
The most important trend in legal business development: Social relationships are out, value relationships are in

by Jim Hassett



This article is an expanded version of a piece that appeared in the March 2008 issue of Marketing the Law Firm, entitled Legal Sales & Service: The Most Important Trend in Legal Business Development.

A few weeks ago, I had lunch with the general counsel at a Fortune 500 firm, and we got talking about some of his best, and worst, experiences with law firms. Maybe it was just the questions I asked, but he seemed to have a lot more experiences in the worst category.

His central message was that “Social events and personal relationships just don’t matter like they used to. These days, if a firm wants a steady flow of new business, they must deliver value.”

In a transparent world where every GC is held accountable for results, and you’re only as good as what you accomplished last week, golf outings and tickets to Yankees games just don’t have the power they used to. This GC’s best relationships were with firms that delivered value, that were open and honest about anticipating cost, and that sought his advice on tactics, so that he could choose the best course based not just on legal strategy but also on their financial implications.

For each new matter, his company selects a law firm based on their expertise, their history working together, the amount at risk, and their billing rates. Several times, he returned to the idea that there are a number of firms that do excellent work, but their prices are too high for routine work. So he relies on the high priced firms strictly for cases with a great deal at risk, and “bet the company” matters.

I was not surprised that his stories kept coming back to money, and discussions of the potential return on investment. But I was surprised at how many firms he had worked

with who did not seem to understand this very fundamental point. They just wanted to maximize revenue in the short term, and did not consider how much better they could do in the long term if they paid more attention to giving clients what they want and need.

Some of the firms he talked about always wanted to win the case. They couldn't care less how much it cost, as long as they won. "It's easy to get carried up in the moment with the need to win," he said. "But sometimes we'd be a lot better off if we settled sooner."

Other firms have a reputation for producing a blizzard of paperwork, to overwhelm the other side with the cost and difficulty of pursuing a case. This can be a very effective strategy if you just want to win, but in many cases "it works better for the law firm than for the client, because we have to pay for them to produce all that paper."

A few firms are notorious for spending weeks, months or years preparing for a case, and then routinely "suggesting settlements on the courtroom steps." In many cases, it seems they could have settled much sooner and avoided much of the preparation cost.

This GC's comments reflect some significant changes, which are still developing momentum.

Part of some larger trends

Law firms are not the only ones who are feeling the pressures of an increasingly competitive global economy. In fact, in the last twenty years most other businesses have already felt it far more than lawyers.

Last summer, a reader of a *Business Week* column (Aug 13, 2007, p 92) by Jack and Suzy Welch (of GE fame) asked "Is customer loyalty dead?" Their answer: "Not dead, but different. Time was you could 'earn' a customer's loyalty with tickets to a big game... [and] a few nice dinners." Those days are over, according to the Welches. In "today's fierce economy" there is a greater emphasis on price and on a "two-way approach" in which sellers are "fervently committed... to making your customers win big in the long haul, rather than just meeting their immediate demands."

Sales gurus have been preaching the benefits of these types of client partnerships for more than 20 years, starting with two classic books: Robert Miller and Stephen Heiman's *Strategic Selling* (1985) and Neil Rackham's *SPIN Selling* (1988), which summarizes his twelve years of systematic research on over 35,000 sales calls.

In 1994, when Larry Wilson published another book along these line (*Stop Selling, Start Partnering*), he compared the changes in the business climate to "churning white water," which is harder and harder to navigate due to globalization and the growing client perception that everything is a commodity. He began that book by arguing that all companies need to think differently about service and create "powerful relationships with your best clients (p. 1)." Selling is not about pushing services onto clients, Wilson said, but about "trying to understand and help clients solve their problems." Value is in the

eye of the beholder, so the only way to provide it is to genuinely understand what clients want and need, by asking good questions, and acting on their answers.

And that challenge just keeps getting harder. Last year, Tom Snyder and Kevin Kearns wrote in *Escaping the Price Driven Sale* that “Brand allegiance is virtually nonexistent in today’s hypercompetitive market.” They argue that to succeed in this environment, sellers must learn how to have a positive impact on one or more of five crucial financial measures: revenue, cost of sales, margin, expense, and/or profit. In essence, the seller must learn so much about the buyer’s industry that he can demonstrate problems, solutions, and opportunities before the buyer becomes aware of them. There’s nothing easy about it, but this approach will allow sellers to resist commoditization and charge a premium price. Indeed, this is the only way, as the title of the book puts it, to “escape the price driven sale.”

Are the harsh trends that have been transforming other businesses for the last 20 years really coming to law firms? Consider the evidence regarding five overlapping issues: loyalty, relationships, process, price, and value.

