Kluwer Arbitration Blog

LIDW 2025: Navigating the Client in Commercial Disputes: Reframing Goals Through Co-Counselling

Silvia Lamprinopoulou · Friday, June 13th, 2025

Closing this year's London International Disputes Week ("LIDW"), Skadden, in collaboration with One Essex Court, hosted a panel discussion titled "In Conversation With Clients: Achieving Client Goals Without a Courtroom Battle." The session focused on how in-house and external counsel can work together to guide, support, and—when needed—challenge a client's goals in dispute resolution. Against the backdrop of high-stakes litigation and the risk of tunnel vision, the discussion centred on aligning legal advice with business priorities while managing egos, pressure, and long-term relationships. Moderated by Alex Hough (Skadden), the panel featured Lily Kotsana-Navot (Energean), Kate Davies KC (Skadden), and Laurence Rabinowitz KC (One Essex Court).

Where Legal Strategy Meets Commercial Reality

The discussion opened with Lily Kotsana-Navot describing her role as in-house counsel: helping the business strike a critical balance between enabling operations, mitigating legal risk, and doing so cost-efficiently. But this creates a structural tension: enabling growth often entails risk, and mitigating that risk can restrict commercial growth. For her, the role of in-house counsel, particularly within a listed company, is fundamentally dual: both a service provider and an integral part of the business. This duality requires navigating complex internal dynamics, where the "internal client" is not a single figure but a network of stakeholders, ranging from the CEO and board to business committees.

The panel addressed the question of what a business's key priorities should be when facing a dispute. The overarching goals, per Kotsana-Navot, are always business continuity and value preservation. She emphasized that disputes do not just suddenly emerge—they evolve gradually. The critical task is to catch them early. Litigation, she stressed, is always a last resort. In the face of preserving key relationships with suppliers, investors, regulators, and others, it is rarely about initiating proceedings. Borrowing from a war analogy: "War is the extension of diplomacy—litigation is the extension of negotiations". It is a tool, but one that must be used wisely.

Kotsana-Navot further noted that the COVID years revealed this very reality. In that era of extreme supply chain disruption, when Energean faced arbitration proceedings for termination of the

contract due to delays, rather than merely defending the case, the company filed a counterclaim asserting its own right to terminate the contract and seek damages. This, she noted, was a demonstration of strength that placed both parties on equal footing and helped prevent further escalation. In fact, it led both parties to drop their claims shortly after and ultimately reconcile through a later multi-billion-dollar agreement. When dispute resolution is used rightly, it strengthens commercial relationships.

Kate Davies sees her role as supporting Kotsana-Navot and in-house counsel in general in achieving their role, with cost efficiency in mind. Not all clients see litigation as the last resort when aiming to preserve the relationship. Some act irrationally, neglecting the effects of what they do. Others, in her experience, see litigation as a value creator. She has acted for clients who actively pursue litigation to create deal opportunities that would not otherwise exist—what she called “highly strategic litigation.” Litigation, in any case, starts by thinking about what the client wants and figuring out how to get it.

Laurence Rabinowitz cautioned that if a lawyer ever tells you there is a 100% chance of success, it is a sign to question that advice. In his view, litigation is a very unpleasant experience, very expensive, with extremely high stakes. What every client wants is to resume business, yet litigation is zero-sum—there is always a losing party. Despite that, Rabinowitz prefers litigation over arbitration for one key reason: the right to appeal. In arbitration, choosing arbitrators can work well, but it can also go badly, with no appellate safeguard. Although he acknowledged the advantage of privacy, having seen clients forced to settle even when they had a good case just to avoid court exposure, that is not enough for Rabinowitz.

Cooperation: Trust, Alignment, and Managing Egos

Kotsana-Navot reflected on how her expectations of external counsel have changed. At the beginning, her focus was solely on finding counsel with technical excellence and skills. Now, she takes these for granted, and what she is truly looking for is a trusted advisor—one with the ability to deliver practical advice that is business-friendly, the willingness to listen, and the adaptability to respond to context. It is about understanding what the specific business objectives are. Constant engagement and dialogue are required. Egos may get in the way, but in-house counsel do not rely solely on external lawyers to build that trust. It is also their job to foster it: by being honest, providing feedback, and clearly identifying what the business is looking for.

When it comes to the big egos of litigators, Rabinowitz observed that barristers today are increasingly aware that the focus must remain on the client and their business. This means actively listening to the client’s objectives, understanding them, and aligning with them, while also being honest about competing realities. A client’s perspective is only one side of the story; there will almost always be an opposing view just as strong.

Davies echoed this point, emphasizing that it is impossible to resolve a dispute without first identifying its purpose or the client’s underlying objective. Once that is clear, lawyers must remain honest if the client’s proposed course of action is counter to the outcome they want to achieve. As a practical strategy, she shared that when forming a case team, she always includes individuals who are likely to offer a different opinion, encouraging constructive challenge from the outset.

Testing the Case and Knowing the Audience

Building on the theme of strategic alignment and challenge, both Rabinowitz and Davies highlighted the importance of mock trials. Davies explained that these simulations offer the same exposure and pressure of a real trial, but with the added benefit of early insights into how arguments land, how to fully prepare, and how to manage timing. Rabinowitz noted that mock trials also help teams anticipate the arguments they are likely to encounter from the other side. These exercises are especially valuable in cross-border disputes, as they help teams navigate different jurisdictional and cultural practices. Kotsana-Navot emphasised the value of being open-minded and constantly testing how what you say is landing with your audience. For her, the real value lies not in having a fixed plan, but in continuously engaging with the planning process itself—it is about staying responsive.

The discussion closed with reflections on arbitration. All panellists acknowledged arbitration's advantages, specifically procedural speed, the ability to select the adjudicator, and technical expertise. Kotsana-Navot also emphasized the importance of privacy, particularly when representing a listed company. That said, she often relies on external counsel to help assess whether arbitration is appropriate in a particular context. Rabinowitz, on the other hand, acknowledged arbitration's purpose but cautioned against its finality.

Closing Reflections

Whatever the approach to resolving a dispute, one thing remains constant: alignment. Alignment does not happen by default. It demands active, ongoing collaboration between in-house and external lawyers, lawyers and clients. That means listening first, guiding with clarity and honesty, challenging when needed, and never losing sight of the broader commercial picture.

This post is part of Kluwer Arbitration Blog's coverage of London International Disputes Week 2025

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