

## Focusing on Client Service

*Lawyers tend to forget that law is a service industry. Clients have a myriad of choices for their legal representation. By focusing on client service, lawyers can better retain current clients, gain more referrals, and minimize the risk of ethics complaints.*

By Roy S. Ginsburg

If you ask attorneys whether their clients are satisfied, most would, of course, say yes. If you then ask them “What makes you so sure?” the responses would typically range from “They don’t complain” to “They’re nice to me” to “They pay their bills” to “They continue to do business with us.” But statistics indicate otherwise. Such client behavior hardly translates into satisfaction:

- In 2005, a national consulting firm polled Fortune 1000 clients to determine client satisfaction. Only 30 percent of clients said they would recommend their primary law firm.<sup>1</sup>
- The obvious disconnect between lawyer perception and client reality is supported by a recent *Corporate Legal Times* survey. When asked to respond to the statement, “The level of law firm service has improved over the past five years,” 75 percent of the lawyers responding said yes, but only 35 percent of the general counsels responding agreed.<sup>2</sup>
- Customer satisfaction surveys in all industries indicate that only about 4 percent of customers receiving poor service will actually complain.<sup>3</sup> Don’t assume that the figure is any different for the legal industry.

Why don’t clients complain? In the legal industry, the percentage who complain may be even less than in other fields. Clients are often intimidated by their lawyers, and, as a result, they wouldn’t think of complaining. People don’t often express their discontent. Think about the times you have been out to a restaurant and received lousy food or service. How often have you complained to the manager? Most of the

time, you don't bother — you just never return.

Can you conclude that the clients who are “nice” to you are, indeed, satisfied? When you practice in a state where everybody is purported to be “nice,” don't be lulled into thinking that clients are as satisfied as you think.

Lawyers also assume that timely bill payment reflects client satisfaction. That's hardly an accurate assessment. Most of us likely pay our cell phone bills on time, and yet we could probably write a book about ways that cell phone companies could improve their service.

Finally, many attorneys believe that clients who continue to do business with them must be satisfied. Why else would they keep coming back? Reasonable assumption? Yes, but wrong in many instances. Consider the cell phone company example again. Reasons we don't switch range from laziness, to lack of time to research other companies, to assuming competitors are no different. While service may not be good, it isn't awful. One of two things could make us switch: either an instance of horrendous service or learning that a competitor is offering a significantly better deal. The customer who is looking for an excuse to stop doing business eventually may find it. Your clients are no different. Many are waiting either for something noticeably better down the street or for you to make a colossal mistake.

### **Importance of Client Service**

Two hundred attorneys from the largest 1000 law firms were recently asked, “If you could offer someone advice on how to be a successful lawyer five years from now, which areas would you recommend they improve?” Forty-three percent responded that focusing on client service was most critical to success. Client service was the area most frequently identified for improvement, and was mentioned more than twice as often as the next two most popular responses, specializing in one's practice area and networking.<sup>4</sup>

Client service is the most critical component in maintaining client satisfaction for several compelling reasons: it sharpens your competitive edge, keeps your focus on controlling what you can control, and helps you avoid common ethics complaints.

### **Achieving the Competitive Edge**

Nordstrom and Southwest Airlines both have great reputations for customer service. But can you name a law firm with a great reputation

for client service? Didn't think so. Law firms certainly have reputations, but they are usually built on such things as their expertise or aggressiveness — not how well they serve their clients.

Lawyers tend to overestimate the importance of their expertise and competence as their competitive edge. This is especially true in the corporate world. The reality is that the majority of law firms representing corporate America do very good work. If my own experience as an in-house corporate attorney is any guide, those who hire outside counsel rarely, if ever, worry about the competency of the attorneys they retain, and their confidence is usually well-placed. However, the type of service outside counsel will provide is a recurrent concern. Will they be responsive? Keep me informed? Keep the matter moving along? Bill the company reasonably? Treat me like I wanted to be treated? As one who routinely hired outside counsel, I rarely had complete confidence in these matters. If I did have complete confidence in a firm, they would continue to receive my business.

For any lawyer seeking to develop new business, a critical challenge is to distinguish oneself from the competition. What better way to do that than by emphasizing how you serve your clients? Lawyers who are technical experts are a dime a dozen; lawyers who provide extraordinary client service are few and far between.

