American Conference Institute's 8th National Forum on

CONTROLLING LITIGATION COSTS

GET MORE VALUE FROM LAW FIRMS | KEEP EXISTING CORPORATE CLIENTS Through Proven Methods of Fostering Legal Department-Outside Counsel Relationships

Hear novel case studies from:

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Our unparalleled faculty of corporate and outside counsel will provide you with expert advice and key insights for:

- Managing the costs of E-discovery: best methods for effectively predicting and controlling E-discovery costs and utilizing the latest software and service solutions to your advantage
- Value-based billing structures and alternative fee arrangements: proven methods for successfully crafting AFAs that ensure the alignment of interests, incentives and business objectives while ensuring cost predictability and improving overall profitability
- Law firm relationships selection, communication and collaboration: effectively managing, fostering and strengthening the client-law firm relationship so as to ensure mutual success
- Utilizing technology and shared service systems to drive efficiency, • monitor and manage costs and enable greater leverage of resources
- Controlling litigation costs through creative early resolution strategies: how to make early case assessments and cost-effectively manage cases
- Alternative dispute resolution (mediation and arbitration): When, why and how it can be used to lower litigation costs
- Undertaking an extensive RFP process to enhance quality and minimize litigation expenses: the details, the technology, what works and doesn't work, and what to tweak along the way
- Best practices for establishing accurate and realistic litigation budgets
- Effectively controlling litigation costs during class actions
- Managing costs of government investigations
- Legal Funding: examining the potential benefits and pitfalls of entering into a third-party litigation financing arrangement

Plus, be sure to also get 2 hours of CLE-Ethics by booking for the Post-Conference Master Class: The Ethics of Alternative Fee Arrangements and Cost Reduction Strategies

....as well as from:

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ACI's renowned forum on CONTROLLING LITIGATION COSTS returns, this time in New York City, on October 23-24, with a brand new faculty and novel case studies and strategies designed to help you (1) get more value from the firms you use in litigation matters OR (2) keep existing corporate clients and ensure you are at the top of the "go to" list when matters arise.

If you are an in-house counsel or legal sourcing manager, here are the top reasons to attend:

- Get more value from the law firms you utilize in litigation matters
- Fully understand how billing rates apply to particular litigation matters, and incorporate the latest on innovative fee arrangements into your strategy
- Hear about the latest and most effective software and service solutions for predicting and controlling E-discovery costs in an increasingly paperless world
- · Gain qualitative approaches to selecting, hiring, deploying, retaining and managing outside counsel during litigation
- Learn how to minimize in-house legal department costs and financial risk without compromising on work product or quality of service
- Learn how particular litigation matters are staffed, and keep a close watch on the resulting expenses through electronic billing
- Do more with less, bring more work in-house while also trimming legal staff
- Increase in-house capabilities, productivity and profitability, and streamline your internal operations
- Use technology to see what the firms you are using are doing at every stage of litigation

If you are a <u>private practice litigation attorney or law firm marketing/business development specialist</u>, here are the top reasons to attend:

- Keep existing clients by recognizing the constant pressure in-house counsel are under to reduce litigation costs
- · Assist and guard your current relationships with your clients and do everything you can to hold on to them
- · Learn how to provide more value, and truly become ingrained in your client's business
- · Work closely with your clients globally to ensure service deliverables in a way that is most appropriate and makes sense for them
- Position you firm to be at the top of the "go to" list, especially in the age of "convergence"
- Provide flexibility in fee structures
- Assure the best provision of services
- Network with dozens of in-house counsel from a wide range of companies and industries at this unique business development/new client opportunity

Register now by calling 1-888-224-2480 or by faxing your registration form to 1-877-927-1563. You can also register online at www.AmericanConference.com/LitigationCosts.

