Don Fancher: Welcome to Resilient, and welcome to our Confronting the COVID-19 Crisis series. No, I’m not Mike Kearney, whom you normally hear, but I’m filling in for Mike today. My name is Don Fancher, and I have the pleasure of being the global leader for Deloitte’s Forensic practice. As you’ve heard from Mike, we’ve been diving into various aspects of the rapidly evolving environment we find ourselves in right now. And as the business landscape continues to evolve, we are here at Deloitte and the Resilient podcast series to help with insights across issues, industry, and leadership roles. We try to bring perspectives from many diverse points of view, all to help you navigate what’s next.

That’s why this series is so important to us, and we hope it’s important to you. As businesses rapidly respond to the many challenges that crisis brings, we all recognize there are consequences to decisions made and actions taken. And our subject today is so important because this is where in-house counsel can really drive real value.

For over 30 years, I’ve had the pleasure of working with some amazing minds and legal departments, CLOs (chief legal officers), outside attorneys, and I’ve seen how they’ve worked in helping themselves, helping their clients work through crises. But never before have we been in a situation where those sound decision-making qualities and quick actions that not only protect us from risk, but actually help grow the organization are so important. And beyond that, legal departments are transforming in such a rapid fashion, not only because of this crisis, but also because of technology and artificial intelligence and so many other things that are impacting that part of an organization every single day.

That’s why I was so excited about this conversation today with Alex Dimitrief. This is his second time around on the Resilient podcast series. You may have heard him in November of 2016 when he was the general...
counsel of GE, and he and Mike had a great conversation talking about everything from diversity to investments to innovation, and he brings all of that thinking and even more to our conversation today. Not only was Alex the general counsel for GE, but he's also a former litigator. And now he's actually serving as a consultant with Zeughauser Group, helping organizations think through crisis and change and opportunity. So, without further ado, let's hear what Alex has to say.

Alex, welcome. Thanks for coming back to the Resilient podcast. I guess you enjoyed it the first time around so much, you decided you'd do it again, huh?

Alex Dimitrief: Well, thanks for having me back, and yes, I enjoyed that conversation a lot. And I'm looking forward to talking about how the world's changed since that day back in Boston.

Don Fancher: Boy. No kidding. Hasn't it changed? So, for those who may not know this, or haven't listened, you interviewed with Mike Kearney, our normal host for the Resilient podcast. I think it was back in late 2016. Is that right?

Alex Dimitrief: We had just moved to Boston, and I remember sitting around with Mike in one of our conference rooms, and we started off on a conversation and went in a lot of interesting directions. So, it was a really fun morning.

Don Fancher: Now here we are amidst this COVID crisis, and everybody's working from home. So, unfortunately, we're not together in person, but I'm in my home in Atlanta, Georgia. And where in the heck are you today?

Alex Dimitrief: I'm at my home in Westport, Connecticut, working in my new international headquarters, my study, just like I think a lot of other people have had to adapt. And so, Don, let's make the best of it.

Don Fancher: Absolutely, let's do. I haven't been on an airplane in months, and it's the longest I've been, but we adapt and we make it work. To that end, Alex, one of the questions that Mike has been asking on these COVID-19 series of the Resilient podcast, to kind of start things off, is just your perspectives on the challenges we're facing in the pandemic. Not so much from the challenging part, but where you might have hope, where do you see some positives, or some eventualities that would be beneficial and hopeful, in fact, as we ultimately come out of this pandemic, the economic impact, and the like.

Alex Dimitrief: To me, Don, the big plus of the pandemic is that it's highlighted the importance of inclusion when people are working remotely and there aren't natural gathering spots for teams to interact and to share ideas and collaborate. I think that leaders have been forced to find ways to convene their teams and make sure that they continue to participate and continue to get the benefit of the best ideas that their entire team has to offer. And so when you're in a situation like this and you consciously have to think about inclusion, and you have to think about how to make sure to get the best that everyone has to offer to a team, you walk away from a process appreciating the dangers of exclusion and what happens on a team when someone's isolated and they're not participating in the right ways. So, my hope is that when we return to semi-normal and people are gathering together geographically, as well as professionally, we come at it with a new sense for the appreciation of making sure that people aren't isolated, even within an office, much like they would be isolated during a pandemic like this in their home. And that leaders will walk away with a heightened sense of urgency about making sure that they include everyone on their teams in the right way. I think we've also seen the benefits of people being included in ways that they otherwise wouldn't have been.

One of the favorite stories I've heard during the pandemic is from people who were involved in marketing activities on behalf of professional services firms. And what we've seen during this pandemic is that people who ordinarily don't enjoy the game—they don't enjoy going to professional sporting events, they don't want to go play golf, they don't want to go to fancy dinners and restaurants—have actually embraced the opportunity to interact over remote connection devices and talk about substance and talk about work and talk about what they do. And so, all of a sudden, firms have found diamonds in the rough, people who have stepped up, who they traditionally haven't thought of as go-to people for marketing activities or business development activities. And they found out that some of the people who are shy and inclined to stay on their own have excelled at this and have emerged as rock stars in this area. So, the pandemic has been awful, but there are pleasant surprises that have emerged, and that's one of them.

