

Jean-Paul Durand President's Message

On behalf of the board members and officers of your West Central Florida Chapter of the Association of Corporate Counsel (WCFL-ACC), I would like to thank the members of our chapter for your participation in our recent election. As many of you may have noted, we created several new positions that the board believes will further strengthen and enhance the leadership of your chapter now and in the future. I am looking forward to working with our new board members as we continue our efforts to help fellow in-house counsel achieve personal and professional growth through participation in chapter activities.

To our outgoing leaders, I would also like to personally thank you for your contributions to our chapter's success last year. The chapter's future appears much brighter because of your support and dedication of time to the chapter's development.

In my last message, I commented that membership and member involvement are key elements of our chapter's strategic plan. Therefore, I am pleased to report that membership in our chapter is continuing to grow at an exceptional rate. In terms of member involvement, I

am also happy to say that in my term as chapter president, the chapter has never been more active. Through the chapter listserv, members are supporting each other in numerous ways, such as providing referrals to outside counsel or sharing experiences with contract management solutions. And for those of you who have contributed your thoughts, ideas, or recommendations to this forum, I and your fellow members thank you. People offering this type of support to one another serves as yet another reminder of the value of membership and involvement in our chapter of ACC.

In addition, our last chapter event was a resounding success. For those of you who attended the CLE program and luncheon hosted by Zinober & McCrea, I am sure you would agree that the presenter, venue, and networking opportunities with fellow in-house counsel were well worth the investment of time. Nevertheless, we are already looking forward to the next chapter event, which will be hosted by Gold Sponsor Fowler White Boggs Banker. This substantive program will focus on ethical issues and timely topics facing in-house counsel and promises to offer practical com-

continued on page 2

On the Minds of In-house Counsel: ACC Listservs

Every day ACC members use the committee listservs to get insight and advice from their in-house peers. Here's what ACC members are talking about:

- Recommendations for outside counsel in particular geographic areas and legal specialties;
- Hourly rates law firms are charging for the use of paralegals;
- The legal and accounting costs for taking a company public;
- Malpractice insurance;
- Best ways to avoid duplicate inquiries to the legal department;
- Cell phone use policies; and
- Holding departing employees accountable for returning company property.

Take advantage of this great resource, go to www.acc.com/php/cms/index.php?id=55.

Upcoming Events	2
Call for Articles	2
Call for Involvement in Chapter	2
Viva la Revolution?	3
Welcome New Members	5
Recruit a Member and Win a Prize— Guaranteed!	5

Upcoming Events

August 1: Issues of Ethics Seminar

Feather Sound Country Club, Clearwater
2201 Feather Sound Drive,
Clearwater, Florida 33762
Please RSVP to Nancy DelGatto at
ndelgatto@fowlerwhite.com or 813.769.7664.

Call for Articles

Do you have an interesting story to share? A challenging court case? Do you know an in-house lawyer who has made a difference in their community or in someone's life? Please share your stories by sending them to Jean-Paul Durand at jean-paul.durand@techdata.com.

Call for Involvement in Chapter

Would you like to be involved more in the chapter? Please let us know. We are always looking for help coordinating events and we are also looking for proposals for new activities that might benefit chapter members. If you are interested in serving on the board of directors or as an officer next year, let us know! For more information, contact Jean-Paul Durand at jean.paul.durand@techdata.com.

continued from page 1

mentary from experienced practitioners, as well as CLE credits. As a follow up to the general presentation, this event will conclude with roundtable lunches where attendees can choose to meet with each of the presenters, allowing for additional Q & A opportunities in a more intimate setting. Please see the upcoming events section of this newsletter or the chapter website for more details and RSVP as soon as possible.

I have mentioned before that each of you has an important role in shaping our chapter's future. Your input is always welcome, so please feel free to contact myself or any member of the chapter leadership to share your ideas,

Special thanks to the following sponsors for their support:

PREMIER LEVEL SPONSORS

Constangy, Brooks, & Smith, LLC

813.223.7166



Foley & Lardner LLP

813.229.2300



GOLD LEVEL SPONSOR

Fowler White Boggs Banker

813.228.7411



SILVER LEVEL SPONSOR

Zinober & McCrea, P.A.

