

Legal Sales & Services Organization

Rain Dance Conference

General Counsel Confidential: Telling It Like you've Never Heard It Before Q&A Panel

The four panelists:

- Jason Brown, VP, GC and Secretary for Dyson
- Thomas Sabatino, VP, GC and Corporate Secretary for Walgreen Company
- Gabe Miller, President and GC of 1-800-Law-Firm
- David Cambria, Global Director of Operations, Law, Compliance and Government Operations for Archer Daniels Midland Company

Moderated by John O. Cunningham

At a rapid-fire pace, Mr. Cunningham interviewed the four panelists in six rounds of questions in various formats: True/False, multiple choice, one or two sentence responses and open-ended answers.

ROUND ONE

Multiple Choice (MC): One of your valued outside counsel offers you free annual visits solely for the purpose of learning more about your business to serve you better. You are:

- 1) Favorably impressed;
- 2) Either indifferent or ambivalent;
- 3) Bothered about why this person wants to know more about your business.

- All four panelists chose 1) Favorably impressed.

True or False (T/F): If someone is not a Super Lawyer, then I hesitate to hire them – something must be wrong with them.

- All of the respondents chose False, but one voiced the concern that not putting the effort forth to earn such accolades might indicate a lack of business sense.

T/F: Generally speaking, the work of first-year associates is not worth paying for.

- Three panelists answered True and one answered False, saying that it depends on the firm.

T/F: In some or all matters, I have instructed law firms that I won't pay for first-year work.

- Two respondents said True, and two said False.

T/F: I prefer to like the person I am hiring.

- All four said True.

T/F: I must like the person I am hiring.

- This answer was split, with two respondents saying True and two False.

MC: You don't like a lawyer's work product or their attitude or their service. Do you most often:

a) speak to them about improving;

b) just stop working with them and find a better lawyer?

- Everybody chose a) speak to them about improving.

MC: With regard to lawyer profiles, law firm websites generally have:

a) too much information;

b) too little information;

c) about the right amount of information;

d) I don't care about the total amount of information – just whether I can find the relevant information I want.

- Everybody chose d) I don't care about the total amount of information – just whether I can find the relevant information I want.

MC: With regard to practice group descriptions, law firm websites generally have:

a) too much information;

b) too little information;

c) about the right amount of information;

d) I don't care about the amount of information – just whether I can find the information I want.

- Again, everybody chose d) I don't care about the amount of information – just whether I can find the information I want.

MC: Law firm leave-behinds should generally be:

a) 2 pages or less;

b) 4 to 6 pages;

c) more than 6 pages;

d) I don't care about length as long as the information is relevant and helpful.

- Two panelists chose a) 2 pages or less, and two chose d) I don't care about the length as long as the information is relevant and helpful.

MC For a service survey, I would generally prefer:

a) filling out a written form;

b) getting an in-person interview (assuming that both take equal time).

- The consensus was b) getting an in-person interview (although they said it rarely happens).

Yes or No (Y/N): A lawyer you rate highly comes to you and says: "I have a partner who is great at X. I would love it if you would allow me to introduce them to you at lunch or dinner"...would you bite?

- Two said Yes; one said Yes, but they'd want to know why; and one said Yes – because they'd want to know where they are going to dinner.

CONTENT MARKETING:

T/F: I regularly read one or more law firm newsletters or client alerts.

- Three False, one True.

T/F: I regularly read one or more law firm blogs.

- All chose False.

T/F: Law firm brochures and leave-behinds generally offer little or no value.

- All chose True.

T/F: I have hired someone or asked them for more services as a result of content they published.

- Three False, one True.

EFFICIENCY AND VALUE:

T/F: The billable hour model creates perverse incentives.

- All chose True.

T/F: The billable hour model will be replaced by project billing and other alternative billing methods.

- Three True, one False.

T/F: Associates sometimes do work that could be delegated to paralegals.

- All chose True.

UNDERSTANDING THE CLIENT'S BUSINESS:

T/F: Outside lawyers generally make strong efforts to learn about a client's business and industry.

- Three False, one True.

