How would you feel to find your strategy was nothing more than BOILERPLATE?

How

Different is what you are doing right now – the strategies that you are employing – from the key competitors in your marketplace? If your answer is "not much" then how are you expecting to surpass their performance?

"Not much" is usually attributable to some boilerplate strategic plan created by some brand name consultants. It comes packaged as a fairly weighty tome (at a fairly hefty fee). It contains mystic thoughts unsullied by any methodology for achieving meaningful differentiation, insights on creating new revenue streams, has no means of implementation, and is ultimately destined to find it's resting place on the managing partner's bookcase. Competitive advantage means getting out in front, by focusing on those areas in which you can be unbeatable. By definition, if you are doing what everyone else is, you don't have an advantage. Do you have the courage and the foresight to see beyond what everyone else is doing?

If you're ready for someone to get results; to ask the really hard questions – the questions that lead to marketplace distinction; and someone who will not compromise in ensuring that implementation is an integral part of each step in the formulating of a truly competitive strategy...you may be ready for our for our BREAKAWAY® program.

Alternatively, if you're just interested in a boilerplate strategy, they are all pretty much the same. If you'd like one for your bookcase, we will happily tear off the cover of one we have, duplicate the contents and forward it to you, complete with your firm's name inscribed on the front.

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LEADING AND CONTROLLING CULTURE

CAN PROFESSIONAL SERVICE FIRM LEADERS KEEP A GRIP ON THEIR FIRM'S CULTURE IN A PERIOD OF GROWTH AND CHANGE? by Nick Jarrett-Kerr

Partner Performance:

THE ROLE IT PLAYS IN MOTIVATING AND RETAINING TALENT. by Karen MacKay

Genuine Client Focus:

MANAGING THE SOPHISTICATED CLIENT'S EXPECTATIONS by Patrick J. McKenna and Ronald F. Pol

Managing Risk Emotionally

by Gerry Riskin

GERMANY

Edge International Opens Frankfurt Office and Welcomes Friedrich Blase

www.edge.ai

The trick to running a law firm is getting all the pieces to FIT TOGETHER

CULTURE

is what defines a law firm. In a business where all of the assets ride up and down the elevator every day, the glue that makes a law firm work is its culture. In fact, research has demonstrated an indisputable direct correlation between profitability and culture.

But ask a law firm managing partner to describe the firm culture and you'll hear euphemisms like "collegial" or "democratic."

The fact is that most firms really don't know what their culture is and can't describe it. Yet a recent survey of large law firms showed that one of their partners' greatest fears was "losing their culture." How can a law firm preserve what it can't describe, doesn't recognize and won't communicate"? The Edge International Cultural Inventory is based on 15 years of research by Dr. Daniel Denison of the University of Michigan School of Business, involving more than 44,000 respondents from over 1,800 businesses, including over 100 law firms. The database allows the identification of the specific traits that determine an organization's culture.

It's a simple choice. A firm can continue to growth, take in laterals, merge and hope that its culture won't change. Or it can devote a partner meeting or retreat to understanding and protecting its culture.

Of course, all firms are collegial and democratic...aren't they?

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FALL 2004

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Dear Clients and Friends,

One of the strengths of Edge International is, in fact, its internationalism. We enjoy, perhaps more than any other consultants serving the legal community, a truly global practice.

The value of a global viewpoint is not just the ability to provide on the ground capability for multi-national law firm clients. Being truly global gives us the experience to provide our clients with a first hand knowledge of world legal markets, law firm operating models and practice management trends. The size, sophistication and intense competition of law firms around the world means that firms can not only look domestically or just to the U.S. and England to appreciate the future of legal practice. In our view, Globalization provides the breadth of perspective that allows to create positions of dominance at home by seeing what has worked and what has not - around the world.

It is, therefore, our pleasure to announce the opening of Edge International's office in Frankfort, Germany, and welcome Friedrich Blase as the partner in charge of that office. The informational ad on page 25 of this issue of Edge International Review provides some insight into the importance of Germany in Continental European legal markets.

If you would like to provide copies of Edge International Review to other members of your management team, it can be downloaded from our website at www.edge.ai. Also on the website are literally hundreds of articles sorted by topic. Should you have any questions about these articles or any other issue, please feel free to contact at the appropriate international toll-free numbers listed below.

Best wishes for a successful close to 2004.



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THE FIRST GREAT MYTH of Legal Management is that it Exists H. Edward Wesemann addressing the front burner issues of management in law firms, available at ww.edge.gi.

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. What role do partners have in the



CULTURE CAN PROFESSIONAL SERVICE FIRM LEADERS KEEP A GRIP ON THEIR FIRM'S CULTURE IN A PERIOD OF

Most Professional Service Firms find five or ten years ago. Examining the impact of changing conditions on cul-ture and considers whether leaders can marised to ensure that fine rhetoric is

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GENUINE CLIENT FOCUS

CLIENT'S EXPECTATIONS by Patrick J. McKenna and Ronald F. Pol Firms should get serious about managing



MANAGEING RISK EMOTIONALLY

Managing Risks Emotionally transcend reduce risk substantially

PARTNER PERFORMANCE THE ROLE IT PLAYS IN MOTIVATING AND RETAINING TALENT



PARTNER PERFORMANCE: THE ROLE IT PLAYS IN MOTIVATING AND RETAINING TALE

by Karen MacKay, EDGE INTERNATIONAL

w can you engage your partners with their responsibility for the motivation and retention of talent? What role do partners have in the ongoing support and devel opment of the firm's people? Karen MacKay shares some insights into the role of

individual partners in the motivation and retention of the firm's talent, as well as

some ways to get them to step up to their responsibilities.



What role do individual partners play in the retention and motivation of a firm's talent? The answer – a significant one. Talent in the broad sense is defined as everyone who is employed by the firm. Highly motivated administrative managers who remain with a firm over time can accomplish a great deal – they execute. But, when these managers leave, projects are put on hold and staff is left without leadership, structure and effective management. Highly motivated support staff who remain with a firm for longer periods of time also contribute daily to the service of the firm's clients and the success of the firm's professionals. You have only to look to the attorney who is between assistants to understand the

frustration and stress caused by high staff turnover rates. Highly motivated associate lawyers who stay long enough add to both the top and bottom line, increase partner productivity and contribute significantly to the building and retention of client relationships. The select few who make partner add to the financial stability of the firm and its legacy. When high turnover rates occur within associate ranks, marked decreases in associate productivity become evident because both departed associates and those currently with the firm are distracted. Partner productivity increases by default, profits remain flat - or worse, go into decline. In all cases, the recruiting costs negatively impact profit margin. TATI

FALL 2004 EDGE International Review

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RETAINING TALENT

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PARTNER PERFORMANCE: THE ROLE IT PLAYS IN MOTIVATING AND RETAINING TALK

Much has been written on law firm culture. In short, culture can be determined by three main elements: what gets done; what gets focused on and what gets rewarded. Values determine behavior. Collective behavior determines culture. In professional services firms, culture is in part defined by the partnership compensation plan – what gets rewarded gets valued and gets done. If hiring the right people, motivating them to success, rewarding achievement and retaining the firm's talent is important in your firm, partners can and should be rewarded for their contribution to motivation and retention.

f hiring the right people, motivating them to success, rewarding achievement and retaining the firm's talent is important in your firm, partners can and should be rewarded for their contribution to motivation and retention In turn, practice group leaders can and should be rewarded for development, motivation and retention within their group. If the highest paid practice group leader also has the highest turnover rate, then clearly, there is something wrong with the manner in which success is measured. If your firm claims to value

professional development, but partners do not manage to find time to participate, then in all likelihood, associates and staff will be disinclined to participate. The result - the firm's investment is diminished.

