

CONSERO 

General Counsel Report

Facts & Analysis

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LEGAL



General Counsel Report

Today's General Counsel is responsible for overseeing a variety of issues, from intellectual property to labor and employment, compliance and ethics, and much more. More recently, large corporations have relied increasingly upon General Counsel to help manage supplier risk, mergers and acquisitions, and cybersecurity and data privacy issues. Given the myriad complex challenges facing modern companies, General Counsel must leverage the expertise of in-house and outside counsel in more sophisticated ways than ever before to support their organizations effectively.

Survey Structure & Methodology

The Winter General Counsel Report was developed in partnership with Fisher Phillips in connection with Consero's November 2016 General Counsel Forums in the U.S. and London. The report reflects responses of 51 General Counsel from mid- to large-sized companies, providing key insight into the 2017 priorities and challenges of this group of senior legal executives.

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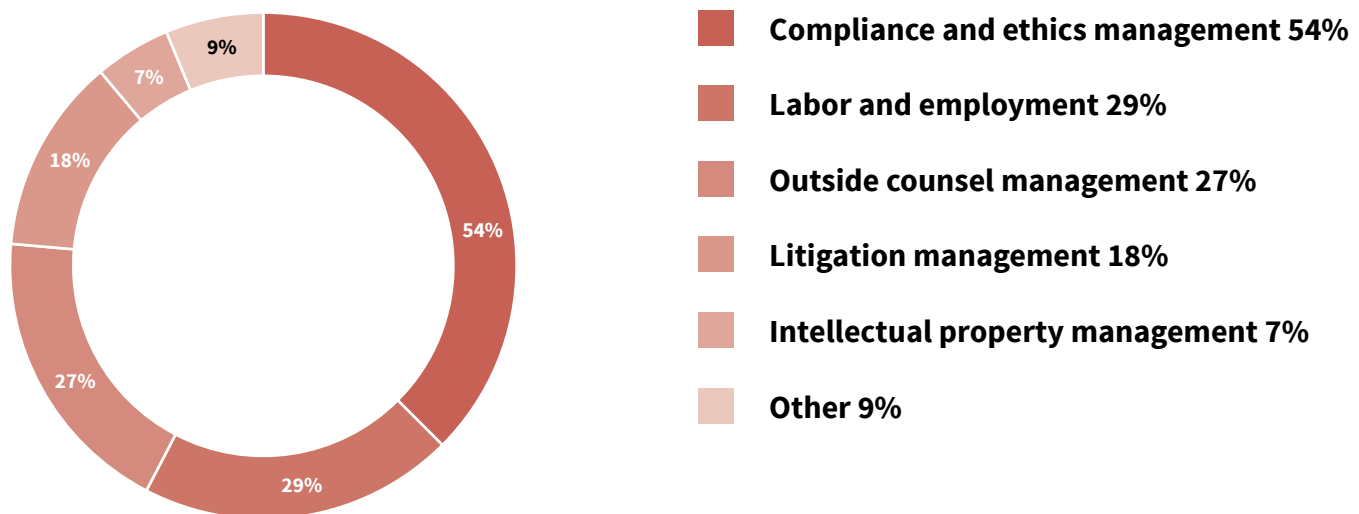


General Counsel Name Compliance & Ethics Their Top Priority For 2017

Over 50% of General Counsel surveyed named compliance and ethics management their number one area of focus for 2017. This was followed by labor and employment at 29% and outside counsel management at 27%. In relation to top areas of risk in 2017, these General Counsel are most concerned with data privacy and cybersecurity, followed by operational risk at 36% and supplier risk at 27%.

In looking to the new year, respondents were asked what they believed to be the greatest impediment to their department's progress. For 41% of GCs surveyed, the main roadblock will be access to budgetary resources. An additional 19% reported that lack of buy-in from senior management will be a likely impediment to their department's progress. These two data points indicate that while General Counsel have certainly risen to top management¹ and are integral members of the C-suite, this group of senior executives must continue to make the case for resources necessary to achieve success. The third greatest impediment to the legal department's progress will be a talent gap, indicating that GCs may need to spend more time hiring, training, and retaining their top talent in 2017.

Figure 1: What are your top areas of focus for 2017? (Select all that apply.)



¹ Heineman, Jr., Ben W. (27 September 2012). The Rise of the General Counsel. *Harvard Business Review*. <https://hbr.org/2012/09/the-rise-of-the-general-counsel>



Figure 2: What are your top areas of risk for 2017? (Select all that apply.)