Don Fancher: Yeah, I think that's great. And I think I couldn't agree more, one of the things that I've noticed with the fact that we're all now using these various platforms to video conference with one another, whatever it might be, it's almost created more personalization. I mean, I found out things about people that I've worked with for years that I really didn't know. I've seen the insides of their home, whether they want me to or not, and it's definitely personalized some of those relationships, even though we're much further apart. And I think that's hugely important.

Alex Dimitrief: I think it's a sign that people are more comfortable with vulnerability. I know that vulnerability is perhaps an overused term right now to describe leadership traits. But I think seeing people for what they are in the comfort of their home and having people comfortable seeing people for what they are in the comfort of their home has been a real positive. I think that it's humanized a lot of people. I think it's been a great equalizer. You know, there's nothing like having a senior executive at a company have their Labrador retriever come charging through the room and cause havoc in their office to bring a moment of levity to a conversation, but also just show that you know what, we've all got common attributes, as different as we are. And so, in some respects, again, it's been a great equalizer and a great revealer. And I think that's all for the better, for pretty much every company there is.

Don Fancher: I couldn't agree more. So, let's kind of take that, and Alex, you've done so many different things. You've been a private lawyer, a litigator, you've served as a
CLO, a CEO, all these different things. And so, when you think about a situation we’re in now, a crisis type of situation, and think about your time as a CLO, where are you seeing legal leaders really create value inside their organizations in challenging times like this?

Alex Dimitrief: This is a time when people need to step up and be an enabling function in the most noble sense of the word. Companies are looking for guidance on how to keep things together, how to keep things running, how to keep doing what they’re doing in challenging circumstances where almost nothing is the same as it was before the pandemic. And so, they’re looking for leaders who are willing to make decisions with imperfect information when required, who are willing to step up and be decisive in time-sensitive situations. And to help people figure things out in the face of uncertainty. Businesses across the world have been confronted with supply chain challenges, with employment challenges. They’re going to be confronted with huge challenges as they reopen facilities and try to reintroduce employees back into the workplace gradually in a way that’s safe for everybody, that recognizes and properly balances the privacy interests of employees against the safety of employees with whom they’re going to interact.

Alex Dimitrief: And so, people want answers, and they want intelligent, quick, thoughtful answers and speed here is part of the deliverable. And so, people who are willing to step up, get to the point, and make decisions with less than perfect information are the people who are really going to make a difference. This is about survival. I think that there will be many success stories about decisions that were made by people in challenging circumstances to keep their supply chain running, to keep their facilities open. Particularly those essential facilities that have made such a difference to the continuity of people’s lives around the world. And behind a lot of those stories are going to be brave instances of judgments made under stressful circumstances with less time than is ordinarily available, less information that’s available, but the leaders who stepped up to make those decisions, they are the ones who are really going to be credited for having gotten companies through this.

Don Fancher: So, how do you do that, though? How do you triage all of the different decisions that are coming at you? If you’re a CLO or any type of a leader, how do you decide what you have to deal with first, second, third, and really have an impact that way?

Alex Dimitrief: Well, I think it’s really prioritizing correctly, identifying the issues that are most important, figuring out how much time you have to make a decision, and working on that timeline and making the best possible decision that you can within those timelines. But honestly, I’d say there’s a predicate to being able to do that, which is having the courage to make mistakes and learn from them. Everyone understands that in this environment, there are going to be mistakes made, and by definition, no decision is going to be perfect. And with the benefit of hindsight a year from now, or two years from now, sure, people will be able to criticize the decision you made. That is the point of 20/20 hindsight. But developing the courage and the confidence and the self-confidence in your judgment that you are ready to make these decisions to me is the predicate for being able to make those timely, tough decisions with less-than-perfect information.

Don Fancher: You know, it got me thinking a little bit. I read somewhere where you made a comment that you need to slow down the room. What does that mean? What do you mean by slow down the room, especially at a time like this where everybody—everything’s moving so fast and it’s 24/7, because the fact that we are all working on these video conferencing, I think, the time availability is assumed to be a hundred percent now because nobody’s traveling and doing other things. So, in the midst of all that chaos, how do you slow down the room?

