to court to learn the ropes. I kinda hope you will. I’m paying this cost and you decide how you want to pay your bills and do your business. If you get more efficient and make a good profit on our work while accomplishing the objective we’ve set and offering us the quality we know is your hallmark, I will not ask for any of the money back—you’ll have earned it, because you’ve provided me with the value I defined at the cost the matter was worth.”

Something like this is what you’re after if you really want to save money and create the budget management and predictable results that your company expects of everyone who supervises client assets and procurement of services.

Third and last tip: I’m obviously making this sound easier than it is. You can’t reinvent your or your firms’ processes overnight. You can’t expect that everything you do will fit well into this format, especially as we’re all just learning this value game. We’re going to have to work toward it incrementally. And we may discover even better solutions along the way. You all are really smart and inventive people. So here’s my offering to you on how to start to make it happen: Meet/Talk/Act.

Meet/Talk/Act is perhaps the most important initiative for members in the ACC Value Challenge community. There are no pat answers to any of these questions and no “one-size-fits-all” solutions (indeed, one size fits one!) The only way you’ll discover what can work for you, especially given the personal relationships and highly qualitative factors that often defy easy quantification, is to sit down and talk about all

this in a collaborative fashion with your department team (take yourself out for a contemplative lunch with friends if you’re a solos) and your outside lawyers.

So here’s the task: Pick their three best firms, however you define that. Meet with them. Set an agenda (there’s a menu of possible agenda topics for you to consider on our Meet/Talk/Act information sheet online—see links below). Talk about what’s most important to the continuation of your relationship in a more productive and value-driven fashion. Solicit ideas from each other for lowering costs, process and staffing improvements, budgeting and planning or metrics to evaluate progress. And then act. Just choose a few of the things you talked about as first focus points and do them. Don’t try to change the world on the first day or tackle lots of things at once. Choose something quantifiable, something measurable, something that drives efficiency and value as opposed to rehashing “more of the same.”

ACC will be helping to take Meet/Talk/Act around the country by cohosting ACC Value Challenge events with selected chapters. At these sessions, we’ll put about 20 top in-house and 20 top outside counsel leaders (folks with executive decision-making capacity and influence within their institutions) at round tables of 10. We’re going to give them problems that have been identified by large numbers of members and firms like, what are the appropriate metrics by which to evaluate a firm’s or lawyer’s performance on a matter? How can early case assessment and resolution be better integrated into the cycle of litigation at a company? How can we address the entry-level associate crisis? What kinds of staffing options work best on each of the following matter types? And so on.

Then we’re going to make them talk and capture their ideas, benchmarks, solutions and further queries. And we’re going to publish them for you. So maybe you ask for an invite to come to a session—the events schedule is posted below. Or maybe you just read some of the findings that will begin to trickle out from these sessions and use them as agenda items for your own Meet/Talk/Act sessions with your firms. Or maybe, since we’re asking firms to do the same (call three of your best

clients and invite them to lunch to talk about...), you’ll get invited to a Meet/Talk/Act session by one of your firms. How refreshing!

Want more detail? Want to see the ideas and practices that we’ve already captured and posted that can help drive your practice toward value? Want to host a Meet/Talk/Act with your firms or an internal meeting on this topic in your department? There are resources online for you at acc.com/value_challenge. And, as always, you can contact ACC staff or our Steering Committee leadership with your thoughts and questions, too!

Susan Hackett (hackett@acc.com),
Renee Dankner (dankner@acc.com),
Mike Roster — ACC Value Challenge Steering Committee Chairman
(mroster@earthlink.net)

Meet/Talk/Act Overview (a 1-pager on how law departments and law firms can get started to reconnect value to costs of legal services): www.acc.com/valuechallenge/meetTalkAct

Leadership Resource Page (for those who want to host a meeting or review project summary-type documents on this topic): www.acc.com/advocacy/valuechallenge/Leadership-Resource-Center.cfm

ACC Value Challenge “Covenant with Counsel” (a sample charter for firms and departments that want to reinvent their relationship and set the terms of their partnership): www.acc.com/valuechallenge/covenant

ACC Value Challenge Toolkit (a library of practical resources for those interested in driving value): www.acc.com/advocacy/valuechallenge/toolkit/index.cfm

CO-ACC Officers and Directors for 2009

New officers were named at CO-ACC's 2008 Annual Meeting on December 3 at the Longaberger Alumni House in Columbus. New officers include president, **Robert Gage**, corporate counsel, BMW Financial Services NA, LLC; vice president, **Andrea Kirsh**, senior counsel, American Electric Power; secretary, **Russ Dempsey**, VP & chief legal officer, National Investment Managers, Inc.; treasurer, **Katie Russell**, assistant counsel, Honda of America Mfg., Inc.; program chair, **Jessica Mayer**, VP - managing counsel, Cardinal Health, Inc.; sponsorship chair, **Eric Henricks**, senior counsel, Nationwide Insurance; and immediate past president, **Christopher Wasson**, assistant general counsel, Nationwide Insurance.

