

At the request of Chairman Don Young and the Honorable John L. Mica of the U.S. House of Representatives Committee on Transportation and Infrastructure

Review of Amtrak's Management of Outside Legal Services

Offices of Inspector General
Joint Review Team



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Objectives

The objectives of the Joint Review Team (JRT) were to:

- Determine whether the United States can be assured that the government received fair and reasonable value for the legal fees that Amtrak spent for outside counsel.
- Determine whether Amtrak's in-house counsel properly managed outside counsel and whether outside counsel complied with Amtrak's 'Guidelines for Outside Counsel' (Guidelines).

Background

- The House Committee on Transportation and Infrastructure requested this review.

- The Office of Inspector General of the Department of Transportation and the Office of Inspector General at the National Railroad Passenger Corporation (Amtrak) jointly reviewed Amtrak in-house counsel's acquisition and management of outside counsel.

Scope of Review

The JRT reviewed Amtrak outside counsel expenditures from June 2002 through June 2005:

- Top 10 Law Firms \$40,193,752
- Total \$102,621,205

See slides 44 and 45 for details on scope and methodology.

Top Outside Counsel Firms June 2002 to June 2005

	Total Billed
1. Landman Corsi Ballaine & Ford	\$11,566,986.59
2. Manatt, Phelps & Phillips	\$7,381,430.82
3. DLA Piper Rudnick Gray Cary	\$4,089,506.09
4. Bonner Kiernan Trebach & Crociata	\$3,535,246.22
5. Anderson, Rasor & Partners	\$3,086,981.63
6. Morgan, Lewis & Bockius	\$2,847,354.21
7. Pillsbury Winthrop Shaw Pittman	\$2,710,145.07
8. Sims Law Firm	\$2,476,520.58
9. Jackson Lewis	\$1,353,357.76
10. Vedder, Price, Kaufman & Kammholz	\$1,146,223.37

Significant Findings

- Amtrak did not properly manage outside counsel in a manner that limited costs and protected Amtrak's interests.
- Amtrak did not enforce the Guidelines, which would have been effective in protecting Amtrak's interests and preventing overcharges.
- Amtrak signed agreements with one law firm that significantly supplanted the Guidelines and voided its protections.

GAO Reported Similar Findings in 2005 In Wide-Ranging Review of Management

- The JRT's findings were very similar to the findings that the Government Accountability Office reported in October 2005 (No. GAO 06-145, "Amtrak Management – Systemic Problems Require Actions to Improve Efficiency, Effectiveness, and Accountability.")
- GAO began its review in May 2004 and met with Amtrak's General Counsel and staff beginning in June 2004.
- GAO's report covered a much wider subject area, the total management of Amtrak, and more narrowly examined the management of legal fees as one of several procurement issues.

GAO Findings Listed 6 Problems Related to Amtrak's Procurement of Outside Counsel

1. Lack of competition in selecting firms.
2. Lack of spend analysis on outside legal services.
3. Lack of specificity in documenting terms and conditions of the services to be provided.
4. An inconsistent review of invoices for compliance with established billing guidelines.
5. Inadequate documentation supporting purchases for certain matters.
6. A lack of segregation of key approval and payment functions.

Joint Review Team Findings: Amtrak Did Not Enforce the Guidelines

In-house counsel did not enforce its Guidelines, dated March 1998, and did not:

- Adequately review outside counsel legal billing.
- Consistently request and manage budgets.
- Show familiarity with and understanding of the Guidelines.
- Properly manage outside counsel staffing and rates.
- Prevent prohibited billing practices.
- Ensure that outside counsel followed recordkeeping rules.
- Perform 'audits' anticipated by the Guidelines.

Outside Counsel Firms Engaged In Prohibited Block Billing

- All top 10 firms submitted invoices with block billing, a practice prohibited by the Guidelines. Block billing lumps different tasks together under one entry on an invoice, obscuring the cost of each task.
- During the sample period, 31.4 percent of fees invoiced by the top 10 firms were block billed.
- Amtrak in-house Managing Attorneys are responsible for reviewing invoices and enforcing outside counsel's compliance with the Guidelines.
- Amtrak in-house Managing Attorneys failed to question or disallow block billing, even though it is easily recognized.
- One firm block billed almost exclusively until September 2005.

