

Insight from the Inside

Karen E. Ross, Esq.
Tucker Ellis LLP



Regardless of which “side of the v.” your work involves, insight from the inside is a valuable tool. I was fortunate enough to connect with an in-house litigator, whose work includes environmental and toxic tort cases, to address seven hot topics.

1. Often during the life of a case interactions with other parties lead to new strategies or lessons, can you share an instance where you learned something from “the other side”?

I was recently told by an adversary that both sides need to get uncomfortable [with their case] before settlement is possible. This was a good lesson that even though one side may really want to settle, if the other side is not ready you cannot force it.

2. What is keeping you up at night compared to two years ago?

More to do, with less people. COVID-19 caused businesses/sales to suffer, make less money and search for ways to cut costs. Cutting headcount happened and now we are expected to provide the same level of service, with less people.

3. Has 24-hour news or social media impacted the way you manage your docket?

Yes. Reputational concerns are much higher on the radar than they ever used to be, even for nonsense claims. It affects the way I evaluate and defend and could result in pressure to resolve claims that I view as meritless from a legal standpoint.

4. How do you differentiate the roles of in-house and outside counsel?

I am here to manage the claims, direct strategy, facilitate the collection of evidence and working with witnesses. Outside counsel is there to do the day to day work, interface with the court and other counsel, and guide me. [They should] manage my expectations and challenge me when appropriate. We need to have the same goal: get the best outcome for the company. And, hopefully do it in an efficient and cost-effective manner.

5. Time management continues to be an issue as caseloads increase and budgets decrease, how can outside counsel better help their clients?

Ask me what is important to me, communicate often and at the proper level of detail – bottom line up front. No long emails. Don’t send me longwinded case reports when I don’t ask for them. Don’t assume – ask me up front. Then, check in periodically to be sure I am getting what I need and that my needs/wants haven’t changed. Corporate pressures change and therefore my needs change over time. Anticipate my needs – don’t just forward me something. Think about it first and tell me how you recommend responding, what you think we should do, why it’s important or not important, etc.

6. Training and gaining experience for new lawyers are more difficult now given remote work, what skills/habits do you find most important in outside counsel?

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Organization, efficiency, good grasp of the law and facts. Be clear and concise in emails. Be early – [there is] nothing worse than dropping things on me last minute. You have no idea the number of other things I have on my plate on any given day or the number of emails I receive.

7. If you could go back in time to your first day at your current position, what advice would you give yourself?

Meet as many business people as you can and build relationships. That is key to being good counsel, is to have a trusting relationship where your client thinks to call you BEFORE making decisions that might result in claims down the road. Being a partner to the business is the key to success.

Karen E. Ross, Esq., is Counsel at Tucker Ellis LLP. As local and national counsel in premises, asbestos, silica, coal mine dust, and other toxic exposure litigation in Ohio and across the United States, Karen develops and executes targeted strategies to address client needs. Her ability to identify key issues, understand all sides of a matter, and appreciate clients' interests allows her to achieve each client's objectives in an efficient manner, while minimizing litigation risks. She received her B.A. from Kenyon College and her J. D. from Case Western Reserve University School of Law. She is also dedicated to community service, including as a mock trial coach for Cleveland Early College High School and serving on the Board of The May Dugan Center.

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