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FOCUS

President's Message

Cindy Pitesa

In February, the Charlotte Chapter board held its 2008 Strategic Planning Meeting. At the meeting, the board identified three goals for 2008. I want to share the goals and the status of the goals with you.

(1) Make the sponsorships a success (including attendance of at least 50 members at the chapter luncheons).

In 2008, our chapter entered into partnerships with six law firms—Parker Poe Adams & Bernstein LLP; McGuireWoods LLP; Robinson, Bradshaw & Hinson, P.A.; Womble Carlyle Sandridge & Rice, PLLC; Alston & Bird LLP; and K&L Gates LLP. In order to make the sponsorships successful, we must offer quality programs, increase member attendance at chapter events, and offer our members and sponsors the opportunity to interact.

Our Programming Committee works directly with the sponsors to determine program topics based on current issues and member preference. Each sponsor hosted a chapter luncheon at Byron's South End. The attendance averaged approximately 50 to 55. Each sponsor also hosted a Lunch-N-Learn event at the respective sponsor's office. The attendance averaged approximately 30 to 35.

In 2007, we had four CLE events with an average attendance of approximately 45 and no Lunch-N-Learns.

(2) Increase membership by at least 10 percent and get more members involved in serving on committees.

On January 1, 2008, we had 207 members. As of the end of September, we had 251 members. This is an increase of more than 20 percent. Our Communications & Membership Committee along with our members have been actively recruiting new members. To make our new members feel a part of our chapter, new members are introduced at the chapter luncheons and are invited to a new members luncheon. The first new members luncheon was held on October 29 at the Village Tavern.

At the beginning of 2008, each chapter committee had one or two members. Currently, each committee has at least one chairperson with two to seven members depending on the committee's responsibilities. If you are interested in joining a committee, please contact the committee's chairperson, Jane Nohr, or me.



(3) Concentrate on offering CLE qualified programs. The Programming Committee works directly with the sponsors to offer CLE qualified programs. In 2008 we had six CLE luncheons and six CLE Lunch-N-Learns, which

offered a total of 12 CLE credits. Jane Nohr has obtained approval from the North Carolina Bar for these events and has filed the applicable documentation and fees with the North Carolina Bar for the attendees licensed in North Carolina to obtain CLE credits.

The Charlotte Chapter has had a great year. Our success is the result of the support, dedication, and hard work of our members, member volunteers, sponsors, and our chapter administrator, Jane Nohr.

I hope to see you at a chapter event!

Counseling Around Corners

Susan Hackett

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

Contact: hackett@acc.com

The economic downturn is more evident everywhere I go. The impact can be seen and felt all around us: closing businesses, laid off workers, less abundance, less “consumerism,” and an increased focus on family time.

My mother recently reminded me of some things I had since pushed aside. Mom, born in the Depression years, grew up in a very large family that barely made ends meet from day to day. They lived without a lot of frills, and only because all of the kids pitched in at home or to earn money. They focused on frugality, getting good value from everything they purchased, doing everything they could with less. I saw the enduring imprint of the Depression on my mom every time she rolled up and “re-gifted” the paper and the ribbon off her birthday package, or made us carry recycled lunch bags, or carefully washed and stored the empty mayonnaise jars for future use. We teased her mercilessly about this kind of frugal behavior.

In the last few months, those of us who grew up with plenty and who have been living large have seen a glimpse of what was bred in many of our elder parents’ bones: a healthy respect for prudence, a less ostentatious lifestyle. We are stepping back from excess and more carefully shepherding our resources because we are worried about what might come. Those of us fortunate enough to enjoy relative security in our jobs, our homes, and our daily routines cannot escape the unfortunate comparison to some of our neighbors and colleagues who have been harder hit.

By reflecting on the past, we can learn prudence relevant to corporate counseling in today’s volatile environment. As you examine your budgets and look at what can or must be trimmed, or what you can do to drive greater value, outside counsel costs often rise to the top of the pile. Empirically, we know that outside counsel costs constitutes more than 50 percent of the budget for more than half of in-house

departments. While many outside counsel are worth every penny they are paid, we all know there are many more who could be managed to spend a bit less for the work they perform, relative to the value of the services provided. Unless we manage toward those efficiencies, we are going to be caught spending our precious time in unproductive arguments over bills.

ACC has resources readily available to you for your consideration as you hone in on costs and increased value:

Hours, Rates, and Budgets

Don’t ask for a discounted rate or a freeze on fees. Many members have indicated that their approach to their firms this year is to ask for a 10 to 20 percent rate decrease. In part, this plan is fueled by the perception (and reality) that rates charged are out of proportion, and that they have grown exponentially for several years without any corresponding increase or change in the value of the services those counsel provide. Services have gotten more expensive and AmLaw and others continue to report that firms and leading partners are sometimes profiting in an almost unseemly manner. While everyone likes a profit, you have to start to wonder, “Who is in control here?”

