



702:90 Tips in 90 Minutes: Law Department Best (and Worst) Practices

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Faculty Biographies

Daniel S. Hapke, Jr.

Daniel S. Hapke, Jr. is legal counsel and president of the board of directors of San Diego Habitat for Humanity, Inc. As an in-house generalist Mr. Hapke has experience in most of the substantive areas of the law affecting the companies that he has represented, as well as compliance programs, business ethics programs, and legal best practices.

Prior to his current position, Mr. Hapke was senior vice president and general counsel of Cordant Technologies Inc., a Fortune 600 manufacturer of commercial aerospace and automotive components based in Salt Lake City and now part of Alcoa. Before this position, he worked for General Dynamics Corporation in Falls Church, Virginia and Sverdrup Corporation in Pasadena, California.

Mr. Hapke served on the national board of directors of ACCA and he chaired that board. Currently, Mr. Hapke sits on the boards of San Diego Habitat for Humanity, Inc., San Diego Citizens Against Lawsuit Abuse, ACCA's San Diego Chapter, and eLawForum Corporation's Advisory Board.

Mr. Hapke holds a BS and a JD from St. Louis University and between college and law school he served three years of active duty in the U.S. Navy as a line officer on sea duty.

John B. Orgain

John B. Orgain is vice president and general counsel of Alex Lee, Inc. Alex Lee's primary businesses include food and nonfood distribution, food retail, foodservice distribution, and real estate.

Prior to Alex Lee, Mr. Orgain handled in-house responsibilities at Collins & Aikman Corporation and prior to that was in private practice with the law firm of Robinson Bradshaw & Hinson, P.A. After law school, he clerked for the Honorable Robert D. Potter, then Chief Judge of the United States District Court for the Western District of North Carolina.

Mr. Orgain serves in leadership positions in several bar and other associations as well as serving as a director on various boards.

Mr. Orgain received his undergraduate degree from Duke University and graduated from Harvard Law School.

Erica R. Siegman

Erica R. Siegman is associate general counsel for Enalays Corporation.

Prior to joining Enalays Ms. Siegman contracted with several San Diego law firms including Procopio, Cory, Hargreaves & Savitch, and Hillyer & Irwin in their business and transactional groups. Ms. Siegman also completed an externship with the California Department of Corporations. Prior to joining the bar, Ms. Siegman had a 15 year career in account management, sales and

marketing for a company specializing in data base management and software solutions (acquired by I2 Technologies).

Ms. Siegman is a member of the California Bar Association, National Bar Association, and ACCA. Ms. Siegman's community involvement includes Voices for Children, the Anti-defamation leagues' Steinberg Leadership Institute and Civil Rights Committee, and the Partnership in Education Mentoring Program.

Ms. Siegman holds a BA from the University of California at San Diego and a JD from the University of San Diego School of Law.

Francis Toldi

Francis Toldi is vice president-administration and general counsel for Determined Productions, Inc., a privately owned international company. Determined Productions represents owners of intellectual property in the character merchandise industry (including the Peanuts Characters and Felix the Cat), and designs and manufactures premium and promotional products (clients include Wendy's International, Macy's, Universal Studios Theme Parks, Whitman's Chocolate, and others). Mr. Toldi has a mix of business and legal responsibilities. Business responsibilities include administrative coordination of Determined's foreign offices and participation with the president in general management of the company. As a solo counsel, Mr. Toldi's legal responsibilities involve a variety of subjects, including review and preparation of contracts, intellectual property management, international trade, personnel management, and corporate law.

Prior to his position with Determined Productions, Mr. Toldi was an associate at the firm of Graham & James in San Francisco.

Mr. Toldi is presently the chair of ACCA's Council of National Committees. He is a past president of ACCA's San Francisco Bay Chapter, and founded the small law departments committee for that chapter. He currently serves as a chapter director-at-large. Mr. Toldi is also active with a number of local non-profit groups, sitting on the boards of the Insituto Pro Musica de San Francisco (a San Francisco musical arts organization) and Audubon Canyon Ranch (a Marin County nature preserve and educational organization).

Mr. Toldi received his BA from San Francisco State University and his JD from the University of San Francisco.

90 TIPS IN 90 MINUTES: BEST AND WORST PRACTICES**Preliminary List****1. BEST: PREPARE PERFORMANCE STANDARDS FOR ALL MEMBERS OF THE LEGAL DEPARTMENT**

Distribute the standards to all department members and to all members of senior management with an introduction along these lines: "Your lawyers and the other members of the Legal Department have developed and agreed upon ten Guiding Principles that are both internal standards and external measures of our performance. Please take the time to read the Guiding Principles and pass them on to those in your organization as you see fit. These principles are what management can expect of each member of the Legal Department."

