

CHAPTER OF THE YEAR!

President's Message

Todd Martin

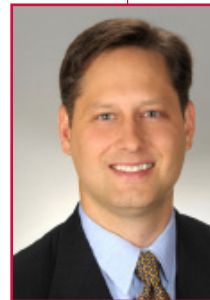
It's no secret that many of our members are eagerly awaiting an upturn in the corporate legal job market. Some of us have lost jobs - and nearly all of us who remain employed are working with limited resources as a result of budget cuts and swirling corporate uncertainty. Although overall job losses continue to outpace new hiring, we are finally beginning to see some hopeful signs of recovery. The ACC's most recent Chief Legal Officer Survey Results indicate that corporate executives have acknowledged the need to hire more in-house staff in 2010 and are starting to find the necessary room in their budgets for this additional headcount. One by one, new job postings have begun appearing on the ACC job board and other employment websites. These subtle, but reassuring signs are the first steps toward getting our members in transition back to work.

In the meantime, our chapter will continue to promote networking opportunities, and with the help of our sponsors, provide practical job searching advice and opportunities to share our success stories with one another. Nearly 50 people attended our February 10 in transition meeting hosted by Legal People at Blue Mesa in Addison. Legal People shared current legal job market data and provided meaningful advice from the

perspective of the job seeker and employer alike. The meeting was extremely productive and optimistic. Look for more networking opportunities in the coming months.

Look also for future opportunities to serve others in need around North Texas. We are providing four Margolies Scholarships to area law students this year and will hold a family friendly crawfish boil this Spring at the Ballpark in Arlington to raise funds for future scholarships. If you cannot attend, please consider asking your company to make a small donation to this worthy cause. If you've heard the testimonials from former scholarship winners, you cannot help but be touched by the obvious effects of their work in the community.

As you may have heard, another event that we have added to this year's calendar involves our partnership with StreetLaw. We hope that our ACC members can assist with mentoring some of the Dallas area's most promising underprivileged high school students interested in pursuing legal careers. The impact that we can have on these young men and women is profound.



Maybe we can once again take to heart the inspirational words attributed to a fellow attorney many years ago, that "the best way to find yourself is to lose yourself in the service of others."¹

The Dallas Fort Worth Chapter will strive to do just that as we continue our journey into 2010. Hope to see you soon.

¹Mahatma Gandhi. I don't know about you, but I love that he was an attorney in his younger days.

Upcoming Events

- April 15 (Dallas); April 22 (Ft. Worth) Crisis Management Chapter Meeting
- May 15 1st Annual Margolies Scholarship Crawfish Boil & Fundraiser

Visit www.accdfw.com for more details or to register.

Client Value Update: Talk or Real Change?

By Steve Jenkins, Haynes & Boone, LLP

In 2009, many legal industry experts predicted that the dynamics of the economy and market would rapidly accelerate a transformational change in the pricing and cost management of legal services . . . a change from the traditional billable hour model to client value-based models, including a very substantial increase in the percentage of matters priced on alternative fee arrangements. The industry discussion seemed to be shifting from whether the change would happen to how soon and to what extent the change would occur.

In a recent statewide series of ACC chapter meetings sponsored by Haynes and Boone, LLP, Haynes and Boone lawyers and panels of distinguished general counsel took a current, candid look at the extent and pace of the transformational change thus far and discussed how in-house legal departments and law firms can navigate the changing world during panel discussions titled “Client Value Update: Talk or Real Change?” The ACC chapter meetings and panel presentations were held on January 12th (Houston), January 21st (Dallas), January 28th (Fort Worth), February 3rd (San Antonio) and February 18th (Austin).

General counsel panelists included Carla Herron, Group Litigation Counsel for the Shell Oil Companies, and Mark Lowes, Vice President-Litigation for KBR (Houston); Ron Barger, General Counsel for Archon Group, L.P., and Paul Jolas, Executive Vice President, Chief Legal Officer and Secretary for Regency Energy Partners LP (Dallas); Elaine Whitbeck, Senior Vice President, Chief Legal Officer, General Counsel and Corporate Legal Secretary for Alcon Laboratories, Inc., and David Poole, Senior Vice President and General Counsel for Range Resources Corporation (Fort Worth); Randy Seewald, Chief Legal Officer for USAA Real Estate Company, and Judy Norris, Senior Vice President and General Counsel for Harland Clarke (San Antonio); and Teresa Burroff, Senior Vice President, Legal Affairs and General Counsel for Seton Healthcare Network, and Beth

Ozmun, Vice President of Litigation and Employment, Advanced Micro Devices (Austin). Steve Jenkins, Chairman of Haynes and Boone’s Client Value Task Force, served as a panelist during each of the chapter meeting presentations. Haynes and Boone attorneys acting as moderators included John Eldridge (Houston), Terry Conner (Dallas), Brian Barnard (Fort Worth), Steve Waters (San Antonio) and Henry Garrana (Austin).

