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# DO YOU TRUST YOUR LAWYER?

EXECUTIVES TALK ABOUT THEIR LAW FIRM RELATIONSHIPS

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# DO YOU TRUST YOUR LAWYER?

## EXECUTIVES TALK ABOUT THEIR LAW FIRM RELATIONSHIPS

By Darcie Davis

**WHICH LAWYERS CAN BE TRUSTED?** In other words, can lawyers achieve a **trust-based relationship** wherein they provide strategic advice that influences the decisions their clients must make? We wanted to find out.

If lawyers are building trust-based relationships with clients, what are they doing to achieve such a respected position in the eyes of their clients? On the other hand, what are they doing to prevent those relationships from ever happening? We heard detailed anecdotes to support both situations.

Approximately thirty executives from a variety of companies in the Mid-Atlantic region spent time with us discussing their personal experiences working with lawyers and the firms they represent. Our questions were designed to get clarity on the dynamics of the relationships between executives and their professional services provider. For this study, we looked only at relationships with outside legal counsel. Each of these executives interacts with their firm's outside counsel and most are also responsible for making the decision about which law firm to select.



The quick conclusion? **When it comes to trust, some lawyers can be successful while others fail miserably.** We can't say we were surprised by the results, however, we were surprised about the specific behaviors lawyers are demonstrating to get to that high level of client service. Two law firms with offices in the Mid-Atlantic region stood out in this process. We have given them our unpublished (and unbeknownst to them) award that we decided to title, "They Understand and Demonstrate Profitable Client Service."

### THE SITUATION

The legal profession is in a state of change, which is affecting levels of service delivered to clients. Many law

firms are repositioning themselves for growth in response to external forces, evidenced by:

- Increased pressure from corporate America and executive leadership who are dealing with unprecedented challenges in business today
- Increased pressure on partners to bring in new business that had typically been the sole responsibility of rainmakers.
- Increased demand for law firms to be global, deliver holistic solutions (requiring integrated teams) and the ability to work cross border.

- Challenges to customer and client loyalty as more law firms are introduced to an organization (boutiques and non-law firm organizations are filling many of the needs) and as law firms struggle to strengthen their own competitive identities (some through mergers and acquisitions).
- A dynamic regulatory environment bringing escalating costs and consequences.

We wanted to know to whom our executives turn for advice on their own internal and external pressures. At what point, if ever, can their outside counsel insert themselves into their challenges and provide strategic level advice.

### MEASURING THE QUALITY OF THE RELATIONSHIP

For the purpose of our study we categorized "relationships" into the following four categories and asked each executive to rate their various attorneys using our rating scale.

- Level 1: Commodity based where price is the primary differentiator.**
- Level 2: Transactional/project based, reputation for expertise/good work. Executives welcome their input.**
- Level 3: Consultative, well thought out advice grounded in deep expertise and best practices. Input may influence an executive's decision.**
- Level 4: Highest level, trusted advisor with strategic input that influences an executive's decision. One of the first few to be called when executives have a challenge.**



**RESULTS?** Based on our criteria, 13% of our executives have not experienced a relationship as defined by levels 3 or 4 on our scale.

From our study, 42% have very good working relationships with their lawyers (level 3) but those lawyers are not involved with the executive's strategic decision making.

One executive told us:  
*Strategy and attorneys don't mix.*

Despite this admonition, 54% have experienced the level 4 high level, trusted relationship with a lawyer based on the criteria that we established.

The 54% who had achieved the level 4 distinction with their lawyer, were quite descriptive when discussing what their lawyers did to work themselves into that high-level trust-based relationship. Executives were consistent with each other in discussing the traits and behaviors these lawyers demonstrated to earn their trust.

### THE TRUSTED BEHAVIORS

Executives talked about their lawyers, who earned a trust-based relationship, by stating the following distinguishing characteristics, which are listed in no particular order.