### **Controlling What You Can**

While the workings of the law may remain a mystery to clients, they *can* judge lawyers based on three things: results, outputs and service.

“Results” means simply “Did we win?” or “Did the deal close?” But how much control do lawyers have over these matters? Very little. While advocacy skills can certainly make a difference in litigation, most cases are won or lost based on the facts and the law — factors over which lawyers have little control. Even the best corporate lawyer may not be able to close a transaction if a party's unreasonable demand blows up a deal.

“Outputs” are the work produced by lawyers. Examples include briefs or contracts. Few clients carefully review a lawyer's briefs. And even if they do, it's highly unlikely that they know the difference between a good brief and bad one. As for contracts, even fewer clients wax ecstatic over the wording of an indemnification clause. The fact of the matter is most clients, even sophisticated in-house counsel, either don't have the time or the expertise to intelligently evaluate your work product.

“Service” is another matter. Lawyers have abundant control over whether they return a phone call within a reasonable amount of time, and clients can readily evaluate whether the lawyer was responsive. Lawyering involves many things that are beyond an attorney’s control, as well the exercise of skills that clients cannot evaluate. Why not take full advantage of the one thing you can control and clients fully understand?

### **Avoiding Ethics Complaints**

In Minnesota, a significant percentage of ethics complaints relate to service issues.<sup>5</sup> Within the Minnesota Rules of Professional Conduct, four rules govern most of the service-related aspects of the lawyer-client relationship. The first is Rule 1.2 — Scope of Representation. Here the common complaint is “Why didn’t you do what I asked you to do? The second rule is Rule 1.3 — Diligence. Here, clients complain “Why is this taking so long?” The third rule is Rule 1.4 — Communication. Clients want to know “What is going on?” Finally, there’s Rule 1.5 — Fees. The complaint here is “Why did this cost so much?”

Establishing an excellent working relationship with clients goes a long way toward avoiding these types of complaints. In this respect, lawyers are no different from other service providers. The reason their clients stay with them, despite the possibility that someone else could do a better job and for less money, is because of the relationship. If you like them, trust them, and believe that they care about you and will do their best for you, you are unlikely to look for an alternative. These are the precise reasons why clients keep coming back to their lawyer.

### **Managing Clients’ Expectations**

What’s the secret to establishing great relationships with clients? Manage, and at times, exceed their expectations. Whenever involved in a matter, clients have certain expectations regarding the situation. Successful lawyers ascertain those expectations, communicate and negotiate which expectations are realistic and which are not. Then they proceed to satisfy, or better yet, exceed those expectations. They also check in with the clients throughout the course of the representation to make sure their expectations are being satisfied. Client expectations are fluid and the lawyer must carefully perceive the movements. Most clients won’t complain when something disappoints them, but they won’t easily forget either.

Clients’ expectations can be broken down into four key areas, each of

which the lawyer must manage in order to keep the client satisfied:

- Quality
- Timeliness
- Price and Billing
- Personal Interaction

Ultimately, the lawyer will be judged in all of these areas. By the time the matter is concluded, the client will walk away with a “feeling” that the entire experience was either satisfactory or not, based on how well their expectations were handled.

### **Quality**

Quality consists of two components. The first is *process*, which covers how easy it is to do business with the lawyer. Process-type items that may be important to clients include: How convenient is parking? Is there something to read in the reception area? Are bills easy to understand? Does the lawyer who needs to review client documents make an extra effort to assist the client in gathering them up? In short, are the lawyer’s processes as user-friendly as possible?

The second component of quality is the *outcome*. One of the most challenging aspects of being a lawyer is communicating to clients what you think the result will be. Most lawyers overestimate the importance of the outcome as a factor in determining client satisfaction. While clients are obviously concerned about outcomes, client satisfaction is determined far more by how well the attorney manages the client’s expectation of the outcome, rather than the outcome itself.

