



@thelegal500 

SHEARMAN & STERLING LLP

# Corporate Counsel 100 Roundtable and dinner



Corporate America's most innovative in-house counsel discuss the issues that matter.

---

# CORPORATE COUNSEL 100 ROUNDTABLE

---

**30 January 2014**

Location: Bouley, Tribeca, New York

Co Chairs:

- **John Cannon, Shearman & Sterling LLP**
- **Lauren Hughes, The Legal 500**

Guests:

- **Kathryn Barrett Park, GE**
- **Matthew Biben, JPMorgan Chase**
- **Art Brewer, Shearman & Sterling LLP**
- **David Burgess, The Legal 500**
- **David Cohen, Honeywell**
- **David Goulthorpe, The Legal 500**
- **Steven Greenspan, United Technologies**
- **David Jaffe, Guardian Industries**
- **Mary Leheny, Novartis**
- **Tim Pratt, Boston Scientific**
- **Jan Reed, Walgreens**
- **Neil Rosolinsky, RBS**
- **Ken Schwartz, Avery Dennison Corporation**
- **David Sorkin, KKR**
- **Michael Sosso, BP**
- **Jay Stephens, Raytheon**
- **Gisele Sutherland, BMO Harris Bank**
- **Lesley Wan, Lloyds Banking Group**

**LAUREN HUGHES:** First of all, thank you all for coming. We're delighted there are so many of you here, and are really looking forward to hearing what you all have to say. I'm not going to speak for very long because we want to make it all about you. So, I think most of you probably know who I am, but I'm the editor of *The Legal 500*, and I put this list together, so I had the pleasure of speaking with all of you last year. I think we'll quickly go around the room and everybody can just explain who they are, who they work for and where they're based. That's probably a good way to kick off.

**JAY STEPHENS:** I'm Jay Stephens, senior vice-president, general counsel and corporate secretary at Raytheon. Our headquarters are in the Boston area, and we have major business facilities in Arizona, California, Texas, Virginia Massachusetts and several other states. We operate in the defense electronics, intelligence, sensing, missile defense, and cyber security space. It's an exciting technology, National Security mission-focused business that reaches across more than 80 countries.

**TIM PRATT:** Hi, I'm Tim Pratt. I'm the general counsel, corporate secretary and something called Chief

Administrative Officer for a medical device company called Boston Scientific, based out of Boston. And I've been up there six years. I spent 30 years at a little law firm called Shook, Hardy & Bacon, based out of Kansas City.

**GISELE SUTHERLAND:** I'm Gisele Sutherland. I am associate general counsel for ERISA and institutional services at BMO Harris Bank. I'm based in Wisconsin. Bank of Montreal, which owns Harris in the US, acquired M&I Corporation about three years ago, and I came from the legacy M&I 401(k) retirement business. I now manage their ERISA Institutional Group. I am

still based in Wisconsin, but I do a lot of work in Chicago and for our international RIAs.

**LESLEY WAN:** Hi, my name is Lesley Wan and I am from Lloyds Banking Group. I'm corporate real estate counsel and I manage the legal aspects of the real estate portfolio for the bank. I've been with Lloyds for nearly eight years, and last year I was privileged to be selected for the GC Power List in the UK. So I am delighted to be asked to join you all for dinner tonight and am looking forward to meeting everyone.

**MATTHEW BIBEN:** I'm Matthew Biben. I'm general counsel of JPMorgan Chase consumer businesses. So, JPMorgan Chase has roughly 270,000 employees across the world. I'm responsible for the half that deals with people, roughly 160,000 employees, \$44 billion in revenue, 50 million customers, mortgages, credit cards, private wealth management, auto loans, student loans, small business loans, credit cards, retail business, anything. And I'm delighted to be here as well. Thank you.

**JAN REED:** Hi, everybody. I'm Jan Reed. I am deputy general counsel at Walgreen's. I will see you those hundred-and-some-odd thousand employees and raise you. We have about 250,000 employees, \$72 billion in revenue, and our legal department has about 200 people in it, about 115 lawyers. We currently own 45% of Alliance Boots, which some of you may be familiar with at this table, and have the option to acquire the remaining 55% next year. If we exercise that option, it will catapult us up to the list of the *Fortune 10*. I think at the culmination of step two, we'll have about \$130 billion in revenue with 350,000 employees. It's a little crazy. And I've been there just under a year.

Prior to that I was general counsel at a much smaller company called Solo Cup Company. Hopefully all of you have consumed beverages out of Solo cups.

**MATTHEW BIBEN:** As in red Solo?

**JAN REED:** As in red Solo, yes. And I am also delighted to be here. Thank you.

**DAVID JAFFE:** Thanks. I'm feeling very small. [Laughter] David Jaffe from Guardian Industries. We're about a \$5 billion multinational manufacturer based outside of Detroit. Our main product is flat glass, like what's going up on the World Trade Center down the road here, and we have a department of 22 lawyers. Thanks very much for the invitation.

**KATHRYN BARRETT PARK:** I'm Kathryn Barrett Park, and I work for GE, which is up the road in Connecticut. I am the director of brands and advertising for the legal department in corporate, and run the Center of Excellence for that. And have seen the practice in-house change dramatically in the 14 years that I've been with GE. So I'm looking forward to our conversation, and thank you very much.

**STEVEN GREENSPAN:** I'm Steven Greenspan. I'm from United Technologies. We manufacture many products - Sikorsky helicopters, Carrier air conditioners, Pratt & Whitney aircraft engines, Otis elevators - and we own Goodrich Corporation. I





am responsible for all litigation for the company worldwide, as well as environmental, and also our outside counsel management program. Therefore, I have to deal with the 500-something law firms around the world that do work with us. I've been in this position for three years after spending 25 years at an AMLaw 120 law firm in Connecticut known as Day, Berry and Howard. And I decided to walk across the street to my biggest client, and it's been wonderful.

**DAVID COHEN:** It only makes sense, after GE and United Technologies, that I get to introduce myself. My name is David Cohen, and I'm the chief trademark counsel for Honeywell.

We know these companies very well. I'm responsible for the company's global trademark and copyright brand management, enforcement and counterfeiting, licensing, counterfeit law. I appreciate the opportunity to be here and talk to everybody.

**NEIL ROSOLINSKY:** I'm Neil Rosolinsky. I'll bring the conversation back around to financial services. I'm with the Royal Bank of Scotland Group. I head up the employment law and employee relations function in North and South America. RBS has roughly 150,000 employees worldwide. Roughly 30,000 in North and South America, and most of those are actually with RBS's main US

subsidiary, which is RBS Citizens Bank. Citizens is a retail and commercial bank throughout New England, Midwest and Mid-Atlantic. Citizens Bank Park is where the Philadelphia Phillies play, which is how a lot of people outside the footprint know of Citizens. I've been with the bank for roughly six years, and before that I was with Reed Smith LLP.

**KEN SCHWARTZ:** My name's Ken Schwartz. I'm the vice president and assistant general counsel for the materials group of Avery Dennison Corporation. So I have the global materials operations, which is far and away the lion's share of the company. Everything from adhesives to films, and pressure sensitive materials including

label stock, tapes, and other graphic films. Could be everything from car wraps to window films, and labels that - if you think about it as you go through Walgreen's - labels that are just about on or in anything. Quite a few of them are going to come from our company, and I'm very pleased to be here.

**JOHN CANNON:** And I'm John Cannon, and my firm, Shearman & Sterling, has the pleasure of co-sponsoring this with *The Legal 500*. I would not like to say that I'm probably the natural enemy of this group, but I think that what's interesting, over the years I think there's been a recalibration of relationships between in-house and out-house lawyers. And my personal specialty is executive compensation and corporate securities. I'm the head of the executive compensation employee benefits group, and I'm the chair of our corporate governance affinity group. One novel thing I think is I'm a rare breed of the 'lifer'. I was a summer associate in 1984, so I've been working there for 30 years, basically. I think actually at one point or another I have done work for or been opposite many of the companies that are represented in the room. And it is an honor to be here, and I think we want to be doing less talking and more listening.

**LAUREN HUGHES:** We do, yes.

**JOHN CANNON:** Do you want to start the conversation?

**LAUREN HUGHES:** Sure. We will leave the theme of this discussion as open as possible so that everybody gets a chance to put forward what they think are the key issues. We're just here to guide you. Perhaps we might begin by a very open-ended question about

the role of corporate counsel. And whether or not people in the room here feel like they either: have a role in the strategy of the company that they work for, or whether they want to have more of an input. Is there anybody who currently feels like they are presently in a position to actually have a seat at

like yours and like a number of others. But now it's being regulated almost by enforcement as opposed to by rule making. So the judgment of the general counsel can bring perspective, and I think it is something that our business partners value, and is one of the most interesting parts of my job.

**“Some will say that is inherently conflicting. Sometimes it can feel that way, but sometimes you just have to sort out in these circumstances who your client is.”**

**JAY STEPHENS, RAYTHEON**

the table, so to speak? [Hands raise] We can just pick on somebody. I'll pick on you, Matthew, since you're in my line of vision. [Laughter] So, is this something that you have driven by yourself, or is it driven by your employer?

**MATTHEW BIBEN:** I think, just because there's so many around the room, I'm at JPMorgan Chase, so if anyone subscribes to any newspaper, you may have heard my company's name or read about it. [Laughter] So it's something that I relish about the role. I think it's one of the aspects that makes it most interesting to be the trusted adviser and help with strategic thinking around where the company is going, but in my industry right now, and in our firm in particular, it's impossible for your senior business leaders, your CEO and a handful of other CEOs, to be really thinking about anything without having your GC at the table, and more importantly, having your GC really at every conversation. Because so much of what's happening now is anticipating what was traditionally a highly regulated industry

**TIM PRATT:** I would say this. Here's kind of a debate. Does general counsel do more than be the general counsel? Concerns about privilege and those kinds of things. When I was hired six years ago I was general counsel and corporate secretary. My CEO and one since then have put more business hats on me. So, I said I'm chief administrative officer, so right now I've got global regulatory, government affairs, corporate strategy, corporate communications, health economics and reimbursement, all reporting into me in that business capacity. And you have to manage it. But it has, I think, made me a better general counsel being on the executive committee, handling those functions and being one of the few people in the company who sit down to decide whether to make deals. It's rounded me out better than just being general counsel has.

