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INSIDE OUT

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HAT DOES UNCERTAINTY LOOK LIKE IN THE LEGAL PROFESSION?

Martini: In the context of law and business it has many facets. It can be a lack of certainty in the future of the global economy, politics and business, whether for the short-term, or for the medium- to long-term. This impacts the viability of businesses and drives decisions intended to help them safeguard their future to the extent possible.

These dynamics inevitably impact the legal profession and the firms and law departments that counsel those organizations on a day-to-day basis. Lawyers must watch these currents closely to predict what clients are likely to need from them and how uncertainty is likely to impact their own clientele.

Susler: Uncertainty is not clearly defined, not known beyond doubt; it also means lack of confidence. Uncertainty comes in all forms. Will I win this case? Will this acquisition close? Will I get this job? Is the advice I gave my client correct? Will there be a recession this year? If my company is acquired, will I still have a job?

What role do you have in planning for uncertainty within your organization?

Martini: As a partner, each year I develop a business plan for my practice and forecast projected billings for my clients. These estimates are based mostly on the pipeline of projects I have for each client and prospective client as well as what the year is projected to look like for their respective businesses.

Prognosticating as to whether clients are on an upward trend or likely to have a slower year, and knowing what their pressure points tend to be, are important factors in bringing more certainty into a situation which can otherwise be tough to predict.

On a bigger scale, other partners likewise make these projections for clients and firms take these estimates into account on an aggregate basis in determining estimated collections for the year. In times where business growth is more uncertain, firms will be more conservative in their business expenses and projected budget which will, in turn, impact targets for hiring, staff salaries, decisions on whether to enter new markets and the like.

Susler: My job is all about planning for uncertainty. In law and in business, little is certain;



NAVIGATING UNCERTAINTY

Best laid plans help ease any unexpected problems

By CHRISTINA L. MARTINI and DAVID G. SUSLER

outcomes are rarely known beyond doubt. As in-house counsel, my job is risk management. Risk is born out of uncertainty. My role is to help identify the risks my organization is exposed to and help the business leaders plan accordingly.

I start with the legal risks and, working with my business colleagues, help identify the business risks and then together we create plans to manage them. We often have the opportunity to be on the forefront of educating our business colleagues about coming uncertainty/risk and help lead the charge to prepare for it, such as with cybersecurity and privacy.

What is the upside of uncertainty?

Martini: There are plenty of upsides. Uncertainty generally means there is flux and movement, both of which indicate that the circumstances are dynamic and not static. This can bring great opportunity — to grow, stretch, do different things and to do the same things differently — and better. Sometimes it is hard to see the other side of uncertainty in the moment, but these windows within which to improve and evolve rarely, if ever, come with just maintaining the status quo.

Susler: Preparation. Uncertainty keeps you on your toes so you are better prepared and suffer less disruption in your business, your work and

your life when an outcome goes differently than expected or desired. If you have thought about “what if,” then when things go sideways, you are prepared; it is less disruptive and chaotic. I often say I have developed a comfort zone of being outside of my comfort zone. I don’t know what novel issue will land on my desk next, but I do know that it inevitably will. When it does, I take a deep breath and dive in to figure it out — sometimes it is scary to have so much uncertainty but I have learned to embrace it and use it, as Tina said, to improve and evolve, both for myself and for my company. CL

Christina L. Martini is a practicing attorney, author and columnist. She is a partner with McDermott Will & Emery and focuses her practice on domestic and international trademark, copyright, domain name, internet, advertising and unfair competition law.

Martini’s husband, **David G. Susler**, is associate general counsel with National Material L.P., a manufacturing company primarily engaged in steel processing and aluminum extrusion. He has a general practice, providing advice, counseling and training to all business sectors and operation.

To submit a question, e-mail questions.insideout@gmail.com