As firms continue to move toward hiring more sophisticated administrative and professional talent management, three things typically occur. First, partners can fight against giving up responsibility and authority. Second, partners can abdicate their responsibilities to these administrative managers in order to concentrate their time on billable activities. Finally, and most favorably, partners and administrative management can work in concert to provide solid leadership and management to achieve more effective results. The relationship between partners and managers and the impact the relationship has on staff can be compared to that of a family relationship. When Mom and Dad present a collaborative, combined front to their children - the children are happy and the family tends to function successfully. Law firms are not much different in this regard. The family analogy is quite fitting since the dynamic in law firms - certainly in every firm with which I have worked, described itself as a family. When managers are not given the authority to deal with day to day issues, the result is a "wait until your father gets home" scenario where the managers, through no fault of their own, lose credibility when that authority is questioned. When managers make decisions that are second guessed or vetoed by partners, those managers have little incentive to step up their responsibility level. They eventually fail to develop the confidence and authority needed to reach their full potential. Motivating? Not likely! Even if partners believe that their managers made errors during their decision making process, the managers must be supported and backed up by the partnership. If, over time, the partnership decides the manager is incompetent - that issue should be dealt with appropriately. In the meantime, trust their judgment, support their decision making skills and allow them the time to prove themselves capable.

In recent years, there has been an evolution in law firms towards professional management of the legal resources (attorneys and occasionally paralegals) through non-practicing attorneys and/or highly skilled human resource professionals to support recruitment, management and development of the professional staff. This investment goes beyond the employment experience with the firm and at best, through to alumni relations. The more successful firms work together with talented management to improve motivation, accelerate associate development and improve retention. A good experience turns departing lawyers into alumni rather than a complete loss to the firm when associates walk out the door. How important is talent? Tom Peters said in his recent book entitled "Imagine", that "effective branding is more internal than external".

Talent is people

Talent is brand

🗩 Brand is talent

"Talent is everything" (Peters)

Essentially, law firms compete for talent and clients. Each is intrinsically connected to the other. When your talent is happy, challenged and rewarded – you have something to brand.

So, the question remains - how do you get partners engaged? First, you must help them understand at a visceral level that talent really is everything.

In a recent study of 80 US law firms that had dissolved over a six year period between 1998 and 2004, more than half claimed an inability to recruit and a resulting inability to provide service to the existing client base as a significant factor in the firms' failure. In virtually all of the dissolved firms, lateral departures (otherwise know as a firms' inability to retain key talent – partners and associates) played a key role in the demise of these firms.

Again, how do you get partners engaged? Help them to understand at a personal level that talent directly impacts their wallets.

Healthy turnover, particularly in the associate ranks, is considered to be approximately 16%. You may want to review the average productivity numbers for your firm for associates and partners. When associate turnover escalates beyond a healthy percentage, associate productivity decreases—guaranteed. When associate productivity decreases, partner productivity increases – guaranteed. Partner hours increase for a number of reasons. Partners will hoard the work rather than delegate when associate turnover is high. When a partner has invested in the development of an associate only to have the individual leave, the partner may not want to repeat the process with yet another new associate for fear of reoccurrence. This results in a resistance to training and mentoring. Accordingly, partners are forced to work harder to provide service to existing clients. It means nonbillable time is reduced which directly impacts the activities that, in turn, impact the future – business development and professional development. Is the future of the firm at risk? Guaranteed.

Experience of the second secon

In a firm where associate turnover increased from 16% to 30% in one year, partner productivity increased to compensate for lower associate hours. All partners had to work harder simply to maintain status quo. Working harder and spending more time at the office also meant spending less time at home. Consequently, net income per partner would be reduced. Have fun explaining that to your banker, or worse, to your spouse.

Healthy turnover benefits a firm at all levels. Healthy turnover means that the firm is monitoring performance and acting appropriately when employees are not measuring up to the firm's standards. It also means that the firm is making business decisions, setting goals and identifying roles that will help the firm meet those goals. Healthy turnover brings new ideas to a firm and keeps employees energized. Little or no turnover allows a team to become stale and inhibits the growth of new ideas. Little or no turnover also means the firm is creating roles around existing people, rather PARTNER PERFORMANCE: THE ROLE IT PLAYS IN MOTIVATING AND RETAINING TAL

than creating a role to meet the firm's goals and sourcing the right people to meet the firm's needs.

Let's look again at brand. GE has been known for years as an incubator of leadership talent. GE and other large corporations measure the capability of their leadership development by monitoring attrition from their management ranks and, specifically, where their people are going. A law firm with a superb associate training and development program can and should measure associate attrition. Where are your alumni going? When general counsel is sourcing talent from your firm, it may be a measure of the good job that partners are doing in developing associate talent. Equally, it may be a measure of the respect your firm has earned in the business community. Can this be branded? Absolutely!

What can partners can do to motivate and retain top talent? Here is a top ten list:

1. Set clear standards of performance and behavior at all levels.

- 2. Invest in professional development at all levels. It is not necessary to guarantee to keep all your people employed. What you can guarantee is that you will keep them employable by continuously building skill sets.

3. Invest in activities where administrative management can network with other professionals in their discipline which will assist in generating new ideas for the firm. This includes association memberships, local networking activities and attendance at national conferences.

4. Respect your people and their contributions.

+ 5. Compensate at market rates.

6. Communicate both good and bad news. Ensure that you are timely and honest.

7. If your managers are doing a good job, support them and get out of their way. If they

are not performing well, help them find success elsewhere.

8. Assess your needs. Define the roles needed to meet those needs and recruit to fill them both internally and externally. Find the best person for the job. Do not create roles for employees simply to keep them in the firm. You may be holding them back from future opportunities for success.

9. Reward achievement. Reward the value that your people bring to the firm.

🗩 10. Reward common sense.

Finally and perhaps, most importantly to the success of your firm, understand your culture – what is valued, what gets focused upon and what gets rewarded. Be consistent and "walk the talk"!



Karen MacKay has more than 20 years of professional services experience. Karen's current practice concentrates on three key areas. She provides counsel on issues related to all areas of professional staff career development, from recruiting and mentoring to evaluation and compensation. She develops and facilitates partner evaluations and, Karen also provides counsel on operations and administrative management. Karen has worked on behalf of international law firms ranging in size from 30 to 3000 lawyers. Today she has a number of loyal and long-standing clients who have come to count on her for her knowledge and integrity, as well as for her sensitivity and flexibility in the face of their ever-changing business priorities. Karen is a highly skilled facilitator and speaker who is Myers Briggs and True Colors qualified, is a Certified Human Resources Professional and holds an MBA from the Rotman School of Management at the University of Toronto. She can be reached at 866.657.2997 or mackay@edge.ai or by visiting www.edge.ai.

Is the thought of another RETREAT squeezing your patience?

RETREATS

are becoming fairly commonplace. The motivation is usually to provide more face-to-face interaction thereby developing social bonds, improving communications, dealing with operational issues, exploring further directions, and even having a bit of fun.

At these Retreats we often engage some outside speaker sufficiently inspiring that everyone gets charged up and takes copious amounts of notes. Inevitably, our sessions conclude and we all return, hopefully invigorated enough to face the pile of voice-mail messages and client files that have been left burning on our desks. That binder of notes hits the shelf and maybe, just maybe, something inspires us to return to it in the months to come, such that we pull it down and actually do something as a result of that last retreat we all attended.

Now that pretty much represents the conventional practice for most firms' Retreats. While the groups may be different and the speakers may vary, the measurable results are all too often the same. As one managing partner commented about firm meetings in general, "When all is said and done, there is usually a heck of a lot more said, than ever done!"

Of course then we come to scheduling our next Retreat. And wouldn't you know it. Some partner has the audacity to ask, "But did anything really happened as a result of our last get together?"