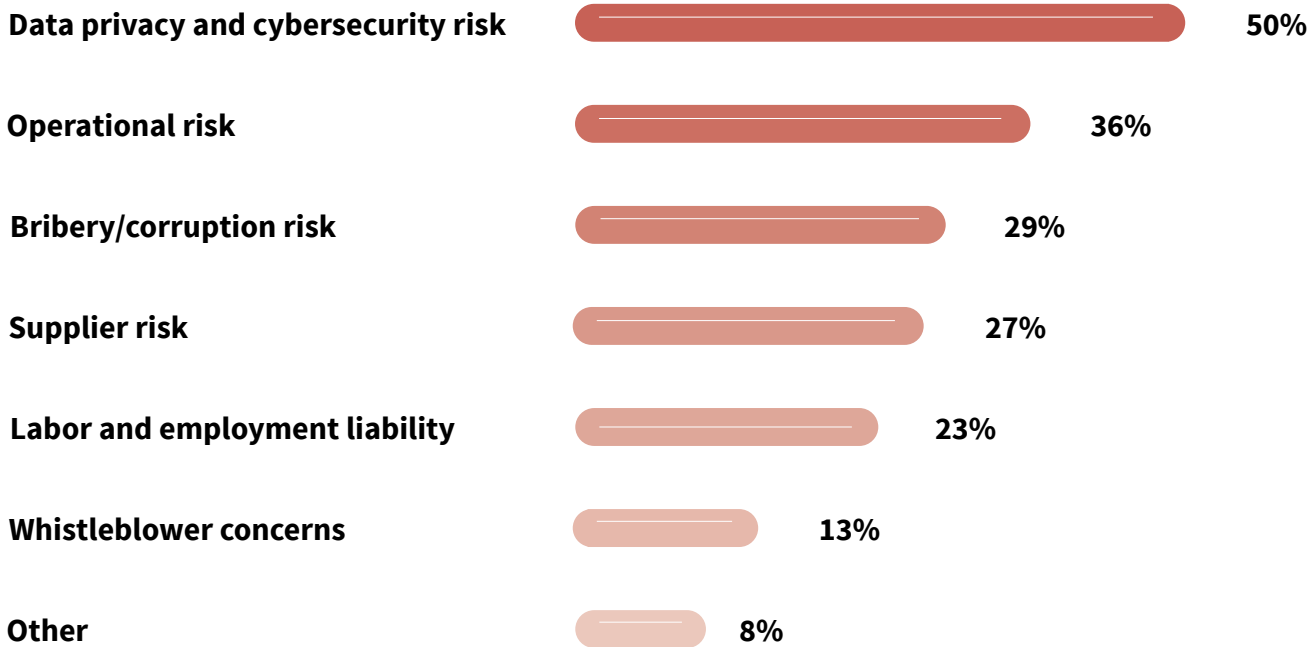
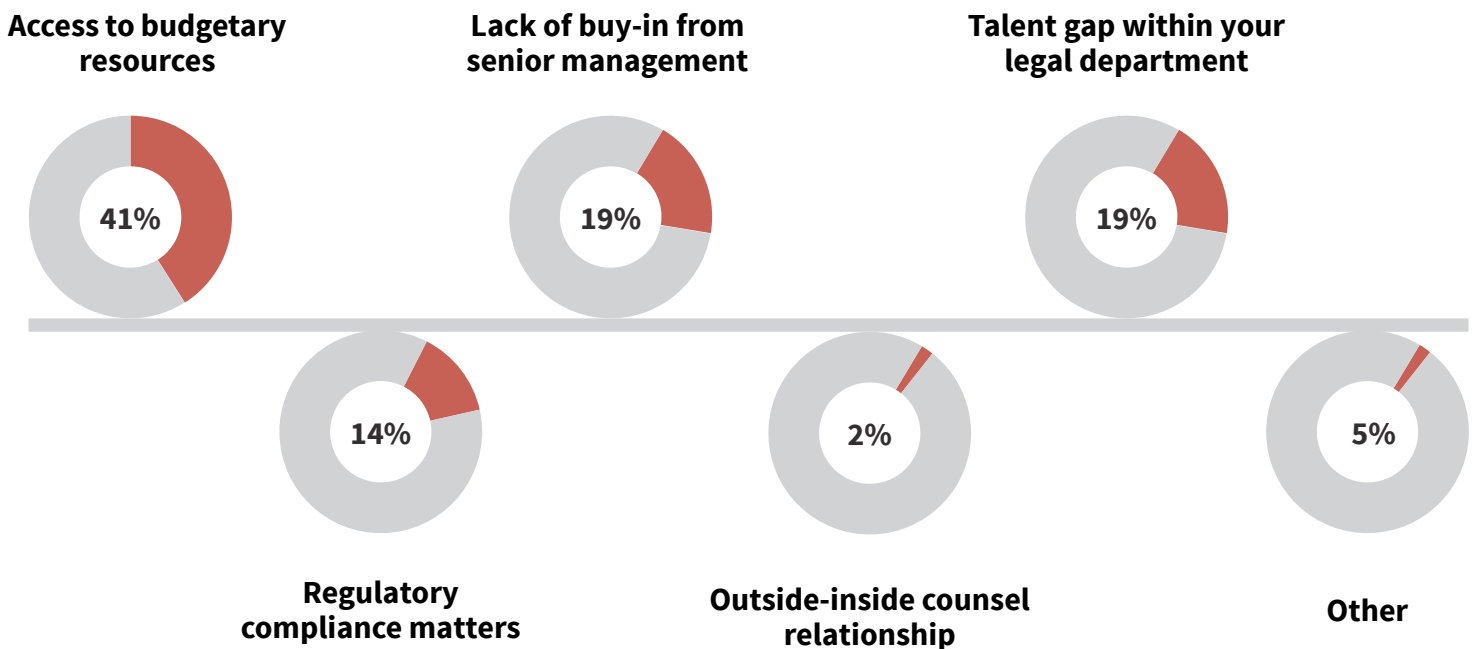


