
CLIENT MEMORANDUM

DISTINGUISHING YOUR FIRM

There's no escaping the fact that these are challenging times for law firms and their corporate clients. With many clients being pushed to find ways to extract as much value as possible from professional service providers, vendors and other business relationships, law firms are looking for ways to distinguish themselves in a marketplace filled with talented lawyers. Whether it's implementing new technologies to improve efficiencies or exploring alternative fee arrangements, law firms are getting creative in finding ways to better serve their clients.

This is the first of five client memoranda that discuss useful but underutilized tools that lawyers and law firms can put in place to stand out in a crowded field.

PROJECT-BY-PROJECT EVALUATIONS

Knowing what your clients think about you and the work you are doing for them is important for the customer service-focused lawyer. Although survey information is helpful in providing guidance as to what clients would like to see from their outside counsel, each client's preferences are different. It may be the case that the manner in which you provide services may work perfectly well for one client, yet be entirely unsatisfactory to another. It may take years of working with a client to fully understand that client's preferences with respect how you bill, communicate, plan or use technology. The constant give and take between you and your client over time will provide you with a great deal of valuable information about your client's views as to what types of legal services she expects and the manner in which she expects them.

Another way to collect information about a client's preferences is by asking. Many in-house legal departments have begun incorporating "lessons learned" practices into their outside counsel policy. These practices require that after the completion of any matter in which outside counsel was utilized, in-house and outside counsel detail what went right, what went wrong, what they could have done better and other general lessons learned. FMC Technologies, Inc., regarded as one of the best-run legal departments in the country, instituted a policy where a matter cannot be closed out until the lessons learned analysis has been done. The goal of these practices is to ensure that the parties don't repeat the same mistakes from one matter to the next, to identify and utilize new and effective practices that are employed in each matter, and to memorialize newly obtained information that can be useful in future work.

Although most lessons learned projects analyze information that encompasses far more than the performance of outside counsel, these initiatives do provide outside lawyers with solid insight as to how they're performing vis-à-vis the client's expectations. Unfortunately, most in-house legal departments have not adopted lessons learned practices, so it's up to you to extract this valuable

information by other means. One simple and very effective tool for gathering feedback about the work you do for your clients is the performance evaluation.

Often times when firms or in-house departments use evaluations forms, counsel's performance is evaluated using only a few broad categories such as "Communication", "Budgeting", "Effectiveness", "Responsiveness" and "Legal Strategy". Such broadly structured evaluations provide only a general understanding of your clients' thoughts about your work. We believe that an evaluation broken up into more specific categories provides a clearer, more actionable understanding of your client's perception of the quality of the legal services you're providing. Consequently, at the beginning of each matter, you should provide your client with an evaluation form and ask that upon completion of the matter she evaluate your and the firm's performances in the following categories:

- Legal knowledge and expertise
- Understanding of client's business
- Efficient staffing of cases
- Organization and planning
- Thoroughness of pre-project plan
- Timeliness of work product
- Timeliness of invoices
- Level of detail of invoices
- Flexibility with respect to method of billing
- Quality of legal services provided
- Efficient use of time
- Responsiveness
- Scheduling and providing regular updates
- Sharing legal updates, industry news or best practices to better client's business
- Providing in-house or other educational opportunities to client
- Providing prompt notice of changes in matters of significance
- Ability to work with in-house counsel and other outside counsel
- Performance with respect to budgets and plans
- Performance with respect to client's expectations

- Sensitivity to client’s wants and needs
- Anticipation of client’s wants and needs
- Comprehensiveness of service provided

These categories form a starting point for any evaluation form you present to your client. Ask your client if she has other categories on which she would like to evaluate you, and include those categories on the evaluation form. If your client does provide you with some feedback on categories she would like included, that alone will give some insight as to what aspects of your representation the client deems important. Obviously, you will need to ensure that you are diligently working to achieve the “right result” for your client, but you should just as diligently be using the evaluation form as a roadmap to guide you in delivering legal services in a manner that addresses the comprehensive needs of your clients.

Upon conclusion of the matter, and after your client has completed the evaluation form, review the comments with the other lawyers from the firm who worked on the matter. Make a note of any negative comments or any categories in which your rating was lower than you expected, then set up a time to speak with the client about the comments. If your client completes the evaluation form by just providing a numerical rating and not providing any written commentary to support the ratings, these calls with clients become even more important, as they provide clarification on exactly what the client liked and disliked about the service you provided. If the client provides detailed written comments in the evaluation, a subsequent call may not be needed to understand the client’s concerns, but I encourage you to have a call nonetheless. In addition to providing clarification, a live exchange with your client regarding your work will often prove worthwhile by evidencing to the client that the evaluations actually have an impact on the manner in which you provide legal services. Whether the comments are good or bad, detailed or not, be sure to always thank the clients for their input. These evaluations can take time to complete, and not all clients will have the time to give you their feedback, but ask anyway. As you will see below, encouraging an open and honest critique of your work can pay enormous dividends to your practice.

Benefits of Project-By-Project Evaluations

GIVING CLIENTS WHAT THEY WANT

As hokey as it may sound, your clients will be impressed by the mere fact that you are presenting the evaluation form and seeking their feedback about your performance. In the Association of Corporate Counsel’s 2011 Chief Legal Officer Survey¹, 17% of CLOs said they wanted their outside counsel to implement some sort of post performance evaluation system. In implementing such a system at the initial stages of the representation, the message that’s delivered to your clients is that you care about your work product and you value your clients’ input. Both of these qualities will serve you well throughout the course of your representation.

