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FOCUS

President's Message

By TJ Fund, OpenEdge, General Counsel

I recently had the opportunity to teach a Citizenship in the Nation merit badge class for a local Boy Scout troop. Teaching youth about the founding of our Nation, the challenges of the that era and the challenges of our era, and the rights and responsibilities of citizenship was a wonderful opportunity. For any of you who are aware of a Boy Scout troop operating in your local area, I recommend getting in touch and offering up your services to teach this one. I think you will get as much or more out of it as they will.

As we discussed the founders' distrust of governmental authority and the system of checks and balances that they imposed through the structural mechanics of the constitution, my thoughts couldn't help but dwell on this notion of productive tension. The founders used it to break up the functions of government in such a way as to help ensure that no one person could effectively control all three. We also see it in other contexts however. Athletes use productive tension with other athletes, giving each other public challenges and "talking trash" in order to affect the dynamics of their competition and to get an

edge on their opponents. Personal trainers often raise the level of their voice and employ aggressive tones and phrases to encourage their clients to get in one more set of reps or one more lap when all they want to do is quit. Productive tension, can create a love/hate relationship between the parties involved, but, when effectively administered, it often helps to produce better results than those of which we think ourselves capable.

My challenge for this quarter is to be mindful of the tension points in your personal and professional life and to identify ways to utilize productive tension to improve both your own personal performance as well as that of the organizations with whom you work. For example, if you know that you should be going to the gym, but find yourself having difficulty getting out of bed or up off the couch, find someone who is willing to provide the productive tension you need to get you over the hump and into the habit of regularly working out.



Likewise, in the office, be mindful of the productive tension between your department and other departments within the company. There is going to be some level of natural tension, for example, between the legal department and the sales

department. Be conscious of that tension and do everything you can to make it productive. A company is not well served by a legal department that simply writes up every term change or concession that the other side asks for , but neither is it well served by a legal department that is unproductive or circumvented because the tension it creates is negative and does not take into account the legitimate needs of an organization to generate new sales. Just like in our first years of law school, if you study the issue enough to argue their side as well as you can argue yours, you will likely find yourself in a good position to keep a healthy level of relationship tension present that best serves the company's needs.

ACC engages with its General Counsel and Chief Legal Officers about their changing roles

By Justin A. Connor, Director of CLO Services

On January 27, 2016, the Association of Corporate Counsel released the ACC *Chief Legal Officer 2016 Survey*, an annual survey of the areas that matter most to general counsel and chief legal officers: benchmarking, knowledge sharing, best practices and thought leadership on the challenges of leading the legal department in today's complex corporate environment. The CLO Survey garnered insight from more than 1,300 chief legal officers practicing in 41 countries.

The 2016 CLO Survey examines how CLOs source work in-house to manage their department and also how they plan to source work to law firms and legal service providers. In addition, the report highlights plans and historical trends in hiring, staffing, spend and budgeting. Notable findings include what keeps CLOs up at night, how they intend to focus their attention in 2016, how they view the future of departmental budgets and staffing, where they plan to grow their departments, and what issues have the greatest impact on corporate legal departments.

ACC members may purchase an electronic copy of the survey and access the Executive Summary by visiting www.acc.com/clo. In February, members and non-members receive a discount when they purchase an electronic copy of the full 96-page report.

Regular readers of ACC publications will note that CLO Survey complements other previous thought leadership pieces that the ACC has authored, including the "*Skills for the 21st Century General Counsel*" Executive Series report, drafted together in collaboration with Georgetown Law School. The 21st Century Skills report was based on extended interviews with 28 thought leaders in the in house legal profession — including current and past general counsel of leading companies, independent directors of major companies, CEOs, executive recruiters and others. In cooperation with

the *National Association of Corporate Directors* (NACD), the ACC also surveyed 78 of its corporate director members. Finally, ACC surveyed 689 CLO and general counsel ACC members to gather the report's findings.

In the past year, ACC also published a comprehensive desktop reference and a Census, addressing issues affecting all in-house counsel. The ACC Census aggregates insight from over 5,000 lawyers in more than 70 countries and focuses on career mobility, global salary and total compensation, career growth, outside legal provider sourcing and more.