Example of Prohibited 'Block Billing' On Outside Law Firm Invoice

<u>Date</u>	<u>Description</u>	<u>Init</u>	<u>Hours</u>
██████████	Telephone conferences with ██████████, ██████████ regarding ██████████ spreadsheet, ██████████ position, ██████████ department position; letter to ██████████ regarding ██████████ situation; attention to ██████████ system update issues; review ██████████ spreadsheet; revisions and additional information regarding same; validate with ██████████; motion to reconsider ██████████; attention to ██████████ additional ██████████ documentation; letter to ██████████ regarding consideration of Amtrak letter to ██████████ regarding rescheduling of ██████████ review; attention to additions to ██████████ claim arising from ██████████ hearing; documentation of same to ██████████; telephone conference with ██████████ regarding same; attention to issues regarding withdrawal of funds from ██████████ account for ██████████ work.	██████████	6.80

Firms Did Not Provide Required Invoice Details

- Only 1 of the top 10 firms put cumulative billing per legal matter on each bill. Failure to do so hinders efforts to stay within budgets.

- One firm's invoices frequently did not show hourly rates or the time spent on each task, as required, until January 2005.
 - For example, the firm's January 2004 invoices did not show the amount of time spent for 405 of the 583 line items (or 69 percent).
 - The January 2004 invoices did not disclose any hourly rates.
 - It was therefore impossible to determine whether invoices totaling about \$143,000 were correct.

Some Invoices Did Not List Hourly Rates, Which Obscured Omission of Discount

- Another firm's invoices did not list hourly rates as required by the Guidelines.
- The absence of hourly rates obscured the firm's failure to consistently give Amtrak its negotiated discount.
- For the 3 years reviewed, that firm's billings would have been about \$30,000 less if the discounts had been consistent.

Law Firms Should Write Down Unproductive or Excessive Time

According to the U.S. Supreme Court:

“Counsel ... should make a good-faith effort to exclude ... hours that are excessive, redundant, or otherwise unnecessary; ... a lawyer in private practice ethically is obligated to exclude such hours from his fee submission. ‘In the private sector, ‘billing judgment’ is an important component in fee setting.’”

Hensley v. Eckerhart, 461 U.S. 424 (1983)

Amtrak's Invoices Showed Little Evidence of Write-Downs

- Amtrak in-house counsel staff said invoices were lowered by outside counsel's write-downs of individual items, but there is evidence of this in only a very few invoices.
- Out of total billings of \$5.2 million in the sample, the review team found evidence of write-downs totaling only \$7,000, or .001 percent.
- Interviews with key Amtrak in-house counsel staff confirmed outside counsel made only a minimal number of write-downs.

Very Few Invoices Showed Markings To Indicate a Thorough Review

- Although one or more Managing Attorneys *should* review and approve each invoice for payment, we found very few invoices that exhibited any sign of review before approval -- just the perfunctory approvals on the face of the bill.
- Invoices lacked marking of comments, questions, and requests for clarification that are typical of a prudent and thorough review by in-house counsel.

Firms Voluntarily Revealed Billing Errors, Indicating Insufficient Scrutiny by Amtrak

- Two outside counsel firms voluntarily disclosed billing errors when they became aware of the JRT review.
- Voluntary disclosure of errors is an indication of insufficient scrutiny by in-house counsel.
- Each firm proposed to refund about \$30,000.
One firm has withdrawn its offer.

In-House Reviews Failed to Note These Problems Found by the JRT:

- Use of highly paid attorneys and staff for work that could have been performed by lower-paid staff.
- No record of approval of changes in hourly rates.
- Lack of detailed description supporting the value of certain tasks and the time taken to complete tasks.
- Vague descriptions of activities performed. Example from one invoice: 'Review Amtrak documents.'
- Duplicate payments.
- No record of approval was provided for adding outside counsel attorneys and staff to a case.

Outside Counsel Rarely Created Or Updated Budgets

- Guidelines require outside counsel to create budgets for most matters, amend them when circumstances change significantly, and update budgets every six months.

- The JRT found very limited evidence of budgets or budget updates in either Amtrak's in-house counsel's or outside firms' responses to the review team's document requests.

- The JRT found no evidence of a systematic review of budgets, or that Amtrak's in-house Managing Attorneys provided outside counsel with feedback on budgets or required them to write off any amounts over budget.