Attorneys tend to fall into one of two camps: cheerleaders or Chicken Littles. The cheerleaders tell a client what they want to hear. In many instances, they end up with a very disappointed client when the bad result comes in. Chicken Littles tell their clients every conceivable reason why the matter may not turn out to the client’s satisfaction. Attorneys do this because they believe that the client, if adequately forewarned, won’t blame them for a bad result. The problem with this approach is that no one wants to hire a lawyer to tell them all of the ways the matter can go wrong. Clients want lawyers with a can-do attitude. The best lawyers combine the roles of cheerleaders and Chicken Littles. They consistently convey a positive and supportive outlook, temper it with realistic expectations, and know how to deliver unfavorable news. It is an art and a science that few do well.

### **Timeliness**

Anyone who calls someone and leaves a telephone message, including a lawyer's client, has an expectation of when the call will be returned. Do you know what your client's expectation is? Have you thought to ask? If you don't ask, how can you successfully manage their expectation? People's expectations regarding others' response to email are similar. No matter how busy we are, under most circumstances, with the technology available today, there is no excuse for failing to get back to a client on the same day a call or email is received. When necessary, a voicemail or email in the evening, acknowledging receipt of the message and letting the client know when they can expect a response, will suffice. It's a common courtesy that all clients deserve.

### **Price and Billing**

A recent survey by *Corporate Legal Times* indicated, unsurprisingly, that billing issues are the number one source of friction with corporate clients. But a startling statistic from that same survey indicated that 35 percent of the general counsels believed that law firms padded their bills.<sup>6</sup> In other words, over a third thought that major corporate law firms were literally stealing from them. That's a pretty sad commentary about our profession.

There is obviously a serious communication gap between lawyers and clients regarding fees. Many lawyers feel uncomfortable discussing fees and either simply state their hourly rate or that they work on a contingency fee basis. Rarely do lawyers explain to clients the value of the service being provided. Clients will have far fewer complaints about high fees if they have a better understanding of what their lawyer is trying to accomplish and why certain tasks are necessary. An up-to-date budget, provided to the client on a regular basis, can promote better understanding. Few things upset clients more with respect to fees than a monthly bill that has unanticipated fees on it. That can be avoided with proper communication. If something takes longer than anticipated, the client should be informed at the time the work is being done, not when the bill is sent out weeks later. Here again, managing the expectation is key.

### **Personal Interaction**

Finally, there are the interpersonal skills of the lawyer. Treating the client as they want to be treated — courteously, respectfully, reliably, and with due appreciation for their business — is so important it can't be overstated. The client may find a mistake here unforgivable and take their business elsewhere. The client who overlooks inconvenient parking, forgives a loss in litigation that was foreseen and forewarned, brushes off late return of a phone call, and takes a higher-than-

anticipated bill in stride is unlikely to respond well to a personal slight. The attorney who is rude, doesn't listen, or isn't reliable will lose many clients. Why? Because clients take those things personally.

### **Conclusion**

In sum, successful lawyers integrate excellent client service as a component of their practices, gaining a competitive edge and significantly reducing the possibility of an ethics complaint. Those who may think, "I don't have time for all this *stuff*; I only have time to practice law," should consider the truth, that all of this "stuff" *is* part of the practice of law.

### **Notes**

1 BTI Consulting Group, Strategic Review and Outlook for the Legal Services Industry 2006.

2 *Corporate Legal Times*, July 2005, p. 37.

3 Petra Marquart, *The Power of Service: Keeping Customers for Life*. Ouray, CO: Ponderosa Press, 1998, p. 8.

4 Survey reported by Robert Half Legal, January 11, 2006 press release.

5 The Minnesota Lawyers Professional Responsibility Board codes each complaint it receives into one of over 50 categories covering a wide variety of subject areas. Complaints coded in service-related areas (*e.g.*, Communication, Diligence, Fees) comprise over 25 percent of the total complaints received by the Board from October 2004 - October 2005. Since many complaints include multiple allegations, but are only coded for only one allegation, the Board estimates the total percentage of complaints with a service-related issue to be almost half.

6 *Corporate Legal Times*, August 2005, p. 14.

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**ROY S. GINSBURG** is an attorney coach and CLE provider, consulting in areas of business development and professional growth. He has experience at both large and small law firms, in corporate legal departments, and as a solo practitioner. [www.royginsburg.com](http://www.royginsburg.com)