Tips 2 through 11 are the content of the performance standards for the legal departments in which Dan Hapke served as General Counsel.

2. BEST: ORGANIZE AND PRIORITIZE

Organize for efficiency; plan ahead; try to be proactive rather than reactive; always apply resources justified by the significance of the issue being worked; develop realistic budgets and operate within them.

3. BEST: ALWAYS TRY TO BE IN THE LOOP

A lawyer shall attend all key business and staff meetings; try to spot problems and issues early; learn the business; understand the issues; bounce your ideas off others in the organization.

4. BEST: BE AVAILABLE

Return all phone calls and correspondence promptly; wander the halls occasionally; go to your clients' offices.

5. BEST: COMMUNICATE AND COORDINATE

Get to know your clients as people; give answers -- get to the point; give legal advice in person, then back it up with a short memo. Always do "Complete Staff Work."

6. BEST: BE PROACTIVE

Practice preventive law; constantly educate your clients so they can spot issues; and never pass up an opportunity to address a client audience.

7. BEST: SAY "NO" RARELY

... and then only as a last resort and with a full explanation why. The mission of the Legal Department is to support the Company's business objectives.

8. BEST: AVOID GAMES BUT BE A PLAYER

Avoid playing corporate politics -- in order to be effective, the Legal Department must be able to deal easily with everyone else in the Company; be persuasive -- not autocratic; and, always be a "team player" -- the good of the Company is more important than that of one division or department, etc.

9. BEST: VOLUNTEER TO DO THE WORK

Show a bias toward research from original sources; do your own document drafts (lots of them !); volunteer to do meeting action items lists, minutes and to draft documents - the results will always be more favorable to your client.

10. BEST: BENEFIT FROM THESE TENETS OF BUSINESS "RE-ENGINEERING":

- Embrace change as a constant, necessary and healthy part of life (the corollary is: be flexible, versatile and a generalist)
- Demand Absolute Candor
- Confront Reality
- Seize Accountability
- Lead Decisively
- Foster a Sense of Urgency

11. BEST: MAINTAIN THE HIGHEST QUALITY PERSONAL TRAITS

Integrity and intellectual honesty are crucial to our success; promote diversity in the Company and in the engagement of outside counsel, etc.; take your work seriously -- but not yourself; seek to put others at ease, one way is to keep it light -- use humor to defuse tense situations and negotiations; and balance your work and personal lives so that neither dominates or is neglected.

12. BEST: INFORM LEGAL MANAGERS OF THEIR LEGAL RESPONSIBILITIES

Draft a short paper on the legal responsibilities of the senior managers in your company. Present the paper at a management meeting and suggest the paper's pertinent messages be flowed down to direct reports.

13. BEST: TAKE ADVANTAGE OF A LEGAL CRISIS

Take advantage of a legal crisis if your company has or has had one. It can be used to illustrate the preventive law steps that should have been taken and the audience is usually more receptive in a crisis atmosphere.

14. WORST: PRACTICE THE "DR. NO" STRATEGY

Go to great lengths to overcome the "lawyer stereotype" as obstructionist rather than valued team member. One GC reported that he wrote a short, 2 page set of guiding principles

that served as both a statement of his expectations of members of the legal department and a commitment of service standards to the client.

15. BEST: BRING TOGETHER OUTSIDE COUNSEL

Hold training meetings in which all outside lawyers defending product liability cases for the company get together to share experiences, best practices and work product.

16. WORST: IGNORE WHAT THE OPPOSITION IS THINKING

Bring in an experienced plaintiff's product liability lawyer to brief senior management on best practices for minimizing product liability exposure.

17. BEST: CREATE AN ATTORNEY CLIENT RELATIONSHIP WITH THE ONE LAWYER OR FIRM YOU MOST WANT TO AVOID BEING SUED BY (!!)

18. BEST: INSIST ON USING YOUR OWN CONTRACTS

Whenever possible avoid signing documents prepared by vendors or other parties. Use bargaining power if you have it. If a vendor or service provider wants your business, insist that they use a contract drafted by your company. Make sure that these contracts are not one-sided (it could seriously backfire on you if they are unfair contracts) but your own form will greatly increase the likelihood of terms favorable to your company.

19. BEST: DEVELOP A FAMILY OF STANDARD DESIGN AND CONSTRUCTION CONTRACTS

Most businesses inevitably require the use of contracts with recurring themes. For example, counsel for a large manufacturer may require a large number of construction contracts. In that case, work closely with the facilities department to draft a family of contract documents for use in each of these building projects such as a standard design agreement to engage engineers and architects and a standard fixed price construction contract with general conditions. For the unavoidable fast track projects you could have a standard design/build agreement including a guaranteed maximum price. Over a period of years you will enjoy considerable savings.

