

Maximizing Existing Client Business

By Michael C. Ross

Many successful businesses have learned that the first place to look for achievable top-line sales growth is to their existing customers. They understand that because they already have relationships with these customers, there is a greater likelihood of generating additional sales with them, and the cost of doing so will be less, compared to obtaining new customers. These lessons especially apply to law firms and their clients.

Although many law firm managers agree that it is worthwhile to devote significant attention to existing clients, few firms are proficient. What firm and department managers want to know is how they can effectively maximize business opportunities with their existing clients.

Collect and Analyze Client Data

The first step for management at both the firm and department levels is to review periodically (at least annually) relevant client information. This should include:

- The gross amounts of client business in dollars and hours from year to year
- Profits from the client's business over recent years
- A thorough analysis of the types of work done
- Identity, seniority and billing rates of the attorneys who have worked for the client
- The quality of the work, both in terms of results achieved and cost-effectiveness

Without this analysis, it would be difficult, if not impossible, to identify clients whose business may be lost, as well as valuable opportunities for increasing business.

Some of the necessary information should be easily accessible from the firm's internal accounting records, e.g., gross amounts billed, net amounts collected, realized hourly rates, attorneys who worked on a client's matters and changes during recent years. It is unlikely

that meaningful information about the quality of the work and its cost-effectiveness can be obtained without some additional work.

Cost-effectiveness

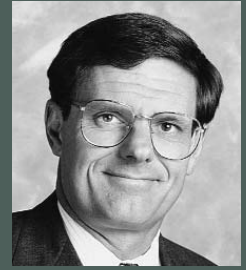
Cost-effectiveness information may be obtained by careful comparison of the costs for similar matters for the same and other clients. Firms should track the costs of a wide variety of matters over time so they have a credible basis for comparison.

This information is also particularly useful at the front end of getting business. If a client asks (or even if it does not) this information will permit the firm to estimate more accurately the cost of a particular case or transaction. This analysis is no substitute for careful budgeting of a specific matter, but it can be a useful internal check on the budget or as part of the dialogue with the client. Attorneys have historically been reluctant to estimate costs because there are so many variables that affect total cost. Historical ranges, averages and means should not only give the outside attorney more confidence in making estimates, but sharing this information with the client will put estimates in a more constructive context. It will also demonstrate a cost-sensitivity that will be appreciated by most clients.

The law firm should know how its client's recent costs for various projects compare to not only its own prior costs for comparable matters, but also other clients' costs. Although some clients may go for a long time without being able to make these comparisons, many clients, particularly those who use several firms for similar work, will eventually get some bases for comparison. So, the firm will be better off anticipating the comparisons, taking the initiative and presenting them in the best light to the client.

Many firms are missing opportunities to use cost comparisons to show their clients the excellent value they are receiving from the

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“The [existing] client is the best ... source of continuing prosperity for the law firm and its attorneys.”

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firm. Although many firms are tempted to maximize the returns on every matter for every client every year, some will recognize the value of investing in the long-term client relationship. If the firm is always charging top dollar for its services, it will have to have other values that keep the client coming back to the firm for new matters. If efficient staffing, expertise or intelligent use of technology has enabled the firm to provide services on a cost-effective basis, the appropriate attorney should explain this to the client at the end of the matter. The attorney could do so at a debriefing lunch, preferably before the client's annual review of the firm's work.

From time to time, there will be matters that, by comparison to relevant matters for the same or other clients, were not cost-effective. There are many possible explanations for why a particular matter was more expensive than it might have been. Some explanations, e.g., other parties' actions, judicial or regulatory decisions or even the client's own conduct or circumstances, may be satisfactory to the client. In many cases, however, these explanations are less than completely satisfactory. In some situations, reminding the client about the firm's record of providing very cost-effective services in similar or different matters may help minimize the impact of an unusual inefficiency.

