

Career Path: You Can't Buy Accountability

Law Department Management

Career Development



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I've had a bias in favor of in-house counsel for years. It seemed to me that in-house counsel have many advantages over outside counsel.

I admit that when I worked in private practice, I had the exact opposite view. Outside counsel are in the business of delivering legal advice. As such, I thought, they've got greater focus, specialization, and expertise. Also, why would clients pay hundreds of dollars an hour for them to answer questions if not for the brilliance?

I spent only five years in private practice, but that was long enough to realize our clients carried many motives. Most had properly difficult issues that needed our thorough and expensive attention. But many clients seemed to use our services as (1) overflow capacity, (2) to handle bothersome tasks, or (3) to provide credibility in potentially risky cases.

When I took up the GC role, I soon found all three reasons to be objectionable. Let's consider them in turn.

Legal capacity needs may be more predictable than you think

Every legal team deals with a reasonably predictable workload, alongside the terrifying unpredictable

matters that lurk behind random phone calls and emails. Combining both work types can make it seem like our total workload itself is unpredictable. But this is not so for at least two reasons.

1. Predictable work is just that: predictable. No matter what other distractions arise, the regular needs of the business must be met. Depending on your business, this work likely constitutes 60-80 percent of the workload.

2. Unpredictable work is unpredictable only in the specific details and not in whether unpredictable things will occur.

Over time I came to realize that, while I couldn't say exactly when, for example, an employee dispute would crop up, or what form it would take, we would have a certain number. Or that, although significant customer or supplier disputes were rare, they did occur. And eventually, almost all the matters that I once would have called a surprise were anything but.

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This means that a legal team's workload is mostly foreseeable, most of the time. Seeking outside help for work that is reasonably foreseeable, and paying handsomely for the flexibility, seemed to me like an expensive luxury. And because I sought to deliver value to my company, I soon viewed such capacity buying as an avoidable luxury.



Despite the convenience, outside costs can add up to exorbitant amounts. Aris-Tect Group / *Shutterstock.com*

Whenever our outside counsel spending exceeded a certain threshold, I'd make the case for hiring an in-house resource to do the work ourselves. I originally made the business case on financial terms, because the payoff was immediate. Only later did I realize my business colleagues valued in-

house lawyers fundamentally differently. More on this in a moment.

Doing unglamorous work is part of the job

Yes, I get it. We all want to do exciting, innovative, and important work. It takes experience and maturity to understand a lot of important work is neither exciting nor innovative. It's up to team leaders to make employees see the value in doing unglamorous but important work.

Although some employees are more willing to go along than others, don't be a lazy manager and take advantage of them. The right way to dole out important work is the same way to divvy up exciting work: a roughly equal share that gives everyone similar opportunities to contribute and develop.

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And as the team leader, that means you should do a fair share of unglamorous work too. I know that with seniority comes some perks, which includes being able to assign less desirable work to team members. Do this too often and you become the boss you once hated.

It is also being a lazy manager if you foist off unglamorous work to outside counsel. Not only is this more expensive, they see it as unglamorous too and push it down to the least experienced associate. What makes you think that's an appropriate way to get important work done well?

> **(And before you tell me that much unglamorous work is also unimportant, I would say that your legal strategy surely has identified and eliminated unimportant work in favor of proper priorities.)*

Going outside to buy credibility risks selling your own credibility short

When you have significant matters before you, you may be tempted to call on outside counsel for expertise, moral support, and authority. Often this is the right call, especially when you are in an unfamiliar legal domain. Be careful — don't call on outside help to make decisions for you.

You have one thing even the most expert outside counsel lacks, and the business knows it: accountability.

Outside counsel are your hired guns. But the company they're defending is your home, where you spend most of your time, and where your friends also work. When outside counsel's work is done, they ride off, having been paid either way. You live with the consequences.

The best outside counsel appreciate this dynamic and support their in-house colleagues. They collaborate closely with you behind the scenes so that when you make recommendations to management about what to do next, they are *your* recommendations. This is not an ego question so much as a judgment question. Nothing can take the place of your deep knowledge of your company's business and risk appetite.

Thus, the most important thing you bring to the table as in-house counsel is ownership. When you own your decisions, and your colleagues know it, that brings you credibility money can't buy.

Be well.

Question, comment? Contact Career Path columnist James Bellerjeau.

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