

When the Red Phone Rings: Managing Litigation to Keep Costs Down and Constituents Happy, From Crisis to Completion

Paul Dieseth, Matt Wahlquist, Ben Kappelman & Jason Osnes

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Session #60

Room #8

Who We Are



Paul Dieseth
U.S. Bank
*Vice President, Assistant
General Counsel*



Matt Wahlquist
U.S. Bank
*Vice President, Head of
Outside Counsel
Management*



Ben Kappelman
Dorsey & Whitney LLP
*Attorney, Intellectual
Property Litigation*



Jason Osnes
Dorsey & Whitney LLP
*Director, Strategic
Finance & Project
Management*

- Dorsey & Whitney LLP was founded in 1912 to serve its first client, U.S. Bank
- U.S. Bank is the fifth-largest bank in the country, with 73,000 employees and \$462 billion in assets



Overview

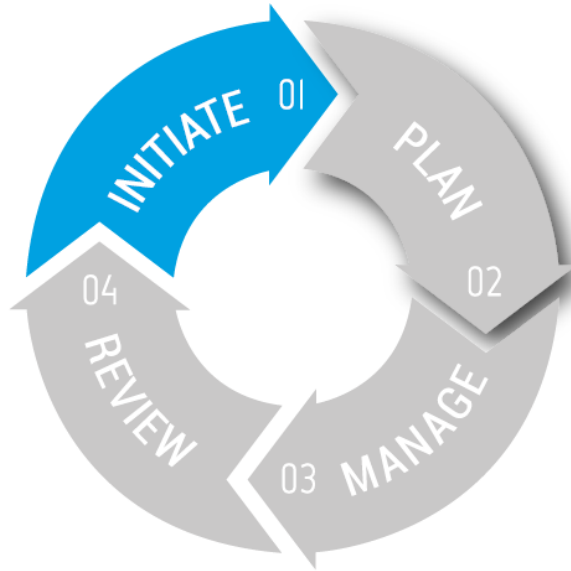
- We will take you through the matter lifecycle
- What should you do when the red phone rings and high stakes, high risk litigation lands on your desk
- We will provide our four distinct points of view, discussing both shared concerns and concerns unique to each of our positions
- Communication and collaboration are vital



Case Example

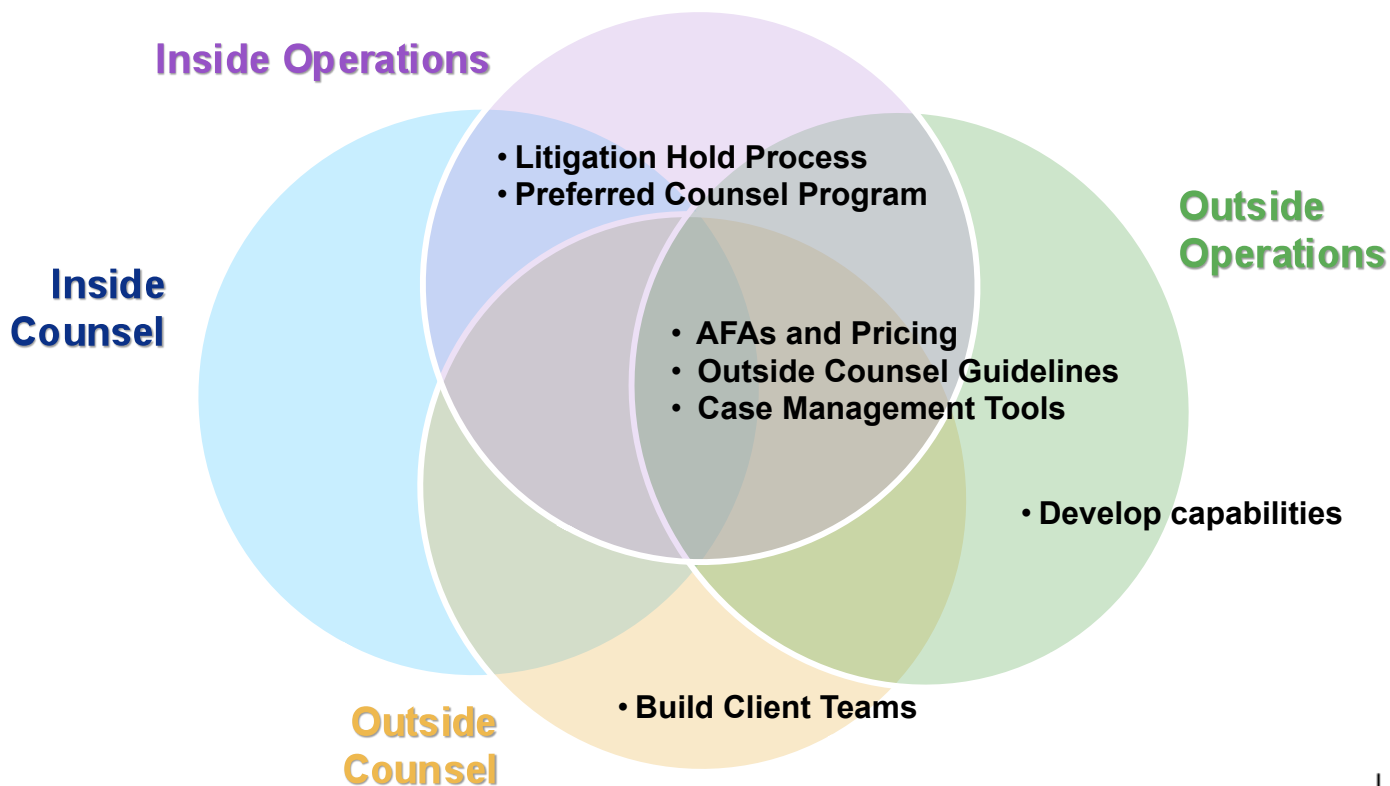
- Innocent Company has known its business partner Shady Dealer has been having trouble with Angry Customer
- Shady Dealer told Innocent Company it was “handling it”
- Innocent Company’s General Counsel learns from CNN that Angry Customer sued Shady Dealer and Innocent Company
- Worse, it sounds like Angry Customer might be in the right
- Angry Customer hired Relentless & Never Satisfied, PLLP, a renowned plaintiffs’ firm
- Angry Customer is seeking a TRO from a rural state court outside of where Innocent Company does business

