

JUNE 29, 2010



An **ALM** Publication

Project Attorneys Filling the Gap in Corporate Law Depts.

Law Firms Look to the Model, Too

BY GINA PASSARELLA

In an era when cost predictability reigns supreme, corporate law departments are increasingly using project- or contract-based attorneys to help handle an increased work load on a shrunken budget.

And their business-minded approach has law firms thinking about doing the same thing.

James LaRosa, an owner of staffing firm JuriStaff in Philadelphia, said the use of skilled attorneys on a project basis is nothing new to law departments, but the number of departments looking at this option and the amount of projects available has definitely increased in the last year.

General counsel are donning their business hats and looking at how they can handle a growing workload in an more highly regulated environment without adding to their permanent headcount, he said. Bringing on specialized, experienced attorneys for six months to a year to handle one set project in their area of expertise has become the solution.

Project attorneys are a more viable answer to the budget problem in part because there are so many skilled lawyers out of work due to layoffs at AmLaw 200 firms and the consolidation of legal departments prior to the economic downturn, which led to cuts in those departments as well, LaRosa said.

"The pool of contract attorneys right now is exceptional," he said.

A typical candidate right now would have experience at either an AmLaw 200

firm or a specialized boutique, and often-times will have law department experience as well.

"What they are getting typically is an attorney with a lot more relevant experience and a lot more real life practice experience," LaRosa said.

Technology has also bolstered the trend. Legal departments in rural areas looking for a specialized attorney don't have to be limited to a regional search, where such expertise may not be readily available.

"So a legal department in Tennessee or Kentucky that needs a specific IP attorney and might not be able to find the best candidates within 50 miles of their office in their rural setting, if they are open to the contract model, they basically then have the whole country or the whole world, in essence, to find the perfect candidate," LaRosa said.

The average project for a contract attorney in this setting lasts about six months to a year and is more or less full-time. LaRosa said some attorneys will work just 20 hours a week on a certain project, freeing them up to handle another matter somewhere else as long as conflicts aren't an issue.

He currently has a contract lawyer working at two different pharmaceutical companies. Each company had to know about the dual role and clear it.

Pharmaceutical companies are big users of this model because they have specialized practice areas within their groups and may need to fill gaps in shrinking departments with attorneys who have experience in those areas, he said. In

terms of practice areas where project attorneys are most often used, it depends on the department.

LaRosa said there is often a lot of activity on the corporate contract side, as well as labor and employment and intellectual property, both in terms of prosecution and litigation.

Law departments tend to look for temporary help on litigation matters when it comes to document review and e-discovery needs, but LaRosa said they are opening up to bringing on more skilled project attorneys to handle research and writing on the litigation side.

Valerie Esposito of McAnney Esposito & Kraybill Associates in Pittsburgh said she has seen a "huge upswing" in the contract attorney market because of the recession. She said she was surprised to see the bulk of the hires in that area were on the corporate side, which was hardest hit in terms of permanent placements.

Esposito said, however, that as the economy starts to stabilize, she is starting to see the permanent hiring rebound.

"As confidence has grown and the financial outlook has remained stable, I think they are leaning back toward permanent hires rather than contract hires," she said of law department hiring trends.

LaRosa said there was a high propensity for these positions to turn into full-time gigs in better economic conditions. He said it remains to be seen whether budgets will allow for that trend to continue in the current economy.

As law departments start to look at full-time hires, contract attorneys have filled, and continue to fill, an important role in

a tough economy. There is always work to be done in a recession, but there is a fear of permanent hiring, Esposito said. Project lawyers were a partial solution to those concerns.

And the positives seem to outweigh the negatives.

Law departments get the benefit of hiring specialized attorneys at a price LaRosa said is almost always lower than what outside counsel would charge. He said the average rate for project attorneys is between \$75 and \$150 an hour, with perhaps a higher hourly rate for more specialized attorneys. The downside, he said, is that they may leave before the project concludes. But that can happen with any attorney at a law firm, and the ability to find a replacement project attorneys is generally easy in this market, he said.

A TWIST ON THE MODEL

Steve Feder, co-founder of start-up GenCounsel, said he too has noticed a growing need from general counsel who feel they are “boxed in” between increasing workloads, hiring freezes and budget crunches that prevent significant use of outside counsel.

Feder said he found it to be a “disturbing trend,” however, that contract attorneys are being brought into law departments on week-to-week engagements and are being paid “embarrassing” rates for their experience level. Feder said GenCounsel is selling its services in a different way, but essentially selling into the same marketplace.

The company provides what he hesitantly calls part-time general counsel. The primary focus initially was on small companies with no in-house lawyers who needed temporary help at an experienced level — all of GenCounsel’s 11 attorneys are either, or both, former senior level law firm partners or former general counsel of large companies.

Interest has expanded to include small companies who already have an in-house team but need help in clearing a backlog or working on a specific project. The GenCounsel attorney comes in for a three-month period to start and then can continue on month by month. Feder said no one has stopped after three months yet, but the general counsel also know this isn’t a rent-to-own situation and

there is no pressure to keep the attorneys on board.

GenCounsel’s lawyers typically help with commercial work related to vendor contracts, a large client contract or even acquisitions; human resources work related to consolidating employee handbooks after an acquisition, general HR support and building infrastructure in that area; and overall strategy through sitting in on management meetings or advising whether to do a deal.

One general counsel recently told Feder about a secondment experience in which the GC asked the outside firm to send someone over to fill the role of the associate general counsel who was on maternity leave. The attorney would have to handle HR matters, new product development initiatives and customer contracts. The law firm sent over a third-year litigation associate. The GC sent her back to the firm within a month. Feder said that is exactly the type of problem his company was designed to solve.

GenCounsel attorneys sometimes come in one day a week to help with backlog or come in full-time to help on an acquisition. Feder said they don’t bill by the hour but instead charge a fixed fee or monthly retainer that is significantly lower than a large law firm would charge but higher than a staffing agency might charge.

About a third of GenCounsel’s referrals through April of this year came from large law firms, who Feder said realize his company isn’t competition but an added tool. He said he works closely with outside firms when a matter requires it and often times they appreciate having an attorney inside the client who can be their contact person.

If his company can handle a matter on its own, it will, and if a matter requires additional help, Feder said he will bring on board a law firm to assist. He said he’d like to think he is particularly good at buying outside counsel services given his own prior experience as a general counsel at Safeguard Scientifics.

LAW FIRMS JOINING THE PARTY?

As law firms see their clients turn to contract attorneys, the firms are too. LaRosa said he is seeing more law firms hiring project-based lawyers in an effort to show

their clients that “they get it.”

LaRosa said he has one client right now who has left a large AmLaw firm to start his own practice staffed only with contract lawyers.

“He will use that as an advantage to potential clients by explaining and showing that he’s not taking on the overhead of the traditional associate and the space that is required for them,” LaRosa said. “He will have at the ready quality lawyers with the specific practice areas required to be used on project basis.”

The client then gets the benefit of having a former AmLaw partner manage their projects while they are handled by experienced attorneys who are charged out at a lower rate than large firm associates, he said.

“It’s in essence doing what some corporate legal departments are doing, but I think we will see more firms doing this,” LaRosa said.

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