Now when that happens, and it inevitably will, our very best counsel would be for you to punish that partner (for their audacity) by assigning them to Chair the organizing committee for your next Retreat. Then please give that partner our

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Most Professional Service Firms find that they are quite different now in the way they do things, from what they were five or ten years ago. In this article, Nick Jarrett-Kerr examines the impact of changing conditions on culture and considers whether leaders can control culture as the firm grows. Practical suggestions and steps are summarised to ensure that fine

rhetoric is matched by partner behaviour

was Managing Partner of a Law Firm during an eight year period of explosive growth and extreme change, during which the Firm twice doubled in size. At the end of that period the culture and ecology of the Firm differed greatly from what was evident at the start. For one thing, the firm had become distinctly more corporate in style and process, and more structured in terms of rules, disciplines and procedures. But the Firm had changed in other ways as well-more offices, a larger work-force, and an increasingly sophisticated infrastructure of technology and back-office support. In short, the friendly Firm, where everyone knew each other, had changed to something a great deal more anonymous and impersonal. Reflecting back on those rollercoaster years, I conclude that whilst the Partners and I were in control of a large part of our destiny, we were actually only partly in charge of our culture. The general lesson which I have learned from my experience is that is as easy for culture to control you as it is for you to control it!

have learned from my experience that is as easy for culture to control you as it is for you to control it!

Table 1 illustrates some of the projectsand issues which Professional ServiceFirms across the world often face, all of

Table One

Examples of Projects and issues which can Affect Culture

- Changing the Partners' Reward and Compensations System
- Introducing a new Appraisal system
- Hergers, take-overs and lateral hires
- Changes of premises—going open plan etc
- Re-structuring
- Hiring Professional Managers
- Hajor systems and IT Projects
- Growth generally

which can have an impact on the Firm's culture. Many of these projects and issues are an inevitable part of the life of the Professional Service Firm. But the complication is that, like sitting on a water bed, the downward pressure of one project can result in some upward pressure elsewhere.

The inevitable contradictions and tensions have to be managed between the strategies, projects and initiatives which Firms would like to implement on the one hand, and their effect on the culture of the firm on the other. An obvious example is the advantage of promoting and rewarding a sense of individual ambition and performance, which can be at odds with the equally important desire to promote teamwork and cooperation. Another example of apparent contradiction is the possible incompatibility between a heavily directive vision and direction from the partners (from top down), and the involvement and enablement of staff at all levels (from bottom up).

Leading and Controlling Culture: Can Professional Service Firm Leaders keep a grip on their firm's Culture in a period of growth and change?

What I have learned from all this is that, despite the obvious paradoxes and complications, the management of the firm's culture and of peoples' behaviour during a period of great growth or change has four essential principles in achieving a sense of balance. adapting the work of Professor Denison of the International Institute for Management Development who has made a world-wide study of organisational culture². This research has resulted in a vital diagnostic tool (the Cultural Inventory) which enables Firms to study and measure the cultural traits present

he complication is that, like sitting on a water bed, the downward pressure of one project can result in some upward pressure elsewhere.

PRINCIPLE ONE—KNOW YOUR OWN CULTURE

It is quite interesting to note how few Firms have an in depth understanding of their own culture and in particular those cultural traits which should be nurtured in order to increase the firm's effectiveness in the market place. When we ask Managing Partners to describe their firm's culture, we very often get similar responses (a popular one is 'we are collegiate'). I am often left with the impression that many Managing Partners tend to believe their own publicity and rely on their own perspective without necessarily asking the right questions in the deeper subterranean layers of the firm. I believe it is vital to gain an intimate knowledge of the levels of culture, the sub-cultures and the behavioural traits which are evident throughout the firm. One way is to take some form of cultural survey, though it is important to accompany any survey with more detailed work on a face-to-face basis. My partner H Edward Wesemann has researched this issue comprehensively¹,

sure the cultural traits present in their Firm. Knowledge of these traits and behaviours can help enormously to understand how the firm is likely to react to change programmes, and new initiatives and strategies.

PRINCIPLE TWO—GET THE SUBJECT OF CULTURE ONTO THE PARTNERSHIP AGENDA

In order to take any subject seriously, Partners must engage. I have found that this is easier

said than done. Indeed, I could write a book on the array of management issues and subjects which make the eyes of the average Partner glaze over. High on any such list would be the linked areas of Culture, Values and Behaviour, subjects on which it has proved generally difficult to gain the attention of outcomeoriented partners, obsessed as they are with the short term delivery of results and profits. In general, partners will usually wake up and take notice if they perceive there is something in it for them. That is why it is so interesting to note the vast body of evidence which now links culture and effective performance. This can make it possible to use these links to get partners thinking more about the impacts, both positive and negative, which cultural and behavioural issues have on the business and its underlying profitability. There are of course other ways of grabbing partners' attention. One is to consider with them how the firm ought to present itself to the market-place. A discussion about 'brand values' is often more fruitful than

trying to engage partners in a debate about culture per se. Another method is to highlight the effect of the current state of the firm on the attrition of talent which often results from poor working conditions and a negative climate.

Principle Three—Understand the Contradictions, Tensions and Trade-offs

It should be clear from what I have already said that I perceive the life of the Professional Service Firm to be full of contradiction and paradox. For example, clients are increasingly demanding higher quality at lower price—a see-saw which requires constant management. Then there is the dilemma which occurs when anything new is introduced; how much of the existing structures and methodologies do you destroy or leave behind? **Table Two** sets out some of the inevitable

Table Two

Understanding the Inevitable Contradictions in Professional Service Firms

- Top down mission/vision/direction versus bottom-up involvement and empowerment
- Individual rewards versus team rewards
- Lower cost versus higher quality
- Hintegrating the old and the new
- 🗩 Internal focus versus external
- → Stability versus flexibility
- Tough and Aggressive Lawyers but caring managers
- Comfort zones versus a climate of challenge
- Caution in attitude versus Bold & Entrepreneurial Risk Takers

contradictions and tensions which can exist in Professional Service Firms

In all these cases, Professional Service Firm Leaders constantly have to find a balance, course correction or trade-off to stop the lurch which can occur between one extreme and the other.

What is equally clear is that it is the task of the Leaders not to eliminate the predictable paradoxes and contradictions, but to seek to manage and balance them.

PRINCIPLE FOUR -MAKE SURE THAT THE WORDS MATCH THE MUSIC

I was talking to the Risk Management Partner of a Law Firm the other day who was expressing his frustration because months of careful work by him had been completely undone by an intemperate outburst from an angry Partner. The Risk Management Partner had spent many patient months carefully building up trust at all levels of the firm in order to encourage early and open reporting of mistakes and circumstances leading to possible Professional

Indemnity Claims. All members of staff were assured that the firm promoted a no-blame culture in which they could admit their errors in a positive and supportive atmosphere geared towards learning lessons from mistakes rather than penalising lapses. You can probably guess what's coming! An assistant

Who

made a mistake and the other Partner lost his temper in public, humiliating and terrifying his assistant. In an instant, all the trust and credibility evaporated; trust which the Risk Management Partner had carefully built up over the preceding months.

Table Three

THE WORDS (WHAT IS SAID)	THE MUSIC (WHAT IS DONE)					
We have high values	We tolerate transgressions by prima donnas					
We are open and honest	We talk about people behind their backs					
We have an open door policy	Doors are often closed					
We have a flat structure	Many firms are still hierarchical					
We believe in co-operation and teamwork	We build walls around our clients					
We believe in promoting quality	We still tend to reward quantity					
All Partners have keyboard and computer skills	Many Partners still insist on a one-to-one secretary					
We promote an external client focus	Most of our value measures are internal					
We encourage training and development	We do not give staff enough "down time" from charge able hours for training purposes					
We encourage our staff	We are good at criticising our staff					
We want to be commercial and business-like towards our clients	We want our clients to like us					
We respond well to the challenges which we face	We hate change					
We value satisfying our clients completely	This often cannot be reconciled with working within targets					
We value those who are good at managing . people and teams achievement	We respect high personal billing achievement					
We believe in proper delegation	We hog work which could be delegated, in order to enhance personal billings					
We want to enforce proper disciplines	We want to be liked and to avoid confrontation					
We are good at cross departmental integration and coordination	Departments are often independent islands with their own sub-cultures					

AND CONTROLLING CULTURE: CAN PROFESSIONAL SERVICE FIRM LEADERS KEEP

This is by no means an isolated incident in Professional Service Firms. The fine rhetoric of the Partners is often not matched by their actions. The words (what is said) often do not fit the music (what is done) and the rhythm (the organisational pulse and atmosphere) can beat out of time as well. For Managing Partners and those with Management responsibilities, the problem is even more acute. Whilst the firm's statements, messages, speeches and slogans can all be carefully and strategically orchestrated, it is less easy to control what is done by the partners in practice - fitting the music to the words can be a Herculean task.