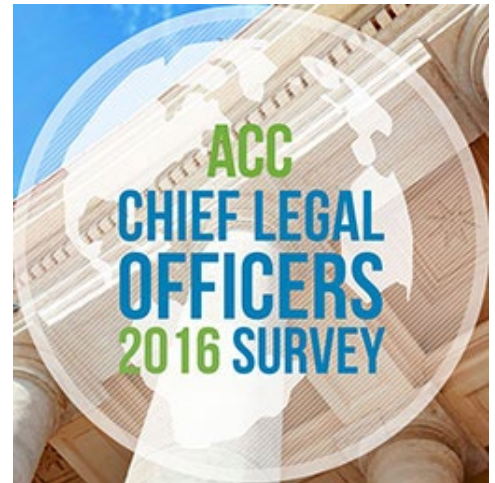
Key Findings of the 2016 ACC CLO Survey

"I once worked for a CEO who said the only reason he could sleep at night was a strong culture of ethics and compliance at the company. The more experience I have, the more I see how right he was. In today's environment, a compliance mindset has to be 'in the water.' It has to be everyone's job.

Highly regulated businesses are even more highly regulated today. There are more regulators, and they are more active. Companies have to devote resources to staying on top of those regulatory expectations and building effective communications with the regulators."

-- Quote from Patricia R. Hatler, Executive Vice President, Chief Legal and Governance Officer, Nationwide Insurance and former ACC Chair

As in previous years, CLOs continue to make ethics and compliance their top priority, followed closely by regulatory issues and challenges. This is to be expected: 31 percent of CLOs report their company has been targeted by a regulator or other government entity for an enforcement action. Governments are aggressively enforcing laws, and penalties for non-compliance can be severe.



Cybersecurity ranks third as a key issue for CLOs. One in five CLOs say their organization has experienced a data breach within the past two years. While it is nearly impossible to prevent a data breach, it is important to have a response plan, because many countries now require mandatory notification in the event of an incident. As their influence has grown, increasingly it falls upon CLOs to identify issues related to ethics and compliance. From global expansion to the rapid adoption of new technology, businesses are increasingly facing new challenges and uncharted waters. While these changes bring new opportunities, organizations need to concentrate on ways to mitigate the associated risks.

How the ACC Serves CLO Members

Effectively serving general counsel and chief legal officers is one of ACC's key strategies, as identified in its Strategic Plan for 2013-2018. Both the 21st Century GC Skills report and the CLO Survey align with this goal to help support our members by providing critical benchmarking data, comparisons of key metrics and a sense of the most important issues facing CLOs today. ACC, through its *CLO Services* department, aims to encourage further engage CLOs with your in-house bar association.

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The ACC *Executive Leadership Institute* is a major new initiative that the ACC launched in 2014 to support the needs of CLOs — succession-planning, more business-focused education for in-house attorneys, and overall professional development for their teams. Designed by the ACC in consultation with leading global general counsel, this exclusive curriculum supports the professional development needs of the top performers on your team. All candidates must be nominated to attend the ELI by their GC/CLO.

The ACC CLO Services team has developed a variety of other services dedicated to meeting the needs of chief legal officers, and has a variety of offerings specific to you, including the following:

ACC Chief Legal Officer Roundtables

ACC's exclusive, invitation-only Chief Legal Officer Roundtables bring together general counsel for candid discussions with your counterparts on hot, current topics relevant to leading a large law department.

The ACC General Counsel Summit

The Summit centers on the critical legal and business issues that directly impact you and your role as general counsel of a leading multinational company. Carefully crafted by the ACC in consultation with premier law department leaders, no other event gives you access to critical insights from leading global executives. The Summit supports not only your professional development needs, but also prepares you to address future trends.

The ACC CLO Club

The CLO Club provides you with the opportunity to benchmark with your colleagues and counterparts on critical issues, and hear from leading CLOs on the latest in-house developments. No matter what your concern is, you don't need to reinvent the wheel — let your peers brainstorm along with you at the Annual and Midyear Meetings.

In Brief: CLO Edition

The ACC offers a daily global business news briefing service, *InBrief: CLO Edition*, to its Chief Legal Officer members to keep them apprised of the latest news affecting their industries and businesses.

