

In House Counsel Panel Breakout Session – Notes

28 Feb. 2020 10:50-11:50 am

Moderator: Ryan Hamilton

Panelists: David Colton, Sam Cowley, Greg Slater

Career Path Bios:

Greg Slater: He was in private practice in DC and Intel was a client. He liked the work they did and they made an employment offer to him, so he made the jump from law firm to in house. When he left the law firm, he didn't want to do the same thing for the rest of his career, and his manager gave him the following advice: "the only person who can box you in would be yourself".

Sam Cowley: He was a partner at Snell & Wilmer, and his bishop was promoted to CEO of one of his largest clients (a trucking business) and invited him to come join the client's management team.

David Colton: He never wanted to be a general counsel. His father was General Counsel of Marriott Corp., and he saw how it exhausting it was. After law school he started at a law firm in Salt Lake City doing natural resources work. After making partner, he received an offer to go in house at Phelps Dodge. He felt like a kid in a candy store with an unlimited budget. He was traveling to every continent multiple times every year and got to know the business very well. He was the only lawyer in the group so he had a lot of autonomy and was able to come up with creative solutions to business problems. And then he was invited to be the General Counsel. While he did not start out wanting to be a General Counsel, he became one and had a very rich and fulfilling career.

Do Justice, Love Mercy, Walk Humbly – Examples in your career have you had opportunities to follow these qualities?

Greg Slater: Sometimes there is a temptation to take credit when it is not deserved. Do your best, collaborate, acknowledge others, be honest, and have integrity. In the short-term it might not pay off, but you'll be successful in the long-term following those principles. During his employment at the Steptoe law firm, he did a political asylum case for a man in Rwanda and it was very rewarding helping this man gain freedom.

Sam Cowley: In the corporate setting, he has never found it to be a disadvantage to keep his standards high. Acting with integrity, honor, and fairness has always been rewarding to him and recognized by other people who share those values. He was named after his grandfather, who was an FBI agent in the 1920s and 1930s and handled lots of interesting high-profile cases including the John Dillinger case and Baby Face Nelson. His grandfather was killed by Baby Face Nelson in a shootout in 1934. Someone said his grandfather was the greatest man he ever knew because he was scrupulously honest in his daily life. Every general counsel job he's ever had came as a result of people who knew him and viewed positively his personal integrity, trust, and fairness.

David Colton: The theme is an invitation for each of us as lawyers to use the law as a floor and not a ceiling. This allows us to elevate our relationship with God and do the right thing. In house lawyers can set the theme very well in their corporate cultures. Instead of asking "how close to the edge can I get", ask "what is the right thing to do". In his work in other countries, often there is a big disconnect between

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the written law and how it is actually enforced. When his company worked on a mining project in Madagascar, his company used many local laborers with shovels and hand tools to build a new road, rather than using conventional heavy CAT equipment. This provided the locals with good jobs and resulted in a more environmentally friendly project. Recognize the needs of those around you and treat them fairly. Be more interested in the success of those around you.

What advice do you have for a lawyer in a law firm who wants to go in house?

David Colton: Most lawyers are risk adverse and like stability and certainty. The big difference between having a wide range of clients and having one client is that the one client might go away. Being in house provides an opportunity to become knowledgeable about the business and a wide range of interesting things. Ask yourself – can you have a passion about the business? If so, your ability to be successful is much more likely. Also, give God more credit than we typically do and acknowledge that He will direct our path where He wants it to go. Don't be afraid of change. Going in house is an invitation to be part of a business and part of its cultural development.

Sam Cowley: He really enjoyed working at a law firm, but the opportunity to go in house provided new challenges including being a member of the management team. General counsels work with senior management and they all have a vested interest in working collaboratively as a team and being successful. If you are considering going in house, go to a good business that's viable and have a good feel for the people you'll be working with, because the people make all the difference. Find people who share your values.

Greg Slater: Look at the motivation. At a large law firm you're trying to bill as many hours as possible. He likes going to one client and solving problems and not having to look for more work/billable hours. A partner at a law firm can influence his clients on a close personal basis, but those opportunities are very few and far between. Those opportunities are common as a general counsel at a company.