Every situation has its own unique drivers, and I believe focusing on reducing outside lawyers’ rates is the wrong way to go in establishing the groundwork for successfully controlling costs. In-house counsel are surprised to find that, despite setting lower billing rates, fee ceilings, or blended rates for their work, the overall bill submitted did not get any smaller. Law firms that overcharge for matters and that agree to freeze or reduce their rates, just bill more hours, involve more billers, or do not properly control other expenses. Bills inevitably gravitate toward a certain amount, regardless of what might have been negotiated.

Set a budget for the project and to hold the firm accountable. Talk about what that project or matter is worth. Do not attach a price to the project, nor accept a fee reduction or a request for a discount. Simply state that this is what the matter is worth to you and then ask, “Is the firm willing to take this matter on for this fee?”

You should clearly articulate that you will not allow adjustments or overruns, except in pre-determined (in writing) extreme circumstances. For the price you agree to, they must finish the project, however that is defined. If it is important to you, tell them which lawyers you want in charge of or working on your matter. Make sure you are playing fair: tell them up front that you will not seek a refund or rebate if they resolve the matter more quickly/less expensively. You want them to profit by working efficiently. While some worry that the work done could suffer as a result of this kind of arrangement, I believe this is a myth of convenience, without any empirical merit. Firms that set flat fees for services begin to value lawyers who provide services not based on hours, but on getting clients what they want quickly.

What do you get from this? Much of the time, you will get lower costs. However, even if costs are not reduced, there is something to be said for managing them predictably for your clients in such tumultuous times, since busted budgets and missed financial targets often cause even more trouble. In addition to the surety of bills inline with your expense expectations, you and the firm will not have to waste time arguing over hours or bills.

Establishing a Budget

A project budget is not something that your outside counsel should prepare. It is something you must drive. Outside counsel should be critical in the process of mining their data. Perhaps they have done 437 of these kinds of cases over the last five years and can average some costs for you as a starting point. In-house departments

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must set—and evaluate—the budget based on the value of the work to the client. If a project is only “worth” \$50,000 to the client, what does it matter if the firm says it will cost \$100,000? You either find another firm or settle out now for \$40,000, and spend your time and effort on something that has a higher value.

While many of us are unsure of how to effectively evaluate the “worth” of some kinds of matters, we have to do this in the process of owning our own budgets and costs. If you do not know what a matter is worth, you certainly cannot expect your outside firm to live up to your cost efficiency expectations. We are developing a highly refined set of evaluation tools for our ACC Value Challenge project that will help in-house counsel determine the value of legal work by some other method than the cost of a lawyer’s hour multiplied by the time the lawyer spends working on the matter. If your goal is to set budgets based on incenting efficient performance from all players, inside and out, be sure to visit www.acc.com/valuechallenge for additional tools and insight.

A significant portion of the time you spend with your firms should be focused on evaluation and review of their services. Most of us, however, do very little to tell our firms what they do that we like and what we want them to do differently. The closest we get is paying or disputing the bill. While your outside firms are not blind, they may not focus on what your needs or concerns are unless you tell them. They are aware that companies are tightening their belts, that legal services are a cost center, and that you are under pressure to do more with less, but what do you expect them to propose without guidance from you? Further, if you work in a larger department, you must also have this “evaluation/review” conversation with your own lawyers internally. You want to incent their better management of firms by rewarding those who drive better performance at lower and predicted costs, and reproaching those that do not. Keep in mind that cost overrun by law firms is often enabled by a lack of good in-house management.

You need to consider adopting evaluation/review criteria for both the in-house staff and the outside firm. Make it clear that compensation and continued retention depends on adherence to a set of criteria that you all understand and are equipped to employ. If you are going to tell internal counsel that they must hire firms and return results and rates within set parameters, you have to allow them to select firms that will accept and abide by those terms, which may mean firing more expensive and less flexible firms that you’ve worked with for years. You have to support your staff’s decisions.

Perhaps one of the best exercises you can go through now is that of data mining to review the kinds of work done in the last year and compare it to previous years, looking at a variety of comparatives. Ask your firms to begin to mine their data for you, too. Given that many of them have long experience performing the kind of work you retain them to do, they should be able to clearly discuss specific types of work, what it costs, when it’s successful, who does it best, etc.

What if You are Unable to Hire Outside Help At All?