CLO Executive Bulletin

Featuring a regular interview series with a leading chief legal officer, the ACC CLO Executive Bulletin offers you a regular monthly newsletter summarizing all the CLO-related news that you need to know from the ACC.

Key Findings from the 21st Century Skills Report

The most important job of the general counsel/chief legal officer remains that of the chief provider of legal advice and manager of the legal department. About 84 percent of GCs report providing legal advice and managing legal matters for the company as one of the top ways they provide value to their organizations. Although nearly three-quarters (74 percent) of corporate directors rated these more traditional functions in the top three contributors to value, they were more likely to see value in other activities. Directors were much more likely, for instance, to view the compliance function as a source of value added by the GCs, than the GCs were themselves (54 percent vs. 34 percent).

As legal departments cope with increasing regulation, complexity and globalization without corresponding increases in resources, effective legal department management is more important than ever. As these trends continue, future general counsel will first need to have an excellent understanding of the business, and its sources of cash flow, risk and strategic priorities. Using this information, general counsel must then be able to creatively address resource constraints by continuously reevaluating the way they staff legal matters, use outside counsel and manage processes. They will need to be adept at managing a team of lawyers who are sometimes globally dispersed, even in smaller companies.

GC as Counselor in Chief

The second key area where GCs provide value to their organizations is through counseling the CEO and the board of directors. Approximately half of the GCs and directors cited counseling the CEO as one of the top three value-drivers that general counsel provide. Although fewer GCs (20 percent) cited counseling the board of directors as a top source of their value, a much higher percentage of board members (38 percent) view this activity as a significant source of GC value, suggesting that many GCs do not fully appreciate the positive impact of their contributions to their organization's board.

The counseling role goes beyond simply providing legal counsel; the GC also serves as a trusted advisor to the CEO and the board. GCs must perform a delicate balancing act between being trusted and active members of the management team (*i.e.*, having a “seat at the table”) and maintaining their independence. To serve in this role, future GCs will need to possess the managerial courage to say “no,” even when it is unpopular. To do this effectively, they will need to have excellent communication skills and emotional intelligence to ensure they are constructive in their assessment of risk and rewards in a business context. They also must build credibility and respect with their executive peers, which are influenced by the degree to which they demonstrate the third essential skill — being a strategist.

GC as Strategist

Perhaps the most striking finding of the 21st Century Skills report was the growing importance of the GC role as a strategic thinker. Looking ahead five to 10 years from now, both GCs and corporate directors view strategic input as becoming a larger source of added value in the role of general counsel. However, there is a disconnect between GCs and directors when it comes to the GC's contribution of strategic input: GCs are much more likely than directors to rate the GC's role in providing strategic input into business decisions as being in the top three

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sources of added value, both now and in the future. This difference in opinion may be especially important given a distinction directors make when evaluating the performance of their GCs. According to directors, the highest performing GCs add value by contributing strategic advice.

With strategic input increasing in prominence and necessity, future general counsel would be wise to develop strategic-thinking skills. To do this, however,

they need to be comfortable with risk and helping their business colleagues decide which risks are reasonable and which are not. And yet, GCs cannot just focus on risks and constraints, as they also need to define and embrace opportunities. They participate in conversations about strategic choices, both as lawyers and as general managers who are trained in the law.

The GC role has evolved significantly in the past few decades. As the business

environment has become more regulated and global, the general counsel has become a more integral member of the executive team. In its research in both the Skills Report and the CLO Survey, ACC seeks to capture the current state of the role of the general counsel, understand how and where the role appears to be evolving, and identify the skills and competencies that will be required for general counsel to be successful in the future.

ACC News

2016 ACC Annual Meeting: Early Bird Rate Ends March 23

Attend the ACC Annual Meeting (October 16-19, San Francisco, CA), the largest gathering of in-house counsel and an unparalleled value in legal education. In less than three days you can choose from over 100 substantive sessions to fulfill your annual CLE/CPD requirements, meet leading legal service providers and network with your in-house peers from around the world. This meeting is the event that you cannot afford to miss. Register today at am.acc.com.

