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Counsel's Conundrum:

Cracking the Code of Client Expectations

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Introduction

The importance of a positive business relationship between a corporation and its outside counsel cannot be overemphasized. Corporations turn to outside counsel to address niche legal concerns or problems that require resources beyond its own capacity. On the flipside of the coin, law firms cannot sustain themselves, let alone grow, without loyal corporate clients that perform the dual role of bringing in recurring business and referring new clients. Such a symbiotic relationship, however fragile, must be preserved. To do so, both outside counsel and corporations alike can benefit from a better understanding of how their roles impact the relationship in the long term.

This paper will refer to the Wolters Kluwer “Future Ready Lawyer” 2022 Survey Report to provide some data that reflect trends in client expectations and firm-corporate relationships. The study surveyed 751 legal professionals, from organizations and firms across Europe and the United States. The survey supports the argument that an understanding between outside counsel and their corporate clients is especially pertinent now more than ever—84% of surveyed in-house lawyers saw their corporation as having become “more selective” of the law firms with which they do business. Perhaps more shockingly, 32% of corporate lawyers saw themselves seeking out a new firm within the next year.ⁱ

This paper attempts to provide the factors that may be driving corporations’ dissatisfaction with their outside counsel by putting forth the qualities of a law firm that matter most to corporate clients and by revealing some common client practices that may harm the in-house-outside-counsel relationship.

Client (In-house) Expectations of Outside Counsel

A law firm is a business. Like most businesses, their clients want fast service, high-quality work, for the least possible cost. In addition, corporate clients may expect their outside counsel to “handle all aspects of the client relationship . . . while practicing law, serving on committees, and developing new business.”ⁱⁱ Of course, it is impossible to create a “one size fits all” process that meets the expectations of every single client. According to the 2022 Wolters Kluwer survey, only 46% of in-house departments responded they “trust in [their] firm to meet [their] needs,” despite having high expectations for their law firms to do just that. Wolters Kluwer found the top five reasons that in-house legal departments would seek out a new law firm are:

1. The firm’s failure to demonstrate efficiency and productivity;
2. The firm’s failure to equip its staff with the correct tools to perform the client’s work;
3. The in-house department no longer trusts the firm to meet their needs;
4. The firm does not specialize in the legal services the client needs; and
5. The firm does not leverage appropriate technology to deliver the best services possible.ⁱⁱⁱ

Among the many articles, opinion pieces, and surveys that discuss firm-client relationships, the following criteria were consistently cited as in-house clients’ primary expectations, providing additional insight into what may cause the disintegration of a client-firm relationship.

Cost Control. Surely the cost of legal services is not a top priority for corporations. After all, it’s hard to put a price on quality legal counsel when the alternative could result in far more costly liability. Recent legal journalism has seemed to put this assumption into doubt—highlighting the supposed shift corporate clients are making from big law firms to small ones because small to mid-size firms provide equal or better client service for lower prices.^{iv} While high legal costs are often cited as one of in-house clients’ biggest complaints, clients do not expect “cheap” legal services. Instead, clients expect their firms to have some “cost sensitivity and control” by reviewing bills to ensure they are “reasonable and accurate” for the services they are providing.^v Firms can benefit by periodically reviewing their billing methods to ensure that they are not charging for inefficient services.

Relationship-building. Did you know that, according to a prominent legal marketing association, 1 in 5 clients cannot name the partner within their outside firm who handles their case? Further, 21% of clients consider their partner “phantom,” meaning they don’t have any regular contact with their law firm partner.^{vi} Such statistics are seemingly detrimental to outside counsel’s business. What client would feel loyalty to a partner they don’t know or never hear from?

Effective communication is especially important since 19% of in-house clients “inherit” the law firm relationship when they begin their corporate role.^{vii} Thus, even if a firm partner feels like it has an established, lasting relationship with the client, that feeling might not be reciprocated. Outside counsel should challenge themselves to touch base with clients who have turnover in key roles. Perhaps communication concerns leave open a good opportunity for lawyers to use their firm resources, by connecting clients with younger associate attorneys.

Finally, in-house clients want outside counsel they can trust. While trust is unique to every situation, in-house clients want to be able to have a relationship in which they can call outside counsel and gain valuable insight and advice on matters outside the scope for which they are retained. Those who help clients outside of billable time often win more work in the long run because in-house clients know they are there for them.