Adjusting Costs

In some cases, the firm should adjust the cost for the client. Many firms and individual attorneys adamantly resist any suggestion that the firm or the attorney is responsible for the high cost of a particular matter. Regardless of the resistance, no matter how strongly felt, outside counsel should understand that often the client, particularly inside counsel, probably believes just as strongly

that the firm and the attorney are, at least in part, responsible for the high costs. This belief may be based on a wide variety of factors, e.g., the firm's staffing, positions taken by attorneys during the course of the representation, personality conflicts with opposing counsel, excessive revisions to documents, substantive advice and delays caused by attorney schedules. The law firms that are successful in maintaining and growing business with their clients are also smart about knowing when to propose (not merely react favorably to a client's proposed) adjustments.

Outside counsel often fear that proposing an adjustment will lead either to a request for a larger discount or create an expectation of adjustments in future billings (when an adjustment is not appropriate), or both. Although these fears are not irrational, they are exaggerated.

- In most cases, the firm's acknowledgement of inefficiencies takes a lot of the "wind out of the sails" of the client's dissatisfaction and will likely result in a smaller adjustment than the client would otherwise propose or demand.
- Routine adjustments for inefficiencies enhance the client's confidence that the firm and the billing attorney are looking out for the client's financial interests.
- Unless there are problems with future matters, most clients will not expect additional adjustments.

I served for seven years as General Counsel of a Fortune 50 company that had its share of significant litigation, but I will never forget one case that turned out badly. We were advised to make a claim that was dismissed on summary judgment, and the dismissal was affirmed on appeal. The cost was enormously in

excess of the budget, and many of the papers needed extensive rewriting. The senior attorney at the firm responsible for the account proposed a six-figure discount. Although the final adjustment was slightly more than the amount initially proposed, it was structured in a way that was favorable both to the client and the firm. Most important, the firm and the attorney went to the top of the list of firms and attorneys to be considered for a wide variety of matters for years afterward. So, instead of running a significant risk of losing a substantial client, the firm invested in the relationship and substantially increased its chances of getting more business.

Another firm routinely made minor adjustments to both attorney time and disbursements on the face of its monthly bills. Receiving bills that show evidence of having already been "scrubbed" by the billing attorney for inefficiencies gives the client the sense that the law firm shares the client's interest in controlling legal costs. Those already adjusted bills receive far less second-guessing and are more likely to be acceptable and promptly paid than bills from firms that do not engage in this practice. More important, the billing attorney's time and effort, together with the modest reductions in the bills, put the law firm high on the list of candidates for new matters.

Quality Reviews

Law firms and attorneys generally do not have the same reticence about discussing excellent or even good results that they have about bad results and inefficiencies. However, few firms capitalize on court victories, favorable settlements and successful closings of difficult transactions. Sure, there are some congratulatory calls and even letters, and for corporate deals, closing dinners. Unfortunately for the law firms,

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these are not so memorable as outside counsel might hope. Many clients would benefit from (non-billable) debriefings that enable the client and the firm's attorneys to learn from their experiences. During the course of the review, the outside lawyers will have plenty of opportunities to take credit, where credit is due, for high quality work.

It is more difficult to manage the cases, deals and projects that do not turn out well for the client. In some situations, the firm's services are of the highest quality across the board, but some matters involve less than perfect service.

Quality Review

The first step in dealing with client losses and failures is a thorough quality review. In some matters, it is simple to determine the cause or causes of the undesirable result. Even when the law firm and its attorneys are without fault, someone should confirm that the client agrees. It is too easy for outside counsel to assume that the client sees events and circumstances in exactly the same way that outside counsel does. If the client does not agree, a discussion is in order to try to reach a meeting of the minds or, at least, an understanding of the differences. Outside counsel may fear becoming the scapegoat for a poor result, but the answer to that is not to avoid discussing the matter with the client. It is unlikely that that ignoring the problem will make it go away. It will manifest itself in later decisions about which firm to retain for new matters.