When you cannot afford to hire expertise, or the extra hands you need to create a solution to a thorny client problem, your friends in the ACC network can help. There is intrinsic value to what you will derive from a conversation with an experienced in-house peer over the value of analysis of a legal problem that an outside firm might offer. ACC offers several ways to leverage your membership:

- Join an ACC committee to find other practitioners interested in the same subject; (There is no additional cost and no limit on the number of committees you can join as an ACC member)
- Attend your local chapter meetings to find similarly situated peers who are confronted with many of the same issues as you;
- Post questions or requests on any of our many Listservs;
- Visit the online Membership Directory to reach out to a company that is likely to have an answer you want, or has the

established best practice you would like to emulate;

- Search ACC’s online database of research, which includes thousands of documents such as articles (including back issues of the *ACC Docket*), how-to’s, ACC InfoPAKS, program materials/outlines, collected member forms, and policies, and links to other useful sites or resources;
- Look through ACC’s Leading Practices Profiles for added insight to member and department practices. These practical benchmarking tools capture how members have tackled tough topics through in-depth interviews that address their experience in getting started, key resources they developed, staffing and expense and lessons learned;
- Contact vendors who support ACC for discounts, ideas and access to their research. Especially helpful may be those vendors in the ACC Alliance program that co-market specialized products and services made for corporate counsel and available to ACC members at a reduced cost.

For those of you who have already been hit by the downturn and have lost, or may be in jeopardy of losing your job, know that ACC is standing right beside you. We offer in-transition membership at no cost (so long as you were a member prior to losing your position), and we also offer a variety of services and the best job postings in the business on ACC’s In-House Jobline.

Please share your thoughts on what you are doing to focus on more prudent management of your client’s time and spend. You can reach me at hackett@acc.com.

Recent Chapter Events

On September 24, 2008, Parker Poe Adams & Bernstein LLP hosted an afternoon CLE program on “Economic Climate Change and Weathering the Storms.” Members learned some proactive tips on dealing with vendors and customers, and employment decisions in the current environment.

The Charlotte Chapter meeting on October 1, 2008 featured Alston & Bird LLP’s CLE presentation titled “Inclusive Exclusivity.” Members received an update on the recent trends in intellectual property, recommendations for protecting a company’s IP when contracting with third parties, and a primer on IP law in China.

The GC/CLO Dinner took place on October 7, 2008 at Upstream, offering a great opportunity for local companies to discuss the current issues for their businesses and legal departments in light of recent

global events. We appreciate our generous sponsor Counsel On Call for making this evening so successful.

ACC’s Annual Meeting took place October 19–22, 2008 in Seattle, Washington. The following Charlotte Chapter Members took advantage of this great opportunity to learn about the latest issues facing the legal department and to network with other chapters:

Steven Crow, Gregory Ewald, Michael Gaither, Jason Hildebrand, George Jurch, Steven Lauer, Christy Lilley, Dana Miles, Jane Nohr, Tim Nohr, John Orgain, Cindy Pitesa, Eric Rohm, Alexa Shelley, Tim Sparks, Susan Travis, Christopher Weeks and Robert Wick.

On October 21, 2008, K&L Gates LLP educated members during a Lunch-N-Learn CLE presentation. The topic was

“Internal Corporate Investigations: Legal, Practical, and Ethical Issues” and included guidance on conducting the investigations, managing the process, and examining the findings and conclusions.

A new members lunch was held on October 29, 2008 at Village Tavern. If you were unable to attend and you have not received a new member packet, please contact Jane Nohr, chapter administrator, at cltacc@yahoo.com.

Alston & Bird LLP hosted an Ethics CLE Lunch-N-Learn on November 11, 2008 titled “A Day in the Life of Lee Lawyer.” The program used a hypothetical fact pattern to focus on ethical issues faced by in-house counsel on a regular basis.

Chapter News

Upcoming Chapter Events

December 3, 2008—We are planning a complimentary social/networking event for our chapter in place of our usual chapter meeting.

January 23, 2009—Save the date for the Annual Gala which will be complimentary to our members this year! The Gala is a fun-filled evening of food, music, and camaraderie at Bentley’s in uptown Charlotte from 6:30 PM to 10:00 PM. You and a guest are invited to attend. More details coming soon!

For more information on upcoming chapter events, go to charlotte.acc.com.

New Additions to Our Chapter

Coming soon will be the opportunity to be able to register and pay for the Charlotte Chapter meetings using a new on-line registration system, which will be accessible by going to our website. More details to follow.

A new committee has been added to the Charlotte Chapter for 2009. The Career Development Committee is chaired by John Buckley and will focus on job search skills, training, and networking.

