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CHEAT SHEET

- *Agree to the secondment's parameters and fee arrangement up front.* A weekly or monthly flat fee arrangement is particularly useful.
- *Get buy-in from your business clients.* When your law department brings in a secondee, it is important for your internal clients to understand why.
- *Plan ahead to make sure the secondee transitions into the in-house team.* Work with your human resources, corporate security and IT departments to make the on-boarding process as seamless as possible.
- *Use secondments to promote diversity.* Corporate law departments actively use diversity measures to make decisions about engaging law firms.

Partnering with Outside Law Firms for a Successful Secondment

By Joseph Perkins and Steven Barth

One of the most effective ways for a corporate law department to partner with its outside law firms is through a secondment arrangement in which a law firm attorney is temporarily “loaned” on-site to the client’s corporate law department for a defined period of time. A secondment arrangement can strengthen relationships and benefit both the law firm and the corporate law department, as well as the seconded attorney.

For a corporate law department, secondments can be a flexible tool that can serve a number of purposes. The law department benefits by being able to use in a variety of circumstances the services of a skilled attorney from a firm it trusts. For example, a seconded lawyer can fill in for a temporarily departed law department attorney, bridge the time period until a newly hired in-house lawyer can begin or simply supplement the law department's staffing needs. A seconded lawyer can be brought in to focus on a specific project or to handle overflow work.

For the law firm, placing one of its lawyers on a secondment assignment can help build the firm's relationship with its client. When the firm's lawyer becomes part of the client's law department, that person becomes a critical member of the in-house legal team. She will learn first-hand about law department processes and company culture, the company's business and key personnel, and will develop a sense of the company's risk tolerance and philosophy for handling a variety of legal matters. A seconded lawyer has the opportunity to gain valuable legal and business experience and develop professional relationships, which will be invaluable to her and the law firm over the long term. Also, learning to "think like a client" can be a tremendous asset to the seconded lawyer once she returns to the firm.

Cummins, Inc., and Foley & Lardner have been able to successfully collaborate on secondments, and we have both realized the benefits of successful secondments firsthand and, as a result, have further strengthened our relationship. There have been a number of lessons learned along the way. By sharing some of our observations, we hope to help other law firms and corporate law departments more proactively explore secondments as an attractive option for providing and receiving value-added legal services in this ever-changing legal services industry.

To that end, we have prepared a list of nine areas for companies and law firms to consider in order to implement a successful secondment arrangement.

Agree to the secondment's parameters and fee arrangement up front

Make sure to agree in writing up front on the secondment's parameters (i.e., scope and term) and fee agreement. There are a number of fee arrangements to explore. A weekly or monthly flat fee arrangement is particularly useful. It allows internal company clients to feel free to engage the services of the secondee just like the rest of the regular members of the law department, without being concerned about running up hourly legal fees. Corporate culture often includes participation in various meetings and strategy sessions. You don't want corporate clients to wonder "How much is this meeting costing me?" every time they sit down with the seconded lawyer. Other fee arrangements (such as a discounted hourly fee) may be useful too, depending on your circumstances.

Corporate law departments usually need to establish a budget for outside legal services. If the law firm and the corporate law department work together on developing the secondment parameters and budget, then you can meet the financial needs of both the law firm and the corporate law department. Remember, if the secondee has to travel in order to

work at the corporate legal office, you should reach an agreement regarding reimbursement of travel expenses, hotel or temporary housing expenses, and expenses for food.

Get buy-in from your business clients

The law department should obtain buy-in from its business clients before the secondee arrives. When your law department brings in a secondee, it is important for your internal clients to understand why. Explain to your business clients how the business goals of the company will be most effectively supported by bringing in the secondee's skill set for a short-term assignment. Companies often have restrictions on new headcount. Secondments are an effective way to address short-term needs for expertise without increasing headcount. By offering your business clients cost-effective solutions to their legal needs, you should be able to obtain their buy-in.

Plan ahead to make sure the secondee transitions into the in-house team

A secondee's transition into your in-house legal team can be smoothly accomplished with a little bit of advanced planning. Work with your human resources, corporate security and IT departments to make the on-boarding process as seamless as possible. Be prepared to have a suitable work space ready upon arrival for the seconded attorney that is comparable to the work space of full-time lawyers. If security clearances are



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required, make sure your office administrators coordinate obtaining all necessary clearances ahead of time. If your company requires identification badges to enter your facilities, create a plan to make sure the secondee can obtain a badge upon arrival. The same applies to other company protocols and equipment needs, such as secured passwords to access company IT systems and company-issued laptops, tablets or cell phones. Create a checklist of these items and have them completed upon the secondee's arrival so that the secondee can hit the ground running instead of spending time obtaining the basic tools used by in-house lawyers.