Alex Dimitrief: Well, it’s especially an interesting question because I’m sure some of our listeners are saying, “Wait a minute, Alex, didn’t you just talk about the need for speed and making decisions quickly with less than perfect information? So are you talking out of the other side of your mouth by telling people to slow down the room?” And what I mean by that is that you need leaders, and lawyers often play this role just by virtue of our training, who can slow down the room in the sense of making sure that the people who need to be involved in decisions are involved and properly consulted and that the right stakeholders are included in the process. And also to make sure that the decisions are being made on the best information possible. There are times, and I think all of us have seen it, when people choose to excuse haste or rationalize haste as decisiveness. There’s a difference between being fast and being smart. Being smart can require making decisions with less-than-perfect information, but making haste disregards information that is available to you despite the exigent circumstances. So, by slowing down the room, I mean, making sure that every side of a situation has had its say and that the decisions are made as responsibly as possible under the circumstances.

Don Fancher: And I find, Alex, I’d love your thoughts on this, that as a leader, it’s actually okay. In fact, sometimes preferable to be willing to say, “I don’t know, I don’t have the answer to that. I need to go find, or somebody else needs to find the answer for me because right now I just don’t know.”

Alex Dimitrief: I actually think that leaders who are willing to say they don’t know the answer to the thing are some of the strongest leaders who set the best examples. I don’t know of a single leader I’ve ever encountered who always knows the answer to every question. And being able to show that vulnerability and say that, “I don’t have all the answers. I need your help. I need the team to get the information so that everybody—everything’s moving so fast and it’s 24/7, because the fact that we are all working on these video conferencing, I think, the time availability is assumed to be a hundred percent now because nobody’s traveling and doing other things. So, in the midst of all that chaos, how do you slow down the room?”

Alex Dimitrief: If you’re a CLO or any type of a leader, how do you triage all of the different decisions that are coming at you? If you’re a CLO or any type of a leader, how do you decide what you have to deal with first, second, third, and really have an impact that way? And behind a lot of those stories are going to be brave instances of judgments made under stressful circumstances with less time than is ordinarily available, less information that’s available, but the leaders who stepped up to make those decisions, they are the ones who are really going to be credited for having gotten companies through this.

Don Fancher: How do you anticipate it evolving for CLOs or other leaders, say, over the next six to 12 months?
Alex Dimitrief: I think that what you're seeing right now is a little bit of a normalization of the abnormal. There was a sense of crisis, a sense of urgency as we saw the beginnings of the pandemic. And so, we were all struggling for information. We were all struggling to deal with the uncertainty. And unfortunately, there still remains a lot of scientific uncertainty about the pandemic and about this coronavirus and what it means and what its long-term implications are going to be. And fortunately, we have some of the smartest scientists in the world working on that. And I hope that people are going to listen to what they're learning about the coronavirus and make decisions about this intelligently as we go forward. But from an organizational perspective, I think the sense of crisis has become normalized and the people have become more comfortable with making decisions, working remotely, and connecting remotely, and not being with each other in a room, but we found ways to adapt to the circumstances.

And so, I think going forward, you're going to see teams a lot more comfortable working remotely, a lot more comfortable connecting, using the advantages of technology that we have in order to be comfortable making decisions that used to require getting together around a conference table. I think now it's a question of connecting by whatever means are responsibly available to a company, honoring security requirements. And I think we've realized that that really facilitates speed or decisions without compromising the quality of the decisions. So, I think as people get more and more comfortable with the uncertainty that's been created by the pandemic, the decision-making processes are going to feel more comfortable and are going to feel more certain.

Don Fancher: Yeah, I think it's kind of the adaptive nature that we have as human beings. Hopefully, it is the adaptive nature. I'm not a big fan of the term new normal but being. Hopefully, it is the adaptive nature. It really is.

Alex Dimitrief: It's a definition of resiliency, right, Don?

Alex Dimitrief: I mean, I think that's what we're talking about. And so, you can either curl up in the fetal position and go in the corner and suck your thumb. Or you can sit around as a team, kind of look at each other and say, “Okay, what are we going to do?” And find ways to collaborate and get to the right place. When you're the leader of an organization and you're the leader of a resilient organization, there are a ton of people who are counting on you. Your customers are counting on you, your employees are counting on you, your investors are counting on you, the towns and communities in which you operate are counting on you. You have to figure it out. That's leadership, that's stepping up, that's being resilient.

Don Fancher: Well, I think that's absolutely right. And as a leader, when you see the pressures and the challenges that your people are facing, you need to be able to assure them that you've got their back and that you're doing all you can to lead them through that process. And I know one of the things that's so important to you is communication. I saw somewhere where I believe you wrote about communication, and I loved it personally, because you talked about crafting and recrafting your emails or your—any form of communication, because it's so important to communicate properly. But how do you communicate in an environment like this in an effective and efficient manner, whether it's to your legal departments or other parts of the organization, wherever it might be.

Alex Dimitrief: I think it's a combination of coming up with a blog or a newsletter or an email blast, whatever you're comfortable with. I think part of it is written communications, where you spend the time to put something down on paper in a way that talks about what you think is important and what you want to make sure that your audience hears. But I think the second part, which is probably most important in a time of crisis like this, are the interpersonal communications, and there are all sorts of technologies that are available to people now. There are interactive video technologies. There are all sorts of conference call technologies that you can use. And to me, I don't think it's possible to overcommunicate in a crisis. And in a situation like this, when I was confronted with crises like these when I was at GE, for example, my tendency was to increase the frequency of my communication.