**JAY STEPHENS:** I might just add a comment here. Both of you noted that if you were operating in a regulated industry, which many of us do around the table, the general counsel is a



pretty necessary player in those business and strategy discussions, and also in ensuring compliance. I've personally spent a lot of time on governance issues and related board activities, including the intersection of policy, strategy, and governance issues, with the board. The general counsel has a very special role because you actually are tested by sometimes competing interests and you need to protect the long-term interests of the company. At times, you are counsel to the board of directors, as well as counsel to the CEO, and the company's senior leadership team. You're also obviously counsel to the company. So you wear multiple hats. Some will say that is inherently conflicting.

Sometimes it can feel that way, but sometimes you just have to sort out in these circumstances who your client is. Your principal allegiance should be to the board of directors, the company and to the long-term interests of the shareholders. But you can also protect the interests of the CEO generally in that context. You need to understand when these interests may diverge. I think the role of general counsel can be very challenging, but also a lot of fun. It's very impactful. Most of us do these jobs, not just because we like the substance of what we do, but I think it's the process of what we do and how we can shape and mold positive outcomes and have a positive impact on decisions. That's the interesting

part, but it's also sometimes the tough and difficult part of being a general counsel.

**MATTHEW BIBEN:** Do you deal with reputational issues? That's the other topic that we deal with constantly, and I think that fits into this kind of strategic question as opposed to purely legal. The question is not is it legal, but is it stupid or not? Or is it going to get you on the front page? So I spend a lot of time thinking through with stakeholders and constituents and reputational issues. We're a consumer business in my half of the company, so there's a lot of scrutiny now, but I think that's very different from ten years ago.

**DAVID JAFFE:** For me, the thing that's been fun is getting that strategic role through the department, because there are big strategic decisions. If everybody in the department has the right business sense, and if they understand what commercial excellence is, and know when to ask hard questions even though they're 'just a lawyer', then each of them can earn their seat at whichever table. Because the careless decision very often happens with something that's too small to get up to the GC's office; it happens down in the interstices somewhere. So for me a big focus has been trying to get the whole team to be thinking strategically for the business about all the issues that you mentioned all the time. Their opportunities will come. After the first one comes, someone will say, oh, maybe we ought to ask so and so.

**KEN SCHWARTZ:** One of the best compliments I think we can get as in-house lawyers is if somebody's in a meeting and they have no idea you're the lawyer at the table. When you're working with innovation and speed,

like we're working with it. And you have an appreciation from your clients that lawyers can think very differently, learn how to think on their feet, think quickly, be creative, analytical, push back. And then you can also absorb the business issues, and fit into the business discussion with that skill set, so you become indispensable at the table very quickly.

**JAN REED:** A lot of that has to do with how your business is structured and how the legal department is organized. If it's lockstep, if you're organized just from a structural perspective to be aligned with a business partner, it makes it a lot easier. And then those that I would consider old-fashioned structures of in-house legal departments, that's almost like a mini law firm where the business throws the work over the wall and then they throw it back.

**TIM PRATT:** To your point, it's not just the general counsel being the business partner. The key is to have lawyers there in all the areas.

**JAN REED:** If the business will let them.

**TIM PRATT:** The business support people who say the tough things and say the business wants to do it, but you can't. That's the line.

**LESLEY WAN:** I think that's absolutely right. With reference to the PPI scandal in the UK - it's affected most of our banks. When it first came to light, I was quite shocked that this had been allowed to happen. In my opinion, if an organization does not put legal expertise at the heart of the business (particularly where the work is transaction-based), then that could be risky. Some of the larger banks in the UK have a huge number of business

divisions, and a high turnaround of bankers, with new people joining all the time. New recruits may not be familiar with the processes of the organisation and there may not be clear legal guidance and policies in place for them to refer to or access at the business level - that's when problems can arise.

**JAY STEPHENS:** How are you structured to ensure that legal advice is vectored into your compliance processes?

**LESLEY WAN:** At Lloyd's, we have a dual system. There is a central legal function where some business units delegate the work to a legal pool via an e-mail. But there are also legal teams

that are embedded in certain business areas. In my team, as we are specialist real estate lawyers, we actually sit at the heart of the business, and we are empowered to let the business know what they can and cannot do. They see us as a member of their team. We are their business partner in the true sense of the word.

**STEVEN GREENSPAN:** I think what Jan said, at least from my perspective in our company, is really important. We have 330, 340 lawyers all around the world, and about 40 or 50 of them are at headquarters. And the rest are forward-deployed in our businesses and we have lots of businesses around the world. Just to take an example, we have one in St Paul, Minnesota and a good friend



of mine was just sent from Hartford to be the general counsel of this business. He's the general counsel of that business, and he reports to two or three other people until he gets to the general counsel of UTC, but for the people in that business that are managing their P & L, he's their lawyer, and he's embedded in the business. So we have people forward-deployed - I'm sure you do - all over the world, and to me that's

GE is I'm very good at giving advice if I know who I'm - if someone comes to me and tells me they have a problem, or if I can get a line of sight into it. I've worked hard to do that, but it's hoped that some of these Centers of Excellence will have business people as part of those centers. For example, we're doing one on crowdsourcing and challenges, innovation challenges, which is a huge new way we're

on at GE, and the COEs are fitting into that. There is, but there was such duplication of work happening at the corporate level and the regional level and the business level that this Center of Excellence model is a way to try and streamline it. So there'll still be GCs for each of the businesses who report up to Brackett and who will deal, on a country level or region level, with the issues, but it's hoped that having many lawyers who focus on a subject matter can eliminate some duplication.

**'I wanted to break away from the model that people come to the lawyers and ask them questions. I wanted the lawyers to be there to see what was developing.'**

**TIM PRATT, BOSTON SCIENTIFIC**

the key. I agree with Jan. If they were all in Hartford, we could provide legal advice in a more traditional way, but I think we would miss the opportunity that's been described.

**KATHRYN BARRETT PARK:** You know, one thing that GE has done, because we're a very big company, as you probably know, and there are lots of lawyers and there are lots of different businesses, is that we are going increasingly to what we call Center of Excellence models so that we have lawyers who work around the world in specialties, because our GC Brackett Denniston (who's fabulous), can't know every single thing that's going on in every single GE business, 24 hours a day. So we've created Centers of Excellence, which are lawyers from different regions, all of whom work in the same practice area with the sort of single leadership, and the business people then have an easy way to find them. Because one of the challenges at

promoting GE. It is a mixed functional team of lawyers, marketing people, technologists, IT lawyers. So that's one strategy the company's trying.

**JAY STEPHENS:** Are the Centers of Excellence regionally based, country based, or practice based? Are they all transactional lawyers, or are some litigators - or compliance people?

**KATHRYN BARRETT PARK:** Yes, they're practice based. They're headquartered in Fairfield, at least most of them, but there are lawyers that sit out in various businesses in other regions who are part of those COEs.

**MATTHEW BIBEN:** But does each business - would a CEO have a general counsel? Does that general counsel have a team of people so that there's corporate functions as well?

**KATHRYN BARRETT PARK:** Well, there's a simplification initiative going

**JAN REED:** But it's interesting because just - I mean, listening from the outside, that strikes me as the opposite of what we were talking about in terms of you've got these Centers of Excellence, so it's almost like a law firm where these are the healthcare regulatory attorneys or this is our antitrust expert. So they're not embedded in the business.

**KATHRYN BARRETT PARK:** Except that they have business people embedded in the COEs, which may be the difference.

**JAN REED:** Oh, so you're saying it's a COE initiative across the company, not just within legal?

**KATHRYN BARRETT PARK:** Right.

**JAN REED:** Oh, I got it.

**KATHRYN BARRETT PARK:** And there are legal COEs, but they will have - there is business people, depending on the subject matter. Now, if it's the litigation COE, there will not be, but for example, in the one I was talking about, there will be.

**TIM PRATT:** I wanted to break away from the model that people come to the lawyers and ask them questions. I wanted the lawyers to be there to



see what was developing. So I insisted in all of our businesses that they have a senior management team present in that company and that one of my lawyers can sit on that senior management team. That simple thing allowed training, education and I think it transformed the ability to see business practices that we may not otherwise see.

**NEIL ROSOLINSKY:** And there has to be connectivity between the teams. That's sort of the way we're structured, where each of the businesses for the most part has a management team and a lawyer's there, but then RBS probably has 500-600 lawyers globally. And annually, 50 or 60 senior

lawyers from around the world will all meet in the UK, and this way we know that there's good connectivity between specialties, between people supporting different businesses. This way, when we all go back to our home countries, because we're spread out all over the world, we know who to call. If an issue bubbles up in our region, whether it's in our area or not, we know we need to call this person. He or she is one of the 50 or 60 senior-most lawyers, and they can always direct us to the right person. But that connectivity is really important. I think the first few years I was at the bank, we didn't really have it. For the last few years, we have, and given all the turmoil that we've been going through, it's been quite helpful.

**DAVID JAFFE:** I'm curious. Do you all break out compliance investigatory lawyers, from the rest of the group? Is that a specialty that's separate, and what's their relationship with the compliance department? Is the compliance department their client or something more?

**JAY STEPHENS:** Compliance is an integral part of our office of the general counsel. Among other roles, I serve the function of chief compliance officer. We also align compliance with the general counsels of our businesses as well as with our litigation Center of Excellence and with our international legal group. We are highly matrixed.

**MATTHEW BIBEN:** We've just separated compliance out from legal so it reports separately.

**JAY STEPHENS:** For us it is important that compliance be linked with legal because of the regulatory imperatives of our industry, particularly in the global space.

**'For a manufacturing company, the places in the world where we exist, having compliance within the law department is critical.'**

**KEN SCHWARTZ,  
AVERY DENNISON CORPORATION**

**MATTHEW BIBEN:** Yeah, the Fed will continue to push. But our investigatory lawyers report either to me or to the general counsel of the holding company. So you want them outside of the specific line of business - because we have a little bit of the 'Center of Excellence' corporate functions - but fundamentally I've got six, seven general counsels who report to me, or the general counsels of businesses which are operating on a standalone basis. They have teams who deal with connectivity in a different way. So they really are seats at the table at the Center of Excellence. So there is, you know, some lack of synergy, which again, I can tell you how we try to address it. But the idea is to have the investigatory compliance issues, whistleblower issues, regulatory, subpoenas, attorneys, etc outside of that reporting of basically the line of business.