- *The relationship started off strong when they demonstrated more value than what we asked for.*
- *Don't tell me what I want to hear; tell me the good and the bad and give me absolute two-way candor.*
- *Give me advice I need to avoid litigation in the worst case. 'Here's what can happen but here's what is likely to happen.'*
- *Have the ability to put themselves in my shoes with knowledge about my business, our culture, our constraints and realities.*
- *Be a business partner with broad business insights to give me business advice.*

- *Readily give me billing concessions, discounted fees or services not charged.*
- *They are responsive to requests on changes to their billing format, timing and detail.*
- *I get quick response to my requests.*
- *Our lawyers must explain things clearly.*
- *He doesn't talk down to us.*
- *He demonstrates he is more interested in helping us than in making money in the short term.*
- *My lawyer pays me personal attention (lunches, social outings, seminar invitations).*
- *They have strategic relationships already in place (e.g. judges in certain jurisdictions).*
- *They treat us as a valued client of high priority.*

Quotes from three executives summarize most of what we heard from others about how they would like to be treated. These executives were talking about law firms that made it to our unpublished list of "They Understand and Demonstrate Profitable Client Service."

*When I came on board at my company, the (incumbent) lawyers immediately invited me to come over and spend a day with them. They introduced me to a lot of people and talked about substantive issues. Over time, they continually checked on me to make sure I was happy and that*

everything was okay. They are always receptive to requests I make on billing format and timing. The billing disputes are all handled amicably. I'm candid and they make accommodations for me. They always talk up front about how much something will cost. I don't like to be surprised and this helps. I ask them to call me right away if the fees will exceed their estimate. I want no surprises! And this has worked well with them.

**“OUR LAWYERS ARE MORE PLEASED THAT THEY SOLVED MY PROBLEM THAN THEY ARE ABOUT UPPING THEIR BILLINGS.”**

Another executive told us:

*Our lawyers are more pleased that they solved my problem than they are about upping their billings. I don't like to get a bill every time I breathe but I want to be fair. They don't charge me all the time but they are reasonable about not charging me for occasional conversations.*

Another executive said:

*Our attorney puts on a business hat. I ask him what he'd do if it were his business and he always advises me. He started out on the other side of the desk. Too many lawyers and accountants are more concerned about their firm's liability instead of my best interest. I'm always looking for business advice and lawyers don't get that in law school.*

## WHO GETS THE CREDIT: THE LAWYER OR THE LAW FIRM?

Overwhelmingly, the individual lawyer gets the credit for the relationship and, consequently, the

client loyalties are vested more with the individual lawyer than with the firm he/she represents. This has broad consequences for the role of the law firms, which are dependent upon the lawyer to maintain a successful, revenue-producing relationship with their client. We asked each of the executives if their favorite lawyer left his/her current law firm, would they remain with the firm or keep their business with the individual. The majority of executives would follow, and have followed, the individual service provider.

At **CONFIDENTIAL** law firm, I value and respect the partner but he couldn't command resources from his firm. When he got someone, I wasn't always impressed. I would never use that firm except for him.

On the other hand, we did hear impressive examples of firms who have successfully integrated a client well into their enterprise with solid and trusted relationships established with more than one lawyer even when that lawyer is the main point of contact.

As stated, there were two law firms mentioned rather consistently about how well they have “cross sold” services resulting in strong customer loyalty to the firm as well as to the lawyer. The lawyers presented appropriate expertise (other lawyers) to the client as the client needed it, not the reverse. Based on what we heard, we conclude (without collecting direct evidence from the firms

themselves) that those law firms had established a culture and leadership model that pre-disposes the lawyers to provide the kind of service desired and appreciated by their clients. It's merely part of the firm's culture and way of doing business, which results in loyalty from the client into the law firm, beyond the main partner who serves them.

*Our law firm will offer to brief us on something they know would be of interest to us. They offer this gratis about once a year. It's tailored to our business and us and is highly valued. They take the time to find out what we're dealing with.*

## FINDING A GOOD LAWYER

Many of the executives we interviewed serve as general counsel for their company. Because of their background, they have solid ties to peers in law firms and in corporate positions. This is a tight referral network and is the source contacted first when new legal expertise is needed.

When a lawyer is recommended, the second research step taken is to consult with Martindale-Hubbell's exhaustive biographical database of lawyers.