Table Three sets out some of areas wherethe words and music may not match inProfessional Service Firms.What is also clear is that people in anyorganisation will take their cues fromwhat they see or feel is going on, morethan what they hear. If, for example,the Managing Partner says –with all thesincerity in the world – that the Firm iscommitted to learning and development, but no training resources are allocated,the view will quickly form that theManaging Partner's fine words are notmatched by reality.

PRACTICAL SUGGESTIONS

There are some basic practical rules which can, however, be followed to enable consistency between words, music and rhythm

1. Take great care about what the firm pays attention to, and what is measured. Leaders should consistently think about the things they communicate, the agendas that are set, and the i ssues they appear to care about. The firm will notice these and react accordingly.

he fine rhetoric of the Partners is often not matched by their actions.

> 2. Consider the projects and areas to which you allocate resources.

- 3. Be disciplined about your visible behaviours. Like the Risk Management example, the firm is much more likely to believe what it sees rather than the fine words it hears.
- 4. Monitor how the firm reacts to a crisis or challenge. If the firm hits bad times, the way the firm deals with problems sends out messages to members of staff.

- 5. Reward what you value. This may be an obvious point, but we still see many firms which claim to reward good management and teamwork but continue to reward only individual performance → 6. Set criteria for recruitment and promotion etc which match up with the way you want things done in your firm

p on their firm's **C**ulture in a period of growth and ch

7. Make sure that the visible facilities and features of the Firm (artefacts, routines, procedures, rituals, reports, premises and even the reception area) also reflect the sort of firm you are or aspire to be

8. Ensure that all of the firm's marketing and branding correctly portray the sort of firm you are



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¹ See Managing Firm Culture available for download at http://www.edge.ai/article/articleview/69/1/104/ ² See for example 'Towards a Theory of Organisational Culture and Effectiveness' 1995 available for download from http://www.denisonculture.com/research.html

So how was your last meeting with a new PROSPECTIVE CLIENT

WE ALL KNOW

that there are times when it is appropriate to explore a new business opportunity. So why does the very thought of having to take action make most partners' hands sweat?

Take the CEO who happened to get dragged along by one of our loyal clients to the last seminar and found the content quite engaging. In fact he expressed interest as he exchanged business cards with on of our partners. But that was three weeks ago and the business card remains somewhere on the partner's desk. No, it didn't get buried there by accident or because this partner is spending every waking moment on good billable work. It got buried because this partner is suffering a mental block, not having the nerve to pick up the phone, or knowing exacting what to say. Ask partners for a list of potential prospects. No problem. Ask them when they are planning to make contact. Get ready for all the excuses as to why it might not be appropriate given their existing friendship, why they fear they might offend...

Maybe your firm is already overburdened with too much of the kind of high quality work that has partners racing enthusiastically to their offices in the morning. Maybe you don't expect partners to concern themselves with developing a book of business. Or, maybe you just hold to the notion that if every partner just does good work, the phone will ring.

On the other hand, if partners aren't enthusiastically racing to the office inspired by their growing book of business, isn't it about time you helped them develop their business development skills?

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ne Client Focus: Managing The Sophisticated Client's Expectations

by Patrick J. McKenna and Ronald F. Pol, EDGE INTERNATIONAL

+ + + + We disagree!+ + +

MANAGING THE SOPHISTICATED CLIENT'S EXPECTATIONS

t is reported that a major law firm has been dropped from the approved list of a Fortune 500 company due to a lack of satisfaction with the relationship. For many law firms this is not an isolated instance. We regularly work with firms who share their tales of woe – often only after discovering they are no longer a client's preferred choice.

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Notwithstanding expressions of disbelief from some lawyers, changing law firms is seldom something that corporate counsel undertakes lightly. It is time consuming, often creates disagreement and even dissent within the legal department, and takes senior people away from their main focus of running the legal function, and the business. But,



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obviously some clients reach the point where they believe that their lawyers don't manage the relationship at all well – and fail consistently to deliver value.

The most recent BTI survey of Fortune 1000 companies confirmed that, mostly, clients weren't just looking for legal skills as the key to satisfaction because they believe that they can get the legal skills they need at most good firms. But what clients can't seem so readily to find is genuine client service - the effective delivery of those skills in a way that demonstrates value. Moreover although most lawyers are genuine in their desire to deliver client value, clients have reason to believe that their lawyers don't listen to their concerns - or don't care. Surely if their lawyers really cared, they would do something about rectifying the client's perceived dissatisfaction?

The all too common advice offered by consultants and other advisors is that firms should get serious about regularly seeking their client's opinions of how well they are delivering their services and managing the overall relationship. If law firms would simply make it a habit to survey or get out and talk with their clients on a regular basis (and especially at the conclusion of every major transaction) about the level of service being provided; and then act on what the client tells them, the firm would not be vulnerable to losing these clients.

While this sounds eminently reasonable at first blush, is it really at the heart of managing a client's satisfaction and delivering value?

First off, many law firms will quickly claim that they "pretty much do that

stuff anyway." The lawyers may be described as extremely confident in their belief that they know exactly what their clients really want. Yet many of their clients appear not to experience the relationship the same way the law firms describe it.

Secondly, when was the last time you ever verbally complained about a per-

awyers may be extremely confident in their belief that they know exactly what their clients really want. Yet many of their clients appear not to experience the relationship the same way the law firms describe it.

ceived lack of service that you experienced? It's not a natural or comfortable thing for many of us to do. Many inhouse counsel feel the same way, so you can't assume that no complaints means satisfied clients. (It goes against the grain for many people, but for your business' sake you may come to appreciate those of your clients who really do let you know just how they experience your services – the good and the bad).

You may think it unfair, but your client may feel no obligation to be candid with you about the level of their dissatisfaction. Only a small minority are vocal complainers who give warning of their unhappiness and they often feel even more frustrated when firms don't seem to listen. (A number of fellow inhouse counsel have conveyed to Ron, "If I told them once, I've told them a thousand times, so why don't they get it?") You can't rely on hearing about complaints in order to assess the efficacy of service delivery. Many dissatisfied clients will simply vote with their feet and you may only find out after the fact. Perhaps to soften the blow, the client may allow you to respond to an RFP, but your

> chances of winning may be next to nil. The client's views are shaped by their past experiences, and their expectation (based on that view, with nothing to suggest otherwise) that you won't change, so client surveys or future promises become a poor form of counter argument.

Thirdly, clients sometimes fail to express the real essence of their discontent. They might express it in apparently specific terms – e.g. 'you don't meet our requirement to return our calls within two hours' – and may genuinely think that that's the issue, yet the essence of the

complaint may lie elsewhere. This is particularly significant if the firm (apparently justifiably) considers the complaint to be without merit – e.g. "we often can't call back to one client representative, because we spend so much time at the client's own offices, and we don't disrupt our work for the client by taking calls - and by the way, the client's always calling to explain in minute detail about every little thing."

If the client fails to express it clearly, the real complaint might never surface – e.g. "we feel that you just don't understand us. We try to help you out by calling to carefully explain each instruction, but you seem never to be interested." Without delving deeper than what the client says in reply to regular surveys, it may be little wonder that the client walks, and that the firm genuinely doesn't know why.

