



LAW JOURNAL  
NEWSLETTERS

# LAW FIRM PARTNERSHIP & BENEFITS *Report*®

An **ALM** Publication

Volume 17, Number 2 • April 2011

## Women's Initiatives Bulk Up

By Carol Frohlinger

Most AmLaw 100 firms have established women's initiatives, also known as employee resource groups or affinity groups, by now. Meetings, held periodically, tend to be the hallmark of the typical women's initiative.

Traditionally, these meetings have been "event"-driven: substantive, serious events bringing in a speaker with expertise in an area of interest to women. On the other end of the spectrum, events may revolve around shopping or spa services and involve cocktails. Although these kinds of events can be productive and fun, they present challenges.

### WHAT ARE THE CHALLENGES?

The first is one of engagement. Time-pressed lawyers with daunting billable hour goals have to make a choice between billing an hour or attending a women's initiative meeting. The decision point is whether or not they are convinced that their investment will be worthwhile. What will they gain by attending or lose by skipping it? If the payoff isn't clear, chances are the meeting will get skipped.

The second challenge is "stickiness." What is the firm's return on investment if people enjoyed the meeting but didn't learn anything? Or, even worse, if they did learn something, but don't act on that knowledge? Firms support women's initiatives because they want to retain and advance women — and women's initiatives can make a difference (*see, e.g., Singh, V., Vinnicombe, S. and Kumra, S.,*

*continued on page 6*

## Law Department Highlights, Trends and Myths

By Daniel J. DiLucchio

For the eleventh consecutive year, Altman Weil has conducted a Chief Legal Officer (CLO) Survey on issues of importance in managing corporate law departments. The purpose of these surveys is to capture current thinking of CLOs and share the results with the legal profession, enabling both corporate law departments and law firms to benefit from the surveys. This survey was conducted in September and October of 2010, and contains responses from 174 CLOs. This article discusses selected results of the recent survey. It makes comparisons to prior surveys, and explores both trends and myths of the marketplace.

### DRAMATIC CHANGE

There has been dramatic change in the legal profession in the past decade — accelerated especially in the last few years by the great recession. Interestingly, most of the impact from those changes has been absorbed by law firms. Corporate law departments — as clients — often are the drivers of change, but their own organizations remain largely the same. For the most part, law departments look exactly like they did 10 or even 20 years ago. Staffing may be greater or lesser, e-billing might now be installed, but the organization, structure and roles of in-house staff remain similar, if not identical to that of the past decade.

This tension between change and status quo was the setting for the 2010 Chief Legal Officer Survey.

### ARE CLOS SERIOUS ABOUT PRESSURING LAW FIRMS FOR VALUE?

Well — not really. For the second year in a row, CLOs were asked to rate how much pressure corporations are putting on law firms to change the value proposition in service delivery, and in turn how serious law firms are about changing their service delivery model. The survey found no change from the 2009 results. Law departments assessed their own desire for change at a median of five on a scale of zero to 10, and scored law firms at a dismal three on the same scale. Table I and Chart I on pages 2 and 7 show the results of CLO self-assessment. It is surprising that in an atmosphere of cost-savings and value-plus propositions that the CLOs do not see themselves as more serious about changing the legal services value proposition.

*continued on page 2*

### *In This Issue*

Law Department Highlights, Trends And Myths .....	1
Women's Initiatives Bulk Up .....	1
Sustainable Business Development Success .....	3
Arbitration .....	5

# Highlights

continued from page 1

## LEGAL BUDGETS

From a benchmarking perspective, the total legal spend of a company, as a percentage of its revenues, is fundamental. Once this threshold number is determined, one begins peeling the benchmarking onion by analyzing how much of the total legal spend is allocated to outside counsel and how much is spent to operate the fully loaded in-house legal function. In most law departments, more of the legal budget is allocated to outside counsel than to in-house operations. Therefore, it is interesting to look at chief legal officers' intentions for outside counsel spending. For the past eight years, the survey has asked CLOs whether they intend to increase or decrease their overall use of outside counsel. Chart II on page 7 displays their answers by year. In each year from 2003 to 2007, over three-quarters of CLOs expected their use of outside counsel to be the same or greater than in the prior year. Even in the last three years as the economy faltered and cost-cutting pressure intensified, that number held well over 50%.

With the combination of increasing use of outside counsel and intense

**Daniel J. DiLucchio** is a principal in the Newtown Square, PA, office of Altman Weil, Inc. Mr. DiLucchio has been providing management and consulting services to corporate law departments and law firms for over two decades. Contact him at 610-886-2012 or [djdilucchio@altmanweil.com](mailto:djdilucchio@altmanweil.com).

budgetary pressure, it is not surprising that CLOs have turned to an array of tools including Requests for Proposal (RFPs), convergence programs, e-billing programs and alternative fee arrangements as ways to contain outside counsel costs, obtain greater budgetary predictability and improve the legal services value proposition.