Two Days of Advance Learning and Networking

The all-new ACC Mid-Year Meeting will be held April 10-12 in New York, NY. This conference will offer advanced level education in three topics that are critical to the success of today's in-house counsel: contracting skills and strategies, corporate governance and board relations, and financial industry compliance and data management. Just announced, best-selling Freakonomics author, journalist and radio and TV personality, Stephen J. Dubner, will be the keynote speaker. For more information, visit www.acc.com/mym

Mind Your Business

To become a trusted advisor for business executives, it's imperative for in-house counsel to understand the business operations of your company. Attend these business education courses offered by ACC and the Boston University Questrom School of Business to learn critical business disciplines and earn valuable CLE credits:

- Mini MBA for In-house Counsel, March 8-10, May 10-12, Los Angeles, CA
- Mini MBA for In-house Counsel, June 7-9, September 13-15, November 2-4, Boston, MA

Learn more and register at www.acc.com/businessedu.

ACC Europe Annual Conference: Early Bird Rate Ends 31 March

Join us in Rome for the 2016 ACC Europe Annual Conference: Be The Best You Can Be! Strategies, insights and tools to maximise your effectiveness as an in-house lawyer (22-24 May) to hear how to Lead the Law, Lead the Business and most of all Lead Yourself to achieve your

potential. Focused at all levels within the in-house community, the conference will provide expert guidance, General Counsel insights, and senior business thought leadership all designed to help you develop your own strategies for maximising your career. The programme will include interactive workshops, plenaries and coaching opportunities. Learn more and register at <http://www.acc.com/europeconference>.

New to In-house? Are you prepared?

The ACC Corporate Counsel University® (June 12-14, San Diego, CA), combines practical fundamentals with career building opportunities, which will help you excel in your in-house role. Come to this unrivaled event to gain valuable insights from experienced in-house counsel, earn CLE/CPD credits (including ethics credits and specialty credits) and build relationships and expand your network of peers. Register at ccu.acc.com.



The Association of Corporate Counsel
Mountain West Chapter and our event sponsor, ~~Moffatt~~ Thomas, invite
you and your family to attend our

Attitude of Gratitude

This event is in appreciation for our members. It will also provide a benefit to Big Brothers
Big Sisters of Southwest Idaho. Please join us on

Thursday, April 21, 2016

5:30 p.m. - 9:00 p.m.

355 Julia Davis Drive

Boise, Idaho

Event:

The ACC has rented the entire zoo for the event. Your registration provides a voucher that includes dinner and entrance to the zoo for you and your family. We will also provide vouchers to "Bigs" and "Littles" from Big Brothers Big Sisters.

In exchange, we ask for your help with our service component by donating a gift or gift certificate that will be given to Big Brothers Big Sisters.

Needed New Items:

1. Gift Cards to Target, WalMart, Amazon, etc.
2. School Supplies
3. Hygiene Products
4. Electronics/Batteries
5. Clothes, Shoes & Underwear
6. Books (*gently used*)
7. Games, DVD's, Legos
9. Snacks and Packaged Food
10. Large Duffle Bags

Please register at: <http://idahoaattitudeofgratitude.eventbrite.com>



This event will NOT BE CANCELED due to weather

- please, come prepared -



SAVE SUMMER ACC CHAPTER MOUNTAIN WEST

Donation Drive for the Christmas Box House

This year's donation drive will be more convenient than ever. We have several drop off locations at different times and dates. If you and/or your company has a large enough donation, our Executive Director will come to your offices. Attached is a list of items the Christmas Box needs to care for the homeless children in their care as well as the children in the Boys and Girls Clubs.



June 7th
Time: 9-10 a.m.
**Beyond Glazed
Draper**

June 8th
Time: 9-10 a.m.
**Dunkin Donuts
Sugarhouse**

June 9th
Time: 9-10 a.m.
**Banbury Donuts
Salt Lake City**

For large
donations, please
contact our
Executive Director
for office pick-up
on June 6th & 10th