Responsiveness. Of in-house clients who do have a personal relationship with their outside counsel partners, many take issue with the frequency—or lack thereof—of their attorney’s communication. Clients who don’t hear from their attorneys can be left feeling anxious, wondering if their email was received, or if any progress has been made on their case. It is simply a “price of admission” that emails and phone calls are returned in a timely manner. Additionally, to improve client-firm communication, outside attorneys may consider tailoring their communication based on client preferences and feedback while setting reasonable communication expectations early in the relationship. If outside counsel has a particularly busy time period in which they are attending to other pressing matters, clients may like to be forewarned so they know to expect longer response times. Lawyers who rely solely on email to update their clients may be missing relationship-building opportunities. Instead, by providing status updates over the phone, lawyers can save time typing up lengthy emails while giving clients personal attention.^{viii}

Understanding the Business. Most corporate clients rely on their outside counsel to understand their business. A Wolters Kluwer survey noted that in-house legal departments ranked the “ability to understand client needs” as the second most important factor in evaluating their law firm.^{ix} In addition to doing sufficient research, outside counsel should take time to speak to their clients about their business goals and needs. Without such an understanding, in-house clients may find that their outside counsel’s suggested solutions don’t align with the corporation’s business practices or goals.^x

Expertise and Specialization. Corporate clients, especially those with their own general counsel, expect their firms to bring a level of expertise that they cannot provide themselves. General counsel reports looking for, and trusting, outside attorneys that have a successful track record in their practice area.^{xi} Ultimately, a firm’s ability to bring invaluable experience is one of the primary reasons a corporate client needs outside counsel in the first place. Firms may benefit from a strategy that allows them to invest in client relationships while simultaneously showcasing the firm’s expertise. This can be done by offering Continuing Legal Education programs or providing other “educational touchpoints.”^{xii} A subset of this criteria is a firm’s ability to stay up to date. As the legal field is always changing, corporate clients depend on their outside counsel to be informed of the legal developments that impact their business.

Diversity, Technology, and Likeability. Many articles described these final three law firm qualities as becoming increasingly more important to in-house clients. More corporate clients seek out and expect their outside law firms to make strategic efforts to promote diversity in the law firm. While some clients seek firms with specific quotas,

others simply want to ensure they are dealing with a firm that aligns with their own values.^{xiii} Discussions with clients on their expectations and intentionally staffing pitches and assignments can go a long way toward satisfying a client’s desire for more diverse outside counsel.

The next criterion, the use of modern technology promotes other important law-firm qualities—cost and efficiency. Lawyers with an inability to incorporate new technology into their practices are not likely saving their clients the time or money that tech-savvy lawyers do.^{xiv} In fact, the Wolters Kluwer survey found that 82% of corporate legal departments find it important for their law firm to leverage modern technology to promote efficiency and productivity. With this in mind, it seems obvious that firms should be, at the very least, discussing how they can use and implement Artificial Intelligence systems like Chat GPT.

Finally, the fundamental “likeability” quality deserves mentioning. In-house clients report feeling “talked down to” by outside counsel who think of themselves as more knowledgeable than in-house clients. No client relationship can go very far when one party feels disrespected.^{xv} Simply showing patience and respect can go a long way.

What Outside Counsel Desires from their In-house Clients

Outside counsel should take primary responsibility for making clients happy by catering to their needs—the customer is always right, right? While that remains true, a positive firm-client relationship is a two-way street. Thus, corporate clients can certainly help foster the relationship by engaging their outside counsel with understanding and realistic expectations. Outside counsel have identified ways that corporate clients can make their relationships move forward with ease.

Pay attention to deadlines. Clients can save their outside counsel time and stress by keeping track of important deadlines. Most of the time, a client does not need to respond to their outside counsel with urgency. Firm lawyers are the first to understand that some communications must be put on hold. When it comes to certain matters, like mergers and acquisitions, or litigation, deadlines are extremely important. Often, outside counsel is counting on in-house clients to provide them with pertinent information or documentation before they can meet a pending deadline. A client’s failure to do so in a reasonable time may put the lawyer in a tough spot, causing them to rush work that could have been completed with diligence. Clients can help their lawyers by responding to documentation requests promptly, requesting a calendar with all important deadlines, or setting themselves deadline reminders.

Set realistic turn-around times. In-house counsel often come to their lawyers expecting results within specific time frames. Firm lawyers, especially firm partners, are managing many clients at once. Any single matter, like trial, can make it so their availability at any given time is limited. Clients who want work done by a set date can help by giving their outside counsel plenty of wiggle room, rolling with the punches, and trusting that their outside lawyer will ultimately meet their legal needs.

Engage in the Process. Some corporate clients want their lawyers to deal with “all that legal stuff” they find mundane and, at times, an administrative burden impeding their business’s progress. As a result, outside counsel can often have a hard time meeting such clients’ needs. Worse, clients may look to blame their lawyer if something doesn’t go their way—“if only my lawyer did it that way instead!” Of course, competent outside counsel can, and will, understand a client’s business but every business is unique, and many legal decisions require the client to make business decisions that counsel cannot make on their behalf. In-house clients who are intentional and engage with the legal process can not only foster a positive relationship with outside counsel but are more likely to be satisfied with their legal assistance.

Timely payment. Out of all the headaches clients can cause their law firm attorneys, failing to pay timely legal bills

may fall at the top of the list. For one, law firm attorneys are part of a larger organization, all depending on bills being paid to function. Thus, an untimely bill puts unnecessary pressure on the law firm partner who maintains the client relationship. Nor does untimely payment help the in-house-outside-counsel relationship, forcing the firm attorney to pester the client for payment. Instead, untimely bills introduce feelings of distrust and hesitancy. Clients who show repeated patterns of untimely payment, or only pay the firm right before they need help with a new matter, can make their outside counsel question whether they should continue taking on your work for fear that, one day, payment might just not come.