Figure 3: What do you foresee as the greatest impediment to your department's progress in 2017?



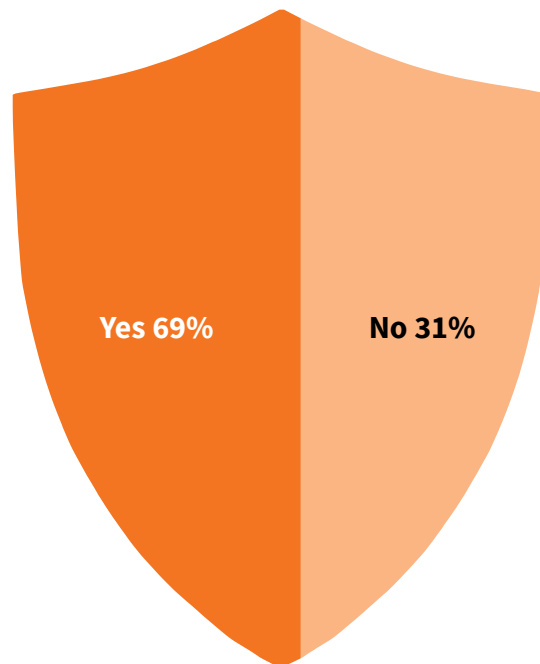


Over 50% Of GCs Do Not Have The Capacity To Manage NLRB Changes

Federal and state laws around labor and employment are evolving constantly, requiring General Counsel to be aware of any changes that could affect their businesses. Fortunately, when respondents were asked if their departments were prepared to provide proactive versus reactive labor and employment advice on new EEOC, DOL, and NLRB guidance, 69% responded affirmatively. This signals that legal departments are working to anticipate and prepare for changes to labor and employment rules. However, there was less confidence in whether legal departments have the capacity to manage NLRB changes relating to joint employment or social media limitations, with 57% reporting they do not have such capacity.

Recent changes to the Fair Labor Standards Act, which revised overtime exemption regulations, had a high impact on the companies of 22% of the General Counsel surveyed, and an additional 25% reported a medium impact. Fortunately, 85% reported that their companies have not been subject to wage and hour class action litigation in the last year.

Figure 4: Is your legal department prepared to provide proactive versus reactive labor and employment advice on the new EEOC, DOL, and NLRB guidance?



²The Labor & Employment section of this survey was posed to respondents from North American companies only.