WHO YOU WILL MEET:

- Corporate counsel and legal sourcing managers from all industries
- > Private practice attorneys and law firm marketing and business development specialists interested in working with their clients to control litigation costs
- > Vendors and consultants that offer services aimed at controlling litigation costs

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Day One: Wednesday, October 23, 2013

7:15 **Registration and Continental Breakfast**

8:00 Co-Chairs' Welcoming Remarks

Eric S. Sarner Associate General Counsel Praxair, Inc.

Lindley Brenza Partner Bartlit Beck Herman Palenchar & Scott, LLP

8:05 Managing E-Discovery Costs in an Increasingly Paperless World: Best Methods for Effectively Predicting and Controlling the Costs of E-Discovery and Utilizing the Latest Software and Service Solutions to Your Advantage

> Gary A. Deutsch Senior Counsel PNC Bank

Renee Jackson General Counsel The Dolan Company

Adam Oyebanji Partner Barack Ferrazzano Kirschbaum & Nagelberg, LLP

Jeremy D. Mishkin Partner Montgomery, McCracken, Walker & Rhoads, LLP

David A. Crichlow Partner Katten Muchin Rosenman, LLP

- Best methods for staffing, designing and implementing a formal internal E-discovery plan that will improve operational efficiencies and help reduce costs
- Identifying and implementing the right mix of technology, people and processes to manage your E-discovery challenges in a cost-effective and defensible manner
 - Developing an E-discovery plan that best suits your particular industry, litigation profile, business and internal staffing processes, and company culture
- Implementing the most cost effective policies and methods for E-discovery collection, retention, preservation, management and retrieval
- Evaluating total solutions that can be used throughout the E-discovery process rather than in a single instance
- Projected savings of outsourcing your E-discovery work vs. performing it in-house
- Determining whether the cost and effort of identifying and producing electronically stored information (ESI) is in line with its importance in resolving a particular dispute
- Examining the latest in E-discovery software solutions what products are out there, what functions/applications do they have to offer, and what software solution would be most effective in satisfying your particular E-discovery needs at the lowest price
 - What you need to know about the latest in:
 - Predictive Coding Software
 - Electronic Case Management ("ECM") Software

- Tools for (i) evaluating whether to utilize an outside consultant and/or vendor for your E-discovery management; (ii) working out an action plan with consultants and vendors before work begins; (iii) applying convergence to reduce the number of vendors used and negotiating volume discounts
- Receiving the maximum and most cost-effective support from your E-discovery service provider; establishing a relationship with your vendor that ensures trust and minimizes risk
- Understanding the different types of E-discovery service models and what would best satisfy your requirements/ circumstances
 - "Variable Cost/Continuous Case Assessment" Model vs. –
 "Fixed Fee Strategic Relationship/Managed Services" Model
- Tips and best methods for establishing an E-discovery budget and sticking to it

9:10 Value-Based Billing Structures and Alternative Fee Arrangements: Proven Methods for Successfully Crafting AFAs that Ensure the Alignment of Interests, Incentives and Business Objectives While Ensuring Cost Predictability and Improving Overall Profitability

Toby Brown

Director of Strategic Pricing and Analytics Akin Gump Strauss Hauer & Feld, LLP

William P. Barnette Counsel, Commercial Litigation The Home Depot

Jason Steinhart Associate Vice President, Associate General Counsel Sanofi US

Dorothy G. Capers Associate General Counsel US Foods

Michael Caplan Chief Operating Officer, Office of General Counsel Marsh & McLennan Companies, Inc.

