

THE AM LAW LITIGATION DAILY

What Makes a Successful Litigation Secondment Program?

By Ross Todd

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Welcome to a special edition of the Lit Daily's In-House Litigation Leaders series where we focus on lawyers making the hiring decisions, shaping the strategies and managing the caseloads at some of the nation's largest and most innovative companies.

Meet **Veronica Ip**, associate general counsel in the New York office of **McKinsey & Company**, and **Morrison & Foerster** of counsel **Kate Driscoll**. Driscoll filled in for Ip on secondment at McKinsey for a six-month stretch that wrapped up a little over a year ago while Ip was out on parental leave.

Ip previously spent about nine years practicing as a commercial litigator at **Sullivan & Cromwell**. In her role at McKinsey, she manages a portfolio of litigation and investigation matters both in the U.S. and abroad. She has litigation colleagues based in Europe and Asia primarily responsible for matters in those regions.

Driscoll started her career as an associate at **Gibson, Dunn & Crutcher**. Prior to joining Morrison & Foerster in September 2021, she spent five years as an assistant U.S. attorney in Philadelphia.

Ip and Driscoll recently hopped on a Zoom call to discuss the benefits that embedding outside lawyers in-house can provide to law firms and their clients. They also touched on some of the practical concerns that go into developing a successful secondment program.

The following has been edited for length and clarity.

Lit Daily: How did this arrangement come about?

Veronica Ip: Companies use secondment programs for all sorts of reasons. In our case, there was a specific need: I went out on parental leave after I gave birth to my now-18-month-old.

McKinsey's litigation team is quite small and has a small team of senior litigators. We each have a pretty



Courtesy photos

Morrison Foerster of counsel Kate Driscoll, left, and Veronica Ip, associate general counsel in McKinsey's New York office, right.

dense portfolio of litigation/investigation matters that we oversee. So, when I left, there was just a structural need for somebody to step in and take over my matters while I was out. As a starting point, it made sense for us to look at the law firms that we were already using in some of those matters. MoFo was involved in some matters. We interviewed a number of people. We came across Kate as part of that process. She was a great match for what we needed at the time. And so we decided to bring her on.

Lit Daily: Kate, what attracted you and Morrison & Foerster to the opportunity?

Kate Driscoll: It's interesting in terms of timing, because I had joined MoFo in September of 2021. This opportunity came up shortly thereafter—after about a month. So as I was transitioning from the government back to private

practice, I saw putting on a different hat in the role of corporate counsel as an opportunity because McKinsey is such an important client to MoFo. I saw it as an opportunity to get a look under the hood at how the company works and to understand the internal workings of the business and what really drives the company. I thought that was something that I could bring back with me and improve my client service and my legal skills when it comes to servicing McKinsey.

What all had to be worked out between MoFo and McKinsey before Kate came aboard? I'm guessing who pays for what and how you deal with conflicts are a couple of the issues.

Driscoll: In terms of the cost piece, that's a negotiated agreement between the firm and the company. I think it really ranges depending on the different factors: the level of experience of the person, what type of need they're filling in, et cetera.

In terms of the conflicts piece, it's obviously a very important one. We had a whole process, both with McKinsey and MoFo, to look at the types of matters I'd be working on at McKinsey, and compare them to the conflicts profile at MoFo. Luckily for me, I had just started at the firm and I was working pretty much on McKinsey matters only. So it was a relatively easy process for me to move through, but I always had to check back in whenever I took on a new McKinsey matter because I technically was wearing both hats at the same time.

Ip: In terms of the structure, Kate remained an employee of MoFo and on their payroll. McKinsey's arrangement was to have Kate dedicated to work with us for a period of six months. But for all intents and purposes, she was a McKinsey lawyer. She had a McKinsey email address, and she was treated as a McKinsey lawyer for the duration of her secondment.

Mechanically, one thing that was very helpful was the fact that we had a small period of overlap both before I left McKinsey and after I came back. I think that that enabled us to have a very smooth transition because working in-house is a very big change for folks coming in from law firms. McKinsey has a very unique and great culture. I think being able to show Kate the ropes in real time was also critical to how successful we think this program ended up being.

Veronica, what did McKinsey get out of this relationship and what did you get out of it personally? And Kate, I'll ask you the flip side of that: What did Morrison & Foerster get out of this arrangement and what did you get out of it personally?

Ip: I think one thing that's great about a secondment is that it allows you to get closer to outside counsel and vice versa. That's a benefit that goes both ways because your outside counsel becomes familiar with the workings of an organization. You get a look under the hood. There are lots of things about how a company works that aren't necessarily apparent to someone who just works as an outside lawyer. A lot of things happen behind the scenes and you get that inside look from a secondment program, which is really helpful. You develop personal relationships that just make it easier to work together. So from that perspective, there's a huge benefit to our legal team of having someone come in and work with us for a period of time.