These tools are of significant interest to those CLOs focused on improving the value proposition. However, as we saw above, law department pressure on firms to change the value proposition varies with the company and the CLO.

## MYTHS

### Procurement Involvement in Outside Counsel Selection

Over the past few years there has been some open discussion about the possibility of corporate sourcing departments becoming more involved in the selection and retention of outside counsel. Law firm procurement can happen either in concert with the CLO, or the sourcing department might work on its own. Recently, I met with the procurement group of a major pharmaceutical company that was exploring its role in the selection of outside counsel, establishing metrics and evaluating results — providing some first-hand evidence of this.

To assess whether procurement department involvement in the selection of outside counsel is trend or myth, the survey asked CLOs whether procurement, purchasing or strategic sourcing professionals are involved in outside counsel selection decisions in their organizations. As Chart III on page 7 shows, sourcing

continued on page 7

Table I

SNAPSHOT: Pressure from Law Departments for Change		
	Average	Median
2009	5.5	5
2010	5.3	5

Data compiled from 2009 and 2010 Chief Legal Officer Surveys.

# LAW FIRM PARTNERSHIP & BENEFITS Report®

EXECUTIVE EDITOR.....	Silvia L. Coulter Vice President Hildebrandt Baker Robbins Boston
EDITOR-IN-CHIEF.....	Louise E. Rothery Association of Corporate Counsel Northeast Region
EDITORIAL DIRECTOR.....	Wendy Kaplan Stavino
MARKETING DIRECTOR.....	Jeannine Kennedy
GRAPHIC DESIGNER.....	Louis F. Bartella
BOARD OF EDITORS	
SHARON MEIT	
ABRAHAM.....	Foley & Lardner LLP Miami
SHELDON I. BANOFF.....	Katten Muchin Rosenman LLP Chicago
KAREN CACACE.....	Vladeck, Waldman, Elias & Engelhard, P.C. New York
PAULA CAMPBELL.....	Jones Day Los Angeles
WILLIAM C. COBB.....	Cobb Consulting Houston
LESLIE D. CORWIN.....	Greenberg Traurig, LLP New York
ROBERT W. DENNEY.....	Robert Denney Associates, Inc. Wayne, PA
DEBRA FORMAN.....	Pinstripe Coaching Toronto, Ont., Canada
PHYLLIS WEISS HASEROT.....	Practice Development Counsel New York
LEONARD S. HIRSH.....	Ernst & Young New York
BRUCE JACKSON.....	Arnall Golden Gregory LLP Atlanta
JONATHAN LINDSEY.....	Major, Lindsey & Africa New York
BRUCE W. MARCUS.....	The Marcus Letter Branford, CT
KARL NELSON.....	Gibson, Dunn & Crutcher LLP Dallas
WAYNE N. OUTTEN.....	Outten & Golden LLP New York
JOEL A. ROSE.....	Joel A. Rose & Associates Inc. Cherry Hill, NJ
ERIC SEEGER.....	Altman Weil, Inc. Newtown Square, PA
RICHARD H. STIEGLITZ.....	Anchin, Block & Anchin LLP New York
ROBERT W. TAYLOR.....	Venable LLP Baltimore
MARCIA S. WAGNER.....	The Wagner Law Group Boston

Law Firm Partnership & Benefits Report® (ISSN 1061-9410) is published by Law Journal Newsletters, a division of ALM. © 2011 ALM Media, LLC. All rights reserved. No reproduction of any portion of this issue is allowed without written permission from the publisher.

Telephone: (877) 256-2472  
Editorial e-mail: [wampolsk@alm.com](mailto:wampolsk@alm.com)  
Circulation e-mail: [customer@alm.com](mailto:customer@alm.com)  
Reprints: [www.almreprints.com](http://www.almreprints.com)

Law Firm Partnership & Benefits Report 023147  
Periodicals Postage Pending at Philadelphia, PA  
POSTMASTER: Send address changes to:  
ALM  
120 Broadway, New York, NY 10271

Published Monthly by:  
Law Journal Newsletters  
1617 JFK Boulevard, Suite 1750, Philadelphia, PA 19103  
[www.ljonline.com](http://www.ljonline.com)



# Sustainable Business Development Success

## *The Multi-Generational Approach*

By Phyllis Weiss Haserot

In any sizable firm, successful sustainable business development is not reserved for the lone rainmaker or even a lone generation. Client relationships are too valuable to be based solely on one individual, one level of seniority or one age cohort.