At-large directors include **Jenny Barnes**, associate legal counsel, The Ohio State University Medical Center; **Paul DePascale**, VP/counsel, LandAmerica Commercial Services; **Nancy Dixon**, vice president, compliance, Cardinal Health; **Michael Galeano**, senior director and counsel, AllianceData Systems, Inc.; **Philip Haffenden**, assistant general counsel, Marathon Petroleum Company, LLC; **Teresa C. McIntyre**, senior counsel, American Electric Power; **Brian Mannion**, lead counsel, Nationwide; **Laurel Sturm**, general counsel, Oaktree Business Services of Ohio LLC; and **Nicholas Zuk**, VP, assistant secretary & corporate counsel, White Castle System, Inc.

Advisory board: **Irwin A. Bain**, senior VP & general counsel, Schottenstein Stores Corporation; **Ellen German Berndt**, assistant general counsel & corporate secretary, Hexion Specialty Chemicals, Inc.; **C. Michael Gegenheimer**, associate intellectual property counsel, Battelle Memorial Institute; **Robert Hust**, general counsel, Honda of American Mfg., Inc.; **James Kline**, vice president, general counsel & secretary, Cooper Tire & Rubber Co.; **Leon McCorkle, Jr.**, senior VP, general counsel & secretary, Wendy's International, Inc.; **G. Roger Post**, senior VP, secretary & general counsel, White Castle System, Inc.; and **J. Michael Wilder**, general counsel & secretary, Marathon Petroleum Company, LLC.

2009 Corporate Sponsors

Gold Level

Jones Day

Littler Mendelson

Porter Wright Morris & Arthur LLP

Silver Level

Baker Hostetler

Bricker & Eckler

Frost Brown Todd LLC

Vorys, Sater, Seymour and Pease LLP

ACC News

Recruit a Member and Win a Prize—Starting March 1

Each time you use the ACC network, you get access to valuable skills and experience only available through ACC. More members provide improved educational opportunities, enhanced networking, increased online resources, and advancement of the profession worldwide. You can expand your network by taking part in ACC's "Everybody Wins" membership drive. Recruit a member and you will win prizes ranging from Starbucks' Cards loaded with \$5 and cutting edge electronics including portable DVD players, digital cameras, and

new computers, to free ACC Annual Meeting registrations and a \$750 travel stipend. ACC's "Everybody Wins" membership drive ends on June 30—so don't delay, recruit today! For more information, go to www.acc.com/everybodywins.

Find Your Leadership Solution at ACC's Executive Leadership Institute

During these tough economic times, companies take drastic measures to improve bottom-line performance: downsizing, reorganization, budget cuts. ACC understands how these changes can affect law

department management and we can help you meet these challenges head on. Come to ACC's Executive Leadership Institute, April 20-22 in Atlanta, and learn to become a valued and effective leader. Register today at www.acc.com/leadership.

Advance Your Business Skills in the New Year!

Is becoming financially literate and business savvy one of your goals for 2009? Then don't miss ACC's Mini MBA for In-house Counsel program. Taking place April 21-23 in Los Angeles, this power-packed three-day session provides

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Corporate Law Leadership Forum

Program

8:00 – 8:30 AM

Registration/Continental Breakfast

8:30 – 8:45 AM

Welcome/Introduction of Speakers

Robert Gage, President, CO-ACC

8:45 – 9:45 AM

“The Organizational Lawyer:
Leading with Integrity”

Speaker: Timothy E. Flanigan, Esq., partner, McGuireWoods, LLP, Washington, DC; former senior VP, general counsel, corporate and international law, Tyco International (2002-2007); deputy counsel to the President of the US (2001-2002); authorized biographer of Warren E. Burger Biography Project and former senior law clerk for the Hon. Warren E. Burger, US chief justice of US Supreme Court (1985-1986)

Sponsored by:

CO-ACC

April 22, 2009

The Longaberger Alumni House

2200 Olentangy River Road,

Columbus, Ohio 43210

9:45 – 10:00 AM

Break/Networking

10:00 – 11:00 AM

Panel Discussion: “What Your
Chief Legal Officer/General Counsel
Expects of You as the
Organization’s Lawyer”

Moderator: C. Michael Gegenheimer, associate intellectual property counsel, Battelle Memorial Institute; Panelists: Patricia R. Hatler, executive vice president, chief legal and governance officer, Nationwide Insurance; and Nicholas W. Zuk, corporate counsel, White Castle System, Inc.