Check out ACC’s updated website. It still contains all of the important information

you need to know for the Charlotte Chapter. Go to www.acc.com, select “Chapters,” and then choose “Charlotte” to find past program materials, events information, committees and contact information, job listings, new members, and more!

We want to hear about your latest professional and personal accomplishments. Go to the Charlotte Chapter website to find a member announcement form or pick one up at the chapter meetings. Announcements will be posted on the website.

2008 Strategic Sponsor Firm Profiles



At McGuireWoods, we have one thing on our minds—serving clients. Our commitment to providing them with quality work and personalized service has allowed us to become one of the most client-centric law firms in the country. We deliver exceptional value, use technology to provide effective and efficient legal solutions and employ a diverse workforce to bring real-world and innovative perspectives to meet our clients' needs.

We are a national law firm. McGuireWoods' Charlotte office supports clients in banking and financial services, real estate, corporate, tax, intellectual property, labor and employment and areas. As one of the largest law firms in Charlotte, we provide a wide range of services to companies. We have been recognized for our quality and service through dozens of awards. More importantly, we have been selected to participate in formal convergence programs with clients such as DuPont and International Paper, McGuireWoods prides itself on "partnering" with clients by listening to their needs, understanding their businesses, and utilizing this knowledge base to provide efficient service. In many cases, we serve as national or regional counsel for corporations such as DuPont, Ford and Siemens. We apply the lessons learned from these relationships to better manage work for all our clients.

With approximately 900 lawyers and 17 strategically located offices worldwide, McGuireWoods uses client-focused teams to serve public, private, government and nonprofit clients from many industries including automotive, energy resources, health care, technology and transportation, thus meeting clients' needs from virtually any area of law.

ROBINSON BRADSHAW & HINSON

Robinson, Bradshaw & Hinson, P.A. is a corporate and commercial law firm founded in 1960 committed to providing each client with the highest quality, comprehensive legal services. We currently have over 130 attorneys practicing in our offices in Charlotte, Chapel Hill and Rock Hill, South Carolina. Our firm serves as counsel to public and closely-held enterprises operating in domestic and foreign markets, individuals, municipal, county and state agencies, public utilities, health care institutions, financial institutions, tax-exempt organizations, and investment funds of various types.

The breadth of experience derived from these representations has equipped our firm to anticipate and respond to the rapid changes defining today's business environment.

We believe in maintaining a client-oriented, results-oriented firm. For example, because we want our lawyers to focus on solving problems and completing projects, our compensation system is not based on individual lawyers' "billable hours" or "origination credits," nor do we establish

sub-groups as "profit centers." As a result, the client can be assured that the sole focus in staffing projects is determining which lawyers are best suited to handle the project successfully on a cost-efficient basis. Another notable characteristic is the quality of lawyers who make up our firm. We devote substantial resources to hiring lawyers of exceptional academic achievement with practical ability to solve problems and to meet the challenges facing our clients in the real world.

Our core ideals are professionalism (putting the client's interests first), excellence (holding ourselves to very high standards for the quality of our work), and teamwork (encompassing both the "one-firm" approach to professional activities and the cultivation of mutually supportive personal relationships within the firm). We seek to establish, maintain and communicate an inclusive work environment in which people of all backgrounds, outlooks and interests can share a commitment to these ideals.

2009 Strategic Sponsors

We are excited to announce the firms that have already committed to be our 2009 Strategic Sponsors:

Parker Poe Adams & Bernstein LLP
McGuireWoods LLP
Robinson, Bradshaw & Hinson, P.A.
Womble Carlyle Sandridge & Rice, PLLC
Alston & Bird LLP

Meet the 2008 ACC-Charlotte Officers



(Left to right) Secretary Steve Millsap, Treasurer Luther Moore, President-Elect Janet Kelley, President Cindy Pitesa.

ACC News

To Cut or Not to Cut? Top Ten Value Adds of Your ACC Membership

By Deborah House, ACC Vice President
and Deputy General Counsel

Full disclosure: I hesitated to write this piece. It feels too much like the dreaded infomercial and with the exception of those times when I am having trouble sleeping, I like to avoid those at all costs. However, at the core of ACC's role is its mission to assist its members in advocating for the resources they need to excel as in-house practitioners. And, because I personally have been through this process — forced to justify the cost of my ACC membership while practicing in-house — I thought the least I could do was to give you some talking points.

Here is what you should tell your CFO. (Read the remaining tips at www.acc.com/chapters/upload/WhyACCMembershipisEssential.doc)

1. Be Penny Wise, Not Pound Foolish. Talk in numbers; it's the language that CFOs understand. ACC's annual member-

ship fee is only \$260 (reduced further for multiple members of large legal departments). That's far less than you would pay for one hour of a law firm associate's time, and ACC provides numerous free services and products that go far beyond what that hourly rate makes available.