Finally and most importantly, it becomes awfully difficult to survey and measure your client's satisfaction in hindsight, if you never determined up-front the basis upon which the client's satisfaction would be determined. In other words, it is a bit like having someone come down the hall, at the end of the year, to offer you a performance appraisal. What is the foundation upon which your performance will be appraised? Hopefully, it will be based upon some performance indicators that had been established and that you willingly agreed with, at the beginning of the year.

In short, client surveys are valuable, but no panacea. They mostly have you looking backward – yet looking forward from the outset provides the best view.

So, when you think about it in those terms, how do we even attempt to measure our client's satisfaction at the end of an engagement? What is it that we are measuring? And how do we know that what we are measuring is of any importance whatsoever to our client (because some consultant provided you with their standard template of the questions to ask)?

The Key Lesson: More important than determining your client's satisfaction or the value of your services after the event, is to agree in advance on the key elements that will determine satisfaction and value. From the firm's perspective, this might be seen as helping shape your client's expectations. From a client's perspective, it might be seen as identifying, from the outset, what will add value to the client. Same thing? Maybe. Valuable to both? Absolutely.

HOW CLIENT FOCUSED ARE YOU, REALLY?

Whether we like it or not, we are going to be measured by our clients. The good news is that we can affect the measurement process.

However, if we take a passive approach, the measuring stick against which we will be measured will be exclusively a creation of our client and likely imposed upon us. Alternatively, most in-house counsel and sophisticated clients would be delighted if their lawyer approached them at the outset of a matter, to discuss ways in which they could determine and provide value.

There are a lot of reasons why most lawyers don't bother – we're too busy to invest the extra time that it would take; there are no billable hours involved in doing it; we might be afraid to 'stir the pot;' and perhaps if we don't talk about it, then maybe it ain't really broke.

The not-so-good news is that the prevailing view among sophisticated corporate counsel would seem that it is broke. As reported in Corporate Legal Times, in a June 2003 editorial entitled, "Find Time To Whip Outside Counsel Into Shape," law firms continue to be accused of "failing to understand their clients' basic needs" and doing a "dismal job in communicating with clients and evaluating whether or not they are meeting client expectations."

As a law firm partner reading that editorial, you would likely be incensed. Like many of your colleagues, you would genuinely consider yourself client-focused —in fact, so much so, that we expect that you would argue that you diligently meet every demand, and even every whim, of each of your many clients. An analogy that might help provoke your thoughts; is that of a wagon-wheel.

Say you have 10 major clients. You complete invoices in a particular way to satisfy the expressed wishes of client A. You record time in a special way for client B, with narrations for each entry that match their reporting systems. You provide 1-page advice letters for client C, with draft board papers from time to time. For client D you provide data that fits in with their matter management system. Client E wants you to send bills on the second Tuesday of the month, so that's what you do. Then there is client F, for whom you attend the legal team's monthly group meetings, and visit their factories whenever you're in town. Likewise. . .for - client.

You might well say "Whaddya mean, I'm not client-focused?, I'm so client focused, there's only 6 hours a day I don't give to clients, and I really do need to be able to get at least a couple hours of sleep, most nights."

Yes, in a sense, you are client-focused. And we're not suggesting you shouldn't do what your clients need. But maybe we should step back a moment. Look at it like a wagon-wheel. We're talking about you, so you're the hub of the wheel. The demands of each of your individual clients represent the spokes. Say 20 spokes (some clients have one or two special things they require of you and we can all think of a few clients who are really demanding). Now, instead of focusing on the spokes, what if you tried to identify what clients are REALLY after, in a more general sense than the specific 'spokes'?

First, it might be reasonable to assume that clients mostly don't ask you to do

GENUINE CLIENT FOCUS: MANAGING THE SOPHISTICATED CLIENT'S EXPECTATIONS

all these things just to annoy you, or just for the fun of watching you run around chasing your tail. They do it because they need to have you demonstrate value, and your current systems aren't doing it for them, so they've come up with ways that they hope will help force you to do things in ways that will help them demonstrate the value of the legal process. Chances are, even the most demanding clients - (for whom you half expect their next request will be for your invoices to be in a particular typeface) - are not actually obsessed with the spokes themselves – they're simply trying to get you to do a few simple things toward delivering better value.

So, take a breath from all the running around, and think, what is it that clients really want. We believe it boils down to three main things: they need (and want) you to:

identify what adds value (to the client);

deliver that value; and;

demonstrate that you have done so.

That is what THEY need to do in their role within the organization, And it's what they need YOU to do. This is something that you have a shared interest in. What better basis for real teamwork? If they don't think you're doing it, they come up with these ways of trying to force you to do it. And they're all different. Some do lots of research. Some do what seems right. And some are just plain crazy. But what it often means is that you have to run around like a chicken with its head cut off. Well, perhaps you just think you have to. Maybe you just think that's what it means to be client-focused.

Instead of looking to the spokes (yep, back to the analogy), try to find the rim of the wheel. If you find what most clients are pretty much after (say, the three things we mentioned earlier), AND YOU ACTUALLY SET ABOUT DELIVERING IT TO THEM, then you might just find that most of the spokes fall away. Sure, some will remain. But mostly they'll be the most basic 'process' ones (e.g. client G needs you to send a copy of the invoice separately to the legal department and to the accounts payable department, and both need to approve independently for the client's accounts system to go 'snap' and to generate a check - Sure you'll still do that one, right?!) And anyway, for this analogy to actually work, you still gotta have like 3 or 4 spokes minimum, else the wheel will collapse and our metaphor will crash with it.

When he managed the major litigation and dispute resolution function of New Zealand's largest listed company, Ron used to tell his outside lawyers:

Obviously, I've put lots of work into getting a system that addresses my needs; into getting this right. So I must care passionately about the process, right? I must care passionately about the specific invoice format and other criteria that I've developed, right? Wrong.

Sure, if we're going to do it, I expect you to get it right. But in the broader sense I care about it not one bit. If anything, I dislike it with an intensity matched by the frustration that caused me to do something, anything, to try to force you to do three simple things that I've been asking you to do for ages—help me identify what adds value, deliver that value, and demonstrate the value added—in terms that matter to us as the client.

Now, do I think my system is perfect? Far from it. I'm sure someone else could come up with a better one. But no one has, at least not that I know about. You haven't done so, or if you have, you've kept it a secret. No law firm has done so, that I'm aware. So it's really just the best I could do, on my own. I won't even cling to 'my' system out of spite. Even now, if any law firm can come up with a simple system that does those three things, I'd drop my requirements in a nano-second.

And he was quite serious too - but of course, as he reports it, none of the firms ever did rise to this challenge. Instead, they just met the client requirements, i.e. as yet another 'wagon wheel spoke' – often after putting up lots of resistance either simply meeting the new requirements, or seemingly 'gaming' the new system for all they were worth later seeking to justify 'premiums' and defend 'discounts' without ever really trying to look at value.

IDENTIFY WHAT ADDS VALUE

When you are first retained by corporate counsel, you are likely hired to resolve specific problems that the legal department does not have the skills, resources, time, or inclination to handle. In handing the matter over to you, corporate counsel is entrusting you to serve as the bridge between their legal team and those of your lawyers who will work the case. It is your job to ensure that your client's needs and expectations are met.

To truly understand your client's expectations, you must first have some empathy for the environment in which they work. For example, the average associate general counsel for litigation may be handling anywhere from 20 to 200 different matters in a number of different jurisdictions. This means that each matter is likely to get only about an hour's attention each week. Meanwhile, you may have forgotten that the single matter that you are working on is only one that your client is juggling at any given time.

The ramifications are obvious. We need to understand the workflow and the demands on the time of that in-house lawyer who is giving us the assignment if we are to have any hope of becoming their trusted business partner and a true asset.

It is important therefore, to identify and distill the key factors that add value to your client's organization and also explicitly to record those factors at the outset of the transaction. Sitting down with corporate counsel allows you both to lay out the commercial objectives, develop strategies to advance those objectives, and then prepare an engagement understanding that can be reviewed and monitored as the matter progresses.

