

Client Retention: A Most Inadequate Concept

By Allan Colman

Consider a bit of simple if circuitous logic. Premise One: Nothing is more professionally important than high-quality work. Premise Two: Most new business comes from existing business. Premise Three: The selling process hardly ends upon retention, but launches into the next phase when the goal is to develop new business from existing business. Premise Four: Clients really appreciate high-quality work.

And the conclusion that draws conceptually from all four premises: High-quality work for existing clients is the most important and most appreciated selling tool there is.

For that reason, the common terminology of “client retention” is inadequate. Client retention implies just that: retention or, worst case, hanging on for dear life to the client’s good graces. To be sure, the selling tool that we have identified as “high-quality work” goes much further because it is a constant selling process in which service providers are ever intent on outstripping their own past performance in order to increase market share.

In this case, that “market” is a single corporate legal budget and “share” is the percentage of the budget earmarked for you. There are closing skills apropos when you’re pitching a client for whom you’ve never worked in the past – and there are closing skills needed for clients with whom you already have a history.

This kind of lawyer marketing is a sweet deal all around. The buyer gets more quality and the seller gets more money. There’s a force of necessity driving the process as well because, if the market share doesn’t keep increasing, it will erode and the client eventually go away.

In that sense, the commonplace notion of “client retention” is a recipe for failure.

Key Redefinitions

There is always value in reexamining the terms we commonly use, often because we are able to suddenly comprehend how limited and limiting those terms (like “client retention”) really are. There is equal value in also reexamining what we mean by “high-quality work.”

High-quality work in its most meaningful sense cannot just be work on a specific project or engagement. Nor is it even success rates on lawsuits or transactions. Law firms are instead measured on how successfully they understand what in the inside/outside dynamic irritates clients, often to a point of silent frenzy, and how expeditiously firms ensure that they will correct those offending behaviors. Such responsiveness is fundamental to attorney marketing.

Most law firms persist in such behavior, no matter how often they’re warned. Often those warnings come from legal consultants or other advisors of one sort or another because, unfortunately, the clients themselves will not always say anything until it is too late. Maybe they’re shy at some level. Maybe they’re just too angry to articulate what they’re feeling. Maybe they resent having been put in a position where they need to say something.

Think of clients as Brits staying in hotels. I once asked a friend in London why the hotels there (other than the top-price abodes) are so lousy. She said it's because the English simply never complain. To this day, there's probably not enough motivation for local innkeepers to improve. By contrast, for law firms, improvement is a matter of survival.

This dynamic of client rage and client silence can actually be good news; in fact, great news. After all, if a law firm tangibly improves how it delivers legal consulting, if it responds early to quash incipient client dissatisfaction, it will potently differentiate itself from the mass of competitors who simply refuse to change or cannot – even as they continue to rate their own performances high while study after study shows that their clients have a very different opinion indeed.

Danger Points

Let's get specific. A recent survey from the BTI Consulting Group called "What Drives Clients Crazy" defined eight areas of client dissatisfaction. Extrapolating from these findings, we can begin to develop a further understanding of the problems that, at worst, have transformed the client/lawyer relationship into an adversarial state of affairs. We can then at least begin to grope our way toward a multifaceted solution.

- Decisions without authorization. The sin here isn't necessarily sloppy management. The sin here is arrogance; that is, the idea that, since we know so much more than the client, we have every right to take action without clearing it first. I was recently told about a legal malpractice claim against a firm for settling a case instead of taking it to trial. My guess is that this lawsuit is a spurious fishing expedition, but the very fact that such a cause of action is at all conceivable speaks volumes about client/lawyer disconnects in the current environment.
- No response to requests for changes in billing. Even after all these years of embittered client complaint, law firms simply don't want to talk about billing. The problem may be greed. Just as often, the problem has to do with internal law firm policies and politics that rigidify billing methodologies. But why should the client suffer because of your internal issues?
- Apparent disregard for client budgets. Firms should shudder first before they send a bill in excess of agreed-on fees. If there is overage, call the client before you submit the invoice. Even better, install a triggering mechanism that allows you to apprehend the likelihood of hours-in-excess-of-budget, and call the client before your lawyers actually do the work.
- Failure to respond to requests for help in other practice areas. Again, internal politics at law firms can militate against this needed client service. Yet even firms where the practice groups are hopelessly locked in isolate silos can find ways to be responsive. Refer the client outside your own law firm if, for whatever reason, you don't have or cannot provide the additional service capability.
- Over-taxed partners. Here, to be sure, is a problem fundamentally related, not just to day-to-day management, but to a firm's whole growth strategy and how it has chosen to implement it. Why can't the law firm do the work for which it was retained? Is it too oriented toward short-term profits to hire a few more associates at the senior

level? Clients who cannot get the full attention of the professionals they hire because those professionals are stretched beyond capacity may well wonder if they were sold a bill of goods in the first place.

- Not replacing relationship partners when needed. Maybe it's simple inertia. Maybe, again, it's internal politics when firms haven't got the guts to say, "Fred, I don't think the ABC Corp. feels all that comfortable with you. Why don't we let Jack deal with the GC over there? They seem to have more in common."
- Tedious self-promotion that ignores client needs. This offense is not limited to pre-retention pitching. We've discussed the "constant selling process" that begins after retention. At that point, there should not be a single syllable whispered about your firm's virtues. If the client is not yet aware of those purported virtues after working with you, there's not much point in discussing them now.
- Groundhog Day Syndrome, which is the behavioral tendency to repeat self-destructive behavior almost as if you're sleepwalking through a nightmare, like Bill Murray in the movie *Groundhog's Day*. It's a cultural pathology that can be difficult to remediate. One approach is to enforce discussion of every failure, every setback, with an eye toward avoiding the repetitive ill effects in the future.

A Corrective Mindset

As a general response to these myriad problems, conduct an "engagement operational review" on a regular basis. You may identify one recurrent syndrome. You may disclose more complex internal issues that affect client relationships and, by so doing, begin to provide yourself with a strategic blueprint for needed change.

Frequent client communications can be corrective at many levels. On the one hand, the client will pinpoint specific concerns that you can address. On the other hand, the very fact that you have broadened the scope and increased the frequency of your client outreach can have a generally soothing effect, and for good reason. You are sending a constant message to clients that you are indeed committed, that success on their behalf is top-priority.

Such intensified communications even allow clients to more contentedly tolerate problems that cannot be immediately fixed because the broader message is that you are on their side and that the benefits of the relationship for them outweigh the current dissatisfactions.

Perhaps most important, a truly corrective mindset must begin where this discussion started: Think beyond client retention. Think beyond such concepts that are ultimately based on maintaining the status quo. A relationship that doesn't grow deteriorates. To grow a business relationship, you must sell.

And, to sell, you must constantly improve.