In-House Legal Staff Not Trained in Guideline Requirements

- Amtrak did not provide any formal training or published tutorial about the Guidelines to its Managing Attorneys.
- Interviews of Amtrak's inside counsel showed that some misinterpreted or had insufficient knowledge of the Guidelines.
- Some Managing Attorneys were unaware that block billing was prohibited.
- One Managing Attorney interpreted the Guidelines as not being 'rigid commandments.'

Amtrak's Selection of Outside Law Firms Raises Questions

- Amtrak in-house counsel primarily selects large, metropolitan firms with high rates.
- Amtrak in-house counsel primarily selects firms it has previously engaged.

In-House Counsel Does Not Have Standard Record-Handling Policies

- Amtrak's General Counsel says each attorney uses his or her own method for maintaining legal files.
- Some Managing Attorneys rely on outside counsel to maintain files and have no recourse if the firms are unable or unwilling to provide the records.
- Amtrak in-house attorneys, including two high-ranking officials, were unable to readily and promptly produce their own files related to the top billing firm. In-house counsel said the files 'must have been thrown out.'
- Amtrak in-house counsel was frequently unable to respond promptly and thoroughly to requests from the JRT.

Amtrak Has Not Conducted Any 'Audits' of Outside Counsel

- Guidelines suggest in-house counsel should 'audit' outside counsel's invoices.
- Guidelines require outside counsel to fully cooperate with Amtrak in-house counsel's 'audits' of its invoices.
- We found no evidence that Amtrak in-house counsel has ever conducted an 'audit' of invoices.

Some Outside Counsel Hourly Rates Were Higher Than Necessary

- Some of the rates Amtrak is paying are generally high, from over \$450 per hour for an eighth-year associate (in 2002) to \$575 per hour for a partner (in 2004).
- The Guidelines state that Amtrak expects at least the same discount offered to a firm's other government clients or large corporate clients, whichever is lower. The JRT found no way to verify that the discounts Amtrak obtained were the best to which they were entitled. Nor did we find any indication that Amtrak attempted to verify that the discounts offered were in fact given.
- Some of Amtrak's in-house Managing Attorneys stated that the approval of negotiated rates and rate changes have not been documented.
- The Guidelines require that any increase in rates during the course of an engagement must be discussed with and approved in advance by an Amtrak in-house Managing Attorney. We found evidence of approval of rate increases for only 1 of the 10 firms.

Some Outside Counsel Submitted Inappropriate Charges for Staff

- The Guidelines require advance approval to add staff; prohibit charging for transition time; and suggest that no more than one partner, one associate, and perhaps a paralegal be assigned to any one legal matter.

- We found little evidence that Amtrak's in-house counsel was noting or managing the number of staff assigned to many of these matters.

- One frequently used firm submitted bills for:
 - Temporary attorneys at rates that staff attorneys would charge, rather than the actual cost that the law firm paid to temporarily hire the attorney.
 - Partner-heavy staffing.

Outside Counsels' Claims for Reimbursable Expenses Could Not Be Verified

- The Guidelines prohibit Amtrak from reimbursing an outside counsel more than it paid for expenses such as photocopies, expert witnesses, or use of databases, but do not require outside counsel to submit proof of its expenses.
- Only 1 of the 10 firms in the sample routinely submitted receipts or other evidence of reimbursable expenses.

Outside Counsel May Have Overcharged for Travel Time

- The Guidelines require that outside counsel's travel time be billed at only half of the normal hourly rate unless he or she works on the case while traveling.
- With few exceptions, invoices did not show whether this requirement was met, because the firms did not usually label or segregate travel time. When outside counsel did label travel time, they almost never indicated whether they worked on the case while traveling or were billing at the lower rate.

Approval of Time Billed for Legal Research Could Not Be Verified

- The Guidelines require prior approval from an Amtrak in-house Managing Attorney for legal research of more than 2 to 3 hours. The JRT found many instances of such research in the sample.
- The Guidelines do not require the approval to be made in writing.
- Amtrak in-house Managing Attorneys uniformly claimed they had given oral approval for such research.
- Without written approval, the JRT could not verify this.

Case Management System and Financial Information System Were Not Reconciled

The JRT compared reports from the Amtrak's case management system to its financial information systems and found the case management system understated expenditures by \$685,035.

Of this amount, \$252,274 (or 37 percent) was attributed to human error and the balance was attributed to the financial information systems being updated sooner than the case management system.

