

Moving Beyond the Billable Hour

NEC Corporation of America and Duane Morris LLP

By Amy I. Stickel

In-house counsel are constantly beating the drum about their desire to build long-term relationships with outside counsel that are based on trust, good communication and mutually beneficial economics.

And sometimes, law firms listen. That has been the case with NEC Corporation of America and the attorneys at Duane Morris LLP.

Starting with one matter several years ago, Duane Morris attorneys' work for the company now ranges from complex litigation and government inquiries to entire blocks of work in trademark and immigration.

"Once Duane Morris got its foot in the door, it was able to create a much broader space," says Gerald P. "Gerry" Kenney, senior vice president, general counsel and corporate secretary of NEC, based in Irving, Texas. "They have the knowledge and the expertise, and they understand how to survive in the new economic model."

"It's been very successful for us and, more importantly, for them," agrees George D. Niespolo, the relationship partner at Duane Morris, who heads the White-Collar Criminal Defense, Corporate Investigations and Regulatory Compliance practice.

By working so closely on a variety of matters, NEC and Duane Morris have developed a powerful relationship, according to Partner Stephen H. Sutro. "With some clients, you have trouble getting information, and you don't know what's around the corner," says Sutro, who is a partner in the San Francisco office of Duane



Photography by Holly Kuper

From left, Gerald P. "Gerry" Kenney, NEC Corporation of America; George D. Niespolo, Duane Morris LLP

Morris. "NEC is not that way. There is a great level of trust and communication."

Acid Tests

Kenney first met Niespolo when the company was facing a government antitrust investigation. "George provided absolutely excellent counsel," recalls Kenney. "You get battle-tested pretty quickly sitting in a foxhole with that lawyer."

Once the antitrust matter was settled, Kenney and Niespolo began talking about some of the other work that the company had. At that time, Kenney was interested in developing a preferred-provider model that he refers to as "DuPont Lite." Through that process, the company, a North American

subsidiary of Tokyo-based NEC Corporation, has whittled its list of law firms from 130 to five. "It's a common theme that in-house counsel are tasked to control internal expenses and reduce outside costs," says Kenney. "As I was pontificating about the evils of outside counsel, George got it. We engage in relationships with law firms that get it—and a lot of law firms don't."

As part of its new model, NEC began looking at areas of work that it could hand over to one law firm, rather than handling in-house or divvying up among several different firms. One area became immediately obvious: immigration. As employees of a high-tech company and a subsidiary of a foreign-owned global giant, Kenney, his in-house lawyers

and the human resources department found themselves spending a great deal of time overseeing visas and dealing with other immigration-related issues. So NEC sought proposals, and Duane Morris was one of the firms that responded. "Duane Morris came to the table with a fairly sharp pencil," says Kenney.

Several aspects of the Duane Morris proposal were particularly interesting, according to Kenney. The firm's offices throughout the United States and around the world are an advantage to a company that frequently brings in workers from Japan, India and other countries. Another factor that Kenney found particularly compelling about the Duane Morris team's proposal was its

willingness to work on a fixed-fee basis. And he was also impressed with the immigration group, including Partner Lisa Spiegel. "Lisa was the acid test," says Kenney. In one situation, he questioned why Spiegel had charged him an hourly rate, not the fixed rate. Spiegel's quick response—the hourly rate was less expensive, so that's what she billed.

While much of the work involving visas may be routine, it's a particularly sensitive area since a worker's immigration status can affect his or her whole life and career, according to Spiegel. "My job is to allow our client to focus on work, not on her immigration status," she says.

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Stephen H. Sutro (left) and Lisa Spiegel (below), Duane Morris LLP



George D. Niespolo (below), Duane Morris LLP; Gerald P. "Gerry" Kenney (right), NEC Corporation of America



Spiegel works closely with the HR department at NEC, generally communicating directly with them, rather than the attorneys in Legal. She recalls the time someone in the HR department sent

her a desperate email, after a worker's visa status slipped through the cracks. "The HR department had forgotten to tell us about this person who was scheduled to start in two weeks. It was not too late, and we were able to get everything in place," allowing the employee to start on time.



partnership at a glance

NEC Corporation of America

A North American subsidiary of NEC Corporation, NEC Corporation of America is a technology provider of network, IT and identity management solutions. Headquartered in Irving, Texas, it delivers technology and professional services ranging from server and storage solutions, IP voice and data solutions, optical network and microwave radio communications to biometric security, virtualization and digital cinema solutions.

