



WHAT DO YOUR CLIENTS WANT

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What I'm about to say will come as no surprise. The legal marketplace is more competitive now than it has ever been. We are no longer in expansion mode, with an ever-increasing demand for legal services. We are in a contraction mode, and the competition for the dwindling available work — especially the prized corporate work — is fierce.

Corporate counsel continue to reduce the number of outside firms who will be retained to service their needs. The reduction provides greater control from a cost and quality perspective. By providing more work to fewer firms, corporations are in a better negotiating position to obtain deeper discounts, specialized billing formats and reporting, and push firms to embrace their corporate initiatives. They have a greater say in the staffing of their matters, and even over what types of activities they will pay for. Sometimes, however, the results achieved by the client are not what they intended.

For example, corporate counsel refused to pay for one attorney to confer with another regarding a matter. This was seen as a measure to preclude the client from paying to train associates, or protect the client from a firm's propensity to reassign work depending on differing workloads at a firm at any given moment. The client's assumption was that if the partner couldn't bring someone up to speed regarding the matter on the client's dime, they would stop shuffling matters around so quickly to the most available set of hands at the moment.

Certainly many firms are guilty of detouring work frequently, which often leads to wasted hours from the client's perspective. In a particular instance, however, corporate counsel's restriction also served to hamper the team approach normally employed in handling such matters. All of the strategy meetings became non-billable activity. As a consequence, the firm cut back or eliminated much of this essential brainstorming. No doubt you already realize that the quality of

representation would have to be negatively impacted. Keeping the quality at the same high level could only be achieved by individual attorneys working harder trying to anticipate all the permutations of the deal. In essence, corporate counsel created a strong economic disincentive for the firm to share the cognitive knowledge of its attorneys; an unintended and undesirable result from the client's perspective.

As another example, corporate counsel refused to allow attorneys below a certain level of experience to work on their matters. The assumption by the client was that less experienced attorneys, at best, would work less efficiently. At worst, the firm would purposely assign the work downward as a training experience, and as a result the client would be paying to train those attorneys. And, the client reasoned, greater oversight would be required by the partner as well. The client was convinced that paying for partner time only, even at the higher rate, would cost less in the long run.

For the most part, corporate counsel is probably correct. But the unanticipated result was often an inability of the firm to delegate work downward to the most cost-effective level possible for the client. Let's be honest; if you're not a solo, when was the last time you actually had to get online or walk down to your library to do actual research for clients? We know that delegating that down to young associates is going to be more efficient. And probably more effective. And there are numerous other activities to which the same logic applies. So ultimately does the client save money employing this tactic? Sometimes yes, sometimes no.

I could go on, but I think you get the idea of where I'm going. What these examples teach us is not about the fact that clients, large and small, have more input and savvy about the handling of their matters than ever before. That's true of course, but what we really should learn from this is that often there is a lack of communication on both sides, and certainly a lack of trust on the client's side, as to how the matter will be handled by the firm.

It amazes me to learn what lawyers do ***not*** talk to their clients and prospects about. You are, after all, people who by training and experience should excel at interpersonal communications. Yet you often fail to employ those skills to your own benefit when it comes to determining client expectations.

Part of the new client intake process must be about examining client expectations. Or let me rephrase this statement. Perhaps the most important part of the new client intake process ***for the successful firm*** must be about examining client expectations. And that also applies to prospective clients as well. Because



before you can convert a prospect to a client, you have to be able to provide them with some assurance that you will meet or exceed their expectations.

Clients can have expectations about a lot of things. And sometimes those expectations are based on assumptions about future service based on past experience. So it's not enough just to find out that the client doesn't want to be charged for one attorney to confer with another regarding a matter, for example. You need to determine what the client is really trying to avoid or achieve by that expectation. By fully understanding what the client really wants, you can then utilize your strong communication skills to educate the client as to any possible negative consequences, and work out an understanding as to how you will truly be able to provide the client with what they really want. In this example, the client may be reluctant to admit that they are really just trying to avoid paying for needless work reassignment. But if you can lead the conversation to that point, you can then provide assurance that you either will not reassign the work, or will not charge for time incurred to bring a substitute attorney up to speed if reassignment becomes necessary.

On an ongoing basis, having a clear understanding of what the client really wants will help assigned attorneys craft their time descriptions in such a way as to demonstrate true value for the work performed. That will help to foster an atmosphere of trust.

While I'm on the subject of value, let me point out that if your bill is all about hours expended times hourly rate, you have totally missed the boat. Your client doesn't want to pay to fill your day. Your client hires you to provide a service, and expects value commensurate with the dollars they pay you.

Always remember that your billing provides an important communication opportunity. It is a chance to point out to the client the value your service provides. If you're still categorizing your billing as a necessary evil, then you just don't get it. I recommend that all lawyers, regardless of age or status, read "How to Draft Bills Clients Rush to Pay" by J. Harris Morgan and law practice management guru Jay Foonberg. It's only 109 pages, but provides invaluable information.

Returning to client expectations, let's talk about another one which is critical: method of communication. Actually, let me back up a step by pointing out that one of the top causes of disciplinary complaints by clients is lack of responsiveness. It's almost inconceivable to me, because I know that personality testing indicates lawyers rate off the chart on the "urgency" factor compared to the general populace.

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If you're all so hard-wired to be responsive, how is it possible that a lack of responsiveness is a top client complaint?

