

General Counsel: Necessary Even In The Absence of Lawsuits

by Noel Bagwell
for Executive Legal Professionals, PLLC

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Think Again: Attorneys Aren't Just Litigators

When most people think of lawyers, their minds immediately jump to law suits. They think of savvy professionals in expensive suits arguing, Perry-Mason-style, in front of judges and juries to save lives, send criminals to jail, win judgments for their clients, or protect their clients from spurious suits brought by unscrupulous opponents. But that is only a small part of what attorneys—especially General Counsel attorneys—do.

“The basic definition of a general counsel is the head of the law department of a company. The reality is that the function of a general counsel is to protect his/her employer while advancing the employer’s goals. Loyalty to the employer is paramount to everything except God, legal ethics requirements and, sometimes, legal impediments.

All industries have rules and regulations and must comply with local, state and federal law; however, the best general counsel strives to absolutely and completely attain the employer goals while staying within legal boundaries. The general counsel’s fidelity and fierce devotion to the employer’s wishes and best interests should rival that of a parent to his or her child.”¹

You need this person on your team. This is not one of those, Boy, that would be nice to have, someday, things in which you hope to invest in the future to take your business to the next level. General Counsel is an essential part of every business; so, why don't more businesses—especially small businesses—have General Counsel?

As I have pointed out in other articles on ExecutiveLP.com, the general public tends to see lawyers lacking three important characteristics of people with whom they want to do business: credibility, accessibility, and accountability. I think this only accounts for part of the reason why more businesses don't have General Counsel, though. Most of the rest of the reason has to do with failure to see a benefit that exceeds the cost. People don't really know or understand exactly what it is that their General Counsel does. By the end of this article, though, you should have a clear picture of the position's duties.

What Have You Done For Me Lately?

In law school, my favorite law professor was fond of saying, “As the ol' Janet Jackson song goes: What have you done for me lately?” What a fantastic question to always be asking ourselves from our clients'

perspectives! Today, General Counsel do more for their clients than ever before, helping businesses reach their goals despite ever-increasing regulatory burdens and global competition.

“...[U]ntil fairly recently, the general counsel[‘s] ... duties were constrained to identifying legal issues and determining their interrelation with senior management. Now, our general-counsel position has become increasingly prominent, so much so as to not only be directly involved in company affairs but also to actually move corporate policy, especially as to how it relates to the CEO.”

General counsel are now often among the most highly paid executives of major American corporations, and talented government lawyers and law firm partners are often hired for general counsel roles at prominent companies. Even with a small company, the general counsel must be able to adequately – if not spectacularly – handle complex litigation and strategize the process with talent inclusive of such knowledge. Overseeing a complex litigation case involves absolute protection of the client, as well as efficient supervision and control of the litigation proceedings from beginning to end. It often involves managing potentially difficult or protracted actions that may involve complex matters, multiple parties, difficult legal situations or extraordinary proof issues. As such, the general-counsel position requires expertise in legal maneuvers and management abilities and requires knowledge and experience in coordination of multiple trial advocacy activities, as well as some insightful street smarts.”¹ [emphasis added]

Though they rarely admit it, small business owners often feel like they’re operating far out of their depth; it’s not that they don’t know their trade or industry—they do. It’s just that they don’t know what they don’t know; in other words, they don’t know where the boundaries of their knowledge really are or what lies beyond, which could hurt them. General Counsel fill these knowledge gaps with respect to the law.

Beyond that, General Counsel are the professionals who should be hiring and managing legal specialists, handling litigation for your business when necessary, and participating in strategic decision-making with your business’s leaders to ensure you avoid or prevent legal risks before they become expensive legal problems. Even if you have never been in a lawsuit, you still need General Counsel, because the benefits and responsibilities General Counsel have to the businesses they serve go beyond the courtroom to the boardroom, where business lives every day.

Most importantly for small businesses is that these essential services be provided credibly, accountably, and accessibly—both in terms of cost and in terms of direct, personal connections with their General Counsel.

CITATIONS

Palazzo, A. (2014, June 24). The Need for a Personal General Counsel. Retrieved September 10, 2015, from <http://www.inhouseaccess.com/2014/06/24/the-need-for-a-personal-general-counsel/>