To determine those factors might be as simple as engaging in a discussion and asking your client:

As I hope you know, we really do value you as a client and want to deliver a level of service that not only meets, but exceeds your expectations with this particular matter. Can we take a few minutes for you to tell me specifically, what constitutes 'value' for you in the way in which we will handle this particular matter? What I would like to do is understand completely how you measure value, what we need to do at every stage in this transaction to make your life easier, and then be able to sit down again at the conclusion of the case and assess how we did and what we might learn about how to perform even better in the future.

Listening skills are paramount. The key is not to approach collaboration

t might be reasonable to assume that clients don't ask you to do things just to annoy you, or just for the fun of watching you run around chasing your tail. They do it because they need to have you demonstrate value, and your current systems aren't doing it for them.

on the basis of, "Here is how we want to do it," but rather by asking your client, "How can we serve you best (or at least better)?"

Both corporate counsel as well as outside counsel have come to use the term "value-added" with such frequency that it is quickly in danger of becoming meaningless. Lawyers are suspicious that corporate counsel tend to invoke the term to support outrageous expectations, while corporate counsel believe that lawyers toss around the term in their marketing pitches without ever defining what the "value" they're "adding" really is, or worse still, use the term to justify 'premiums,' yet otherwise bill at 'time.' Indeed, the hourly billing mechanism appears to have conditioned many lawyers into thinking about 'premiums' and 'discounts' - from a firm management perspective - rather than about 'value' from a client perspective. In both cases, however, there is often a mismatch of expectations between the

> value perceived by the firm and the value perceived by the client. Oftentimes, this is not just because in-house and outside counsel have a different perspective, or perception of value, but because they failed explicitly to consider what would constitute value – before resources were committed and results achieved.

> In some situations, you may need to probe deeper to help your client help you identify the factors that really matter to them. While the client may have carefully drafted guidelines that are presented to the law firm as conditions of retention, there is usually very little real guidance on the kind of client

service it would like to get from outside counsel, the frequency of communication, how to provide more proactive preventative counseling, or other conditions that signify what the client might really value.

In those instances, we have found that thinking through the various steps involved (we call this the client's Value Chain) in completing the transaction, can allow you to explore specific client expectations at each "touch step" along the way. GENUINE CLIENT FOCUS: MANAGING THE SOPHISTICATED CLIENT'S EXPECTATION

Here is an example of the various steps involved in a typical legal matter and a sample question that you could ask to elicit what your client is hoping to achieve at each of these links:

Well, I need you to be sensitive to the importance of this matter to our company,

to be highly responsive when weneed you, to provide excellent coordination and case

THE CLIENT VALUE CHAIN

Instructions Transaction Deliverables Billing Assessment & AfterCare

Instructions:

How does this matter fit within your company's overall business goals and how important is this case in comparison to others you are working on?

Transaction:

When (hourly, daily, weekly) and how (voice-mail, email, meetings) do you want to hear from me?

Deliverables:

How would you like me to make my reports and presentations more useful to you and easier to pass along or utilize within your organization?

Billings:

What would you like to see on your invoices, and how could we simplify or improve our statements so that they provide the information you need in the format you need it in?

Assements & AfterCare:

How might we debrief at the conclusion of this case in order to determine what we've learned, to your future benefit—such as identifying ways to reduce future liability or develop 'resource multipliers' enabling the legal department, demonstrably, to deliver more value to the business?

COMMIT YOUR CLIENT'S OBJECTIVES AND KEY EXPECTATIONS TO WRITING

In order to be able to manage your client's expectations all the way through the particular matter it is important to identify key factors that enable you effectively to deliver value to the client organization. Our recommendation is that, in concert with your client, you develop a specific checklist of what their expectations are and what, for them, would constitute real value being delivered on this matter.

Now often, your client will be able to articulate broad concepts such as the following:

management, and itwould be highly valuable to our department if your team could provide us with some substantive training in this area.

While these concepts may be a good start, you then need to have the client define precisely what they need and how they will know when their expectations have been met – and indeed, exceeded (which should be your ultimate goal).

TIP

A particularly good technique for probing to better understand is the

FIVE WHATS:

Starting with a question like "What do you expect from us?" Answer: "To be responsive"

You then follow with: "And what does that mean to you; what would some firm being extraordinarily responsive look like?"

And then again "What does that mean ... ?"

This stage is vital, yet often overlooked, as we all just assume what needs to be done. We've done it before, we know this client, we know this stuff, right? This stage is especially important for firms-when you truly know what the client values, then that's where you can focus resources, without spending lots of time (and trying to justify it later). And when you deliver, you know it and the client knows it-always a great time to have a billing conversation. So, get into some specifics early on. That doesn't necessarily mean screeds of paper, with detailed procedures and precisely defined micro-objectives. But what it does mean is truly to understand what the client values - it might mean just a couple of sentences. So, yes, sometimes you'll need to 'drill down' just a little more. For example:

You mentioned that you expect availability. In order for me to understand exactly what you mean by availability, as you might appreciate that different clients might define that term differently, can you please give me some examples of what you need so that together, we can develop a standard for how we will actually meet your expectations in a measurable way

The 10 indicators identified here are of course not significant in themselves. They simply represent some of the possibilities – and some of the factors that corporate counsel seem regularly

DETERMINANTS OF VALUE							
INDICATOR OF VALUE	We will both know that this has been accomplished to the client's satisfaction when ("what" happens)?						
1 Outcome/Importance for Company							
2 Understanding the Business							
3 Legal/Commercial Judgment							
4 Availability							
5 Timeliness of Advice							
6 Co-ordination (Project/Matter management							
7 Unprompted Communications							
8 Staffing Levels/Balance							
9 Manage Fee Level Expectations							
10 Relationship—Helpful/ Constructive/Useful							

to complain about. What is important is that they reflect what is important to your client. After all, if you never find out what is important to your client, how can you expect to deliver great results? Or more importantly, how can you expect readily to demonstrate to the client the fact that you've delivered.

The other important consideration is that there are only a limited number of indicators, and that this process is fairly simple. A complicated process, with too many variables, may look great in theory but will seldom work in practice.

This process can also serve to protect your interests. Let's say you have agreed to take a litigation case on a fixed fee basis. Your client, because they are paying a fixed fee may have an incentive not to settle expediently and may simply veto early settlement opportunities. Your average cost per case now starts escalating. Then the client pressures you to lower your average cost per case. He says, "If you want to stay on our approved list, you'll need to discount your rates."

It also serves to protect your client's interests. The relevant corporate counsel has a budget and other expectations to meet within their organization. If you are part of setting these expectations from the outset, and you meet or exceed agreed deliverables, corporate counsel will also meet or exceed internal expectations. This will help strengthen any relationship more than divergent expectations ever will.

This process channels everyone's attention into designing a real value-added path work is done (and expense incurred) and reinforces teamwork between the lawyer and client.

DEMONSTRATE THAT YOU HAVE ADDED VALUE

When your matter is completed, you can now utilize a simple checklist to both assess your client's satisfaction (on terms that were predetermined) and demonstrate the extent to which you have added value.

In practical terms, a simple checklist might list the key criteria, with a box for each, to be assigned grades from 1 (poor) to 5 (excellent), and a "comments" field. Such a checklist provides a useful basis for identifying whether lawyers meet key value and performance criteria for each transaction, and across a range of transactions.

You might want to invite your client to complete the form, return it to you, and then schedule a specific meeting to discuss your client's feedback.

