

025/039 The Road to Becoming a General Counsel

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Faculty Biographies

Frank M. D'Amore

Frank Michael D'Amore is senior managing director of Major, Hagen & Africa in Villanova, Pennsylvania.

Mr. D'Amore was previously vice president of business development and general counsel of InterNetEx, Inc., a Philadelphia-area document management ASP. In addition to his general legal responsibilities, Mr. D'Amore handled the company's partnership relations, sales function, and investor presentations. Mr. D'Amore also served as vice president and general counsel of KV Pharmaceutical Company, a St. Louis based, publicly traded pharmaceutical company. Mr. D'Amore also was vice president and general counsel of Graphic Controls Corporation, a Buffalo, New York medical devices company that was acquired by Tyco International. Mr. D'Amore's in-house career started as assistant general counsel of Alcon Laboratories, Inc., a Fort Worth, Texas pharmaceuticals and medical device company that is a wholly-owned subsidiary of Nestle, S.A. Mr. D'Amore had been a partner with Philadelphia-based Saul, Ewing during the private practice portion of his career.

Mr. D'Amore has served as cochair or vice chair of ACCA's Law Department Management Committee for the past four years. He also was president of the Montgomery County, Pennsylvania Big Brothers/Big Sisters Association.

Mr. D'Amore is a Phi Beta Kappa graduate of Boston College. He attained his JD from the George Washington University National Law Center.

J. Alberto Gonzalez-Pita

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Robert A. Major

Robert A. Major, Jr. is a partner and founder of Major, Hagen & Africa, a leading executive search firm located in San Francisco, specializing in the recruitment and placement of attorneys. Major, Hagen & Africa is the largest legal search firm in the country devoted to the recruitment of attorneys

Prior to founding Major, Hagen & Africa, Mr. Major practiced law as an associate with Wilmer, Cutler & Pickering in Washington, DC and served as corporate counsel to Saga Corporation (Menlo Park, CA).

Mr. Major received his BA from Stanford University and earned his JD from The University of Texas School of Law. He was an editor of the *Texas Law Review*.

Andrea E. Utecht

Andrea E. Utecht is vice president, general counsel, and secretary of FMC Corporation, a \$2 billion publicly traded chemical company headquartered in Philadelphia. She is responsible for the delivery of all legal services to the company through a department comprised of 12 attorneys and a number of paralegals.

Prior to joining FMC, Ms. Utecht was senior vice president, secretary, and general counsel of ATOFINA Chemicals, Inc., a subsidiary of the TotalFinaElf Group, also headquartered in Philadelphia. Ms. Utecht had been with ATOFINA and its predecessor companies for 20 years, holding a number of positions both within and outside the legal function, including three years as vice president for acquisitions and divestitures. Before that, she spent six years in a financial services company, Colonial Penn Group, Inc. Ms. Utecht's primary practice areas before assuming the general counsel position were in the areas of corporate and commercial transactions.

Ms. Utecht is a member of ACCA's board of directors. She is also a member of the American Arbitration Association and the YMCA of Philadelphia and Vicinity.

She received a BA from Elmira College in New York and is a graduate of the University of Pennsylvania's joint MBA/JD program. She also holds an MS from the University of Pennsylvania School of Law and



The Road To Becoming A General Counsel *Insights From Leading General Counsels*

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*By Robert A. Major, Partner, San Francisco Office
Frank Michael D'Amore, Senior Managing Director, Philadelphia Office*

Quite a few attorneys want to become a General Counsel. For the deputy or more junior in-house lawyer, this position typically affords an opportunity to directly counsel a company's top executives, serve as a member of the senior management team, and, most significantly, make the final call on critical legal issues. Private practice lawyers are lured by all of those benefits, plus the chance to be closer to the center of a business, an opportunity to play a more proactive role at an earlier opportunity with the client, and relief from the incessant demands of trying to develop new business for their firms, as well as increasing administrative tasks associated with law firm partnership.

Becoming a General Counsel can be a tall order. One fundamental reason that makes this a challenge is that the occupants of the GC's office are usually in no hurry to depart. The attributes noted above, when combined with good pay, power, and prestige, make this a position that one wants to retain for a long time.