I would convert weekly calls into daily calls. I'd convert monthly calls into weekly calls, and I'd convert quarterly calls into monthly calls. And what I really tried to do as a service to my team was to talk to them about what was happening with GE and what it meant to them, my views on what it meant, my priorities for what I thought it meant for what I needed to do and what our leadership team needed to do. But I was always careful to leave at least half the time for questions and to listen, and to make sure that my team got a chance to express their views, whether they agreed or disagreed with me, but also to ask questions and find out what was on their minds. And I really think that promoting that spirit of connectivity and that sense of community purpose is something that's really incumbent upon leaders in this particular time.

I don't think there's any such thing as too much communication. People can always opt not to participate if they choose to. But I think most leaders will find that teams are dying to hear from their leaders what's happening at a company and what that means for them. And they appreciate candor. And I think the last thing I'll say about the communications is to be authentic, to be honest, be genuine, don't try to sugar coat bad news. Be honest. Let people know what's coming. Don't make promises you can't keep. Don't try to put spins on tough news, tell people what's happening. They will appreciate it if you're honest with them and you're authentic. And I have found that approach has always served me well in every job that I've ever had.

Don Fancher: What about preparation? Because if you're going to condense the meetings, and I agree with you completely, when you're facing challenges like this, people need to hear from you, but as a leader, you can't just have a meeting
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to have a meeting. So how important is that preparation aspect in regard to that condensing of the communication process?

Alex Dimitrief: Unfortunately, in a time of crisis, the preparation pretty easily happens for itself. It’s pretty obvious what the issues are, and it doesn’t take a whole lot of time. And so, what I would do is sit down with a piece of notebook paper and just highlight the things that I wanted to talk about. I didn’t do prepared scripts because of candor. I wanted to be authentic. I wanted to be genuine, just like I don’t have notes for our conversation today. And I think the most important thing is to just make sure that you note the things that you want to talk about. I used to get advice from certain people on the team whose judgment I trusted. I would say, “Hey, here are the things that I’m planning to talk about. Anything I’m missing, anything I ought to include,” and I always make five, six, seven calls like that before I had team calls, but I also solicited input. And I would send out a team-wide email or we had a couple technologies that promoted interactive conversation. I’d say, “Post your questions ahead of time. If you’re uncomfortable posting for attribution, post it anonymously. I’ll do my best to get through all of them.” And I never ever ran out of questions that way. But again, that’s because I established a baseline credibility with my team that I was going to try to do my best to answer their questions as honestly as I could. And the tough questions and the hard questions are actually the ones that are most worthwhile addressing.

Don Fancher: No doubt about it. And so important to be authentic, to be your authentic self and bring that forward to our teams.

Alex Dimitrief: Completely. That’s litmus test for leadership, the willingness to engage on tough issues and show people what you’re struggling with and how you’re going about addressing that struggle.

Don Fancher: No doubt about it. Let’s pivot just a little bit, Alex, and think a little bit more about the legal department of organizations in this environment. Talk for a minute just about what you’re seeing and sensing in legal departments today, not only in reaction to the pandemic, but are we seeing an opportunity to elevate the role of the legal department within an organization as one of the responses to this situation?

Alex Dimitrief: Absolutely, I think we are. And I think that’s because the pandemic has implicated so many issues that go to the heart of what a legal function does in terms of ensuring business continuity, in terms of ensuring stability of supply chain, in terms of creating the adaptability that an organization needs to be able to continue to do what it does, all the way from relations with suppliers, to relations with customers and having a realistic stakeholder-oriented approach. Those are all areas where legal departments, if they’re creative and they’re forward thinking, can make an enormous positive difference and create value in ways that a lot of business leaders probably didn’t appreciate legal departments can do. I think that if you’re talking about in terms of playing offense and enabling a company to go do great things, I think legal departments have an enormous role to play in helping organizations work through uncertainty.

I also think there’s two other places where legal departments can make an enormous difference going forward. The second is helping with the changes that are happening in the world because of technology, artificial intelligence, and constant and omnipresent connectivity. It raises issues about privacy. It raises issues about how people work. There’s a whole host of issues that arise from the connection of machines through the industrial internet and the connection of people through the— I’ll call it the people internet where people interact, that no one’s really thought about, that new issues are coming up that no one had really thought about until the last couple of years. And so, new issues are coming up and new ways of addressing all these issues have to be thought through. And I think lawyers and the way that lawyers are trained can make an enormous difference here by spotting the issues and then helping organizations address them intelligently.

