

Building a Circle of Trust: Ideas and Best Practices for Targeted Strategy Sessions

What they are:

- Structured, yet flexible, strategy discussions
- Brainstorming *and* concrete planning sessions
- High level summary of situation and goals
- Not (just) for go/no-go decisions for trial
 - New front in litigation
 - “Trouble spots” i.e. venues or judges
 - New players

What they aren't:

- Recaps of everything that's happened
- Second-guessing past decisions
- Marketing pitches
- War story time
- All-hands meetings
- Trial decision meetings

Who's participating:

- People currently involved in the litigation and others with analogous experience (~60/40?)
- Outside advisors with ties to stakeholders
- Lawyers and non-lawyers
- No more than 10-15 people
 - Less showboating
 - More engagement

- Trial and discovery lawyers, brief writers, coordinating counsel, paralegals, data folks. Consider those who are closer to the action.
- Outside advisors: *not* people who do exactly the same thing as your team
- If you have a preferred counsel network, this is a great opportunity to leverage it!

Why they work:

- Produces a precise articulation of the issues
- Can reframing the problem change the narrative?
- Generates new ideas
- Provides pathways to build on old ideas
- Produces team “glue” and expands trust
- Forces those who may be numb to the problem to get out of their heads

Building the Circle of Trust

- Trust is the foundation of creativity
 - Current counsel must trust that outsiders are there for help, not as competition (tell them this expressly)
 - Everyone must trust that it’s a safe place to present ideas, even off-the-wall ideas
- Specific questions/specific problems

Setting the Table for Success

- Dinner/icebreaker the night before with all players
- “Neutral” territory if possible—e.g., one of the outside advisors’ conference centers
- Literal round table or U-shaped seating, everyone facing everyone, nobody “up front”
- Name cards will emphasize that “outsiders” are welcome

- *Brief* friendly introductions
- Low tech; phones and laptops down
- No more than ~20% of the time with anything on the screen

Mechanics/Recommendations

- Minimal prep for participants
- Single day, no more than 7 hours
- Hard copy notes on an easel
- Plan the day; avoid frolics and detours into war stories
- Consider having a separate facilitator or rotate among a few

Action Plan - Work Products/Next Steps

- Concrete to-do list
- Assignments
- Timeline/deadlines
- Follow up, especially with outside advisors, for anything that they think of later
- It's okay not to generate a "magic bullet"—it'd be surprising if one exists