PROVIDING OUTLET FOR CRITICISM

The evaluations give the client a less threatening outlet to criticize your work. Most people, whether in business or their personal lives, would prefer to avoid conflict. It is much easier for some clients to give a bad or mediocre evaluation than to raise concerns about a middling performance face to face or over the phone. Without the evaluation form, if a client is not happy about your work, rather than addressing the issue directly with you, the client may just end up not

¹ Association of Corporate Counsel’s 2011 Chief Legal Officer Survey, p. 43.

giving you any more work in the future. The evaluation process also provides structure to guide the client's critique. A client may not have been happy about certain aspects of the services you provided, yet did not know how to articulate her concerns. The form offers clearly delineated areas on which you can be evaluated, and can give voice and direction to any criticisms or suggestions your clients may have.

PROVIDING PATH FOR CHANGE

The evaluation allows you to address the concerns raised by the client in a constructive way – e.g. “thanks for the feedback, I understand your concern. Here's where I think we broke down, and here's what we're going to do going forward”. It will show the client that you get it, and that you will take corrective measures to adequately address any concerns your client had about the services. This will go a long way in convincing your client that the issues he had with you will be a one time thing, and will give your client the confidence to send more work your way in the future. **IMPORTANT:** Do not get defensive in the face of criticism. Trying to justify actions or omissions that prompted concern in your client will backfire. You will appear to your client to be obstinate and destined to repeat the same troublesome conduct. Take the criticism as a vehicle to improve the manner in which you are providing services. This is valuable information you are soliciting from your client ... use it in the spirit in which it is given by making changes to better your practice.

BROAD APPLICATION TO YOUR PRACTICE

The evaluation educates you about what you need to work on, not only with this client, but with others as well. If a client provides you with a stellar overall evaluation, but gives you poor marks on how you update the client on changes in the matter, then in all likelihood, you are not adequately providing updates to some of your other clients as well. Adjusting your practice based on feedback from one client will provide obvious long-term benefits for each of your other clients.

INSIGHT INTO BEST PRACTICES

Some criticism offered by clients is rooted in what the clients are used to seeing from other law firms. If other firms are doing something that a client views as being valuable and you don't know about it, you're at a competitive disadvantage. The evaluations might provide you with some insight into what your competitors are doing that you're not. This sort of market intelligence is critical to your client retention efforts.

GUIDING CLIENTS' INVOLVEMENT

It can be challenging managing outside counsel, and some in-house counsel struggle because they're not comfortable determining which aspects of the relationship they should be managing. Providing the evaluation form at the beginning of a matter empowers the client by giving him a roadmap by which he can manage the activities of his outside counsel. The client will have a greater feeling of control by being able to monitor and evaluate specific areas in which outside counsel is working, which may increase the client's level of engagement.

IMPROVING CUSTOMER SERVICE

When an evaluation form is presented to a client, everybody at the firm who is working on the matter should understand that they are being evaluated and they should understand the categories on which they are being evaluated. The result will likely be that each lawyer working on the matter will be laser-focused on each of the categories on the form. It may surprise you, but you and your colleagues will work to over-achieve in delivering the best legal *services* you can, simply because you're being evaluated - it's human nature. Most lawyers will focus on getting the right result for their client. While that's a good thing and should be a goal of every lawyer,

often times the focus on the right result will be at the expense of doing those things that constitute good customer service, like clear and frequent communication with your client, being responsive to your clients requests, providing your client with educational opportunities, being proactive in taking matters off your client's plate, managing how efficiently you're working, and how you're billing and staffing matters. These are all things that are the foundation of the provision of client-centric legal services and things on which the client is evaluating you – whether formally or not. Whether or not you believe it, the mere existence of this evaluation form, will make you more attentive to the individual categories that make up how you'll be evaluated. The result will be that your level of customer service increases exponentially.

BECOMING BETTER LEGAL PRACTITIONER

The value of the evaluations does not stop at improving the customer service elements of your practice. If you look through each of the categories on the form, and make it part of your practice to focus on doing well in each one of these categories, you will increase the likelihood of getting the right result for your client. Quite simply, you will be doing better legal work. If you create a detailed pre-project plan, are proactive in expressing ideas and making suggestions, gain a deep working knowledge of your client's business, provide frequent updates to your client, timely complete projects and take the necessary steps to excel in the other categories, then you will very likely improve the customer service *and* technical components of your trade - in the end, making you a better lawyer.

A word of caution: By giving your clients this open forum by which you subject yourself to judgment, you *will* receive some criticism, much of which may come as a surprise to you. Even in connection with a matter that you believed was handled very well by you and other members of your firm, your clients may take issue with certain elements of the representation. It is not uncommon for a firm that has recently adopted the practice of asking clients to evaluate their performance to be shocked at some of the negative feedback they get. What these firms find out is that client relationships that they thought were rock solid, are, in fact, vulnerable. Client evaluations can be a reality check. Without providing the client the opportunity to voice his concerns, you're missing a chance to cool what could be boiling pot, and you're encouraging your client to express his frustrations by limiting or ending the relationship that's causing those frustrations.

*Rod Boddie, Senior Advisor
The Wickford Group*