



## 401:CHAIRS CHOICE Three Things I Did That Really Made A Difference

**Renie Yoshida Grohl**

*Senior Vice President & Deputy General Counsel*

Fannie Mae

**Neal A. Jackson**

*Vice President for Legal Affairs, General Counsel and Secretary*

National Public Radio, Inc.

**Joia M. Johnson**

*Executive Vice President, Deputy General Counsel & Secretary*

RARE Hospitality International, Inc.

**Carolyn Kimbrough Davis**

*Assistant General Counsel-Labor & Employment Law*

Cardinal Health, Inc.

## Faculty Biographies

### Renie Yoshida Grohl

Renie Yoshida Grohl is senior vice president and deputy general counsel at Fannie Mae. She has responsibility for the 40 Fannie Mae attorneys providing advice regarding Fannie Mae's single family and housing and community development businesses, including, asset acquisition, product development, securitization, and asset management.

Prior to joining Fannie Mae, Mrs. Grohl was deputy general counsel at the Federal Housing Finance Board in Washington, DC, and managed the legal division. She also has served as senior vice president and group executive for regulatory affairs at the U.S. League of Savings Institutions and was a partner at the law firm of McKenna, Conner and Cuneo.

She currently serves as the budget officer for the Section of Business Law of the ABA. She has chaired the Business Law Section's Savings Institutions Committee, Strategic Planning Committee, and the Section Planning and Review Committee. She also served as a member of the Section Council.

Mrs. Grohl received her AB, *magna cum laude*, from Radcliffe College, Harvard University, and her law degree from the University of California at Berkeley. She was a member of the *California Law Review* and the Moot Court Board at the University of California.

### Neal A. Jackson

Neal A. Jackson is vice president for legal affairs, general counsel, and secretary of National Public Radio, Inc. He serves as the corporation's chief legal officer, secretary to its board of directors, and manages its seven-lawyer Office of the General Counsel.

Prior to joining NPR, Mr. Jackson was in law firm practice in Washington, DC, most recently as a partner in Bell, Boyd & Lloyd, where he specialized in corporate and commercial litigation and transactions.

He serves on the board of trustees and as secretary of the Cathedral Choral Society of Washington and also provides pro-bono legal services for the Joint ABA-UNDP International Legal Resource Center. He previously served as a member, and then chair, of a hearing committee of the Board on Professional Responsibility of the District of Columbia Court of Appeals.

Mr. Jackson received his AB from the University of North Carolina at Chapel Hill and his JD from the Georgetown University Law Center.

## Joia M. Johnson

Joia M. Johnson serves as executive vice president, general counsel, and secretary of RARE Hospitality International, Inc., an Atlanta-based company that owns, operates, and franchises the restaurant concepts, LongHorn Steakhouse, The Capital Grille, and Bugaboo Creek Steak House, as well as the specialty restaurants, Hemenway's and Old Grist Mill. In her capacity, Ms. Johnson manages the company's legal function and has responsibility for the management of the company's real estate, construction, and facilities functions.

Before joining the Company, Ms. Johnson served as vice president, general counsel, and secretary of H.J. Russell & Company, a real estate development, construction, and property management firm. For six years during her employment with H.J. Russell & Company, she served as corporate counsel for Concessions International, Inc., an airport food and beverage concessionaire and affiliate of H.J. Russell & Company. Early in her career, she was an associate in the securities practice of Long, Aldridge & Norman, one of the largest law firms in Atlanta.

Ms. Johnson is very active in her professional and civic communities, serving on the board of directors and executive committee of the American Arbitration Association, the executive committee of the corporate counsel section of the State Bar of Georgia, and the boards of directors of the Georgia Conservancy, the Board of Director's Network, the Atlanta Contemporary Art Center, and other civic organizations. She also serves on the public company board of directors of National Service Industries, Inc. and on their audit committee.

She received her Bachelor's from Duke University and her JD and MBA from the University of Pennsylvania School of Law and The Wharton School of Business, respectively.

## Carolyn Kimbrough Davis

Carolyn Kimbrough Davis is the assistant general counsel, labor & employment law with Cardinal Health, Inc, reporting to the chief legal officer. She has responsibility for managing the labor and employment section of the legal department and providing counsel on a wide variety of labor and employment matters, including employment litigation and claims for the entire corporation. She is also a member of the senior leadership team.

Prior to joining Cardinal Health she was managing counsel, labor and employment law & human resource director for Dow Corning Corporation, in Midland, Michigan, and also was a member of senior leadership.

Ms. Kimbrough Davis is a member of the ABA, National Bar Association, Ohio and Michigan State Bar Associations, ACCA, and the Minority Corporate Counsel Association. Certified as a Senior Professional in Human Resources (SPHR) she has been a speaker at local, state, and national conferences. Additionally, she has written several articles on employment law topics. She is a big sister in the Big Brother/Big Sister program, serves as a board member for the Rosemont Center for at-risk youths, was recognized in *Who's Who in Black Columbus* and was recently named as one of 15 leaders to watch by *Diversity & the Bar*.

She holds a Bachelors from Eastern Michigan University, Masters from the University of Michigan, and a JD from Cleveland Marshall College of Law.

*Practice #4*

# Comprehensive Fees Management

**Description**

Fannie Mae develops a comprehensive outside counsel cost-management system, consisting of a dedicated fees manager, a triaged invoice review process, and cost-focused compensation-based incentives for in-house attorneys.

Practice Scorecard		
Start-Up Costs	★ ★	Low
Implementation Time	★ ★ ★	Moderate
Ongoing Costs	★ ★ ★	Moderate
Expected Return	★ ★ ★ ★ ★	Very High

**Conclusion #34:** Facing increased pressure to control legal costs, Fannie Mae provides in-house attorneys with the tools and incentives to focus on reducing outside legal spending. More specifically, Fannie Mae appoints a dedicated fees manager, creates a more streamlined invoice review process, and provides all in-house attorneys with cost-related compensation-based incentives.