Conclusion

The relationship between outside counsel and their clients is one that takes quite a bit of effort. In-house clients apply significant pressure on their outside counsel to meet all their business and legal needs, and law firms have no easy way to balance such pressure. Even so, firm lawyers should attempt to meet the basic needs of their client's expectations by being cost-effective, communicating frequently, understanding their client's business, and providing necessary legal expertise. On the other hand, clients must put themselves in their law firm's shoes and attempt to understand how they may contribute to the professional relationship in a positive way.

ⁱ Wolters Kluwer, The Wolter Kluwer Future Ready Lawyer, 2022 Survey Report, pg.10 [https://assets.contenthub.wolterskluwer.com/api/public/content/0b7fba752d914feba877661dfac277ab?v=e55890cf&utm_source=Eloqua&utm_content=WKLSWEN_FRL_2022_Email%204&utm_campaign=&utm_econtactid=CWOLT000038493376&utm_medium=&utm_crmi d=].

ⁱⁱ Nussbaum, Why Corporate Law Firms Need a Client Value Team (2022) [https://www.jdsupra.com/legalnews/why-corporate-law-firms-need-a-client-3621191/]

ⁱⁱⁱ Wolters Kluwer, The Wolter Kluwer Future Ready Lawyer, 2022 Survey Report, pg.10 [https://assets.contenthub.wolterskluwer.com/api/public/content/0b7fba752d914feba877661dfac277ab?v=e55890cf&utm_source=Eloqua&utm_content=WKLSWEN_FRL_2022_Email%204&utm_campaign=&utm_econtactid=CWOLT000038493376&utm_medium=&utm_crmi d=].

^{iv} In the Eyes of Big Corporate Clients, Smaller Firms Are Better, Logikcull.com [https://www.logikcull.com/blog/in-the-eyes-of-big-corporate-clients-smaller-firms-may-be-better].

^v 6 Things General Counsel Want From Outside Counsel, Gouchev Law (citing 2022 EY and Harvard Law legal profession survey) [https://gouchevlaw.com/6-things-general-counsel-want-from-outside-counsel/].

^{vi} Rynowecer, 7 Client Facts that may Surprise You – And How to Leverage Them to Deliver Superior Client Service (Nov. 2, 2023), StrategiesandVoices.org [https://strategiesandvoices.org/Article-Details/7-client-facts-that-may-surprise-you-and-how-to-leverage-them-to-deliver-superior-client-service].

^{vii} Rynowecer, 7 Client Facts that may Surprise You – And How to Leverage Them to Deliver Superior Client Service (Nov. 2, 2023), StrategiesandVoices.org [https://strategiesandvoices.org/Article-Details/7-client-facts-that-may-surprise-you-and-how-to-leverage-them-to-deliver-superior-client-service].

^{viii} Feit, Beyond Quality Work Product: The Smaller Nuances That Can Matter in a Law Firm–Client Relationship, American Bar Association (2023) [https://www.americanbar.org/groups/business_law/resources/business-law-today/2023-november/beyond-quality-work-product/].

^{ix} Wolters Kluwer, The Wolter Kluwer Future Ready Lawyer, 2022 Survey Report, pg.10 [https://assets.contenthub.wolterskluwer.com/api/public/content/0b7fba752d914feba877661dfac277ab?v=e55890cf&utm_source=Eloqua&utm_content=WKLSWEN_FRL_2022_Email%204&utm_campaign=&utm_econtactid=CWOLT000038493376&utm_medium=&utm_crmi d=].

^x YL Editorial Board, The Relationship Between In-House and Outside Counsel, The Legal Intelligencer (Jan. 16, 2014) [https://www.bloomberglaw.com/document/X6K40530000000?jsearch=1202638665142#jcite].

^{xi} Dezso, Insights in Action: Who does it better? In-house teams or outside counsel? Thomas Reuters (2023) [https://www.thomsonreuters.com/en-us/posts/legal/insights-in-action-in-house-teams/].

^{xii} Marrone, What Clients Really Want From Their Outside Counsel, LinkedIn (2023) [https://www.linkedin.com/pulse/what-clients-really-want-from-outside-counsel-stefanie-marrone].

xiii Dinzeo, In-House Counsel Expect Diversity From Law Firms. New Research Says They Aren't Getting It, ALMLaw.com (Nov. 8, 2023) [<https://www.law.com/corpocounsel/2023/11/08/in-house-counsel-expect-diversity-from-law-firms-new-research-says-they-arent-getting-it/>].

xiv Marrone, supra n. x; Wolters Kluwer, supra viii.

xv Ortiz, 4 In-House Pet Peeves of Outside Counsel, Above the Law (2022) [<https://abovethelaw.com/2022/10/4-in-house-pet-peeves-of-outside-counsel/>].