11:00 – 11:30 AM

“Balancing the Legal Cost of
Compliance with Ethics:
How to Deal with the CFO”

Speaker: Cardinal Health legal officer to be announced

11:30 AM – 12:15 PM

Luncheon and recognition of guests,
and current and past leaders of
CO-ACC

12:15 – 1:00 PM

“What Your CEO/President
Expects From Its Legal Counsel in
Changing Times”

Speaker: Gary R. Heminger, executive vice president, Marathon Oil Corporation and president, Marathon Petroleum Company LLC

For registration information, visit
www.acc.com/chapters/centoh/

Welcome to New Members

We wish to welcome the following new members:

Julie Atchison, American Electric Power

Cynthia Butler Carson, American Electric Power

Patricia Castro, American Electric Power

Joseph Karpowicz, Wendy’s International, Inc.

Gregory Kirstein, Columbus Blue Jackets

William Marshall, Abercrombie & Fitch Co.

Daniel Massey, The Scotts Company, LLC

Marilyn McConnell, American Electric Power

D. Michael Miller, American Electric Power

Paul Nesbitt, American Cancer Society, Inc.

Lori Payne, Nationwide Mutual Insurance Company

James Reeves, American Electric Power

Robert Edward Schuerman, Bob Evans Farms, Inc.

John Sullivan, Honda of America Manufacturing, Inc.

Dimitar Todorov, The Scotts Company, LLC

Board Members and Contacts

President

Robert Gage

Corporate Counsel
BMW Financial Services NA,
LLC
614.789.7380
robert.gage@bmwfs.com

Program Chair

Jessica L. Mayer

VP - Managing Counsel
Cardinal Health, Inc.
614.757.6440
jessica.mayer@
cardinalhealth.com

Vice President

Andrea Kirsh

Senior Counsel
American Electric Power
614.716.1925
amkirsh@aep.com

Immediate Past

President and Director

Christopher (Chris) Wasson

Assistant General Counsel
Nationwide Insurance
614.854.8175
wassonc@nationwide.com

Treasurer

Katie Russell

Assistant Counsel
Honda of America Mfg., Inc.
937.644.6621
katie_russell@
ham.honda.com

Board of Directors

Jenny Barnes

Paul DePascale

Nancy Dixon

Michael (Mike) Galeano

Philip Haffenden

Teresa McIntyre

Brian Mannion

Laurel I. Sturm

Nicholas (Nick) Zuk

Secretary

Russ Dempsey

VP & Chief Legal Officer
National Investment
Managers, Inc.
614.923.8831
rdempsey@nivm.com

Chapter Administrator

Nancy Waterhouse

614.228.4716
nancy@assnoffices.com

Sponsorship and Membership Chair

Eric Henricks

Senior Counsel
Nationwide Insurance
614.677.4210
henrice@nationwide.com



Association of Corporate Counsel
Central Ohio Chapter

1025 Connecticut Avenue, NW, Suite 200
Washington, DC 20036-5425

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a focused program of essential business skills for the in-house attorney. Enhance and sharpen your management knowledge in critical MBA disciplines such as strategic planning, corporate finance, organization development, and risk analysis. To learn more and to register, visit www.acc.com/minimba.

New to In-house Counsel Institute: Invest in Your Future, Increase Your Value

If you are new to the in-house field, ACC's New to In-house Institute can help you quickly learn the critical elements of the corporate legal practice. Join us in Atlanta from May 17-19 at the Hyatt Regency Atlanta and experience this intensive, two-day seminar especially designed for you! Bring your paralegal team for the In-house Paralegal Program that runs concurrently at the same location so your staff can enhance their skills as well. To learn more, visit www.acc.com/discoverinhouse.

Expand Your Professional Network at ACC's 2009 Annual Meeting

Don't just survive. Thrive! Attend ACC's 2009 Annual Meeting and be part of the educational and networking event of the year for corporate practitioners. Taking place October 18-21 at the Hynes Convention Center in Boston, MA, ACC's Annual Meeting offers multiple opportunities to meet, interact with and learn from fellow in-house counsel. Developed by in-house counsel, for in-house counsel, the programs cover a wide range of legal and management topics. Look out for the complete 2009 Annual Meeting program schedule and register today at am.acc.com