Change, however, can be the catalyst for the hiring of a new General Counsel. Such change could involve a number of causes, such as the hiring of a new CEO, merger or sale of the company, retirement of the GC, or lack of performance. If one hopes to contend for such a position, what can be done to prepare? In the law firm arena, for example, technical excellence, high billable hours, and strong client development skills are known requirements for becoming a partner. There are no similar factors in the corporate world that similarly guarantee landing a GC spot. Why?

First, the wide array of companies and ever-emerging new industries militate against a common standard in the hiring of a new General Counsel. While one company may need an attorney who knows genomics, another may desperately want a lawyer who can close multi-billion deals. Second, while law firms can add multiple partners, if they can support themselves and the firm's business objectives, a company only has one top legal officer. This person serves at the behest of the CEO and/or Board of Directors, and thus must meet their particularized requirements and whims, no matter how talented the attorney may be. Finally, fate may play a much bigger role in-house. Whereas a star law firm attorney will eventually receive partnership consideration, his in-house counterpart, despite being similarly gifted, may be blocked by more

senior colleagues who have paid their dues and are next in-line. Absent death, corporate upset, or fortuity, this in-house attorney may never get the chance to serve as his company's General Counsel.

The formidable challenge of becoming a General Counsel is compounded by the intense interest in such positions. Major, Hagen & Africa is regularly called upon to fill General Counsel positions around the world. In handling such assignments, we are typically flooded with resumes of attorneys, many – if not most -- of whom are eminently qualified.

Our report is designed to help demystify how some of the leading General Counsels attained their positions. We asked more than 150 General Counsels the following questions:

1. What was your primary area of expertise at the time you became a General Counsel?
2. What was your path—law firm practice, in-house work, or both?
3. What would you have done differently?
4. What do you recommend to aspiring General Counsels?

The responses discussed below show that there is no universal path to the General Counsel chair. There are a number of routes to the top, including some detours that our respondents cited. However, there are some recurring factors, which might provide guidance in your path to the GC role.

I. Executive Summary

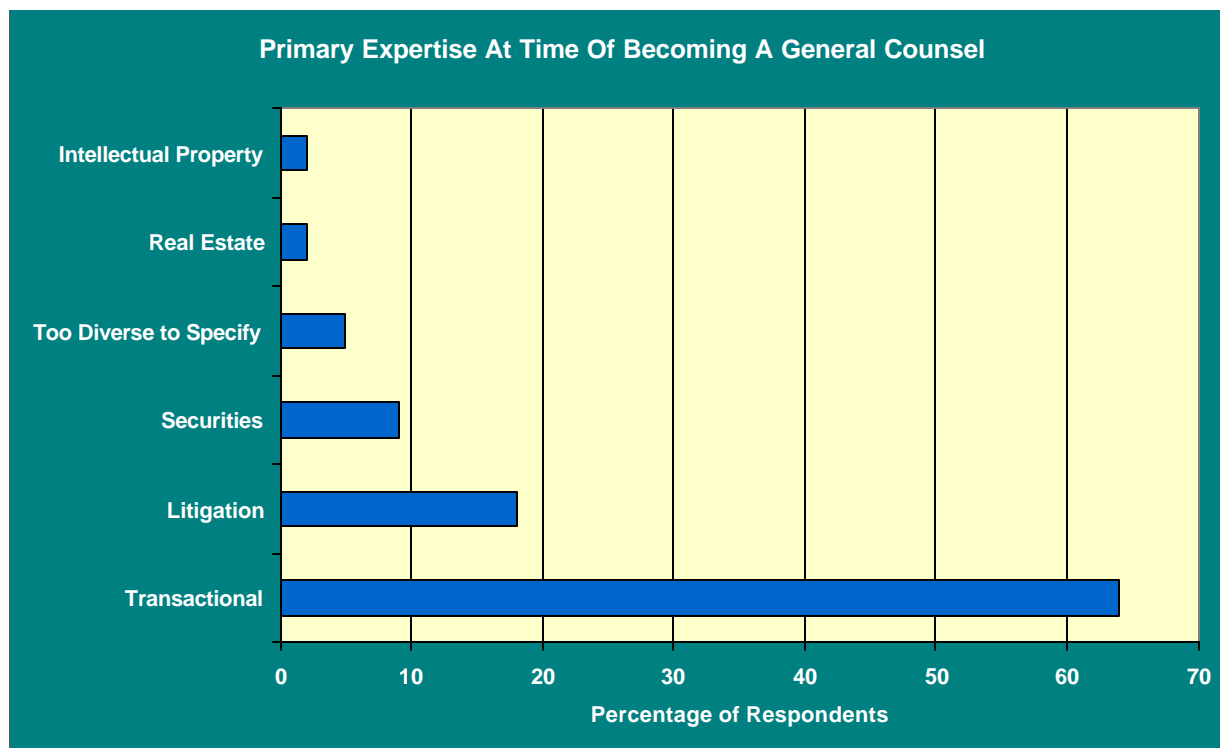
A composite profile, based on our results, clearly emerged. *Our typical General Counsel is a transactional lawyer with excellent all-around business skills, who, at the time of becoming a GC, had spent roughly an equal amount of time in a law firm and in-house.* Good networking ability, advanced business training, and the facility to do deals were viewed as vital tools that equip one to become a General Counsel.