2. The Neck You Save, Just May be the CFOs. When you join ACC you secure the services of a strong, enthusiastic and accomplished advocate. ACC is the voice of the in-house bar, fighting for both our members' professional rights and their clients' representational needs before courts, media, government agencies, legislatures, and bar groups.

For example, this past year, with ACC's leadership in the charge for change, the Department of Justice (DOJ) and the SEC revised their positions requiring companies to waive the attorney-client privilege as an indicator of cooperation in possible prosecutions. ACC, through its amicus briefs in the prosecution of certain KPMG officers, also helped convince a court to prohibit DOJ from pressuring KPMG not to pay their legal fees. Finally, ACC filed comments with the Financial Account-

ing Standards Board (FASB), protesting proposed changes to the FAS 5 financial loss contingency disclosure rules. The proposed rule, if adopted, would force companies to disclose privileged information and legal work product that could negatively impact their liability, litigation strategies and defense rights.

Do you think your CFO (or everyone else in the C-Suite for that matter) might have some interest in the continued protection of the privileged legal advice you provide? Having their legal fees paid? Appropriate financial disclosure standards? We do, too!

3. The Neck You Save, Just May be the CFOs (Part 2). Let's face it, stuff happens. And, it often happens very fast and it is necessary to respond equally quickly. Whether the CFO knows that there are changes in the case law, statutes, law, regulations or standards that affect her day-to-day work may very well be a function of whether you know it and can advise her.

Enter ACC Newsstand. Transmitted to you electronically each day, ACC Newsstand provides up-to-date information about changes in the business and legal arenas,

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New Members

We welcome New Members who have joined our chapter since August 2008:

Spencer Conrad

Susan Grady

Doug Hardy

Nan Huegerich

Frances Jones

Ray Kolls

Dana Miles

Julie Mueller

Mark Nelson

John Nurkin

William Pleasant

Christin Reische

William Robinson

Steve Tisoris

Brian Webb

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which can be tailored for 40 specialty areas and 40 jurisdictions. On the go? You can read it on your BlackBerrySM or iPhoneTM. One member described it as “one of the best e-resources that I have encountered in 21 years of practicing employment [law].” Cost? Just that membership fee!

Read more tips here: www.acc.com/chapters/upload/WhyACCMembershipisEssential.doc

Top Ten Tips for Job Applicants

By Deborah House, ACC Vice President and Deputy General Counsel

In this difficult economy, ACC knows that many of its members are finding themselves “in transition,” and thus in the job application process. At one time or another we have all been there and know it can be an uncomfortable and difficult place to be.

But take heart. There are many ways you can improve your chances of getting that next job. How do I know this? Over the course of my life as an attorney, by rough estimate, I have seriously pursued and been offered 10 positions and have been rejected for 3. I have also had personal responsibility for hiring in excess of 50 people. Here are the top job seeking tips that I have developed from these experiences.

Information Is Your Friend. There is a wealth of information on the web and elsewhere. Use it! Use a search engine to find out more about the people with whom you are interviewing. Read the company’s latest annual report. Check out recent company press. Review the company’s website in depth. Have informational interviews with other people who work for the company. Having all this knowledge will be invaluable.

Put Your Best Foot Forward. Your Mother had it right. First impressions do count. I regularly weed out applications by eliminating those that have typos, are improperly addressed, or demonstrate a lack of basic research. If an applicant can’t get it right now, then I assume his/her work will be equally unreliable. This information is available! Proof, proof, proof your application. Don’t just rely on Spell Check; it can be deadly! Secure the assistance of a friend, colleague, or significant other who will proof your application for errors and substance.

Follow Directions. Most job ads have directions. Follow them. As an Interviewer, if you don’t follow my directions now I have to ask myself whether I can depend on you to follow them later when you are working for me. So, if the directions tell you to include a cover letter that outlines how your experience relates to the qualifications sought — do it! If you can’t write that letter because realistically you don’t think you meet the job requirements — consider applying elsewhere and not wasting the interviewer’s time. Or, write the letter and tell them why you meet certain job requirements and why you know you can meet others you don’t meet now (e.g., cite parallel or similar experience and how it applies). If the job ad says “No Calls,” then you may very well make them at your peril. If the job ad asks for salary requirements, then provide them. If you don’t know what the salary range should be, ask your colleagues or use ACC resources.

To read all ten tips, go to: www.acc.com/chapterleaders/upload/ACCTopTips.doc.