813.224.9004



suggestions, or constructive criticisms. This input will be very valuable, especially now as the chapter board will be convening in the near future to update the chapter's strategic plan and direction over the next year.

Please do not hesitate to contact me if you have any questions, ideas about how your chapter could assist you, or wish to become more involved in WCFL-ACC. We look forward to seeing you at a chapter event in the very near future.

Best regards,
Jean-Paul Durand
President

Viva la Revolution?

By Susan Hackett, Senior Vice President and General Counsel, ACC

Am I the only one who sees the pink elephant dancing in the room? I'm still waiting for the in-house counsel community to rise up and protest, but the silence is deafening. What's going on out there? Many of the top-tier law firms announced their most recent round of first-year associate pay hikes, and though the legal press reports one major firm after another following suit, there's been surprising little action in response from the in-house bar. Disgust? Sure. But no hint of the revolution that I thought was coming. In-house counsel of the world: Who's managing your legal spending—you or the firms?

Let's do the math. Be conservative and say that an average employer pays about one-third of an employee's pay on top of their salary in order to offer benefits (such as paid vacation/sick time, health, life, disability insurance, retirement or 401K-type contributions, etc.). The newly announced first year salary level of \$160,000 plus \$50,000 in benefits takes us to a total of \$210,000. Then there's overhead, including a portion of the law firm's high-market rent, top-notch administrative support, computer, library, other office technologies, and the art-filled lobby. So let's add another \$100,000 on top of the previous \$210,000, and for the sake of keeping it simple, let's say that our highly recruited first year associate is now costing the firm \$300,000 year. Every associate will get this hike, even the not so competitively recruited ones get it.

That doesn't even take into account the cost of the cocktail-cruising summer associate program, the firm's high-power recruitment, or the cost of attrition. For every 10 of those really expensive first years less than half will make it to partnership and profitability before they're either pushed out or run screaming from the building.

Then, there's the added bonus that the majority of big firms operate on a lockstep salary system for associates, so a raise for the first-rung associates necessitates a corresponding \$15,000/year increase (at least) for every other successive class. This way,

the natives won't feel bad that the least experienced workers who've labored a shorter time are making more than them. Let's say, conservatively, that the \$300,000 cost of a first year associate, when combined with the very real costs of attrition and recruiting, brings us to a nice "blended" rate of about \$400,000/year in costs.

Who's paying for this? Do you think that when the decision is made to up first-year salaries that the partnership votes to take less money to pay for it? Or do you think that the associates will be expected to "earn their keep?" The latter is a nicer way of saying that clients will be billed for the overworked first-year associates' time and efforts, and the associates will be expected to perform the feat of billing more than anyone thinks they're worth. Both clients and associates lose.

I'm having so much fun with the math, I think I'll keep going.

If you assume that every one of those associates will bill 2,000 hours that can actually be invoiced to a client (as opposed to a certain amount of time that will be billed, but written off as non-collectable for pro bono, incompetence, client objections, learning curve, you name it), that means that their 2,000 hours will have to be billed at an average of \$200 per hour in order to reach the break even point. We all know that firms don't charge associate rates to break even. Large firms bill up to \$400 per hour for these newcomers.

Perhaps a few of those new-to-the-profession associates are so smart or have amazing previous experience, making them worth every dime of \$200+ per hour, and perhaps every one of their 2,000 hours billed is actually providing efficient and meaningful value to the clients they serve. But perhaps the vast number of those hired—smart, hardworking, and deserving as they are—are worth nowhere near \$200 per hour.

Do you remember how much you knew or what your functional worth was the first day you entered the workforce to take your

first "real" job? I remember feeling incredibly incompetent and very confused that I'd not learned any of the stuff that I needed in private practice during my summer work, or in law school. Indeed, law school may teach students how to think like a lawyer, but it does very little to produce graduates who are capable of providing valuable and efficient legal services right out of the box. And that's okay, the value of a lawyer is something that's learned and earned over time with hard experience. But clients are expected to pay for it from day one, since firms don't seem to think it's their cross to bear, and I don't see associates volunteering to do internships until their services are worth what they're charging for them either. Most attorneys in the corporate bar are willing to pay for entry level associates working under supervision; it's how it's done...but at a rate that within the last five years was reserved for only the most experienced partners? Come on.