**DAVID JAFFE:** Still into legal?

**MATTHEW BIBEN:** Into legal.

**TIM PRATT:** We have a different set-up because compliance used to report to me. We had a corporate integrity person. A lot of my lawyers are doing investigative work. They had compliance lawyers to do some of it. I don't like the way it is.

**JAN REED:** Where does it report now while you're under that?

**TIM PRATT:** It reports to the CEO.

**DAVID JAFFE:** And does that person have his or her own lawyers who report to him or her?

**TIM PRATT:** Yes, but I don't let them go off on a frolic and detour my people. Investigations that are significant, they're basically run by my lawyers. They can run the big ones.

**KEN SCHWARTZ:** For not a financial services company and not a defense contractor, but for a manufacturing company, the places in the world where we exist, having compliance within the law department is critical from my view. Lawyers who report to me out of Asia, out of Hong Kong, India, Brazil, Buenos Aires. I mean, we're in regions where I need my lawyers to be leaders in values and ethics, and if they

don't have a seat at that management table with those leadership teams to hear what's going on, that they're involved in product going in and out and distribution centers relocating and all those kind of things where little movements of money in the wrong way can get you into huge problems.

**JAY STEPHENS:** For those of you who have a global business, how do you align your global legal resources? How do you manage that? What seems to work?

**DAVID COHEN:** At Honeywell, it seems to be a little bit of a hybrid of what everybody's saying. Our global compliance does come through the general counsel, and we have a mix, to answer your question, Jay.

**KATHRYN BARRETT PARK:** Yes, that's how David and I know each other.

**DAVID COHEN:** Jay, I don't know if you remember, but you and I overlapped.

**JAY STEPHENS:** Yes, I have very positive memories of my time with Honeywell. And somehow, we both survived all the corporate restructuring!

**DAVID COHEN:** But our global business, we've seen challenges because we have so many businesses, so many large businesses operating in so many different regions, so there's some subject matter experts, which we still keep at the corporate level, but really strive to make sure that those functions really operate with the business. But for the most part it's decentralized, so we will have, depending on the size of the business, general counsels located with the business. IT attorneys located with the businesses, and then when the

regions demand them, our regional counsels do wear extra hats. It's always a funny thing when you see these announcements. Congratulations. In addition to being general counsel of this business and this business, you're now general counsel of Asia Pacific as well.

**KATHRYN BARRETT PARK:** Where's compliance, though?

**DAVID COHEN:** It's corporate.

**JAN REED:** Reporting into...?

**DAVID COHEN:** The general counsel.

**STEVEN GREENSPAN:** Same for us. Our top compliance officer reports right into the general counsel.

**JAY STEPHENS:** So you have a separate compliance lead person who reports to the general counsel?

**STEVEN GREENSPAN:** Correct, and he runs the investigations around the world. That's all in our legal department. And in terms of general structure, we're set up like they are. It's interesting. I never observed this as outside counsel, when I was working for UTC. But since I've come in house, I've realized it really does matter, to whom. For example, the general counsel of Sikorsky, his boss is the president of Sikorsky. His boss isn't the general counsel of United Technologies. So we have an the executive committee of Sikorsky, comprised of the president of Sikorsky, the CFO, the head of HR of Sikorsky and the GC and others. And the dotted line is from the general counsel of Sikorsky to the general counsel of UTC. That's the structure that I think has worked very well, and essentially empowers business unit general



counsels to advise and lead the major business units. Then we provide specialized expertise at corporate headquarters with ERISA lawyers, with litigation folks, with securities folks that help everyone. But we have lots of people who are viewed as the general counsel and they are entirely embedded both geographically, but also structurally in the business units all over the world. I think it works.

**DAVID COHEN:** And it's very simple. Very simple.

**TIM PRATT:** Does anybody have any of their lawyers report into the businesses separate from the legal department? I mean, I have people embedded, but all of them come up to me.

**GISELE SUTHERLAND:** My corporation acquired - BMO acquired M&I Corporation, which has a large regional presence in the Midwest. In legacy M&I as we refer to it, the lawyers reported to the business rather than to the general counsel. Having been one of the ERISA lawyers reporting to the business, I would say that that reporting structure is not my preference. BMO announced the acquisition of M&I in December of 2010, and we're finally getting to the other side where we're settling into the new reporting structure where the lawyers report to the GC. Initially, the legacy M&I businesses struggled with their lawyers being outside the business as they cannot generally proceed on an issue without



legal being onboard. Further, they cannot dictate the lawyers' priorities as easily. In legacy M&I, the businesses had more control over legal. The flipside, however, is that in BMO and legacy Harris, as we refer to it, the BMO and Harris lawyers have always been outside the business, and you can see culturally the difference that has made. While I still prefer a legal reporting structure into the GC, it is not without its drawbacks. When you report into the business, you are more conditioned to ask what the business' end goal is. We don't always see that approach in the current structure. Nonetheless, the GC clearly articulates that he wants his lawyers actively engaged with the business.

**MATTHEW BIBEN:** I agree. Our model is the opposite. We're in the variation, which is every lawyer in the company reports to the general counsel of mortgages, the credit card business are accountable to the CEO, but they're a hard line to me. I set their pay, and I get input from the CEO, and I think that's the only way to do it. I was a deputy general counsel when we acquired Pershing, but they had the same model, which was the general counsel reporting to the CEO of the business, and they wanted to keep it, and it created all kinds of integration issues. The problem is you are much more likely to become captured and to have less of the looking for synergies across the business, less of the things we want to try to do be effective I think

across the company. So I think again from my experience, it's the model I would prefer. I understand others do it differently, but I just think this is the stronger model.

**JOHN CANNON:** Is the compliance function now different than the legal function in that regard?

**MATTHEW BIBEN:** Yeah, so compliance is definitely separated, basically because it is required to be separated by the regulators, so they are, just like in tax, in compliance elsewhere in the business, you have people who have legal educations. Some of them may continue to have standing in the bar, but they are not permitted to practice law. So the

point of that is they can't put anything under privilege. They can't give legal advice, and we're very strict about that because we've got all kinds of issues around maintaining privilege. So that's an informative background for compliance, but we don't have compliance lawyers in that sense. We just have lawyers who may advise any of the businesses that would include compliance. But that was a transition when we moved compliance out of legal because they used to wear all hats. So you'd have the associate general counsel and chief compliance officer of the investment bank. That's no more. Now you're just chief compliance officer.

**GISELE SUTHERLAND:** And again, the chief compliance reports to the CEO?

**MATTHEW BIBEN:** No, chief compliance reports to the COO.

**GISELE SUTHERLAND:** Okay. But not to the general counsel?

**MATTHEW BIBEN:** That was the break. They moved from general counsel to the chief operating officer. When I was at Mellon, it moved from the general counsel to the chief risk officer.

**JAN REED:** And we have the same at Walgreen's. We have a chief compliance officer who, because of a consent agreement, was separated out from the legal department. We just closed it, so she's back reporting to the general counsel. There's a chief compliance officer, and under her a chief privacy officer. We have the same set up you do where she's got lawyers working for her, but they are not practicing law, and we're very careful about that. In the legal department, even though the chief compliance officer reports to the general counsel, she doesn't come

to the legal staff meeting. She is not considered part of the legal team, and her group is a client of ours. So when she needs legal advice, she comes to us, and we work with them all the time. But we provide the legal advice to her team.

**JAY STEPHENS:** That seems a bit unusual, perhaps because I see our law department so integrated into our operations. I don't see our legal team as an outside law firm. There are pockets of specialties that primarily give specialty advice, but otherwise everybody is engaged with the business, doing a range of legal and regulatory activities. One day you're doing an investigation, and the next day you're giving business advice. The following day you're doing a transaction. So you do it all as part of the team, in a highly matrixed environment. And sometimes it is hard to separate out legal from compliance - you may wear a compliance hat or a legal hat. This is especially true in a highly regulated industry where compliances is central.

Also, compliance is clearly under the umbrella of governance, risk, and compliance which are core strategic drivers of our General Counsel's office. So what is the role of the compliance people?

**JAN REED:** So if I can simplify it, and it's not easy, the legal department is responsible for interpreting the laws, and our compliance group overseas compliance with those laws and our policies. If there's a question, how do you interpret that? Then it's the lawyers that step in and say, no, here's how this regulation should be interpreted, and then the compliance group says, all right, are we following that practice? Are we, if the lawyers say we should be doing X, are we doing X?

**LAUREN HUGHES:** What happens when it's an issue of ethics as opposed to compliance, and who takes responsibility for that?

**JAN REED:** If it's a hotline call kind of a thing?



**LAUREN HUGHES:** Yes.

**JAN REED:** Our hotline – some companies call it a help line – reports in, goes through the chief compliance officer’s office. They take all the intake, and then depending upon what it is, distribute it out.

**MATTHEW BIBEN:** We just moved ours, so I can expand a little bit on how we do compliance because it used to be very unnatural, this separation, but we’ve spent a lot of time really trying to figure out on a continuum how to demarcate between compliance and legal. But for us, the ethics really depends on where it comes. So we just moved to – the chief compliance officer is now getting hotline complaints, but

if it’s a director’s mailbox, it goes to the corporate secretary. If it goes through the Fed or the CAPB or one of those, it comes through the general counsel’s office.

**JAN REED:** Internal audit.

**MATTHEW BIBEN:** Right, internal. So it goes in a lot of places. We spend almost too much time collaborating, socializing, coordinating, so although there are these clear distinctions between legal and compliance – I’ll give you a couple of examples. Compliance is transaction monitoring, which legal never would have done before. Compliance is testing, which legal wouldn’t have done. But then there’s other areas where it’s very close, and

we do collaborate a lot with risk, with audit, with compliance. With business on those types of issues. And that would include whistleblower issues, ethics, hotline issues, directors issues, whatever.

**LAUREN HUGHES:** If I can just pause the conversation for a moment. I think we had a new arrival. Do you want to introduce yourself to the group?

**MIKE SOSSO:** Sure, apologies. I’m a little late. The traffic is horrendous getting here from the Upper East Side. I’m Mike Sosso. I’m with BP. Actually, I manage its antitrust work, so this discussion about compliance is quite interesting to me.