What legal/regulatory items are your biggest challenges and take the most of your time?

Sam Cowley: Acquisitions. They are very complicated and time consuming, but rewarding when they are done correctly. His company recently acquired a company with a lot of existing litigation, including litigation in Pakistan. Cybersecurity and related issues are also becoming more prevalent and important.

Coronavirus's impact on the business:

Greg Slater: His company is doing a lot of contingency planning and taking a lot of precautions. Many people are working from home, and most international travel has been cancelled.

What are your general expectations of outside counsel who do legal work for your company?

David Colton: Find a lawyer that is a problem solver and can give you advice, not someone who will tell you "you can't do that". You don't want a lawyer who's in love with legal issues, but someone who can creatively solve problems and not get interested in non-risky legal issues. Find someone who gives you a quality work product. A law degree is a leadership degree, and you're looking for a lawyer who will be a leader and who understands the language of your company and the language of the law.

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Sam Cowley: He expects outside counsel to deliver on the same things he's expected to deliver on, like great results. He wants someone motivated and will do the things to get a great result, someone who has a strategic approach and understands what the company wants and why. He wants someone who will give maximum effort and be very collaborative and include him in the communications and use creativity to solve problems.

David Colton: As in house counsel, it's great to know that sometimes you'll give the law firm a question that will keep the associates up all night but not you.

Greg Slater: He recently dealt with a very complex regulatory issues, and a law firm wrote a long memo that had a very weak recommendation. He wants lawyers who take all facts into account and take a firm stance that includes legal, ethics, and policy considerations.

What is your list of "don't do that" with respect to outside law firms?

Sam Cowley: Don't give your clients a big surprise. Keep them informed.

David Colton: Don't avoid or try to hide bad news, even if it's a mistake you've made. That just compounds the problem.

Greg Slater: Don't be shy about giving ethical advice to in house counsel.

Comments on invoicing and billing practices by outside law firms:

Sam Cowley: He would like outside lawyers to be comfortable with the time they're putting in and the value they are providing. If he trusts someone, he doesn't spend much time worrying about that. He trusts good lawyers to do outstanding work and he is willing to pay for it.

Greg Slater: All lawyer invoices are submitted electronically. If he has a trusted relationship with outside lawyers, he typically doesn't even review the detailed billing entries.

David Colton: Having trust with a client is great and consider it sacred and honor it. It can only be lost once.

Quality of life going from law firm to in house:

David Colton: It took him 30 seconds to get away from billing, which substantially increased his quality of life. He worked with a great management team and it took no time for him to adjust. Instead of trying to find out where the work comes from, become a risk manager and prioritize the work and focus on the right things.

Sam Cowley: The lack of billable hours and client development was a great change. Going in house was a dramatic improvement in his quality of life. Being in house, you are integrally involved in the company and can solve problems faster.

Greg Slater: For the first few years after he went in house, he felt like he was on vacation. As general counsel you have people you can delegate to. The work is demanding but rewarding.

What are your companies doing internally or externally to drive inclusion in diversity?

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Greg Slater: His company announced several years ago that they were going to spend \$300M to promote diversity, and it started a trend with other companies.

Sam Cowley: His company has made it a goal to promote diversity and has been recognized for it. His department has 12 lawyers, only 3 of those are white males. He tries not to look at people based on their gender but based on the quality of their work.

Greg Slater: It's not diversity for the sake of diversity. Studies have shown that more innovation and creativity is produced by diverse populations.

David Colton: A great thing you have as general counsel is the opportunity to be a leader and invite the company to be better. The culture of the company emanates from the top down.

What do you think about law firms that solicit their services?

Greg Slater: He doesn't look for law firms. He looks for lawyers with certain skills or specialties. A general sales pitch doesn't do anything for him.

Sam Cowley: He gets a lot of unsolicited emails and doesn't read most of them.

David Colton: Most companies already have their legal groups in place and it's their work to lose. The best thing to do is be the best you can be and businesses will recognize that.