T/F: Outside counsel generally understands the importance of industry context to legal strategy and decision-making.

- All chose False; one panelist said, "They think that they do."

FOLLOWING THE CLIENT'S INSTRUCTIONS:

T/F: I often or always use an engagement letter with my own instructions to law firms about how they are to bill me and provide services, spelling out what they can and can't do.

- One False, three True.

T/F: I have audited law firm invoices to check bills for compliance with hiring instructions.

- All said True, with the exception of a couple of panelists who said that they delegate this task – but, in any case, somebody is indeed looking at the invoices.

T/F: I have used e-billing software to check bills for compliance with hiring instructions electronically.

- All said True.

T/F: I have fired or stopped working with outside counsel because they ignored my hiring instructions.

- All said True.

ROUND TWO

One sentence answer: What is the service issue most likely to get a lawyer fired or dropped from your outside counsel list?

- Responses included failure to immediately let the GC know about an issue; being wishy-washy; surprising the GC with a problem without offering a possible solution; and lack of response.

One sentence answer: Name one real-life, actual service issue that caused you to fire a lawyer or simply stop sending work to them.

- One GC replied that he had fired somebody because they went around him to get work from the CEO.

One sentence answer: What is the single biggest thing most often missing from RFPs or Requests for Work submissions?

- David Cambria, Archer Daniels, who is a procurement expert and former GC, said that what's missing are proposals based on data from the law firm. He emphasized several times that many law firms sit on a store of data that could help them determine the duration or potential cost of a project, but that such information is rarely included in proposals.

One sentence answer: What do you wish to hear in sales pitches that you NEVER or RARELY hear?

- People who are willing to admit their ignorance regarding an industry, coupled with a clear willingness to learn more about that industry, would be welcomed by at least one respondent.

One sentence answer: You need a new lawyer in an area you have never or rarely handled – how do you find them?

- One GC said he asks other in-house counsel, while another said he uses the GC Listserv. Yet another said he asks people whom he knows and trusts.

One sentence: Someone who has never met you thinks that they can serve you well and would love to have you as a client. Honestly, what is the best way for that someone to get through your door?

- The consensus here was referral: work your network and find someone who can recommend you.

One sentence: Other than by watching their bills, how do you assess outside counsel, either formally or informally, and how do you decide whether to send them more business, less business or no more business?

- One, their level of responsiveness. Two, whether or not they give practical advice. And three, communication skills – are they listening to me, or simply talking at me? Essentially, the key question is whether or not the outside counsel is adding value.

MC: Rank from 1 to 3 the importance of the following in an outside lawyer (assuming all other things being equal):

A) industry knowledge and understanding;

B) Super Lawyer status and high ratings by Chambers;

C) materially lower hourly rates.

- All replied that a) industry knowledge and understanding was definitely the most important.

Y/N: With regard to hiring a law firm, I would be interested to know how the firm uses technology to improve their product quality, cost or delivery speed to clients.

- All said Yes.

Y/N: I would give plus points to a law firm that has a service pledge if that pledge addressed concerns I have, such as returning all calls within X hours or doing project-based billing, etc.

- All four replied No – talk is cheap!

Y/N: I would give plus points to a firm for alternative fee flexibility.

- All four replied Yes, in general.

Y/N: I would give minus points for lack of willingness to do alternative fee arrangements.

- All replied Yes, because it would indicate a lack of flexibility.

Y/N: Generally speaking, I would give a lawyer bidding for my business plus points for being in a firm that has undergone a process improvement program, such as six sigma training.

- Two said Yes, one No, and one Maybe.

Y/N: I would give a lawyer plus points for being in a firm that has undergone systematic project management training.

- Two Yes, two No.

One-word or one-sentence answers: Should firms pitch their diversity commitments and diversity performance when seeking your business, or should they just quietly walk the walk and you'll notice?

- Panelists said that if the GC cares about diversity, they're going to know before the lawyer even walks in the door, and it doesn't matter whether they receive awards or not. Another answered that it was important to know your audience – for some, diversity matters, while others are indifferent. A third panelist said that

it would be wiser to simply show how your firm has prioritized diversity, rather than pitching it.

