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Cotter answers yet another call

In his first general counsel position, Fidelity Life lawyer adjusts to upcoming telemarketing rules

BY ROY STROM
Law Bulletin staff writer

Since he joined Fidelity Life Association as its general counsel in April, Daniel A. Cotter has been preparing for Oct. 16.

That's when a possible "game-changer" of regulation will begin impacting his company, which sells term life insurance to middle-income Americans.

In a little more than two weeks, companies will need express written consent in order to contact consumers with prerecorded sales pitches on their cellphones and on some land lines. Essentially, the Federal Communications Commission's telemarketing rules will switch from an opt-out to an opt-in scheme.

For Fidelity Life, which in 2009 acquired a phone marketing business called EFinancial, a rethink was needed in how it finds potential new customers.

"It affects a broad swathe of the world. It's a big change," Cotter said. "How many people are going to submit and say, 'Please contact me.'? It could very well impact a lot of customer service centers that rely on a high volume of leads to be able to generate business."

The term life insurance business is just one example of an affected industry, but telemarketing and online leads have been a primary method of contacting what Cotter said are anywhere from 36 million to 56 million Americans who have no life insurance of any kind.

As a company, Fidelity Life dates back to 1896 and had been associated with a number of larger life insurers. Its current form was established in 2005, when it became a free-standing business.

"It's really almost a startup in terms of a life insurance practice," Cotter said. "It started slowly and now it is up to \$40 to \$50 million a

year in new premiums and building a book of business."

Cotter, meanwhile, is no newcomer to the insurance industry. (Nor is he new to the pages of the Daily Law Bulletin. He is a regular columnist on the Lawyers' Forum pages.)

After graduating from Monmouth College, he started his professional career as a certified public accountant at Chicago-based CNA Financial Corp. While working there, he attended The John Marshall Law School at night and earned his law degree in 1995.

He then worked as an associate in the insurance practice at what was Lord, Bissell & Brook before returning to CNA's legal department, where he worked for about three years. He took a job as an in-house lawyer at what is now Kemper Corp. and then international insurer Argo Group, spending roughly five years at each.

For the past three years he has practiced as a name partner at Korey, Cotter, Heather & Richardson LLC, where he was a corporate lawyer alongside mostly litigation-focused attorneys.

Cotter and Justin L. Heather left the firm — which they said will soon be renamed — in early spring. Cotter joined Fidelity Life and Heather joined Quinlan Law Firm LLC as of counsel.

Cotter said he fielded offers to move to some national firms and practice in their insurance groups, but that would have meant altering his rate structure and rebuilding a book of business.

"This beats having to chase down all that administrative stuff," Cotter said, adding that he knew Fidelity Life's CEO, Richard A. Hemmings, who is a former partner at Lord, Bissell & Brook, and was persuaded by his interviews with the company to join.

Kathryn Montgomery Moran, a



Daniel A. Cotter

General Counsel and Secretary, Fidelity Life Association

- **Location:** Chicago
- **Size:** \$106 million in 2012 revenue
- **Law department:** Two lawyers
- **Age:** 46
- **Law school:** The John Marshall Law School, 1995
- **Organizations:** Treasurer, Great Lakes chapter of the Association of Insurance Compliance Professionals; board of visitors, The John Marshall Law School; board member, The Chicago Bar Foundation; first vice president and board of managers, The Chicago Bar Association; second vice president, The John Marshall Law School Alumni Association; board member and secretary, Friends of Epilepsy Foundation of Greater Chicago; advisory council member, Alliant Credit Union; board of trustees, Monmouth College
- **Interests:** Spending time with his two sons and wife, Ann; reading; powerlifting; community engagement and involvement

partner at Jackson, Lewis LLP who first worked with Cotter as an associate at what is now Locke, Lord LLP said he understands business and "has a very strong background in insurance as well as knowing about the different facets of the law."

"He's a great guy, and I think Fidelity is lucky to have him," Moran said.

J. Brett Pritchard, co-head of the capital markets section at Locke, Lord LLP, has represented Fidelity Life on a variety of matters involving insurance regulatory and general corporate issues.

"He has a breadth of experience in insurance, regulatory, litigation,

reinsurance and general corporate and transactional matters," Pritchard said. "And that's why I think he's a good general counsel."

As a first-time general counsel — he has been a divisional general counsel and senior counsel — Cotter said he works with one other lawyer, Jonathan M. Campbell, who has been at the company for more than five years.

The pair currently split matters including employment issues, regulatory affairs, complex contract negotiations and managing litigation.

Cotter said he has begun the process of laying out a more detailed "blueprint" of how the legal department will function. One thing he knows for sure is that he wants to limit his use of outside counsel as much as possible.

"The volume is incredible between ... these rules on soliciting and contacting and the other initiatives we have going on here, I'm not sure the immediate spend has gone down by much" since his hire, Cotter said. "It's gone down, but not by my salary. But the eventual goal is to bring this all in-house."

In addition to his corporate legal work, Cotter has maintained a busy schedule with bar associations and other civic involvement.

This year, he is the first vice president of The Chicago Bar Association, which means he will soon become president of the 22,000-member bar group.

He expects that position will help him raise money for the Lawyers Lend-A-Hand to Youth program. Through an annual weightlifting fundraiser Cotter began in 2002, he has raised \$250,000 for the mentor-based program.

A former football player in college, he lists his personal record on the bench press at 424 pounds.

Heather, Cotter's former law partner, said he met Cotter in 2002 when he was running for an assistant editor position with the CBA Young Lawyers Journal — which Cotter had previously chaired.

"Dan has one of the strongest desires to give back of any person I've ever met," Heather said, adding that he has seen Cotter prepare for the lift-a-thon for months every year.

After a day of work "the rest of us aren't thinking about throwing 300, 400 or 600 pounds of weights on a rack and squatting for an hour and a half. We're thinking about going to bed. But not him."

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