ACC MOUNTAIN WEST CHAPTER

Sara Madden,
Executive Director

www.acc.com/chapters/mtwest

801-300-6865

Mountainwest.acc@gmail.com



June 7th

Time: 9-10 a.m.
Beyond Glazed
117 W. 12300 S.
Draper
**

June 8th

Time: 9-10 a.m.
Dunkin Donuts
1479 E. 2100 S.
Sugarhouse
**

June 9th

Time: 9-10 a.m.
Banbury Cross Donuts
705 S. 700 E.
Salt Lake City
**

For large donations, please
contact our Executive Director
for office pick-up on
June 6th & 10th

School Supplies:

Backpacks
Calculators
Pencil Boxes
Mechanical Pencils
1 Inch Binders
Books, in good condition
Craft Supplies
Rulers
Markers
Crayons
Colored Pencils

Personal Items:

Sensitive Skin Body Wash
Suave Shampoo & Conditioner
Feminine Hygiene Products
Hair Brushes
Deodorant
Forehead Thermometers
Electric Shavers
Make-up
Nail Polish & Remover
Hair Elastics & Styling Products
Bath Towels & Washcloths
Baby Wipes
Acne Face Wash

Activities Gift Cards:

Fast Food/Treats
Movie Theaters
Museums
Boondocks
Bowling
Classic Fun Center
Sporting Events
Aquarium
Planetarium

Clothing:

Jeans
Short & Long Sleeved Shirts
Boys Underwear Size 2T-12
Boys Boxer Briefs Size 6-12
Boys Athletic Shoes
Bras
Women's Slipper Socks
PJ Bottoms
Sweat Pants
Athletic Shorts
Women's Workout Clothes
Men's Undershirts
Men's Boxer Briefs
Men's Black No Show Socks
Hoodies, Dark Colors
Belts
Dress Shirts and Ties
Flip Flops

General Supply Gift Cards:

Visa
Target
Walmart
Amazon
Shopko
Sears
Old Navy
Barnes & Noble
Michaels Craft
Costco
Home Depot
Lowe's
Utah Idaho School Supply
Zurchers
Sam's Club
JoAnn's Fabric
Grocery Stores

**ACC Mountain West
Chapter**

Sara Madden,
Executive Director

www.acc.com/chapters/mtwest

801-300-6865

mountainwest.acc@gmail.com

Personal checks and company
checks are very welcome, too.

If you wish to donate money,
please make the checks out to:

**'The Christmas Box House
International'**

They are a 501©3 Tax Exempt
organization and your donation is
fully tax-deductible.

I can obtain a receipt, upon
request, at time of donation.

If you wish to mail your check
donation made out to The
Christmas Box House
International to be included in
our ACC Chapter donation, you
can address it as follows:

ACC Mountain West Chapter
Attn: Sara Madden
2249 Evergreen Avenue
Salt Lake City, UT 84109

Building Resiliency in Youth through Mentorship

By Victoria Hess, AmeriCorp Vista for Big Brothers Big Sisters of Southwest Idaho

Resiliency, though often overlooked, is a fundamental skill that a child can draw from as he or she grows into a successful adult. The ability to adapt to stressful and adversarial situations, which includes trauma and tragedy, gives us a way to “bounce back” from difficult experiences without closing ourselves off. There are many ways that we can foster resiliency in the young people of our community, but one of the most effective ways to encourage long-term resiliency is through mentorship.

Resilience is a dynamic quality in people; it can be encouraged to grow or left to decline. We all have the capacity for resiliency, but fostering it can prove difficult for many young people in adversarial settings. When a child is left unsupported in a harmful situation, their resiliency is chipped away, allowing stress to become a harmful part of their lives.

When a mentor creates a caring and supportive environment for his or her mentee, the child receives the provisions to create a self-correcting and self-compassionate inner world. A critical component to resiliency is the capacity to trust. Children with positive role models practice trust and in turn learn to trust themselves. In addition to trust, through example alone mentors teach their mentees about listening, empathy, the importance of quality time, and respect. These are all factors paramount to the sympathetic self-awareness required for resiliency.

In a study of 700 high-performing, high-need schools (at least 50% of the students received free or reduced lunch), researchers identified that among those schools, the ones with higher academic success rates had certain unquantifiable characteristics. The schools that had high expectations for the students, an encouraging environment, and heartening attitudes by the educators saw the most success academically. Environments and role models that foster resiliency convey the message that students can succeed.

