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Steven A. Lauer on

Reporting to Corporate Management on Value of Legal Service

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Corporate management needs to understand how well the organization performs in pursuing its business goals. This requires that each unit of the company educate management about its activities and how successfully it is pursuing the goals set out for it. Otherwise, the company might incur overly high expenses or various units' efforts might counteract each other or otherwise fail to mesh as well as they should. Management wants and needs to know that the company realizes sufficient value from each unit's efforts.

For corporate law departments, this means that they must develop a complete understanding of how the law-related matters entrusted to them create or deliver value to the business operations and that they develop a language and metrics by which they can communicate that information to management most effectively.

How do the company's attorneys (both in-house and outside) work with the business units and the personnel of those units? What are the company's priorities in respect of the lawyers' work? Which matters or projects represent the greatest potential "return" for the effort in the eyes of management? Which possess greater urgency?

One survey identified the following elements or types of value that lawyers provide to their clients (the survey did not distinguish between in-house and outside lawyers in this regard): service value, expertise value, commercial value and leadership value. Do these categories enable us to develop a means of describing the added value that results from the lawyers' efforts on a company's behalf? If so, we may be able to define a system of reporting the relates to that value proposition.

"Service" value arises from the lawyer (performing his or her duties as agreed (for an in-house lawyer) or in accordance with the retention agreement (for an outside lawyer). While that definition encompasses a very wide range of responsibilities to track (especially for an in-house lawyer), coming to terms with corporate management on a discrete number of criteria that come within the scope of that term might be feasible. After reaching such agreement, a law department could construct mechanisms for reporting on how well the attorneys (both in-house and outside attorneys) satisfy their identified responsibilities on behalf of the company. In that way, the law department would demonstrate to its clients that it delivers "service value." The metric might be as simple as calculating the percentage of times that the attorneys satisfy those responsibilities.

The "expertise value" comes from the delivery by lawyers of technical knowhow to the client. To some degree, this element of value represents the lawyers doing their jobs as well, since the delivery of technical know-how represents the reason for their hiring (for an in-house lawyer) or retention (for outside counsel). Nonetheless, discussing that concept with the client and developing a means by which the department can demonstrate its delivery should lead to greater agreement with the client on a range of issues pertinent to the client-counsel relationship. How often do the attorneys deliver such "expertise" in completing their work for the company?

The third type or element of value is "commercial value," which requires that the attorney understand the client's business and provide commercially useful advice. In respect of outside counsel, a law department should develop a means of identifying those outside attorneys who demonstrate an understanding of the company's business needs and provide legal service that serves the client's needs well. For the in-house attorneys, demonstration of an understanding of the business should come into play in annual or other reviews, evaluations, etc. The results of those evaluations of the in-house and outside attorneys can be aggregated for reporting purposes.

An attorney who transcends the usual parameters of his or her role delivers service as a "business leader" according to that survey. For the in-house and outside attorneys who represent a company, this last element of value likely will represent an aspiration more often than an achievement. Even with that understanding, though, a law department should capture those instances when the attorneys exceed the typical service by adding demonstrable business value (as opposed to serving the legal needs well). Even if few in number, those instances would represent a considerable value for the business.

These scorings or grades should reflect various aspects of a company's approach to risk and governance. For example, the more highly the corporate executives rank various types of work in terms of the potential risk and reward ratio they represent, the more the attorneys should want to contribute to achieving those types of work by handling properly the legal aspects of those assignments. To the degree the attorneys can serve as "business leaders" in managing the legal aspects of those highly ranked transactions and disputes, the more valuable they will become to the company.

Where might the evaluations of the attorneys come from? While the attorneys typically evaluate each other (the in-house attorneys evaluate outside counsel's performance in completing their assignments and the in-house attorneys are reviewed by their superiors in the law department), should the clients have input into those evaluations? Since the clients' view of value is the basic barometer of how much the law department adds to the company's performance, their views of the attorneys' contributions should be accorded considerable weight toward the attorneys' standings on the value scale. By collecting such opinion evidence from multiple sources within the company, a law department can assure itself that the possible variations among reviewing employees will balance out and the aggregate ratings will deserve some consideration.

Moreover, by asking the department's clients to participate in the evaluation system, the law department will engage those individuals in a dialogue regarding the value parameters and reach some consensus on those terms that otherwise would be difficult to achieve. This consensus should further a law department's interests in having client support for its role.

The more a law department can use empirical data to demonstrate how and how often it delivers value along axes such as these, the firmer its support within the company will be. Corporate leaders use such data to manage their companies, so by demonstrating its fluency with data, the law department can show that it lives by the same rules as the rest of the company. Moreover, by documenting how well it enables the company to achieve its business goals more readily - and thereby add value to that business - the more closely it will entwine itself in the ongoing business efforts of the firm and thereby solidify its position as a respected and valued contributor to the business's achievements.

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