**LAUREN HUGHES:** Thank you. We’re going to move on to something brand new now. So if nobody has any other preference, perhaps we could talk about when to instruct outside counsel. Because I know from speaking to a lot of you when we were putting together this list, I heard some quite different views on when to call in outside counsel. Some of you told me that you like to keep the plain vanilla, day-to-day stuff in house, and only call on outside lawyers when it’s something much bigger. But there were some people who seemed almost to do things the other way around, so I’d just be keen to know what your views were on that. Who wants to volunteer?

**KATHRYN BARRETT PARK:** I’d be happy to volunteer because we’re doing something a little different, and I think when I started at the company, we did use outside counsel primarily as the subject matter experts. You know, we went to them when we really had a tough call. As we built up capability within GE, we are now leveraging a lot of our relationship with outside



counsel to almost commoditize certain functions, because outside counsel do it for themselves, presumably, and they can do it for other clients. So we have very recently started looking at transferring what you might almost call back room functions to law firms, to take advantage of the infrastructure that they have, which then takes it out of GE. It’s cost effective for us. It allows the lawyers in-house to do great legal work without having to worry about those kinds of things, which isn’t to say we still don’t use outside counsel on all the tough cases, because of course we do. I’ll give you an example. If you have sort of a large volume of work that requires regular filings, for example, or doing NDAs is another area where we’ve looked at it, where

you’re going to do sort of standard – and you want a process to administer something like that. We have law firms with whom we have relationships who do it for themselves. And they do it for other clients, so they can commoditize and offer those services to us. So we have just – we are in the process of eliminating some of those backroom functions to take advantage of the capability of one of our firms. So that’s a real shift in the way that GE has used outside counsel. But it’s being pushed because we’re being asked to do things faster, and simpler, which is an anathema to most lawyers, who work in nuance and complexity. So using firms for things like this means we have much faster turnaround times on some of the backroom functions.

**LESLEY WAN:** We’ve done something quite similar to that too. My business was struggling to complete deals and provide funding to our borrowers on time because we need a legal opinion from external counsel before we can fund. The problem was that external counsel tended to only give us the legal opinion at the last minute because they were busy negotiating and agreeing deal documentation – my legal team then had to review the opinion to ensure it was acceptable to the bank and this could take hours. All firms have their own form of legal opinion so they all need to be reviewed carefully. By way of example, if the business is trying to fund at 1pm, and the legal opinion’s only just arrived, there is no way we can meet the deadline as



legal opinions are always negotiated. Consequently, the borrower does not get their money on the agreed date. The legal opinion then goes back and forth until we can finally agree the document, but that means it may be another two or three days before the borrower actually receives funding. This isn't ideal. The bankers are then furious with us and external counsel. This is reputationally very bad for lawyers. To simplify this problem, I decided to create a standardized legal opinion for our real estate business across the UK. This took me approximately eight months to negotiate with external counsel on my legal panel. I consulted with magic circle, silver circle and some smaller firms, to get agreement on a

form of legal opinion that would be acceptable to everyone. I then piloted the legal opinion amongst a few sample law firms and it worked well. Following on from the success of the pilot, I formally issued the legal opinion to our legal panel informing them that no changes could be made to the legal opinion other than due to deal specific requirements. As you can imagine, for some law firms, it was a hard pill to swallow. My business has been using the legal opinion template for the last three-and-a-half years. The template has been hugely successful because we are now able to advance funding to our customers on time, with delays no longer caused by legal opinions on any transactions in our business. I have

specified to external counsel that they must provide the legal opinion at least two days before the agreed date of completion. It must be in the standard form. Any changes must be shown in track changes, so we can identify them easily. All the standard assumptions and qualifications are non-negotiable unless there's a specific reason, and these changes must be agreed in good time with my legal team. External counsel played a key role in helping me create this template and so I think it is a reasonable requirement that our template is not up for negotiation. I usually have seven secondees who work in my legal team at any one time, so as you can imagine, every six months, we have new colleagues in the

team. With so much regular change of personnel, you need to manage the quality to ensure that it is consistent. Legal opinions are something we review on every deal, and everyone has a different approach. By having a standard document, it actually makes life so much easier when managing legal risk. I've now taken this approach with all our documents. I'm about to shortly launch a new standardized loan agreement for real estate. It is LMA compliant, but a lot shorter - about 50 pages long - and we created this with the help of our panel law firms. So, I think there are many ways in which we can utilise our external counsel effectively to make it a win-win situation for all parties.

**TIM PRATT:** When I came to my company, there was an over-dependence on outside counsel, and the reason was that there weren't enough specialists. People who were supporting the business, they would support the litigation. They would help out on some of the IP issues. They liked it because they did a lot of different things. I completely changed it. You support the business. You don't do litigation. That's the CLO office. You don't do IP. We have IP people. If somebody back then needed to know whether an 8K needed to be filed for a business issue, they would call and ask. Now I have an FCC specialist, I have a corporate governance specialist. That's the way we structured it. We still obviously rely on outside counsel to do lots of things, but the point of that was to be quicker so that we could - we need to file an 8K. There would be somebody there to answer that question. So we're now structured in a way where we're less dependent on outside counsel except big deals. Obviously you need outside counsel. Litigation, you need outside

counsel, and then on sticky issues like employment, we had an outside counsel opinion to every one of those areas. But we have the specialists who take a first cut at what to do.

**MATTHEW BIBEN:** What's your ballpark ratio of pay in terms of legal spend, outside and inside?

**TIM PRATT:** I can tell you it's about three-and-a-half to one. And the one's internal. My total internal spend compared to my total outside counsel spend is about three-and-a-half more times. Now, keep in mind a lot of it's litigation. And one important point for those people, about a third of my outside counsel spend is to prosecution patents.

**MATTHEW BIBEN:** That's an area that we have standardized, outsourced. We've selected through procurement - five grand for this, ten grand for this, fifteen grand for this and twenty grand for this. There's an electronic interchange with the firms. Billings go back and forth, product goes back and forth, and it's really very standardized. It has driven more efficiencies. It's obviously driven a better cost structure as well.

**DAVID JAFFE:** For us, the key is less whether you instruct outside counsel or not, we're pretty small. So if we're busy, we're going to use outside counsel. We don't have all the specialists, so we need the specialized outside counsel. I think the key is that



the inside lawyer is responsible for the legal work. Whoever - whatever outside counsel gets used. So the inside lawyer has to be convinced and control it, and the key judgments have to be made by the inside lawyer. That way, you should never hear someone

the same year as John. It used to be that a difficult legal problem, really any legal problem, you would get outside counsel involved immediately, and now I think the bias is opposite. We have lots of internal specialists across many subject matter areas, and the bias is that we

**‘It used to be that a difficult legal problem, really any legal problem, you would get outside counsel involved immediately, and now I think the bias is opposite.’**

**STEVEN GREENSPAN, UNITED TECHNOLOGIES**

in our legal department say to a client, “Well, Sherman and Sterling said...” because that’s irrelevant. We said it, and for us, that’s key to the value piece that you started with. If we don’t own the advice, how can we say we’re the strategic part and we’re the people you’re relying on? It also defines how the work gets done, and it helps us. What we try to say to the outside firms is, you can’t just run up a bunch of hours because there are interesting questions out here. You’ve got to justify that answering this question that you’d like to research adds value to the business. The lawyer’s job is to make sure that answering that question is going to add value. So that’s more of our take on the spend part of it. So in patent prosecution, for example, yeah, we outsource it. We got deals and all that, but there’s an inside operation that evaluates the disclosures and tries to sit with the business people and see, hey, is this worth filing or not?

**STEVEN GREENSPAN:** Lauren, it really seems like there’s a theme in the last 30 years that I’ve been in practice. I started

don’t need outside counsel, and I think you can see it in a couple of ways. One is the comparison spend. We’re right about 50-50 in UTC, and obviously it’s a big number on both sides. So I think the dependence on outside counsel generally speaking has changed.

**JOHN CANNON:** I was going to say, GE was certainly the leader in that.

**KATHRYN BARRETT PARK:** Right, but you know, one area where I think there is an increased reliance on outside counsel, at least in some areas, is with the increasing globalization of everything that we do. There are compliance risks and there are different schemes, even different morays in different regions. And I do a lot of the marketing work, and you can imagine the brand reputational issues if you get it wrong. So one of the things that we do look to outside counsel for is often to fill in our gaps in terms of regional knowledge. We may get there and we often do hire, but there may be places where we need expert, fast advice, so I think that’s where global

law firms really do play a part, and we look at them.

**JOHN CANNON:** That’s where it’s a bigger part of our business is FCPA and non-US equivalents of that.

**TIM PRATT:** Because there’s so many entry-specific issues. You put somebody in charge of Europe or Asia Pacific.

**JAY STEPHENS:** I agree that it is important to have access to talented global legal advice in various regions where you do business - not just advice in the compliance area, but transactional advice, as well as sound business advice. There are also significant regulatory and cultural perspectives that go with that legal advice.

**DAVID JAFFE:** We all need outside counsel to identify for us in that jurisdiction, what are the questions that we didn’t have the wit to ask because we’re too US-centric, or we don’t know what it is in Uzbekistan or whatever it is. That, I’ve found, looking for lawyers in 30 countries, is really hard to find. Some countries you cycle through six law firms because you’ll sit and you’ll have a conversation with the person, and they won’t say, oh, by the way, have you thought about in Germany general conditions law? Maybe I didn’t know you had a general conditions law. That’s just a terrifically hard scope to find in outside counsel for me.

**KATHRYN BARRETT PARK:** The other thing I’d like to add is we’re doing a lot of work right now in Russia, and I have worked with a number of different firms, and getting advice in a form that I can understand it is challenging because you can have the best, expert firm, but if they can’t communicate in a way that my client can understand



what it needs to do, it’s a hopeless relationship. So firms can really fill a gap in finding those kinds of people to help companies navigate because I can tell you one instance I worked on, which was so frustrating, I got three different points of view with three different Russian counsel, none of whom I really understood exactly what they were saying. So it’s the big firms that can sometimes come in and help us navigate this.

**TIM PRATT:** I just hired somebody in Russia.

**MATTHEW BIBEN:** I spend a lot of time in Russia. While working at Bank of New York I spent a lot of time there.

**NEIL ROSOLINSKY:** I was going to say, sometimes it goes beyond the law, too, particularly in this regulatory environment, right? The SEC might come knocking, and maybe it’s a very narrow issue, and we do actually have the capability in house to facilitate the investigation and get the SEC whatever they need, but we know that ten other banks are going through the same investigation, and we know that there may be one or two law firms that happen to be helping those other companies with the same point person at the SEC. Then there’s a real value in going outside, because they already have a relationship with the regulator on the particular issue, and they’re just going to be able to streamline

and probably know what the regulator is really looking for and some of the behind the scenes nuances we might not have insight to in house, or we may not be able to have the same types of conversations with our regulators that outside counsel can have in particular circumstances.

