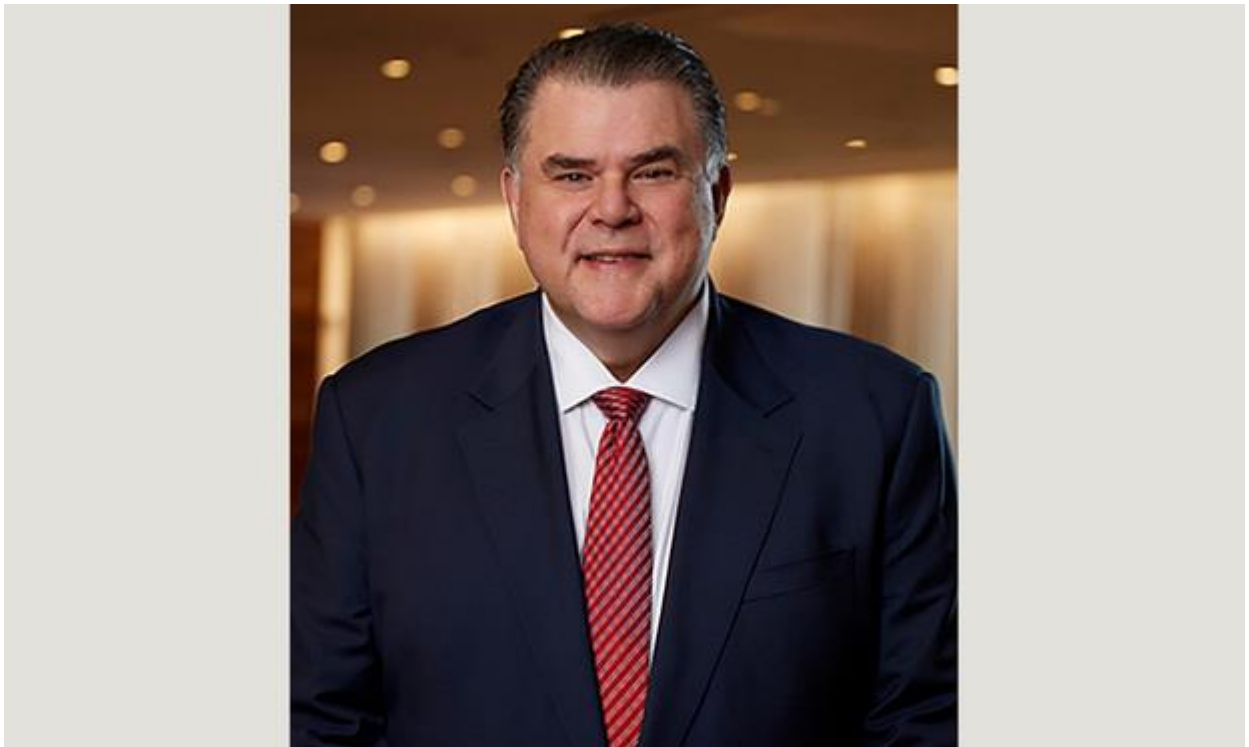


The Changing Role of In-House Counsel

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Steven Rogers, partner with Lowenstein Sandler.

By **Steven Rogers, Partner, Lowenstein Sandler** | January 23, 2020 at 11:57 AM

When I transitioned from a law firm to an in-house counsel position more than a quarter-century ago, many of my colleagues didn't yet have word processors – and it was commonplace to find open general counsel jobs posted in print newspapers.

Just as they have for the world at large, rapid technological changes since the mid-1990s have forever altered in-house legal departments — and indeed our entire industry. We're no longer reliant on manual processes

and documentation, contract management, discovery and case management are increasingly automated and tasks like preparing and overseeing submission of SEC filings and quarterly reports are now streamlined.

But new technology is just one important shift for legal departments. Indeed, the very nature of top in-house counsel's day-to-day tasks have changed and will likely continue to evolve in the years ahead.

From Cost Centers to Profit Centers

Before joining Lowenstein Sandler as a partner in late 2019, I held a variety of in-house roles, most recently as chief legal officer at Aceto Corporation for more than a decade, allowing me to fully grasp just how much the in-house counsel role has evolved. In the 1990s and early 2000s, many of us were primarily conduits to management, performing legal administrative duties and managing outside counsel who handled the more complex, corporate legal matters.

But that shifted dramatically following the global financial crisis of 2008. The worst recession in decades prompted companies to look harder — across all business units — at expense management and the bottom line. Senior company managers started to realize that they could get the same level of legal work and competence and cut out millions of dollars in external legal fees by demanding more from their law firms and by no longer viewing in-house legal departments as cost centers.

Over the course of the next decade or so, much more work was taken in-house, with outside law firms being asked to handle more of the specialty and high-end, high-stakes work. Effective in-house teams evolved to the point where they could spot potential risks before they arose, helping companies to proactively avert negative and costly crises, rather than reacting to matters after the fact.

Additionally, in-house counsel began playing a much more prominent role within companies, not just as liaisons, but as integral members of the management team, particularly as the company grows and evolves. Boards of directors, too, have started to recognize that they're better off with the general counsel or top legal officers at board meetings, providing updates and acting as trusted advisers.

Indeed, in-house counsel are now often members of boards and/or true members of the C-suite within their organizations. They're being asked to play bigger roles in how companies are run, so they must be ready to provide critical insight that directly influences risk management, culture and business strategies.

How to Stay Ahead of the Curve

The in-house counsel role will only continue to evolve. I might not be in the general counsel ranks anymore, but here are some tips I'd offer to those currently in it – or looking to get in it. Three key skills that have become especially important.

Understanding risk management with the mindset of a litigator:

Instead of having a deep understanding in one specific area, it's important for in-house counsel to have a broad array of substantive legal knowledge. Having a litigation background is a plus. That combination can help company lawyers spot problem areas early on and can make smart decisions about when to loop in outside counsel. It requires being a risk manager as much as being a lawyer.

Having a wide breadth of knowledge: Given the flurry of activity in the area of mergers and acquisitions in recent years, a company's core business area today will not necessarily be its core business area a year later. And even beyond M&A, businesses are constantly growing and expanding. Thus, somebody who is a generalist with a broader array of

knowledge is better suited to an in-house counsel role than someone with a very narrow focus. This is especially important given the elevation of in-house counsel to boards and C-suites.

Developing interpersonal communication skills: Not long ago, public relations firms led many companies' crisis management strategies. Now, crisis management is a far bigger part of the in-house counsel role. As a result, it's important not just for general counsel, but for all company lawyers, to learn interpersonal communication skills, particularly since they increasingly serve as the face of the company, in front of the cameras, in the event of a crisis. The communication skills, of course, are also helpful when it comes to working within a company.

It's anyone's guess how the role of in-house counsel will be redefined in the next decade. But if the changes are anything on par with what we've seen in the past decade, in-house counsel will need to ensure they have the above skills, and that they're willing to learn and embrace a few more.

Steven Rogers is a partner in the Transactions & Advisory Group at Lowenstein Sandler. Steven was previously Chief Legal Officer at Aceto Corporation, a global company focused on the development, manufacturing, and distribution of pharmaceuticals, nutraceuticals, and specialty chemicals. There, he oversaw all legal and regulatory matters and provided legal counsel to the company's senior management and board on matters of corporate governance, internal investigations, securities issues, corporate communications, and regulatory and antitrust concerns, in addition to legal aspects of business strategies, operations, and human resources.