One that I’ve highlighted in particular that we alluded to before is the challenge that organizations are going to face as we reopen following the pandemic. And while we’re waiting for a vaccine that all of us know can’t come soon enough. But in the meantime, there are going to be serious questions about respecting the right of privacy of employees. So, if someone is diagnosed with COVID-19, respecting the privacy of that employee and her circumstances, but also respecting and acknowledging that the interactions that that employee had while infected and in the future could potentially implicate the safety and wellbeing of other employees in the workspace. How do you make that balance in a way that respects the privacy and medical safety interests of people on both sides of the equation? It was a tough, tough, tough issue. And I think lawyers have an enormous role in making sure that that question is addressed thoughtfully, ethically, and responsibly.

Then the last thing that I’d say is that with the heightened preeminence of ESG considerations and corporate citizenship and the rise of stakeholder governance and the feeling that businesses around the world have to have a broader purpose that stands for more than just profitability, the integrity of companies and the good citizenship of companies is going to be increasingly focused on as an important attribute that distinguishes the great companies from the okay and mediocre companies, and lawyers have a huge role to play there. Lawyers can step up and promote corporate citizenship in a responsible way, and the great legal teams and the great compliance teams do this in a way that inspires enthusiasm for the broader purpose of the company and do it in a way that makes companies be a place where people are proud to work and that their families are proud that people work there. And again, I think legal staffs have this as an enormous opportunity to make a difference.

Don Fancher: So, there’s a couple of things in there that I really want to dive into a little bit more, and I definitely want to come back, for example, to the issues around innovation and artificial intelligence. That’s something that I’m super excited about and hearing a lot of conversation. But before we go there, I want to go back to kind of
what you just talked about then. And to me, it's this transformation of the legal department. So, you've got transformation and technology and all that. We'll come back to that in a moment. But it's actually what I would call the transformation of perception, transformation of perception of the CLO and of the legal department, because so often historically the legal department has been viewed as the gatekeepers or the risk mitigators, which is all really, really important, but how do you take the things you just talked about and dig in a little bit on really creating or communicating that value proposition and the growth proposition that the legal department can take for an organization, and how they can bring that to the organization.

Alex Dimitrief: So, I think what you're talking about is not being known as the function of "no" or we're good in creative.

Don Fancher: I wasn't going to say that, but in my mind, yeah, that's exactly what I was thinking.

Alex Dimitrief: You don't want the legal function to be the place where great and creative ideas go to die or get risked to death. And I think that that's a fair historical criticism of legal departments, because I think that a lot of legal departments have traditionally seen their role as being the gatekeepers and the function that saw problems, saw issues, and made sure that people were aware of them. And I think there's been a big shift. Some people would say it's been the last five years. Some people would say it's been the last year. I'd say it's been more the last generation of warriors where there's been a shift to legal departments that want to help companies actually do things smartly and intelligently and manage risks rather than eliminate them altogether. And there's nothing like results that speaks for the good work that lawyers do.

And the best way that legal departments can get credit for the value they're creating is by doing great work, which generates buzz around the companies that, "You know what, the lawyers are actually some of our best friends here at the company and are helping us do great things." But there's also a question of making sure that leaders of a legal department have the opportunity to responsibly and modestly promote their teams with humility. The legal staff is never going to be the end-all and be-all within any company. But when there are opportunities to talk about what a legal staff is prioritizing, what a legal staff is trying to do, leaders should take those opportunities. I jumped at every chance that I had when I was at GE to brag about my team, not me, but about my team and the things they were doing. And there's nothing like more than talking about success stories where my team came into a tough situation and then talked about the partnership that they created to help a business achieve something that wouldn't have been achievable without some courageous lawyering. And so, I think finding the right opportunities to tell those stories internally so the people reach out to the legal staff is the way to go.

Don Fancher: That's great. And telling great stories, people respond to stories, they respond to metaphor, they respond so well. You can give facts and figures, but boy, if you can really show strong examples and good stories of where impact has been made, that can make all the difference.

Alex Dimitrief: I think that one of the things that I look back at on my time at GE and one of the things that I think we did especially well were case studies. And, in both extremes, right? One of them was case studies of things that worked out well. We had a period of time where we were really focused on making sure that GE was a place where it was safe to make and learn from mistakes. And so, we had a lot of instances where we had leaders talking about mistakes that they've made at various points of their career, what they learned from them, how those mistakes and learning from them actually helped them and made them better leaders. And then you look at where they got in their careers. It's reassuring to people, and it makes them feel good. But the other case studies we talked about were things that hadn't gone well. Mistakes, ombuds complaints where we investigated and found out that somebody had strayed from our commitment to integrity. And we taught those case studies. Here's what happened, here's how it happened, here's why it happened, and here's what we did about it. And we did that just to remind people that integrity is something that you have to always be vigilant about, but we also wanted to reassure people that it is worthwhile at a company like GE to raise your hand, raise that issue, show that concern because we investigate it and when action is required, we take it. And so positive and negative case studies, when they're communicated and taught the right way, can make a huge difference at a corporation and at any kind of company. It would be a great learning moment.