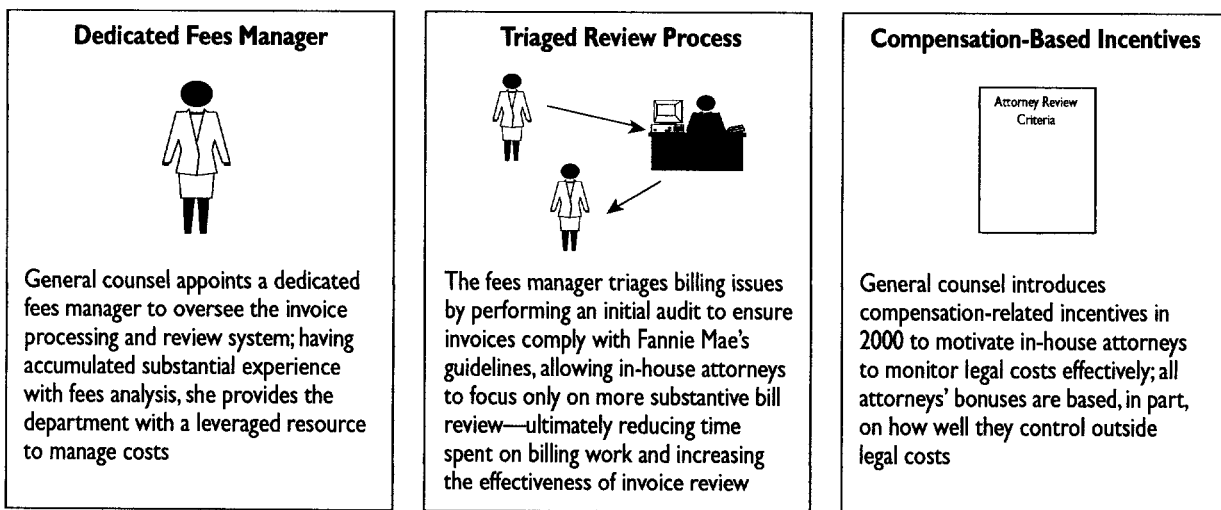
## Exercising Cost Control

### CASE STUDY: FANNIE MAE FannieMae

- Fannie Mae, headquartered in Washington, D.C., is a financial services company that purchases mortgages from lenders and packages them for resale; it has \$44.1 billion in annual revenues; 4,350 employees; 96 in-house attorneys.
- Given rising outside counsel billing rates and heightened pressure to drive down costs, Fannie Mae seeks to increase its in-house attorney cost-consciousness with regard to outside counsel fees.
- In 1997, Fannie Mae develops a comprehensive fees management system to provide attorneys with the resources and incentives to ensure rigorous invoice management.

### *Seeking to Reduce Legal Costs, Fannie Mae Develops a Comprehensive Fees-Management System*

#### Components of Fannie Mae's Comprehensive Fees-Management System



Source: Fannie Mae; General Counsel Roundtable research.

## COMPONENT ONE

**Conclusion #35:** To ensure the legal department is highly focused on outside counsel cost cutting, Fannie Mae appoints a non-attorney fees manager—someone whose job it is to ensure outside counsel comply with billing expectations.

# THE DEDICATED

## *Fannie Mae deploys a tenured department resource...*

### Ms. Julia Becker\*: Fannie Mae's Dedicated Legal Fees Manager

<b>JULIA BECKER</b>	
EDUCATION	Durham Business College (September 1969–May 1971) Durham, North Carolina Graduated: Secretarial Science
SPECIAL SKILLS	WordPerfect, MS Access, DCA-IBM Access, Lotus 123, CaLANdar
WORK EXPERIENCE	Fannie Mae Legal Department <i>Project Manager/Legal Fees Administrator</i> (June 1999–Present) Manage legal bill invoices from arrival in legal department through payment. Generate legal fee reports for monthly, quarterly, and annual budget meetings. <i>Accounting Technician</i> (December 1996–May 1999) Input legal fee data into legal matters management database. <i>Legal Secretary/Administrative Associate</i> (July 1987–November 1996) Provided secretarial and administrative support for multiple attorneys. Assisted in coordination, preparation, and maintenance of budget for unit.

Over time, each position provides experience with different budget-related tasks, which ultimately enables her to manage the legal department's invoice system effectively

\* Pseudonym.

## OWNING LEGAL COST MANAGEMENT

“Our dedicated fees manager tracks and executes all legal bills. The position was originally designed to be temporary; however, after six months we realized the need to assign permanent ownership of legal cost management...having a fees manager allows in-house attorneys to spend more time focusing on substantive aspects of invoice review and ensures firms are compliant with billing guidelines.”

Domenic Grillo  
Director of Operations, Law and Policy  
Fannie Mae

# FEES MANAGER

**...against a series of essential tasks to help monitor and reduce outside legal costs**

## Fees Manager Responsibilities

*Selected*

- Tracking**
- Tracks invoices from the time they arrive in the legal department through payment
  - Inputs information into database for tracking projects and costs
  - Assists with analysis, definition, and recommendations for legal fees database requirements
- Auditing/Processing**
- Audits outside counsel invoices to ensure compliance with retainer letter
  - Consults with outside counsel regarding problems with invoices and payment issues
  - Obtains appropriate approvals for processing and payment of invoices
- Reporting**
- Generates quarterly budget reports for use by legal department management
  - Prepares legal fees progress reports for the Office of Diversity Minority- and Women-Owned Business program

## Fees Manager Performance Evaluation Scorecard

EMPLOYEE PERFORMANCE PLAN AND CONTRIBUTION REVIEW FORM*					
Objectives	Does Not Meet Expectations	Partially Meets Expectations	Meets Expectations	Consistently Meets Expectations	Far Exceeds Expectations
1. Reconcile and analyze legal department and corporate accounting reports on legal fees					
2. Supervise data input into database for tracking projects and costs					
3. Audit outside counsel invoices to ensure compliance with legal department guidelines and retainer letters, directly communicating with outside counsel regarding resolution of discrepancies					
4. Manage processing of all legal department invoices					
5. Assist with analysis, definition, and recommendations for legal fees database requirements with outside vendors regarding electronic billing					

\* Format modified.

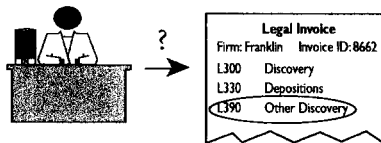
Source: Fannie Mae; General Counsel Roundtable research.

# REVIEW

## ...and monitors compliance through streamlined, triaged invoice review

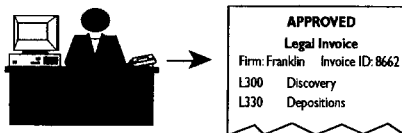
### Legal Fees Audit Process

#### Fees Manager Conducts Initial Audit



- Inputs invoice into computer system for tracking purposes
- Reviews invoice to determine compliance with retainer letter within five business days of receipt
- Confirms adherence to approved fee schedules and appropriate documentation of expenses
- Resolves preliminary issues with firms prior to transitioning invoice to project lawyer
- Alerts project lawyers to problem areas for subsequent resolution

#### Project Lawyer Conducts Second Audit



- Identifies substantive issues with the bill, such as inappropriate or inconsistent staffing
- Resolves outstanding issues with law firms within 10 business days of receiving invoice

### Legal Fees Manager Audit Form (Abridged)

**AUDIT:**

I. Hourly Rates		Yes	No
Is an hourly rate reflected for each person on the bill?			
Are the hourly rates the same as are listed on the fee schedule?			
II. Description of Services		Yes	No
Is there a daily description of services provided by individual with an amount of time allocated for the tasks completed that day?			
III. Expenses/Disbursements		Review the invoice for instances of following:	
	Amount	Additional Information	
Leslie/Westlaw research in excess of \$300:			
Cost for travel			
Costs of Litigation			
IV. Other Matters		Yes	No
Has the firm provided completed Fannie Mae MWOB charts?			
Add total fees charged and total expenses/disbursements charged. Is the calculation on the bill correct?			

### Project Lawyer Audit Form (Abridged)

	Yes	No
Matters, if any, raised by paralegal's review have been resolved.		
Work performed by the firm is adequately described, consistent with Project Lawyer's records and understanding of the project.		
Fees and disbursements are reasonable, justified and consistent with the provisions of the retainer letter.		
Staffing levels are appropriate (e.g. work is performed by paralegals when appropriate, attorneys when appropriate and senior attorneys when appropriate) and staffing consistency has been maintained (e.g. Fannie Mae has not been charged for the learning time of an attorney that has replaced another on the project).		
Comments:		
Bill should be paid by Fannie Mae.		
Further directions to Office Manager or Legal Fee Administrator, if any:		
Approved:		
Project Lawyer		

Source: Fannie Mae; General Counsel Roundtable research.



