

Best Practices in Managing Outside Lawyers Internationally: Key Findings from Martindale-Hubbell's Counsel To Counsel Forum in Toronto, Ontario

By Derek Benton

As the practice of law has become truly global, in-house counsel are increasingly faced with the challenge of directing the activities of law firms in numerous countries. This challenge was the focus of the latest stop in Martindale-Hubbell's 2002 Counsel To Counsel series, a global initiative in which senior corporate counsel discuss best practices in delivering corporate legal services.

The session was held in Toronto and was attended by 13 high-level corporate counsel from both Canadian and international companies, along with six senior partners from major law firms. It was facilitated by Leigh Dance, principal of ELD Project Marketing International.

André J. Bourque, senior vice president and general counsel of CGI, and Paul Guthrie, vice president of legal for Canadian Pacific Railway, co-chaired the Martindale-Hubbell forum and were joined by in-house counsel from DuPont, Rogers Communications, SAP Canada, Manulife Financial and nine other companies. The forum was co-hosted by the law firms Fasken Martineau DuMoulin LLP, McMillan Binch and Torsys LLP.

There were several best practices that emerged from this forum. Most of the suggestions involved the discipline of selecting outside firms in foreign jurisdictions, and how best to manage business problems and legal matters remotely. Consider the following best practices were shared by forum participants:

1. Separate your legal work into major categories, from commodity to extraordinary, then determine the qualifications needed from outside law firms to match the matter most appropriate to the firm. Guthrie started that Canadian Pacific Railway divides their legal work into three categories: (1) Core Work, such as financial, regulatory matters and labor, is handled internally; (2) Commodity Work, which includes day-to-day legal matters and routine litigation, is sent to outside law firms; and (3) Extraordinary Work, such as large-scale M&A or major litigation, is also sent to outside law firms.

"With this clear matrix in place, we're in a position to really focus on what we want from outside lawyers," said Guthrie. "Most of the time, we're looking for high-quality legal service and value-added counsel above all else. We also want a firm that is technologically advanced and makes use of an Intranet to maximize efficiencies, as well as a firm that is comfortable with certain customized reporting requirements."

2. Make sure the firm understands the big picture – your global business goals, strategies and culture. It's essential when engaging outside lawyers in other countries that they understand your corporate vision and business goals. One strategy for accomplishing this, according to forum participants, is to have your business managers work directly with your local counsel in other countries. That regular contact will provide them with a flavor for how things get done in your company. Another strategy is to routinely visit the law firms' offices in your foreign



In the end, the best practice for managing outside lawyers internationally may be simply to find people whom you can trust, work with them as team members, share your values and objectives with them throughout the length of the relationship, and treat them with respect.

locations. "Without face-to-face contact with the outside lawyers I manage internationally, I just don't feel that I can be in control of the relationship and inculcate our corporate culture into the minds of our outside lawyers," said Dale Scott, senior vice president and general counsel of Manulife Financial.

3. Set expectations up front and communicate those to the outside counsel. Bourque related an experience in which his company was involved in legal proceedings with a company in Brazil. Using the referral of a trusted consultant, he contacted a lawyer in Brazil and made sure that he understood the legal issues at stake. Then Bourque spelled out very plainly what his expectations were from the Brazilian lawyer and how he wanted him to think in advance of what unique issues might arise in the case. By setting expectations up front, the relationship got off to a good start and was ultimately successful.

4. Research the firm's capabilities to confirm that they have the necessary legal skills to handle complex multinational problems. For companies that are frequently involved in cross-border

transactions, there are distinct advantages to working with firms that have multi-jurisdictional capabilities. In fact, some participants suggested, the optimal situation is to work with an outside firm that can quickly assemble a team of qualified lawyers from various countries who speak different languages and know multiple systems of law. One interesting finding that was echoed by participants was that it is much more difficult to manage outside lawyers internationally if they speak and work in a different language and/or legal system. This does not mean that

who meet filing deadlines, but consistently produce inferior work. Rely upon personal referrals and client references to find an outside firm with a track record for proven high-quality legal counsel and successful representation of foreign clients.

7. Find a firm that provides sound business advice, not just good legal advice. Most participants at the forum agreed that in-house counsel and outside lawyers, regardless of location, must view the engagement as a partnership. Once this is in place, outside lawyers should view the client's problems as their own and provide meaningful business advice that goes beyond the limited scope of the legal assignments.

8. Diligently maintain open lines of communication. Several participants stressed the importance of regularly scheduled, old-fashioned communication with their outside lawyers. Guthrie explained that his department holds monthly update meetings with their primary law firms, in which they review major files and closely examine how their billable hours are comparing to budgeted projections. Others described how they speak with their chief legal officers in various countries for an hour or so every couple weeks. This regular communication serves as an information conduit from office to office and ensures that everyone is up to date on the key legal issues.

"In the end, the best practice for managing outside lawyers internationally may be simply to find people whom you can trust, work with them as team members, share your values and objectives with them throughout the length of the relationship, and treat them with respect," said Bourque. "The basic traits of trust and humanity are the keys to success."

Martindale-Hubbell's objective in underwriting the Counsel To Counsel initiative is to facilitate an intimate discussion between leading buyers and providers of legal services. Counsel To Counsel is organized in collaboration with ELD Project Marketing International, Inc. For more information about the Toronto forum, or to apply to participate in any of the forums in the Martindale-Hubbell Counsel To Counsel series for 2002-2003, please go to <http://c2c.martindale.com>.

About the Author

Derek Benton is director of international sales and operations in the London office of Martindale-Hubbell, publisher of the definitive guide to the worldwide legal profession since 1868. Martindale-Hubbell's Counsel To Counsel series consists of individual forums in major metropolitan areas where general counsel and select law firms share ideas on a variety of best practices in corporate legal services. For more information about this initiative, please visit <http://c2c.martindale.com>.

the language barrier is impenetrable, but it does raise efficiency issues. Some participants agreed that it's important to use legal research tools, such as the *Martindale-Hubbell Law Directory* on www.martindale.com, in order to confirm preliminary findings about a firm's capabilities.

5. Know the working styles of your foreign law firms and be sure you can count on them. When in-house counsel are working with lawyers they don't know very well in countries they might not visit very often, it's important to build relationships with law firms that are quick to respond and willing to deal with changing conditions. Some participants suggested placing these foreign law firms on retainer to ensure that they will receive quick answers to the local and regional issues that might arise.

6. Expect more than just on-time delivery of work product; the quality must be superior too. As important as responsiveness is, it's important to establish with your foreign firms that simply delivering work on time isn't good enough. There are numerous lawyers in global markets