Don Fancher: Let's take that a little bit. Let's take that perspective of being honest, open, vulnerable, and apply that a little bit to where legal departments are today in line with that earlier conversation we were having around innovation technology. I see legal departments under a tremendous amount of pressure to both continue to do the great things they're doing, but to transform the way that they are doing it, the way they're using technology. And in my view, even this pandemic has really exacerbated or enhanced the speed with which there's an expectation of adapting. What are you seeing, Alex?

Alex Dimitrief: I'll tell you. The one thing that I'm really seeing is more strain on the relationship between in-house teams and their outside counsel. Because think about it, with the pandemic, in-house legal teams have absolutely everything that they had on their plates before the pandemic hit. And now they have a whole new boatload of work that's come up in terms of challenges to supply chain contracts, contracts with customers, safety and other types of exposures that have arisen, litigation challenges that have arisen because of COVID-19. So, they have everything to work on that they had before plus an enormous volume of new work. Their resources have been reduced because every company is trying to cut costs in anticipation or in reaction to the economic challenges of the pandemic. So they have more work than ever to do, and they have less money to
spend on outside counsel than they ever have, and they need them more than ever. So, what I'm seeing actually is a recognition by both in-house teams and outside counsel teams that they need to find sensible alternative approaches that restructure the economic incentives of the company-law firm relationship to allow law firms to step up and be there for their clients in ways that clients can afford through alternative fee arrangements that put off payments and incentivize great performance during this pandemic with payoffs down the road, when cashflows return, hopefully, more to normal. So, I'm seeing a creativity out of necessity that speaks really well both of in-house teams and of outside teams. And I think that that new sense of partnership has really drawn the profession together in a way that I haven't seen in the last 10 years. And I'm really proud of what I see in terms of creativity from in-house teams. And I am also really proud of what I'm seeing from outside teams. But the other aspect of it that I'd like to emphasize is that legal departments need to step up and learn how to say no sometimes too. You can only do so much well, and you're a finite resource. And so, on the task of a hundred things you could do if you had unlimited resources and unlimited time, you need to prioritize the 30 of those hundred that you're going to continue to do, and make sure that you don't have any misses from the other 70, but you have to be honest with your constituencies elsewhere in the company and just say that you can't do everything that you were able to do before the pandemic hit. And you have to triage accordingly, not a unique thing to the legal department, but sometimes lawyers have a really hard time saying, "No." We're taught that the client's always right. And one of the things that I always—if I've heard it a million times, lawyers should never say, "No," they should say, "Have you thought about doing it this way?" Or some alternative to just saying no, and I'm here today in July 2020 to say in certain circumstances, it's okay to say, "No, that can't be a priority for us right now."

**Don Fancher:** You know, it's interesting you say that because I also think back to the podcast that you did with Mike a few years ago, and you talked a lot about everything from diversity to investment to new strategies. When you think about that in terms of legal departments today and all of the potential that technology can bring to taking some of those—you talked about triaging efforts, and if technology can take some of those responsibilities that historically were the purview of the legal department, move them off somewhere else, perhaps, hopefully elevate the legal department as a result. Do you think legal departments are ready for that? Do you think they're actually willing to accept that opportunity?

**Alex Dimitrief:** Absolutely. I think you'll see legal departments accept or embrace the opportunity to focus on interesting work. To me, it reminds me of—I'm going to date myself here a little bit—but when I was an associate at my law firm back in the late 1980s, believe it or not, there weren't any such things as electronic deposition transcripts, and our law firm, like every other law firm in the world, used to make a lot of money by doing summaries of depositions and abstracts of depositions. And then along came electronic deposition transcripts, and a lot of law firms like, "Oh my God, this is awful. We're not going to be able to charge for summaries anymore. This is going to remove a huge source of revenue." Well, guess what, you know who was happiest about that advance in technology? The poor associates that had to do those damn summaries, because it was mind-numbing, boring, awful work, and not what any of us went to law school to do. So the profession came around to understanding that technological advances like that, even though they may eliminate some short-term sources of revenue and may eliminate some of the work that we thought made us essential, are actually a great thing, because they take some of the tedious, mind-numbing things that lawyers do, allow artificial intelligence to accomplish it instead in ways that are better than we can do quite honestly, and allow us to focus on areas where judgment is required, which in the end is what all of us really want to do. So, I think the legal profession is ready for that.

**Don Fancher:** You know, I don't feel that we need to train lawyers differently. I don't want to go down a rabbit hole too far here, but just thinking about what lawyers learn in law school and how they learn to do the things that they do. Is there a requirement even earlier in the process of becoming a lawyer where we need to make changes or shifts in that process?