INITIATE

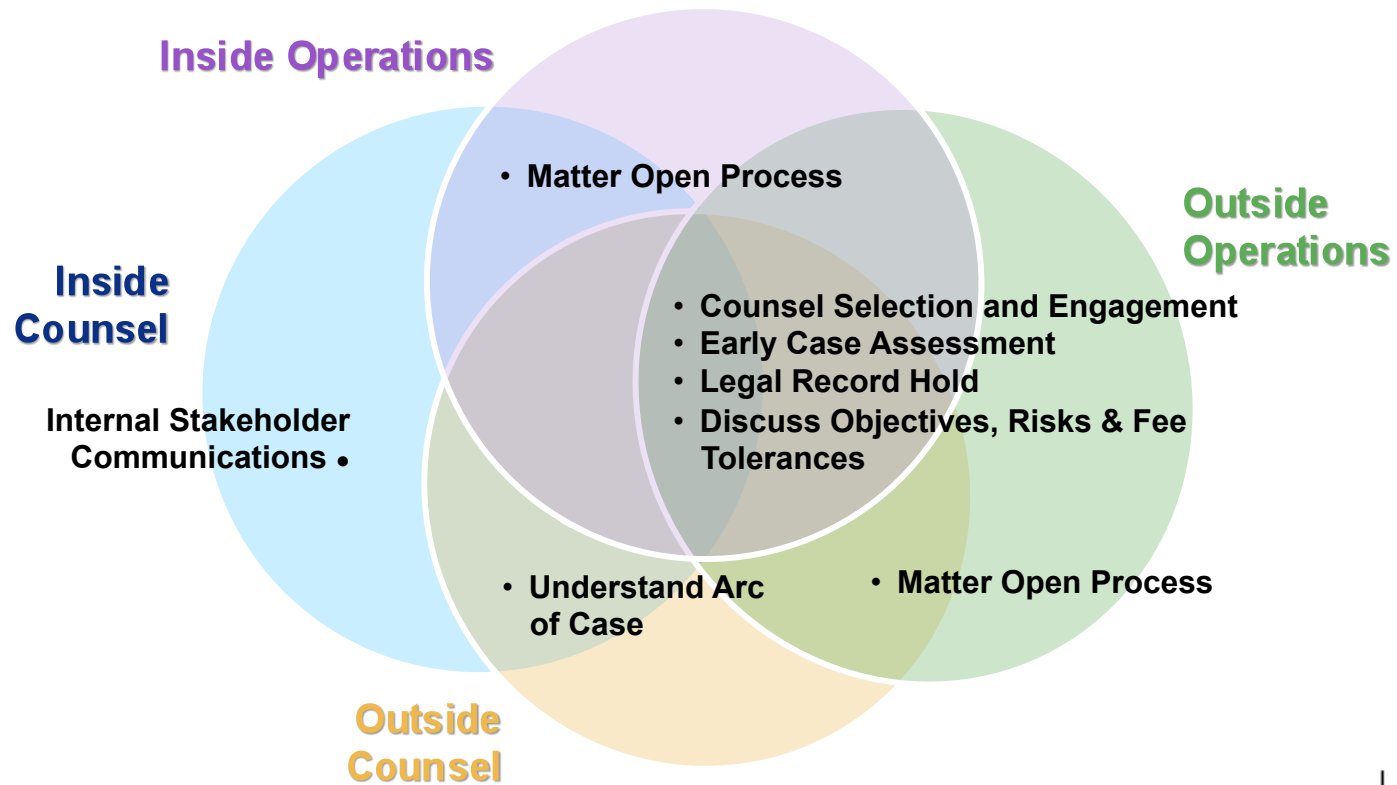


- Setting the Stage
- The Red Phone Rings

Initiate: Setting the Stage



Initiate: The Red Phone Rings