The notion of client teams has been around for two decades. Now we are becoming more intentional about the diversity of teams for both business development and service delivery. And increasingly we recognize the inequity and shortsightedness of using associate labor without their visibility, creative input and credit received.

Without giving meaningful and reputation-building opportunities to the younger generations, the best of those individuals will leave for what they perceive as better opportunities. Without developing multi-level relationships with clients, bonds can be fragile. Long-term client relationships are built on much more than the originator doing good work. That's just a basic requirement.

None of this is earth-shattering news. However in my over 25 years of consulting to law firms, I have often observed the following — to this day — in many firms:

- Excessive territoriality — reluctance to share client contact

**Phyllis Weiss Haserot**, a member of this newsletter's Board of Editors, is the president of business development consulting firm Practice Development Counsel, working with law firms for over 20 years. A special focus is on improving inter-generational relations and transitioning planning for Baby Boomer senior partners ([www.nextgeneration-nextdestination.com](http://www.nextgeneration-nextdestination.com)). Ms. Haserot is the author of "The Rainmaking Machine" and "The Marketer's Handbook of Tips & Checklists" (both Thomson Reuters/West 2010). E-mail: [pwhaserot@pdcounsel.com](mailto:pwhaserot@pdcounsel.com). URL: [www.pdcounsel.com](http://www.pdcounsel.com). © Phyllis Weiss Haserot, 2011.

with younger partners doing the heavy lifting on matters behind the scenes;

- Reluctance to introduce associates working on matters to the key client contacts;
- Compensation systems that don't permit sharing of origination credit;
- Exclusion of younger associates from new business brainstorming and planning meetings; and
- Exclusion of younger members of the prospective work team for a new client from beauty contests and other new business meetings with clients. This is not to say that a large number of attorneys always should be attending those meetings. But clients want to know who will work on their matters.

These policies and practices, though understandable from the standpoint of the individual rainmaker, don't make good sense for the long-term viability of the institution.

### THE BUSINESS CASE

In today's diverse marketplace, a better business case can be made for the multi-generational collaborative approach to business development than the ad hoc or lone ranger approach. It is in the firm's interest to:

- Develop and nurture client bonds at all levels for the future;
- Keep young lawyers engaged and encourage an ownership mindset;
- Take advantage of networking and the networked mentality of Gen Y/Millennials;
- Give clients the opportunity to know "the bench" since they hate turnover and want to know who they will be working with; and
- Keep Baby Boomers with client relationships involved and positive, even when they are planning to retire.

### WHAT EACH GENERATION CONTRIBUTES

What can we anticipate each generation to bring to the business development table? Of course, we are talking in generalizations and there certainly are individual differences

among the members of any and all generations. Nonetheless there are patterns of attributes, attitudes and behaviors that are important to observe and to capitalize upon the most useful.

Boomers typically have the existing contacts and track record of experience that prepare and qualify them to solve new client problems and manage work processes, flow and staffing requirements. The smaller group of Traditionalists remaining at firms has long-standing, often loyal relationships. However, since their peers are frequently on a glide slope toward an exit if not already gone, their relationship clout has withered.

What is missing that members of the younger generations can very valuably contribute? The older half of the Gen Xers have obtained considerable experience by now and many have attained leadership positions. They are peers of the up-and-coming leaders and decision-makers on the client side. They are in the position to have a realistic sense of the marketplace. And in contrast with the reputation their generation was saddled with when they first entered the workplace, they have become hard workers (or have left), expecting to be rewarded on the basis of merit. They are more flexible and agile in how they work than older generations, and their greater acceptance of diversity has resulted in more women in leadership or managerial positions. For example we have seen an increase in female managing partners, mostly at the office level. There is still quite a way to go for women to be recognized as leaders, and the positions they hold now are more likely to be administrative than strategic. However, since increasingly women on the client side are occupying decision-making positions that determine legal services purchases, many are pushing for better female representation as partners and client team leaders.

Gen Y/Millennials are typically ambitious and willing to work hard for recognition and the opportunity to move up. They are continual and eager learners and most of them are not yet tied down with family responsibilities, so they have time, if they choose to spend it, working

*continued on page 4*

# Sustainable Business

*continued from page 3*

long hours and cultivating relationships for future business generation. Their technology savvy is well-recognized (and perhaps envied by other generations), giving them the potential to be extremely productive. They have a better view of the coming marketplace needs and alternative delivery modes than many of their older colleagues, and want to lead change. If given a voice, they will respond positively.

In summary, that is the pool of assets from which to assemble multi-generational business development teams. Firms need to take advantage of the positive attributes and provide training and coaching as necessary to achieve a cohesive team embracing and benefiting from differences.