20. BEST: INSTILL IN MANAGEMENT A DESIRE TO CONSULT WITH THE LEGAL DEPARTMENT

Many in-house lawyers complain of the challenge a new department's GC has in getting management members to come to the legal department at all. Learn how to communicate better with management—what are their key issues and concerns? How do they communicate? What is their style? Take the time to build your rapport from which trust will emerge.

21. WORST: DAMN THE TORPEDOS—IGNORE COST BENEFIT CONSIDERATIONS!

Don't find yourself allowing a law firm defending a \$400,000 contract claim to run up legal fees exceeding the \$400,000 prayer. Failing to help management anticipate the magnitude of outside counsel expenses, especially in litigation, is a common worst practice. Allowing in-house patent counsel to get all caught up in the excitement about a technological breakthrough and pursue patent protection without stopping to subject the breakthrough to an objective and rigorous cost/benefit analysis. This mistake leads to GCs that have portfolios full of patents that never pay for themselves, let alone generate net profits

22. WORST: WHEN HIRING, GO STRICTLY FOR THE ACADEMIC BEST

Don't ignore "off the resume" qualities. Hiring an in-house lawyer with a great academic record and some practice experience but no in-house experience will not alone guarantee that the lawyer will adjust to and thrive in the in-house practice environment.

23. WORST: BE LITERAL IN RESPONDING TO INQUIRIES

Don't answer the precise question the client asked without taking the time to explore all the issues to be sure the answer is to the question that should have been asked in the first place. Don't merely answer the question asked.

24. WORST: NEW GC's NEED ONLY WORRY ABOUT BIG LEGAL ISSUES

When promoted or hired to your first GC position, it is a mistake to think that the GC job is primarily about big legal issues. A lot of the challenge in that position is about dealing with the CEO, senior management and the Board.

25. WORST: NEGLECT DUE DILIGENCE CONSIDERATIONS

Don't fail to understand the depth of the due diligence that is required before a particular decision is made.

26. WORST: BELIEVE THAT COMMUNICATING WITH ENGINEERS AND OTHER NON-LEGAL PROFESSIONALS IS IMPOSSIBLE

When your company's lifeblood is the technology and science it creates and uses, many of the people you will perform legal work for will be engineers and scientists. Too many GCs fail because they never overcome the challenge of communicating legal issues and advice to these engineers and scientists.

27. WORST: DON'T BOTHER KEEPING UP WITH THE LATEST TECHNOLOGY

Too few GCs make adequate use of today's technology to make their SLD more effective and efficient.

28. WORST: IGNORE YOUR SUBORDINATE STAFF

GCs in departments with subordinate lawyers and paralegals often fail to make it clear to them just exactly what the GC does.

29. WORST: IGNORE STAFF IN OTHER DEPARTMENTS

It is easy to forget about the staff of whatever level in other departments. Valuable information and insights can come from all levels and all departments. Stay aware and tuned to good information wherever you find it.

30. BEST: WEAR "MULTIPLE HATS"

Many attorneys—even GCs in small companies and startups--are serving in additional positions such as head of HR. Be ready to take on new challenges, even if they aren't traditionally associated with a law department.

31. WORST: WEAR "MULTIPLE HATS"

When you take on additional duties, make sure that you have the competence to handle the new tasks. Members of small law departments often complain about being spread too thin and working under a lot of pressure. In an environment like this it's easy to make mistakes. You should also carefully explore the ramifications of assuming "non-legal" responsibilities, such as the effect they might have on maintaining attorney-client privilege. This is a complex area and requires care.

31. BEST: BE INNOVATIVE IN OUTSIDE COUNSEL MANAGEMENT

Don't be afraid to make significant changes in how you structure your outside counsel relationships. For example, one GC spent a lot of time consolidating outside counsel relationships in order to flatten learning curves and to aggregate demand to bring the cost of outside counsel down. Because the company was rapidly expanding through acquisitions, the GC put out a list of the "approved" outside counsel for eight areas of the law.

32. WORST: DON'T CLOSELY MONITOR YOUR CHANGED PROCEDURES

Closely track changes and innovative ideas. There might be unexpected results, not always for the better. Following the previous example, a few months after putting out the "approved" list bills from the approved labor and employment firm started coming in at a much higher rate. It turns out that the HR VP of a subsidiary had stopped running his questions and documents through the legal department and was sending everything outside. When confronted about this, the HR VP's response was, "What's the problem, they're on the approved list?"

33. BEST: UNDERSTAND WHAT YOU DELEGATE TO OUTSIDE COUNSEL

Have as good an understanding as possible of the law around the work you delegate to outside counsel. Review all work product and question anything that raises a flag or that you

don't understand. Outside counsel may not understand your organization as clearly as you do. Similarly, when you request outside counsel to make a change to something they've drafted, clearly state the intended affect of the change you've requested and ask specifically if the change will have any unintended effects.