### COMPONENT THREE

**Conclusion #37:** To motivate in-house counsel to focus on costs, and not simply results, Fannie Mae's in-house attorney performance evaluations include cost-control objectives.

## PROPER INCENTIVES

**General counsel ensures disciplined fees management with compensation-based incentives...**

In-House Counsel Performance Evaluation Scorecards (Illustrative)

IN-HOUSE ATTORNEY PERFORMANCE PLAN AND CONTRIBUTION REVIEW FORM					
Objectives	Does Not Meet Expectations	Partially Meets Expectations	Meets Expectations	Consistently Meets Expectations	Far Exceeds Expectations
1. Determine when outside counsel expertise should be sought					
2. Manage outside counsel work and expenditures to ensure compliance with assignment and staffing parameters, budgets, targets, and retainer letter limitations					
3. Negotiate fee arrangements most beneficial to the company					

PRACTICE GROUP HEAD PERFORMANCE PLAN AND CONTRIBUTION REVIEW FORM					
Objectives	Does Not Meet Expectations	Partially Meets Expectations	Meets Expectations	Consistently Meets Expectations	Far Exceeds Expectations
1. Develop annual budget for practice group (working with clients on budget for outside legal expenses)					
2. Track and monitor direct reports' use of outside counsel as consistent with budget					
3. Communicate regularly with fees manager on compliance with budget projections					
4. Meet quarterly with General Counsel to report on budget status and projections					

### FINANCIAL REWARDS

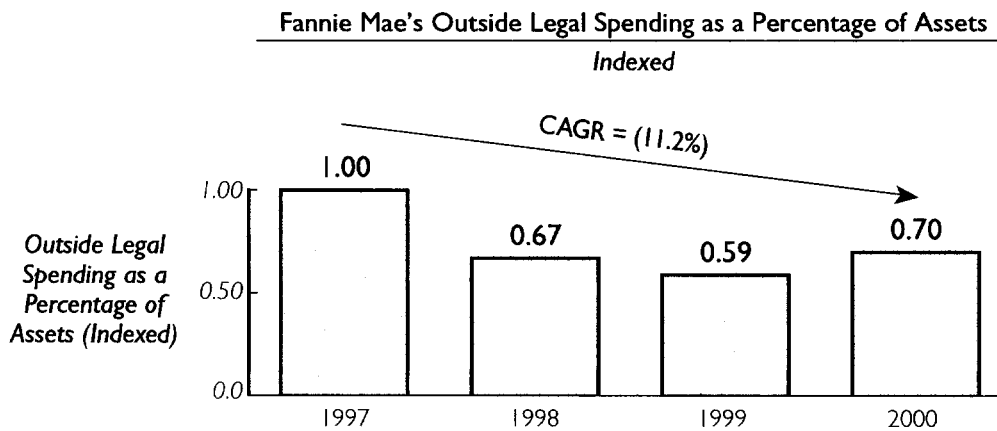
"We found that the most effective way to motivate our attorneys to manage budgets generally, and the outside counsel fees in particular, is to articulate that responsibility in each attorney's annual goals and measure performance against those goals. Attorneys' success in meeting those goals directly affects their performance ratings and annual compensation."

Ann Kappler  
Senior Vice President and General Counsel  
Fannie Mae

**Conclusion #38:** Fannie Mae's comprehensive fees management system yields dramatic reductions in outside legal spending as a proportion of assets while freeing up in-house attorney time for more substantive activities.






# YIELD DESIRED RESULTS

**...significantly reducing outside legal spending...**



**...and producing a broad range of benefits**

Additional Benefits of Comprehensive Fees-Management System

<b>Efficient Cost Control</b>		<b>Deters Improper Charges</b> Retainer letter details Fannie Mae's billing guidelines, while comprehensive invoice review by fees manager and substantive check by project lawyer ensures law firms comply with guidelines
		<b>Facilitates Early Problem Identification</b> Rigorous fees analysis allows in-house counsel to identify and resolve billing and staffing problems early in the development of a matter
<b>Effective Time Allocation</b>		<b>Decreases Overall Attorney Bill Review</b> Dedicated fees manager streamlines the review process, reducing the amount of attorney time required to review invoices effectively
		<b>Leverages Attorney Time by Focusing on More Substantive Issues</b> Triaged review process provides early resolution of preliminary billing issues, allowing project lawyer to focus on substantive (i.e., case-specific) issues
<b>Powerful Incentives</b>		<b>Aligns Incentives</b> Compensation-related incentives help ensure in-house attorneys are committed to monitoring outside counsel costs and able to realize savings

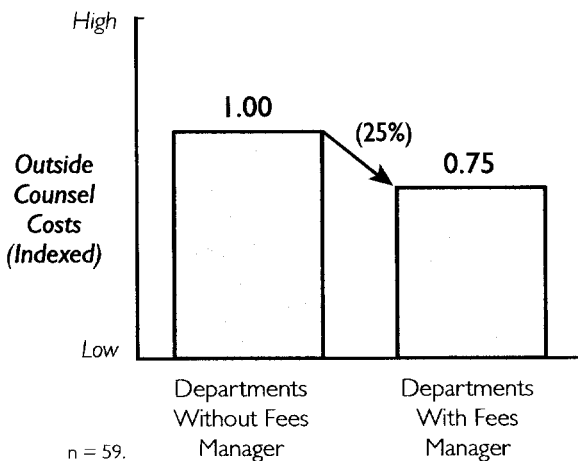
Source: Fannie Mae; General Counsel Roundtable research.

**Conclusion #39:** Benchmarking data reveals that legal departments with dedicated fees managers incur substantially lower outside legal spending and have dramatically higher satisfaction with their outside attorneys. Quite notably, legal departments of all sizes employ dedicated fees managers.

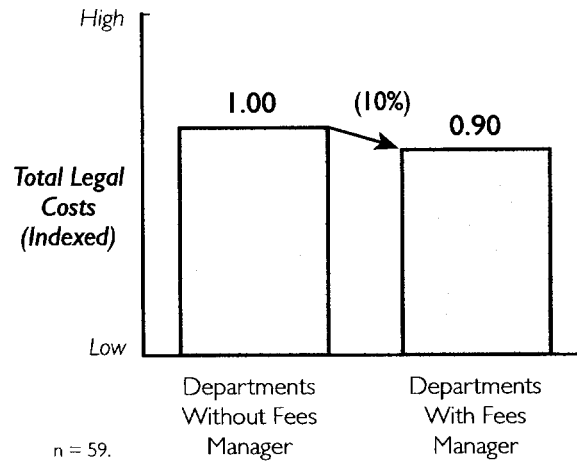
## A VALUABLE RESOURCE

### Legal departments with fees managers can realize substantial cost savings...

Outside Counsel Cost Savings  
 for Departments with Fees Managers  
 General Counsel Roundtable Survey (2001)

