

Q&A: Demystifying the attorney-client relationship – How to develop, build and support a successful relationship

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There is a plethora of advice for attorneys on the best ways to develop and sustain long-term client relationships. Authors typically approach the topic from a variety of perspectives, including those of outside attorneys seeking clients, law firm marketing professionals seeking to develop new business and in-house attorneys buying legal services.

Rarely, however, do attorneys “compare notes” with their clients on how to create and maintain effective attorney-client relationships. This article provides important perspectives on key issues affecting attorney-client relationships from the viewpoints of an attorney with a national law firm and a chief in-house counsel.

By squarely addressing the expectations and protocols for such business relationships, we will demystify the issues that are critical to building and sustaining a law practice, while fully meeting a client’s expectations and legal needs.

Some of the advice may seem elementary, but it is surprising how many outside firms and inside counsel fail to consider these simple, yet critical details. The attorney-client relationship can at times be complicated, but the key is to maintain the relationship during complicated times.

Thomson Reuters: As an outside attorney, you’ve worked hard to market your skills and the client has decided to retain you. Now what?

Rodolfo Rivera and Lauren McKenna: Communication is key. This should be obvious. From a fundamental point of view, communication starts with the first conversation with your new client. Have a frank discussion about his or her expectations.

Ask about company procedures for outside counsel. Learn as much as you can about the company and its affiliates before the discussion, so you can ask informed questions and not waste time collecting information that is available elsewhere.

Remember that larger clients may have many different needs for legal services. Having full knowledge about the client will allow you to anticipate those needs.

Explain to the client how you plan to staff their matters. Clients’ matter staffing expectations may differ significantly from those of their outside attorneys. Regardless of how a matter is staffed, remember that the client has hired YOU and wants to know that you will remain involved in all work, whether you are performing it directly or delegating it to other attorneys.

Ask about the business consequences of the matter you are handling. Cases that have little or no financial exposure can have a significant adverse impact on the company’s business.

Be responsive and timely. Nothing frustrates a client more than failure to return a phone call or respond to an email. All attorneys, including in-house counsel, have demands on their time. Clients do not want to hear that their needs are secondary. Responsiveness builds trust. Without trust, there can be no relationship.

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Make sure your administrative staff also understands the client’s process because they will be responsible for many of the administrative services such as billing, less formal communications and many other tasks.

TR: How do you fulfill your obligation to keep your clients informed without overwhelming them?

RR and LM: Ask the client how they prefer to be informed. A simple email will suffice for some clients, while others will want detailed memoranda followed by brief, periodic updates.

Always provide drafts well in advance of pleadings prior to filing, contracts, etc. so that the client can have input. For lengthy documents, include an executive summary. Many clients are too busy to read these documents in their entirety.



For this reason, all communications should be accurate, concise and to the point. Talking around an issue just undermines your credibility. The emails containing the attached documents should contain a short executive summary.

If you are unsure of, or unable to ascertain your clients' communications needs, assume they want every detail. It is better to supply more, not less. Clients will let you know if they prefer more concise communications, but they can't do so if you don't give them the opportunity.

The client should know which lawyers are working on their matter. Too often, firms have a tendency to over-lawyer a matter. Advise a client when a new attorney has been placed on the matter and why.

Clients that insist on taking a case to trial don't always consider the time and cost involved.

TR: Transparency is especially important when it comes to billing. What billing practices should you follow, and how do you keep your clients informed?

RR and LM: No one likes to be confronted with a large, unexpected bill. Many companies budget for legal fees throughout the year and surprises can put in-house counsel in a difficult position with THEIR CLIENT, company executives.

If a bill is going to be higher than normal, call the client to give them a heads-up. This gives the client the opportunity to explain any unusually high fees to the C-suite.

Be meticulous about reviewing bills. For example, partners billing the client for conducting research or reviewing work done by other partners, is generally unacceptable.