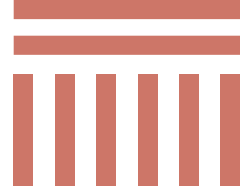


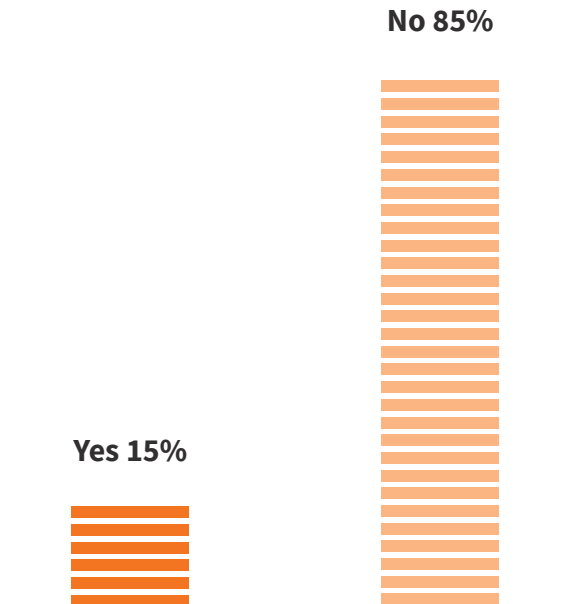
Figure 5: How much of an impact have the FLSA overtime changes had on your company?

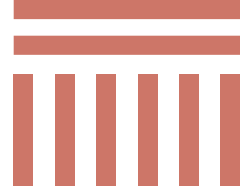


Figure 6: Does your legal department have the capacity to manage NLRB changes, such as the joint employment changes and social media limitations?



Figure 7: Has your organization been subject to a wage and hour class action in the last 12 months?





Only 18% Of Respondents Have A Crisis Management Playbook In Place To Guide Responses to Cybersecurity Concerns

As the top area of risk, cybersecurity issues are requiring more bandwidth from General Counsel than in previous years. A quarter of General Counsel reported having experienced a cyber breach in the past year. A total of 55% of General Counsel are very involved or involved in cybersecurity and data privacy matters, while 38% are just somewhat involved. While 60% of GCs reported that their companies are prepared to defend against such attacks, there remains room for improvement in this area to shield companies from hacks and other cyber-related threats that could damage their business. Surprisingly, only 18% of GCs in this group reported having a crisis management playbook to guide the company's response to cyber and data privacy concerns, while 17% are in the process of developing one.

Figure 8: Has your company experienced a cybersecurity breach in the past 12 months?



Figure 9: Is your company prepared to defend against cybersecurity threats?



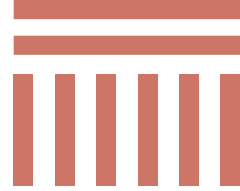


Figure 10: How involved are you in matters relating to cybersecurity and data privacy within your organization?

