

The Legal Developments Impacting Legal Staffing Strategies And Hiring Contract Attorneys

The Editor interviews **Charles A. Volkert III**, Executive Director, Robert Half Legal.

Editor: What factors should corporate counsel consider when developing a legal staffing strategy?

Volkert: The practice of law has become a global endeavor, requiring a wide range of professionals to collaborate in a fast-paced, pressure-filled environment. The ability to smoothly integrate projects and caseloads can add tremendous value to a legal department's level of service. Many corporate counsel are managing rising workloads and reducing outside counsel costs by as much as 30-50 percent through the strategic use of their own staff in combination with project professionals, such as attorneys and paralegals. When assembling a project team, it is important to formulate a plan that includes a

staff assignment list, objectives and deadlines. Identify the skills required by the team and whether the expertise is available internally or if outside assistance is necessary. Also consider logistics, such as if the team will work at individual desks or in a specific area of the office, if it will handle all activities for the project, or if it will need to coordinate with outside counsel, and what requirements there will be in terms of new technology, equipment, supplies and other materials.

Editor: What developments in the law have had the greatest impact on legal staffing in 2008?

Volkert: Research conducted by Robert Half Legal for its Future Law Office research project shows several economic and demographic trends are making it more challenging for hiring managers to attract, groom and retain top legal professionals. Decreased law school enrollment, a shortage of talent in high-demand practice areas, increased lateral movement, higher attrition rates, greater demand for flexible work arrangements and a sizeable number of attorneys on the verge of retirement has intensified competition for talent. As a result, corporate legal departments as well as law firms are reevaluating the way they hire, motivate, promote and retain top performers. They are developing and implementing policy changes to meet the needs and priorities of today's legal workforce.

Charles A. Volkert is Executive Director of Robert Half Legal, a leading staffing service specializing in the placement of attorneys, paralegals, legal administrators and other legal professionals with law firms and corporate legal departments. Based in Menlo Park, Calif., Robert Half Legal has offices in major cities throughout the United States and Canada. For a free copy of the Future Law Office white paper, please visit www.futurelawoffice.com.

Corporate Counsel Organization Highlights

MSBA To Present Seminar On Employment Law

The Maine Bar Association will sponsor a seminar titled The 8th Annual Employment Law Update, which will be webcast simultaneously on Tuesday, November 11 from 8:15 a.m. to 4:30 p.m. at the Hilton Garden Inn, Freeport, ME.

The faculty will include Roberta L. De Araujo, Maine State Employees Association; Commissioner Laura Fortman, Department of Labor, Maine; Phillip E. Johnson, Johnson & Webbert LLP; Margaret Coughlin LePage, Pierce Atwood LLP; and Anne-Marie L. Storey, Rudman & Winchell.

This program will address issues such as how to terminate an employment relationship appropriately; how to handle leave requests; how to sign a severance agreement; and whether an investigation has been conducted properly and

how to update personnel policies. While the presentation on electronic discovery is the most litigation oriented, the fact is that how the employer and the employees conduct themselves on the computer or with other electronic media affects litigation, and how that plays out in court should guide how all parties behave on a day-to-day basis. The program will begin with an update from the Commissioner of Maine's Department of Labor and will end with a presentation from two experienced counsel on the ethics issues arising most often in the employment context.

For details on registration fees and available CLE credits, see CLE Events on *The Metropolitan Corporate Counsel* website at www.metrocorp.counsel.com.

To register call (877) 622-7554 or visit www.mainebar.org.

Corporate Counsel Organization Highlights

Letter From The President Of The New York County Lawyers' Association



To The Readers Of The Metropolitan Corporate Counsel:

Signs of the times: in early October (when this column was written), a security guard, who under normal circumstances would have said, "Have a nice day," instead greeted me (not knowing that I was a lawyer) with, "Well, the bankruptcy lawyers are going to get rich."