When a mentor is building resiliency in his or her mentee, the mentor often provides new opportunities for the mentee to participate and contribute to their community. Mentors that encourage resiliency allow their mentees to become comfortable thinking imaginatively and creatively, have opinions, make choices, problem solve and even help others. When the mentee feels safe, he or she begins to truly interact with their environment and have avenues open for them that they didn't see before, or did not have the confidence to try before.

High levels of stress and adversity can drastically affect the mental health of young people. Unremitting stress has been linked to an abundance of long-term health problems and disabilities including cardiovascular dysfunction, immune system issues, obesity, psychological issues including depression, long term deleterious effects on the brain behavior and cognition, and premature death. By building resiliency in youth, mentors have the rare opportunity to have a positive effect on the physical and mental health of their mentees. By decreasing stress, mentors can completely prevent many, if not all, of the health problems listed above.

By reducing stress for children, adolescents and teens in adversarial situations, mentors can directly affect the disposition and quality of life of their mentees. Increased academic performance, better involvement in the community, and decreased physical and mental stress are only a few of the ways that increased resiliency can help the young people of America. Programs such as Big Brothers Big Sisters give high-need youth the opportunity to create a life-long bond with a mentor and obtain the benefits listed herein.

Mentors from Big Brothers Big Sisters, lovingly referred to as “Bigs,” meet with their “Littles” two to three times per month for a few hours each meeting. During this time, the Bigs and Littles share activities, usually something that interests both of

them, and create life-long memories. This time, which may not seem like much on paper, is a time when the Littles are free of judgement and free to explore a rare relationship with an adult that isn't a parent or teacher, simply a friend. Big Brothers Big Sisters provides one-on-one support for these “matches” in order to ensure that all parties, including the family of the Little, are benefitting from the relationship.

To see how you can foster resiliency in a child in your community, visit the website of your local Big Brothers Big Sisters agency or Big Brothers Big Sisters of America at www.bbbsa.org. Begin your journey to changing one Little person's life for the better, forever.

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contains
hundreds of riddles
and jokes



ideally suited
for mastering video game
controller

capable of
digesting buckets
of movie theater
popcorn

natural goat-like
balance and agility for
hiking in the foothills

He was meant to mentor.
Are you?

Chances are, you've got what it takes to make a big difference in the life of a Little. And when you do, he will make a big difference in yours, too.

Become a Big! Visit bbbsidaho.org today.



Big Brothers Big Sisters

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Proposed Federal Regulations Would Require Annual Reporting Of Employee Compensation Data

By Kara Heikkila, Attorney, Hawley Troxell

Signaling its continued effort to address the gender pay gap, on January 29, 2016, the Obama administration announced a proposed regulatory expansion of an existing annual reporting obligation for employers with 100 or more employees.ⁱ Currently, employers of this size file an annual EEO-1 report with the federal Equal Employment Opportunity Commission (“EEOC”), which summarizes employee counts based on sex, race, and ethnicity. The proposed expansion of the EEO-1 report would require these employers to additionally report summarized compensation data based on W-2 earnings and hours worked. These new requirements are scheduled to take place with the September 2017 reporting period. As proposed, this regulatory expansion presents significant burden and is a development that employers and their counsel should monitor with some concern.

The EEOC is the federal agency tasked with enforcing federal laws that prohibit discrimination in employment including discrimination based on an individual’s sex or race. In 1996, the EEOC first issued regulations that created the EEO-1 reporting obligation for employers with 100 or more employees. Those employers are required to annually report information on the number of employees they have in ten different job categories across an organization including, among others, Executives/Senior Officers and Managers, Professionals, and Labor workers. Employers report employees in these ten job categories by seven race and ethnicity categories and by sex. The EEOC then shares this data with federal and state agencies for various purposes including oversight and litigation.