Interestingly, not one respondent regarded attending a higher-rated university or law school as a prerequisite for the GC job. Additionally, no one thought that spending an entire career with one company would have been preferable. Rather, our respondents embraced change and saw it as a necessary element in career advancement. The unmistakable message they sent is to get plenty of business training and learn how to do deals.

II. Question One: What Was Your Primary Expertise At The Time You Became A General Counsel?

While there are many different legal specialties, it is clear that transactional lawyers have the edge in securing General Counsel positions. This finding is consistent with our experience, as businesses are ultimately driven by those who can close deals. It thus is not surprising that a company's top legal officer needs that experience.

The ever-increasing onslaught of litigation has made this background a clear runner-up. The results follow:

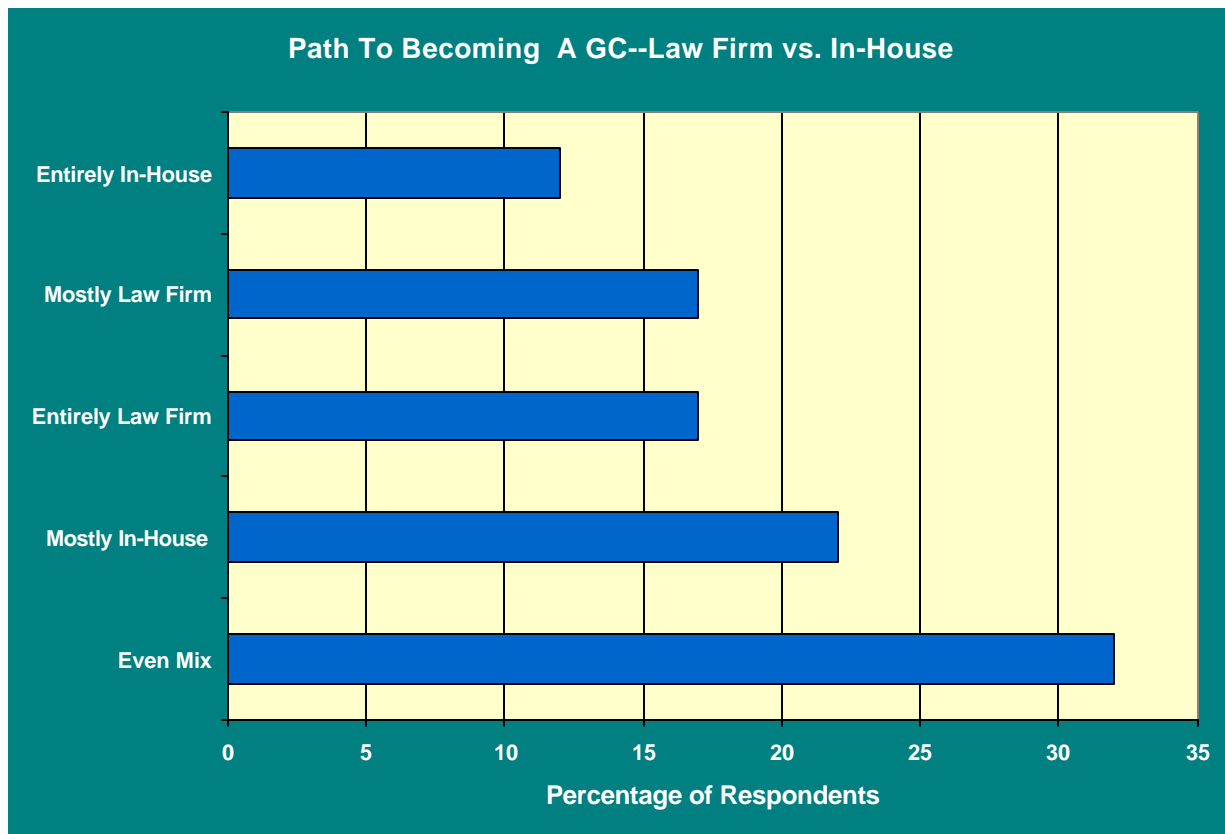


One discipline that was not cited, but can be an essential requirement in certain GC placements, is international law. This need has been fueled by the global nature of many businesses. **Kathleen Knight, Co-General Counsel of Alcon