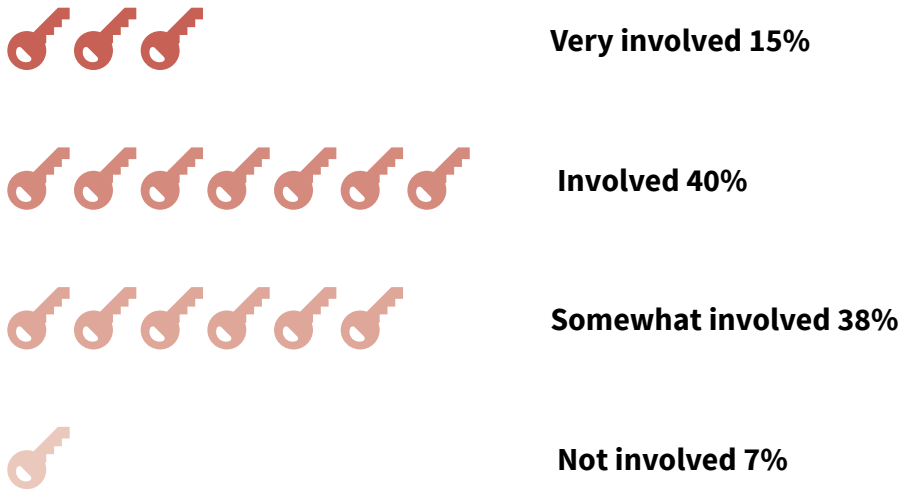
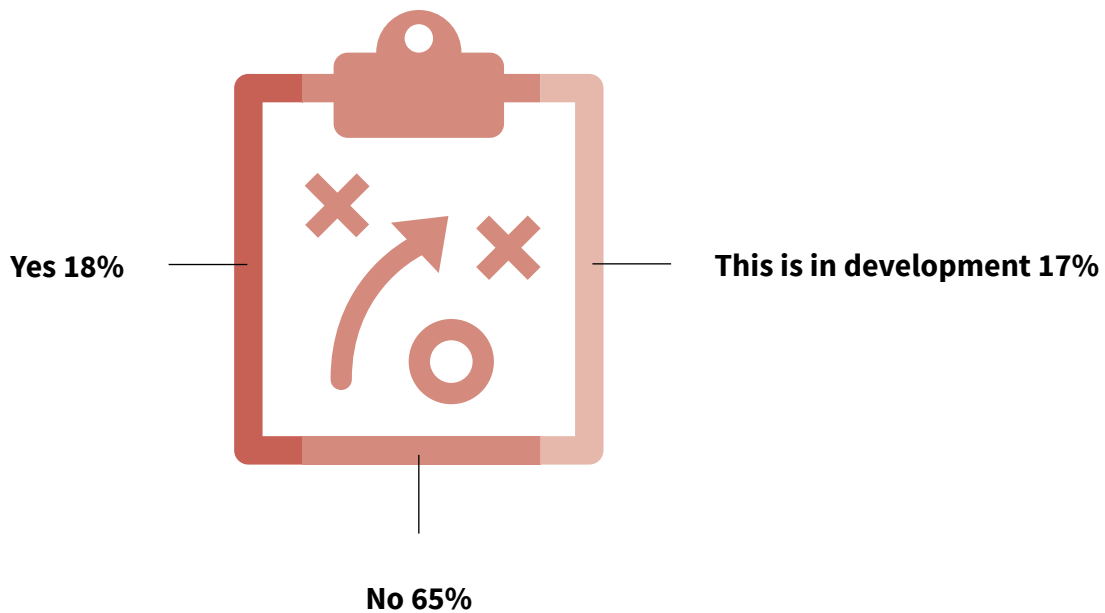


Figure 11: Does your company have a crisis management playbook that guides its responses to cybersecurity and data privacy concerns?





Legal Department Spend Is Expected To In 2017 Increase For 44% Of GCs Surveyed

For 31% of General Counsel surveyed, the majority of the company's legal work is conducted in house, while for 10% of respondents, over 75% of the work is outsourced. Fortunately, 81% of respondents reported being satisfied with the value received from their outside counsel relative to the cost. On spend, a total of 44% of General Counsel expect law department costs to grow, while an additional 44% do not foresee any changes in expenditures in 2017. Over a quarter of respondents have increased their use of alternative fee arrangements in the past year, most likely to combat increased spend and tightening budgets.

Figure 12: What percentage of your company's legal work is conducted in-house?

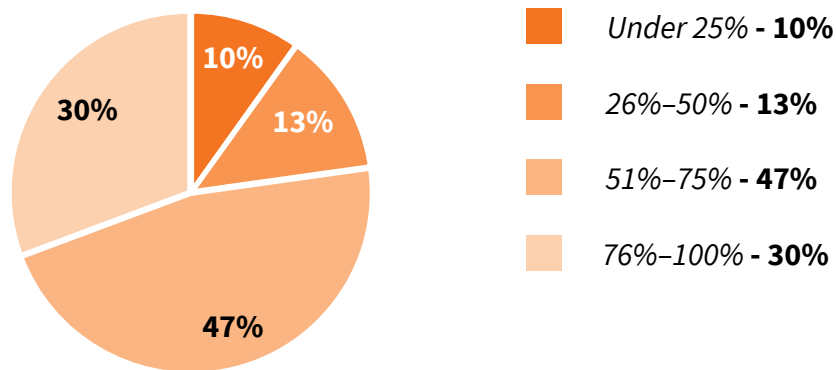


Figure 13: How do you expect your law department's spend to change in the next year?

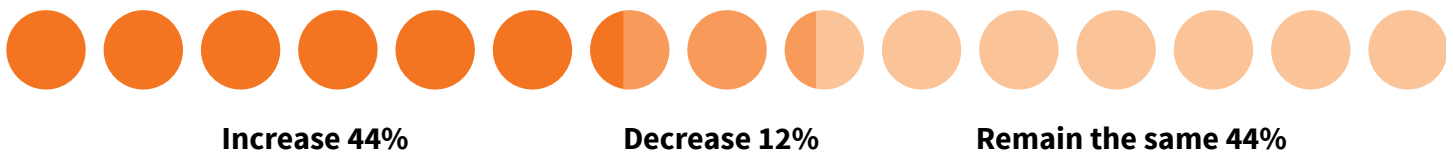




Figure 14: Does your outside counsel provide sufficient value for the cost?

