

# The Metropolitan Corporate Counsel

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## Inside-Outside Counsel Collaboration: Building A Win-Win In Las Vegas

*The Editor interviews Anthony Pearl of The Cosmopolitan of Las Vegas and Brian Cheney of Snell & Wilmer, L.L.P. This interview is sponsored by LexisNexis CounselLink.*

*While working on stories, you sometimes uncover a “good news” angle worth reporting. Such is the case with the relationship between Anthony Pearl – General Counsel, Chief Compliance Officer and Corporate Secretary for The Cosmopolitan of Las Vegas, and Brian Cheney – Partner with Snell & Wilmer, L.L.P. and relationship partner on The Cosmopolitan account. These two have discovered some of the keys to a productive collaboration between in-house and outside counsel; there are lessons to be learned from their experiences.*

**Editor:** Can you give readers a snapshot view of your operations so there’s a better context for the relationship story?

**Pearl:** The legal department at The Cosmopolitan is relatively small – 12 people or so – with just two attorneys, including myself, a couple of paralegals, and a few director-level executives overseeing key areas like risk and compliance. Despite the size, we cover a full range of legal activities, with contracts and transactional matters, labor, employment and intellectual property being the big volume areas, along with some employment and non-employment litigation matters. In total, we use roughly 20 to 30 outside legal firms; our working relationship with Snell & Wilmer places them among our few primary go-to firms.

**Cheney:** I’m glad to hear that, Anthony. Snell & Wilmer operates in several Western states as a full-service business law



Anthony Pearl



Brian Cheney

firm. My practice area focuses on real estate transactions, but I’m also the primary partner for the entire relationship between our firm and The Cosmopolitan. We have numerous lawyers in different practice areas handling matters for The Cosmopolitan; I’m responsible for managing the relationship, making sure the right people are assigned to the work, and tracking overall service levels, responsiveness and outcomes.

**Editor:** How did the client-firm relationship get started, and what do you look for when making that selection?

**Pearl:** I joined The Cosmopolitan five years ago during the pre-development phase that coincided with the collapse of the real estate market, and Snell & Wilmer was handling legal issues in that area before I came on board. Essentially, I’ve been working with Brian since day one.

That said, objectivity is a big part of my personal decision-making process. To source a new matter, I try to evaluate the situation using a blank slate and look at what’s best for my company. Even when solid relationships already exist, engagement decisions cycle through an evaluation process. I look at skill sets, firm credentials, predicted costs, and references from industry peers and my own business clients. Any rapport I have with the

engagement partner and team also gets factored into the mix, but it’s just one of the decision criteria.

**Cheney:** Even though law firms are not known for turning down work, we apply our own decision-making filters. Conflicts of interest are always explored, and we acknowledge some prospects might care about firm location and size. The sophistication of the client as a consumer of legal services is an important factor for us. Overall, you look at the client and the matter for a good fit and the absence of red flags in terms of mutual expectations, schedules, economics and even gut feelings.

**Editor:** Relationships often live or die based on economics. How do you handle those sensitive issues surrounding budgets, pricing and negotiations?

**Pearl:** Being able to create a win-win economic structure is critical to the whole relationship. Fortunately, Brian understands the business realities our law department faces. We have to be just as rigorous in our budgeting, forecasting and cost-control processes as every other functional group at The Cosmopolitan. We’ll soon be doing internal line-by-line P&L reviews for next year for budgeting purposes. Afterward, I’ll go through similar assessments with outside partners, like Brian. While I know some peers enter the budgeting process planning for lots of fixed-fee arrangements, my preference focuses on quality over predictability. Hire the right firms, negotiate pricing aggressively, and then deliver the best legal services possible.

**Cheney:** Anthony’s process works great for us. Our collaborative budgeting goal is to ensure the law firm and client are on the same page with clear expectations. Com-

*For questions about this interview, please email [LNCounselink@lexisnexus.com](mailto:LNCounselink@lexisnexus.com).*

munication is the critical part, followed by more communication and follow-up. If you have the upfront discussions to make sure you are on the same page to begin with, and then regularly cross-check the process throughout the engagement, you won't be having awkward conversations later about why costs are out of line or timing expectations were not met.

**Editor: Do either of you favor alternative fee arrangements (AFAs) or some other approach as a good tactic for controlling costs and keeping the relationship solid?**

**Pearl:** AFAs can be effective in the right circumstances, particularly when you're dealing with a recurring, commodity-type activity. Standard operating contracts or vendor contracts could be good candidates for a fixed- or capped-fee arrangement. Both sides just need to be careful with AFAs to balance the economic incentives and quality of work appropriately. If either side is disadvantaged in either way, you can do more harm than good to the relationship. Given the size of our operations, we don't have high volumes of work like large corporations do. Instead, we'll rely on other tactics to help control costs, such as getting estimates on bigger projects by phases so our audit team can track costs as the matter moves through different stages.

