



# **MANAGING LITIGATION AS IN-HOUSE COUNSEL**

Best Practices and Strategies (for Both Inside and Outside Counsel)

*Presented by:*

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# Overview

- The role of in-house counsel
- Best practices for collaborating with outside counsel
- Budgeting and cost control
- Managing internal reporting
- Settlement vs. trial
- Professional responsibility considerations under CA Rules

# Role of In-House Counsel in Litigation

- Strategic advisor and internal business partner
- Coordinates with executives, manages risk
- Supervises outside counsel and internal discovery
- Ensures compliance with ethical duties
- CRPC Rules: 1.1 (Competence), 5.1 (Supervision)

# Working with Outside Counsel – In-House Counsel Responsibilities

- Provide clear objectives, business context, and success criteria
- Define scope, deliverables, and escalation paths early
- Share internal constraints (budgets, comms protocols)
- Offer prompt feedback and approvals to avoid delays

# Working with In-House Counsel – Outside Counsel Best Practices

- CRPC 2.1 —Independent judgment and candid advice
- CRPC 1.2 —Client decides objectives; lawyer assists with legal means
  - Learn the client's business and tailor advice accordingly
  - Be proactive: flag risks, budget overages, strategic shifts early
  - Understand how the litigation fits into the client's business strategy
  - Avoid surprises

# Budgeting & Cost Control

## For In-House Counsel

- Use phased budgets and AFAs where possible
- Require regular financial updates with variance explanations
- Track matter performance using KPIs

## For Outside Counsel

- Submit realistic budgets with clear assumptions
- Communicate promptly about deviations
- Collaborate on creative fee structures (flat fees, success fees)
- Avoid “overlawyering”

# Managing Internal Expectations

## In-House Counsel

- Translate litigation risk to business impact
- Provide timely updates
- Balance confidentiality with transparency

## Outside Counsel

- Help frame litigation events and outcomes for executives
- Keep in-house counsel well-informed
- Anticipate possible outcomes of motions/trials

# Reporting to Executives

- Highlight business impact
- Summarize status, next steps, risk, and cost
- Outside counsel can support
- Use visual tools if helpful (dashboards, charts)



# Settlement vs. Trial Strategy

- Involve stakeholders early in risk-benefit analysis
- Evaluate reputational, financial, and operational costs
- Outside Counsel should make sure to document advice
- Avoid emotional decision-making

# Partnership Best Practices

- ✓ Treat each other as strategic partners
- ✓ Align on goals, not just tactics
- ✓ Use clear and consistent communication
- ✓ Trust and respect are critical
- ✓ Collaborate on cost and case management

# Questions?



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