ROUND THREE

Briefly describe a legal service experience that “wowed” you in a positive sense, such as better than expected results on a major assignment that came in ahead of schedule and under budget.

- One panelist mentioned working with a law firm that came in under the fixed fee amount and gave them a refund on the difference. Another GC said that a law firm offered free training for other people in the company, like their editors or engineers. Yet another GC described a firm that had their lawyers accompany workers during their shift in the shipping trucks from 4 a.m. to 10 p.m., free of charge.

Briefly, without naming firms, describe a legal service experience that ticked you off and/or got the lawyer fired?

- Negative experiences included firms that did not take responsibility for their mistakes or that surprised the GC with bad news.

In less than 30 seconds, describe a law firm newsletter, blog or client alert you like and tell us why?

- A lawyer sent their firm newsletter to the GC that related to a specific practice area even though the lawyer was in a different practice area.

Can anyone name a legal industry “publication” that you like and briefly tell us why?

- *Above The Law*, *Legal On Ramp* and *PLI* were all publications cited for their strong content.

Can anyone describe a sales visit or RFP that really blew you away and caused you to hire counsel?

- Counsel came prepared with a full business plan that managed the whole portfolio of litigation, which was above and beyond what they were asked to do. They came with the whole solution, not just the piece that they were tasked with addressing. Another panelist described a candidate who detailed what they would and would not charge for.

Can anyone describe a sales visit or RFP that you immediately rejected in your mind because it was so repugnant and briefly tell us why?

- Counsel clearly didn't take time to figure out who they were pitching to. Another panelist described their aversion to bringing a person of a certain ethnicity onto the team simply for the sake of adding racial diversity, even though that person had no relevant experience.

Can anyone give us an example of a non-legal service that you love (your auto mechanic, your dry cleaner, whatever) and tell us why you love that service?

- One respondent said he loves his barber because they take the time to ask him what he wants from the experience – how he wants to look, and so on. This barber caters to his needs, which is the appeal.

ROUND FOUR

A law firm you work with a lot has been in the news lately, and not in a good way. Either partners were caught “misbehaving” in the workplace, or the firm was sued by clients for conflict of interest or overbilling, or some of the lawyers made stupid statements in social media. Generally speaking, whatever it is, do you want your relationship partner to proactively ask you if you have any questions or concerns related to the bad news, and address them with you, or is that too negative and defensive?

- All four panelists said it would be best to proactively address it with them in order to show that you care how it might affect them, but not to make it a big deal.

MC: If a lawyer lists their hobbies, passions or personal interests on their profile,

I consider that:

a) nice to know;

b) irrelevant to me;

c) a negative factor.

- Three said a) nice to know, but they don't want to know about trivial hobbies – only those personal passions that demonstrate stamina, commitment or other positive qualities relevant to a career in law.

Y/N: I would like to see some quantification of a lawyer's experience? i.e., number of cases tried to verdict, number of transactions closed by kind, or number/percentage of times they have come in under budget or projection.

- All four said Yes.

Y/N: I would like to see specific industry experience on a lawyer's profile.

- All four said Yes.

For those who would like to see industry-specific experience, how do you respond to a lawyer who says, "I may not have experience in your industry, but if I don't list your industry, you won't consider me"?

- The panelists responded, "Don't think for me! I can draw parallels on my own."

An outside lawyer you like asks you to help him or her to write a better profile for the web or for a brochure. He or she has all the usual stuff, such as practice areas, years of experience, schools, awards, publications... What else do you want to see that is often missing?

- Industry experience.
- How they have partnered with the client.
- Easy to find and use contact information, e.g., vCard, their assistant's contact information.
- The names of the specific firms where they have worked before were considered valuable additions to any attorney's profile.

What innovations have YOU come up with for improving efficiency and service in-house?

- One panelist said that he's trying to re-envision the legal department by bringing in lawyers from two different firms for the same matter, encouraging them to work together in order to reap the benefits of both simultaneously.