**Cheney:** I agree with Anthony. Sometimes AFAs can create inconsistent objectives between the client and the law firm. We appreciate it when clients like Anthony adopt a big picture viewpoint and sit down to negotiate at a higher client-to-firm level instead of attacking pricing on a matter-by-matter basis. Such an approach forces the law firm to work collaboratively with the client and address the client's strategic business needs and sensitivities rather than looking at a particular matter in isolation. For us, cutting costs is only part of the equation, and it should only be part of the client's overall analysis as well. Real value can be achieved if you can discuss what the workload looks like for a particular year or other period of time and negotiate rates or fee structures based on anticipated volumes and other assumptions that should be openly discussed.

**Editor: What role does technology play in your relationship story; what are you using to help?**

**Pearl:** When I came to The Cosmopolitan, I had a blank-slate opportunity to build the legal department from scratch. Fortunately,

I also had earlier career experiences and saw how paperwork could be a major problem. The whole process of invoice handling and tracking was surrounded with lost files, hand work, delayed payments and unhappy people on the company and supplier sides.

To do it better, we sourced a new matter management and e-billing solution with LexisNexis CounselLink that's electronic, paperless and very effective for our needs. It standardizes the way invoices come in, which makes bill reviews quick and easy. I can monitor costs with guideline rules that automatically adjust or flag questionable invoice entries. And the detailed reports make it simple to see what's going on and where I need to focus attention ... although senior management favors the familiar pie and bar chart formats.

**Cheney:** As the relationship and billing partner, I get many of the same process and streamlining benefits that Anthony does. It took time for accounting and our time-keepers to get familiar with the system, billing guidelines and codes, but it's been a big help in expediting the overall billing-to-payment process. With standardized codes and categories, it's easier to review bills and time entries, and the summaries help me spot issues and make adjustments before everything is finalized and sent out to the client.

**Editor: After the job is finished and the bills are paid, do you have any formal process to handle evaluations of the work or conduct a postmortem on the project to keep making improvements?**

**Pearl:** Not really. If you've got a personal relationship with your engagement partner, you don't need a formal process to evaluate and critique work after the fact. You're going to rely on real-time conversations to take care of any issues. If you wait until everything is over or until a quarterly review occurs, you might not remember to give compliments on the good work done. As well, negative concerns might fester until they become genuine problems rather than just quick-fix corrections delivered at the right moment.

**Cheney:** Ideally, clients and firms consider relationships as long-term endeavors. It gets back to the fundamental need for communication mentioned earlier. Honesty, communication and touching base regularly are ongoing aspects of maintaining a good working relationship. It's much more than an episodic engagement that focuses exclusively on a single pending

dispute or transaction and ends once that matter is concluded. To build a lifelong relationship between the client and firm, you need to be talking and staying in touch even when there's no work being done and look for opportunities to provide value-add services or advice that may benefit the client.

**Pearl:** I agree; and, without being heavy-handed, I believe the law firm has the main business responsibility for outreach as the service provider. On a regular basis, the firm should proactively check in with the client, assess how things are going and find out what they can do better. I remember one case where an issue developed on a matter, and I never heard a word from the firm involved. Obviously, we no longer do business with that group, but our relationship with Brian and Snell & Wilmer goes back more than five years. That should tell you something about successful relationships.

**Editor: Looking back over those five years, is there anything you'd do differently or highlight as a critical factor in building and maintaining a relationship?**

**Cheney:** I'll take the lead on this one. No, I don't think we would do anything differently; it's working out quite well. Part of the reason is we've both put the right people in place to handle the work and any issues that surface. When Anthony came on board and hit the ground running, it became very clear that he was the point person representing the business interests and expectations of the client. It was a straightforward way to start a good relationship.

**Pearl:** Getting the people part right is imperative, especially for the principal leads on both sides. Every firm struggles to deliver consistent legal services throughout the entire firm. As they get bigger and involve different practice areas, it gets more difficult. Technology, like CounselLink, can help streamline processes and collaboration, but people carry the real burden. Part of Brian's role as the engagement partner is to convey all the institutional knowledge and relationship tips he's gathered to the Snell & Wilmer team. If he does, then I get a consistent level of understanding and service quality across all the attorneys and practice areas, which makes my job a lot easier.

**Editor: Thank you both for sharing your stories.**