“The Vineyard Revitalisation” – A Tangled Tale, to Consider Client Discovery & Counselling, and Goal Implementation Strategies

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I. INTRODUCTION

This “Vineyard Revitalisation” scenario is written with the goal of discussing how practitioners may apply the techniques of client discovery and counselling, and of goal-implementation, to common scenarios in litigation matters. A clearly defined process, which protects both the lawyer and the client, begins at first contact.

The guiding principles, or ‘toolkit’, is explored first. Then, the scenario follows. The toolkit provides some suggestions for client discovery, client counselling, and goal/client management. The scenario presents a problem to which lawyers can apply the toolkit resources before the seminar. The scenario will be discussed at the seminar in an interactive setting to provide feedback and receive comments from fellow practitioners.

The Toolkit - Getting to the Root of the Problem, Together.

Client Discovery & Counselling

There are two essential tools to use: client discovery (getting to know your client sufficiently); and client counselling (advising and guiding your client).

These are two distinct phases, because you may only reach the first phase — client discovery. For example, you may find after client discovery that internal resource limitations that prevent you from taking on this client. A key question to ask yourself is: Do you have sufficient associate team and support staff support to take on the probable work, as it will likely unfold?

Client Discovery: When connecting for the first time with a new litigation client, your initial steps should involve a process of exploring background details and relationships that bring the client to you. These details include:

- **The W5 of the client.** This will include especially the *what* aspect: What is the nature of their business or relationship that brings them to you? Exploring this can be by interview or, for businesses, by site visits or tours to give them a chance to guide you in their culture, operations, and challenges. Key questions include: What industry are they in? What is their primary challenges both in this case and on an ongoing basis? What services can you, or your firm, offer to help the client both for this litigation, and to prevent future issues? If they present a technical issue, do they have internal expertise to guide them and to assist your understanding of the issue?

- **What is the level of importance of *this* litigation issue for the client?** What is their risk tolerance and price-of-resolution? What is their settlement goal? If the client has no settlement goal, can you recommend one?

- **What sort of issue is this client presenting?** Is it technical? Does it involve competitive or business aspects in its origin or goals? Do you have the in-house expertise to guide them, or will outside experts be needed, assuming they have insufficient internal expertise?

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