34. BEST: BE ASSERTIVE AND INNOVATIVE WHEN MANAGING OUTSIDE COUNSEL

Be proactive and creative when negotiating with outside counsel. Look for alternate ways to meet your Company's needs.

35. WORST: FREELY REVISE DOCUMENTS DRAFTED BY OUTSIDE COUNSEL WITHOUT THEIR COUNSEL

Be careful when you change documents prepared by outside counsel, particularly when dealing with a subject outside of your primary expertise and in highly regulated areas of law as your changes may take the Company outside of legal compliance with state and/or federal law.

36. BEST: DON'T FORGET TO RESOURCE STATE AND FEDERAL WEBSITES WHEN RESEARCHING LEGAL QUESTIONS OR AREAS OF LAW

This is a good, inexpensive way to gain knowledge of an area of law and associated issues. Subscription services such as Westlaw and Lexis may have lists of state and federal agencies with associated websites. Findlaw (www.findlaw.com) is another place to find website addresses as well as a good place to start research on any issue.

37. BEST: DON'T FORGET TO RESOURCE MAJOR LAW FIRM WEBSITES WHEN RESEARCHING LEGAL QUESTIONS OR AREAS OF LAW

This is another good, inexpensive way to gain knowledge of an area of law and associated issues (But if you sign the guestbook get ready for a lot of e-mail from your new friends!).

38. BEST: RESOURCE GOVERNMENT AGENCIES WHEN RESEARCHING REGULATORY QUESTIONS

Pick up the phone and call the SEC, USPTO, relevant state agency etc. Most have 'duty' attorneys who are more than happy to help you with your questions.

39. BEST: CREATE AN INDEXED DOCUMENT OF BOILERPLATE CONTRACT LANGUAGE

This saves time, promotes consistency and acts as a checklist for contract drafting.

40. BEST: CALENDAR TRADEMARKS AND OTHER DATE SENSITIVE WORK

This insures you never miss deadlines/run up costs. Even if you outsource your trademarks or other date sensitive work, don't just rely on your outside counsel to do this important function.

41. BEST: MANAGE AND TRACK CONTRACTS WITH AN EYE TO COMPANY GOALS

Every contract your Company enters has the potential to be subject to due diligence review of business partners, potential merger and/or acquisition candidates or underwriters. Managing contracts with an eye to this possibility will assist in organization, drafting, time and energy both currently and in the future.

42. BEST: STAY ON TOP OF SALES PROCESSES AND PEOPLE

Assume your Company will be liable for ALL representations made by sales personal. Implement checks and balances to insure no representations and/or side agreements are made by sales persons and that sales processes and policies are standardized.

43. BEST: EARN THE TRUST OF MANAGEMENT

Get everyone to know you as someone they can turn to get them out of trouble or help them avoid getting into trouble. In other words, try to position yourself as a "go to" person for both pre-action advice and post-action damage assessment and control if necessary.

44. BEST: KNOW THE DEAL AND BE REALISTIC IN CONTRACT DRAFTING, REVIEW AND NEGOTIATION.

When writing, reviewing or negotiating a contract know the difference between the unfavorable contract provisions and the deal breakers because of the magnitude of potential detriment to the Company. If management does go forward and accept significant unfavorable provisions, make sure there is written documentation in the file that you communicated the risks to management (i.e. that they were "warned").

45. BEST: START THINKING LIKE A BUSINESS PERSON

Be proactive in gaining business/finance knowledge.

46. WORST: ACT LIKE A BUSINESS PERSON

Yes, you should understand the mind and process of the business people, but never forget that you are the LAWYER. Don't confuse understanding with function within the organization.

47. BEST: HAVE AN EMPLOYEE HANDBOOK

Having a well written, easy to understand Employee Handbook is good and prudent practice. Have your employees/consultants sign acknowledgements that they've received, read and understand the Handbook. Be diligent in adding new policies to the handbook because once you set up your handbook as a procedural guide, it may be hard to prove a policy that's not in there.

48. WORST: HAVE AN EMPLOYEE HANDBOOK BUT DON'T FOLLOW IT

Having a handbook but not following it can get you in trouble. You could conceivably invalidate the provisions that you DO follow by having too many exceptions ("Oh, we have a handbook but nobody pays any attention to it.")

49. BEST: MAKE TIME FOR CORPORATE GOVERNANCE AND COMPLIANCE

Don't let corporate governance, compliance and educational training become "rainy day" issues—issues that you mean to get to but the press of business prevents you from giving them their proper attention. (but see Tip #74)

50. BEST: MAINTAIN SUFFICIENT INDEPENDENCE FROM EXECUTIVES

Always hear both sides of a story before making any judgment about anything. Make decisions without fear of reprisal. Be known and respected for your integrity. Be aware of those who will make end-runs around you and be prepared to address this.