The EEOC enforces both Title VII of the Civil Rights Act and the Equal Pay Act, which are federal laws that, in relevant part, prohibit discriminatory pay practices between men and women. The Equal Pay Act specifically prohibits pay discrimination between men and women who perform jobs that require “substantially

equal skill, effort, and responsibility under similar working conditions.” While these laws have been in existence since the 1960s, the national gender pay gap has remained effectively stagnant in recent years. In part, the proposed EEO-1 reporting changes are driven by the federal government’s conclusion that a lack of information on compensation data prohibits effective enforcement and correction of pay discrimination practices. For example, based on February 2016 published statistics, Equal Pay Act claims represented just over one percent (1%) of the more than 92,000 charges of discrimination filed by employees with the EEOC in fiscal year 2015.ⁱⁱ

With the proposed changes, employers will be required to report employees in each job category across 12 separate pay bands based on W-2 salary information. For example, the lowest pay band is for individuals making \$19,239 and under, and the highest pay band is for individuals making \$208,000 and over. Notably, this is summary data and not individual employee compensation data. However, for employers with few employees in particular job categories, including Executives, reporting summary data will be in effect the same as the publication of individual compensation data. Employers will also be required to report the total number of hours worked in the prior year for each job category and pay band. It is unclear how partial-year, part-time, and exempt-status employees whose hours are not tracked would be reported.

The EEOC suggests that with this information, they will be better equipped to identify potential pay discrimination problems and focus their enforcement efforts on those employers. Additionally, they will use this information to publish industry and geographic data on pay trends. The EEOC, in conjunction with other federal agencies, then plans



to develop software that would statistically analyze the data to compare individual company compensation to aggregated industry data by geographic region. In reality, this effort may simply be a way to get employers to focus attention on this issue and to perhaps adjust and increase wages even when there is a legitimate, non-discriminatory reason for any differences in pay.

The EEOC vastly underestimates the regulatory burden associated with this new reporting requirement. In support of its position, the EEOC suggests that use of the existing EEO-1 report will minimize employer training and costs. In fact, the EEOC projects employers will on average need just an additional 3.2 hours each year to report this data, and that modification of existing Human Resource Information Systems will require a one-time investment of 8 hours. The reality is that the additional report contains 3,660 new fields of information. Employers report W-2 data on a calendar-year basis and the EEO-1 report must be filed by September 30 of each year, making the two periods incompatible for data collection and transfer. Payroll systems often do not capture the data required by this additional reporting, which would require costly upgrades or outsourcing of the reporting. Finally, security and privacy risks will need to be addressed.

Beyond that, there remains a serious question whether any meaningful analysis would come from this burdensome reporting. As an initial matter, W-2 data contains items of individual choice (such as overtime) and other earnings unrelated to base compensation that would dilute meaningful comparison. EEO-1 job categories include a variety of jobs that are not similarly situated. The report would not capture compensation data, but

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instead only summary information on the number of employees falling into a particular pay band. Experts reasonably question whether publishing and analyzing aggregate data built on this model will achieve any goal of remedying discriminatory pay differences between men and women.

The regulations associated with this proposed reporting obligation were published in the Federal Register on February 1, 2016.ⁱⁱⁱ The comment period for the proposed regulations closes on April 1, 2016, and the EEOC plans to vote and finalize the new EEO-1 report by September 2016. As with many pending employment regulations, there is a push to finalize these prior to the election and the end of President Obama's administration.

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ⁱCertain companies that do business with the federal government must file this report if they have 50 or more employees. As proposed, only employers with 100 or more employees, including federal contractors, would be subject to the additional reporting obligations related to compensation and hours.

ⁱⁱ<http://www.eeoc.gov/eeoc/newsroom/release/2-11-16.cfm>

ⁱⁱⁱ<https://www.gpo.gov/fdsys/pkg/FR-2016-02-01/pdf/2016-01544.pdf>

The graphic features the ACC Mountain West logo at the top. Below it, the title 'ANNUAL ACC IDAHO AWARDS GALA' is prominently displayed. A subtitle reads: 'The Association of Corporate Counsel, Mountain West Chapter, and our event sponsors congratulate the attorneys for their outstanding service to their organizations and community.' The graphic is divided into four quadrants, each with a category name above a circular placeholder for a name: 'LIFETIME ACHIEVEMENT' (KAREN GOWLAND), 'OUTSTANDING NEW CORPORATE COUNSEL' (MATT PURCELL), 'OUTSTANDING CORPORATE COUNSEL' (DAN DAY), and 'PRO BONO' (GENE RITTI).

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