Laboratories**, noted that she would: “get more international experience. Although I handled matters that crossed into the international area, I wish I had actually spent 2-3 years in the International Legal Department.”

III. Question Two: What Was Your Road To Becoming A General Counsel, i.e., How Much Time Did You Spend In Law Firms Versus In-House?

The road most traveled was one that was evenly split between working in law firms and in-house. Many respondents noted that obtaining *some* law firm training was important. The results reflect that the majority of those who spent time in law firms and in-house, before becoming a GC, left private practice before achieving partnership. However, law firm lawyers who made the direct leap to a General Counsel slot most commonly were partners at the time.

The law firm versus in-house mix comparisons are contained in the chart below:



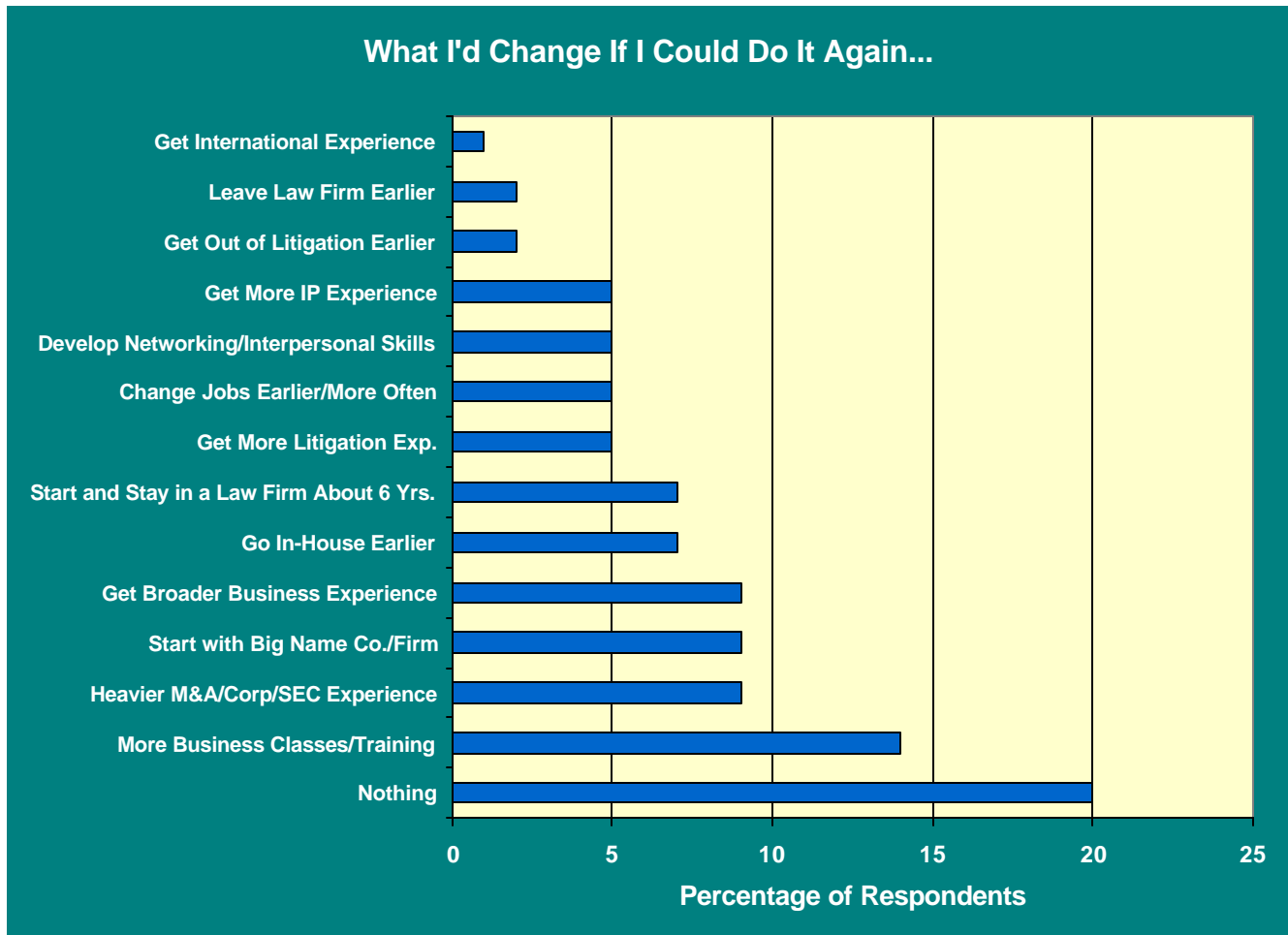
Several responses are illustrative. **Gregory Coplans, General Counsel of Hitachi Data Systems**, had an even split between law firm and in-house life. His path was: “5 years of practice as a U.K. solicitor in London followed by 5 years of practice as a transactional attorney at Donohue Gallagher Thomas & Woods in Oakland.”