For those not within the legal profession, referrals from friends remains to be the number one way of finding a new lawyer.

Do the Top Lawyers lists influence these buyers? No. However, these executives enjoy reading the lists as they are published to see if anyone they know is listed. The lists themselves are not used as research tools or referral sources.

## SERVICE THROUGH CLIENT TEAMS

We know that some law firms are serving clients through structured client teams. Those teams are assembled to address the ever-changing needs of clients projecting growth and contingencies from around the world. Those coordinated team efforts are admirable, yet, our sample pool of executives were not familiar with the model. We asked, “Which, if any, of your outside advisors serve you through the use of client teams?” Most executives responded, “What are client teams?”



Frankly, we had expected to see more evidence of a formalized client team approach from law firms. Several of our executives are managing enterprises requiring advice within the context of a global marketplace. Yet, no knowledge of formal client teams was uncovered. Many executives said they had met other lawyers within the law firm that serves them but that did not satisfy our search for evidence of a structured team approach.

## CROSS SELLING OR CRASS SELLING

Cross-selling services is on the marketing agendas of all professional services firms. The firms that “get it” offer services according to the needs of their clients not according to the needs of their law firm.

*It's effective if the partner and client meet once a month and have a conversation. They shouldn't say, "We have a partner who does this." That's not effective. They should get to know me and my organization and my needs.*

*I don't like aggressive pitches, especially from someone else in the law firm that I don't know. The partner who serves me should have all that control.*

*A lawyer came to me and said, "We can review your contracts to make sure they are serving you well. We will charge you for this but we feel confident we can offer some recommendations." And they did! That was proactive and it worked. We probably would have kept on using our old contracts but they really helped us. They were looking at our business and tied their expertise with our business and got more work as a result.*

## MANAGING THE RELATIONSHIP

Although our pool of executives included various types of industries, backgrounds and levels of experience, we found that those with legal backgrounds did a better job at managing the relationship with outside legal counsel. For obvious reasons, they understand and speak the “same language.” Executives without the benefit of legal backgrounds are more likely to experience undesirable or ineffective relationships.

Another of our observations is that those with legal backgrounds seemed to be more aggressive and confident about making their expectations known to their outside counsel.



*If law partners dole out the work to his or her associates all the time, what do I need the firm partner for? Good law partners manage associates well. Simple questions that lead to hours of research aren't acceptable. We expect partners to make the right judgment about who does what and at what level.*

*We're not shy about telling our lawyers when we're not satisfied.*

*Lawyers should be willing to learn how to work with us.*

The executives without legal backgrounds seemed to experience more frustration with lawyers.

*I have great apprehension about using attorneys because I'm not trained in the law. I'm forced to trust the judgment of my attorneys. I don't like them to talk down to me. Law firms who recognize these apprehensions should be asking themselves "What do we do about these apprehensions?"*

*Some of them think they know everything and they don't. I'm thinking mostly of **CONFIDENTIAL** attorneys, in particular, so and so of **CONFIDENTIAL** law firm. He really irritates me. He, and other **CONFIDENTIAL** attorneys I've met, think they know more about my profession than I do and it makes me so angry.*

*A good lawyer should be a business facilitator not someone trying to impose legal rules on a business. A business person's mindset is on getting something done. Lawyers are trained to be skeptical and negative. They must cross an invisible barrier to get to a trusted level. If they can get into the business person's mindset, they are more able to cross that invisible barrier into a trusted relationship.*

## A BONE OF CONTENTION

One of the most often mentioned areas of contention was invoicing. We are tempted to conclude that billing and invoicing practices are the hot spot for making or breaking trust-based relationships. Again, those with legal backgrounds seemed to be more aggressive about calling their attorney when they believe billings are too high. Those without legal backgrounds complained about the high cost of legal advice but were more reluctant about questioning the bill.

*Billing problems often derail the relationship. One firm charged us for meals and paper plates, cases of soda, coffee, scanning. They would argue with us over the pickiest things! They think they can get away with these things.*

In every case, the level 4 trust-based relationship providers quickly, with no arguments, make concessions on their bills when clients complain. We heard many stories about discounts or reductions that were made in response to a client concern. These acts have proven to be powerful gestures that strengthen client loyalty. And the clients know this.

