

In-House Counsel

# Understanding Your Client's Organization and Personality

Lisa K. Howlett and Gaetano P. Piccirilli, The Legal Intelligencer

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Even the most effective outside counsel can have too narrow a vision of her relationship with a general counsel. The "standard vision" is focused on continued maintenance of the relationship and that of the file(s) being handled. Usually, outside counsel keeps internal track of the legal singles, doubles, triples, and home runs obtained for the client throughout the representation(s). The "standard vision" is myopic and focused mostly on the outside counsel's desire for continued work. The better vision is one of integration. While there are difficulties to balance, the rewards for the client, general counsel, and outside counsel are greater in the long run.

The standard vision ignores the multi-dimensional day-to-day responsibilities of a general counsel. GCs (and their deputies) operate at the complicated intersection of law and compliance, business, human resources, and company-specific internal politics. At the same time, industry trends play a substantial role in the long-term vision/goals of the client. An outside counsel's laser focus on a piece of litigation or a transaction, without regard to the broader corporate objectives of the client, will often end in satisfactory, but not great results. By way of example, in recently representing a transportation authority in a transaction involving a "transit oriented development," it was important that outside counsel learn the ongoing concerns of the authority, not just for the single transaction. The initial transaction was but one of a dozen or so transactions that will occur as transit-oriented developments continue to be built. Accordingly, completing the initial transaction was as important as learning the overall development concerns and preparing the client for the next "go around." In the six years we have worked together, our focus has been standard in some ways, minimizing costs, reducing risk, and learning from each case. But, during those six years, for lack of a better term, we developed "trade secrets" as to how we approach matters and when to be brought into a matter. In large part, our trade secrets have had more to do with understanding clients' personalities than any prior result.

Understanding your client's corporate personality and the GC's role within the organization is relationship crucial. Absent a prior relationship, and particularly to young lawyers, GCs may be viewed as living on the same existential plane as school teachers—where there is no life outside the office and absolute devotion to your file(s) (remember seeing your 11th-grade English teacher at the movie theater for the first time). But, the GC is your window into the client—how it operates, how it thinks, who the decision makers are, and how to present opportunities to your GC to maximize both her and your success.

By way of example, consider the issue of settlement authority. Without knowing whether the GC can make every decision on her own or if she needs to run things by other department heads (e.g. risk management, finance, or operations), outside counsel will not understand how to frame the prospect of a resolution so everyone can buy-in, leaving the GC to advocate on her own internally. Is that a position outside counsel would leave a client without a GC in—of course not. The general and outside counsel must work together to advance what is best for the client, while successfully advocating to the "business people" that the deal is right.

To truly serve your client, it is important to know who your GC reports to, whether it be the COO, the CEO, the president, or all of the above and the board of directors. Her internal advocacy is successful when she can present an issue in the form that will be most appreciated by them, and knowing this allows you to assist in her presentation. Additionally, the GC has other constituencies. For instance, at Hunter Roberts there are also project executives and project accountants who rely upon general counsel daily. Knowing your GC's audience and to whom she is presenting your legal advice is important in your working relationship. Therefore, spend the time to learn the players. Pay attention to the questions, and ask for context. Last, while you may appear to be a pest, keep your GC informed. Current information goes a long way in terms of building trust, but also it never leaves the GC blind about the status of a matter. Thus, when a member of her constituency requests information, it is at her fingertips.

Now that we have persuaded you to abandon the standard vision, the next logical question is, "How do I get there?" The answer is simple, if you cannot piece it all together, ask. Yes, the GC is busy and outside counsel has time pressures. But, all professional relationships take time and investment. Chatting on the phone, have lunch semi-regularly, or even assessing a matter at its conclusion is value added, both in terms of the relationship and in learning your client's personality. Questions such as: who ultimately approved the settlement amount and terms, or who directs litigation, when is the last time your contracts were updated, and who can I discuss a new project with on the sales side, are all legitimate. Some go beyond learning, but show that outside counsel is a part of the same team as the business, and has an interest in the business' well-being.

Actively learning about the client's internal workings takes time, but it is time well spent. Furthermore, if you are lucky, you get to enjoy a relationship based on trust and friendship that goes two ways. To use a children's sports analogy, Piccirilli's son just completed tee-ball year one. After weeks of learning to swing the bat, keep his eye on the ball, and paying attention (admittedly, something very difficult for a 5-year-old), once the tee was removed from the pitching machine, his son got his first non-tee hit. Aside from an overjoyed father, it was the continued practice of mechanics and movement, and paying attention that were critical. The same goes for a long-term relationship with a client. Time, practice, and interest pays off when the end result is understanding the personality of the organization. Outside counsel who understand their client's internal workings are better advocates, problem solvers, and add more value. Your GC appreciates the interest, and is expecting you to play team ball anyway. •

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*Howlett Lisa K. Howlett is the general counsel of Hunter Roberts Construction Group. At Hunter Roberts, Howlett is responsible for ensuring that the firm is provided with effective services, advice, and representation for all legal issues, including, construction, contract, corporate, transactional, real estate, and labor/employment law, as well as strategic business consulting and intellectual property matters. Gaetano P. Piccirilli is a partner at Klehr Harrison Harvey Branzburg in Philadelphia. He is a commercial litigator. His practice is focused in the construction, real estate, banking, and securities industries. Piccirilli*

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