Even if everyone agrees that outside counsel bears no responsibility for a poor result, it may behoove the firm to work with the client in some fashion. In corporate deals for financial buyers, holding bills until the client has completed a deal has been used effectively to bind the client to the firm. For cash-strapped clients,

allowing the bill to be paid over time may be appropriate. For others, offering even token future services at a discount or at no charge may help cement the relationship. For example, the firm might offer a free training session for employees designed to avoid the problems that were revealed in the litigation or the deal. The session itself will provide even more opportunities to increase business with the client.

If lead attorneys do not do matter-by-matter quality reviews, the law firm should consider conducting annual or semi-annual reviews with clients. The reviews should cover both quality and cost-effectiveness. Some firms rely on billing attorneys to conduct the reviews of his or her own clients. This can be effective, but there is the theoretical possibility that firm management will not get accurate, or any, feedback. Firms might use members of their Executive or Management Committees for very large clients, but the task is time-consuming, so it is unlikely that they could cover all of the clients that deserve attention. An effective alternative is the use of an independent consulting firm, which will assure that reviews are performed on a timely basis and that the firm gets an accurate and complete picture of the service it is providing. The cost should be well worth the meaningful feedback.

Merely conducting the quality and cost effectiveness reviews should enhance the client relationship because the client will know that the firm cares about the client's assessment of the services provided. Unless the review reveals near perfection, the review alone will not be enough. The firm should acknowledge weaknesses and avoid being or appearing overly defensive. It should propose and follow through on corrective measures, e.g., staffing changes and disbursement cost controls. The changes will generally be good for both client and law firm.

The discussion above about the advisability of offering discounts when services have not been cost-effective applies with equal force to lapses in quality. Clients should insist that firms that propose premiums for successful work also propose discounts for less than successful work. If the firms do not do so, the client should feel free to propose appropriate discounts.

Learn the Client's Business

An attorney who understands his or her client's business is capable of creating more value for the client than one who does not. The mere fact that attorneys working for the client demonstrate some extra effort to learn about the client's business will enhance the standing of those attorneys and their firm.

The question is how should attorneys learn about their client's business? There is, of course, no substitute for years of experience working on a variety of matters for the client or other firms in the client's industry. This will not help the new attorneys on the account nor will it be the complete solution for veterans.

There are some relatively inexpensive ways for attorneys to keep abreast of developments in the client's business.

- If the client has a newsletter, the firm should be on the distribution list and the client team should read it.
- Outside attorneys should review relevant industry publications.
- Outside counsel's attendance at trade association legal conferences makes a very positive statement about the firm's interest in the client's business.
- Firms should use clerical employees to monitor proposed and pending federal, state and local legislation that particularly affects

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the client's business or industry.

- Clerical staff should be assigned to cull relevant news reports and distribute some of them to attorneys who work on the account.

The firm should not charge the client for any of these efforts but might show the time spent at no charge on the client's bill.

There are some more extensive ways to get close to the client's business. One is to place a junior attorney (particularly during times of excess capacity at law firms) at the client for a period of time. Compensation arrangements need to be negotiated, but the firm should view this as an investment in the long-term relationship. An easier investment to make is to put on free seminars or other educational programs at the client's offices. If the client has in-house attorneys, these programs may have the added benefit of satisfying, in a

relatively painless way, some of their continuing legal education requirements.

Conclusion

These suggestions are, necessarily, general in nature. Creative, motivated attorneys should be able to craft business development strategies that are specifically tailored to the client's circumstances and needs. The first step is embracing the idea that the client is not the enemy, but rather is the best source of continuing prosperity for the law firm and its attorneys. The second step is execution. ♦

Michael C. Ross is an adjunct consultant with Altman Weil, Inc. working in the firm's Northern California office. He provides consulting services to corporate law departments in the areas of managing major transactions, law department organization, managing compliance programs, marketing, ethics and conflict of interest issues. Prior to joining Altman Weil, Michael C. Ross was Senior Vice President, General Counsel and Secretary of Safeway Inc.



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