**LAUREN HUGHES:** I think we’ve had a couple more people join that might want to introduce themselves?

**DAVID SORKIN:** Sure. I’m David Sorkin. I’m the general counsel for KKR.

**MARY LEHENY:** I’m Mary Leheny. I’m the global trademark counsel at Novartis.

**JOHN CANNON:** I was going to ask you a little bit of a top-of-the house question. There are several veterans here. As far as the trusted senior advisor to the CEO and/or to the directors, what change do you see in terms of the role of outside counsel versus in-house lawyers? Your holding company GC, obviously – in front of Congress and everything. I mean, that has changed a lot over my 30-year career. It seemed to me when I was a young lawyer, when there were really tough top of the house issues, the CEO would sometimes kind of ignore his own GC – and it usually was a he on both sides of that equation – and would go straight to the outside counsel. So does the GC know what's going on? But I don't see that any

more, other than at smaller companies sometimes.

[All agree no]

**LAUREN HUGHES:** I think that leads us to another point. As you said it's usually a 'he'. One of the topics we wanted to discuss was the issue about diversity. Not just women, but diversity in general. I know some of the bigger companies have procedures in place, or have things that they want to do. And I know when I spoke to some of you here, that you were very keen to try and make sure your companies were as diverse as your customer bases are. So does anybody have any particular strategies they've put in place to ensure that that happens?

**LESLEY WAN:** At Lloyds Bank, we set up a diversity program for women, called Breakthrough, about two years ago. Breakthrough is designed to focus on helping women progress through the organization and retain female talent. In January of last year, I was appointed onto the steering committee and I now run the mentoring program for Lloyds Bank. We now have over 8,000 people on our mentoring program. What is really exciting is that a lot of our external counsel are really supportive of our initiative and are helping us to host some of our events. It's been a phenomenal journey, and it's been wonderful because external counsel can make your life so much easier when you're trying to promote a huge initiative within your own organization. They also get to see what you're doing, and they want to work in tandem with you. As a large bank in the UK, we also want to ensure that we have a diverse workforce as this reflects our very diverse customer base. I also just want to say that I think it's really important for in-house counsel to push your way into the business and say, 'Yes, I can help you with that.' Just because we are lawyers, it doesn't mean we can't help on business issues. I think it promotes legal quite positively to the business if we do this.

**DAVID JAFFE:** You've got to pay people. There's a lot of stereotyping around those issues that tend to fall on women. One of the things about people leaving is if they don't feel they're getting paid enough to justify the hassle. So I think we have to fight for the people who add value, even if they do it in a slightly less conventional way.

**JOHN CANNON:** From the outside, my perception is that a lot of financial services firms, I mean, we do joint

programs, and I've had to be the co-chair of the committee. Joint programs with many of your competitors, etc. Frankly, my perception is that legal departments in modern America – I can't speak for the UK right now, but modern America – are actually more diverse than the business people.

**MATTHEW BIBEN:** At our shop, I'm the diversity chair. We are very focused within the company on diversity. My direct reports are more than 50% women and diverse. We have more initiatives. We're piloting a women's reentry program, when they've been out of the workforce for years. We've been working with every minority bar association in the city. Every new hire, legal hire, is based on a diverse slate with at least one, so we have been ruthless in pushing that agenda and making sure that we have a culture of inclusion or getting the best candidate. So it's interesting the difference overseas because I do think relative to other industries and perhaps relative to our business peers, legal department is actually very advanced on this issue.

**JOHN CANNON:** Yes, I know at GE for many years, you have had to give reports to regular counsel at GE. Our litigation group had to give reports with a breakdown of the teams and how many hours would be performed by women and minorities versus...

**KATHRYN PARK:** GE did an interesting study a few years ago, and I have another comment I'll make after this, but we have various systems to rate how the law firms do. We track diversity methods, but then would also have a tool where at the conclusion of a matter, whether litigation or a deal, the law firm would be rated on a number of different criteria that included the ease of working with



them, the expertise, the result, the quality of the lawyering. Someone who's no longer at the company, who's gone on to bigger and better things at another company, undertook to do an analysis where he compared the most diverse firms. The most diverse firms, and it had the best results. And by far and away, and he demonstrated this at one of Brackett's big meetings, the firms with the most diverse people working on GE matters usually were the firms that did the best in terms of how they were ranked. I think the challenges for companies, though, in terms of women in the workplace are getting women into really senior positions. I think it's easy to attract women to come into a company

like GE. I think for reasons like you identified, if there's stereotyping about a work product based on the number of hours someone's sitting in the office, that can be a disincentive. I do think GE's made some strides in this. With the technological advances where people literally can work from anywhere at any time, I think that will help shift the dialogue a little bit. It will be away from the days when I was at Skadden and if your jacket wasn't on the back of your chair at 10.00pm, you were never going to make partner. Those days hopefully are gone, and I do think that for women in corporations, you're to be congratulated for making that push because I do think that's a problem.



**KEN SCHWARTZ:** I'm in a similar position to a couple of you. 60% of the lawyers that report to me are women. It's the market. I kind of don't get that it's a problem sometimes looking at it, because it's the market and you want the best talent, you pretty much should end up with about that ratio, you know? So when you see the difference between in-house and law firms, what's the fundamental difference?

**JOHN CANNON:** More women in-house?

**KEN SCHWARTZ:** The fundamental difference is billable hours. So we were talking about this before: a law

firm that we both use in Cleveland that associates have no billable hour targets, and they really mean it. You know, and it's all about for the clients building the value. So it ends up being about value. It ends up being a very diverse law firm. I think when you see law firms that are hours, revenue generated, you've got to be there on Saturdays, it's not flexible and those kinds of things, those law firms look drastically different than law departments. When I look at it, the fundamental difference is just that.

**STEVEN GREENSPAN:** I'll step in here. I agree. In our legal department, I don't perceive today that there is an issue in terms of gender diversity.

There are many opportunities. Two of our top five lawyers are women, and that's a problem I think we've addressed, and I think that we've addressed it well. But, to put all the cards on the table, I think ethnic diversity is still a gigantic problem, and to put a finer point on it, it's very difficult for us. We are a pretty attractive place to work, but recruitment and retention of African-American lawyers is a huge problem. It's a problem for Shearman & Sterling. I'm sure it's a problem for my old law firm. It's a problem for some of the biggest companies in America. So far, although we've been tackling the problem much like you have with programs and metrics and honestly caring about it in terms of trying to solve the problem, we have not been successful. It's head scratching, but it's a problem we're continuing to try to deal with.

**MATTHEW BIBEN:** To put a finer point on it, it's actually African-American men. That's really the hardest, but you know, in general, because if you have Hispanic women, there's a lot of other categories, but African-American men in particular is the hardest category to solve, and I don't know why my general counsel tried to increase the number of African-American men we have, but on a percentage basis, trying to recruit those, that's become very difficult.

**JOHN CANNON:** Well, statistically, it's not going to get better because the enrolment in law school is way disproportionate.

**LESLEY WAN:** In the UK, many large organizations are trying to address the ethnic minority and diversity issue. One of the options being talked about is having short lists and long lists ie,

when you interview candidates, one must be a female, and one must be of an ethnic minority at the final stages because that seems like a practical way to address the issue. So I think the US is so much more advanced than us. I'm really impressed with what I'm hearing around the table. In the UK, it's really promising because corporates and financial institutions are becoming increasingly conscious about CSR and diversity issues. Certainly in the last few years, these organisations have really focused on the issue so it's really inspiring to hear what you are doing over here, and I'm taking some of your ideas back to the UK with me. So thank you.

**LAUREN HUGHES:** So we're nearly out of time. Do we want to have a conversation about fees? The question of billing has been touched upon at certain points but it hasn't maybe been explored as fully as it could be.

**LESLEY WAN:** I'm interested to hear what you do in the States in terms of different ways of billing because it's a really big topic in the UK right now. Do you bill by the hour, or do you look at the size/value of the matter to determine pricing?

**TIM PRATT:** At Boston Scientific we're moving more to flat fees, which as I've said to my law firm, is an illusion. You come up with a flat fee, there's like an hour rate that they build up. What's the difference between a flat - AFA and my prepaying you for what I think you're going to do next month? I mean, I'm pulling my hair out trying to find the answer to it. But I probably have 60% of my work with law firms on AFAs. Some of them, the ones that work, if you have commoditized work, labor, consulting things, get people to reach out to people. You say, I'm going

to pay you \$25,000 a month just to be there and do this. Those work, but you start getting the shadow bills. God bless people who have figured it out, because I have not figured it out.

**STEVEN GREENSPAN:** Then you've just blessed me. [Laughter] Because we have figured it out. Last year, exactly 72% of our outside counsel spend was

If I've got a million-dollar matter, then I have to evaluate what I'm willing to pay, and we usually can find a lawyer whose skill and experience matches the risk of exposure. I haven't had anyone come to me from any law firm yet and say something got out of whack on an alternative fee deal. We've been very, very successful, but it's interesting. One of the biggest

**'In the UK, many large organizations are trying to address the ethnic minority and diversity issue.'**  
**LESLEY WAN, LLOYDS BANKING GROUP**

on something other than hourly rate. Generally speaking, there're fixed fees for everything from litigation to deals. And it works. It's hard, but it works if you work with law firms that you trust. It's really been terrific for us. Obviously we're buying value. We're not buying hours.

**TIM PRATT:** Setting the flat fee. I get that. We have a lot of that, too, and I did it because we have a lot of it, too, and we had it in my old firm. But when you come up with an agreement, this is the fee we're going to charge for this work, how can you separate what the hourly rates are as you're boiling up to that agreed number?