Rick Schlegel Assistant General Counsel Exelon Corporation

Kathryn D. Kirmayer Partner Crowell & Moring LLP

Wm. Scott Schulten Partner Schulten Ward & Turner, LLP

Moderator:

Lindley Brenza Partner Bartlit Beck Herman Palenchar & Scott, LLP

- Understanding why and how other companies have made the switch from the hourly rate to an Alternative Fee Arrangement (AFA): First-hand accounts from those who have effectively established successful AFAs
 - What factors they considered in making the switch;
 - Why they chose the arrangement they did; and

- What steps they took from beginning to end
- Evaluating the various AFA models and selecting the best model for your particular situation
 - Flat fees
 - Capped fees
 - Discounted and modified rates
 - Bracket fees
 - Phased arrangements based on stage of case and milestones reached
 - Hybrid approaches
 - Pure contingency; task-based fees; success-based fees
 - Retainers
- How to craft and implement the most effective and successful AFA model for your situation; how to determine what AFA model is the optimal choice for a given project or matter
- Exploring the risks inherent in a poorly thought-out alternative fee arrangement – discussing mission creep, the importance of cuffs and collars, and the difficulty of ending a flat-fee undertaking
- Examining the pros and cons, including unintended consequences, of each AFA model
- Ensuring that an AFA is sufficiently flexible, and modifying an AFA to reflect unanticipated circumstances
- Strategies and tactics for effective legal pricing when bidding for work and offering an AFA:
 - How to set a price that is high enough to protect profits but low enough to get the work;
 - After winning the work how to manage the matter so as to make a profit at that price
- Determining what metrics to use in measuring (i) the value of the services expected/required for a particular matter, and (ii) the success (or lack thereof) of an Alternative Fee Arrangement

10:55 Morning Coffee Break

11:05 Outside Counsel Relationships – Selection, Communication and Collaboration: Effectively Managing, Fostering and Strengthening the Client-Law Firm Relationship so as to Ensure the Alignment of Interests and Mutual Success

> *Julia Henick Rigby* Vice President, Corporate Counsel Prudential Financial, Inc.

Jason Baranski Vice President, Senior Legal Counsel Shire Pharmaceuticals, Inc.

Joseph F. Accardo, Jr. General Labor & Employment Counsel PSEG

Audrey Rubin Vice President, Chief Operating Officer, Global Law and Compliance Aon Corporation

Joseph M. Drayton Partner Cooley LLP A. Michelle Canter Partner LotsteinLegal PLLC

R. Patrick White Of Counsel Casey Gilson, PC *Kyle H. Dreyer* Partner Hartline Dacus Barger Dreyer LLP

Moderator:

Charles J. Scibetta Partner

Chaffetz Lindsey LLP

<u>Creating the Relationship: Selecting and Retaining</u> <u>Outside Litigation for Value and Predicting Value that</u> <u>a Firm Will Deliver</u>

- Selecting outside litigation counsel for value
- What can a firm's pitch tell you about the value they will deliver
- Conducting due diligence before hiring outside counsel
- Value-added services identifying and retaining those firms that offer more bang for the buck
- Getting big firm service, quality and results for a fraction of the price
- Overcoming the instinct to hire the most recognizable and, often, the most expensive firm
- Challenging the grip of incumbency
- Use of panel firms
- Extent to which counsel choice should be based upon a specific lawyer as opposed to a specific firm
- Reducing the number of law firms with whom you work
- Engaging in strategic geographic selection of counsel as a means to obtain quality, lower-cost legal services
- Using counsel that are geographically removed from where a matter is primarily being handled
- Types of work for which smaller-market firms may be better suited than large-market firms
- Determining which smaller-market firms to work with
- Determining whether to have separate trial counsel and settlement counsel

Managing the Relationship and Partnering With the Client: Fostering Productive and Open Communication and Strengthening the Client-Law Firm Dynamic Through Investment by Outside Counsel

- The keys to developing a strong relationship with outside counsel
- Fostering clear and productive communication and information exchanges between in-house and outside counsel
- Monitoring outside counsel to ensure that your billing, staffing, and procedural guidelines are reasonably followed
- Using technology to enhance your knowledge of outside counsel's activities relating to your matters
- Working with outside counsel to obtain greater value from the legal services that they provide
- Proactive measures in-house counsel should take with their outside counsel to prevent the unexpected, including out-of-control costs
- Increasing efficiency by familiarizing outside counsel with your company's operations and vice versa
- Strategies for maintaining/terminating law firm relationships in unanticipated circumstances
- Resolving budgetary and billing issues when they arise
- Taking action when outside counsel are not meeting your expectations