In practice, you may find that your evaluation of your performance may be higher, and that you view your value contribution greater than your client did. Most importantly though, this process allows you to identify key areas for improvement and key areas in which you are doing well, in which both you and the client may increasingly be 'on the same page.' For example, using the same factors as above:

Many corporate counsel will agree that, mostly, lawyers do achieve results—yet the process by which this occurs is sometimes a difficult one, from the client's perspective. Maybe this is part of the reason for the 'disconnect' between law firms and their corporate counsel clients – lawyers who have in the end 'delivered the [legal] goods' NEW LEADERSHIP: SUCCESSION PLANNING FOR PROFESSIONAL SERVICE

FALL 2004 EDGE International Review

ASSESSMENT OF VALUE DELIVERED									
	Indicator	1 Poor	2 Fair	3 OK	4. Good	5. Exc	Comments		
1	Outcome / Importance for Company	FOOI	ruii		0000	EAL			
2	Understanding the Business								
3	Legal/Commercial Judgment								
4	Availability								
5	Timeliness of Advice								
6	Co-ordination (Project/ Matter management								
7	Unprompted Communications								
8	Staffing Levels/Balance								
9	Manage Fee Level Expectations								
10	Relationship—Helpful/ Constructive/Useful								

might think that's what it's all about. For years, however, corporate counsel have been trying to tell them that that's only one part of the game.

Although the best lawyers actively seek to identify key commercial drivers, these sometimes translate into 'legal' outcomes that, at least within the internal processes of the firm, seem in effect to become the de-facto determinant of value in the lawyer's mind.

Worse, some lawyers still seem to focus more readily on key legal tasks rather than commercial goals. For example, a claim may be met with a robust defense, discovery and interlocutory applications, before considering creative ways to resolve core commercial issues. For a time at least, the legal process itself effectively becomes the perceived goal. When that happens, the lawyer almost invariably will not truly have identified what adds value to the client. Sure, the lawyer might ultimately do so, after several years of "working on the file." Little wonder clients sometimes feel frustrated by the legal process.

Even having ultimately achieved a great result, lawyers sometimes expect clients to warmly thank them, yet often the corporate client has moved on to focus on the next transaction. Worse still, even with a favorable result, the client might consider that it simply achieved what was rightly it's due, at what it might view as considerable cost – usually, the perceived cost and delays generated 'by the lawyers.'

It is easy to say that you understand your client's business, but the best lawyers also take the step beyond simply acting like a legal technician. They translate legal advice into business consequences and business actions. Corporate clients often consider that relatively few lawyers truly identify core objectives, genuinely from the client's perspective, and from the outset.

In essence, lawyers need do only three things: identify what adds value to the client; deliver that value; and demonstrate they've done so. These are in many respects communication skills rather than technical legal skills. The goal is clearly to identify value objectives from the outset, and effectively to demonstrate the value of your contribution in terms that relate directly to client objectives rather than simply 'legal' outcomes.



Patrick J. McKenna is a partner in Edge International where since 1983 he has worked exclusively serving law firms and has worked hands-on with at least one of the top ten largest law firms in each of over a dozen different countries on issues associated with developing competitive strategies, improving profitability, client service excellence, and systems for effective practice group governance. He is available at mckenna@edge.ai

Formerly Corporate Counsel with Telecom, New Zealand's largest listed company **Ronald F Pol** is President of the Corporate Lawyers' Association of New Zealand (CLANZ), general counsel of Simultext Limited, and a member of the governing Council of New Zealand's Law Society. He is available at rfp@xtra.co.nz

A L L 2 O O <u>4 EDGE International Review</u>

GERMANY

Germany is one of the most important legal markets in the world.

It is continental Europe's most significant and mature economy. Although its

growth and internationalization

over the last ten years has been

phenomenal, Germany has main

tained many of its distinct

features that differentiate it and cause it to operate somewhat independently

from the influential US and UK legal markets.

International law firms as well as the larger German national firms face some gruelling tasks in preparing for today's and tomorrow's business challenges. Even though the German legal market and individual firms have not yet fully recovered from the European economic down-turn and the consolidation among its top 50 law firms, most firms find themselves dealing with the following pressing issues:

- Removing bottle-necks to partnership caused by unproductive partners whose compensation is greater than their performance
- Improving profitability/dealing with under-utilization
- Launching practice groups/industry groups/client groups

Friedrich Blase has joined Edge International to head its German consulting practice to professional service firms. Prior to joining Edge, Dr. Blase headed Germany's largest independent law firm consultancy where he served more than half of Germany's top 10 law firms and numerous foreign firms with a presence in Germany. His consulting practice focuses on law firm mergers, spin-offs and market entries, operational restructurings, business development advice, design and facilitation of partnership,

- Integrating the cultures of merged and high growth partnerships
- Coping with complex multi-national cultural issues
- Introducing / Reviewing management systems
- Re-)Inventing marketing / client & public communications
- Turning sophisticated partners into leaders & managers
- + (Re-)Designing professional development

Despite it being an already competitive legal market foreign law firms continue to enter the German legal market either to complement their global position with a credible German practice or to create



staff and client meetings, change management, leadership development and performance enhancement.

Dr. Blase is a German qualified lawyer having practiced with an international firm for several years. Since 1997 he has been pioneering new methods in legal professional development,

EDGE INTERNATIONAL

Bettinastrasse 35-37 • 60325 Frankfurt • Germany Telephone : (49) 69 97 995 972 or E-mail : blase@edge.ai a hub for Eastern European activities. In both cases, the keys of effective practice management and business development become pressing issues for the firms. To capitalize on their already substantial investment, foreign firms find that they must unite an often diverse mixture of laterals, acquired offices and practices in a unique cultural and business environment.

The survivors will be those firms who are prepared to understand the role that Germany plays in the European economic and legal marketplace, and take advantage of the current unique opportunity to develop a new set of best practice rules, structures, management and operations for global operations.

creating the first German academic institution for legal skills training. He holds a Ph.D. in European Contract Law, is a recognized arbitration practitioner and the only Germany-based NITA-qualified advocacy teacher. He has been awarded a number of prizes for his work; most recently he received the Public Speaker Award 2004 from the German Bar Association (DAV). He also serves as an adjunct professor to the German universities of Munich and Mainz as well as several foreign institutions blase@edge.ai

<u>Managing</u> Risk Emotionally

by Gerry Riskin, **EDGE** INTERNATIONAL

managing risk Generation Surprising But True, Emotion is

A POWERFUL TOOL FOR MANAGING RISK.

Traditionally, when we think of "risk management", we think about identifying and diarizing limitation dates and executing our matters with quality. While these are important, they remain, in truth, only the base of the risk-management pyramid. Let's climb.

As lawyers, we are extraordinarily rational people who observe legal vectors going in a multiplicity of directions, and, from those we discern a course of action that is best for our client. Most lawyers do all this quite well—at least, in a technical sense. Almost all lawyers are honest, smart, understand the steps, follow checklists, create them when necessary, negotiate, advocate— they truly try very hard to get great results for their clients— so why, as lawyers, do we find ourselves on the "most hated" list somewhere between telephone solicitors and used auto dealers? Why do lawyer jokes proliferate that thinly veil bigotry and scorn?



MANAGING RISK EMOTIONALLY

Because (collectively) *we don't get it*! Clients have feelings and they seek satisfaction. Satisfaction is defined by the client, not by us. Clients must believe that they have received value for the fee they are required to pay—and if they don't believe they have received value, they are not going to be convinced otherwise. Instead, they will become our antagonist

In order for clients to believe that they have received value, they must feel that they have received value. in the market. In order for clients to *believe* that they have received value, they must *feel* that they have received value.

Understanding the emotion of clients, conveying that understanding, and, indeed,

demonstrating respect for those emotions, require skill.

As a whole, lawyers are intellectually gifted and look at the world through conceptual eyes. They simply don't think in terms of emotion, but rather, ideas. For decades now, law firms have reported anecdotally that enhancing client-relations skills including the appropriate understanding and conveying of emotional elements of legal matters does, indeed, improve client satisfaction levels.