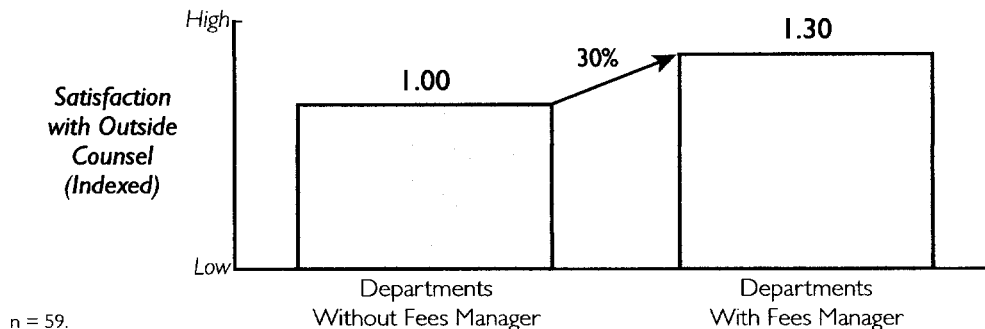


Total Legal Spending Cost Savings  
 for Departments with Fees Managers  
 General Counsel Roundtable Survey (2001)



### ...and higher satisfaction with their outside counsel

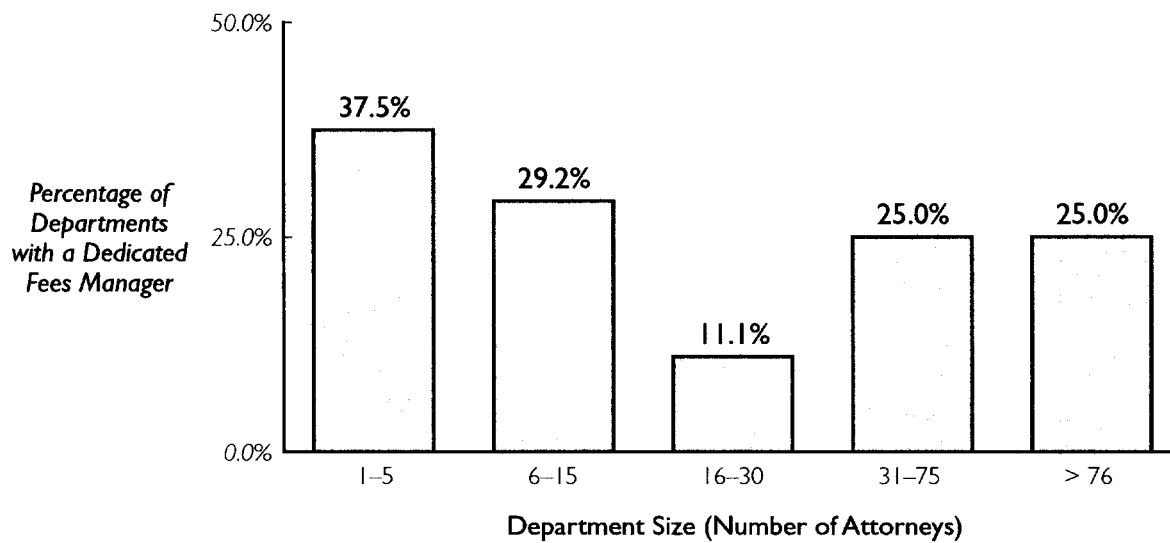
Satisfaction with Outside Counsel for Departments with Fees Manager  
 General Counsel Roundtable Survey (2001)



# FOR ALL DEPARTMENTS

## Departments of All Sizes Employ Dedicated Fees Managers

Legal Departments with Fees Managers by Department Size  
General Counsel Roundtable Survey (2001)



n = 80.

Source: General Counsel Roundtable research.

## PRACTICE ASSESSMENT

Appointing a dedicated outside counsel fees manager, creating a triaged invoice review process, and providing in-house counsel with cost-focused compensation-based incentives ensures outside counsel comply with the company's billing and staffing expectations.

The General Counsel Roundtable recommends *Comprehensive Fees Management* for all legal departments, regardless of size, that do not employ electronic invoicing software to automatically reject invoices that fail to comply with the company's billing guidelines.

**Ancillary Benefit #1:** In addition to reducing outside legal spending, *Comprehensive Fees Management* decreases in-house attorney time spent reviewing invoices. A non-attorney fees manager conducts an initial audit of the bill, flagging specific issues for review by the appropriate in-house attorney.

**Ancillary Benefit #2:** Legal departments that employ dedicated fees managers typically report substantially higher levels of satisfaction with outside counsel. This phenomenon could result from fewer invoice-related disputes between inside and outside counsel or an increase in law firm efficiency when performing work for the company.

**Caveat:** Compensation-based incentives for in-house counsel should not emphasize cost-reduction criteria to the exclusion of other key evaluation criteria (such as the successful resolution of legal matters). Legal departments should strive to create balanced incentives.

**Implementation Tip #1:** To reap the full benefit of retaining a dedicated fees manager and undertaking a *Comprehensive Fees Management* system, legal departments should clearly communicate the existence of this practice to their law firms. When outside counsel are intimately aware that invoices will receive careful scrutiny, they will proactively monitor their own billing practices and be less likely to submit arguably unreasonable fees and expenses.

**Implementation Tip #2:** A retainer letter that clearly articulates specific billing and staffing requirements will allow the fees manager to more easily evaluate whether outside counsel invoices are compliant. Additionally, incorporating "triggers" that require outside counsel to approach the legal department upon reaching specified milestones (e.g., reaching three-quarters of the budget for a matter) will force outside counsel to be more cost-disciplined and ensure billing problems (e.g., cost overruns) are resolved before it is too late to remedy them.

**Implementation Tip #3:** Although it is unnecessary for the dedicated fees manager to have a legal education, some familiarity with outside counsel invoices and invoicing practices is helpful.

**RARE HOSPITALITY INTERNATIONAL, INC.**  
**OUTSIDE COUNSEL GUIDELINES**

**CONTROL AND HANDLING OF LITIGATION**

The cost of litigation has risen dramatically in recent years. RARE, like so many corporations, has been compelled to seek improved ways to plan and budget its cases. You will be working with me or my staff to develop strategy, assess our exposure and evaluate settlement potential of various cases. Your firm will be responsible to the Legal Department. All decisions regarding litigation strategy, discovery, settlement and trial are to be made at the direction of or with the prior approval of the Legal Department. Although you will often have direct contact with RARE personnel regarding the facts underlying a particular file and various RARE personnel may provide input regarding litigation strategy, final decisions on all litigation matters must come from or have the prior approval of the Legal Department.

Our methods of planning and controlling these costs are the defense plan and the case budget. These help us project not only our legal fees, but other costs of litigation as well, such as the time executives and other employees may have to devote to case management. Accordingly, we will need to work with you to develop an overall litigation plan, which is both results-oriented with respect to a particular case and cost effective.

**DEFENSE PLAN AND CASE BUDGET**

Following the assignment of a new case, your firm, in consultation with us, should develop a defense plan and budget for this litigation. We require the defense plan and case budget within thirty (30) days of your being assigned the case. The defense plan should provide the following:

- Brief factual summary noting key issues or areas of inquiry;
- An assessment of exposure, i.e., whether coverage exists or is absent and dollar value range of potential damages;
- Anticipated future activity;
- Resolution strategy.

We recognize that it is difficult at an early stage in litigation to project accurately what will be required for discovery, motion practice, trial preparation and trial, but we ask that you take about one hour to organize your thoughts and reflect them in the defense plan and budget. The plan should be modified as the case progresses, but it should reflect your best judgment as of the time it is prepared. This plan should also include the name, status (e.g. partner, associate, paralegal) and hourly billing for each individual assigned to the case.