## STRATEGIC PREPARATION

The first thing to do is acknowledge that the legal market has truly changed — and act on that knowledge. Virtual firms have sprung up. A great deal of free legal information is available to legal consumers of all sizes and sophistication. Other types of professionals handle some of the work lawyers considered their domain. That means traditional law firms have been losing their monopoly. Clients want and need teams that are diverse in a variety of ways. Collaboration and effective communication are ever more important — globally, culturally, generationally. So there is a demand for diversity of all types. Firms need to do a better job of embracing differences and not insist on the degree of conformity that was common in the past, while still standardizing processes for greater efficiency. The younger generations are generally more comfortable with, and demanding of, diversity. Their educations and experiences tend to be more global with more facility in multiple languages.

Second, focus everything around developing and nurturing relationships — internally, with clients, with referral sources, including social networks, allies and complementary professionals to partner with. The younger generations seem wired to network, both electronically and in person, so encourage them, building in accountability for the time spent and the long-term results they are seeking.

Know what clients value about their outside advisers. They want problem-solvers who know the client's business, who anticipate threats and opportunities for them, and who are pleasant to work with. Drill down to the specifics and deliver.

## IMPLEMENTATION

Carrying out the multi-generational strategy for sustainable business development success requires a broad based effort beyond the individual firm. Legal education is lacking in some important areas outside of the traditional legal skills. This fact has been recognized by firms for years, but still there is little emphasis on what I call "human performance skills." Firms and companies need to pressure law schools to train students on the things that matter as much as traditional legal skills: teamwork, which business students learn; communication; creative thinking and interpretation; relationship building and comfort with ambiguity.

It is the firm's responsibility to train and coach attorneys of all generations on communicating and working with clients of different generations. Attorneys need to learn the patterns, perspectives and preferences typical of each generation is order to best interact and meet their expectations. The differences are greater than they used to be, so a one-size approach does not fit all. Give Gen Xers and Yers opportunities to lead and to facilitate team meetings so they are prepared for new roles and have a meaningful part in setting and meeting team and client expectations. Encourage them to cultivate relationships that are likely to bear fruit in the future, and recognize the value of the time expended on relationship-building. Otherwise, they will only have incentive to bill hours on existing client legal work. Then follow the example of corporate award-winners (including the large accounting firms) to make the success of multi-generational client teams a component of the team leader's compensation. That's a clear signal of the importance of highly functional teams.

## SUCCESSION AND TRANSITIONING PLANNING

Of course, business development is not just about attracting new clients. Equally important is client re-

tention and expanding business with existing clients. The latter is often achieved by attorneys other than the original business generator, often attorneys of a younger generation who have been very satisfactorily doing the client's work over time. They also need to be coached in the techniques and strategies to expand business — not expecting it to automatically happen without taking the initiative to explore with clients possible additional current and future needs. Those skills should be a co-operative effort between senior and more junior attorneys.

However, often overlooked until it becomes urgent is succession planning and client transitioning, which is a crucial aspect of client retention. Ideally, the succession planning and gradual transitioning should be a five-year process when retirement of the senior client relationship manager can be anticipated. Firms need to put an institutional process in place in order not to lose clients when a transition and succession must occur. Time is necessary to instill trust and confidence in the designated successor, and to be sure the chemistry is right. The process involves all three parties: the incumbent, the protégé/successor and the client. It needs to be carried out very intentionally, planning with the client or client team for the eventual transfer as seamlessly as possible.

## RETAINING THE VALUE OF THE BRAND

Many firms have invested a lot of money and talk in the surface elements of branding. Most significantly, the essence of a brand is the consistent experience any stakeholder or the public has with the firm and any one of its personnel at all levels. To preserve a positive brand reputation, all generations of the firm must convey that experience. Generational differences need to be embraced and bridged to convey a consistent brand of business development, service delivery and client transitioning from generation to generation.



The publisher of this newsletter is not engaged in rendering legal, accounting, financial, investment advisory or other professional services, and this publication is not meant to constitute legal, accounting, financial, investment advisory or other professional advice. If legal, financial, investment advisory or other professional assistance is required, the services of a competent professional person should be sought.

# Arbitration: The Last Word in Saving Time And Money

By James W. Durham  
and John W. Hinchey

In today's business climate, every general counsel is being required to do more at a lower cost. To the bottom line of a business, legal costs look no different than any other overhead cost. In other words, less is better; and lower costs equal higher profits. For many years, arbitration of business disputes provided for a more cost-effective and timely resolution of disputes than litigation. However in recent years the business community has complained that arbitration of commercial disputes is becoming just as time-consuming and costly as litigation. Consequently, businesses and their general counsel are looking for other options to resolve disputes.