51. BEST: ESTABLISH AN INDEPENDENT AND SUPPORTIVE RELATIONSHIP WITH THE BOARD

Use the board effectively to garner support for your position. Build an independent relationship with the Board members. Try to avoid having a strictly derivative relationship (e.g. your only contact is through the C.E.O. or other officer).

52. BEST: KNOW/LEARN THE BUSINESS

Understand the production, distribution, marketing, etc. Learn the lingo. To be an effective member of the team you must know the business. You should understand the financial side of the business as well, such things as discounted cash flows, revenue recognition rules, asset impairment, etc. A lawyer and team member who understands the business is invaluable.

53. BEST: KNOW/LEARN THE CULTURE

Soft skills/people skills count. Many technically proficient lawyers do not add enough value to the business because they are not sought out, trusted members of the business team. If

everyone arrives at 7:00 a.m., maybe you should not come in at 11:00 a.m. on a regular basis. You do not want to be known as an ivory tower lawyer.

54. BEST: MANAGE YOUR RELATIONSHIP WITH THE CEO

Although the CEO may not be your client in the technical sense, this relationship (assuming you report to the CEO) can make or break you. Understand what the CEO expects of you and deliver. Communicate, build trust and avoid surprises.

55. BEST: NETWORK WITH OTHER IN HOUSE COUNSEL

Develop a network of other in house counsel as a resource for forms, ideas and discussion. It should be a two way street. Give at least as much as you receive. Industry conferences and bar association events and committees provide good opportunities for developing your resource network.

56. BEST: GET ORGANIZED

Have binders or electronic files accessible with the key corporate documents and forms. Administrative and paralegal support are incredibly helpful here. You will be much more productive if you get organized.

57. BEST: GET TO THE POINT

Speak and write in concise and plain English. Save the scholarly legal treatises for legal publications. Your management team and Board want to know what you are telling them and why it matters. You are supposed to wade through all of the legal Mumbo jumbo and translate it into timely, relevant and useful information.

58. BEST: BE RESPONSIVE

Respond to people promptly. Deal with it then or let them know your schedule or plan or who will be handling the matter. Do not be seen as a black hole or as an obstacle to getting things done. Very rarely, should your first response be a categorical NO. You need to understand the business goals and explore legal ways to achieve those goals if they are appropriate. Where possible, be a solution provider rather than a nay sayer.

59. BEST: BE ETHICAL

You need to set an example in this area. Make it one of the Company's highest priorities. Make sure the business ethics policies are taken seriously and audited. Conflicts of interest should be vetted thoroughly. Gift logs should be maintained and regularly reviewed. Send articles about ethical lapses in your industry and elsewhere around routinely.

60. BEST: WALK AROUND

Invariably, you will spend more time than you like in a reactive mode. Try not to be chained to your desk or only see your colleagues in large formally scheduled meetings. Walk around and talk to department heads and others not only to get to know them better (which is important), but to find out what issues they are dealing with and how you can help. It makes you much more part of the team and allows you to address issues earlier in the process where you may be more effective.

61. BEST: BE PROACTIVE

If you are not proactive, 100 percent of your time will be reactive. Push value added projects. Schedule time to work on them and stick with it. Demonstrate the value you bring to the business. Preventive law is an area that can produce tremendous results.

62. BEST: SET UP SYSTEMS

Have forms and policies available on the intranet or through other means. Try not to do the same work twice. Use what you or others have done before as a base to build on.

63. BEST: TRAIN YOUR COLLEAGUES

Business people will listen and ask questions of someone they know and trust more readily than of a third party. Especially in areas such as employment and antitrust, there is a great deal of return for your time. Compliance programs require more than just policies; training is essential.

64. BEST: REALLY MANAGE OUTSIDE COUNSEL

You will be held responsible for what they do. Discuss budgets regularly and avoid surprises. Select ethical, trusted counsel and nourish the relationships. Try to help them as much as they help you. It should be a real partnership. Make sure you understand what work is being done and why it is being done. If you do not understand what outside counsel is telling you, keep asking until you do.

65. BEST: REALLY MANAGE YOUR TIME

Prioritize ruthlessly. Routine work should be given to others in the organization or to outside counsel. Spend your time where it adds the most value. However, it may not be wise to delegate all of the work given to you by the CEO. Schedule time on your calendar each day to deal with the unexpected; the unexpected will happen.