The budget should include anticipated disbursements as well as time estimates and fees for local counsel and experts. The case budget should be your best estimate based upon your experience. We do not want you to deliberately estimate high so that you can “look good” by coming in lower than your estimate. Nor do we want low estimates, accompanied by “cost overruns”. Obviously we want you to strive for consistency between estimates and actual billings.

We understand that litigation has elements of unpredictability, and we do not expect clairvoyance. However, when the unpredicted events occur we want you to think about the impact on the case budget and make appropriate revisions. Thereafter, for active litigation matters, monthly reports should be made noting significant developments, revisions of the initial assessment, changes in strategy and budgets, etc. For non-litigation or inactive litigation matters, such reports could be on a quarterly basis. Sound judgement should be used in the time spent on a defense plan and case budget. If it is apparent that the case should be settled early or could be dismissed on motion without discovery, please discuss the recommendations with the Legal Department attorney before embarking on these analyses.

RARE expects to resolve cases as expeditiously and economically as possible without jeopardizing its position on legal issues of significance and important policies, practices and principles. Accordingly, immediate and continuing efforts should be made to identify cases for early disposition, as well as cases that could be handled more effectively through mediation, arbitration or other means of alternative dispute resolution. Critical to this identification process are the early communications with opposing counsel to establish a precise nature of plans against RARE and early internal investigation and development of facts. Whenever appropriate, dispositive motions should be used early in the litigation to efficiently eliminate meritless claims.

Consultation with and approval by the Legal Department is required before making any substantive motion, conducting discovery whether in the form of interrogatory, document demands, requests to admit, depositions, or filing any claim, counter-claim or cross-claim. All draft memoranda of law pleadings and other work products shall be forwarded to the Legal Department counsel early enough to enable consideration, comment and approval.

All settlement proposals and requests for settlement authority must be submitted to the Legal Department attorney handling the case. No settlement discussions may be entered into without the approval of the Legal Department.

### **CONTACT WITH RARE PERSONNEL**

Generally, the Legal Department will exclusively communicate on behalf of RARE with outside counsel. We recognize the time constraints of discovery deadlines or trial preparation may make it impractical at times to channel all communications through the in-house attorneys. When it is necessary for outside counsel to work directly with RARE technical personnel who are consulting on a case, it is essential for outside counsel to keep in mind the need of the in-house attorneys to be advised promptly of what has been discussed. Accordingly, it is the responsibility of outside counsel to advise the Legal Department regularly of the nature of any direct communications with RARE personnel. Copies of all correspondence and documents sent to RARE personnel must also be sent to the Legal Department.

Please carefully and thoughtfully review discovery requests prior to sending them to the Legal Department and identify those items to which you will object and those which will require an answer. You should also advise on protective orders or stipulations for trade secrets or other confidential information. These discovery requests should be forwarded with sufficient time to prepare responses. No document should be produced without a thorough review by an attorney

familiar with the case or without consideration being given to a protective order or stipulation where appropriate.

In order to speed up discovery matters, outside counsel should send additional copies of the following types of data directly to the Legal Department and to the other RARE technical colleagues who are assisting in the discovery:

- a. Significant deposition transcripts;
- b. Requests to RARE for answers to interrogatories and requests to admit;
- c. Answers of other parties of interrogatories (with the interrogatories if they are not restated in the answers).

Please do not prepare deposition summaries as a matter of routine without first discussing the matter with the Legal Department. Where we have agreed that you should prepare a deposition summary, it should be concise, setting forth only the relevant testimony, your impressions of the witness, and how the deposition of that witness affects our liability posture and our strategy in the case.

## **CONFLICTS**

Outside counsel shall undertake a thorough search of conflicts of interest immediately after being contacted to represent RARE in any matter. Any actual or potential conflict must be discussed with the Legal Department at the time of the engagement or as soon as the conflict becomes known. RARE is comprised of all the entities appearing on the enclosed organizational list. It is essential that you recognize the scope of RARE's organization when investigating potential conflicts of interest. Prior to your representation in the matter, please advise us if your firm is presently representing or if your firm has ever represented a client in any matter in opposition to any of the RARE entities appearing on the Schedule A. In the event a current conflict exists, we request that you notify us immediately. Should you later become aware of potential conflicts that may arise please provide us with all necessary information as soon as possible so that a timely decision regarding the retention of counsel can be made. Notice and waivers of conflicts must be acknowledged in writing.

## **STAFFING**

We have selected you to represent us because of your expertise and because we have confidence in your ability and judgement. Consequently, you should be personally in charge of any matter you are handling for us from beginning to end, including the billing.

If you contemplate anyone else assisting you in this matter, including a paralegal, please consult with us in advance as to the experience of the persons you anticipate assisting you, your anticipated involvement and the billing rate(s) of the people involved. We also ask that you counsel with us if a change in staffing is contemplated. If the change becomes necessary because of the firm's needs, RARE will not be billed in start-up costs of educating the new person in the case. Also, RARE will not pay the billing rate for more than one attorney when two or more firm attorneys meet to discuss RARE's case. We trust that you will attempt to



minimize legal expenses by relying on a junior attorney or legal assistant for less demanding tasks, rather than yourself, where their skill and ability would result in more effective economical efforts. However, we know that duplication and inefficiency can sometimes be avoided by a few hours of your direct effort.

### **LEGAL AND TECHNICAL RESEARCH**

We expect to be billed only for that legal research deemed necessary to defend RARE's interests. With the exception of legal and other research for an initial report and evaluation of liability and exposure in a new matter, any such legal research and the need for any written memoranda or opinions based thereon must be authorized in advance by the Legal Department. We require that a copy of any significant legal memoranda or opinions be provided to the Legal Department. RARE will not pay for and expects not to be billed for legal research to educate attorneys in basic fields of expertise on the basis of which the firm is chosen.

### **BILLING/CHECK REQUEST**

We require detailed monthly bills. The bills should include:

- the name or initials of the attorney handling the matter;
- the date of service and time allocated to the service, a full description of the service rendered and the billing rate of the attorney;
- disbursements in amounts less than \$500.00 should be paid by the firm and included on monthly attorney bills and
- additional expense items should be specifically detailed as to date, purpose/payee, amount, etc.

When reviewing the statement before it is sent, please ensure that a copy of all-important briefings, correspondence, and court filings which the statement covers have been sent to us. If obvious questions are raised by an invoice, such as legal research on a basic point or involvement of attorneys in addition to those on which we have agreed, it would be helpful if the explanations were included along with the billing. Disbursements for extensive computerized research services, extensive copying, computerization of documents and the like will not be reimbursed unless approved by us in advance. Disbursements should not include charges for routine secretarial work or processing or office supplies. Disbursements for overtime should be charged only if required for client effort and not because of firm or personal priorities or interest (e.g., charges for an attorney working nights or weekends necessitated by another client or bar activities during the business day should not be chargeable to us).

We will reimburse you for necessary photocopying, faxing and other expenses at your cost. We do not authorize and will not generally reimburse for first class air transportation, luxury hotel accommodations, and lavish meals. All out of town travel must be approved in advance. RARE will compensate for time spent in transit. However, if work is done for another client in transit we will not reimburse for transit time. If travel time is devoted to working for one or more clients in addition to RARE, we should be billed only for the proportionate time period. Time away from home or the office which is not in transit or spent performing legal services will not

be compensated. RARE will reimburse only for coach class travel unless unusual circumstances justify otherwise. We do not reimburse for normal secretarial services such as time spent in filing, file indexing, typing, clerk filing, and the like unless we are informed in advance as to the reason. Major disbursements must be agreed to in advance (e.g., experts fees, extensive microfilming, computer use, document retrieval, etc.). Please do not bill us for support staff overtime unless we have agreed in advance.

