

## **Value Practice**

### **Alternative Fee/Value-based Arrangement Implemented by Smaller Law Department - Securities Portfolio Work for Wolverine World Wide, Inc.**

#### **Ken Grady**

**Interviewed while General Counsel and Secretary for Wolverine World Wide, Inc.**

#### **Background**

Wolverine World Wide, Inc.'s law department has four lawyers (including the General Counsel) plus four paralegals, and is successfully implementing a number of alternative fee/value-based arrangements with outside counsel. The company celebrated its 125<sup>th</sup> year in business in 2008, is publicly traded on the New York Stock Exchange and has products in more than 180 countries and territories around the world. The company's footwear brands include Wolverine, Hush Puppies, Merrell, Patagonia Footwear, Cushe, Harley-Davidson Footwear, Caterpillar Footwear, Sebago, Bates and more.

This ACC Value Practice piece highlights the law department's practices for its securities portfolio legal work—an example of how a smaller law department can successfully implement alternative fee/value-based arrangements.

#### **Securities Portfolio- one firm; fixed fee for portfolio**

The law department's securities work is now handled by a single firm, on a fixed fee basis. Prior to moving to this arrangement, the work was handled by two firms (the current firm was one of the two prior firms and therefore had some history and experience with the company's work) on an hourly basis.

**Key components** include:

- **Portfolio of services-** includes review and assistance with quarterly filings, drafting the proxy statement, Section 16 compliance work, 8Ks and counseling;
- **One-year engagement-** includes a short engagement agreement and six-month 'looks' to confirm value and costs;
- **Flat fee for portfolio of work-** paid in two installments: one larger payment towards the beginning of the year consistent with larger service workload during first part of the year, and one payment later in the year; schedule set to conclude payments prior to the company's fiscal year;
- **Understanding on 'unexpected' matters-** if unexpected matters arise, fees would be handled for those matters following a discussion; both sides are comfortable because of mutual trust;
- **Law department provides input on staffing-** law firm proposes staffing and sends resumes for review; law department provides input on legal team; and
- **Shadow bills-** to benchmark.

## Valuing the Portfolio

How did they 'value' the portfolio? The General Counsel shares that they reviewed the historical scope of work performed by all firms previously performing securities-related work, determined aggregated historical costs and then proposed that amount for consolidating the work to one firm.

## Structuring the Relationship- Getting Started

Steps to take include:

- **Identify and describe level of work:** identify the work that has been performed for this portfolio during the most recent two years (e.g., 'x' filings of 'x' complexity); prepare a summary of the work and what the law department needs in terms of related service (e.g., here is what we want on our filings, etc.)
- **Determine which components might be performed by in-house counsel and which services will be performed by outside counsel:** in-house counsel may not add most value by being primary drafters of documents; instead, may add more value by contributing knowledge of business
- **In selecting the firm, consider effectiveness:** may need to look beyond historical relationships and take an objective look at efficiency and effectiveness
- **Be honest and communicate expectations:** very important to define who is doing what and what expectations are for value and success.

## Benefits

Value—rather than cost savings—was the driver for these practices. The General Counsel describes benefits to the company and the firm.

Benefits for the company include:

- Consolidating work to one firm with level of expertise described by the General Counsel as 'high and valued'
- Implementing efficient processes
- 'Freeing-up' internal resources

Benefits to the firm include:

- Increased volume of work
- Certainty in terms of fee arrangements and staffing
- Greater likelihood of handling future related matters.

## Keys to Success

The General Counsel shares the following keys to success:

- Have an open and strong working relationship with outside counsel
- General Counsel need to "recognize what 'value' means for them and their departments and to think through how to perform services efficiently and effectively

## Contact Information

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