66. BEST: GET RID OF THE JARGON IN YOUR WRITING

Don't include words just because they are always in the forms you used. Practice the art of clear and plain writing. To help you with your mission, download free software from Deloitte

& Touche website (www.dc.com/bullfighter) that identifies potential jargon in your writing and suggests simpler alternatives.

67. BEST: RECOGNIZE YOUR LIMITS IN TIME AND EXPERTISE

We convinced you earlier to be flexible, to avoid being the one who says “no,” perhaps to wear different hats. You also have to be mindful of what you can’t do, either because it is beyond your ability or you just don’t have the time to do it.

68. WORST: CREATE A LEGAL FORM THAT WON’T BE IMPLEMENTED BY YOUR BUSINESS PEOPLE

So you have drafted the perfect form. The problem is it is unintelligible to its users. Or it is not practical in the real world, or perhaps the business person will never be able to deliver what is promised in the agreement. Also be sure it is published in a format that people who do not attend the meeting can read and understand.

69. BEST: DON’T BE AFRAID TO SAY “I DON’T UNDERSTAND”

There is considerable pressure—some of it self-inflicted—to be the know-it-all, the one with all of the answers. Sometimes someone will refer to a term of art or include a complex concept in an agreement that just doesn’t make sense to you. Don’t be afraid to say that you don’t understand what it means. Probably half of the other people in the meeting will breath a sigh of relief when you do so, because they didn’t understand either, but were afraid to say so.

70. WORST: BE A PROFESSIONAL HERMIT

It’s so easy to just dig in to your job, do your work, then go home. Be sure to allow some time to get involved with your trade group, with ACCA, or with other bar associations, even if you aren’t the “social” type. Maybe ESPECIALLY if you aren’t the social type. Of course you can’t join and be active in them all and shouldn’t spread yourself too thin. Being involved, however, gives both current and future benefits. Your next job could depend on it.

71. BEST: WORK A BOOTH AT A TRADE SHOW

If your company attends trade shows arrange to be a regular staffer at the booth from time to time. That will give you a hands on (and fast paced!) understanding of what your business people are facing day to day.

72. WORST: NEGLECT THE REST OF YOUR LIFE

Work is important, but don’t sacrifice the rest of your life, or you won’t have a life and maybe not a job, either. Your spouse, kids, community and outside interests all make you a better, more balanced person, which in turn makes you a better worker.

73. BEST: BUILD YOUR COMPANY A PYRAMID

Like all pyramids, the key is the foundation. For a company the foundation must be the business ethics program and its standards of conduct document. The program is "wall to wall" and applies to all employees regardless of title or level.

74. BEST: THE PYRAMID'S CENTER SECTION IS A COMPLIANCE PROGRAM

Without the business ethics foundation, a compliance program is doomed to failure. The compliance program is narrower and is not "wall to wall", e.g. the people on the shop floor need not know much about anti-trust but the folks in sales and acquisitions certainly must.

75. BEST: THE PYRAMID'S POINT IS A PROGRAM OF LEGAL BEST PRACTICES

This is the narrowest part of the pyramid. It is led by and often confined to the legal department. These best practices are shaped by the type of business the client company is in. A few examples are pre-execution contract reviews; selective over-compliance in the environmental area (Should we decide to remove all asbestos and PCB fluid, whether required by regulations or not?); due diligence standards in acquisitions.

76. WORST: RESPOND TO EVERYTHING

Personally deal with every issue as it comes in. Refuse to involve others or delegate. Do not waste time setting priorities.

77. WORST: INSIST ON USING YOUR OWN CONTRACTS

Why have a Mexican Standoff if the other party's contract is reasonable. You may be able to achieve more valuable concessions by agreeing to start negotiations from the other party's form.

78. WORST: IMMEDIATELY CHANGE OUTSIDE COUNSEL WHEN HIRED AS THE NEW GC

Even if you have good relationships with other law firms, there is much to learn from existing outside counsel (and the former GC if there was one) that have a "history" with the Company's legal matters and management.

79. BEST: LET NONLAWYERS HANDLE CERTAIN MATTERS

Let nonlawyers handle routine matters with your input as necessary. Push legal information out into the organization. Be a resource, not a hurdle.

80 . BEST: HIRE A STRONG ASSISTANT AND STAFF

Look for good organizational and communication skills. Keep your team involved and challenged. Train and encourage career development.

81. BEST: BUILD OR DEVELOP AN ELECTRONIC LIBRARY

Dispense with paper filing and dusty books. Save the books for pleasure reading. Electronic libraries are cheaper and more efficient. The internet has a wealth of information.

82. BEST: LEARN TO BUDGET AND LIVE WITHIN BUDGETS

The legal department does not have an exemption from the budget process. Plan you budgets carefully and demonstrate return for your expenditures. Make sure your outside counsel appreciate the importance of budgets.