Sanity check: You can hire an incredibly smart and experienced partner-level lawyer in the next town over from New York or DC or Chicago or LA who bills at \$250 hour, and who can do the same work with a better result in half the time. That lawyer is very likely a refugee from the big firm and every bit as smart. Let's not forget about those nice folks in India or Iowa or ConsultantLand, or about your favorite vendors who will do the work for even less.

Sanity check: The members of the federal judiciary, who we hope will be composed of the best in our profession, and who must be attracted to engage in public service on the bench at the pinnacle of their careers, are paid less than these new first-years. Most of these newbies will make more in their first year than an associate justice of the US Supreme Court. Our underpaid judiciary is not the fault of large law firm associates, but it's a sign of how out of whack the law firm world's artificial pricing structure is.

Sanity check: Most new associates spend their time—as they should—learning the ropes by doing legal drudgery: endless,

painstaking research; document review and shuffling through terabytes of discovery material; making necessary appearances and filings in courts; writing form contracts and pleadings; and hopefully learning their craft at the elbows of their seniors who have the experience necessary to bill \$500 per hour and more for their time and counsel.

Associate apprenticeship is necessary and supervision of those on the learning curve is professionally mandated by every state's legal regulations, but billing for the time of the supervising lawyer and the learning associate is part of a time-honored legal tradition that often amounts to double-billing. Those in the non-law-firm vending community who can expertly perform a variety of the services performed by first-years at a third of the price are gaining ground and expanding their business lines daily. Why not hire a legal research company or a team of ediscovery consultants to do document work, or another in-house paralegal to do the routine and repetitive contracts and pleadings work? I hear of more and more in-house counsel who: 1) won't pay for entry level associates any more—they are "out-lawed" in the retention letter, 2) mandate that their firms work with vendors on some of the less exciting aspects of the case or matter that can be severed and done for a fraction of the firm's costs, and 3) give increasing amounts of work to a couple of savvy law firms who've started creating and offering those alliances with preferred out-sourcers so that they can be more efficient.

Sanity check: Many of the best and brightest students graduating from school today say that they don't want to work the hours or make the sacrifices that their senior partners did when they entered the profession. But they'll take the money, thank you. They'll still apply for the jobs in firms where they know that they're expected to put their lives on hold in perpetuity in order to earn the salary and have an eventual shot at a seven-figure income. And their partners, unable to get over their own frustrations, will continue to demand the same rituals of crazy hours that caused their pain.

Sanity check: Who says that firms that are paying these rates will recruit the best tal-

ent? Skyrocketing salaries and the need to bleed revenues from the resulting associate classes will do more to prevent these firms from hiring anything other than driven and "pedigreed" applicants, even though that may not be the only kind of talent that clients want. Perhaps what clients actually want is not the editor of the law review from one of the 25 "top 10" law schools in the country. Perhaps they want talent more broadly defined: experienced, diverse, and with life experiences beyond those normally held by the majority of "highly-pedigreed" graduates. Maybe clients want lawyers with a more developed ethical compass to work on their complex corporate-quagmire problems. Maybe clients are more interested in graduates with a pronounced passion for public service, or who communicate really well with juries, or who—dare I say it? —are actually satisfied with their jobs because they work in a more balanced work environment. There are plenty of bright lawyers who are actually a pleasure to work with because they are happy, and their lives are a bit more balanced with a mix of work and non-work activities and interests. Some of them might be in that rarified air of graduates who get the \$160,000 per year (read: \$400,000) offer; a great many of those people work elsewhere, though, and don't carry the baggage or the price tag of large law firm life.

Every study out there says it over and over: You don't get more—indeed, you get less—from folks who are working at surge capacity 24/7/365. Those workers are less and less productive and more and more inefficient. The business model of hourly billing in firms exacerbates the problem by encouraging work to be done in greater quantity, rather than with greater efficiency.

So who will stop the madness? Are we going to wait until firms announce in 2009 that the class of 2010 will be offered \$180,000? Will that finally be enough? Or have you reached the end of your rope now?