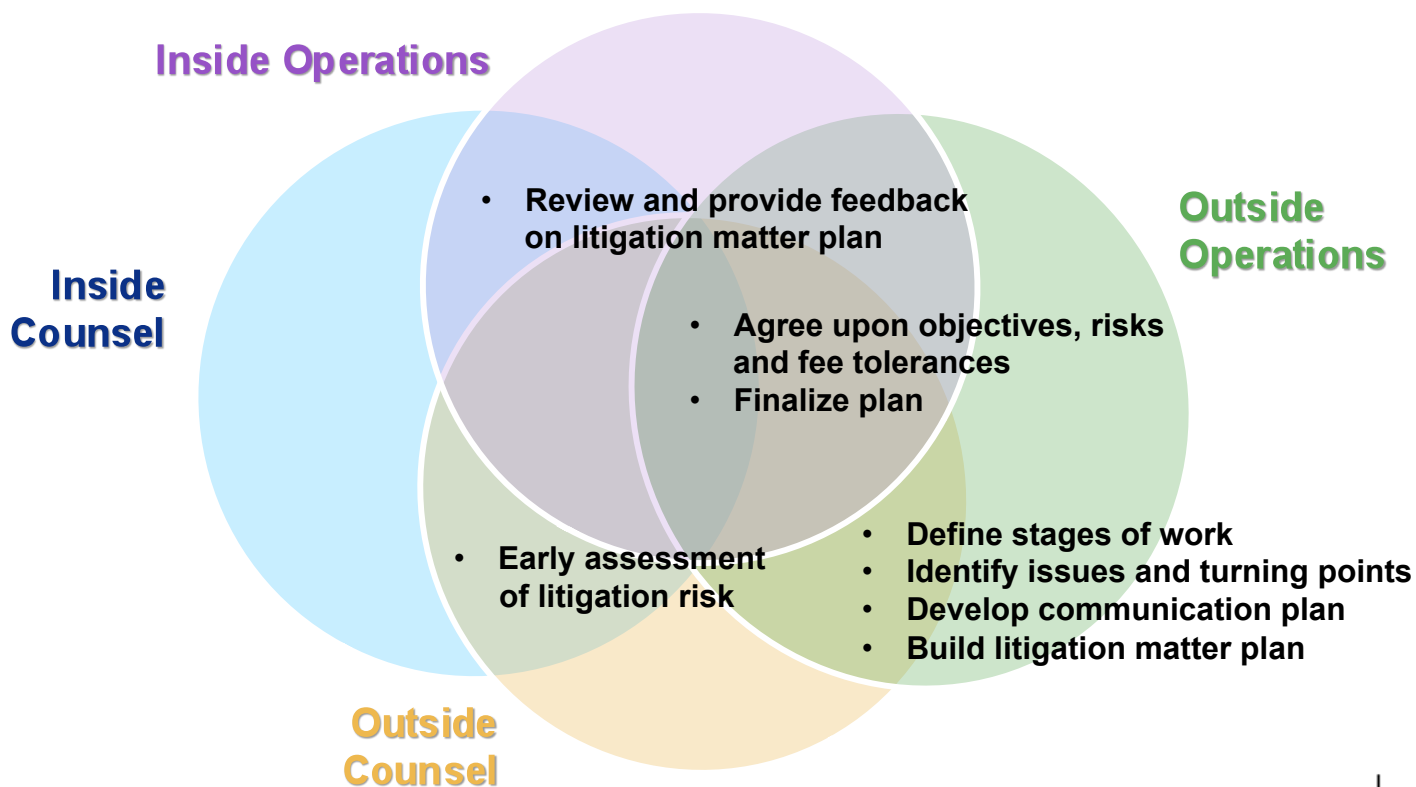


PLAN

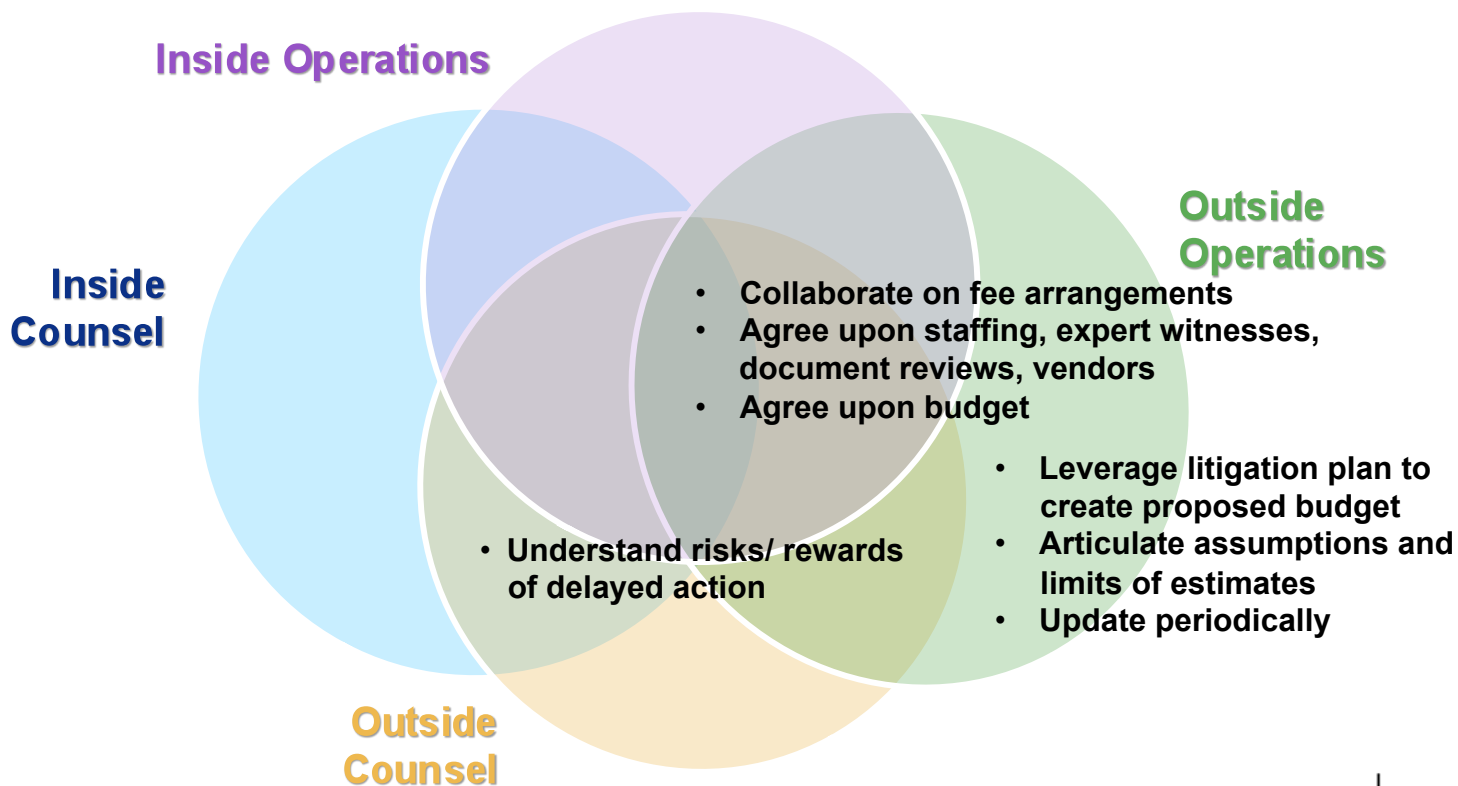


- Litigation Matter Plan
- Budgeting

Plan: Litigation Matter Plan



Plan: Budgeting



Example: Cael Project Litigation Matter Work Plan

MATTER WORK PLAN REPORT

Client Name	Innocent Company
Matter Name	Angry Customer Litigation
Matter Number	500000-01000