In-House Counsel Signed Agreements That Supplanted the Guidelines and Their Protections

- One of the firms most frequently used by Amtrak circumvented the budget requirement and other requirements in the Guidelines by negotiating several agreements from 2003 to 2005 that supplanted the Guidelines.
- The terms of the agreements were substantially less beneficial to Amtrak and more beneficial to the law firm than were the terms required by the Guidelines.
- The JRT found one similar agreement between Amtrak and one other of the top 10 law firms.

Supplanting Agreements Increased Fees and Expenses

- Agreements eliminated the guarantee of rates no higher than the best rates given comparable clients.
 - Agreements substituted a 15 percent discount, then a 10 percent discount, without comparison to rates or discounts for other comparable clients.
 - Agreements eliminated the discount on non-lawyers paid up to \$160 per hour.
- Agreements made annual increases automatic, eliminating Amtrak approval process.
- Highest rate went up 50 percent (about \$200 per hour) in 2 years.
- Agreements eliminated prohibition of outside counsel earning profits on expenses such as photocopying.

Supplanting Agreements Weakened Protection Against Ethical Violations

- Agreements made an outside law firm's work product the property of the law firm, not Amtrak.
- Amtrak waived most conflicts of interest, in advance.
 - Amtrak agreed proper disclosure of the conflict has been made even before the conflict is known to Amtrak.
- Agreements initially allowed the law firm to terminate the engagement if Amtrak's payments were more than 30 days past due. A later agreement lowered that to 20 days.

Agreements Will Handicap Amtrak In Any Fee Disputes With the Law Firm

- Amtrak is required to register objections to invoices 'immediately.' Silence is equated with acceptance of the accuracy of the invoices.
- Agreement forces Amtrak into arbitration.
 - If Amtrak loses, it pays the current hourly rates, with no discounts, and must pay the firm for time the firm spends in the fee dispute.
- Firm can attach Amtrak assets.
- Firm is not required to prepare budgets, and any budgets prepared are not binding.

Response From Amtrak

Amtrak's General Counsel has not reviewed this document, but received a brief summary of the Joint Review Team's findings and observations.

Amtrak's General Counsel responded to this summary with comments that are attached to this document as an appendix.

Amtrak Responded That It Has Made Certain Improvements

Certain Amtrak in-house counsel policies or practices have been initiated or are being presently reviewed, including:

- Revising the Guidelines. The Government Accountability Office in May 2004 began a review of procurement issues concerning Amtrak's outside counsel and met with Amtrak General Counsel in June 2004. Amtrak began revising the Guidelines in July 2004. Amtrak stated it will conclude the revisions after it has received the JRT's recommendations.
- In Fiscal Year 2005, Amtrak began implementation of an electronic billing system. The implementation has not been fully completed.
- In Fiscal Year 2005, Amtrak began implementation of a case management system. The implementation has not been fully completed.

Recommendations

We recommend that Amtrak in-house counsel:

1. Adhere to the Guidelines.
2. Strengthen and update the Guidelines.
3. Implement processes to provide comprehensive oversight of outside counsel.
4. Train Amtrak in-house Managing Attorneys on proper review and management procedures.
5. Amtrak should seek ways to save money on its legal expenditures without sacrificing the quality of services.

Recommendation 1. Adhere to the Guidelines

- Conduct detailed, line-by-line bill analyses.
- Disallow payment of bills for unacceptable expenses and disbursements.
- Enforce requirements for budgets.
- Perform periodic audits.

Recommendation 2. Strengthen and Update the Guidelines

- Prohibit any agreement that conflicts with the Guidelines unless a reasonable justification is documented and Amtrak's General Counsel approves.
- Add rules governing the appearance of conflict of interest.
- Require an engagement letter for each new matter.
- Require **written** approval for rate changes, staff changes, travel, or legal research beyond two to three hours.
- Require documentation of reimbursable expenses.
- Require that invoices demonstrate compliance with travel time requirements.

Recommendation 3. A. Improve Management of Outside Counsel

- Standardize procedures for procuring outside counsel.
- Periodically compare outside counsel fees to those charged to similar entities, such as freight railroads.
- Adopt a consistent and uniform recordkeeping system with policies and procedures for record management.

Recommendation 3. B. Improve Management of Outside Counsel

- Document all discussions about billing issues.
- Guard against inappropriate staffing, high hourly rates, and assigning multiple firms to a single legal matter.
- Create policies and procedures for periodic 'audits.'