Tom McCoy, General Counsel of Advanced Micro Devices, was among those who left partnership in a major firm to become a General Counsel. In Tom’s case, his move came after 18 years as a litigation partner at O’Melveny & Myers. **Scott Wornow, General Counsel of OmniSky Corporation**, followed a similar path, although his background was as a transactional lawyer. Scott spent 12 years in private practice, including several as a Partner in the New York office of Paul Hastings.

Stu Nichols, General Counsel of KLA-Tencor, is emblematic of those who spent more time in-house before becoming a GC. Stu noted that he spent “two years as a litigator in a small litigation boutique in San Francisco, then 6 years as corporate counsel managing litigation and other responsibilities at a then Fortune 500 electronics manufacturer.”

IV. Question Three: “What Would You Change If You Could Do It All Over Again?”

While the largest number of respondents would not change anything, there was no consensus among them. Once again, however, the desire to become more proficient in business dealings was a popular theme. Three business-related answers (getting more business training, deal making experience, and broader business exposure), in the aggregate, were the most common reply:



While **Shawn Hall, General Counsel of Quantum Corporation**, would change nothing, others would have re-charted their steps. **Karen Guest, recent General Counsel of United Advertising Publications**, would have taken more business classes and trained longer in law firms. Karen would have: “1) taken more business oriented classes in law school and some classes in the business school and 2) worked as an associate in a large firm concentrated on working with small companies with a wide range of legal issues, thus gaining experience in various legal areas while having the firm as the basis from which to obtain the training.”

Additional schooling also struck a chord with **Joseph Phair, General Counsel of Varian Medical Systems**. If he could re-write history, Joe would “get my MBA, including formal training in finance and accounting.” The yearn to learn was shared by **Paul Lubetkin**,

