

business law today

To Succeed, Don't Just Focus on Clients: Understand Them and Their Preferences

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In a recent book, a law firm partner observed in respect of the legal profession the following:

The growth of organizational law departments in capability, size, responsibility and confidence has been one of the most important changes in the legal profession in America in recent decades. The key point is that many law departments have become both knowledgeable and competent suppliers of legal services to their employers and, when necessary, knowledgeable and competent buyers of legal services from private practice firms and alternative legal service providers.[1]

Although the growth and increased sophistication of the in-house bar has occurred over several decades, in-house lawyers have become much more sophisticated in how they purchase services from their external service providers.[2] They have come to realize that the service needed varies considerably from situation to situation. Consequently, matching the service provider to the particular type of service needed to achieve a business organization's objective requires a much more deliberate and, on occasion, detailed process than was the case historically. We should note that as in-house legal departments have grown more sophisticated, the choices available to them for top-drawer legal services have increased. Meeting their internal clients' greater demands for value while facing more numerous choices of outside service providers (including law firms) has made in-house lawyers' jobs considerably more complex. Meeting those simultaneous needs tests the project-management training and skills of those in-house counsel.

The increasing sophistication of corporate law departments and their determination to take greater control of the management of the legal service needed by their companies equates to a greater need on the part of outside counsel to understand what in-house lawyers seek from their external counterparts. Firms must manage their client relationships much differ-

ently than they once did. Firms no longer provide clients all necessary services. Firms compete with alternative legal service providers (ALSPs) and technology utilizing artificial intelligence (AI). We suggest that the vague mandates of past retentions (e.g., "we need to win this case" or "we expect to acquire another company") will no longer suffice. Greater precision in such instructions will be needed to meet the client's expectations and to serve that client in the desired manner. Anything else risks leading to a dissatisfied client. Woe to the firm that allows that to happen by failing to learn what its clients want. In today's hyper-competitive marketplace, such a client could easily become a former client with little notice.

How can firms today ensure they meet client expectations? The technique revolves around improved and more focused communication (including the all-important, but often overlooked, talents of listening carefully and collaborating willingly). Clients often know what they want, but may not have drilled down to isolate the specific traits of the service or the provider that they need to achieve their business objectives as effectively and directly as possible. It behooves outside lawyers to devote time and energy to exploring their clients' service-related preferences in order to identify those necessary traits.

To do so firms should focus on more specific factors than they typically do. We suggest using "value-related qualities" (VRQ) for that purpose. A VRQ is an attribute of the service or provider or of the context in which the service is needed that can increase or decrease the utility (and, therefore, the value) of the service for the client in that particular situation. As an example, a business client that lost a senior executive to a competitor and realizes that the executive took with her valuable intellectual property for the benefit of that competitor needs injunctive relief as quickly as possible. In such a situation, speed likely would be the highest-ranked VRQ, even if in other contexts cost would supersede speed as the most desirable characteristic of the firm's service. Another example

is the process of review and discovery for hundreds of thousands of electronic documents and images. Effective and efficient review of a population this size demands high-powered technology with state-of-the-art AI capabilities. ALSPs have seized this space. The related VRQs could encompass accuracy, speed, and costs per terabyte.

The VRQs for a client should match up against the in-house lawyers' responsibility to their internal clients. Whether the same as the VRQs that they apply with their outside counsel, business clients should express their service-related needs in terms akin to those utilized by the in-house and outside lawyers for the company.

Where is the list of VRQs? There is no list. Each legal matter will have a handful of VRQs rooted in dynamics that are important to the client. Naturally, the client can rank the VRQs in order of importance. As firms carefully listen to clients during the planning phases of an engagement, firms will likely create VRQs important to them, which will allow for rich dialogue surrounding the management of the engagement, specific accountabilities, and anticipated costs. The VRQ concept allows for the unambiguous establishment of expectations, which will lead both in-house legal departments and firms to the proverbial win-win and help establish a fruitful relationship for years to come.

[1] Michael H. Trotter, *What's To Become Of The Legal Profession?* 41 (2017).

[2] For some historical background on the corporate law department, see Carl Liggio, *A Look at the Role of Corporate Counsel: Back to the Future—Or Is It the Past?*, 44 *Ariz. L. Rev.* 621 (2002); Steven Harmon & Steven Lauer, *Development of the Corporate Law Department and Its Consequences*, 29 *Of Counsel* 12, 6 (Dec. 2010).