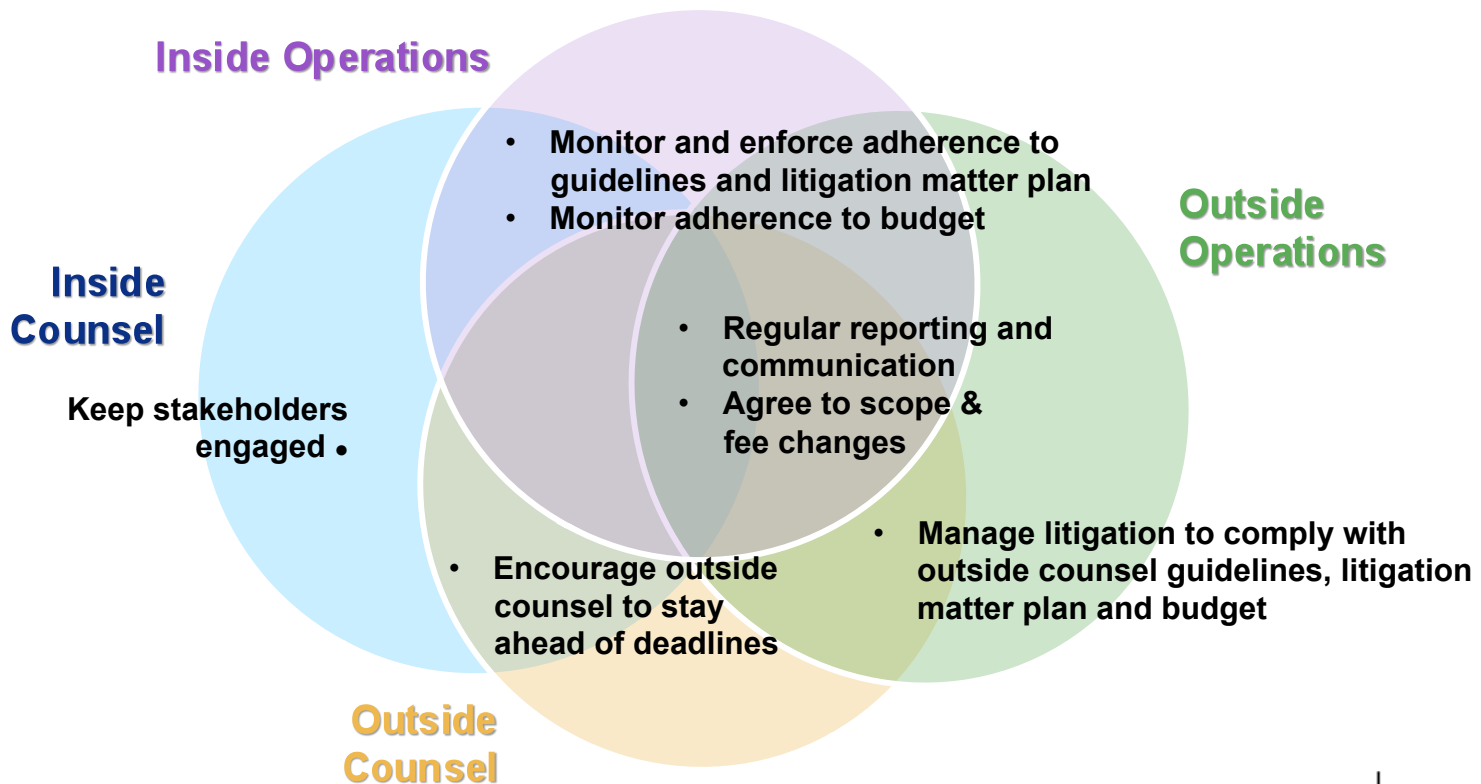
		Time Estimates								
Phase/Task	Assumptions	Senior Partner	Junior Partner	Senior Associate	Junior Associate	Paralegal	TOTAL Hours	EXPENSES	TOTAL Budget	Cumulative Total
L100 CASE ASSESSMENT & DEVELOPMENT										
L110 Fact Investigation/Development	• Travel required	100.0	80.0	50.0	50.0	0.0	280.0	\$10,000	\$175,000	
L120 Analysis/Strategy		60.0	60.0	30.0	10.0	0.0	160.0	\$0	\$95,000	
L130 Experts/Consultants		30.0	30.0	20.0	15.0	0.0	95.0	\$0	\$55,000	
L161 Settlement		20.0	15.0	10.0	5.0	0.0	50.0	\$0	\$30,000	
L190 Other Case Assessment		20.0	20.0	20.0	20.0	0.0	80.0	\$0	\$45,000	
	Total	240.0	220.0	155.0	115.0	0.0	665.0	\$10,000	\$435,000	\$435,000
L200 PRE-TRIAL PLEADINGS AND MOTIONS										
L210 Pleadings	• State Court Complaint	20.0	40.0	20.0	40.0	0.0	120.0	\$0	\$65,000	
L230 Court Mandated Conferences	• 3 Full Day Conferences. Travel required.	24.0	24.0	0.0	0.0	0.0	48.0	\$10,000	\$40,000	
L241 Summary Judgment	• Assume cross motions	60.0	60.0	150.0	150.0	25.0	445.0	\$0	\$220,000	
L242 Motion to Dismiss		60.0	60.0	150.0	150.0	25.0	445.0	\$0	\$220,000	
L250 Other Written Motions		20.0	20.0	75.0	75.0	20.0	210.0	\$0	\$100,000	
	Total	184.0	204.0	395.0	415.0	70.0	1,268.0	\$10,000	\$645,000	\$1,080,000
L300 DISCOVERY										
L310 Written Discovery		20.0	20.0	40.0	150.0	40.0	270.0	\$0	\$120,000	
L311 Meet and Confer		20.0	20.0	10.0	0.0	0.0	50.0	\$0	\$30,000	
L320 Document Production	• Using client preferred vendor. Costs include data processing and data hosting.	10.0	10.0	20.0	100.0	20.0	160.0	\$250,000	\$320,000	
L330 Depositions	• 8 Depositions taken and defended (16 total). 6 hours per depo, full day for prep. Associate support. Travel costs.	384.0	384.0	256.0	128.0	0.0	1,152.0	\$50,000	\$730,000	
L340 Expert Discovery	• 3 Experts for each side.	30.0	30.0	90.0	90.0	0.0	240.0	\$120,000	\$240,000	
L350 Discovery Motions		20.0	20.0	80.0	80.0	0.0	200.0	\$0	\$100,000	
L390 Other Discovery		10.0	10.0	20.0	20.0	0.0	60.0	\$0	\$30,000	
	Total	494.0	494.0	516.0	568.0	60.0	2,132.0	\$420,000	\$1,570,000	\$2,650,000