Within recent weeks, the Federal government had taken over Fannie Mae and Freddie Mac, rescued AIG, allowed Lehman Brothers to file for bankruptcy, and arranged shotgun mergers of Bank of America and Merrill Lynch, JPMorgan Chase and Washington Mutual, and Citigroup and Wachovia (although the latter was up in the air following a higher bid from Wells Fargo).

Congress had enacted the Troubled Asset Relief Program (TARP) after a week of high drama, and stock markets around the globe plummeted.

Election Day was a month away.

What about the legal signs?

On one level, the security guard was right. The Lehman Brothers bankruptcy – the largest ever – would clearly keep many lawyers busy for a long time. Law firms scrambled to create financial services task forces, and the ripple effect from the global tsunami raised issues in many areas of legal expertise.

Many lawyers will undoubtedly participate in what promises to be a complete rethinking of financial market regulation. The current crisis has brought into sharp focus questions concerning the consequences of leverage, the appropriate level of reserves for insurers, and the lack of firebreaks in the global market. The Lehman bankruptcy threw into brutal relief the extent to which "counterparty risk" was underestimated, leading to a worldwide credit contraction. Before and after the passage of TARP, the Federal Reserve intervened strongly in the markets, making credit available on an unprecedented scale in a number of programs. Part of the price that Congress demanded of institutions that participated in TARP was regulation of executive compensation and Federal acquisition of equity or senior debt interests in the institutions.

But the security guard didn't see the larger picture. Already, one large firm (Heller Ehrman) has voted to dissolve. Other firms are struggling, and practice groups in particularly vulnerable areas (think collateralized debt obligations) have been decimated. Lawyer layoffs generally are coupled with staff cutbacks. As the recession spreads beyond the financial services sector, strain on clients will translate into strain on lawyers and law firms.

The financial crisis also presents lawyers with a greater demand for pro bono services. In the debate over TARP, many pointed out that there was a large segment of the population that suffered from the economic slowdown well before the meltdown in the financial markets: people burdened with consumer debt and subprime mortgages.

Now, faced with legal actions to collect the consumer debt or foreclose mortgages, many of these borrowers are not getting the benefit of legal protections that are available to them. Recent surveys in New York State reported that the default rate in mortgage foreclosure cases was between 75 percent and 90 percent. Default rates in consumer debt enforcement actions were similarly enormous. Just to underline the point: these are default judgments, where the borrower didn't even show up in court. When borrowers did appear, many were not represented by counsel.

Anecdotal reports from the courts indicate that if a borrower is represented by a lawyer, cases can be settled relatively easily. Any lawyer – with some training – can raise basic defenses that may be available to the borrower.

In the wake of the attack on the World Trade Center, many lawyers – and not just the trusts and estates bar – volunteered to help families of the victims. The families were not the only beneficiaries from these programs; the lawyers benefited from being part of the solution in a time of crisis.

Today, you can be part of the solution for consumer debtors and subprime mortgage borrowers. NYCLA and other bar associations have pro bono programs to assist those burdened with consumer debt or facing mortgage foreclosure. Please volunteer.

Sincerely,
Ann B. Lesk

What Employers Should Know About Employee Termination

Termination of an Employee: Avoiding Litigation is the subject of a program to be sponsored by the New York City Bar Association on Thursday, December 4 from 6 to 9 p.m. at the House of the Association, 42 West 44th Street, NYC.

The panel discussion will be chaired by Lloyd B. Chinn, Proskauer Rose LLP. He will be joined by employment lawyers (defense, plaintiff and in-house) as well as a human resources executive.

They will explore the procedures that

should be followed in terminating employees, separation agreements, special considerations for reductions in force and the various claims available to terminated employees. A particular focal point will be steps that can be taken to reduce the risk of a successful

retaliation claim.

For details on registration fees and CLE credits, see CLE Events on *The Metropolitan Corporate Counsel* website at www.metrocorp.counsel.com.

To register call (212) 382-6663 or www.nycbar.org