**STEVEN GREENSPAN:** It's a whole other long topic, but I think that's the problem - that US law firms are giving fixed fee deals, but they're pricing them based on an hourly rate, which is silly. I'm not interested in that at all. I'm really interested in what it really costs, and I look at a staffing plan. I look at what needs to be done, and I also know what a case is worth to me.

obstacles to why we can't do better than - I don't know if we can do better than 75 or 76% - is many other parts of the world, especially London, will not embrace it at all. We have a gigantic aerospace product liability portfolio, as you guys do, and we can't get anyone from the insurance markets in London to be interested in even considering something other than an hourly rate basis. It's been hard, but overall, our judgment is that we get a lot of enthusiasm from law firms. I think the basic reason why this has worked is that law firms should prefer alternative fees to deeply discounted hourly rates. UTC, for years until last year, was requiring our firms to bill 10% off 2008 rates. So right away, you're starting on the basis that the best a law firm is going to do, is this high 70s for realization, and I don't know that I want any lawyer working for me that's willing to work at 2008 rates minus 10%. I think under alternative arrangements, under a fixed fee arrangement, law firms think about, 'How can I do this better? How can I manage this more efficiently?'



The trick for a law firm is to be able to understand your client and you have to have a good relationship with a law firm. I would never go on the internet and say, 'I've got a new patent case. It's pending in Peoria. I want a bid,' and take the lowest bidder. I wouldn't do that. I'm only dealing with people that I know well and that I trust and we can come with an arrangement. I agree it's a challenge, but it's worked for us, and now it's just part of our culture. People come to us and say, 'I'll get your fixed fee proposal by next week,' and I'll say, 'Oh, it's a little bit tricky. Why don't we work on this for a month and we'll get there?'

**KEN SCHWARTZ:** It's not so much the alternative fee as the cost reduction. I

think there's almost an assumption we'll get the cost reduction. I'd be interested to know if anybody's actually figured out a way to measure it in a manufacturing company, right? That's what we look at because I get to see that. But the alternative fee arrangements to the extent we've used them, and we've used them quite a bit, boy, the outside lawyers are suddenly aligned with your business interests. If done the right way, the tenor of the discussion changes about settlement if it's in litigation. More creative ways to do it if it's a deal. They come up with the ideas that they may not have otherwise come up with. It changes the relationship, and you quickly see who can't change the relationship, and then you don't use them. That to me is the value.

**GISELE SUTHERLAND:** So give us an example of how they align with your business. We are re-doing all of our external fee arrangements and I use one ERISA external firm, and am working very cooperatively with them to get to an AFA. And in fact, I sent out an email yesterday to our GC's office saying, this is the deal we've come up with and does this work, and I'm doing it by business line. I have always felt that our ERISA counsel is extremely well aligned with the business. So I really want to make sure it works out, but how has it manifested itself in your shop? You say when you've gone to the AFA, they're much more aligned.

**KEN SCHWARTZ:** So this is classic in litigation, right? So jump in. If you have a flat fee, and you have different tiers for different parts of the case, you can bill them depending on how big the case is. You can bill them in a way so that at an early settlement, an early resolution to a case can be a win-win. The law firm might actually make a little bit more than it otherwise would have if it were an hourly rate, and because of the creative focus on an early resolution, I'm not spending money all the way through.

**STEVEN GREENSPAN:** I'll give you an example. We had litigation where it was important to the business unit to get it done by the end of the fourth quarter, and the case was filed in June. When we set up our fee agreement, it was a fixed fee in phases, and we said that if you get the case settled, so it was reportable, by December 31, there would be a bonus. It was a solid six-figure number. So all of a sudden the whole focus was, 'How do I litigate the case in a way to get this done by the end of the year?' They are motivated. They're

entrepreneurial, and naysayers will say they could do it anyway, but I think human behavior is modified by that kind of goal. It worked, and by December 14 we had a settlement that was within the range that we wanted to achieve. They had a big bonus, and everybody was thrilled. On your example for ERISA, I would price that, if it's a long-term relationship. I would look what it's been for the last five years, and if it's been the average is X dollars, then you say this year it's going to be 90% of X, and you charge it back to the business units based on allocation, and they sit down the next January to say, 'How did it look for you?' and you renegotiate and you go forward. You never go backward. Then what you're delivering to your business clients is certainty. My observation is a lot of the people that I work for in the business units, they would rather know in the beginning of the year it's \$100,000 a month for 12 months than if they get one piece of paper every three months that says quarterly bill, \$300,000, that's it. Then I press a button and it's paid, whereas the old days you're looking at \$86,000 one month, \$43,000 the next, and at the end of the year, if it comes out to \$1,150,000, I think they'd rather have \$1.2 million. Guaranteed, no administration costs, than \$50,000 hypothetically savings. So I think certainty and predictability matters, and that's why it's worked as well.

**GISELE SUTHERLAND:** And that's exactly what I did. I went back to the last two years and understood how and what my team delivered in terms of legal service and how we used external legal. Part of it, too, that was very effective for me is that I sat down with the business, showed them their invoices and said X dollars in the last year, and I'm going to cap you at that X

dollar amount next year, and they said, done. We're on board. It's the same thing you're saying.

**STEVEN GREENSPAN:** When business people say to you, as general counsel or as a business unit, 'How much is this going to cost?' I think that we have to be able to answer the question. Forever, the answer was always, 'I don't know. You never know what the plaintiff's lawyer's going to do. I don't know what the due diligence is going to look like.' Why should we be treated any differently than the fellow in Peoria who wants to invest in a new factory line, 'How much is this going to cost?' To me the beauty is under the fixed fee arrangement or non-hourly rate arrangement, we can answer the question. It will cost X,

and then maybe that X will cause them to make a different judgment about whether to litigate or not, whether to go forward with the deal or not based upon their risk of the deal blowing up, and it seems to me that it should be expected from lawyers, and we need to be able to answer the question.

**JOHN CANNON:** Two - naïve perhaps - reactions. The point is again I've been around long enough that I've heard about the death of the billable hour for some 20 years, and I'm curious from a consumer side, and not to the point in the UK, but why is it perceived that maybe it hasn't moved as far as I would have predicted myself 15 years ago? And just another - it's perhaps slightly facetious - but I would worry



a little bit if I were a general counsel sometimes in a fixed fee arrangement. You were talking about how your counsel is going to start thinking about how he's going to maybe change his tactics to get the results. But what if they start cutting corners just to make sure that they have the profit margin?

**KATHRYN BARRETT PARK:** Well, that's where you have to have the relationship.

**JOHN CANNON:** I'm glad, but I guess to me that suggests that our clients

day, whether it's billable hours or flat fees, to get the firms to think of their product as something that there's an efficiency aspect to, and to be focusing on how they arrange their processes to do it more cheaply, because I think they're still going to think in terms of hours, whatever we do and measure themselves.

**STEVEN GREENSPAN:** I want them to think about how we can do this more efficiently, whereas with hourly rate there's absolutely no reason for them to think of that. I want my law

**STEVEN GREENSPAN:** You've got to work with them.

**JOHN CANNON:** - write the cheque, walk away, and then you don't know what's going to happen.

**DAVID SORKIN:** One thing I would add, our spend tends to be very chunky, and there's large transactions, there's less litigation, but I think we have people in the group starting with me who know or have a view of what something should cost. I totally second the point about certainty. The biggest transition for me from moving from a law firm for many years to being a GC was how important certainty is. I would say for outside counsel, one of the biggest messages I had back was if you lead your client with a client misjudgment of what this is going to cost, you've hurt the general counsel and the client. Two, I can come in and, without even seeing the bill for many of the things we do, I can say this is too high or this is bang for the money. So I think for me at least starting with those two principles really helps manage, and then the factor of kind of the tactical way to get there is different.

**MICHAEL SOSSO:** I think with AFAs, the key thing you said is you have to trust the firm and know the firm. The issue I've often found is that when we get to that point where you know and trust the firm, they actually can extract a premium because they know your business, they know your clients. So there's a certain amount of value there that we don't have to bring a new firm up to speed and pay for that. I get that there's value there, but what I found is that some firms may actually try to extract more of that premium than potentially their work. So at that point I guess how often do you actually

### **'When you deal with a flat fee negotiation, the law firm is still thinking in terms of billable hours. They're just tallying it up.'**

**DAVID JAFFE, GUARDIAN INDUSTRIES**

trust us maybe more than the general public would because -

**DAVID JAFFE:** The key, I think, is that when you deal with a flat fee negotiation, the law firm is still thinking in terms of billable hours. They're just tallying it up. In the conversations I've tried to have with outside counsel, every time they propose a rate increase it's 'What are you going to do more efficiently? What do I get in exchange for this higher price?', and they have no concept of how to answer that question. So when you say that you're using the flat fee structure to force them to be more efficient, to find ways to get the work done more efficiently, that is a very hard concept for the law firm to get its arms around. But that's where we need to drive them at the end of the

firm to be thinking, 'How can I do this better?' When we buy component parts from our vendors, we make a deal. First year is X dollars for a widget. Next year is 0.97X. Next year is 0.92X, and that's how we drive our suppliers and I think it's the same principle with law firms. If you say to a law firm, here's a case where they think we're going to be able to bill \$10 million over the next couple years on this deal, they're going to throw lots and lots of people at it. If you say to a law firm, we're going to pay you \$5 million for this deal up front, they're going to do the same job if you work with them, and they're going to try to manage it.

**JOHN CANNON:** You working with them sounds like it's important. You can't just -



revisit whether to move firms or how often do you simply say, okay, I guess this is the premium that I'm required to pay to keep that knowledge and experience?

**STEVEN GREENSPAN:** We look at all the preferred relationships every three years, except for one that we'll probably never change. We look every three years. That doesn't mean we change. So we look at it, we say what we want to say, and then if we decide that we want to leave, then we actually cut the cord and go find two or three other firms to pitch. But we do look at it.

**JOHN CANNON:** I'm curious because I read a lot of things that GCs

are talking about, and it's almost counterintuitive to me, or perhaps counterlogical, that a lot of modern companies are boasting that they're actually reducing their panel, their number of firms.

**DAVID JAFFE:** Not us.

**JOHN CANNON:** That's the question I wanted to ask. Is that a really widespread pattern, or does it depend?

**STEVEN GREENSPAN:** I don't spend any time trying to reduce our firms from 480 to 430 to 410 because it's just hard to do. I look at the top 50, and last year 87% of our totalspend was with 50 firms. I don't have time

to worry about the 100 firms where we bill \$10,000. I try to concentrate on the top. If I have a new matter in Paris, I'm going to hire somebody from a firm that I know in the United States that has a relationship or office there as opposed to a stranger in Paris.