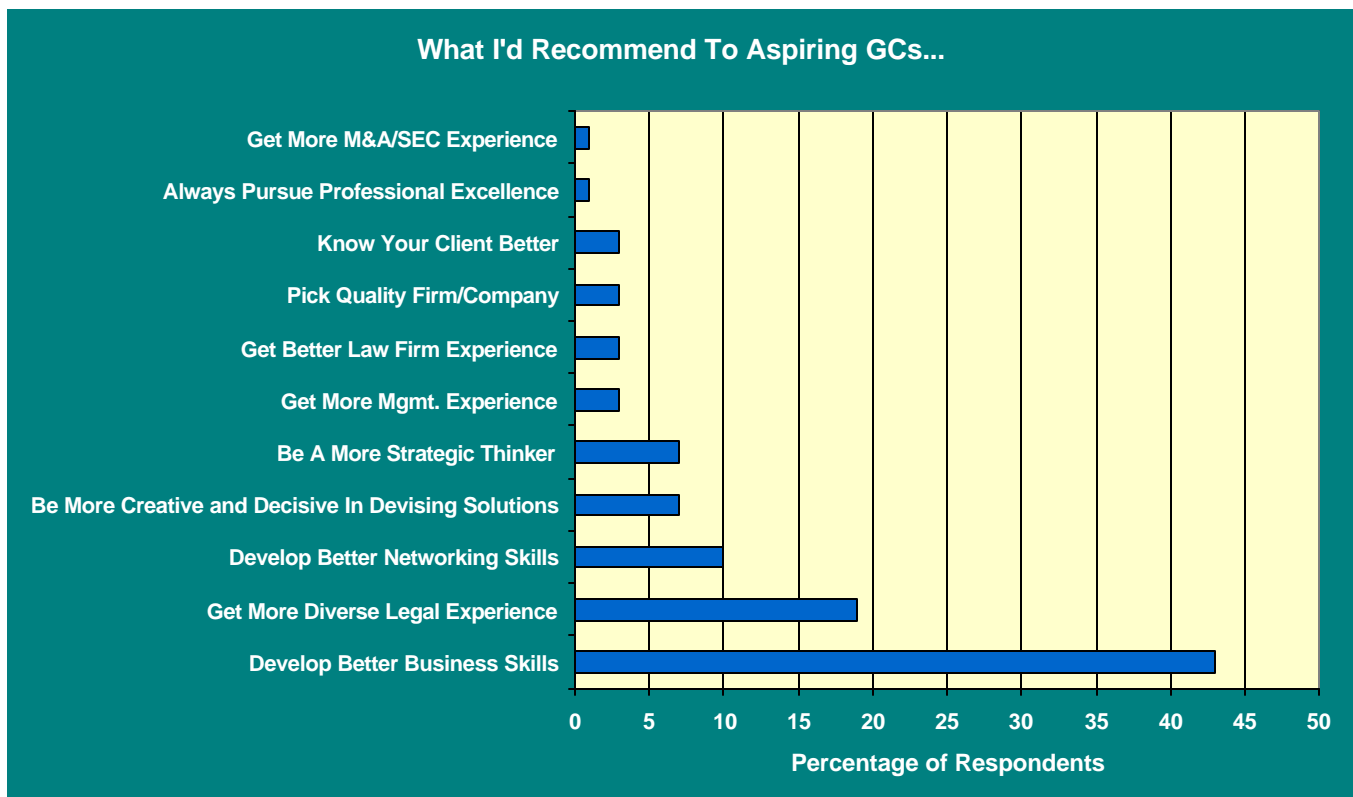
General Counsel of Personal Path Systems, who would have devoted time to educating himself about intellectual property law.

Starting a legal career in a good law firm is a course of action that several of our GCs would have pursued. **Andrea Utecht, General Counsel of FMC Corporation**, would have: “spent time right after law school in a large law firm to get M&A training in a more formal way, rather than on the job.” **Jeff Dumas, former General Counsel of Storage Technology Corporation**, concurred, for he would: “take a position right out of law school with a nationally recognized law firm. Develop one or two areas of professional expertise. After four to six years, look to transition in-house.

Lorraine Daly, General Counsel of Axiom Entertainment Services, echoed an important refrain, namely, the need to develop a strong network. Lorraine commented that she would: “develop a more extensive network of outside and inside counsel. I do have a mentor of sorts and he has been invaluable to me over the years. Notwithstanding this, having a group of people from which I can seek ideas and assistance is a wonderful resource.”

V. Question Four: What Would You Recommend To Aspiring GCs?

Our respondents were generous in offering advice to those who hope to climb the in-house ladder. Developing better business skills was the runaway top piece of advice. Obtaining a diverse legal background, honing networking skills and being a more strategic thinker were also popular recommendations:



Claude Perasso, General Counsel of Chevys Fresh Mex, succinctly focused on the importance of being business savvy. Claude recommends that aspiring GCs: “learn how a business works and the management team works together.” In a somewhat similar vein, **Robert Nielsen, General Counsel of Tanimura & Antle, Inc.**, commented on how important it is to focus on your company-clients. He advised: “treat each and every client/matter (no matter how large or small) as if it were your only client/matter.” Being focused was also important to **Mark Michael, General Counsel of 3Com**. In Mark’s case, though, the emphasis was on a lawyer’s skill set, for he recommended that GC aspirants: “formulate clear goals and fill in the relevant gaps in your skill set.”