Two factors come into play. The first is that well-known devil procrastination. If you suffer from it to the point of getting client complaints, or to the point where most of your emails or letters or phone conversations begin with, "I apologize for my delay . . ." you need to recognize that it's out of hand, and take some steps to improve. You can start by obtaining a copy of my article "*Are You a Procrastinator? How to Get Back to Work*" which appeared in the September, 1990 issue of The PA Bar News.

Another factor which comes into play is avoidance. A majority of attorneys are highly conflict-averse, and will go to great lengths to avoid unpleasant conversations and confrontations. Ok, you may already be thinking about one or more of the attorneys you know who fall into the minority. The devil's advocate who will provoke a confrontation for no reason at all, other than to argue a point. How is it he or she gets such pleasure in making people squirm? The attorney who makes every single interaction adversarial, even to their client's or own detriment. They always seem to turn an ant hill into a mountain. And then there's the partner who argues about everything at a firm meeting, to the point where no one want to show up, and nothing gets accomplished.

But when you reflect on it, you will more often think about attorneys who are unable to reach a decision because not everyone agrees on the same outcome. They will never become more forceful in order to push to a decision. And we've all known attorneys who never really speak their mind to their partners about what troubles them, lest it create a confrontation. It's easier for them to let resentments fester. And we can't forget the attorneys who never provide honest performance evaluations to staff because of the fear of the reaction it might evoke, even if only temporary. Do you recognize yourself anywhere here? Where do you fall on this continuum?

When attorneys do not have an answer for a client, or have an answer they know the client doesn't really want to hear, they often go into avoidance mode. They fail to respond to phone calls or emails. Sometimes the attorney's uncontrolled procrastination causes the client's needs to go unmet. In those cases, the client can call or write repeatedly, and the attorney does not respond or accept calls. It's easier than telling the truth, from the attorney's perspective. The result is almost always a loss of the client, and often a complaint to the Disciplinary Board.

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Fortunately, I don't get too many calls myself regarding these occurrences. But every once in a while, a desperate client searches the PBA web site for assistance, and winds up in my inbox or on my vmail. When that happens, I hear firsthand about an attorney who accepts a retainer, maybe takes a minimal amount of action, and then seemingly disappears. Dozens of calls and letters from the client go unanswered. It's both amazing and appalling. I refer all of these callers to the Disciplinary Board.

Regardless of whether you have no news or bad news, you owe it to your clients to deliver it. Failing to respond is not an option which is acceptable. If you read the reporting of disciplinary actions in the Bar News, you know that the Disciplinary Board tends to be pretty harsh to non-responsive attorneys. So don't validate the client's paranoia that you are avoiding them by actually doing so. Pick your chin up, square your shoulders, and prepare to take your lumps. It's just a part of the job. Hey, if there weren't some bad parts to endure, we'd be calling it play instead of work!

I've been wandering all over the place with this article, and for a lack of my usual focus I apologize. But indulge me as I share a last thought about client expectations. That's regarding the method of communications. Simply put, you should always take the extra effort to determine client preferences. Do they prefer most contact be conducted by letter, email, vmail, fax, or text message? Do they want you to call office or cell? Do they prefer calls during work hours, after work hours, or before work hours? Do they want verbose written reports, or a bulleted list update? You may be amazed what you find out.

A recent article entitled "*Texting generation doesn't share boomers' taste for talk*" which appeared in the August 8, 2010 edition of The Washington Post was an eye opener even for me. According to the article, the millennials — those in their teens, twenties and early thirties — have caused a serious decline in telephone conversations, and a concurrent explosion in texting. All generations except mine — the baby boomers — have seriously reduced telephone time in favor of email and texting.



The Millennials view the telephone call as impolite and intrusive. It requires one to respond without preparation, it interrupts whatever one is doing when the call arrives, and it employs immediacy as a communication form, e.g. take the call right now while it rings. On the other hand, a soft blip alerts one to an incoming email or text message. One can respond at will, and take all the time necessary to craft a careful response.

For 18 to 34-year-olds, average monthly telephone minutes have plunged from 1,200 to 900 in just the past two years, according to Nielsen. Texting among 18 to 24-year-olds has more than doubled in the same period, from an average of 600 messages a month two years ago to more than 1,400 texts a month.

Most clients, and especially those prized corporate clients, want their attorney to be a reflection of their own composition and style. If the client is a young entrepreneur, you will be expected to embrace the methods of communication they wish to employ. Does the client prefer a text message? If so, you'd better start texting, or prepare to lose the client.

Not a week goes by that I don't work with a law firm which has one or more attorneys who refuse to regularly communicate with clients by email, even though the client has clearly said that is their preference. One law firm was recently fired by a good client because the service partner wasn't able to adapt to the client's desire to communicate in a less verbose manner when providing updates. The young client had no patience for a 5-page typed report when a 2-screen bulleted email would have served the same purpose.

Is the client's organization diverse? If you are dealing with a wide variety of races, political beliefs, and/or sexual orientations, it will be important to the client that your firm be able to reflect back a mirrored image, or clearly show your firm is working toward a goal of diversification as well.

Bottom line? Before you hire a marketing consultant to craft a pricey strategy for client development and retention, take a look yourself at the basics. How hard are you working to uncover the communication and cultural preferences of your clients, and to respond affirmatively? How hard are you working to



understand the real desires of your client; to delve below the surface to unearth the true reasons for restrictions or requests? Without doing so, you will probably just waste time and money on more sophisticated methodologies. After all, if the foundation isn't solid, the house will eventually crumble, no matter how expensive the wallpaper and carpeting.

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