12:50 Networking Luncheon for Speakers and Delegates

1:50 Controlling Litigation Costs Through Creative Early Resolution Strategies: How to Make Early Case Assessments and Cost-Effectively Manage Cases

Daniel Rosenbaum

Corporate Vice President, Associate General Counsel UBS

Christopher M. Bass Deputy General Counsel, Vice President Caliber Home Loans, Inc.

Wendy L. Hufford Deputy General Counsel & Assistant Corporate Secretary ITT Corporation

Jeffrey Koonankeil Specialty Lines Claims Manager Beazley Group

Stephen A. Weisbrod Partner Weisbrod Matteis & Copley LPPC

| Jay N. Fastow | David M. Cohen |
|-----------------------|-----------------|
| Partner | Partner |
| Dickstein Shapiro LLP | Baker Botts LLP |

- Simple and effective case management and monitoring tools to control litigation costs and facilitate resolution
- Best practices and strategies for streamlining the litigation management process, and for eliminating waste and repetitive work in accomplishing litigation tasks
- Implementing cost-saving systems prior to litigation
- Preparing early and accurate case assessments playing out a case scenario at the front end
- Evaluating the cost of defense versus chronic settlement of unmeritorious claims and the precedential value of a settlement
- Use of the "Summary Trial" as an early case assessment method
- Use of jury and trial consultants
 - What expenses are involved in retaining such services?
 - Examining the cost-saving and case resolution benefits offered by such consultants: does the use of such services ultimately save costs?
 - When and under what circumstances should such consultant services be utilized?
 - What are the emerging trends in what these consultants are being hired to do?
- Ending litigation before trial by taking killer depositions of opposing experts and other witnesses and mounting sensible *Daubert* challenges

3:20 Alternative Dispute Resolution (Mediation and Arbitration): When, Why and How It Can Be Used to Lower Litigation Costs

Eric S. Sarner Associate General Counsel Praxair, Inc.

Michael J. Eng Associate General Counsel - Litigation MetLife

Brad A. Gordon SVP, General Counsel and Secretary Gilbane Building Company

Gregory Staron Specialty Lines Claims Manager Beazley Group

E. Hutchinson Robbins

Partner Miles & Stockbridge PC

- Certain situations in which mediation and/or arbitration can lower costs; situations in which they should be avoided
- Strategies and best practices for controlling costs when mediating and arbitrating
- Business considerations that may impact the company's approach
- What implications will the Supreme Court's decisions in AMEX v. Italian Colors Restaurant and Oxford Health Plans v. Sutter have on the scale of arbitration costs?
- Does mediation offer more cost-saving benefits than arbitration?
- How to determine whether to mediate, and at what point in the process to opt for mediation
- Practice pointers on how to be effective in mediation so as to best control costs
- Latest trends/best practices in drafting mediation/ arbitration clauses to ensure that costs are kept in check

4:25 Afternoon Break

4:35 Don't Reinvent the Wheel: Utilizing Technology and Shared Service Systems to Drive Efficiency, Monitor and Manage Costs and Enable Greater Leverage of Resources

| Steven P. Taub | Joseph J. Leghorn |
|---------------------------|-------------------|
| Assistant General Counsel | Partner |
| U-Haul International | Nixon Peabody LLP |