Many of the top General Counsel placements made by Major, Hagen & Africa require, among other things, that candidates have significant management experience. Two of the more compelling comments we received on this essential skill were provided by **Bob Lynch, General Counsel of SBC Communications-Services**, and **Henry “Chris” Covington, General Counsel of Interland, Inc.**

Bob Lynch noted that business and management skills are a potent combination, as he would: “focus much more heavily on business management skills. You can’t be a successful GC without providing non-legal, business counsel to top management. For one thing, they won’t respect your legal judgment and acumen as much, regardless of how good it is, if you don’t appear to have business savvy because that’s what they know and understand. Just knowing the business is not good enough. Ideally, you need to know how to run the business as well as the CEO does. Best way to do that is to learn from the CEO...a GC who only gives consistently good legal advice is, whether you like it or not, not indispensable. There are lots of those. But a GC who is not only the Company’s top lawyer, but someone the CEO depends upon to actively participate in every major business decision and strategy is indispensable.”

Chris Covington cited the importance of management skills and provided his thoughts on how such talents could be acquired: “managing outside counsel will almost always be an important element of a GC’s responsibilities, and I would therefore highly recommend that all lawyers spend at least some time at a law firm. Moreover, one or two years as an associate with a large firm is not generally sufficient. I would look for someone who not only has learned the appropriate standards for the practice of law, but someone who has responsibility for the billing relationship.”

Partnering, people skills, and creativity were prominently cited by **James De Golia, General Counsel of Micromuse, Inc.** Jim’s advice, which included some welcome levity, was to: “focus on partnering with clients to quickly and effectively solve their business problems. Good business people recognize the value add of lawyers who are creative catalysts for growth and for problem resolution. Define the limits of yes when the lawyer in you wants to say ‘no.’ Be a team player who has superior people skills (OK, that’s ## 1, 2, 3 and 4 and 5...., but who is counting).” **Tom McCoy** similarly advised that one should: “dazzle your clients in solving their problems creatively, courageously and efficiently, and learn the business so that you can help your clients think clearly and thoroughly.”

As the chart reflects, a number of persons value the ability to network. An intriguing question may be with whom should one network? While the reflexive answer may be current management, **Bob Lynch** offered a more probing analysis, in recommending that lawyers should: “become good friends or at least close working acquaintances with the rising stars in the business. They could and

probably will have some role in persuading the CEO who the GC ought to be because they will in all likelihood be friends or acquaintances of the CEO. And, who knows---one of them could end up being the CEO."

Lawyers are trained to be thorough, and even painstaking, in reaching their conclusions. As we know, though, the dizzying pace of corporate life does not allow the GC to duck a tough question by pleading for time to do research. General Counsels have to move quickly and be decisive. **Joe Gensheimer, General Counsel of Sprint PCS**, stressed just this point, in stating that GCs must: "be able to make decisions even when you can get only 70% of the facts."

Finally, diversification was cited by quite a few of our GCs. For example, **Scott Miller, General Counsel of Coherent, Inc.**, recommended that one should have a broad background and should be selective in making any career moves. Scott stated that GC hopefuls should: "do many things and resist the urge to specialize in one area. Pick your company carefully; you only have one client and if you don't enjoy the people you work with it would be tough to get up in the morning. Also pick a company with interesting work."

Dan Cooperman, General Counsel of Oracle Corporation, commented on this and offered some timeless advice in recommending a: "diversified background—i.e., substantive experience with litigation, employment, IP, M&A, securities, corporate and tax work. In other words, the "old" style of lawyer who is relatively well rounded and knowledgeable outside of their narrow areas of specialization."

VI. Conclusion

There is no prescription that one can follow to become a General Counsel. There are a limited number of GC opportunities and the competition for such spots is fierce. As a result, there are countless numbers of eminently qualified attorneys who may never have the chance to lead a corporate legal department.

Our survey does provide a profile of the background of a typical General Counsel and some unique insights as to how one can increase the chances of reaching this goal. Our GCs have spoken loudly in recommending that aspirants should become business savvy, develop transactional experience, hone their networking and management skills, and diversify as much as possible.