


Local counsel has historically been considered the backdoor to the local chamber. Many think of local counsel as someone who knows where to find the best enchiladas and the coldest beer in town. This manner of thinking must evolve — retaining local counsel offers many advantages. The relationship between in-house and local counsel should be a dynamic one. To better serve one's client, local counsel should be a full-fledged member of your team.



Reinventing the Role of Local Counsel

By **Edmundo O. Ramirez** and **Minerva I. Zamora**

ILLUSTRATION BY GILBERTO SAUCEDA

Reinventing the Role of Local Counsel

The Advantages of Local Counsel

Economy — The most obvious advantage gained when you retain local counsel is the economic ramifications. The cost of travel, lodging, and food alone can add up for your client. The majority of these costs are eliminated when local counsel is available to handle hearings and depositions. Of course, this is only cost-effective if the local counsel attending such hearings and depositions is a “real” member of your team, not just an extra body. It would be more costly to your client if the local counsel was not involved, in the hearings and depositions, to the extent necessary to represent your clients properly and effectively.

Familiarity — Retaining local counsel familiar with the judge, court staff, local custom, and potential jury panel can vastly improve the disposition of your case. The local attorney has an advantage over the out-of-towner because he or she is familiar with the local rules and customs of the courtroom. The local counsel will also be a familiar face and name to the judge and will likely have an established working relationship with court staff.

Further, local counsel can offer valuable insight as to the likely make-up of a jury panel. Many attorneys hear about the reputation of juries in certain areas and think they are one step ahead. However, these reputations are often out-dated stereotypes and myths. Local counsel will have actual and reliable insight regarding such matters.

Relationships with opposing counsel — The plaintiff’s attorney in a lawsuit against your client will likely be a local attorney. It will be an advantage to your client to have another local attorney work with plaintiff’s counsel. Your local counsel will, at the very least, have heard of the plaintiff’s attorney and likely will have worked with plaintiff’s attorney. Odds are a working relationship between your local counsel and the plaintiff’s counsel already exists. Plaintiff’s counsel may be more willing to enter into agreements or be unopposed to matters proposed by local counsel than if those same items were proposed by an out-of-town,

big-city lawyer. Plaintiff’s counsel will likely be more willing to cooperate with local counsel.

Influence and prominence — Local counsel’s influence and prominent name in the local community is most often unmatched by any out-of-town attorney. Your local counsel is a member of the community; in the judge’s and the jury’s mind, he or she is one of their own. As respected as the out-of-town counsel may be, he or she is still an outsider to the community.

The advantage of local counsel’s influence and prominence occurs in several ways. First, prominent local counsel may make opposing counsel settle more quickly for fear of going to trial against such a prominent name. Second, hiring prominent local counsel automatically adds legitimacy to your side of the story. Third, prominent local counsel will often have access to an informal network of information that may affect your client’s case. Further, local counsel’s prominence and influence in the community often results in a better working relationship with plaintiff’s counsel and courtroom staff. This factor also plays a role in front of the jury.

Race and ethnicity — Although it may not seem proper to play the race card, it may be played against you. Therefore, after you have taken everything else into consideration, you should consider hiring local counsel that is of the same race and ethnicity as your opposing counsel, judge, or jury. (This includes “good ol’ boys” as well.)

Selecting Local Counsel

Define role to formulate selection criteria — Prior to commencing the selection process, one must define the role of local counsel. The defined role will determine the selection criteria in choosing local counsel. Several varia-

tions of the local counsel role exist, including (1) the mail drop, (2) providing some or all of the work, but under the supervision of in-house counsel, and (3) being completely responsible for the case.

Experience has taught us that the client benefits most from local counsel who plays a key role in the litigation while staying in constant communication with in-house counsel.

Your local counsel is a member of the community; in the judge’s and the jury’s mind, he or she is one of their own. As respected as the out-of-town counsel may be, he or she is still an outsider to the community.

Meet local counsel at local counsel’s office — To evaluate local counsel properly, one must evaluate his or her capacity. You must evaluate the capabilities of his or her secretarial help, library or legal research facility, paralegal help, word processing, document copying, and storage facilities. This requires a visit to local counsel’s office. Take the time to meet the staff, observe the office atmosphere, and examine the facility. Depending on the role you have defined, you will need to evaluate dynamics of local counsel’s office that will be required to facilitate that role. A lack of these capabilities makes it difficult for local counsel to litigate cases adequately.