Eric Jon Taylor Partner

Parker, Hudson, Rainer & Dobbs LLP

- Intranets, Matter Management Systems and Data/ Knowledge Management
- Social Media, Data Analytics and Extranets
- Utilizing technology to enable improved communications, knowledge sharing and project tracking and management
- Information networks and databases that provide improved capability to access accumulated knowledge
- Creating an intranet specific to the legal department
- Upgrading your document management, billing and forms systems
- The latest systems for capturing and sharing knowledge of your in-house staff and outside counsel through user friendly tools
- "Brief Banks" law information sharing networks that enable electronic creation, access, tracking and storage of information and documents globally within an organization
 - What is the average expense of establishing such a network? What are the benefits and projected future cost-savings of such a network?
 - How to best protect against system problems
 - How to ensure adequate protection of the strategic information being globally shared and accessed through the network
- Weighing the costs and benefits of implementing an enterprise-wide system

- · Video conferencing and the use of NetMeeting software
- E-Billing Software / Systems
- Real-Time Management Software/Systems and "Dashboard Reporting": matter management systems for tracking hours, outside expenses, etc., and providing real-time updated status reports reflecting project status and budget
- Criteria for selecting the best vendors for your company's needs
- · Strategies for keeping costs down on IT consulting projects
- Bundling and centralizing litigation support services such as: court reporting, transcript and video storage, courtroom and arbitration technical support, graphic design and production, and jury research/persuasion expert support
 - How to effectively bundle such services?
 - What are the benefits?
- Exploring the cost-saving benefits of using on-line jury research

5:30 Legal Process Outsourcing: Obtaining Professional and Cost-Effective Services While Maintaining Quality and Confidentiality

Janna Lewis EVP and General Counsel Fay Investments

Thomas J. Bender Co-President and Managing Director Littler Mendelson PC

- Identifying the types of legal work that are appropriate
- Comparing and contrasting different models for offshoring
- Determining the costs, tax advantages, typical transition process and timeline
- Incorporating your needs regarding capability, capacity and scalability
- Identifying the services that you should and should not offshore and considerations when outsourcing outside the U.S.
- Factors to consider when choosing a provider/partner
- Structuring and negotiating an outsourcing contract
- · Best practices for ongoing management of your outsourcing
- Using consultants or outsourced experts for portions/stages
- of litigation that require expertise outside of the legal realm • "On-shoring"
- Setting up joint ventures or subsidiaries to retain more safeguards over data while benefiting from a lower-priced labor pool
- Successful offshore experiments and savings
- Effective legal [procurement] sourcing initiatives

6:15 Conference Adjourns

Day Two: Thursday, October 24, 2013

- 7:30 Continental Breakfast; Co-Chair Recap at 7:50
- 8:00 Budgets: Best Practices for Establishing Accurate and Realistic Litigation Budgets

Joseph Hand Senior Litigation Counsel Celgene Corporation

Richard P. Konrath General Counsel, North America CNH Global, N.V. Sharon Chew-Woodhouse Litigation Process Manager E. I. du Pont de Nemours and Company

Philip Collier Partner Stites & Harbison PLLC *Ted Colquett* Partner Wilson & Berryhill, PC

Russ Dempsey SVP & Chief Legal Officer United Retirement Plan Consultants

- What you need in order to prepare your legal budget-Factoring in both in-house costs and outside legal fees- Using historical data as a guide- Mapping anticipated costs to the company's goals and initiatives- Evaluating current risks and industry trends- Forecasting costs:- Factoring in profit
- Presenting your legal budget and negotiating with the CFO
- Implementing your budget and staying on track
- Tracking law firm compliance with the budget
- · Reevaluating the underlying assumptions
- · Collecting and making use of relevant budget data
- · Working with outside counsel to improve accuracy

9:20 Undertaking an Extensive RFP Process to Enhance Quality and Minimize Litigation Expenses: The Details, the Technology, What Works and Doesn't Work, and What to Tweak Along the Way

Troy G. Kubes Vice President & Associate Group Counsel Equifax Inc.

