



THE NEW ELLIS GROUP

Monday Monday

Connecting the Dots with Karen Kaplowitz



*Helping you create and reinforce the habits of successful career building,
gleaned from my work as a business development strategist, trainer and coach*

Volume 9, Issue 23

November 2, 2015

When A Client's Law Department is Your Competition. Every firm is facing competition from two sources: other law firms and clients' own law departments. Law departments are usually charged with the task of reducing legal spend by keeping more of the company's legal work in-house. Instead of waiting until after your client decides to retain more work in-house and scrambling to deal with a problem, here are some ways to be proactive to support your client while minimizing the adverse impact on your firm:

- Can you help to educate your clients about the types of situations in which there is heightened risk to them of keeping matters in-house?
- If a client does not have a system for assigning work, can you help them establish a system?
- Can you help your clients develop criteria to use to decide which work to assign to outside counsel including the level of complexity as well as the extent of risk to the client?
- Can you discuss hybrid staffing of matters in which the client handles certain aspects of the work and your firm or other outside counsel handle other aspects of the work?
- Have you discussed better integration between the law department and your firm so collaborative teams are more feasible?
- Can you insure that the client's system for determining whether to send out work includes identification of situations in which in-house counsel may be witnesses or may be holding onto matters to avoid discovery of mistakes that have been made?
- Can you recommend that the client's system contain a provision for review of situations in which the normal assignment would be in-house but the level of risk elevates the assignment to hybrid teams or outside counsel?

Example: Your firm monitors all new litigation filed against your client which is involved in many merger and acquisition transactions. Like most public companies, each time your client announces a new transaction, it is likely to attract a shareholders' lawsuit which challenges some aspect of the transaction. Since your client considers many of these lawsuits to be frivolous, the company's law department usually handles the matters and negotiates the typically modest settlements to clear the path for completion of the merger. But on one occasion, you note that the lawsuit appears to relate to a very sensitive whistleblower investigation which your firm conducted. When you learn that the company intends to handle the matter internally in a routine fashion, you discretely inquire of the head of litigation if the company has considered the implications of the whistleblower investigation in connection with the new lawsuit. You send a series of questions which are designed to help the company understand the sensitivity and risk associated with what may have appeared to be another routine lawsuit. When your questions make it clear that the conduct of one of the company's in-house lawyers may be at issue, the company decides to send the matter outside and selects your firm.

Are you helping your clients save money by handling as many appropriate matters in-house while helping them create systems to identify and refer out higher risk matters?