If and when the client rejects some or all of your bills, talk to them about it. Ask why. Don't write off the bill without at least having a conversation. Don't try to explain a high bill by saying "I never billed you for all my time."

That's just an excuse. If you are going to cut the bill, be specific. Show the client where and why you made the cut. Perhaps an associate spent way too much time on the matter. The client will respect your diligence and care.

Sending bills on a regular, monthly basis is a way of keeping the client informed. Waiting six months or more to send a bill will frustrate the client and can cast doubt on the necessity of the work performed.

Some outside counsel try to excuse infrequent or irregular billing by saying they were working diligently on the case. This rings hollow with clients, especially when billing is handled by administrative staff.

TR: How important is actual, rather than virtual, client contact?

RR and LM: There is no substitute for face-to-face meetings. Get together with your client at least yearly. While current conditions can make this difficult, and virtual options are a pale imitation, in-person meetings will once again be possible.

Make sure you take advantage. They provide an excellent opportunity to provide updates on matters you are handling, strengthen your relationship and gain exposure to other company employees who may be a source of business.

Invite the client, as well as his or her colleagues, to lunch or dinner. The individuals your client invites may also be a source of business within the company. Where applicable, combine the meal with continuing education.

Do not use client meetings as a platform to brag about yourself and the firm. There is nothing wrong with mentioning some of your triumphs, but prioritize listening to your client and getting to know them better.

Don't ever get too comfortable with the relationship. Fortunes can change like the wind. One moment you are the "go-to" attorney and the next you are on the outside looking in.

That said, don't be afraid to take the victory lap if you win a major case. This can be the best time to visit a client at their business. Everyone will want to hear about the win. Use this as an opportunity to ask about other matters with which you can assist.

Attentive listening and clear, forthright communication form the foundation of fruitful, long-lasting attorney-client relationships.

TR: You're looking at the possibility of taking a case to trial for your client. What should you keep in mind?

RR and LM: When it comes to deciding whether to settle or go to trial, each case is unique. There may be a good business reason for taking what seems to be a small matter to trial. Conversely, a client may want to settle a large matter.

Clients that insist on taking a case to trial don't always consider the time and cost involved. Providing the client with a detailed, written estimate of how much a trial will cost upfront in the form of an email or letter is critical and prevents surprises. Having this information to refer to will also make it easier to discuss a settlement, if that is the best option.

Too often, on the eve of trial, after a great deal of time and money has been spent on discovery and trial preparation, an attorney will inform a client that a matter should be settled.

This is disconcerting when discovery failed to reveal new information that would necessitate a settlement.

When working on discovery, rely heavily on a point person who can facilitate getting the needed documents, arrange to talk with company witnesses, etc.

TR: You're going to make mistakes eventually. How do you handle them with your clients?

RR and LM: Mistakes are inevitable. When they occur, FACE THEM HEAD ON. Never hide behind excuses. Admit the mistake and tell the client what you plan to do to correct it and prevent a similar problem from happening again. Also, never bill the client for correcting your mistakes.

Admitting mistakes actually builds trust, rather than depleting it. This may sound counterintuitive, but trying to hide mistakes can lead your client to distrust and lose confidence in you. Trust is built on communicating the good AND the bad.

TR: Should you consider the profitability of representing a particular client?

RR and LM: It's great to be retained, and satisfying to do good work, but is the relationship making you and your

firm money? Some clients continually slash fees to the point where representing them is not profitable. Perform an analysis annually to determine if the client is profitable.

Any time you spend working for less than you are worth, is less time that you can spend on a client that appropriately values your advice and legal services.

KEY TAKEAWAYS

In the final analysis, attentive listening and clear, forthright communication form the foundation of fruitful, long-lasting attorney-client relationships. That's true whether you are dealing with billing questions, litigation decisions or matter staffing.

But building trust takes time. Attorneys should be proactive in creating opportunities for face-to-face meetings that facilitate an honest exchange of ideas so they can tailor their service to their clients' needs. The attorney-client relationship thrives best when both individuals truly understand each other.

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