*The other day I saw a charge that wasn't reasonable to me and I called my attorney and he said, "Just take it off the bill." No arguments. They always make an adjustment right away. They want to keep the relationship going and know it's not worth \$5000 to lose our business.*

*They adjust their prices when we really need them to do so. They really work with us and trust us.*

The law firms heading our unpublished list of "They Understand and Demonstrate Profitable Client Service" seemed to be best at communicating fee expectations with their clients. We often asked the executives if they are surprised when they receive their bills from their attorneys. One of the executives served by one of our unpublished-list law firms said, "We rarely have surprises because they are good about communicating estimates on their time. We also have a good idea of how much things will cost anyway."

*We talk to our lawyer for 15 minutes on the phone about 3-4 times a year and he doesn't charge us for that.*

*A certain attorney had been following us. He eventually identified a project and offered to do it for free. It worked out very well and we are now using him again because he did such a good job. Others have been courting me but no one else has offered to do a project for free to demonstrate their expertise.*

**"THEY ADJUST THEIR PRICES WHEN WE REALLY NEED THEM TO DO SO."**

## MARKETING TACTICS AND MISSED OPPORTUNITIES

Our sample pool of executives were intensely outspoken about tactics lawyers should use (or avoid) in order to build a new or expanded relationship with them. We wanted to know what new lawyers could do to market themselves effectively to a prospect. A few traditional methods of marketing/selling were of no value to these executives. The following marketing tactics were deemed to be **ineffective** (and sometimes offensive) to these executives:

- cold calling
- marketing brochures
- marketing goodies (e.g. key chains, calendars, etc)

*More thought should be put into cross-selling. It's annoying to get memos and brochures. I'm busy.*

On the flip side, law firm seminars were offered as an effective way for an executive to gather information and confidence about a potential new lawyer. Executives are quite responsive to seminars conducted by the law firms who serve them but also attend seminars put on by other law firms on issues of interest to them. We heard several stories about executives attending a seminar and gaining a positive impression of one of the presenting lawyers.

There are also missed opportunities at the seminars themselves. If an executive is impressed with one of the presenters, there is opportunity for other members of that presenter's firm to capitalize on that positive impression. When an executive told us they were impressed by a presenter, we asked if

they were able to meet with other members of that presenter's firm. They were surprised by our question and responded, "No, we met no one else from that lawyer's firm." We then asked if they received any kind of follow up after the seminar. They were surprised by that question too and had to give some thought. Some received basic follow up materials but most received no follow up gestures from the lawyer that impressed them or from the seminar sponsors. That should be simple Marketing 101! Law firms may be good at putting on seminars and showcasing their expertise, but they don't seem to be good at harvesting the opportunities that are budding during those seminars.

Law firms should take note from this study; our executives preferred to be informed by their own law firms but will seek the information through other means or through other law firms. Their own lawyers were often falling short in providing current information on issues of concern to them. The law firms receiving the highest praises in our study, and our unpublished award for understanding and demonstrating profitable client service, were proactive about keeping their clients informed about issues the clients deem important.

In addition to seminars, executives read white papers or briefings on issues of interest to them. A few executives noted they read white papers received from lawyers they don't even know. Sending the briefings is only part of the marketing effort. Again, we found missed opportunities to focus and drive marketing efforts to mine for new business. The lawyer who is already positioned as an "expert" clearly has an early advantage over those who hope to come in cold through the front door.



## FIRING LAWYERS

Nearly all of the executives interviewed have had occasion to fire a lawyer or to sever a courtship before a contract is signed. As with any relationship, there is an intense courtship phase. Our executives told us it is a brief period because the lawyer either demonstrates that he or she is "in" or "out" quickly. The following stories represent what we heard more than once.

How often does the following happen?

