

# Adding Measurable Value to Client Relationships



“We commend... Shook, Hardy & Bacon for being **champions of change** in the legal industry.”

— Veta T. Richardson, ACC President and CEO | May 2015

The Association of Corporate Counsel’s (ACC) “Value Champion” program recognizes legal departments and law firms who are not only making a difference through creativity and value-based legal management skills, but are also effecting change within the legal industry. With its 2015 ACC Value Champion award, Shook becomes the first and *only* law firm to receive the Value Champion designation three times.

# 2012

## Tyco and Shook: Cost Certainty with Flat Fees

Since October 2004, Tyco and Shook have partnered in the nationwide defense of the company's entire product liability litigation docket in a flat-fee arrangement with a collar that includes local counsel fees. They share a single objective: to reduce the company's exposure and control costs while protecting quality service, responsiveness, and results.

When Dennis Lynch joined Tyco as chief litigation counsel in the fire and security segment, "I had had one-off experience with alternative fee arrangements on a case or two, but had never bundled hundreds of cases under a flat-fee agreement," he says.

At the start of its national counsel relationship with Shook, the docket consisted of more than 500 cases.

*In the first five years, Tyco's product liability case docket was reduced by 55 percent; new case filings declined by more than 65 percent; and case cycle time was reduced by 40 percent.*

More than half of the company's cases are resolved with no indemnity cost to Tyco.

Shook conducts shadow billing, using standard ABA codes to determine where time and money is being spent and where they can extract the greatest efficiencies. Shook routinely provides feedback from the field on process improvements to enhance the services provided and to provide lessons and advice for the Tyco businesses. "We track recent filings and conduct regular reviews of lessons learned. We use these to educate our internal clients on improving operations and limiting exposure, as well as cutting costs," Lynch says. The flat-fee amount has steadily decreased.

In 2011, Tyco merged two additional litigation dockets with its product liability docket, and Shook now handles all three under the same alternative-fee arrangement.

Lynch's best advice? "Flat-fee arrangements, if you have the right firm and the right relationship, are a great way to achieve cost certainty – as much as you can get in corporate America – and a comfort level that comes from knowing the firm, its lawyers, and their experience."

SHOOK, HARDY & BACON



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A firm that puts its mind to it, and a focused in-house department, can make major improvements in how legal work is handled.

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WHAT THE JUDGES SAID

## Hot Fuel Group and Shook: An Innovative Approach to Joint Defense

In 2006, *The Kansas City Star* published a special report claiming that consumers were being bilked out of \$2.3 billion a year by gasoline retailers selling fuel without temperature adjustments. The story immediately caught the attention of plaintiffs' attorneys, who were quick to file 52 putative class-action lawsuits in 28 states, the District of Columbia, and Guam, naming 80 defendants. The actions were consolidated into multiple defendant litigation in Kansas and became widely known as the "hot fuel" litigation.

Tim Berry, an attorney now at Marathon Petroleum Company, suggested that the defendants formulate a joint litigation strategy to defend against the class actions across the country. The National Association of Truck Stop Operators facilitated the collection of proposals from law firms to handle the representation and assembled the client-side defense team.

Shook eventually worked with 13 co-defendants. The parties designed a strategy based on pooling resources to increase the impact of their individual investments. The arrangement mapped out an innovative, cost-effective defense that spread the costs associated with the litigation. Each group member paid for common work based on the number of cases in which it had been sued.

The Shook team conducted periodic status calls with the group and issued regular reports. During the calls, they would evaluate the pros and cons of their proposed litigation strategy to determine the best course of action to achieve victory in all cases. With this cutting-edge, complex litigation, all moves were fully vetted by the joint defense group.

*Because a group of in-house counsel were able to work so well as a group, the result was better lawyering — leading to a defense verdict in which the jury took just one day to find for the retailers.*



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Having a law firm look for synergies among a client group... and managing the group's interests... was a great advance for the whole group and a very clever way to minimize costs.

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WHAT THE JUDGES SAID

## HEICO and Shook: Lean Six Sigma Maximizes Value of Outside Counsel Spend

When Don Walther took the helm of the HEICO legal department as the company’s first General Counsel in 2011, he discovered that there were literally hundreds of law firms billing the company. His mandate, handed down from the CEO, was to build a scalable, sustainable legal group – not for a \$2.5 billion company, as it was then, but for the \$10 billion company it would someday be. After what Walther describes as “100 percent turnover,” he now has an internal team of five.

Once an infrastructure of policies and procedures was in place, the legal team began thinking about systematic changes. Leveraging the Serengeti software platform, they began analyzing the effectiveness and efficiency of their outside counsel. They generated data on which firms were billing HEICO the most and what their hourly rates were. They developed operational definitions for “value-added” and “non-value-added.”

After coding each billing entry as value-added or non-, HEICO was able to calculate each firm’s “Legal Cycle Efficiency,” ultimately measuring the value of work provided by each firm.

HEICO determined that the efficiency rate for Shook was 79 percent, the highest of any of its law firms, and that the value the company was receiving per hour (based on their adjusted hourly rates) was also highest from Shook.

Client and firm then partnered to improve Shook’s efficiency rate further.

*With Shook’s focused efforts to provide only value-added services, its efficiency rate improved from 79 percent to 88 percent over the second half of 2014.*

Practical case results have exceeded the parties’ expectations. Time to resolve cases dropped from 600 days to approximately 100 days, and savings from minimizing non-value-added work are projected to be at least 10 percent.



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This partnership applied traditional operations concepts to the legal context and thought about how the concept of waste applies to legal work.

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### WHAT THE JUDGES SAID