Each panel discussion began by asking the panelists whether the 2009-2010 period will be seen as a period similar to prior recessionary periods, when a lot of talk about change in the pricing of legal services occurred in the legal industry with no meaningful change resulting . . . or will this period be seen instead as a period of real, transformational change in the pricing and cost management of legal services? During each chapter meeting presentation, the panelists observed that, thus far, there has been more “talk” than “real change,” but each panel basically reached the same conclusion: real change in the pricing of legal services will inevitably occur, and, as a result, there will be a substantial increase in the use of client value-based alternative fee arrangements.

Reasons cited by the panelists included the recent extraordinary economic uncertainty and the reality that every company is actively looking for ways to reduce costs, including legal costs, the national dialogue generated by the ACC’s Value Challenge, and the fact that some law firms are, in fact, proactively seeking client work today on the basis of client value-based alternative fee arrangements.

Most panelists agreed that real change will occur, but that the change will be more evolutionary than some legal industry experts have predicted . . . believing that the real change will occur over a three to five year period rather than a sudden sea change.

The general counsel panelists saw the most significant drivers of real change in the pricing of legal services as an internal push within companies to reduce legal costs and, at the same time, an increasing desire for greater predictability in the costs of legal services. Steve Jenkins agreed that clients generally want greater predictability of legal costs as well as improved efficiency, and he predicted that in the next three to five years, the legal industry-wide use of client value-based alternative fee arrangements such as fixed fees, budgets with real financial implications, including risk sharing, and portfolio fee arrangements will significantly increase.

Against that backdrop of predictions, the general counsel panelists were asked whether or not law firms are proactively offering them new models of pricing and alternative fee arrangements today. They observed that this area is an example of more talk than real change. Specifically, most panelists reported that they have seen very little by way of law firms’ proactively bringing alternative fee arrangements to them.

When asked whether the problem is that law firms are not proactive enough in offering to work on an alternative fee arrangement basis, or whether clients are not proactive enough in encouraging law firms with which they regularly work to explore alternative fee arrangements, most panelists indicated that the real problem is not who is or should be the initiator of alternative fee arrangement discussions, but rather how to overcome the inherent challenges for both clients and law firms to work in a different way than the traditional hourly rate approach. As a result, the hourly rate approach will continue to have a strong role in the pricing of legal services until clients and law firms get more experience and comfort with client value-based alternative fee arrangements.

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Client Value Update: Talk or Real Change?

By Steven Jenkins, Haynes & Boone, LLP

(Cont. from page 2)

The panelists were asked to offer suggestions for how general counsel and law firms could facilitate the change toward increased use of client value-based alternative fee arrangements. From the perspective of the general counsel panelists, there seemed to be a consensus that although no “one size fits all” approach to client value-based alternative fee arrangements currently exists nor is likely to exist in the future, affirmative steps could be taken to facilitate a shift from “talk” to “real change.” Among the suggestions by the general counsel panelists were the following:

- Identify segments of work that are appropriate for client value-based alternative fee arrangements;
- Proactively communicate desire to work with law firms on client value-based alternative fee arrangements;
- Experiment with some segments of work by engaging law firms for select projects on client value-based alternative fee arrangements;
- Encourage two-way transparency by sharing historical cost information; and
- Debrief with law firms for lessons learned.

A consistent theme expressed by the general counsel panelists was the reality that evaluating client value-based alternative fee arrangements such as fixed fees or budgets with financial implications, while attractive and desirable, still requires a substantial time expenditure by a general counsel staff in terms of evaluating, assessing and, ultimately, getting comfortable with the proposed financial terms. Perhaps Ron Barger summed it up best by stressing that the most significant impediment to clients’ moving to a broader use of client value-based alternative fee arrangements is the time investment required by in-house legal staffs who are already busy and challenged.

From Barger’s perspective, a significant investment of time by in-house legal teams and law firms, together with a willing-

ness by clients and law firms to work in a different way, are the keys to facilitating the change to a significantly greater use of client value-based alternative fee arrangements.

Haynes and Boone is not waiting to see if this transformational change will, in fact, occur before acting. Instead, Haynes and Boone is proactively taking steps now to be ahead of the curve and offered a number of suggestions regarding what law firms could and should do to facilitate the change. For example, Haynes and Boone is building tools for enhanced budgeting of client matters, including a data warehouse to contain historical fees across the firm for all matters, broken down by phases of the engagements.