*I located a partner at **CONFIDENTIAL** law firm whose expertise is in ...a niche important to us...*

*and I asked if we could meet. So we met for lunch. He not only stiffed me with the bill but he sent me an invoice for his time. What happened to business development? We didn't talk about anything substantive and he didn't give me any advice. Included in the bill was a \$400 charge for a binder. What binder? Who got it? I'll never use him or **CONFIDENTIAL** law firm again.*

and

*Good law partners manage associates well. A firm we fired had associates run amok. We expect the partners to make the right judgment about who does what and at what level.*

and

*I hired a local attorney who was recommended to me. I asked them to merely review a shareholder agreement that was already in place and render some opinions. They made a few very tiny edits. That attorney did absolutely nothing and charged me an enormous amount of money. I was fuming. No, they've never bothered to follow up with me to see if I was satisfied with their work or to get more work from me. I'd never call them again.*

and

*I had outgrown our small law firm and was introduced to a new attorney at a large law firm to discuss our plans to acquire a company. We met at lunch. I paid for lunch but weeks later he sent me a bill for his time plus travel time. I called him on it and he said, "Welcome to the big time now." I told him he was fired.*

## CONCLUSION:

### PROFITING FROM CLIENT SERVICE

Demonstrating exceptional client service as defined by the client should not be undertaken because it's the "right thing to do." It's the long-term and profitable thing to do.

The law firms who support lawyers in turning their perspective toward serving the needs of the clients first (before the needs of their firm) are securing long-term profitability.

This means:

- up front investment costs
- billing concessions
- visiting with each client to understand their business
- occasional free services

*Our law firm is willing to learn how to work with us. They listen. Sometimes the partner will bring in associates and inform me ahead of time. When the bill comes out there weren't surprises. In fact, every firm should do this.*

**“HE WOULD STAND IN FRONT OF A BUS FOR ME – FROM A LEGAL STANDPOINT. HE HAS EARNED MY LOYALTY!”**

One executive's comment encapsulates attitudes expressed by others: "We have no qualms about changing when it doesn't work."

One general counsel commented, "Law firm training makes people narrow in their thinking and creates people who think in channels. A lawyer must rise above that and be more of a risk taker. If they can find a mentor who exhibits that sort of broader thinking they have a better chance of doing that."

The loyalty exhibited by clients virtually walls off all the competition. That should at least be worth picking up the tab while lunching with new prospects.

## REVIEWS

When the results of this study were shared with Richard Klimoski, Dean of the School of Management at George Mason University and an expert on business relationships, he commented: "The findings of this report on business relationships in the context of the legal profession seem

'right on.' The fact is, all business relationships operate through people. The building and managing of trust is a key component to this. The details of the report should be very

helpful to guiding the efforts of those who are committed to high quality business relationships. I recommend it highly."

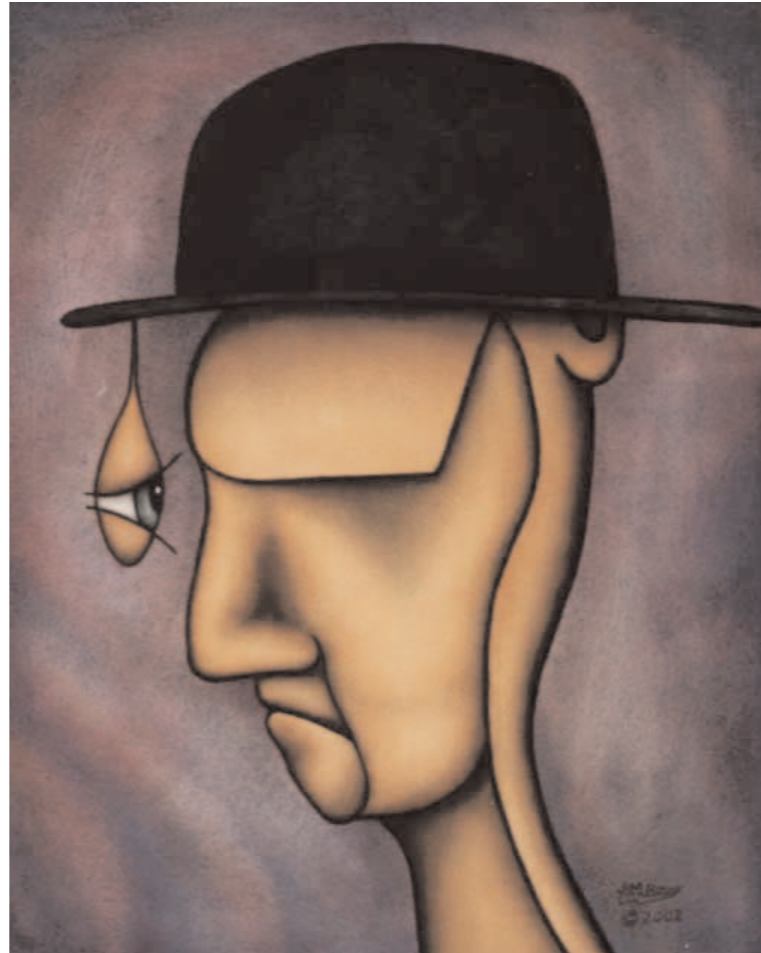
After reviewing our report, Tracey White, President and CEO of the Greater Reston Chamber of Commerce, commented: "From our perspective, we watch many businesses succeed while some flounder. One of the characteristics that successful businesses share is the building of trustworthy relationships with their customers, employees as well as their community. This report should be eye-opening to any business wanting secure, long term relationships with their customers."

