

## Hot Areas of Law Practice Revealed in New Survey of In-House Lawyers

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According to a new survey by *Inside Counsel* magazine, the following practice areas increased in volume the most—or experienced little or no change -- during 2009:



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### Growing practices

1. Corporate Governance

2. Labor and Employment

“A lot of things from the new administration are just hitting now. We’re going to see that continue,” said Ron Peppe, vice president, legal and human resources, Canam USA.

3. Litigation

4. Regulatory

5. Intellectual Property

“IP has become more important to everybody, whether it’s GM and whether [its employees] are authorized to use the word Chevy ... or my company protecting creative rights for fashion,” said Lorraine Koc, vice president and general counsel, Deb Shops.

### Slowing practices

1. Antitrust

2. Environmental

3. Securities & Finance

“While the economy appears to be on its way back, it’s not as if we’re back to the bullish days of years ago. Financing is difficult,” said Karl Racine, managing partner, Venable.

4. Mergers & Acquisitions

“Everyone is waiting for the dust to settle and see where the businesses will end up at the end [of the recession],” said Elizabeth Large, vice president and interim general counsel, Knowledge Learning Corp.

5. International

[Inside Counsel surveyed](#) more than 550 senior legal executives on the current state of their legal departments, as well as the evolution of their relationship with outside counsel. Lauren Williamson wrote the survey report.

### **68.5% of corporations are happy with their law firm relationships**

This remarkable statistic is an excellent sign for law firms. This matches findings in Fulbright & Jaworski's 6<sup>th</sup> annual [Litigation Trends Survey Report](#). However it diverges sharply from a September 30, 2009 BTI Consulting survey which found that only 38.7% of corporate counsel truly satisfied with their primary law firm.

Nevertheless, among the respondents:

- Half (51.4%) don't think law firms recognize their budget constraints.
- Two-thirds (64.7%) say law firms don't actively seek ways to reduce cost.
- Only 41% say law firms understand their business.

"I want to save money for the highest risks and best uses," she says. "Typically, those aren't going to be routine, mundane questions, unless those are core issues repeatable 100 times—or if it's something with potentially explosive costs. Even though it's rare, if you get hit with it you're dead meat," said Lorraine Koc, vice president and general counsel of Deb Shops.

At times, law firms will present Robin Jensen, general counsel of construction company Total Risk Management, with the answer they think she's looking for rather than the practical advice she really needs, delaying a project. "It's hard to tell the government, 'I need to wait for an attorney to get back to me before I can keep building your road,'" she says.

Karl Racine, managing partner at Venable, says he hears similar comments from clients.

"In most instances, they're not looking for a 125-page memorandum on a question," he says. "They're looking for a real, practical recommendation as to how best to achieve their business objective."

### **What corporate counsel want**

"A prompt response is job No. 1 for in-house counsel supporting a business team. We want to keep things moving," said Michael Denton, vice president, general counsel and corporate secretary, Curtiss-Wright Corp.

Here's what the in-house lawyers want:

- 99.5% emphasize responsiveness.

- 86% value industry experience.
- 82% seek creative solutions.

### Corporate counsel also want small and regional law firms

Small law firms saw a big boost in business in 2009 as more legal departments sought outside counsel with a lower price tag, Williamson wrote.

- **Nearly 65% of respondents reported retaining small regional firms more frequently** in the past two years than they did previously. The reason to switch to smaller firms.
- In most cases, was cost—**90.3% of respondents said economic conditions are increasing the pressure to spend less on outside counsel**. But the reason to stick with them, many GCs said, is quality.

Ron Peppe, vice president, legal and human resources, of Canam USA, says he's forged great partnerships with the regional firms he approached after his legal department started to feel an economic pinch. At the smaller firms he's dealt with, the partners don't farm out work to associates, instead handling everything themselves. "It's a more direct connection, the partners are more involved, and I'm getting good results," he says.

Robin Jensen, general counsel of Total Risk Management, says regional firms are often willing to go beyond the call of duty when providing counsel. When major issues involving the road construction contractor erupt, attorneys from smaller firms will travel to the site to give rapid and thorough feedback. The smaller firms Jensen retains are also willing to participate in a monthly phone review to discuss recent issues as well as the ongoing relationship.

"Larger firms might do it one or two times," she says. "But then it gets rescheduled and you have to hunt them down."

### Alternative fee arrangements

Among the in-house respondents:

- 90% say economic conditions are increasing pressure to spend less on outside counsel.
- 65% require law firms to submit a budget for the matters they work on.
- 46% of the firms generally adhere to the budgets the client sets on matters.
- 37% agree that law firms are open to alternative fee arrangements.

Firms that have worked with Total Risk's legal department for a long time often fall into

a rut and fail to look at changes in economics and work-product that should impact billing rates. “It’s like pulling teeth to get changes,” said Robin Jensen, general counsel of Total Risk Management.

The complaints aren’t going unheard, according to Williamson. More and more frequently, discussions about AFAs are part of the everyday conversations Karl Racine, managing partner at Venable, has with clients.

“We’re receptive to exploring ways to bring them better cost certainty and otherwise demonstrate greater value,” says Racine, noting that it’s important for law firm attorneys to be the first to broach the issue. “That’s how they’ll know we are flexible on landing on an approach to billing that makes sense for their business.”

General counsel do understand, however, that economic trials are a two-way street. “Firms try to work with us, but it’s understandable that they have costs too. Some have absorbed them better than others. So we try to be sympathetic,” says Lorraine Koc, vice president and general counsel of Deb Shops.

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