Loyalty

For lawyers, the reduced importance of client loyalty first became apparent with the rise of the DuPont legal model. In 1992, DuPont established a “convergence process” to increase efficiency, reduce the number of law firms they used, and to work only with firms who treated DuPont as a strategic partner. Within a few years, DuPont had reduced the number of law firms it used from 350 to 42. To put it another way, DuPont stopped working with 308 firms. If loyalty counted for anything, it wasn’t much.

By 2006, *Business Week* (9/18/06, p. 42) estimated that this approach had saved DuPont “\$100 million... through automation, outsourcing, and reducing the number of outside law firms it uses.”

DuPont has publicized their success, and even set up a web page with everything other companies need to get started on this process, including a 5 page downloadable RFP template (at www.dupontlegalmodel.com). Variations on the DuPont model have spread widely, and now RFPs and competitive bids have become standard operating procedure at large law firms.

Some competitions have been even tougher than DuPont’s. A few years ago, when Tyco applied the DuPont model, they started out with 167 law firms handling product liability cases. By the time they were done, they were using just one firm: Shook Hardy Bacon. And we know loyalty was not a factor in the decision, because they had never worked with the winner before. They won by proposing an approach that Tyco judged as the best price and the best value. As Edward Schechter, Chief Marketing Officer at Duane Morris, summed it up in a 2005 panel at the New England Legal Marketing Association, very simply “The DuPont model is changing the profession.”

Relationships

Even in an age of convergence and RFPs, some rainmakers swear by the personal relationships they have been cultivating for many years at baseball, football, basketball and hockey games, not to mention all those steakhouse dinners. There is no doubt that in the past social relationships have made a big difference in keeping clients happy and in getting new business. But there is also no doubt that in the future, the importance of social relationships is headed down.

In a panel at the 2007 national meeting of the Legal Marketing Association, Mary K. Young and Norm Rubenstein (of the Zeughauser Group), and Leigh Dance (ELD Project Marketing International) described “Ten client buying trends and how to leverage them into wins for your firm.” Many were related to value and cost.

In my view, the most interesting trend they discussed was the growing influence of procurement professionals. Over the last ten years, procurement professionals have substantially increased their influence at large corporations, by becoming extraordinarily skilled at reducing costs throughout the supply chain. The good news for lawyers is that they were among the last to get squeezed. The bad news is that the squeezing has just begun.

“Procurement managers tend to look at legal service purchase like buying widgets,” said Dance. And the way to get the best price on widgets is to force suppliers to compete more directly by issuing RFPs. Anyone who has worked in legal marketing for the last few years will attest to the radical growth in the number of RFPs, and in their importance.

Are social relationships still relevant to new business? Of course. They always will be. It’s human nature to want to work with people you know and trust, especially in a sensitive and critical profession like the law. The smaller the client, the more important these social relationships are likely to be. But every time a client professionalizes the buying process, the value of social relationships goes down just a little bit more.

Process

Very simply, general counsel are being held accountable by their management, and their management is being held accountable by shareholders. In this type of environment, it is professional suicide to award business to people simply because they take you to Giants games.

In the 2007 LMA panel, Norm Rubenstein talked about the pressures inside counsel are feeling for both accountability and transparency. Among other things, he recommended that law firms help inside counsel “measure and communicate the value that the in-house legal department provides the rest of the company.”

“[Another] thing that’s different these days,” according to Iris Jones, Chief Business Development and Marketing Officer at Chadbourne & Parke, “is that clients demand to

be much more involved in decision making. There was a time when clients expected lawyers to handle matters for them, and were not as involved in the details. The client's role was simply to pay the bills. Now clients are looking for efficiency, cost savings, and value added."

Price

Sooner or later, this discussion must turn to price, since that is so often at the heart of the matter. In a recent survey of large law firms and their clients, *Inside Counsel* magazine reported that "Most of the friction between law firms and their in-house clients can be traced back to costs." Just 7% of lawyers think law firms make too much money, but 43% of clients do. 74% of lawyers say that law firms are actively seeking out ways to reduce legal costs. They're not doing very well, because only 11% of their clients agree. Worst of all, 42% of clients (and 6% of lawyers) agree with the statement "most law firms pad their bills."

In its *2008 Client Advisory*, Hildebrandt notes that clients are increasingly pushing back on firm rates and billing practices, as seen in "the widespread use of RFPs for legal services, the growing client perception that some types of legal work previously thought to be highly complex (like project finance) have now become routine and should be priced accordingly, the involvement of corporate procurement departments in outside counsel selection, client insistence on multiple year rates or other kinds of rate freezes or discounts, and the ongoing patterns of 'convergence.' (page 6)."