We do not expect to be charged for courier service or other expedited mail delivery where the urgency was created by last minute preparation not caused by RARE. Invoices should be addressed to the attention of Joia M. Johnson, Executive Vice President and General Counsel. We trust that you will find the above acceptable. Should you have any questions please contact Ms. Johnson at (770) 551-5469.

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Name & Title

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Date

### **MEDIATION, ARBITRATION AND TRIAL PLAN**

Thirty (30) days before any scheduled mediation or arbitration and sixty (60) days before any scheduled trial, outside counsel should submit a written arbitration, mediation or trial plan to the Legal Department for discussion and adoption. While we are not looking for a thesis, the plan should address the following kinds of issues:

- Status of litigation / updated defense plan;
- Budget Update (as appropriate)
- Plaintiff's case:
  - Anticipated basic theory for the fact finder;
  - Principal trial strategy;
  - The most significant points plaintiff will try to make at trial;
  - Rational plaintiff's choices of strategies;
  - The plaintiff's likely evidence including, fact witnesses, expert witnesses, and key documents;
  - What plaintiff will try to prove with each; and
  - Strengths and weaknesses of each.
- RARE's planned approach to each (e.g., cross examination strategy, evidentiary motions, pretrial motions), plaintiff's likely pretrial motions, rationale for each and our strategy for addressing.
- RARE's case:
  - Basic theory of case for the fact finder;
  - Proposed principal trial strategy;

- Outline of closing argument, including the most significant points we should make at trial; Rationale for choosing the strategies;
  - Proposed evidence (fact witnesses, expert witnesses, and key documents);
  - Description of each witnesses' testimony; and
  - Strengths and weaknesses of each.
- 
- Cross examination strategy, evidentiary motions, pretrial motions and our intended strategy for this approach. Please recommend the rationale for each pretrial motion and the plaintiff's anticipated response. In jury cases, recommend a jury/strategy and other issues.

Adherence to these policies will not only ensure the timely payment of your invoices, but it will also provide planning value to you and to the Legal Department in litigation matters. By working together with you, we hope to be able to manage the litigation process effectively and thereby minimize RARE's financial exposure.

**SCHEDULE A**

**CORPORATIONS:**

**RARE HOSPITALITY INTERNATIONAL, INC  
RARE HOSPITALITY MANAGEMENT, INC.  
GRIST MILL HOLDINGS, INC.  
HEMENWAY HOLDINGS, INC.  
BUGABOO CREEK HOLDINGS, INC.  
CAPITAL GRILLE HOLDINGS, INC.  
CAPITAL GRILLE HOLDINGS OF TEXAS, INC.  
RARE HOSPITALITY OF TEXAS, L.P.  
RARE BEVERAGES OF TEXAS, L.L.C.  
RARE STEAKS OF WEST VIRGINIA, INC.  
CAPITAL GRILE OF SAN FRANCISCO, INC.  
BUGABOO CREEK OF SEEKONK, INC.  
WHIP POOLING CORPORATION**

**PARTNERSHIPS:**

**6201 AIRPORT BLVD LP  
34863 EMERALD COAST PARKWAY LP  
6035 BLAZER LP  
6225 NORTH ANDREWS AVENUE LP  
LSI ELIAS PARTNERS  
LSI ELIAS PARTNERS II  
LSI ELIAS PARTNERS III  
719 NORTHSIDE DRIVE EAST LP  
CAROLINA STEAKHOUSE VENTURES  
16641 STATESVILLE ROAD LP  
153 HUFFMAN MILL ROAD LP  
11102 CAUSEWAY BLVD LP**

[By e-mail or letterhead]

January --, 2002

*Name of Law firm contact*  
*Address*

Dear \_\_\_\_\_

National Public Radio, Inc. ("NPR") is currently requesting proposals from interested law firms to \_\_\_\_\_. Your firm has been identified as potentially having expertise in this area of legal services, and, if your firm is interested in this engagement, we request that you submit a proposal to provide these services.

### **Scope of Engagement**

The engagement would require a firm to render the following services:

- 1.
- 2.
- 3.

We expect the engagement to be governed by the policies and billing requirements attached to this request. In the absence of written agreement to the contrary, those policies and billing requirements shall apply to this engagement.

### **Information Requested in the Proposal**

Please include in your proposal (in the order presented) the following:

1. Identification of the attorneys who would be working on this engagement (include resumes for those attorneys) in your firm that will work on this matter, and senior staff that would be assigned to our engagement.
2. A list of clients whom you have represented in similar matters by the partner proposed as managing this engagement, and indicate those clients that can be contacted, as well as the contact name and telephone number.
3. Any potential conflicts of interest within your firm that may arise out of this engagement.

4. Your firm's particular qualifications which you believe makes it the best choice to handle such a matter.
5. Your proposed fee structure and total amount to be charged if you believe a fixed fee arrangement would be appropriate. NPR prefers fixed-fee arrangements based on an agreed scope of work. NPR uniformly expects and receives deep discounts on "normal" fees. It is willing to consider other creative billing arrangements. It will also consider acknowledgement of in-kind support (such as legal services) through underwriting credits delivered on nationally-distributed programs.

### **Proposal Timeframes**

We will make ourselves and other information available to facilitate your submission of a proposal. [optional] We have planned a pre-proposal conference for all interested parties at NPR's headquarters at 635 Massachusetts Avenue, NW, Washington, DC on \_\_\_\_\_, from 10:00AM-12:00 noon. In advance of the conference, should you wish to submit your questions or have additional materials made available, please forward your requests by noon Monday, April 1 to:

[Name of attorney managing engagement]  
 [Attorney's e-mail address]  
 National Public Radio, Inc,  
 635 Massachusetts Ave., NW  
 Washington, DC 20001-3753  
 (202) 513-\_\_\_\_\_

Please submit any proposal no later than \_\_\_\_\_ to the above person. NPR encourages and appreciates e-mail proposals, though paper submissions are also welcome.

### **NPR General Policy Governing Submissions of Proposals**

NPR reserves the right to accept or reject any and all proposals for any reason, or for no reason at any point prior to NPR entering into a written contract relating to the subject of this procurement signed by its Vice President for Finance and Administration and CFO, and to select the firm we consider most advantageous to NPR. This request for proposal does not constitute an offer by NPR to enter into a contract with any person or company. Those submitting proposals do so at their own risk and expense.

NPR also reserves the right to negotiate with those responding, or with any other person or entity, an agreement on terms which, in NPR's sole judgment, best serve its needs. NPR may seek additional information from any possible supplier after the due date. NPR reserves the right to publish updates or clarifications of this RFP to all or less than all of those firms responding to this request, and to provide to any other or all potential respondents the same information which is provided in response to an individual entity

contacting NPR with questions. No contract or other legally enforceable rights shall exist with respect to the subject of this procurement unless and until a written contract is signed by NPR's Vice President for Finance and Administration and CFO.