Jerome Blask General Counsel Washington Suburban Sanitary Commission

Michael J. Kanute Partner Faegre Baker Daniels LLP

Patrick Gloor Partner Gloor Law Group

- · Selection criteria; developing an RFP; data to be collected
- Structuring the RFP to maximize relevant information
- Using term sheets and other written documents strategically
- Identifying the scope of work to include in the RFP
- Defining the scope of the deal
- Lessons learned from the RFP process

10:20 Morning Coffee Break

10:30 Class Actions: Effectively Controlling Litigation Costs

Andrew K. Stutzman Partner Stradley Ronon Stevens & Young, LLP

Alan Dabdoub Partner Lynn Tillotson Pinker Cox, LLP

• Implementing the latest and most innovative matter management and cost control tools to combat the mounting costs of class action litigation

- The impact of recent case law on the costs of defending a class action claim
- The use of Alternative Fee Arrangements in class cases
- Best practices and strategies for streamlining the discovery and litigation management processes, and for eliminating waste and repetitive work when litigating a class suit
- Consolidation of law firms used for class actions an effective cost-saving trend?
- Controlling E-discovery costs in class suits
 - Reducing costs in reviewing, searching, and producing electronically stored information;
 - Selecting and managing an e-discovery vendor;
 - Best practices in document preservation, including with respect to cloud computing, smartphones, and e-mail archives;
 - Minimizing risks and costs in conducting privilege reviews;
 - Recovering e-discovery costs from plaintiffs;
 - Managing e-discovery when there are related class actions and government investigations

11:30 Managing Costs of Government Investigations

Caroline A. Henrich

Vice President Legal, Compliance and Corporate Officer Norsk Hydro North America, Inc.

Jonathan Mastrangelo Senior Counsel - Enforcement PNC Financial Services

| John G. Moon | Ghillaine A. Reid |
|-----------------------|-------------------|
| Partner | Partner |
| Miller & Wrubel, P.C. | Gibbons P.C. |

- Tips and best practices for controlling costs involved in government investigations
- Preparatory steps that can be taken in advance to help keep the mounting costs of government investigations in check
- Limiting the scope and duration of an investigation
- Taking a look at possible mechanisms to recover some payment if an officer/director is found to have violated the law

12:35 Legal Funding: Examining the Potential Benefits and Pitfalls of Entering Into a Third-Party Litigation Financing Arrangement

Andrew Langhoff Chief Operating Officer Burford Capital

Boaz Weinstein Principal Lake Whillans Capital Partners LLC

- Examining the concept of third-party litigation financing a trend that is recently resurfacing in the U.S.
- In what ways is it permissible to have litigation funded by a third-party entity?
- What benefits does TPLF have to offer?
- Potential ethical pitfalls involved in such arrangements?
- How to draft an effective, lawful and ethical TPLF
- agreement so as to ensure maximum cost savings
 How have other countries been utilizing TPLE?
- How have other countries been utilizing TPLF?: Assessing the recent trends in this area and whether or when it is most effectively utilized

1:30 Main Conference Ends – Lunch for Master Class Participants

Post-Conference Master Class Thursday, October 24, 2013 2:30 p.m. – 4:30 p.m.



The Ethics of Alternative Fee Arrangements and Cost Reduction Strategies

Renee Jackson

General Counsel The Dolan Company

Thomas J. Bender Co-President and Managing Director Littler Mendelson PC

R. Patrick White Of Counsel Casey Gilson, PC

Wm. Scott Schulten Partner Schulten Ward & Turner, LLP

Ted Colquett Partner Wilson & Berryhill, PC

Featuring 2 hours of CLE-ETHICS, attendees will gain instrumental information on:

- Incentives created by hourly fees and their ethical implications for outside counsel
- Incentives created by alternative fee arrangements and their ethical implications for in-house counsel, outside counsel and opposing counsel
- Ethical considerations arising from e-discovery
- Ethical obligations when outsourcing both legal and non-legal work - Additional obligations for lawyers who have "direct supervisory authority" over others

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The fee includes the conference, all program materials, continental breakfasts, lunches and refreshments.

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