The corporate legal community needs to stand up and exercise its not inconsiderable

influence. You and your clients are being overcharged for legal work in the largest firms. Do something about it. Tell your firms that charge too much that you won't pay increased rates, and that you don't want any of those nice new associates (or their increasingly expensive senior associate colleagues) billing to your account unless the firm can quantify why it is that they'll provide more value to you as the client than a partner in a less expensive firm, or an expert legal service vendor/consultant. Ask why, if the top 20 recruits in the nation need this much, it is that firms can't just give a raise to them, rather than to every associate in the firm's pool? Explain to them that they're killing the practice of law by driving associates into the ground, and that you're not going to help them do it.

Then go out and hire from the abundant pool of talent in less expensive places, whether it be smaller firm lawyers, or lawyers working outside the confines of the really big cities. Let your expensive firms' management know that while you'll miss their high quality work, they've just got it wrong and you won't be forced to pay for their continued lack of business principal and judgment. Remind them that in spite of what they tell themselves and you everyday, there's quality legal service to be had at a fraction of the cost. After all, most of those large firm's mid-level and experienced associates will be secretly interviewing for jobs in your legal department or these alleged "second" and "third" tier firms as soon as they realize that the cycle of pain at the most prestigious firms just won't stop. We all know they'll be willing to take half the pay in order to earn the privilege of working somewhere they're valued for more than the number of hours they bill, but rather lauded for the high quality legal services they're bright enough to provide.

What can ACC do to support you on this matter? We're considering the alternatives and would like to hear your views. Let me know by emailing me at hackett@acc.com. After all, my bill to you is only \$225 per year if you're eligible for membership!

Board of Directors

President

Jean-Paul Durand

Director, Senior Counsel
Tech Data Corporation
727.599.2641
jean-paul.durand@techdata.com

Vice President

Jeffrey Greenberg

Senior Vice President and General Counsel
PresGar Medical Imaging, Inc.
813.977.8756
jgreenberg@presgar.com

Vice President

David Nicholson

Senior Corporate Counsel
TECO Energy, Inc.
813.228.1556
dmnicholson@tecoenergy.com

Secretary

Michelle Monson

Corporate Counsel
TECO Energy, Inc.
813.228.1429
mvmonson@tecoenergy.com

Treasurer

Gina Donald

Associate Counsel
Tech Data Corporation
727.538.7874
gina.donald@techdata.com

Program Cochair

Kevin Teismann

Director & Senior Counsel
Tech Data Corporation
727.538.5854
Kevin.Teismann@techdata.com

Program Cochair

Stanislav Zakharenko

Corporate Counsel
Sage Software North America
727.579.1111 x 3517
stanislav.zakharenko@sage.com

Immediate Past President

Charles Pourciau

Senior Contracts Administrator
TRAK Microwave Corp.
813.901.7374
cpourciau@pallc.biz

Welcome New Members

We wish to welcome the following new members who have joined the ACC West Central Florida Chapter recently:

Bradley Buethe, Shriners Hospital for Children
Sonya Diaz, Shriners Hospital for Children
Jonathan Dixon, Shriners Hospital for Children
Phyllis Drickman, Shriners Hospital for Children
Jacqueline Gayle-Kelly, Danka Office Imaging Company
Jamie Hankinson, Sage Software Healthcare Division
Charlene Haynes, Shriners Hospital for Children
Greg Hoffman, Bankers Financial Corporation
Sheila Kalteux, Lincare
Roxanne Kosarzycki, Tampa Bay Buccaneers
David Liner, Roper Industries, Inc.
Patrick O'Quinn, Roper Industries, Inc.
Laurie Spieler, Shriners Hospital for Children

Recruit a Member and Win a Prize—Guaranteed!

Help increase ACC's membership by participating in the ACC's Share the Wealth Membership Drive. Each time you use the Association of Corporate Counsel network, you gain valuable skills and experience only available through ACC. More members in ACC translate into improved educational opportunities, enhanced networking, increased online resources, and advancement of the profession worldwide. Each time you recruit a member, you will receive a Starbucks Card loaded with \$5.00. Recruit two or three members and win a chance to receive a portable DVD player. Recruit four or five members and receive a chance to win a digital camera. Recruit six or more members and receive a chance to win a Mac or PC valued at \$1,500 or a free ACC Annual Meeting or ACC Europe Annual Conference registration and a \$750.00 travel stipend. ACC's Share the Wealth Membership Drive ends on July 31—so don't delay, recruit today! Get more information and tips on recruiting members at www.acc.com/sharethewealth.