Although a visit to local counsel’s office requires you to contribute your valuable time, it is well worth it if you

Reinventing the Role of Local Counsel

can build a solid, long-term relationship that benefits your client over the years.

Check references — Always check references. To your client, your local counsel is an extension of yourself. You want competent, reliable local counsel with whom you can establish an effective working relationship. In addition to checking references, you should ask the opinion of other in-house counsel when evaluating local counsel.

Match case with counsel — Although local counsel may be adaptable enough to tailor his or her style to the needs of a case, he or she may have deep-rooted ways of practice that do not change to fit any particular case. Thus, when selecting local counsel, match the subject matter of the litigation with someone with experience in the same area. Always determine whether the local counsel's experience and qualifications will enable him or her to handle the specific type of case. Subject-matter expert-

ise in the area of litigation offers immeasurable advantages to your client.

Properly evaluate case — Properly evaluating a case is important for two reasons: (1) it helps you define the role of local counsel, and (2) it helps you determine whether, as in-house counsel, you need to hire both outside counsel and local counsel.

First, all cases are different. Although the advantages of hiring local counsel are most fully realized when local counsel plays a central role in the litigation, such a role may not be necessary. For some cases, all you need is a mail drop. In those instances, defining the role properly will save your client time and money. Further, knowing how you want to litigate a case makes it easier to select counsel likely to handle it in that manner.

Second, properly evaluating the case will put you in the best position to ask yourself, "Do I really need outside counsel?" Determine if it is necessary to hire both outside counsel and local counsel. If you properly evaluate a case and choose the right local counsel, there may be nothing that local counsel can't handle; outside counsel may not be necessary. This offers a financial savings to your client and saves time in litigation.

Consider the trial experience of local counsel — Several of the advantages to hiring local counsel are only realized when local counsel plays a key role in the trial. This includes the influence on the judge and jury. Evaluate trial experience when selecting local counsel, as he or she will be called to participate in the trial.

Defining the Role of Local Counsel

Matters to consider when defining the role — First, if your goal in hiring local counsel is to have a member of your team "look" like the judge and the jury and nothing more, the judge and jury will see right through it. Do not insult the judge's intelligence or the jury's intelligence by assuming that a "Juan Garza" on your legal team guarantees victory. Local counsel should be a full-fledged member of your team. Otherwise, the judge and jury will determine that you are making a mockery of the local

counsel and will hold it against you. If that happens, all the advantages you sought to gain will be lost and instead you will have created your own handicap.

Second, it is important that local counsel have contact with the client. This will allow local counsel to obtain an unfiltered version of circumstances of the case. More important, it will allow local counsel an unfiltered version of the goal of the client. Further, as discussed below, local counsel who feels connected to the client is apt to do a better job because he or she does not want to hurt the relationship with the client. In that event, local counsel will feel more accountable to the client.

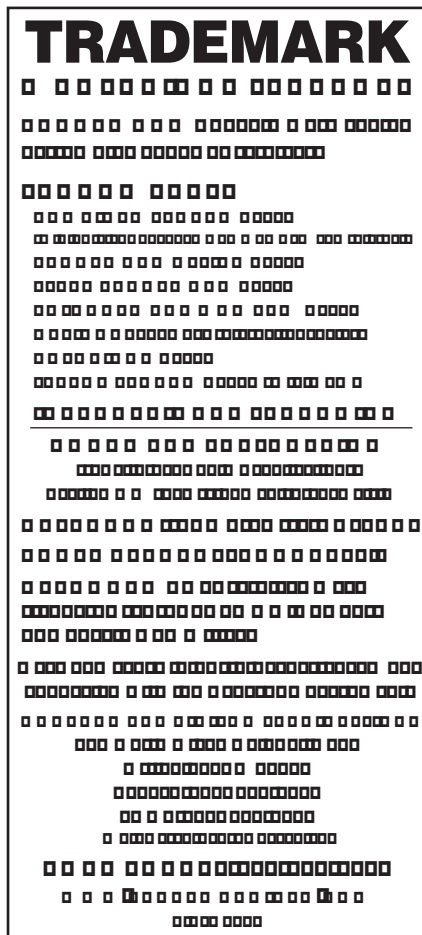
Third, even if you feel the particular case does not require an involved role for local counsel, do not fail to take advantage of local counsel's knowledge, skill, insight, and experience when making decisions. Local counsel's opinion should be considered in the decision-making process. The advantages of hiring local counsel are not realized if his or her abilities are not fully utilized in the litigation. Local counsel should:

1. Make court appearances and play a real role;
2. Maintain a complete file;
3. Be capable of arguing hearings;
4. Take depositions;
5. Have contact with the client;
6. Be involved in decision-making;
7. Be involved in trial preparation and know the case thoroughly;
8. Assist in selecting the jury; and
9. Participate in the trial.