83. BEST: TEST YOUR IDEAS/EXPLANATIONS WITH NONLAWYERS

Remember your audience. What may be interesting or persuasive to other lawyers may not be to any or all other groups within the Company. Find out whether you are tailoring your presentation to the group that needs to understand your message. Do not assume it is, ask nonlawyers for comment. Humor is often helpful to get your point across with different employee groups.

84. BEST: PERSUADE RATHER THAN ORDER

"Laying down the law" is appropriate only in very specific circumstances. Persuasion is the grist of the General Counsel mill. Building trust with your colleagues and earning their respect helps make it easier to persuade. Obviously, good preparation and solid legal work are essential.

85. BEST: CREATE A TEXT SEARCHABLE CONTRACT/DOCUMENT DATABASE

Such a database is useful for comparing provisions, checking most-favored-nation clauses, building new contracts. The database also flags renewal dates, termination dates, etc.

86 . BEST: COMMUNICATE OFTEN

Communicate often with your boss, other executives, your staff and other employees. Avoid surprises. Keep people apprised of significant developments.

87. WORST: COMMUNICATE TOO OFTEN

Your colleagues will start to ignore (or dread) your emails and memos. Keep some of your powder dry for more important issues. Endless cc's to those that are not appropriate are irritating at best.

88. WORST: CONCENTRATE YOUR CLE TRAINING IN ONLY ONE SUBSTANTIVE AREA

As general counsel, you will be expected to have broad enough knowledge of the legal arena to identify issues and know when to seek help from other sources. Staying abreast of developments in a number of areas (not just your specialty) is crucial.

89. BEST: USE A VARIETY OF INPUT IN HIRING OUTSIDE COUNSEL

Seek references from other inside counsel that have experience with the outside counsel under consideration. Where appropriate, meet the outside counsel in person. Get details about the outside counsel's substantive experience and style of practice. Academic credentials are important, but are just one component.

90. BEST: HIRE QUALITY OUTSIDE COUNSEL

Cost is just one factor. Quality of work, responsiveness, appreciation of the way the Company's business works, style of practice and personal connection are some of the other important factors. Ethical outside counsel and counsel with which you can build a relationship based on mutual trust are essential.

And three "bonus" tips!

91. BEST: UNDERSTAND THE ROLE OF THE LEGAL DEPARTMENT

The legal department is one component of the overall business. Pick your battles and be willing to compromise unless it is an ethical issue or a violation of law.

92. BEST: TEACH CONFIDENTIALITY IN THE CORPORATE ENVIRONMENT

Do not assume that everyone understands the importance of confidentiality. Educate those in the Company about why it is important and the potential consequences of a breach of confidentiality.

93. BEST: REVIEW ALL POLICIES PERIODICALLY

Make sure all policies are up to date and still relevant. Are there gaps in the policies? Are the policies understandable to the Company's employees? Are the policies followed and enforced uniformly?

Submitted by Dan Hapke, John Orgain, Erica Siegman and Francis Toldi

90 Tips in 90 Minutes: Best & Worst Practices

90 Tips in 90 Minutes: Best & Worst Practices General Tips

Best: Prepare performance standards for all members of the legal department

Best: Organize and prioritize

Best: Always try to be in the loop

Best: Be available

Best: Communicate and coordinate

**90 Tips in 90 Minutes:
Best & Worst Practices
General Tips Cont'd**

Best: Be proactive

Best: Say "NO" Rarely

Best: Avoid games but be a player

Best: Volunteer to do the work

Best: Maintain the highest quality personal traits

**90 Tips in 90 Minutes:
Best & Worst Practices
General Tips Cont'd**

Best: Benefit from these tenets of business "re-engineering"

- Embrace change as a constant, necessary and healthy part of life (the corollary is: be flexible, versatile and a generalist)
- Demand Absolute Candor
- Confront Reality
- Seize Accountability
- Lead Decisively
- Foster a Sense of Urgency

**90 Tips in 90 Minutes:
Best & Worst Practices
Communication Tips**

- Best: Communicate often
- Worst: Communicate too often
- Best: Earn the trust of management
- Best: Instill in management a desire to consult with the legal department
- 16. Best: Manage your relationship with the CEO

**90 Tips in 90 Minutes:
Best & Worst Practices
Communication Tips Cont'd**

- Best: Maintain sufficient independence from executives
- Best: Establish an independent and supportive relationship with the Board
- Best: Take advantage of a legal crisis
- 20. Best: Inform legal managers of their legal responsibilities

**90 Tips in 90 Minutes:
Best & Worst Practices
Communication Tips Cont'd**

Worst: Believe that communicating with engineers and other non-legal professionals is impossible