Gerald P. "Gerry" Kenney is senior vice president, general counsel and corporate secretary for NEC Corporation of America, where he has oversight of all legal operations. Prior to joining NEC, Kenney was vice president and general counsel of CCC Information Services, a publicly traded software and services company in Chicago. Kenney can be reached at gerry.kenney@necam.com.

Since immigration work is tied closely to the HR department's work, Spiegel works regularly with four or five people in that area. "You get to know those people and how they like to have their information presented," says Spiegel, who is based in San Francisco and San Diego. With such a close working relationship, Spiegel says she doesn't have to waste her clients' time with trivial matters. "When we say there is a need for a 'fire drill,' we get a lot of cooperation," she says.

No Micromanaging

That model of communication is one that Duane Morris works to replicate on every matter it handles with NEC, according to Niespolo. Outside counsel's ability to work directly with businesspeople helps differentiate the relationship, according to Niespolo and Kenney.

"A big part of the evolution of the relationship has been based on how Gerry operates as a general counsel. We've gotten

Duane Morris LLP

Duane Morris LLP, one of the 100 largest law firms in the world, is a full-service firm of more than 650 lawyers. In addition to legal services, Duane Morris has independent affiliates employing approximately 100 professionals engaged in other disciplines. With offices in major markets in the United States and internationally, Duane Morris represents clients across the United States and around the world.

George D. Niespolo is the head of the White-Collar Criminal Defense, Corporate Investigations and Regulatory Compliance division of Duane Morris' trial practice group. Prior to entering private practice, Niespolo was an assistant United States attorney for the Northern District of California. He is Peer Review Rated and can be reached at GDNiespolo@duanemorris.com.

Lisa Spiegel, a partner in the San Francisco and San Diego offices of Duane Morris LLP, practices in the areas of immigration and nationality law, specializing in issues related to the employment of foreign nationals. She has been designated as a certified specialist in immigration and nationality law by the State Bar of California and is a past chair of the Northern California Chapter of the American Immigration Lawyers Association. She is Peer Review Rated and can be reached at LSpiegel@duanemorris.com.

Stephen H. Sutro is a partner at Duane Morris practicing in the areas of complex litigation, internal corporate investigations and compliance and corporate matters. He has represented corporations, corporate executives, government officials, accountants, lawyers and others in a broad range of criminal, civil and administrative proceedings, including those involving securities and commodities, antitrust offenses, government contract fraud, healthcare fraud, tax fraud, computer crimes and public corruption. He can be reached at SHSutro@duanemorris.com.

to a level of comfort and respect in the work that I was doing for him," says Niespolo.

"Gerry doesn't feel the need to—nor does he want to—micromanage," says Niespolo. Instead, when a new matter comes up, Kenney will often reach out to Niespolo to see if it involves something that Duane Morris can handle. "If a matter doesn't fall within our sweet spot, I will find the right

Handing over its immigration work to Duane Morris has worked so well that NEC also gave its trademark portfolio to Duane Morris last summer. That is proceeding well, according to Kenney. "Duane Morris caught some marks that were about to expire that we didn't even know were about to expire," he says.

While handing over entire blocks of work and experimenting with different financial



From left, Gerald P. "Gerry" Kenney with NEC Corporation of America Senior Corporate Counsel Wendy Lynch and Jackson Chen

person outside of the firm," says Niespolo. "I have done that before."

If Duane Morris does take on a new matter that involves an attorney who has never worked with Kenney or his team, Niespolo will educate that attorney about the best ways to communicate with the client. The approach saves on time and money.

As the relationship partner, Niespolo keeps his finger on the pulse of all of NEC Corporation of America's work, but he does not micromanage, either. "I monitor each situation, so I can speak intelligently to Gerry about it from time to time," he says. "But I won't be directly involved unless it is my area of practice."

models can be a risk, both Kenney and the Duane Morris attorneys say it has paid off.

Developing a close relationship over time, as NEC and Duane Morris have, makes it easier to consider billing rates beyond the billable hour, according to Sutro. "You can develop a great level of trust and communication," he says. "Known relationships help. And you can be more creative with rates."

"I think that's core to what we are able to do here. He knows that if there is a turn in a matter, we will be in touch immediately," says Niespolo. "We won't be in contact—and billing him—unnecessarily." ●