**Alex Dimitrief:** I think we need to—yes, I do think we need to train lawyers differently. And I would like to see law schools spend more time on dealing with the connectivity in the world and what that means for our profession and what that means for the people to whom we are giving legal advice. I do think that that needs to be a priority, and I see that happening at law schools. But I think that the biggest change for lawyers has to be accepting the benefits of technology and accepting the risks of that. So, I'll just give you an example of what I mean. It is lore at every law firm that no deposition exhibit should ever be seen by a witness for the first time at the deposition, as opposed to during a prep session. So, as a result, law firms charge clients an extraordinary amount of money to review every single page of every single document production on every single computer of every single witness who could conceivably be related to a case. Now, predictive analytics shortcuts a lot of that. If you have the right program, you can catch 90 percent, 85 percent of all the responsive documents and the key documents and be 85 or 90 percent comfortable that you've gotten everything. Is it really worth the time, effort, and money to go that extra 15 percent and chase down all those other documents that haven't been turned up by predictive analytics, just on the chance that something bad could happen? If we can get out of that risk-averse scenario and embrace things like claw backs and the federal rules of civil procedure and embrace imperfection, and say that we are going to embrace technology, which gives us 90 percent of the way there, and take our chances with the other 10 percent, that same mind shift, a mindset shift in the profession that I think will improve the quality of our profession and working as a lawyer tremendously on the corporate side, transactional side, as well as on the litigation side.
The CLOs role in crisis—a perspective from Alex Dimitrief

Don Fancher: And that’s a change management process. It’s a change management process across the board with judges, with attorneys, with their clients, whether it be internal or external.

Alex Dimitrief: It’s a change of expectations. When I was at GE, I was involved in some very significant modifications on electronically stored information. And I’m willing to bet that 90 percent of law firms and 90 percent of companies don’t take full advantage of those safe harbors that have been introduced into the rules. Because again, I don’t want to be that partner where we didn’t spot that one document that ended up being a surprise exhibited at deposition. And again, I think that with today’s world and the volume of information that’s there, you have to adapt. Honestly, the change in perspective, when I was an associate, a big case was 50 boxes of documents. Today, 50 boxes of documents is nothing. When you start looking at emails, the most routine commercial dispute will generate a hundred boxes of documents. And so, you have to change how you approach and you have to be willing to look at that.

And we, as lawyers, have to be willing to step up and push back on our clients and give them realistic expectations of what to get, or at least give them the alternative and say, “Look, we can do this the old-fashioned way and scour every document for a million dollars, or we can use our artificial intelligence, get most of what we think is going to matter for $400,000. Which approach would you like?” And I can tell you that the lawyers working on the cases would much rather have the $400,000 approach because it lets you work on the interesting things rather than the mind-numbing things.

Don Fancher: Well, it gets to leadership too, doesn’t it, Alex? Because it’s not only educating your clients, but I think strong leaders in this space, CLOs and others, have a responsibility to educate the regulators, for example, educate the DOJ on what can and cannot be done, educate the bench and judges and arbitration panels on the opportunity to do it as you’ve discussed more efficiently and more effective.

Alex Dimitrief: I think it’s incumbent upon companies to push back on regulators responsibly and effectively, but I will also say that it’s incumbent upon professional services firms to push back on their clients as well, and push back on their expectations, push back on how things are done, present alternatives in a compelling way, and resist this notion that the client’s always right, because the client isn’t always right, and you owe it to your client to tell them when you don’t think they are and stick up for your teams.

Don Fancher: I couldn’t agree more. And I think that transparency is really, really important. It’s important in leadership with your people and you’re right, it’s important with your clients and with any partner or others that you’re dealing with in the corporate and even personal settings. Trust is hugely important in that regard.

Alex Dimitrief: Well, one of the things I always did when I was in house was I always made sure that our law firms knew that I was a safe haven where they could reach out and tell me when they thought we were doing something incorrectly or not making the right decision on something. And my view was that it always helped to be able to make sure that you were hearing feedback from all sources. And, in particular, I wanted our law firms to know that I wanted to hear from them when they thought we were doing something that in the long run wasn’t going to benefit us. So that willingness to hear pushback, that willingness to hear bad news, again, is an important sign of resilient leadership.

Don Fancher: That’s excellent. Well, Alex, I’m cognizant of time, and you’ve been so gracious to spend some time here with us today. I want to just end up with a few quick questions. Just quick responses from you on thoughts. And I want to start with one about just—we’ve talked a lot about being a lawyer and the legal profession, which is hugely important in this time of COVID-19, but you’ve been so many other things and you’ve been a CLO. Really quickly, how was the transition from being a lawyer, a general counsel, and a CLO to actually becoming a CEO?

