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Corporate Counsel Seek New Ways to Price Legal Work

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BUSINESS FINDS LEGAL SALARIES HARDER TO STOMACH
To Contain Costs, Corporate Counsel Seek New Ways to Price Legal Work

By Bobbi Murray
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LOS ANGELES - A fresh raise for law firm associates this year has renewed discussions among corporate counsels about how to trim legal costs.

In-house lawyers say they aren't unwilling to foot an outsized bill for bet-the-company cases. But they are increasingly looking askance at bills larded up with high associate salaries working on routine matters. "I'm not solely out to control costs. That's how I get outstanding legal work," said Michael Roster, who retired last month from his position as executive vice president and general counsel at Golden West Financial Corp./World Savings.

Confronted with a potential \$100 million litigation matter, "I'm happy to pay a premium bill," Roster said.

But in-house attorneys say they are less inclined to underwrite the pay scales that began climbing again in January. That's when Simpson Thacher & Bartlett raised first-year associate salaries to \$160,000 in all U.S. offices. Most of the major New York-based firms swiftly followed suit. California firms established the \$160,000 figure for associates in their New York offices, and hiked salaries elsewhere to \$145,000.

Quinn Emanuel Urquhart Oliver & Hedges, which last year boosted associates' annual paychecks to \$145,000, this year quickly joined the New York firms in paying their Los Angeles associates \$160,000. In February, San Francisco's Kecker & Van Nest joined in with its own raises.

Gary Davis, of the Patterson Davis Consulting Group in San Francisco, said law firms raised salaries for two reasons. "Every top law firm has been running flat-out," he said. "It's a combination of sharing the spoils and attracting the best talent."

But those increases have been hard for corporate lawyers to swallow.

"You think, 'This guy's a first-year lawyer and they're charging \$400 an hour?'" said Mark E. Harrington, general counsel at Pasadena-based Guidance Software Inc. "I don't think they should train at the expense of the customer."

Charles A. James, Chevron's vice president and general counsel, said, "At these rates we do not want to

train our outside counsel."

As general counsel look to rein in overall costs, there's more thinking about legal work in terms of high-, middle- and low-value, said Blane R. Prescott of Hildebrandt International professional consultants.

"If you're in a practice area that's high-risk, where the client issues are high-value issues, they're willing to pay," Prescott said.

For day-to-day legal tasks, general counsels are learning to shop for discounts on standard rates, Prescott said. Fixed pricing, in which the client negotiates a lump sum, is gaining popularity.

Ed Poll, a law firm management consultant, says he has seen general counsels side-step high billing rates by taking advantage of what Poll calls "value pricing."

Summit Law Group in Seattle, Poll said, offers clients the opportunity to add or subtract any amount from their bills, depending on how much they felt the legal work was worth.

Summit's executive director, Marc G. Reynolds, said the firm prints a "value adjustment" line at the bottom of every invoice. "If the bill is for \$1,000, we invite our customers to adjust that \$1,000 to their sense of the value of our services." That can be up or down and many clients have adjusted rates upward. The firm has rarely gotten stiffed, he said.

But "if they don't perceive they are getting value for their dollar, we don't want them to pay it," Reynolds said.

The Chicago firm Ungaretti & Harris gives clients the option to reduce their bill to zero if they are dissatisfied, Poll said. "That stuff is dynamite," he said.

Observers say the firms most likely to do so are "second-tier" or willing to bet on a start-up. There are major firms in California who will do it but they are reluctant to advertise it.

"A lot of the large firms have one deal or another that they use to keep strong clients happy and with them. These rates, blended, discounted, etcetera., are never publicized," said Poll.

The Daily Journal called several California firms that declined to respond to the question of variable fees.

In another cost-cutting approach, more companies have begun to engage regional, local or boutique law firms with more modest overhead because of location or lower pay scales, thereby allowing them to bill at a lower rate.

And, Poll said, more corporate counsel are simply bringing work in-house.

Harrington, of Guidance Software, said that's the approach he often follows with more routine legal work.

Tasks that before were farmed out - contract drafting, strategic agreements and basic trademark issues - are now handled in-house, he said.

And when Harrington sees attorneys billing most or all of their hours to his company, he considers hiring them, he said.

Guidance has three in-house attorneys and spends some \$2 million annually on outside counsel.

But a corporate powerhouse like Chevron, with its vast and varied legal entanglements, is bringing more legal work, and more lawyers, in-house as well.

James, Chevron's general counsel, said he is inclined to "in-board" outside counsel lawyers who bill most of their hours to Chevron.

"They ought to be on our payroll," he said.

A proprietary electronic billing system James implemented upon his arrival at Chevron four years ago makes it simple to identify the lawyers in outside law firms that devote most or all their time to the oil company's business, he said.

The system, which is key to James' ability to monitor and streamline spending, interlocks with the company's case management system and keeps tabs on everything from law firms' compliance with Chevron's outside counsel guidelines to the number of associates assigned to a given matter.

"It allows us to track trends, developments and costs of services," James said.

Chevron employs some 400 law firms, and such a system makes sense for them, said John H. McGuckin Jr., general counsel for Union Bank of California.

But Union Bank is smaller-scale than Chevron, and McGuckin's approach to containing costs is less high-tech: It's based on relationships.

Cost containment springs from a solid partnership between inside and outside counsel, he said.

"We once a year sit down with our major law firms and work out what the billing will be in the coming year," McGuckin said.

Union Bank's litigation manager has regular contact with outside counsel, he said, to convey the company's sense of ownership on a given case.

So for McGuckin, cost containment begins with the selection of outside counsel. "We are quite successful in cutting costs when we've got a good lawyer and there's a good lawyer on the other side," he said, referring to an attorney who evaluates a case for settlement early on and doesn't take a take-no-prisoners approach simply to appear tough.

McGuckin also favors an increasingly old-school approach to hiring: He believes it's short-sighted to reject first-year associates.

"We're mortgaging the future," he said. "How else are these associates going to get their experience?" he said.

And while Poll, the law firm consultant, understands the need to control legal costs, he thinks much of the beefing about associates' salaries is misdirected.

"If you look at corporate clients, they're making more money than they've ever made," he said. "So give me a break. They're complaining about an associate making \$160,000? Excuse me?"

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