

2025 IADC Leadership Forum

Creating a Win-Win Partnership Between Inside and Outside Counsel

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A win-win partnership is based on mutual benefit, respect and appreciation of each other's roles. Outside counsel and in-house counsel need to create value for each other by delivering high-quality work, maintaining responsive service, sharing insights, and supporting each other's development. For in-house counsel, good service does not mean just legal acumen but rather the extent to which outside counsel helps to solve business problems, with related legal issues just one dimension of the challenge. In this relationship, the default focus cannot be to achieve the "best" legal outcomes (i.e., that provide maximum protection against legal risk), with cost as a secondary concern. For in-house counsel and their corporate clients, the goal is roughly the opposite: maximizing gain at an acceptable, rather than minimal, level of risk. (Harmon, 2024) The question, then, is how do you reliably create win-win relationships?

Creating Win-Win Relationships

Whether you're in-house or outside counsel, we are in a service profession. Our value is defined in terms of the client experience we deliver. Like any other industry, quality service means consistently exceeding our clients' expectations. But that's harder than it sounds. First, the competition is fierce. According to the ABA National Lawyer Population Survey, there are over 1.33 million active lawyers in the United States—about 1 lawyer for every 256 people. And if that sounds like a lot, Italy and Brazil actually have more lawyers per capita (1 lawyer per 201 and 194 people, respectively). Spain and Germany round out the top five (1 lawyer per 316 and 524 people, respectively), with the United Kingdom (1 lawyer per 648 people) right on their heels. Further, we've seen weakened demand for many types of legal services, coupled with new competitors, such as accounting and document management firms, capturing portions of the legal work. With more competitors and less work to go around, law firms and lawyers are struggling to differentiate themselves at a core level—something beyond websites, blogs, or branding.

For the past 23 years, the BTI Consulting Group has published an annual ranking of client service excellence for the corporate law firm market. According to BTI's 2024 survey, "only 35% of corporate counsel [would recommend] their primary law firms to a peer—down from 69% a mere 4 years ago." These types of statistics, while alarming, are not unique to the legal profession. Many years ago, business consulting firm Bain & Company surveyed customers across 350 companies and found that while 80% of businesses honestly believed they provided superior client service, less than 10% of customers described their experience as "superior." This report illuminated a classic, and massive, customer-experience disconnect that many businesses, including law firms and corporate legal departments, still struggle with today.

With more lawyers and more competition, our success—whether we’re part of a firm or an in-house legal team—depends on our ability to consistently exceed our clients’ expectations. How do we do that? What are the key differentiating factors? Based upon its interviews with thousands of corporate counsel and C-level executives, BTI isolated over a dozen differentiating factors that drive superior client service and attorney-client relationships. Things like proving your commitment to help, understanding the client’s business, providing value for the dollar (and reliably controlling costs), and including clients in early discussions regarding strategy and approach. These areas are ripe-for establishing win-win relationships—as opposed to traditional client-service benchmarks (legal knowledge, responsiveness, timely updates, etc.), which are simply baseline expectations.

In other words, being a good lawyer takes more than being a good lawyer. Perhaps the best advice for achieving win-win relationships comes down to connecting with our clients and understanding what it’s like to be them. Asking lots of questions and listening carefully for what they need—and then creating something uniquely tailored for them. In other words, finding creative ways to be considerate. These might include:

1. Educating newly added in-house counsel on the historical relationship with your firm including the nature and scope of matters managed and business initiatives supported.
2. Inviting in-house counsel to speak to firm teams on client expectations and needs.
3. Identifying values-based initiatives or opportunities where collaboration is available.

Understanding how in-house legal teams work and businesses operate can be key to developing added value and building a win/win partnership. A partnership’s worth hinges on the sustained investment of time and resources, so aligning the partnership with company priorities is crucial. At the core of any partnership should lie an improvement to both parties’ effectiveness that neither could provide singly. (Bowen, 2024)

Ethical Obligations in Interactions between Outside Counsel and In-House Counsel

Numerous ethical obligations are implicated in interactions between outside counsel and in-house counsel, most notably those relating to the scope of representation, communications, confidentiality, and the lawyer’s role as an advisor.

ABA Rule 1.2: Scope of Representation & Allocation of Authority Between Client & Lawyer

Subject to certain limitations, “a lawyer shall abide by a client’s decisions concerning the objections of representation and . . . shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client’s decision whether to settle a matter.” ABA Model Rule 1.2(a).

“A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning or application of the law.” ABA Model Rule 1.2(d).

ABA Model Rule 1.4: Communications

- (a) A lawyer shall:
 - (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent . . . is required . . .;
 - (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
 - (3) keep the client reasonably informed about the status of the matter;
 - (4) promptly comply with reasonable requests for information; and
 - (5) consult with the client about any relevant limitation on the lawyer's conduct
- (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

ABA Model Rule 1.6: Confidentiality of Information

- (a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).
- (b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:
 - (1) to prevent reasonably certain death or substantial bodily harm;
 - (2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;
 - (3) to prevent, mitigate or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;
 - (4) to secure legal advice about the lawyer's compliance with these Rules;
 - (5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client;
 - (6) to comply with other law or a court order; or
 - (7) to detect and resolve conflicts of interest arising from the lawyer's change of employment or from changes in the composition or ownership of a firm, but only if the revealed information would not compromise the attorney-client privilege or otherwise prejudice the client.
- (c) A lawyer shall make reasonable efforts to prevent the inadvertent or unauthorized disclosure of, or unauthorized access to, information relating to the representation of a client.

ABA Model Rule 2.1: Advisor

“In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social and political factors that may be relevant to the client’s situation.”