Linear thinkers will see skills exclusively as a marketing topic: "Business-development-in-an-increasingly-competitive-world." But the prize goes to those who see beyond the obvious to the subtle. Enhancing client satisfaction has two substantial rewards that are rarely considered: first, greater lawyer satisfaction from the practice of law and, second, reduced frequency of complaints and claims.

There is a trap here. Many speculate that only clients involved in emotional matters experience strong feelings, like custody battles or wrongful death cases. In fact, clients involved in major business deals also experience emotions. The vice president of acquisitions for a mega corporation cares deeply about the result— bonuses and career advancement rest on the share enhancement value of every deal. Clients all have feelings, from the CEO of a global giant to the local entrepreneur. I have been warned by many Managing Partners that "our lawyers don't like anything 'touchy-feely'." As a former Managing Partner myself, I understand that sentiment completely. The superb lawyers I encounter in brand-name firms focus on their intellect, knowledge and lawyering skills to best serve their clients. They react negatively to experiences that seem "soft." Unfortunately, many make the mistake of believing that feelings are reserved exclusively for those who are not professionals. While it is perhaps true that professionals should not become personally involved in their clients matters, they nevertheless should understand what the client feels. Some lawyers cling to the myth that hard work and dedication alone entitle them to high levels of appreciation from existing clients, as well as to be selected by prospective clients. This view is naïve to the point of being dangerous. Traditional high quality lawyering capabilities are necessary, but not sufficient, for a prosperous practice.

If you are willing to accompany me on a short journey into emotion, I promise you tangible, measurable benefits that translate into lower risk and greater financial success and satisfaction from the practice of law. In the end, this is more about the client (or prospective client) than it is about you.

You live in a world where you are constantly being asked what you *think* about something and almost never asked how you *feel*. Let me begin with a context and give an illustration.

Imagine that you were expecting, by 3:00 PM yesterday, some research that would help you prepare for an important client meeting that took place this morning at 9:00 AM. Neither the research nor the associate who was doing it materialized at the expected time and you had to conduct the meeting without this valuable input. How do you feel about that?

Most good lawyers in most good firms in most countries around the world where I have asked this question have given me answers like:

🕒 "I would feel unprepared for my meeting,"

🕨 "I may lose confidence in the associate,"

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"It would impact the associate's evaluation,"

"I may consider dismissing the associate if this happened repeatedly,"



Now, look at the question and the responses again. I did not ask: "What would you *think* if..." or "what would you do if..." but, rather, "how would you *feel* if..." meaning *emotions*— not *thoughts* or *actions*. It is hard to find a single emotion in the above responses.

When I gently remind participants of the distinction between objective thought and emotion, I actually get responses relating to emotion, such as:



Allow me to take the illustration one step further. The next question is: "How would you *feel* if what you were expecting by 3:00 PM yesterday arrived on time (or before) with a quality that matched (or surpassed) what you were hoping for?

Trained now to distinguish *feelings* from *thoughts* I get responses like:

- 🔶 "delighted,"
 - + "surprised," (accompanied by a chuckle or two)

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🕒 "amazed," (another chuckle)
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🕒 "pleased,"

🎐 "happy,"

💮 "confident,"

🔘 and so on...

Incidentally, those two sets of responses accurately map the precise set of emotions clients experience when they *perceive* that their expectations have, or have not, been met.

This illustrates that we, as lawyers, are so accustomed to being asked for our *thoughts* (our analysis) that we don't even hear the question that asks how we *feel*. We often skip *feelings* to get to analysis. I am not discounting the importance or relevance of *thinking* to our practices but I am suggesting that *feelings* also play a role. I further argue that a lack of awareness of *emotion* can be costly.

So then, what is the relevance of our propensity to analyze rather, than feel, to risk management? When a client explains a problem, we typically react with thought and analysis. Imagine a client says, "An employee has absconded with trade secrets and a customer list. Can you help?" Most lawyers (and I am talking about distinguished, respected, highly-effective lawyers) respond with something to the tune of, "Well, there are some

avenues open to us... the possibility of an injunction... etc." Don't get me wrong. Your thoughts and analysis are critically important

he lawyer who bypasses feelings and goes straight to thought and analysis misses an enormous opportunity... differentiate...

and certainly are what the client is paying for and deserves—*BUT NOT YET*!!! The lawyer who bypasses *feelings* and goes straight to *thought and analysis* misses an enormous opportunity, an opportunity to differentiate, an opportunity to observe the client's feelings and to empathize, an opportunity to form a bond with the client from which loyalty and appreciation are born, an opportunity to form a relationship from which complaints are rarer, understanding greater, and claims nearly unheard of.

However, if a lawyer is not naturally given to "feelings," how does that lawyer convey sensitivity to MANAGING RISK EMOTIONALLY



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the *client's* feelings? Sensitivity, or empathy, can easily be conveyed with simple questions or statements, such as: "You must be very frustrated having taken 20 years to build this business and trusting 'Mr. Smith' for the last seven years only to have him run off with your company's clients and processes. If I were in your shoes, I would be extremely upset." By identifying with the client's perceptions, attitudes, feelings and wishes, your client will move toward feeling understood, which in turn will lead to a more open, honest and, in the end, mutually respectful relationship.

The key here is that you do care and you do know the client is upset. Most of your competitors (and colleagues, I am afraid) conceal that *caring* completely from the client. Why? Because it is on the emotional side of the equation, which they unwittingly avoid. We are technically trained to live, eat, drink, and sleep on the *thinking* side of the equation. (If you don't believe me, ask your spouse—but only if you married outside the profession.)

Does showing you care take more time? A little, maybe, but less than defending claims. What is the return on that investment? What is the value of clients believing of you that in a world of heartless, money-oriented, power-hungry lawyers they have found in you a jewel, an exception, a gem—one who is not just smart, but who cares deeply and will expend every effort for them. In a sea of emotional apathy, they have found that rare gem, *genuine concern*. Will such a client be less or more loyal, less or more likely to pay your invoices, less or more likely to enthusiastically refer others to you, less or more likely to forgive you if some little thing goes wrong, less or more likely to work with you toward resolution if some big thing goes wrong?

Let's keep this in perspective. After delving into feelings, it is appropriate to return to thought and analysis.

The final challenge is that the judicial system rarely offers an elegant solution on a silver platter. In fact, the opposite is the rule where the client must brace for a process fraught with unpleasantness and frustration. Instead of simply reciting the painful path that must now be endured, rigorously distance yourself from those imperfections. There is a distinction between a talented lawyer's efforts and those matters beyond any lawyer's control. The matters beyond any lawyer's control might include legal procedures, difficult opposing counsel, judges who lack the courage to award appropriate interlocutory relief. These factors, beyond your control, create delays and frustrations. You must distinguish for your client which aspects are within and which reside outside your control. You must not allow the client to associate you with those factors—you must be seen solely for your effort on the clients behalf. How you distinguish yourself is a matter of your personal style and approach, but it may look something like: "Chris, I wish I had a button to push that would give you the result you deserve instantly, but I don't-no one does. Our system of law makes it exceedingly unlikely for the following reasons... What I can do is fully explain the options, recommend what I believe to be your most sensible choices, and then commit to using my best efforts on your behalf once we have agreed on a course of action." (Please understand this is not a script but rather an idea that individuals might convey in their own way.)

If you are persuaded that emotion is a factor in the lawyer/client equation, then the next step is to consider not just thinking it, but *doing* something about it. As Estée Lauder, then in her 90's, said during an interview, "I am not famous for the ideas I have had. I am famous for what I have done." Knowing is necessary but insufficient. Skills allow individuals to execute and thereby achieve. The objective of involving the recognition of emotion in your skills training is simple—increased effectiveness.

The idea to which you have been introduced here is that risk might be decreased through acquiring the skill to discern the elusive but always present emotions of each client (in addition to facts). This is not about finding a way to acquire more knowledge because, candidly, knowledge is abundant and easily acquired. Instead, focus on training your people to consider emotion as a means to lowering risk and, as a consequence, enhancing the joy of practice.



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