Best: Test your ideas/explanations with non-lawyers

Worst: Create a legal form that won't be implemented by your business people

Best: Don't be afraid to say "I don't understand"

**90 Tips in 90 Minutes:
Best & Worst Practices
Communication Tips Cont'd**

Best: Understand the role of the legal department

Best: Teach confidentiality in the corporate environment

Worst: Be Literal in responding to inquiries

Best: Get to the Point

**90 Tips in 90 Minutes:
Best & Worst Practices
Communication Tips Cont'd**

Best: Be Responsive

30. Worst: Practice the "Dr. No" Strategy

31. Best: Persuade rather than order

**90 Tips in 90 Minutes:
Best & Worst Practices
Department Organization Tips**

Best: Get Organized

Best: Set up Systems

Best: Train your colleagues

Worst: Ignore your subordinate staff

Worst: Ignore staff in other departments

**90 Tips in 90 Minutes:
Best & Worst Practices
Department Organization Tips Cont'd**

- Best: Let non-lawyers handle certain matters
- Best: Hire a strong assistant and staff
- Worst: When hiring, go strictly for the academic best
- Best: Stay on top of sales processes and people

**90 Tips in 90 Minutes:
Best & Worst Practices
Department Organization Tips Cont'd**

- Best: Make time for corporate governance and compliance
- Best: Learn to budget and live within budgets
- Worst: Damn the torpedoes – ignore cost benefit considerations
- Best: Really manage your time

**90 Tips in 90 Minutes:
Best & Worst Practices
Department Organization Tips Cont'd**

- Best: Build your company a pyramid
- Best: The pyramid's center section is a compliance program
- Best: The pyramid's point is a program of legal best practices

**90 Tips in 90 Minutes:
Best & Worst Practices
Department Organization Tips Cont'd**

- Best: Have an employee handbook
- Worst: Have an employee handbook but don't follow it
- Best: Review all policies periodically
- Worst: Don't closely monitor your changed procedures

**90 Tips in 90 Minutes:
Best & Worst Practices
Contract Review & Drafting**

Best: Know the deal and be realistic in contract drafting, review and negotiation

Best: Develop a family of standard design and construction contracts

Best: Create a text searchable contract/ document database

**90 Tips in 90 Minutes:
Best & Worst Practices
Contract Review & Drafting Cont'd**

Best: Create an indexed document of boilerplate contract language

Best: Get rid of the jargon in your writing

Best: Manage and track contracts with an eye to the future

Best: Insist on using your own contracts

Worst: Insist on using your own contracts

**90 Tips in 90 Minutes:
Best & Worst Practices
Research and Information Gathering**

Best: Network with other in house counsel

Worst: Neglect due diligence considerations

Best: Work a booth at a trade show

Worst: Don't bother keeping up with the latest
technology

**90 Tips in 90 Minutes:
Best & Worst Practices**

Research and Information Gathering Cont'd

Best: Build or develop an electronic library

Best: Resource state and federal websites

Best: Resource major law firm websites

Best: Resource government agencies when
researching regulatory questions

**90 Tips in 90 Minutes:
Best & Worst Practices
Management of Outside Counsel**

Worst: Immediately change outside counsel when hired

Best: Be innovative in outside counsel management

Best: Hire quality outside counsel

Best: Use a variety of input when hiring outside counsel

**90 Tips in 90 Minutes:
Best & Worst Practices
Management of Outside Counsel Cont'd**

Best: Understand what you delegate to outside counsel

Best: Be Assertive and Innovative when managing outside counsel

Worst: Freely revise documents drafted by outside counsel without their counsel

Best: Really manage outside counsel

**90 Tips in 90 Minutes:
Best & Worst Practices
Management of Outside Counsel Cont'd**

Best: Bring together outside counsel

Best: Calendar trademarks and other date sensitive work

Worst: Ignore what the opposition is thinking

Best: Create an attorney client relationship with the one lawyer or firm you most want to avoid being sued by

**90 Tips in 90 Minutes:
Best & Worst Practices
Self Management**

Best: Know/learn the culture

Best: Know/learn the business

Best: Start thinking like a business person

Worst: Act like a business person

**90 Tips in 90 Minutes:
Best & Worst Practices
Self Management Cont'd**

Best: Wear multiple hats

Worst: Wear multiple hats

Best: Recognize your limits in time and expertise

Worst: Concentrate your CLE training in only one
substantive area

**90 Tips in 90 Minutes:
Best & Worst Practices
Self Management Cont'd**

Worst: New General Counsel need only worry
about big legal issues

Worst: Respond to everything

Best: Walk around

Best: Be Proactive

**90 Tips in 90 Minutes:
Best & Worst Practices
Self Management Cont'd**

Worst: Be a professional hermit

Best: Be Ethical

Best: Participate in the rest of your life