

Resolution Strategies

The Role of Settlement Counsel

Settlement Counsel is essentially what the name implies – legal counsel focused on resolution of a dispute through a negotiated settlement (as opposed to resolution by trial).

While trial attorneys have traditionally handled both litigation and settlement roles, with increasingly adversarial litigation the bifurcation of the settlement track from the litigation track provides some distinct advantages:

Focus	An additional resource is focused on the exit – the business objective; this focus fosters communications and creates opportunities.
Elevates Message	The trial team does not have to “switch gears”; this reinforces the leverage building litigation message and the commitment to the case.
Avoid Misperceptions	Eliminates the concern that the trial team’s settlement overtures convey “weakness” or lack of confidence in the case.
Information/Assessment:	Settlement counsel most often brings decision-makers together; these communications generally bring new, and useful, information to the client and the trial team; experienced settlement counsel invariably adds a valuable point of view.
Consistency/Commitment:	Establishing a framework of principled resolution means the settlement track avoids the positional ups-and-downs that invariably flow from rulings and other developments during the course of litigation.
Confidence:	The client and the trial team will appreciate knowing that resolution options short of trial have been fully explored; trial counsel can focus on what they do best; the client will have the confidence that comes from safely exploring all options.
Success Fee Compensation	Resolution Strategies often structures compensation on a success fee basis - meaning no fee is due unless the case is settled - avoiding another layer of hourly fees.

The role settlement counsel might play in exploring resolution in a case can vary significantly. While there are a number of approaches, the role that might best fit is always a case-by-case determination. One of the strengths of the business model is the ability to tailor the role to the challenges of the dispute – and the impediments to a principled resolution.