The legal community has taken notice. Fulbright & Jaworski commissioned an independent research firm in 2009-2010 to survey corporate counsel in the United States and the United Kingdom on their experiences with litigation and arbitration ([www.litigationtrends@fulbright.com](http://www.litigationtrends@fulbright.com).) Some of the highlights of this study were:

- More than 25% of the respondents expect the number of disputes their companies face to rise in the next year;
- In disputes that are not international in character, and when given a choice, 58% of all respondents would opt for litigation; only 38% would choose arbitration; and approximately 10% say, "it depends";
- More than 40% of corporations plan to increase their budgets for electronic discovery in com-

ing years, and they firmly believe that applicable discovery rules should be stricter in limiting the scope of electronic discovery.

As to corporate attitudes toward international arbitration, White & Case, acting with the Queen Mary School of International Arbitration, University of London, has just published the results of its 2010 survey on corporate attitudes and practices regarding international arbitration ([www.arbitrationonline.org/research/2010/index.html](http://www.arbitrationonline.org/research/2010/index.html)). Reporting on complaints about excessive time and cost, the White & Case survey reported:

- Disclosure of documents, written submissions, constitution of the tribunal and hearings are the main stages of the arbitral process that contribute to delay; and
- According to the respondents, parties contribute most to the length of the proceedings, but it is the tribunal and the arbitration institution that should exert control over them to keep the arbitral process moving quickly.

As further evidence of the widespread concern among business users of domestic and international arbitration, virtually every arbitration provider institution have commissioned similar studies or published protocols, guidelines and rules — all with a view to addressing business users' concerns about excessive time and cost of arbitration to resolve commercial disputes.

## NATIONAL SUMMIT ON REDUCING TIME AND COST

The College of Commercial Arbitrators decided in 2008 to address these complaints head-on and drill down on the causes and possible cures. They convened in October, 2009 a National Summit on Business-to-Business Arbitration in Washington, DC. Five of the principal organizations involved in commercial arbitration, namely, the American Bar Association Section of Dispute Resolution, the American Arbitration Association, JAMS, the International Institute for Conflict Prevention and Resolution ("CPR"), The Chartered Institute of Arbitrators, the Straus Institute for Dispute Resolution of Pepperdine University School of Law and 72 CCA Fellows, all lead-

ing U.S. and international arbitrators, joined the College as co-sponsors of the Summit. The goals were to identify the chief causes of the complaints and explore concrete, practical and remedial steps. The concept of a National Summit arose from two key insights: 1) each of the "stakeholders" in arbitrations, including business users, in-house counsel, outside counsel, arbitrators and arbitration providers must be involved; and 2) all of these "stakeholders" must collaborate in identifying the causes and cures of cost and delay in arbitration. Their conclusion: Arbitration is still a cost-effective and timely way to resolve business disputes, but only if administered effectively. Most importantly, general counsel must be a significant player in guaranteeing effective arbitration proceedings.

## THE LESSONS AND CURES

The Summit discussions revealed that promoting efficiency and economy in arbitration must be a mutual effort among the four constituencies: 1) business users and in-house counsel; 2) institutional arbitration providers; 3) outside counsel; and 4) arbitrators, because each has significant control over the arbitration process. Based on discussions among representatives of these four constituencies, the College developed and published in the fall of 2010 a significant document entitled "Protocols for Expeditious, Cost-Effective Commercial Arbitration — Key Action Steps for Business Users, Counsel, Arbitrators and Arbitration-Provider Institutions" ([www.thecca.net/CCA\\_Protocols.pdf](http://www.thecca.net/CCA_Protocols.pdf)).

The lessons of the Protocols are premised on the National Summit consensus that the time and costs of commercial arbitrations are driven by specific actions that each constituency can take to reduce the time and expense of business-to-business arbitration. For example, if the arbitration provider whose rules control a case provides no option for accelerated time frames or limited discovery, and, if the parties and their counsel are battling every issue, the arbitrator's ability to contain discovery costs is seriously constricted. The overarching principles for each constituency in the Protocols are the following:

*Be deliberate and proactive.* Promoting economy and efficiency in

*continued on page 6*

---

**James W. Durham** is former General Counsel for Portland General Electric, PECO Energy and Exelon Corporation, and is currently an independent arbitrator. **John W. Hinchey** is a former partner with King & Spalding, LLP and a full-time JAMS arbitrator and mediator. Both are members of the executive committee of the College of Commercial Arbitrators.

## Arbitration

*continued from page 5*

arbitration depends, first and foremost, on deliberate, aggressive action by the stakeholders, starting with choices made by businesses and counsel at the time of contract planning and negotiation and continuing throughout the arbitration process.