MANAGE

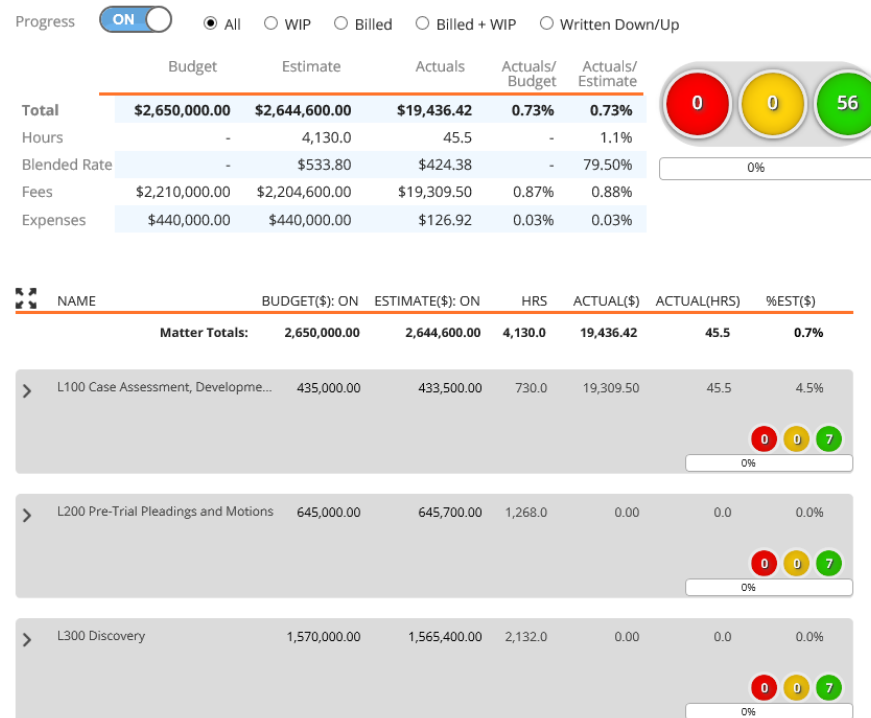


- Adhering To The Plan and Budget
- Handling a Change of Plans

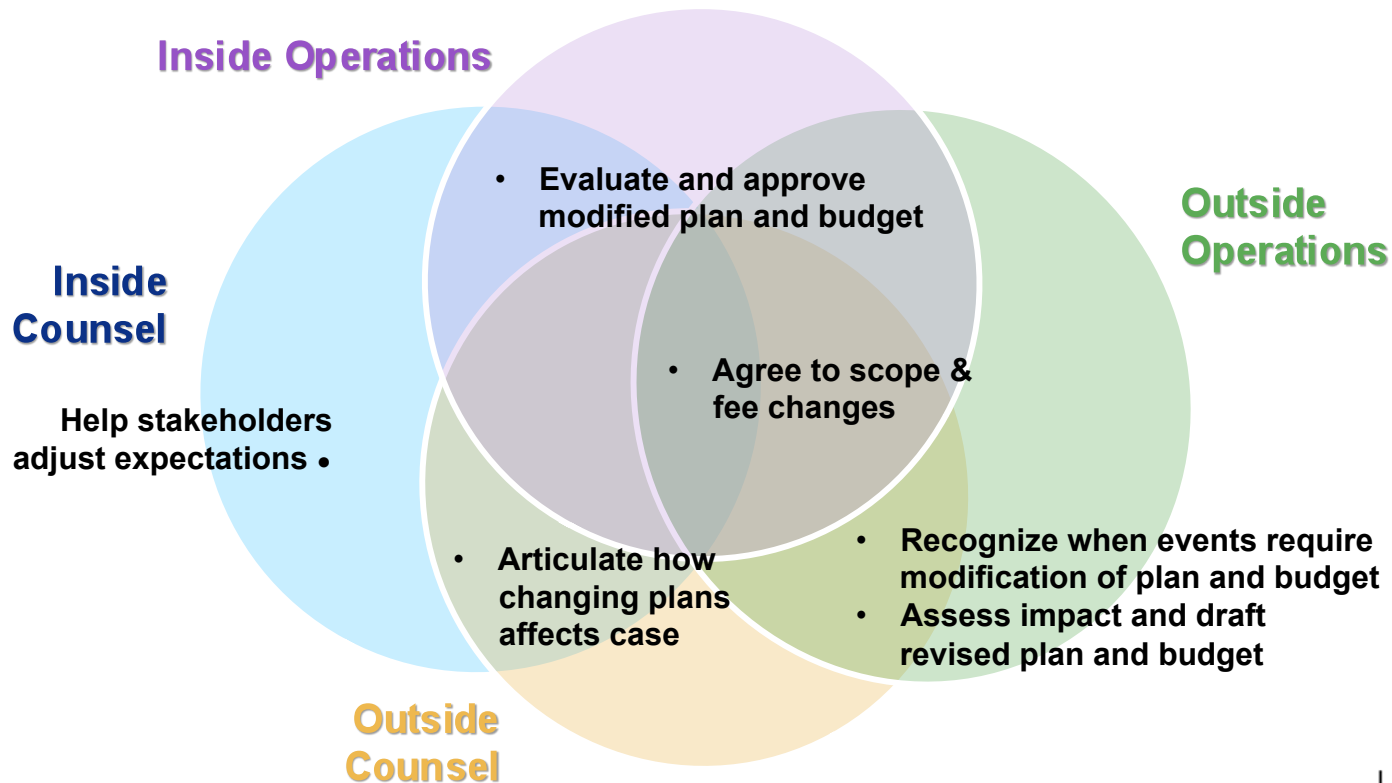
Manage: Adhering to the Plan and Budget



Example: Cael Project Budget and Task Management



Manage: Handling a Change of Plans

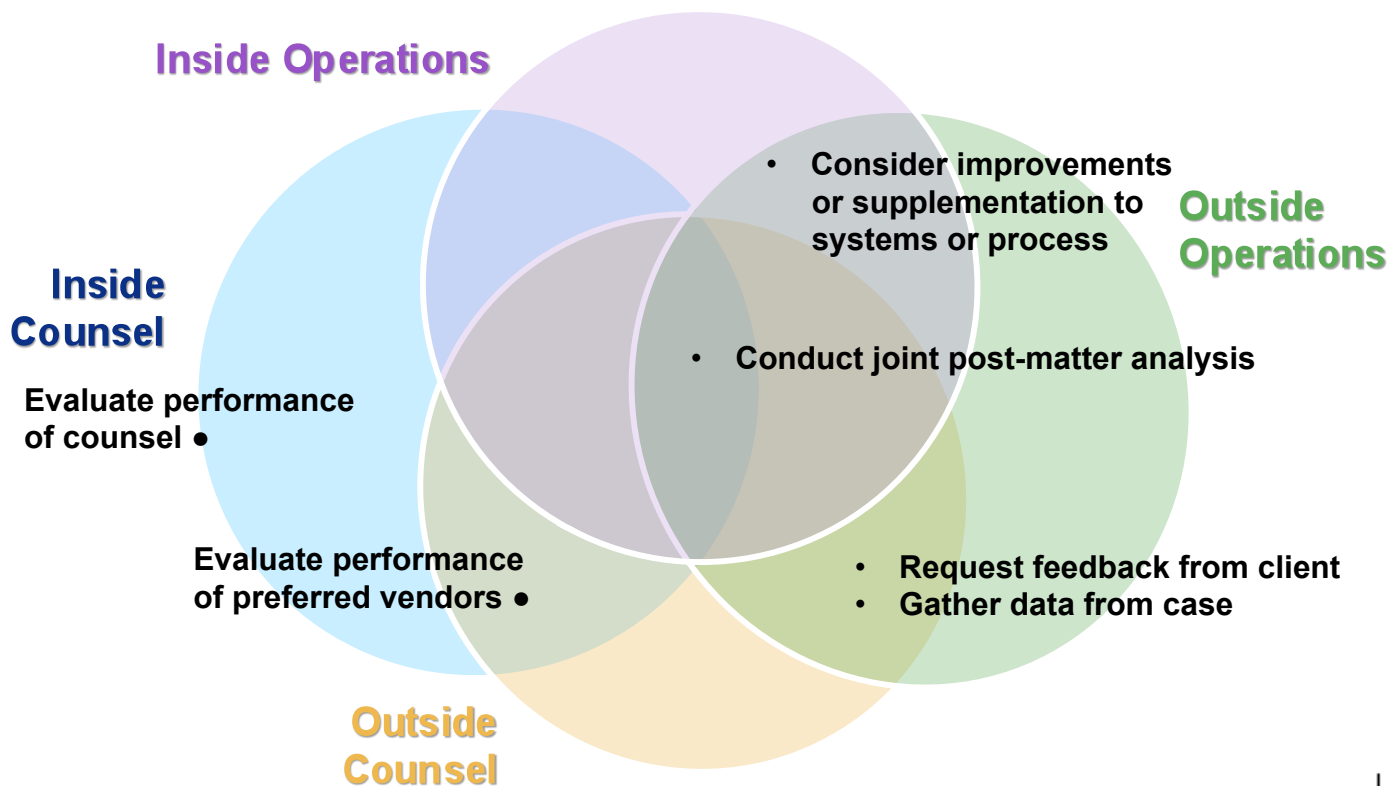


REVIEW



- Post-Matter Debrief

Review: Post-Matter Debrief



Example: Post-Matter Debrief

Name of Law Firm:	Dorsey & Whitney, LLP		
Primary Law Firm Contact:	Ben Kappelman		
Date Matter Commenced:	3/14/2016		
Date of Matter Completion:	4/17/2018		
Matter Summary	Represented company in civil litigation related to FCRA claims for class of consumers. Handled all aspects of litigation through Summary Judgment.		
Category	Indicator	Score (1-10)	Notes
Staffing			
Diversity	Firm focused on diversity and inclusion in staffing legal matter.	10	