Office hours

Establishing office hours expectations upfront can help allow the secondee to be successful. Office hours are driven

by the company's culture and work requirements. When the law firm recommends a lawyer for a secondment assignment, the firm needs to be comfortable that the secondee can meet the client's expectations, and the secondee should know what the company expects with regard to working hours. For example, in the global manufacturing environment, it is very common for the work day to start at 7 AM, but it is also common to have a 9 PM conference call with a supplier in another country. If your company has multiple facilities, you should address whether there is an expectation for the secondee to have regular office hours in those facilities. You should also address and agree upon how many days per week the lawyer will work on-site in your law department, and whether part of the work week will be spent off-site at the law firm.

Have assignments ready

When the secondee arrives, have her work assignments ready. If the secondee has to wait a few days before receiving assignments, the experience will be frustrating for the secondee and for you. Put the secondee to work right away. After all, that is why you are bringing the attorney in.

Use secondments to promote diversity

The American Bar Association's 2010 report on diversity in the legal profession presented data showing that the legal profession must focus on diversity as a key initiative in order to meet the needs of clients who compete in a global economy. Many corporations have a well-developed business case for diversity. Corporate law departments actively use diversity measures to make decisions about engaging law firms. Corporate law departments

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ACC EXTRAS ON... Secondments

ACC Docket

Going Global: Secondment Programs Help Outside and In-house Counsel (June 2009). www.acc.com/docket/secondment_jun09

Value Practice

Bombardier, Inc.: Maximizing Value in Relationships With Outside Counsel — Secondments, GC-Managing Partner Meetings and Beyond (May 2010). www.acc.com/vp/secondment_may10

Secondments, Meaningful Budgets & Fixed Fee Arrangements for Special Projects— Value Practices at Johnson Matthey, Inc. (Nov. 2011). www.acc.com/vp/secondment_nov11

Top Ten

Top Ten Considerations When Seconding Employees To Europe (Nov. 2010). www.acc.com/top10/seconding_nov10

Form & Policy

Personnel Secondment Agreement (April 2011). www.acc.com/form/secondment_apr11

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expect their outside firms to be fully engaged in using diverse lawyers in their representation. Law firms should view a secondment opportunity as an opportunity to promote diversity.

Reporting relationship and reports

The company and the law firm both want the seconded lawyer to be successful. It should be clearly defined to whom the secondee will report while working in the corporate law department. While the secondee may take on assignments from various company lawyers or business personnel, she should have one boss at the company. The supervising company attorney should manage the secondee's assignments and workload and provide regular feedback to the seconded attorney on her work product, responsiveness and other performance measures.

There should also be an agreed upon method for the secondee to report to the supervising lawyer regarding

assigned work. The secondee should be proactive in keeping the supervising attorney advised about key developments. The supervising attorney should also be available to answer questions and help the secondee navigate through the corporate structure. It is also helpful if the secondee can call upon the resources of her firm to provide advice to the secondee on difficult issues or problems.

The supervising attorney should communicate regularly with the secondee's law firm regarding the work of the secondee. Any performance issues should be addressed right away. The law firm should communicate regularly with both the supervising attorney and the secondee to proactively ensure all expectations and needs are being satisfied.

Return transition plan

When a lawyer takes on a secondment assignment, it means the lawyer will be stepping away from her current day-to-day legal practice at the law firm, in part or completely. Once the secondment assignment is over, the law firm, the corporate legal department and the secondee all must collaborate on the transition plan for the secondee to successfully return to the law firm.

The law firm should have assignments ready for the returning lawyer. The company should also assign work to the returned secondee after the secondment to help ensure the secondee has a steady work load until she can be integrated back into the firm's project assignment process.

Additional law firm considerations

From the law firm's perspective, there are several other important administrative considerations:

- If the secondee will work in a state in which she is not admitted to practice, the secondee must consult a professional responsibility partner to determine if, under the

state's professional liability rules, there are any unauthorized practice of law issues.

- Since the seconded attorney remains an employee of the firm, the secondment agreement cannot be construed as a joint employment relationship or as creating an employee/employer relationship between the seconded attorney and the client.
- The firm's normal conflicts of interest policies and procedures still must be complied with regarding third parties with whom the secondee interacts. The client needs to agree to screen the seconded attorney from any matter that involves a firm conflict that cannot be resolved.
- The seconded attorney must only use the client's technology to work on the client's matters. All email records regarding the client's matters should be copied by the seconded attorney to her firm's email account, or to another firm attorney, for inclusion in the firm's recordkeeping systems.
- The seconded attorney should not use the client's technology for any non-client work, such as work for other clients or communications to or within the firm. The client should permit the seconded attorney to use a firm laptop and portable communication device on the client's premises for other client and firm-related matters.

We hope these tips for secondment are helpful. A secondment should be a good experience for the law firm, the corporate law department and the seconded lawyer. If the secondment is managed well, the lawyer will have gained a wealth of experience with the client, and both the law firm and the corporate law department will have a new valuable resource. **ACC**

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