Recommendation 4. Provide Standardized Training

- Present the Guidelines as the governing authority for the legal relationship with outside counsel.
- Communicate the importance of documenting compliance with the Guidelines.
- Emphasize the importance of obtaining, reviewing, and reconciling budgets with cumulative expenses.
- Implement periodic refresher training.

Recommendation 5. Reduce Legal Expenses

- Consider representation models in which inside counsel handle a greater percentage of Amtrak's litigation than they currently handle.
- Utilize newly installed case management system technology to identify factors that have the greatest impact on costs and identify matters with budgets that are being expended too quickly.

Scope and Methodology

The Joint Review Team:

- Determined the top 10 outside law firms for the period June 2002 to June 2005 and requested all corresponding invoices and relevant documentation from the firms and from Amtrak.
- Reviewed a judgmental sample of invoices from each firm for compliance with Amtrak guidelines and reasonableness.
- Interviewed Amtrak in-house counsel and associated staff concerning the in-house counsel's management of outside counsel.

Scope and Methodology: Selection of Samples

Amtrak's in-house counsel uses two computer systems to track bills.

- The computer system for the four firms that primarily handle injury claims does not list invoices with dollar amounts. For those firms, we selected sample months within the 3-year period and reviewed all associated invoices.
- For the other six firms, we chose individual invoices from the in-house counsel billing lists. We covered all significant matters handled by each firm, chose invoices representing the entire 3-year period, and reviewed at least 20 percent of the total dollar value of each firm's invoices.

Appendix: Text of Amtrak Law Department Responses

OIG Observations

Outside counsel was not managed in a manner that limited costs and protected Amtrak's interests. For example, there was a lack of enforcement of 'Guidelines for Outside Counsel' (Guidelines), which would have been effective in protecting Amtrak's interests and preventing overcharges. Additionally, there was an absence of compliance with Guidelines, by not, among other things, adequately reviewing outside counsel legal billing, consistently requesting and managing budgets, managing outside counsel staffing and rates, and prevention of prohibited billing practices.

Law Department Comments

You have asked for any additional information we may wish to provide or anything else that may shed further light on the OIG's observations set forth above. It is difficult to comment on such sweeping observations without also viewing the underlying findings; consequently, we will reserve our specific comments until the DOT/Amtrak OIG has concluded their report. We can, however, respond broadly.

First and foremost, the statement that "Outside counsel was not managed in a manner that limited costs and protected Amtrak's interests" is so overly broad that it lacks any credibility. Without the benefit of the specific examples relied on by OIG for this observation, we are unable to even discern whether the OIG's interpretation of the Guidelines is consistent with the Law department's interpretation. While we do not doubt that there are instances where outside counsel bills did not comply with Outside Counsel Guidelines, the OIG review apparently does not take into account the rigorous oversight of work done by outside counsel, the rigorous staffing requirements imposed by in-house counsel, the amount of work actually performed by in-house counsel in lieu of outside counsel, or the agreements reached with outside counsel to "write off" limit, or reduce fees.

There can be no doubt that these efforts by in-house counsel "limit costs and protect Amtrak interests." Unfortunately, the OIG's overly broad statement dismisses those efforts without examination and presents an unbalanced depiction of the work performed in the Law department.

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We would also like to address the “examples” cited as support for this observation. The OIG states that “there was a lack of enforcement of Guidelines for Outside Counsel” and that there was a lack of compliance with the same Guidelines. Again, such a sweeping statement does not recognize the attorneys who are extremely diligent in applying the Guidelines and the work that all of the attorneys do to ensure Amtrak’s resources are appropriately managed. We have numerous examples which were described during the OIG interviews where in-house counsel has scrupulously held outside counsel to the terms of the Guidelines as well as their own individual standards. Given the hundreds of bills that are reviewed by each in-house attorney, it is not surprising that some contained instances that did not comply with the Guidelines. However, without any assessment of the magnitude and scale of any overcharges with those instances where bills were reduced, written off or other savings were achieved, the OIG’s conclusory statement leaves the false impression that the Law department does nothing to monitor and contain legal fees.

This observation also fails to recognize the Law department’s efforts to improve its ability to monitor compliance with the Guidelines through technological enhancements implemented in the last three years. Prior to 2004, the Law department had a rudimentary case management database and no ability to analyze legal charges over a period of time. Legal invoices were submitted on paper and did not allow for detailed supervisory review in Amtrak’s electronic payment processing system (eTrax).