What should law firms do to control costs and meet client needs. One thing is to manage budgets to assure that there are no surprises. In the 2007 LMA panel, Mary K. Young noted that in-house counsel are increasingly expecting:

- "Projects to be assigned in segments
- Bills that match the projected segments
- Early consultation when circumstances warrant a change from a forecast."

Then there are the matters of rates, and of hourly billing, which could easily lead to an article many times longer than this one. In this context, we will limit the discussion to this quote from the RFP template on the DuPont legal model web page: "DuPont is interested in results, not effort. Our long-range goal is to move away from hourly billing where feasible. We believe hourly billing is a disincentive to efficient service, and we welcome opportunities to structure fee agreements that provide for incentives and that reward results rather than time devoted to a matter."

To date, there's been a lot more talk than action along these lines. However, the Hildebrandt 2008 *Client Advisory* (p. 17) does note that "project pricing... has become a growing trend in Europe and Asia even for complex transactional matters such as M&A work." The billable hour isn't going away any time soon, but any firm that can offer alternatives is likely to benefit in the long run.

Value

At one level, everything comes back to price. But at a more fundamental level, the price that clients think is fair is based on their perception of value.

Lawyers typically believe that the quality of their legal work is a competitive differentiator. Clients do not. At the LMA panel, Mary K. Young put it this way: “Quality of legal work is a given, but truly responsive client service is hard to find.” It includes

- “solutions that achieve business needs, not legalistic responses
- Meeting or exceeding deadlines, and
- Projecting costs and managing the billing process..”

To win in this tougher environment, law firms must change the very way they do business and, according to panelist Leigh Dance it requires firms to:

- “prepare to be one step ahead: measure and prove your value proactively
- Improve transparency in budgets and estimates and allocation of resources
- Demonstrate and promote efficiencies
- Offer value added services free”

Wait a minute. Did she say free? Yes she did. LMA panelist Norm Rubenstein also talked about the competitive benefits of offering “a host of unbilled products and services dedicated to relationship development, including CLEs, intellectual property, and loaned staff.”

Predicting the future

These are hard pills for law firms to swallow, since what is free for the client comes straight out of the partners’ profits. Why give away something for free, if you don’t have to?

As Nobel prize winner Niels Bohr famously put it, “It is very hard to predict, especially the future.” It is human nature to deny that there is a need to change. The experts may be wrong about the future payoff from free services, but you can be 100% certain that you can increase profits per partner in the present by avoiding free giveaways.

Over the next few years, we’ll see who’s right. I side with the many observers who think that these critical trends will continue to transform the legal profession:

Past

Clients are loyal
 Social relationships are critical
 Process can be hidden
 Price is a given
 Value is assumed

Future

Clients look for the best deal
 Value relationships are critical
 Process must be transparent
 Price is constantly re-negotiated
 Value must be proven

What about the present? Where do law firms stand today on these issues? There is no simple answer, because we are living in a time of transition. The emphasis varies from client to client, from firm to firm, and from one practice group to another.

Some lawyers will refuse to accept this argument until it is too late. Who wants to believe that firms should spend much more on client satisfaction? And maybe spend much less on season tickets, expensive dinners, and golf junkets?

So some lawyers will continue to operate as they always have, until the day that they lose the large clients who have been paying the rent. Then there will be weeping, gnashing of teeth, and calls to the business development department. But it will be too late. As Steve Barrett, the Chief Marketing Officer at Drinker Biddle put it, "Once you lose the trusted advisor role, it can take five years to get back in."



Jim Hassett founded LegalBizDev to help lawyers develop new business more quickly by applying best practices from other law firms and from other professions. Before he started working with lawyers, Jim had 20 years of experience as a sales trainer and consultant to companies from American Express to Zurich Financial Services. Jim has published seven books (including *Legal Business Development: A Step by Step Guide* and *The Legal Business Development Desk Reference*TM) and more than seventy articles in publications ranging from the *New York Times Magazine* to *Legal Management* and *Strategies: The Journal of Legal Marketing*. He is a frequent speaker at regional and national conferences, including the New York, New England, and

Southeastern chapters of the Legal Marketing Association. Jim has a Ph.D. from Harvard University, and is an Adjunct Associate Professor of Psychology at Boston University. His blog *Legal Business Development* (at www.jimhassett.com) was recently selected by *TechnoLawyer* as one of "the most influential legal blogs" and featured in *BlawgWorld 2007*. Jim also writes a monthly column for *Law Firm Inc.*, tracking the latest trends in business development.

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LegalBizDev
25 Mall Road, Suite 300
Burlington, MA 01803
800-498-7246

www.LegalBizDev.com