**TIM PRATT:** But I look to consolidate my top 50 as much as I can. I try to pick better partners, they're more diversified, so I agree with you completely. I don't care about the total number because I have a lot more litigation, so it depends on where I'm being sued. But focusing on the top 20 or 30 and rewarding them if they're really one of the best partners, we spend a lot of time on that.



**JOHN CANNON:** That's a way to extract the alternative fee arrangement, too, is the certainty from the firm's perspective. We're your issuers, counsel, and we're going to cut a deal for how much we'll give that to you. What I do, that's most of my issuer clients for whom I do compensation design disclosure, corporate governance fixed fees.

**JAN REED:** Why is it that you identified one firm that you will never look at?

**STEVEN GREENSPAN:** Oh, until Marty Lipton retires, I don't think we're going to go anywhere else for that kind of thing, but other than that, I think everybody's fair game.

**DAVID JAFFE:** A little contrarian on one part of that. We don't tend to use the global firms. We tend to do the work to find that little firm in each place, because my experience has been that when I find someone who I know and like in a global firm and ask them who

to use in wherever, I get their friend who may or may not be as good as he or she is. And if it's a multi-office project, the communication costs and problems are just as high in the global firm as they are if I use four different firms because the big firm labor expert in Uzbekistan doesn't really know the labor expert running the project. The language problems are the same. So we've never gone that way because - maybe we've used the wrong firms - but we haven't had good luck with it, and we've been better off finding people who we can build a really strong relationship. Sometimes that means in some countries, three firms. The high end firm, the middle firm and the little collection matter firm.

**DAVID SORKIN:** I also think it's important to educate the legal departments on when it's appropriate to go off-panel. I think a lot of people view these panels as a crutch, and it removes the idea of going out and understanding what the risk is, understanding what

the value of the deal is, and actually finding out who's best suited to address that risk. And so what they do is there's ten panel firms: 'I'll just go to the panel firms, or I'll go to the lawyer I've always gone to'. But we have an M&A deal, small, regional M&A deal that is in the northwest, maybe don't need a top ten US firm or global law firm to handle that, where there is a premium on their fees. So I think internally one of the things we endeavor to do is educate lawyers and give them the power to decide when it is appropriate to go off-panel, and not simply use that as their only option, which I think a lot of people do, essentially rely entirely on those panel firms.

**KEN SCHWARTZ:** We're the same. We're the same as David. We segment the market the way our clients segment their customers in the marketplace. We're going to look at our product. It's going to be by region. Sometimes we use a big firm. Sometimes we'll use a little firm. We'll have panels. We'll consolidate where it makes sense. We've had a lot of repetitive filings that need to be made in the trademark area. There's some very large firms that, because they do work for very large companies like GE and others, they have an infrastructure already in place where they can do trademark filing. That gets consolidated. Other things don't. It's really a matrix decision making, value, risk, location, prior knowledge. So we end up having a checklist of things you have done relative to the panel, and that should pretty much help you in the matrix decide about where you should be going to use our panel firms.

**LAUREN HUGHES:** Thank you. I think we're out of time for the formal part anyway, but we can certainly continue the conversation over some champagne.

## Corporate Counsel 100 profiles Roundtable attendees

For details of the most innovative corporate counsel in the United States, please go to [www.corporatecounsel100.com](http://www.corporatecounsel100.com)



**KATHRYN BARRETT  
PARK** DIRECTOR  
OF BRANDS AND  
ADVERTISING (LEGAL)  
AT GE

As Kathryn Park runs one of the world's most substantial trademark portfolios, she has experience and knowledge that, fortunately, many others benefit from. As a past president of INTA, the global association that promotes the protection of brands, she is frequently invited to speak at international conferences. Park says: 'I realize that collective effort is often required to affect change', and has proven to be as good as her word: at present, she is vice-chair of the Trademark Public Advisory Committee, meaning she works closely with the Commissioner of Trademarks and the Chief Judge of the Trademark Trial and Appeal Board to ensure that the US Patent and Trademark Office provides a good service to users. She has also worked with the Intellectual Property Owners' Association and the Association of National Advertisers. Park understands the importance of tackling change head on - when she joined GE, her primary responsibility was trademark prosecution, but these days the team's legal knowledge is utilized to assist with GE's branding, marketing and promotional activities too. She says:

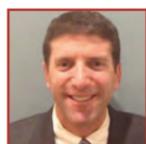
'At GE, you can really grow your career without many limitations. Seizing opportunity, and being open to change, is valued here. Where I saw a need that fell within my expertise, I took on the work without being asked'. Park says the greatest challenge her profession currently faces is the risks associated with the expansion of the internet, including the multitude of new gTLDs. She says 'We work with really great outside counsel. We value pragmatism, founded on expertise, and of course are always looking for work to get done as efficiently as possible. We also look for diversity in our representation, and find we get the best work done by firms that have diverse talent working on our matters'. Mark Engelmann, of Fross Zelnick Lehrman & Zissu, says Park is 'quite simply, one of the leading trademark lawyers of her generation', but Park insists her 'amazing team' are a factor in her success and says that 'nothing is achieved alone!'



**MATTHEW BIBEN**  
GENERAL COUNSEL  
OF JP MORGAN  
CHASE CONSUMER  
BUSINESSES

Acting for an organization going through a major legal challenge is not for the faint-hearted, but it is

testimony to Matthew Biben's abilities that he not only managed tricky negotiations during 2011's national mortgage settlement, but also found time to rebuild and improve his in-house legal team. He currently oversees some 550 lawyers, and being head of consumer banking means responsibility for around 850 million customers. Recognizing that the consumer business is 'moving almost towards a securities model, as it's much more highly regulated', Biben felt he needed a solid team of lawyers and business support to meet those needs, and went on something of a hiring spree. At the same time, he introduced an internal social media site, named Octagon. He explains: 'I didn't want it to be just another corporate site, I wanted people to engage. I want to create leaders, not followers'. Biben is also a strong advocate for early case resolution, and he consolidated all of the business' class action work, meaning outside counsel get a bigger slice of the pie. Mary Beth Hogan of Debevoise and Plimpton says: 'Biben has a commanding and charismatic presence, and is also a terrific listener who encourages dialogue. The respect and esteem with which the lawyers who work for him hold him is palpable to outside counsel'.



**DAVID COHEN**  
CHIEF TRADEMARK  
COUNSEL AT  
HONEYWELL

Given Honeywell's vast array of brands, responsibility for its portfolio of trademarks, copyrights and domain names is surely not a straightforward task. But David Cohen handles it with aplomb, additionally taking responsibility for a range of related matters such as anti-counterfeiting activities, licensing agreements and M&A activities. When tasked with revising the company's worldwide global brand strategy, Cohen rose to the challenge, creating and then implementing a policy related to the use of open source software. Mark Engelmann of Fross Zelnick Lehrman & Zissu commented 'Cohen is vastly experienced and very highly regarded, both within his company and in the trademark community generally'.



**STEVEN GREENSPAN**  
ASSOCIATE  
GENERAL COUNSEL  
FOR LITIGATION  
AT UNITED  
TECHNOLOGIES

UTC began trailblazing the death of the billable hour as far back as 2005, and Steven Greenspan, who joined in 2011, firmly agrees that the model 'makes no sense' as it is 'contrary to efficiency'. Interestingly, he likes to call on outside counsel for ongoing business matters, and tries to keep more of 'the distracting stuff' in house. Greenspan also took the unusual step of implementing the company's ACE (Achieving Competitive Excellence) Program into the legal department. The program ensures quality across all business units, but as it was

designed for the manufacturing industry, applying its metrics to the legal department was a complex undertaking. However, it is now 'part of our culture', says Greenspan, who oversees around 300 significant legal matters around the world. Ellen McLaughlin of Seyfarth Shaw says Greenspan 'budgets for litigation in a way that provides certainty to his business units, while shifting the risks of efficiency and incentivizing outside counsel for favorable results. We consider him a pioneer of, and great partner in, cutting-edge client-law firm collaboration'.



**DAVID JAFFE**  
GENERAL COUNSEL  
AND SECRETARY  
AT GUARDIAN  
INDUSTRIES

For David Jaffe's busy and growing legal department, receiving value for money from outside counsel is paramount. He recently conducted an experiment with his team, asking each to identify a firm that charges the highest hourly rates, and having them field-test a potential alternative with lower rates. He explains: 'I made it clear to the in-house lawyers that this was an experiment to see whether we would find counsel who would be at least as good as the incumbent at a lower total cost, and that their contribution would be evaluated on the quality of their analysis and judgment, and not on whether they selected a firm with lower rates. In the end, we decided to use the alternative outside counsel in a small majority of the cases, and in a majority of those we actually felt that we were ending up with higher quality. I was proud of the approach and analysis of our team, looking at the overall

best result for our company, and not just at hourly rates or cost'. Jaffe's other achievements include steering the department through a difficult period of transition in 2009, that saw numerous structural changes and the appointment of a new board. As for what he enjoys most? 'I enjoy getting things done across cultures'. He says. 'Guardian operates in over 25 countries on five continents, and the multinational aspects of our work, whether it's a joint venture, a greenfield project or day-to-day operations, always give me great opportunities to interact with fascinating people and to learn. I also enjoy helping our lawyers and staff develop their skills and careers'.



**MARY LEHENY**  
GLOBAL TRADEMARK  
COUNSEL AT  
NOVARTIS

Mark Engelmann of Fross Zelnick Lehrman & Zissu describes Leheny as 'vastly experienced and very highly regarded, both within her company and in the trademark community generally'. Responsibility for protecting some 150 trademarks for iconic brands such as Excedrin, Theraflu, and Triaminic is no mean feat, and 10 years ago the challenge for Leheny became even greater when the IP department became global. Tasked with becoming the first person in the department to transport her role beyond the US, she freely admits now that she 'didn't have an international background, so I learned it all on the fly'. Despite language barriers, time zone limitations, and trademarks that dated back to the 1900s, Leheny impressed bosses so much that they

gave her responsibility for all the company's consumer health businesses too. A decade on and she's now got the benefit of 'two amazing and highly skilled paralegals', and is very much enjoying working with her 'cohesive team', saying that they 'get together and laugh a lot'.