## CHECK LIST FOR IMPROVEMENTS

Law firms (and other services firms, for that matter) can take many steps to improve relations – and profitability – with clients. For starters, we’ve prepared a rudimentary checklist of opportunity. If you are a lawyer or other professional services provider, how many of the following actions are a part of your routine service behavior?

- I periodically meet with each of my clients to understand the issues they personally are facing.
- I periodically meet with each of my clients to understand the issues their business is facing.
- I thoroughly understand my client’s culture and environment.
- I don’t formally introduce my colleagues unless I know my colleague’s expertise is relevant to issues faced by my client.
- When my client faces issues relevant to the expertise of my colleagues, I respectfully make those introductions and stay with the relationship to ensure my colleague is a right “fit” with my client.
- Our marketing activities place a priority on creating seminars to discuss relevant issues.
- I make my clients aware of my firm’s seminars and briefings when they are relevant to the client’s needs or interests.
- If I present at a seminar, I make sure my colleagues are circulating among the audience to find attendees who find value in what I have to say.
- I execute specific follow up activities with those who found interest in my presentation.
- I always convert my presentations to briefings that get distributed to clients and prospects to make sure I’m continually positioned as an expert in my area of specialty.

- Our marketing efforts are directed less at brochures and marketing goodies and more on strategies to keep me (and my firm) positioned as the expert.



- When my clients call to request changes in the billing format they receive, I make every attempt to see that their requests are honored because I want to make sure they continue to pay my bills.

