

Keeping Litigation Costs Under Control



Interview with: **Kirk Willis, Chief Executive Officer, The Willis Law Group**

“**Chief Litigation Officers (CLOs)** do not realize that front-end interrogation is the most critical piece of work they can do to achieve better results and keep litigation costs under control,” says Kirk Willis, Chief Executive Officer, **The Willis Law Group**. CLOs should examine their witnesses better than the other side’s witnesses, he advises, which will help avoid nasty surprises.

The Willis Law Group is a law firm at the **marcusevans Chief Litigation Officer Summit Spring 2015** and **Chief Litigation Officer Summit Fall 2015**.

How can CLOs better stick to their litigation budget? What questions do you ask clients in order to achieve better results?

A popular question we ask is: ‘Are you interested in a legal spend and a budget? Or are you interested in a result?’ That tells me a lot about what the client wants. A client interested in a result will not care about the budget. For whatever reason, they may want to send out a message that will shut down the matter, at any cost.

So it is all about what can be done at the front end and considering creative solutions that could win the lawsuit.

Conversely, if the budget is an issue for the client, the problem must be solved in an economical fashion. In this case, they need to know what it will cost them and the potential downsides.

It is important to note that clients definitely do not want to provide a budget then be asked for more money later. They know this might happen, and they may have added 15 percent into their estimated costs, but when it happens consistently, it is a problem.

What can be done if the case is still unresolved when the budget is reached?

Long before that stage, throughout the case, all the decision-makers must stay on the same page through monthly or quarterly meetings. They need to remain informed about the available options. Should they get a scheduling order to attempt to receive court intervention? Is it better to move to immediate arbitration or mediation in order to reach an agreement? Or should they fight fire with fire?

They may have to revise the budget associated with all three scenarios, but they still want to be able to decide the next step. It is usually not the budget increase that they mind as much as the surprise associated with the change.

What facts should they look for internally, to achieve a better outcome?

They have to do their work on the front end. Their most important witnesses are the people with their boots on the ground, who have been intricately involved. You must gain their trust so they do not worry that telling the truth will jeopardize their job, get them fined or disciplined. That is a fine line. They are human and they will want to hide what they did to the very last minute if they feel threatened. By the time you find out what really happened, the

organization will have been exposed to hidden bombs that will blow up in court.

CLOs must trust the lawyers they hire to tell them the truth and not just what they want to hear.

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