In 2003, the Law department purchased case management software and a document retention system that allows attorneys and supervisors to monitor, manage and track all non-claims legal matters and invoices. At the same time, the Law department initiated an electronic invoicing pilot project with the Procurement department that allows legal invoices to be submitted, reviewed, approved, and paid electronically while capturing and transmitting that data into the case management system. The case management system has been in place since 2005 and the e-invoicing is currently being rolled out and now includes the majority of Amtrak’s large volume law firms. These two systems give the responsible attorneys, the Section Deputy General Counsels, and the General Counsel detailed information about the substance and legal fees associated with each and every matter. In addition, the case management system allows for tracking of fees against budgets, status reports, and the maintenance of documents associated with particular matters through the document retention system. The General Counsel and the Deputy General Counsels receive quarterly reports on all active matters indicating legal

Appendix: Text of Amtrak Law Department Responses

fees expended and the status of each active matter. More detailed information on any matter is available at any time from any user's desktop. This has become a critical tool in managing outside counsel.

The e-invoicing program is quickly capturing the data necessary for the Law department to be able to conduct spend analyses of its firms in order to identify efficiencies that can then be leveraged. The fact that the details of every invoice can now be reviewed at every level of supervision also allows for better oversight of compliance with the Outside Counsel Guidelines.

Both of these programs are significant advances that allow the department to better manage its work. The Law department has also updated its Guidelines and is ready to distribute them to outside counsel as soon as the OIG audit is complete so we can incorporate any recommendations that are appropriate. We have also met with the attorneys and reinforced the requirements contained in the Guidelines and continue to remind the attorneys of their responsibilities.

It is our hope that the OIG report would address the big picture rather than simply focusing on the negative. For example, from 2003 to 2005 the Law department reduced the legal fees actually expended from \$31 million to under \$24 million; a 22% savings of over \$7 million dollars within a two year period. The Law department is currently on track to save an additional \$2 million in FY06 and has proposed an additional 5% reduction for FY07. These savings have been achieved through greater productivity with fewer in-house attorneys and through careful management of the substantive work performed by outside counsel including the resolution of some difficult and expensive cases. It would be a shame if the OIG report ignored the hard work done to achieve these substantial savings while focusing on errors that, while certainly important to track and diminish, can't possibly compare in magnitude to the savings that have been achieved.

We welcome the OIG audit of the Law department and look forward to recommendations that will help us achieve even greater efficiencies. We believe, however, that such broad, conclusory observations as you have provided do not present a balanced examination of the positive work done in the Law department and imparts a false impression of the oversight that does occur.

Appendix: Text of Amtrak Law Department Responses

Request for Additional Information from OIG Regarding [REDACTED] Engagement Letters

Response prepared by Alicia Serfaty

I understand that the OIG is “looking for any additional information or explanation regarding the letters and the decision to engage with the terms specified.” See e-mail from [REDACTED] dated April 20, 2006.

[REDACTED] I explained during my interview with the OIG on March 15, 2006, the language in the retainer letter provided is somewhat broader than we typically use as it provides an advance waiver on matters that may be adverse to Amtrak. However, as I also indicated, we have from time to time agreed to such waivers so long as the firm is prohibited from taking an adverse position against Amtrak in litigation absent obtaining consent from Amtrak. The [REDACTED] retainer letters contain such language. See e.g., Letter dated [REDACTED] from [REDACTED] to [REDACTED] which states the following: “This consent and waiver does not permit us to use any confidential information obtained during the course of our representation of you in any matter, nor does it extend to our engaging in litigation, arbitration or other formal dispute resolution proceedings adverse to you without your consent.” Therefore, with this language included, I indicated that I would not otherwise object to the language, even though as a matter of course Amtrak prefers not to provide advance waivers on conflict matters.

Conflict waivers have become a larger issue with our larger firms as they merge with other firms and encounter clients with competing interests. The firms often press us for very broad waiver language and attempt to balance their business concerns against our need to protect the company’s best interest when we negotiate these. For example, we recently negotiated a new engagement letter with [REDACTED], one of our large law firm representatives. While they initially insisted on broad waiver language that would have included the possibility of them representing another client in litigation that was adverse to Amtrak, they eventually agreed to language that restricted the waiver to non-litigation matters. I have attached a copy of this engagement letter for your review and comparison.