**Control discovery.** U.S. style discovery is the chief culprit of current complaints about arbitration morphing into litigation. Arbitration providers should offer meaningful and limited alternative discovery routes that the parties might take. Also, the parties and their counsel should work to reach pre-dispute agreement with their adversary on the acceptable scope of discovery, and arbitrators should exercise the full range of their power to implement a discovery plan.

**Control motion practice.** Substantive motions can be the enemy or the friend of the effort to achieve lower costs and greater efficiencies. Some see current motion practice as adding another layer of court-like procedures, resulting in heavy costs and delay. Others see current motion practice as missing an opportunity for reducing costs and delay, where clear legal issues that might be disposed of at the outset are instead deferred by arbitrators, to allow parties to conduct discovery and then offer their proofs. The key is recognizing whether in a particular case a substantive motion would advance or reduce the goal of lower cost and greater efficiency in the particular case.

**Control the schedule.** Since work expands to fill the time allowed, it is

critical to place presumptive time limits on activities in arbitration or on the overall process, coupled with “fail-safe” provisions that ensure the process moves forward in the face of inaction by a party. At hearings, for example, the use of a “chess clock” approach is of proven value in expediting examinations and presentations.

*Use the Protocols as tools, not as a straitjacket.* While there are certain categories of cases that are alike except for the identity of the parties and other participants, most commercial arbitrations with a substantial amount at stake are distinct in at least some way, be it the twist of circumstance that sparked a dispute or the array of legal issues presented. These Protocols offer actions that might apply to the broad range of cases, and yet embedded in them is recognition that parties’ needs vary with circumstances and that a well-run arbitration will at some level be custom-tailored for the particular case

*Remember that arbitration is a consensual process.* Arbitration is rooted most often in an arbitration agreement made when the parties were in a constructive, “let’s get the deal done” mode. If and when a dispute arises, reactions will vary. Some parties, looking to do business again in the future or accepting of the occurrence of a dispute, will be able to cooperate productively towards a common goal of cost containment. Other parties, by the point of a dispute, are entrenched in their respective perspectives of what occurred and why the other side is to blame. Parties in this mind-set face a daunting challenge to look beyond grievances in order to find cost savings that might benefit each side. The Protocols aim

to meet the diverse settings in which cases arise, recognizing that the prescribed behavior ultimately cannot be imposed but can only be encouraged, in a context where the constituencies’ efforts permit formulation of the best plan for the particular case.

### THE CENTRAL LESSON

In the final analysis, the central lesson of the National Summit is that the core value of arbitration is choice. The business users and in-house counsel who draft the deal start with the greatest range of choice in what procedures and limitations they place in the arbitration agreement — because arbitration is a creature of contract. Of course, the business users and in-house counsel can be greatly aided by arbitration providers and institutions who offer a range of draft agreement clauses, rules and guidelines. The outside counsel who play a key role as expert advisers to the users should be certain that they are fully aware of and advise their clients of the costs, benefits and potential risks of all of the procedural options available to them, so that fully informed choices can be made.

### CONCLUSION

Finally, the arbitrators must be good arbitration process managers, and fully committed to an optimal balancing of efficiency, economy and fairness. Court litigation, by contrast, does not offer this range of choice. The unique and inherent value of the Protocols is that they are perhaps, to date, the most succinct and comprehensive analysis of the causes, cures and remedies for cost and delay in commercial arbitration.



## Women’s Initiatives

*continued from page 1*

“Women in Formal Corporate Networks: An Organisational Citizenship Perspective,” *Women in Management Review*, Vol. 21, No. 6, 2006). But women have a responsibility to do their part too.

And finally is the issue of budget. Notoriously under-funded, directors of women’s initiatives find that producing quality events is time-consuming and expensive.

### THE SOLUTION

We’ve worked with three firms, Foley & Lardner LLP, Vinson & El-

kins LLP and Weil Gotshal & Manges LLP, to launch an innovative solution called the Just Add Women® Initiative Toolkit Series. This turnkey programming equips women with the skills and strategies essential to managing their careers more successfully. The meetings, focused on critical workplace topics and designed for mid- to senior-level associates, are led internally by those who have participated in formal facilitator training. Designed to last only an hour, the meetings are fast-paced and highly interactive. Although we are still in the pilot phase, the results to date have been quite promising.

Two of the firms selected partners as facilitators; the third relies on professional support staff to facilitate the sessions and invites partners to provide “color commentary” based on their own experiences. Facilitators spend a few hours learning how to facilitate the meetings, including practice with optional video-taping. They are supported by a detailed meeting facilitator’s guide, slides and participant meeting materials so it doesn’t take them a lot of time to prepare to lead the sessions. Topics such as Building a Strategic Network, Getting Feedback You Can Use and

*continued on page 8*

## Highlights

continued from page 2

professions are involved in less than 20% of outside counsel selection decisions — either sometimes (17.4%) or always (1.2%). Chart IV on page 8 clarifies the picture by asking that 18.6% of companies how procurement professionals are involved and to what extent. According to the responses, in no case is procurement the final authority and in all cases procurement professionals are, in order, either available as needed, serve in an advisory role or assist with the RFP process.