Establishing a Long-Term Relationship With Local Counsel

Always keep in mind the goal of quality legal services. Local counsel who feels like he or she is connected to the client is more apt to do a good job than someone completely detached. Therefore, you should establish a long-term relationship with local counsel. Local counsel is more apt to have the client's best interests in mind if his or her goal is to maintain a healthy long-term relationship.

In a long-term relationship, local counsel will identify with the objectives and approaches of in-house counsel.



Reinventing the Role of Local Counsel

Local counsel will be directed to focusing on understanding and achieving the business and legal objectives of in-house counsel and the clients. This long-term relationship with local counsel has come to be referred to as “partnering.”

In a partnering relationship, in-house counsel will designate a particular local firm to handle most types of litigation in the firm’s geographical area. The assumption is that the local firm can handle the majority of the client’s work in particular areas. In exchange for all the business from the in-house counsel, local counsel will give special attention to the client’s cases and offer some litigation-related services free of charge.

Partnering relationships are fostered when in-house counsel feels comfortable communicating with local counsel. An easy method of communication must be established to enable all types of messages. The goal is to make it natural for all types of messages to go back and forth between counsel. Regular, face-to-face meetings with local counsel keep the partnering relationship on track.

There are a few things that will not facilitate a potential partnering relationship. First, if a client tries to take advantage of the local firm to minimize the client’s fees, the partnering relationship will not work. Second, in-house counsel should never fail to tell local counsel when service needs improvement. Waiting for formal evaluation periods, instead of informally telling local counsel how you feel about his or her work, will cause friction. Third, in-house counsel should compliment a job well done. Finally, a partnering relationship will not develop if in-house counsel keeps secrets about the agendas and goals of the client.

What not to do when working with local counsel

- Do not foster secret agendas or keep local counsel in the dark;
- Do not hide strategy;
- Do not sugar-coat your advice — tell it like it is;
- Do not hide risks or failures;
- Do not rely on myths or social stereotypes; and
- Do not undermine the system.

Conclusion

Hiring local counsel offers many advantages to your client. Such advantages range from saving money to positively influencing the jury. These advantages, however, will not be fully realized unless local counsel plays a key role in the litigation. Among other things, local counsel should have contact with the client, should be involved in the decision-making, and should be involved in the trial preparation and trial. Choosing local counsel that fits the role and is capable of effectively representing the client is vital. It takes the right role and the right fit to realize the advantages of hiring local counsel.

If care is taken in the process of hiring local counsel, he or she will identify with the objectives and approaches of in-house counsel. Local counsel will be

focused on understanding and achieving the business and legal objectives of in-house counsel and the clients.

Edmundo O. Ramirez



is a partner in Ellis, Koeneke & Ramirez, L.L.P. in McAllen. He is a graduate of the University of Houston Law Center. Ramirez is certified in civil trial law by the Texas Board of Legal Specialization.

Minerva I. Zamora



is an associate with Ellis, Koeneke & Ramirez, L.L.P. in McAllen. She is a graduate of Baylor Law School.

This paper was originally presented to the 2004 Advanced In-House Counsel Course in San Antonio. It is one of thousands of articles available to download through a subscription to the Online Library at www.texasbarcle.com.



TCS-LibertyLegal.com

Producing Quality Corporate Kits & Supplies For Over 25 Years

Easy Online Ordering

Same Day Service*

Accurate

Reliable

We also offer:
Will Supplies
Notary Supplies
Tabbies
Stamps

Contact Our friendly sales staff at:
Ph 713-946-0141 or 800-392-3720
Fx 713-946-2789 or 800-441-7134
Email: sales@tcs-libertylegal.com

*orders received by 1pm cst

PO Box 12695, Houston, TX 77217 or 602 State Street, So Houston, TX 77587

TEXAS
CORPORATION SUPPLIES
Liberty Legal