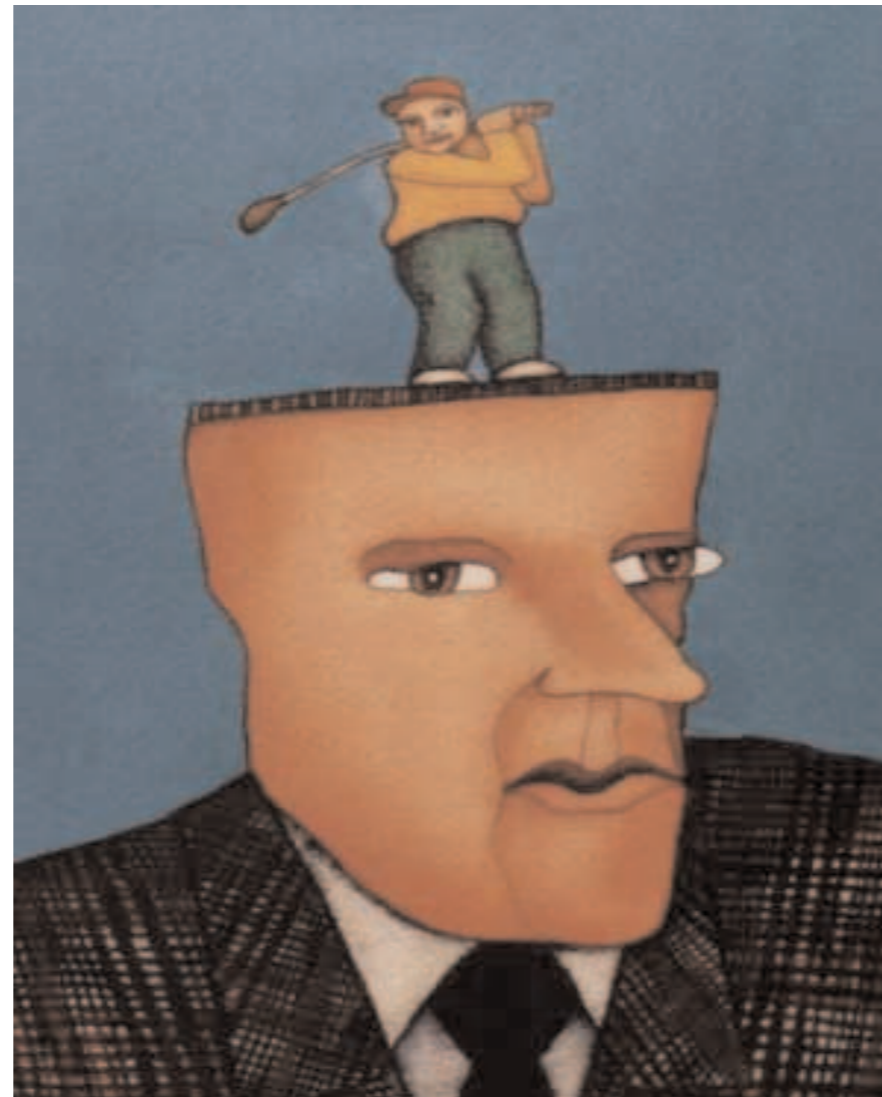
- I occasionally have brief phone calls with my clients and purposefully do not charge them for the sake of preserving the relationship for the long term.
- I send out invoices to my clients in a timely manner – not months after the service (and so that they can see I haven’t charged them for those occasional brief phone calls).
- Prior to beginning any service for a new or existing client, I offer an estimate of fee expectations so they have no surprises when they receive my bill. If services exceed my estimate, I call them immediately and tell them why.
- I give my client my legal opinion as well as my personal opinion. I am clear about distinguishing between the two.
- I am candid with my clients even if it means I must convey information or advice they don’t want to hear.
- When I meet a client for the first time, I tell them up front that our first session is free.
- Out of respect for my client, I work diligently at crafting language that I know my client will understand.
- I treat my clients as respected colleagues and speak to them accordingly.

MOST IMPORTANT:

- I regularly seek an assessment of the satisfaction levels of my clients.**

## HOW DID YOU DO?

If the previous characteristics describe the service behavior your clients experience, you can feel confident your relationships will be long term and profitable, giving you more time to work on your *other* handicap.



On the other hand, if these behaviors don't fit your style or the style of your firm, you will require a lot of luck developing business with new clients because that's where most of your energy will have to be placed.

More than thirty individuals were interviewed from the following organizations. All executives were senior level managers or leaders representing a wide range of organizations from small size with a dozen employees to large companies with more than \$22 billion in assets, \$10 billion in revenue and 17000 employees. All executives have direct experience interacting with their firm's outside legal counsel. Selected companies have operations that are represented regionally, nationally or globally.

Access National Bank  
American Press Institute  
Assisted Living Federation of America  
CACI  
Corporation for Public Broadcasting  
Don Beyer Volvo  
Fairfax County Fire & Rescue  
Freddie Mac  
GTSI  
Herring & Trowbridge Architects  
Kfoury Construction Group

M-Cubed Information Systems  
Mindbank Consulting  
Moore Stephens North America  
Navy Federal Credit Union  
Nextel  
Reliable Integration Services  
Reston Hospital Center  
SI International  
Software AG  
The Peterson Companies  
Winston Partners



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Davis, Kingsley & Company is a management consulting firm helping small and middle market companies know what actions to take to keep their customers and employees from the jaws of the competition.

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