Although not a myth, this idea clearly has a long way to go before it is an established practice.

### Use of First-Year Associates

In the last decade, the rapid escalation of lawyer starting salaries at law firms across the U.S. caused some CLOs to voice their concern over the value first-year associates bring to their legal matters. Some CLOs suggested publicly that they would either watch the staffing of their legal matters carefully, or they would refuse to allow first-year associates to bill for their time.

The recession, extensive layoffs, hiring freezes and associate salary reductions temporarily put a check on these concerns. But in 2010, some if not most of these associate starting salaries returned to their past levels. With the reinstatement of the top-level starting salaries for first-year associates, the Survey asked CLOs whether they allow law firms to use first- and second-year associates on their legal matters. As can be seen in Chart V on page 8, only 5.4% of the CLOs said that they never allow the use of first- and second-year associates. A majority (80.1%) of the CLOs said that they “sometimes” allow it and 14.5% of the CLOs “always” allow first- and second-year associates to work on their matters.

Here’s an instance where the trend may be tipping into common practice as most CLOs consider this question for each new matter.

### CONCLUSION

In reviewing the 2010 Chief Legal Officer Survey, we can draw a few conclusions:

- The intensity of pressure on law firms to change their val-

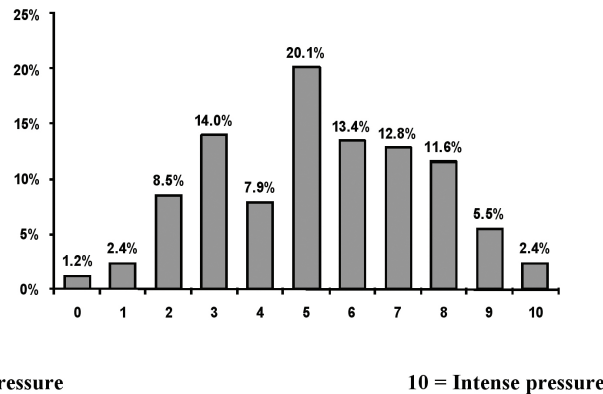
ue proposition varies with the CLO and the corporation. It is important for each law firm

to assess each client’s attitude and focus on value.

continued on page 8

**Chart I**

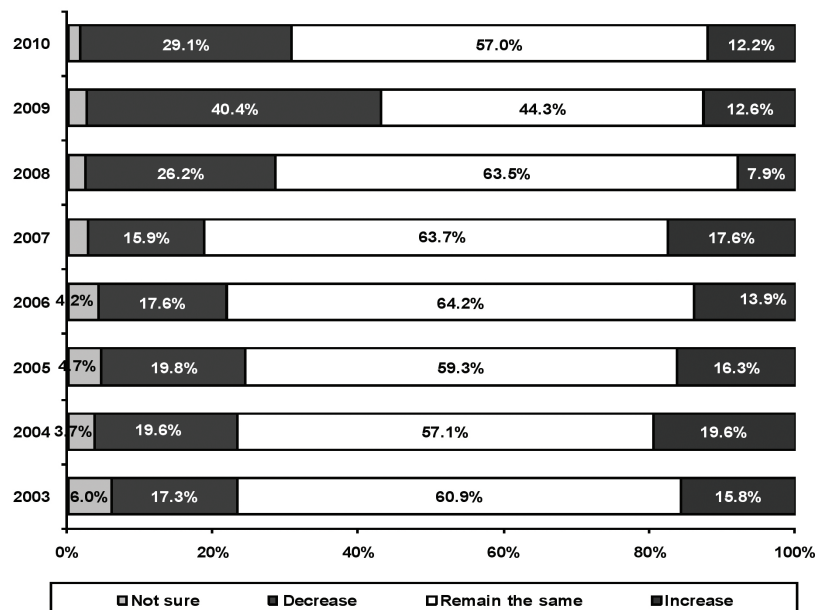
In your opinion, in 2010 how much pressure are corporations really putting on law firms to change the value proposition in legal service delivery (as opposed to simply cutting costs)?



**Chart II**

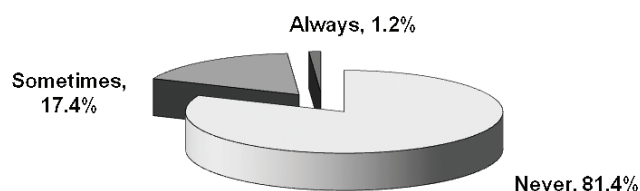
Within the next 12 months do you plan to increase or decrease your overall use of outside counsel?