Any reports, data, or other non-public information about NPR, its affiliates, its financial records, methods, procedures, etc. that are disclosed in the process of conducting this procurement shall be considered confidential by any proposed offeror and shall not be shared with any other person without NPR's permission. All persons or firms who respond in any manner to this request (including having any contact with NPR), irrespective of whether they submit a proposal, shall be deemed to have agreed to the foregoing terms.

Thank you for your time and interest should you decide to respond to this RFP. We look forward to hearing from you.

Sincerely,

Neal A. Jackson  
Vice President for Legal Affairs and General Counsel  
National Public Radio, Inc.  
635 Massachusetts, NW  
Washington, DC 20001-3756  
(202) 513-2043

### **NPR Policies and Billing Requirements for Outside Counsel**

1. To minimize misunderstandings, outside counsel should share these policies and billing requirements among all firm personnel working on NPR matters.
2. Outside counsel is engaged for NPR by its Office of the General Counsel, and an OGC attorney will manage the engagement. Others at NPR do not normally have authority to expand or contract the scope of the engagement or otherwise to manage the rendering of legal services to NPR. If someone other than an OGC lawyer requests a change in the scope of services to be rendered, before beginning any change in the scope of work you must inform the OGC attorney managing the work of the request and obtain his/her approval of the change.
3. All billing statements for legal services shall be supported with details of the work performed. The details to be included are:
  - A. A narrative description of the work performed for each specific task by the attorney or paraprofessional performing it. Daily "block" billing descriptions will not be sufficient. The description should state clearly the nature of the task performed and allow us to see why it was necessary.
  - B. The name or initials of the person undertaking the task.
  - C. The time spent on the task described, in at least tenths of hours (every six minutes).
  - D. A summary by each attorney or paraprofessional providing services during that month (or other billing period), showing (a) the total time spent by that person, (b) the billing rate for that person, and (c) total charges for that person
4. Where more than one attorney or paraprofessional is involved in the same work project – such as writing a brief or attending a meeting or deposition – the details in the billing statement should make clear why the other person or persons' presence was necessary.
5. NPR cannot afford to finance training of lawyers or paraprofessionals working on our matters. Persons participating in the matter must in all instances be rendering valuable services based on existing expertise commensurate with their billing rate.
6. NPR when it hires outside counsel expects to be engaging lawyers who are already highly skilled specialists in the subject matter for which legal services are sought. It should thus be rare for legal research by outside counsel to be needed. Before undertaking legal research, therefore, approval should be obtained from NPR. In cases where it is impractical to obtain approval, NPR should be informed as soon after the fact as possible.



7. Discussions or conferences between or among attorneys should be minimized and should only be undertaken when that is the most efficient means possible to convey or obtain information. Billing descriptions for such conferences should indicate why a conference was needed. An entry "Conference with ABC re status" is not a sufficient explanation.
8. Billing shall be undertaken monthly, unless the total amount due is less than \$500. The billing statement should be sent no later than twenty days from the end of the billing period. This is necessary for our budget and matter management.
9. Each disbursement shall be billed at actual out-of-pocket cost. No mark-ups or administrative fees may be added.
10. Computerized legal research should not be undertaken without NPR's prior approval. NPR has a special arrangement with Lexis/Nexis that may well be available to outside counsel working on NPR matters.
11. The costs for meals for personnel while working, or for transportation between the office and their home, shall not be charged to NPR.
12. Billing for photocopies should not exceed eight cents per copy (unless you can show us that your actual cost exceeds that). Moreover, the number of copies should appear on the billing statement.
13. NPR may not be billed for receipt or delivery of facsimile transmissions (other than any actual long distance telephone toll associated with the transmission), or for computer or word processing printing charges.
14. NPR will not pay for either secretarial (including word processing) or inside messenger services, or any overtime, unless there is prior written approval.
15. Paraprofessional time billed should not include tasks that are more appropriate for clerical or secretarial personnel, such as stamping or numbering documents, indexing or tagging exhibits, organizing files or reproducing documents.
16. No single disbursement in excess of \$500 may be incurred without our prior approval.
17. NPR may find it necessary to impose other billing requirements and policies during the engagement as appropriate to manage the matter properly. Prior notice will be given and the matter discussed with counsel if this is deemed necessary.

NPR encourages outside counsel to put to us promptly any questions about either the above requirements or our billing expectations. We believe that the best way to avoid misunderstandings over billing is good communications. We are committed to paying quickly those billing statements that conform to these requirements.

**SECTION IV: CONFIDENTIALITY AGREEMENT**

Date

Name  
Address

Dear \_\_\_\_\_:

In connection with a possible business relationship between Cardinal Health, Inc. (“Cardinal”) and \_\_\_\_\_ (“Company”), representatives of Cardinal and Company may disclose to the other, either orally, in writing or by inspection, information concerning their respective businesses, products, services or financial condition that would be helpful in evaluating the potential business relationship. As used in this agreement, the term “Confidential Information” includes all such information furnished by Cardinal or Company, or any of their respective representatives, to the other or its representatives, whether furnished before, on or after the date hereof and regardless of the manner in which it is furnished. Confidential Information includes all analyses, compilations, business or technical information and other materials prepared by Cardinal or Company, or any of their respective representatives, containing or based in whole or in part on any such information furnished by the other party or its representatives. Confidential Information also includes the existence of this agreement, the terms and conditions hereof and the fact that the parties are evaluating the other party’s Confidential Information. Confidential Information does not include, however, information concerning Cardinal or Company which (a) is or becomes generally available to the public or within the industry to which such information relates other than as a result of a breach of this agreement, or (b) at the time of disclosure to it by the other was already known by it as evidenced by its written records, or (c) becomes available to the other party on a non-confidential basis from a source that is entitled to disclose it on a non-confidential basis, or (d) was or is independently developed by or for the other party without reference to the Confidential Information, as evidenced by such party’s written records.

In order to induce Cardinal and Company to furnish Confidential Information to the other, each party agrees that the Confidential Information furnished to it will be used solely for the purpose of evaluating a possible business relationship. Cardinal and Company each agree that they will not disclose any Confidential Information concerning the other to any third party without the prior written consent of the other except as required by law or regulation; provided, however, that prior to making any such legally required disclosure, the party proposing to make such disclosure shall give the other party as much prior notice of the requirement for and contents of such disclosure as is practicable under the circumstances; and provided further, that any such Confidential Information may be disclosed by Cardinal and Company to their respective affiliates who need to know such Confidential Information for the purpose of evaluating a possible business relationship, who are advised of the contents of this letter and who agree to be bound by the terms hereof.

Confidential Information is being disclosed pursuant to this agreement with the express understanding that neither Cardinal nor Company is obligated to enter into any further agreement

relating to a possible business relationship between Cardinal and Company. If Cardinal or Company terminates discussions concerning a possible relationship for any reason, each party will promptly either destroy or deliver to the other, without keeping copies, all Confidential Information obtained from the other party in connection with such discussions.

Cardinal and Company each agree that this letter agreement will be considered a contract made under the laws of the State of Ohio, USA, and for all purposes the agreement, plus any related or supplemental documents and notices, will be interpreted and governed by the laws of such state. Nothing in this agreement will prevent either party from seeking injunctive relief against the other party.

Except as otherwise provided herein, the restrictions and covenants contained in this agreement will terminate upon the earlier of (a) the execution of a definitive agreement relating to a business relationship between Cardinal and Company, or (b) the expiration of a period of one year from the date hereof.