The firm intends to use this tool to offer fixed fee arrangements or project budgets at levels that will be competitive for clients and reasonable for the firm. The firm also intends to use this tool to simply provide front end estimates of potential costs for engagements that are performed on an hourly rate basis. In addition to the data warehouse, the firm has already developed a real-time cost management tool that allows clients and Haynes and Boone lawyers the ability to track costs (including unbilled time) in real time. Finally, Haynes and Boone expects to roll out soon a firm-wide project and cost management training program for all attorneys.

While billing by the hour will continue to be the arrangement of choice for many clients and client matters, Haynes and Boone expects that in the relatively near future, the open ended billing by the hour approach will be used less often, and even then with important changes that the firm refers to as “Efficiency Expectations” – common sense best practices such as front-end discussions of anticipated range of costs, cost transparency, and surprise avoidance alerts, as well as increased emphasis on and improved use of technology, knowledge management and project management.

The general counsel panelists, on the one hand, and Haynes and Boone, on the other hand, both concluded that the “real change” is likely to be evolutionary but inevitable, and that the best result will be obtained by clients and law firms working together to facilitate the change to achieve a “win-win” result.

Pictures of ACC members enjoying the December Holiday Party



ACC National President Fred Krebs discusses ACC-DFW's Chapter of the Year Win with ACC DFW President Todd Martin (left) and Board Member Richard Mosher.



Fred Krebs draws the name of the lucky winner of some great wines donated by Holiday Party Sponsor I.E. Discovery, represented by Cathy Clark (center)



Fred Krebs & ACC Past President Marcia Cepelcha.



Everyone hoping their name is drawn!

ACC Membership Drive

Everybody Wins

February 1 – May 30, 2010 Campaign

Expand your network of in-house peers. Each time you use the ACC network, you gain skills and experience available only through ACC. Whether it is calling another member with questions, posting a question to one of our 16 Committee listservs, or attending a local Chapter event to learn a new way to handle your in-house responsibilities, ACC has provided you with new ways to succeed.

ACC has helped you professionally. Expand that network and win! Wouldn't your colleagues benefit from these resources? And might their expertise on a matter eventually help you? A vital and growing membership means increased visibility of the in-house profession, improved educational opportunities, enhanced networking opportunities, expanded online practice resources, and the advancement of the profession worldwide.

Members like you make ACC a success. Expand your network, get your colleagues involved, and everybody wins.

Recruiting a new member is easy. Just follow these three steps:

1. Identify a colleague (in your office or at another company) who is not a member of ACC.
2. Show off your enthusiasm (it's contagious) with a first-hand account of how your ACC membership has been a great investment in your professional career.
3. Tell your recruit to sign up online or download the application here.

Prizes

1 or more members recruited

A Starbucks™ Card loaded with \$5.00 (for each new member you recruit) and a free online CLE program through WEST LegalEd Center.

2 or 3 members recruited

A chance to win a portable DVD player.

4 or 5 members recruited

A chance to win a digital camera

6 or more members recruited

A chance to win a digital video recorder or free Annual Meeting, CCU, or ACC Europe Meeting registration with a \$1,000.00 travel stipend

The more you recruit, the better your chance to win. Every new member you sponsor will increase your chance of winning one of the major prizes. Plus, you'll receive a Starbucks Card for each new member. It's that easy!

February Chapter Meeting

For the February Chapter Meeting, our guest speaker was Scott McElhaney, Partner at the Dallas office of Jackson Walker, LLP. Scott, a Texas Board of Legal Specialization Certified Labor and Employment lawyer, spoke on The State of Employment Law 2010: Trends, Observations, and Cases. He started his talk using trends from the past three years in complaints brought before the EEOC to highlight the fact that the recent economic troubles have impacted the recent changes our labor laws.

After an interesting review of the recent labor law cases heard by the US Supreme Court, Scott provided us with a brief list of "coming attractions;" that is, he highlighted the current cases that are scheduled to be heard by the US Supreme Court in 2010. From the US Supreme Court, Scott transitioned to the Texas Supreme Court to give us a recap on the recent pro-enforcement trends of non-compete agreements. As Scott wrapped up his talk, he spoke about recent laws changed by both the Texas legislature and the US Congress that impact employment laws.

Overall, Scott gave an outstanding lecture on the recent changes in the labor and employment laws – in Dallas, all of the tables set were filled – and, he graciously remained afterwards to answer individual questions.

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