### USE OF OUTSIDE COUNSEL - EIGHT YEAR TREND



**Chart III**

Are Procurement / Purchasing / Strategic Sourcing professionals in your corporation involved in outside counsel selection decisions?



## Highlights

continued from page 7

- A majority of CLOs believe that the use of law firms will either remain the same or increase. With little change in the way law departments are organized and operate internally, as well as the relatively relaxed attitudes toward the value proposition, this is not surprising.
- The idea of sourcing departments assuming responsibility for the selection and retention of outside counsel does not seem to be a major issue. However, the groups have become more involved in the process as support to the CLO.
- CLOs have become value vigilant about the effective and appropriate use of first and second year associates in the handling of their legal matters.

It has been a tumultuous few years for the legal profession, and as such it's not surprising that many CLOs have taken a cautious approach to change. However, as we emerge into a new more austere economic reality, it is important for all CLOs to be familiar with the latest trends — and

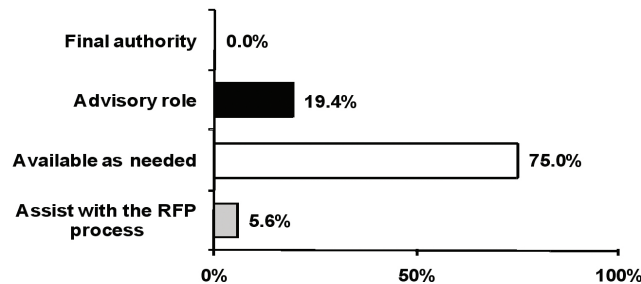
distinguish them from the myths — in order to effectively lead their law departments.

To download a complete copy of the Altman Weil 2010 Chief Legal

Officer Survey, go to [www.altmanweil.com/CLO2010](http://www.altmanweil.com/CLO2010).

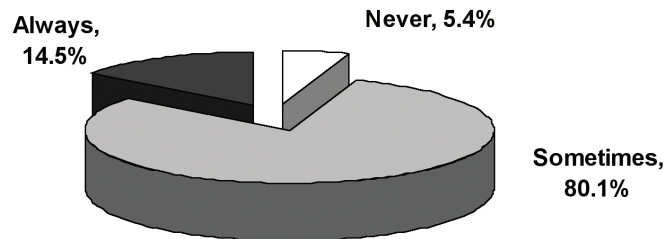


**Chart IV**  
If yes, to what extent are they involved?



**Chart V**

Do you allow law firms to use first and second year associates on your legal matters?



## Women's Initiatives

continued from page 6

Establishing Meaningful Mentoring Relationships, among others, resonate with women who are interested in how to navigate more successfully

**Carol Frohlinger, J.D.**, is an internationally recognized speaker, and co-author of "Her Place at the Table: A Woman's Guide to Negotiating Five Key Challenges to Leadership Success" (Jossey-Bass/John Wiley, 2010). Ms. Frohlinger co-founded Negotiating Women, Inc., a consultancy focused on helping organizations to attract, retain and promote women into leadership roles. To learn more about the Just Add Women® Initiative Toolkit Series, visit [www.justaddwomen.com](http://www.justaddwomen.com).

in the firm. As one facilitator/partner put it, "The examples in the materials were helpful in shaping the concepts; the concepts are provocative."

Associates are clear that they appreciate the opportunity to discuss issues that affect them with partners and others. They enjoy the informality of the sessions as well as the real-life, personal examples shared. The opportunity to serve as a role-model, master new content with minimal time investment as well as to facilitate meetings (not necessarily a lawyerly competency!) provides the partners with strong reasons to get involved. One firm went a step further to explicitly position participation in the program as a leadership development opportunity for the partners involved.

### CONCLUSION

Women's initiatives have been delivering value for some time but still have

not realized their potential. Networks that succeed in moving the agenda ahead work simultaneously at two levels. They take a "big-picture" perspective to identify systemic barriers women face in the workplace and work to eliminate them. More immediately (systemic change takes time) and with a great deal of practicality, they also work to equip individual women with the skills and tools they need to successfully navigate the system as it is today. Making women's initiative meetings more engaging, richer in content and more accessible in format is an important step forward in this regard. When women's initiatives work well, the benefits inure not only to individual women but to their firms and to the profession more broadly. What's good for female attorneys is good for their male counterparts and good for business.



To order this newsletter, call:  
1-877-256-2472

On the Web at:  
[www.ljnonline.com](http://www.ljnonline.com)