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Interested in Becoming a General Counsel?

Some Reflections on the State of the Market

Robert A. Major, Jr.

No other area of legal practice is as popular today as going in-house, particularly with a dynamic and growth-oriented company. The legal and business press is replete with stories of lawyers who have achieved remarkable financial gains through stock options offered by early stage companies. In addition to economic incentives, many lawyers perceive going in-house as allowing them to be an integral part of a management team, an opportunity to "get closer to the business," and the ability to act proactively for a client as opposed to continually being in an after-the-fact position. The debate on whether in-house lawyers work fewer hours than those in private practice continues. The truth is sometimes yes, sometimes no, but the conventional wisdom holds that going in-house probably allows more control over one's schedule.

Major, Hagen & Africa is the leading legal search firm in the area of general counsel placement. In 1999, our firm handled more than 35 general counsel searches. All six of our offices have successfully completed general counsel searches. Each general counsel search is distributed internally to all MH&A offices, although some searches are designated by clients as "locals preferred" where the clients feel the need to have a general counsel with local market knowledge.

In the general counsel area, we have seen most activity in fast growth companies seeking their first general counsel. This makes sense: more mature companies often have a succession plan in place, whereby an internal candidate has already been designated to succeed an outgoing general counsel. Of course, some established companies do opt to "go outside" for a general counsel, but this is the exception rather than the rule.

Given the fact that the greatest activity in the general counsel area lies with emerging growth companies, the geographical areas of the country where those companies are headquartered tend to predominate: the "Silicon Valley" of Northern California, New York's "Silicon Alley," San Diego (especially for biotechnology), Seattle, Denver/Boulder (telecommunications), Austin (software), Boston (Route 128), the Northern Virginia area, and the "Research Triangle" of North Carolina.

Our firm's experience is that the Silicon Valley is the most active of these areas, reflecting the growth and maturity of the corporate community there. By way of example, three or four years ago, our California offices (San Francisco and Palo Alto) would place perhaps 10 general counsels a year. In 1998, we placed 15. In 1999, we did 25, a startling increase that corresponds with the development of Silicon Valley, as well as our firm's increased name recognition across industry lines (financial services, health care, technology, consumer products, insurance, energy, etc.)

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What, then, is the typical profile of the general counsel candidate? Clients are increasingly savvy about the profile that best suits their needs; they are often guided in this regard by their outside counsel. In terms of experience and practice area, lawyers who have practiced for fewer than seven or eight years are less likely to be considered, since they are viewed as not having the breadth and depth of experience. Corporate lawyers are vastly preferred over any other practice area. Our clients rarely specify a litigation background, or even a "best athlete." This preference is frustrating to litigator candidates, who argue that they are used to learning quickly new areas of the law, as well as knowing what often goes wrong in a deal. The fact is that the day-to-day business of most companies is contracts, joint ventures and strategic alliances, licensing, securities, mergers and acquisitions, and support of the manufacturing, marketing, sales, and distribution functions of the company. Lawyers who do this work have an understandable advantage over those that litigate these matters.

How important is previous in-house experience? We increasingly see clients stating a preference for lawyers who have been in-house. Some believe, correctly or not, that such lawyers better understand the corporate culture, have more developed team-building skills, and are better able get things accomplished in a responsive manner to their business clients. Because general counsel positions are in such high demand, with the number of candidates far outnumbering the positions, clients can also specify industry-specific experience: software companies want someone from their industry, and not from the semiconductor industry; semiconductor types prefer their colleagues over software lawyers. Obviously, there are many exceptions to this rule, but it is a preference that we often see.

We receive dozens of inquiries daily from lawyers in different parts of the country about general counsel positions. These lawyers state their willingness, indeed their eagerness, to relocate. The problem for out-of-towners is that general counsel positions are so highly sought after, clients need not "reach" very far. In most cases, there are scores of qualified people locally who want these jobs. Furthermore, local candidates have other advantages: they may be practicing in law firms or companies that are "household names." The client (usually the CEO or CFO) is likely to know someone in that law firm or company, and therefore references are more reliably and easily checked. As companies increasingly rely on strategic alliances, joint ventures and licensing arrangements, a local candidate's circle of professional acquaintances ("the Rolodex factor") may be a useful advantage, especially to a company whose management team is quite small. The local Bar accreditation is a requirement to some clients. Relocation costs are usually not a significant factor, but housing costs definitely are. Horror stories abound of CEOs spending months recruiting a candidate, only to have the move vetoed by a spouse who cannot accept the change in standard of living.

The result is that in many cases—especially in Northern California—an out-of-town candidate has to be truly spectacular to close the "gap" in comparison to local candidates. Given the profusion of well-credentialled candidates in the above geographical areas, that gap can be a formidable one.

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