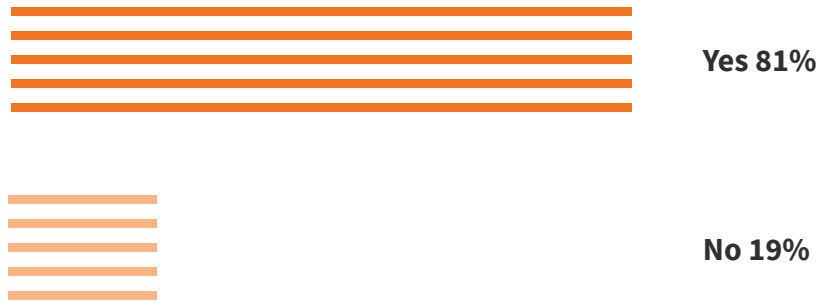
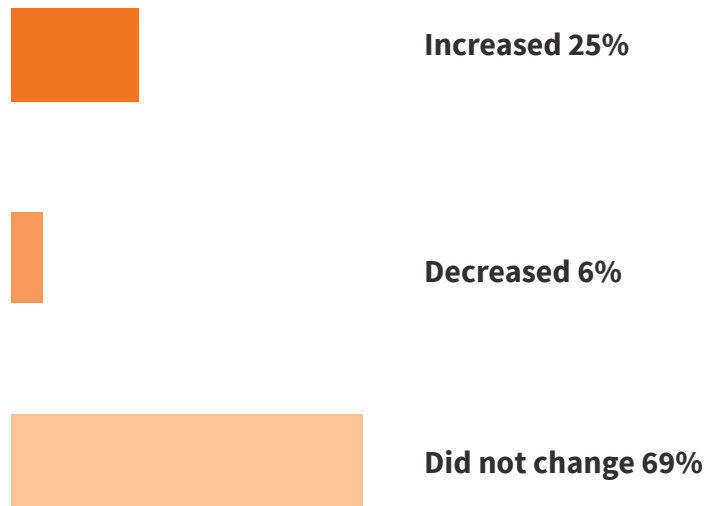


Figure 15: Over the last 12 months, how has your use of alternative fee arrangements changed?



Conclusion



Lessons For The Industry

In 2017, General Counsel can expect to spend more of their time focused on cybersecurity and data privacy, with plenty of attention going to compliance and ethics matters, as well as labor and employment issues. This group of legal executives would be well served to continue seeking buy-in from top management and other stakeholders within their organizations, so that they may have access to the resources necessary to manage their function effectively. Through outside counsel management and retention of top talent, General Counsel will be poised to continue to deliver value for their businesses and maintain their critical role at the C-suite level.

About Consero

Founded in 2010, Consero Group is an international leader in creating function-specific events for senior-level executives in industries that include Legal, Compliance, Shared Services, Customer Experience, Finance, IT, HR and Procurement, among others. Based in Bethesda, Maryland, Consero is best known for transforming the executive experience through intimate, invitation-only programs in a sophisticated learning environment with high-level content. For more information on Consero, please visit www.consero.com.

About Fisher Phillips LLP

Employers often must take a stand: in court, with employees and unions, or with competitors. Fisher Phillips has the experience and resolve to back up management. That's why some of the savviest employers come to the firm to handle their toughest labor and employment cases.

Fisher Phillips has 350 attorneys in 32 offices located in Atlanta, Baltimore, Boston, Charlotte, Chicago, Cleveland, Columbia, Columbus, Dallas, Denver, Fort Lauderdale, Gulfport, Houston, Irvine, Kansas City, Las Vegas, Los Angeles, Louisville, Memphis, New Jersey, New Orleans, Orlando, Philadelphia, Phoenix, Portland, Sacramento, San Antonio, San Diego, San Francisco, Seattle, Tampa, and Washington, D.C.

Opportunities To Participate

Opportunities to participate at future Consero events may be available on a limited basis. Please contact our team for additional information.

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UPCOMING EVENT

General Counsel Forum

June 4–6, 2017

Island Hotel Newport Beach,
Newport Beach, CA