Personally, I think it was a way to get to know MoFo even better than we already did. It was also a chance for us to reflect as a team, having someone come in with fresh eyes and see what we do. It's important once in a while to get that fresh perspective from an outsider so that we can figure out what we're doing and the kinds of things that we could be doing better.

There's also a recruiting and professional development angle as well. If a lawyer is potentially interested in transitioning in-house, it's a good way to dip your toes in the water. That wasn't really applicable in our situation, because Kate was planning on going back to MoFo. But, for example, a good friend of mine from a law firm was seconded into a private equity company and ended up staying there. That's not an uncommon result.

Driscoll: I now have a much deeper knowledge and appreciation of McKinsey culture, which as Veronica said at the outset is a unique one. It's a great one. But it's important to understand how to approach the business, what their concerns are, and how to deliver legal advice in layman's terms that can be easily understood—especially on some of the types of matters that we work on, which can be investigations and some sensitive matters. That's a skill that Veronica has really mastered. Having that time to shadow her was really helpful for me to learn that approach because it's very different from being at a firm where you talk to lawyers all day and you can just keep that vernacular going.

I also have an understanding of the wider scope of McKinsey's global legal strategy, instead of just focusing on a discrete task. I think coming back to MoFo I'm able to see how my work on a particular matter may impact a broader legal strategy. I think that's very helpful in terms of providing legal advice to McKinsey.

As Veronica said, it was helpful to develop relationships with people like Veronica and others on the team.

It's a small team, so they really work hard, and work close together to support each other. The docket that Veronica handles is tremendous, which I had not appreciated until I was there. She doesn't just work on the matters that I work on. She works on a multitude of other matters, not just in the U.S., but globally. Having that kind of perspective, I think, is helpful to understand where things are going and how we can provide additional support.

Ip: Kate just made me think of one other thing: I've been out of a law firm for several years. There's a big difference between working in-house and working with a law firm. Generally, companies view legal work as a cost, right? So, that's different from working at a law firm where you bill an hourly rate—you monetize those hours. It's a very different view.

So your best chance at thriving in-house is being collaborative. I think that is something that Kate was really able to master at the end of our process. Coming from a big law firm, you really have to think about the change in perspective you have to have when you're advising a company. You have to give actual actionable advice. You can't just write a law firm memo, and have it be theoretical.

Well, what do other companies and firms contemplating this sort of arrangement need to think about on the front end?

Driscoll: It really needs to be tailored to the company and the need. So, in this particular example, McKinsey was looking for a more senior attorney to fill in for Veronica, because she was managing some really complex matters. So you needed someone whose judgment has been honed by years of experience. But there could be other instances where you don't need someone who's as experienced, right? If you have, for example, somebody who's just brought in to help police copyrights and trademarks and issue takedown requests—that's someone who doesn't need to be as experienced. They have to have some IP background, but they really don't have to be as senior. You really have to figure out what the need is and who is the best fit.

Ip: Secondments come at a cost both to the company and to the outside firm. There's a cost to the company: Typically, many secondments are paid for. But it's also a cost to the law firm. It's disruptive. You're losing an employee for a period of time. Typically, the law firm will not be charging the same billable hourly rate that they'd

be charging the company when they offer a secondee over a period of time. So, the cost needs to be commensurate with the need for both the outside law firm and the company.

From that perspective, there's a lot of thought that needs to go into the duration of this secondment program. How long do you want it to go? What's the scope of work that you want this person to do? I guess in my case, it was very clear cut in terms of scope and duration because we needed someone to fill my shoes while I was out. But as Kate said, it's not always so black and white. Sometimes you might have situations where there's not necessarily a direct replacement that you need, but you need someone to fill in a specific skill set, or a specific other scope of work. The beauty of the secondment is that it can be tailored to the situation.

Is there anything that we didn't touch on that we should?

Driscoll: The one thing I'd add is it's an interesting perspective for a secondee to go to a company and then still work with their law firm. The secondee has to be thoughtful about how to approach outside counsel because, technically, you're the client. You need to have clear requests from the outside counsel of what you're looking for. So when those people are your colleagues or even your bosses, that can be a delicate situation. Luckily at MoFo, the firm was very supportive of my secondment at McKinsey. They allowed me to focus 100% on the McKinsey work.

With Veronica out, I had multiple check-ins with other senior attorneys at McKinsey on a weekly basis: "How are you doing? Do you have any questions?" That's really helpful as you're learning to navigate a completely new environment. So I was fortunate both from the MoFo side and on the McKinsey side, to have 360 support.

Ip: I think there are a couple of things that were key to us having a successful secondment program here. The first is that this was very deeply thought through and prepared for both by McKinsey and by MoFo. There was a lot of preparation that went into putting this together and also a fair amount of thought that went into what was the right amount of training that we needed to get Kate up to speed and to make sure she can run with it. Having open communication channels that allowed her to be able to ask questions and voice feedback was also very helpful throughout the process.