Alex Dimitrief: It was fantastic. I enjoyed it. I was blessed with having a great team that represented GE around the world. And so, to me, it was a real privilege to be at the kind of company where the things that I did as a CLO in terms of fostering a culture of integrity and representing the very best of our company were welcome in a business leadership role. So, for me, the transition was very easy, and I really enjoyed it. And I also tried to be a really good client for the legal staff after I made the move over. And I hope I got a passing grade from them.

Don Fancher: I bet. So, did you aspire to be a CEO? Was that something you really one day wanted to do?

Alex Dimitrief: No. Honestly, I hadn’t. I really up until that point in my career had really wanted to be a lawyer. And my aspiration was to be the general counsel of a great company. And I realized my career dream when I was appointed general counsel of GE, but when the opportunity arose and the company asked me if I would consider switching over to head the global growth organization and represent GE around the world before governments and customers and regulators, I was so honored by the vote of confidence that I jumped at the chance because I thought it was a once-in-a-lifetime opportunity to really represent an incredible company in important areas around the world at a time when the world was becoming a smaller place, and what was happening in countries like Indonesia and Ethiopia and other countries in Southeast Asia were making such a difference to the future. It was just such a privilege. It was an unexpected privilege, but one that I jumped at the chance to fulfill.

Don Fancher: Do you see that occurring more and more, CLOs having the opportunity to become CEOs?

Alex Dimitrief: I think so. I really think that, again, when it comes to that concept we talked about earlier, Don, of slowing down the room. I think that lawyers have a benefit...
in terms of being trained to allow both sides of an issue to be heard, to make sure that stakeholders are involved, to let facts and reason and civil discourse carry the day rather than who’s shouting loudest in the room. And so, I think as that discipline that we have about thoughtful decision-making gets more and more appreciated, I think you’re going to see lawyers step over into CEO jobs.

**Don Fancher:** That’s awesome. Last question, Alex. Back in 2016, when you did this podcast with Mike Kearney, you talked about some of your thoughts and characteristics of resilient leadership, and I know one of the things that you talked about, if I remember it correctly, was owning up to mistakes. Has that really changed since your thoughts then?

**Alex Dimitrief:** No, I think it’s, if anything, the mistakes that I’ve made and what I’ve learned from owning up to them and the respect that I’ve gained from other people from owning up to them have reinforced my view that the transparency and authenticity of leaders who own up to mistakes and show people that it’s safe to make mistakes and show people that even their bosses make mistakes creates a culture of experimentation, of thoughtfulness, of reaching for new heights within organizations that leads to great things. So, owning up to mistakes but making sure that a company is a place where it’s safe to make honest mistakes and that people get a chance to learn from them is an ingredient for success of virtually any type of organization that I’ve encountered. So, if anything, the mistakes that I’ve continued to make since I spoke with Mike back in 2016, and my ability to learn from them and benefit from them and become a better leader has reinforced the importance of that to me.

**Don Fancher:** Thank you, Alex. That’s fantastic. And I know when Mike and I were talking a little bit about this in preparation, he mentioned the fact that this is one of the favorite interviews he had done, and I can certainly see why. Just a thrill to talk to you, a pleasure to hear your thoughts around resilient leadership, whether you’re talking about CLOs, CEOs, or frankly, just anybody in an organization. These are all amazing thoughts that we all can take and apply, and I think be better off for it both now in this pandemic situation but for many years to come. So, thank you for your time.

**Alex Dimitrief:** Hey, Don, thanks for having me, and thanks to you and Mike in particular for having me back, but more generally, just thanks for making us think about these kinds of things. I really think that in today’s world, when we’re just all getting pulled in all these different directions, the ability to stop and think about what resiliency means and what the aspects are of resilient leadership and what the difference it can make for organizations is a huge, huge service that you guys are doing through this podcast. And so, keep up the great work, and it’s a privilege to be one of your repeat guests.

**Don Fancher:** Alex, thank you so much. Your perspective from the chairs of being a CLO, a CEO, a board director, and maybe even more importantly, an educator and a consultant in helping us really think through the challenges and the opportunities, not only around COVID-19, but just the transformation of legal departments was so outstanding. I think that I certainly felt many of us can benefit from the insights almost regardless of the role that we have within our own organization or frankly, the role of life—the opportunity to be humble, to really put others first, to look at diverse thoughts and views, and to really be transparent.

Those were things that really resonated with me, and I appreciate everything you brought to us. So, Alex, once again, thank you.

A lot of topics have been covered over the last couple of months, and Mike will continue to bring you many more. And if you haven’t heard his previous Resilient interviews, it’ll be well worth your time.

If you’re curious about some of the insights we discussed around technology, analytics, and how they might apply to investigations, I encourage you to also listen to my interview with Mike on fraud, waste, and abuse in times of crisis.

For more insights across all aspects of COVID-19, just go to Deloitte.com on our COVID page. You can also listen to the Resilient podcast on Apple Podcasts, SoundCloud, Stitcher, Google Play, and even Spotify. Until next time, stay safe and remain resilient.