**TIMOTHY PRATT**  
GENERAL COUNSEL,  
CORPORATE  
SECRETARY  
AND CHIEF

**ADMINISTRATIVE OFFICER AT  
BOSTON SCIENTIFIC**

For Timothy Pratt, the decision to move in-house following 30 years in private practice was a risky move. He admits now, 'frankly, I had doubts whether I could do this job. I'd never worked in a corporate law department in my life'. As if that wasn't daunting enough, he made the move in 2008, when the company was embroiled in numerous large pieces of litigation. But Pratt far exceeded all expectations: he restructured the department to allow for more focus on specialization, created a chief litigation office to centralize all litigation management resources, and ensured that business support lawyers did just that, without having to deal with litigation distractions. And he didn't stop there - he also disbanded the international legal team and put in place local resources in the various regions, and reduced the number of outside counsel through the use of a Preferred Counsel Initiative, and began using alternative fee arrangements; of the latter, he says 'my background as an outside defense counsel for many years served me well. Between 2007 and 2012, we systematically

reduced outside counsel costs by 59%. In our last year alone - 2011 -2012 - we further reduced outside counsel costs by 22%'. A contributing factor to these impressive statistics is the culture change Pratt has implemented - reducing risk, and introducing business/legal forums to ensure non-lawyers are kept abreast of emerging legal trends. Additionally, Pratt is focused on developing and nurturing new talent, having partnered with his HR department to help create and Advanced Leadership Development Program for employees that show potential. As one of Pratt's in-house peers opines, he is 'a great example of someone who serves both his company and his profession at the highest level'.



**JAN REED**  
DEPUTY GENERAL  
COUNSEL AT  
WALGREENS

If Walgreen exercises its option to acquire the remaining 55% of Boots in 2015, it is expected to generate some \$130bn in revenue, and its legal department will grow from 180 to over 200. But although Reed is fairly new to Walgreens (having only joined Walgreen in February 2013), she certainly is no stranger to the challenge of helping a company through a major transition. The story of her seven years at Solo Cup Company is a fascinating tale that begins with the company's acquisition of a larger competitor and the need to hire a General Counsel at that time. Shortly after she took on that role, Reed had to smooth over some major teething problems, and managed to avoid litigation which, had it gone ahead, could have 'potentially

destroyed the company,' she says. Other tribulations during her time there included handling billions of dollars of debt financings, taking on the dual role of EVP of Human Resources, and helping the company weather the decline of the economy alongside the rapid rise of oil prices. Last year, Solo sold itself to Dart Container Company, and Matthew Kipp of Skadden Arps believes 'Solo's success largely is a result of Reed's expert management'. Reflecting on it now, she says: 'all of my years there were filled with challenges, yet I think that it was the best experience'. It should certainly stand her in good stead during Walgreen's continuing expansion, and she is already working out ways to make the legal department more efficient going forward. Her plans include utilizing in-house resources more, and developing a preferred provider network so that outside counsel can work together.



**NEIL ROSOLINSKY**  
HEAD OF  
EMPLOYMENT LAW  
AND EMPLOYEE  
RELATIONS

**FUNCTION IN NORTH AND SOUTH  
AMERICA AT RBS**

Neil Rosolinsky has demonstrated a number of ways in which in-house legal teams can make savings for their company. His first port of call upon taking on his role was to hire an attorney to carry out the administrative charge work that traditionally went to outside counsel. He also spotted a need for greater cohesiveness between various different branches of the employment team, and in doing so has not only reduced the need for outside guidance,

but increased the team's overall knowledge and mitigated risk. He says 'I've created a culture of doing as much as we can in-house. We all came from big firms and have a solid knowledgebase and we need to use it to add as much value as possible to RBS'. Also notable is the way in which Rosolinsky deftly handled the repercussions of the 2008 financial crash - during a painful period of layoffs and bonus reductions, he dissuaded scores of people from filing claims, and where they did, he negotiated numerous favorable resolutions. He admits '2008-09 was a unique and challenging time', but the bank ended up with relatively few litigations and arbitrations due to his hands-on approach, 'as opposed to directing every demand to outside counsel'.



**KEN SCHWARTZ**  
VICE-PRESIDENT  
AND ASSISTANT  
GENERAL COUNSEL  
FOR THE MATERIALS  
GROUP OF AVERY DENNISON  
CORPORATION

Kenneth Schwartz is incredibly focused on providing legal services in the fastest, and most cost-effective way, to his organization. To achieve this, he favors an approach of consolidation and segmentation - identifying the right legal service at the right cost model for each type of legal work. This has led him to increase his use of RFPs, to negotiate flat rate commitments from key lawyers that do a higher volume of work, and to identify more work that can be brought inside. Firoz Dattu and Tamanna Choudhri of AdvanceLaw, who have worked with Schwartz, say he 'has been a true strategic thinker'.



**DAVID SORKIN**  
GENERAL COUNSEL  
FOR KKR

KKR & Co's transition to a public company has seen David Sorkin take an instrumental role in navigating it through this transitional phase in its life. Sorkin was its first-ever General Counsel, so has played a huge part in setting the precedent for how its in-house legal department should be focused. He joined in 2007, and the regulations for private equity companies has changed a lot since, but according to Gary Horowitz of Simpson Thatcher & Bartlett, Sorkin has a 'brilliant legal mind' and 'has been at the forefront of the private equity industry on issues'. Rebecca Silberstein of Debevoise & Plimpton LLP opines that his 'talent is consistently on exhibit in the way he navigates the regulatory, tax and business issues confronting such a complex global firm in this age, where new issues and challenges are constantly presented to him. He has built a superb, high-level in-house legal team, with a mandate to mirror his deep thoughtfulness as lawyers'. Both the aforementioned also wax lyrical about Sorkin's additional qualities. Horowitz says he is 'generous with his time and has mentored many younger private equity lawyers. He is like an old-fashioned advisor in that people will seek out his opinions even on matters that are not purely legal'. Silberstein says he is 'well-known for his innate decency and humanity', and that his 'extraordinary intellect and unwavering integrity engenders absolute respect within the industry'.



**MICHAEL SOSSO**  
ANTITRUST  
COUNSEL FOR BP

The timing of Michael Sosso's arrival at BP is worth noting: it was June 2011, and the company was embarking on a divestment program to pay off debts associated with the 2010 oil spill off the Gulf of Mexico. His appointment proved to be a major coup on BP's part, as Sosso has considerable flair for closing M&A deals, and it is to his credit that the FTC cleared Tesoro's purchase of BP's Carson refinery in the relatively short space of time that it did. 'It is as a commercial lawyer and negotiator where Michael has had such an influence beyond his sphere of day-to-day responsibilities', explains Thomas McGrath of Linklaters. The divestment program saw M&A activity at BP pick up from just one transaction in 2010 to seven in 2011, and even more in 2012. This has been part of the attraction for Sosso, who says that although he enjoyed his previous role at Skadden, Arps, Slate, Meagher and Flom LLP, he is now relishing the opportunity to be a 'more of a team player with lots of interaction in the business. I'm no longer a "reactive" lawyer, which is what outside counsel essentially is'.



**JAY STEPHENS**  
SENIOR  
VICE-PRESIDENT,  
GENERAL COUNSEL  
AND CORPORATE  
SECRETARY AT RAYTHEON

Jay Stephens has been with Raytheon for just over a decade, and in that time has successfully transformed the department from a reactive one to a proactive one. Not only did he grow the team substantially, he

implemented a cultural shift to allow the legal department a much bigger role in decision-making - essentially, he gave it a 'seat at the table', says a team member. The shift also entailed a much bigger emphasis on ethics and compliance. Steve Browne and Peter Schellie of Bingham McCutchen believe Stephens has 'empowered a more diverse, more expert and larger team of internal lawyers to work constructively on all aspects of Raytheon's businesses'. ■



**GISELE SUTHERLAND**  
ASSOCIATE GENERAL  
COUNSEL FOR ERISA  
AND INSTITUTIONAL  
SERVICES AT BMO HARRIS BANK

Gisèle Sutherland appears to be justified when she describes her specialist employee benefits team as a 'jewel' within BMO, as she recently led it through an immensely challenging period, when its legacy employer M&I, a large but regional bank, was integrated into BMO - and its legal team into BMO's. She explains the difficulty involved in the transition: 'BMO Legal manages all legal issues, regardless of subject matter, for our assigned lines of business', she says. 'Hence, it is difficult to "define"

ourselves solely as ERISA lawyers in this model. We need to handle any issue that comes in from our line of business. Further, although my team continues to address employee benefit issues for BMO Retirement Services and Trust & Custody Services, the BMO model is to tap the legal expertise regardless of where it resides. As a result, my team is now responsive to ERISA questions throughout the enterprise, assisting our global asset management and capital markets businesses and corporate HR team with all aspects of ERISA compliance'. Recognizing that her team is being pushed outside of their comfort zone, Sutherland says the professional development of each is a top priority for her. 'We have regular, one-on-one discussions of their greatest strengths and where they might maximize their opportunities within the organization. It is too easy to focus on getting legal work done and lose sight of my greatest asset - my team. We treat one another respectfully and like partners in a law firm'. Jennifer Eller of Groom Law Group observes that Sutherland is 'an exceptional leader, and her legal team works extremely well together to meet the needs of BMO's growing business in a complex and dynamic regulatory environment'. Sutherland aims to

replicate the model of excellent communication when dealing with outside counsel. She says: 'across BMO Legal, we are focused heavily on value-based relationships. We are implementing alternative fee arrangements and really focusing on improved communications and relations'.



**LESLEY WAN**  
CORPORATE REAL  
ESTATE COUNSEL  
FOR LLOYDS  
BANKING GROUP

(FROM THE UK GC POWERLIST 2013 PUBLISHED BY THE LEGAL 500/LEGAL BUSINESS AND THE IN-HOUSE LAWYER)

One of the City's most high-profile general counsel, Lesley Wan has led the real estate legal team at Lloyds Banking Group for eight years. Since the financial crisis, Lloyds Banking Group has been the reluctant owner of vast swathes of property loans, such as the disposal of £900m of distressed loans backed by UK property in late 2011. However, Wan says the biggest challenge of her career to date has been to steer the legal integration of Lloyds TSB and HBOS, which merged in the immediate aftermath of the credit crunch. ■



**LEGAL**  
BUSINESS

*The*  
**LEGAL**  
**500**  
*series*

**THE**  
**IN-HOUSE**  
**LAWYER**

For further information on our events services please contact David Burgess:

E: [david.burgess@legal500.com](mailto:david.burgess@legal500.com) T: +44 (0)207 396 5665