This agreement will be binding upon, inure to the benefit of, and be enforceable by and against the successors and assigns of each party to this agreement. Cardinal and Company each agree to be responsible for any breach of this letter agreement by its representatives.

Any amendment or modification of the terms and conditions set forth herein or any waiver of such terms and conditions must be agreed to in a writing signed by Cardinal and Company. Please indicate your acceptance of the terms of this agreement by signing a copy of the agreement, where indicated below, and returning it to us.

Sincerely,

CARDINAL HEALTH, INC.

Agreed to, confirmed and accepted as of the above date:

COMPANY

By: \_\_\_\_\_

Its: \_\_\_\_\_

By: \_\_\_\_\_

Its: \_\_\_\_\_

# **SAMPLE LEGAL DEPARTMENT DIRECTORY**

## **DEPARTMENT OVERVIEW & MISSION**

## **Practice Areas**

### **Advertising/Marketing**

The manner in which information is communicated today is constantly evolving. The regulatory and legal framework within which the media industry operates is continuously in-flux. In the current environment, it is imperative to have counsel review advertising and marketing material distributed by the Company.

### **Antitrust**

Antitrust attorneys have experience in areas in which health care companies need antitrust advice. Some of these areas are: mergers and acquisitions, joint ventures, deal structuring and litigation.

### **Bankruptcy**

Bankruptcy attorneys provide guidance through the complex matters surrounding bankruptcy, debtor/creditor relations, workouts and business reorganizations. The Company benefits from our team approach in implementing creative and cost-effective solutions. We anticipate issues, arguments, potential problems and solutions and counsel and strategize accordingly. Our team has a wealth of experience in every facet of commercial law and bankruptcies, structuring transactions in light of bankruptcy considerations and concerns and debtor/creditor-related litigation.

### **Contracts**

Some of the areas in which our commercial attorneys assist the Company (whether selling or procuring supplies or services) are drafting confidentiality agreements and proposals, which avoid later problems; protecting intellectual property rights, including trade secrets, technical data and computer software; complying with the environmental and labor laws involved in the

performance of the contracts; establishing procedures to comply with new requirements such as procurement integrity and drug-free workplace; and using joint ventures, licensing and teaming agreements to expand foreign and domestic markets.

### **E-Commerce**

Our E-Commerce attorneys provide strategic advice and counsel to allow the Company to compete in the dynamic online world. We work to anticipate technology changes and are committed to keeping ahead of rapidly evolving laws that may affect them. The Company's E-Commerce attorneys experience covers a wide variety of e-commerce initiatives, including web site development, web site operations, licensing and web site content, disclaimers and limitation of liability.

### **Environmental**

Almost every business is subject to a maze of environmental laws that impact daily operations. The Company is interested in "doing the right thing" as well as avoiding criminal liability, civil and criminal penalties, liability for cleanup costs and the deterioration of asset value and public image. Our attorneys practicing in this area recognize the potentially devastating results of non-compliance with environmental law. Our attorneys are dedicated to providing the Company with practical, comprehensive counsel and solutions involving a wide variety of environmental issues.

### **Finance**

Company credit and financing transactions must be analyzed, planned, documented and closed both promptly and cost effectively. The Company benefits from our counsel in

structuring and documenting all types of credit transactions. We work closely with Treasury and Tax during initial discussions between the lender and on through the closing and post-closing monitoring of credit facilities.

### **Franchise**

The Company's franchise attorneys provide advice and counsel on franchise regulation compliance, marketing, advertising and franchise relationships. Our attorneys are dedicated to assisting the Company in maintaining franchise regulatory compliance and enforcement of our franchise agreements.

### **Fraud & Abuse**

The federal anti-kickback statute prohibits the offer, payment, solicitation or receipt of any remuneration in exchange for an agreement to purchase products or services that are reimbursable under a federal health care program. Many states also have laws that contain language similar to that of the federal anti-kickback statute and which are applicable to products or services reimbursable by other payors. The Legal Department offers experience in helping structure business relationships to comply with these laws..

### **Intellectual Property**

Intellectual property is a highly specialized area of law designed to encourage creativity and fair competition in the marketplace. At the same time, intellectual property laws protect the rights of individuals and businesses who have transformed their ideas into property by granting rights to the owners of those properties. The depth of our attorneys' practice in this area allows us to provide the Company with assistance in preparing and securing patent and trademark protection for our intellectual property in litigating critical intellectual property disputes, and navigating local, national and international regulations governing the protection of intellectual property.

### **International**

Our attorneys provide strategic advice and legal representation to the Company's international subsidiaries doing business overseas. As a multi-disciplinary practice group consisting of attorneys from various practice areas, we provide practical, quality and value-added services to the Company based upon our collective experience and expertise.

### **Labor and Employment**

The Company benefits from preventive employee relations that demonstrate the value of employees and help to reduce costly and time-consuming litigation. We counsel on effective human resources management. Some areas that our attorneys practicing in this area can provide assistance include: employment litigation, such as wrongful discharge, discrimination, sexual harassment, workers' compensation claims and litigation, violence in the workplace issues, workplace privacy issues, affirmative action compliance and wage and hour cases.

### **Litigation**

Our attorneys practicing in this area resolve controversies and disputes in the most cost-effective way appropriate, taking into account the Company's long-term business interests and goals. Our first priority is to advise on how best to avoid claims and be prepared to prosecute and defend those claims that are asserted. This includes careful consideration of the costs and benefits of pursuing alternative strategies to advance and protect the Company's interests. When litigation is imminent, our attorneys use their experience and resources to pursue the Company's interests.

### **Mergers & Acquisitions**

Our attorneys are involved at all stages from the planning to the consummation of mergers and joint ventures. Our mergers and acquisitions attorneys have substantial experience in the

merger and acquisition review process and have shepherded a substantial number of transactions through U.S. and foreign government merger reviews. We also have significant experience dealing with other regulatory aspects of merger transactions.

### **Real Estate**

Our Real Estate attorneys provide the full scope of commercial real estate law representation and strategic business advice. The Company receives assistance throughout all phases of real estate transactions and other property issues. In the planning stage, we help strategize and structure the deal to most effectively meet the Company's goals.

### **Regulatory**

Regulatory attorneys are experienced in all aspects of health care regulatory issues and with federal and state regulation of health care providers. The Company faces a number of federal and state regulatory issues that are particular to the health care industry, including, but not limited to, compliance with DEA and FDA laws and regulations, state licensure and accreditation and certification.

### **Securities and Corporate Governance**

The Securities and Corporate Governance Group handles matters concerning compliance with Securities and Exchange Commission and New York Stock Exchange rules, as well as general corporate matters involving corporate records, shareholder relations and activities of the Board of Directors and its committees. It is also responsible for effecting structural changes among legal entities, assisting in branding initiatives and ensuring the Company's records are retained and maintained in accordance with applicable laws and sound business practice.

We also coordinate the preparation and periodic filing of SEC reports, which disclose information about the Company's financial and other activities. The Securities group also assists various areas within the Company in

conducting transactions and other business in conformity with applicable laws and regulations.

### **Tax**

Our Tax attorneys provide the Company with complete representation in every aspect of federal, state and local tax matters. Tax issues are often complex and sensitive and require legal review.

# DIRECTORY LISTINGS

Attorneys - Alphabetical (profile can include contact data, picture, practice area or resumes)

Support Staff –Alphabetical

Listing by Practice Areas