How do YOU “sell” yourself to in-house business managers who need to trust you to let you into their departments and share their forward-looking plans with you?

- Panelists replied that they try to understand their issues by presenting themselves as a direct line of service, rather than making the business managers an afterthought. They take the time to discover their goals, to notice and care about their successes, and to generally be a full and well-rounded business partner.

On average, do you think the associate or the partner will deliver more value for the price?

- A junior to mid-level partner working on high-level material is going to deliver the most value. For the more routine details, it’s better to go with the associate.

In general, for routine transactional work, do you prefer:

a) hourly billing;

b) flat fee project billing;

c) hourly billing with a pre-determined cap based on the transaction?

- Three chose b) flat fee project billing, and one chose c) hourly billing with a pre-determined cap based on the transaction.

T/F: I would consider paying a bonus to a law firm for satisfactory legal work that closes a transaction or resolves a conflict ahead of schedule or ahead of expectations.

- One said Yes, they would consider paying a bonus. Another said Yes, but only if they take the risk on the downside. A third respondent said Yes, if it was agreed upon upfront. And the fourth panelist said No, not if the work was merely satisfactory.

ROUND FIVE

The following questions were chosen by the panelists themselves, who designated them as “hot button” issues:

I understand that you are very concerned about budgets and estimates. Can you briefly tell us why, and tell us how some outside lawyers are falling short on providing budgets and estimates?

- One panelist said: Don't whine about how hard it is to budget! Budgeting is hard for everybody, but it's a necessity.

Your enterprise is very visible to the public and depends heavily on public support. Can you tell us a little bit about the importance of your outside lawyers being good will ambassadors, as well as reliable counselors?

- Panelists were generally peeved by outside lawyers who don't keep up on their business by reading and staying involved.

I know from our conversation that you have a hot button issue that relates to sales pitches and preparation for meeting with you. Can you tell us briefly how some law firms are failing in that regard? Can you tell us your biggest legal marketing or sales issue that you experience with law firms?

- One panelist answered that their biggest issues pertain to rates and perceived value. In-house counsel doesn't understand why on December 31 the rates are one thing, and then on January 1 of the following year the rates automatically go up – why are you worth more at the end of that particular 24-hour period?
- Panelists also had a difficult time finding any kind of value to them as a client from law firm mergers, which seem to be focused simply on preserving margin rather than increasing efficiencies.
- Finally, as mentioned in Round 2, the law firms are sitting on a ton of data in terms of how long it takes to do something, what the cost will be, and so on. Panelists felt that such information should be leveraged in order to make the firm a more proactive participant, and that law firms should be building models and showing the client how things work.

You have held the office of president and CEO for a medical device company. Can you briefly tell us how that experience influenced your thinking about what CEOs want from lawyers as service providers?

- To put it simply, the CEO wants answers. He wants to know the pros and cons, the risks and the benefits.

You work for a company that deals with engineering, manufacturing, technology, patents, sales and marketing. What kinds of recurring legal service issues does that environment create for you which you might describe as “hot buttons?”

- The panelist remarked that law firms are not imaginative, and they’re unwilling to take risks of any kind. He said that he is comfortable with reasonable risks and that if they discuss it upfront, he’s willing to take a shot even though it might not work. He doesn’t want canned answers.

I know that you particularly value lawyers who understand your business and your industry. Can you succinctly summarize why this is important to you and your company?

- The panelist replied that the concept of “profits per partner” is of no relevance to him. It’s annoying, and it takes the focus away from value and service. Panelists then discussed the ACC Value Challenge, and how they couldn’t get enough participants to make the challenge relevant. Finally, the respondents discussed some of the biggest “turnoffs” they experienced when working with law firms.
 - A law firm that was pitching Pepsi apparently was unaware of the fact that restaurants have a contract with either Pepsi or Coca Cola. Due to this oversight, the client was taken to a restaurant where they only served Coke beverages. They had a Diet Coke on the table at a deposition for Pepsi!
 - A similar example involved a law firm that was pitching FedEx, but sent the response to their RFP via UPS.
- Attention to detail and a thorough understanding of the industry are essential in such situations.