Cost Containment			
Team Roles	Firm's matter team was commensurate with the level of expertise and experience necessary.	9	
Alignment	Firm's level of effort was aligned with the risk and fee tolerances of company.	9	
Communication			
Responsiveness	Firm and attorneys were accessible and responsive.	10	Firm was responsive and provided proactive communication throughout matter.
Understand of Core Business	Firm displayed understanding of business strategies and risks.	10	
OCGs	Firm adhered to outside counsel guidelines and billing requirements.	9	Minimal amount of entries rejected due to non-compliance
Progress Updates	Firm communicated well regarding legal strategies, issues and changes to plan. Firm provides regular progress updates.	9	Firm provided access extranet dashboard from which we were able to track matter progress and fee accrual.
Billing	Firm employed clear and timely billing practices.	8	



Takeaways and Easy Next Steps

Inside	Outside
<ul style="list-style-type: none"> • Be prepared--plan for significant litigation • Spending a little time planning can pay dividends and save costs • Understand the limitations of any plan and budget and be prepared to adjust • Understand capabilities of outside counsel • Communicate, communicate, communicate 	<ul style="list-style-type: none"> • Build project management and budgeting capabilities • Establish processes to cost-effectively deliver and meet client expectations • Work with clients before litigation is filed and understand expectations • Ensure client understands assumptions underlying plan and budget • Effectively manage changes in scope • Communicate, communicate, communicate



QUESTIONS



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