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## CHAPTER 8

### Pick the Low-Hanging Fruit—Summary

The environment for practicing law has changed substantially over the past few years and will continue to do so. Clients have become increasingly demanding, asking for lower fees, more transparent pricing structures, greater responsiveness, and increased involvement in managing their own matters. It now seemingly takes more effort than ever to keep a legal client happy—and to derive satisfaction and appropriate compensation from the practice of law.

Using this low-hanging fruit system will help attorneys tend to what is most rewarding in their practices, while reducing the squeeze that the changing environment for the purchase and use of legal services creates. It also demonstrates how focus on the firm's best clients can lead to a more profitable and satisfying practice.

This chapter reviews the system's main points.

#### Focus on Clients to Build Your Firm

Law firms are built around delivering legal services to clients, but they are not always focused on the right clients. The Pareto principle, also known as the law of the vital few, states that eighty percent of effects come from twenty percent of causes. In business terms, this means that eighty percent of a firm's income will be derived from just twenty percent of its clients. Largely overlapping with that critical twenty percent are the clients who provide the firm's most intellectually-stimulating work and are most stylistically compatible with the firm's attorneys. Those key clients are the firm's *foundation clients*.



Diagram 8.1: Foundation Clients

Centering a law firm on foundation clients can lead to greater depth of relationship with those clients (with attendant financial rewards), open opportunities with clients who share similar characteristics, and make the practice of law more personally rewarding for attorneys.

## Use Value to Create a Foundation of Loyalty

Professionals by and large tend to do a very good job of satisfying clients, but there is a profound difference between a satisfied client and a loyal one. The former may hire you again; the latter would not think of hiring anyone else. Value is at the heart of any loyal client relationship.

Value is based on perspective. Attorneys may value one thing, while clients may value something different. In building a client-centric practice, it is only the client's perception that matters. To understand the value a firm provides, it is essential to enumerate the features (just about anything that can be said about the firm and its attorneys) and appreciate the benefits that clients will acknowledge receiving.

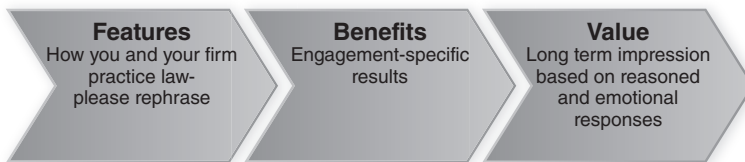


Diagram 8.2: The Value Continuum

To put it differently:

$$\frac{\text{Features} + \text{Benefits}}{\text{Time}} = \text{Value}$$

Diagram 8.3: The Value Equation

In addition to performing a self-assessment of features, benefits, and value, as described in Chapter 2, firms may also wish to use the ACC Value Challenge to create benchmarks for delivering value. It is also essential to conduct interviews with clients to get direct feedback. The interview process is reviewed below.

Once an attorney or firm begins to understand the value clients might receive, the process of becoming a trusted advisor can begin. While most professionals believe that they are trusted advisors, the truth is that everyone who is paid to provide a product or service starts a relationship as a vendor. Vendors are retained for their technical expertise and ability to perform specific tasks. At the other end of the spectrum, trusted advisors are called upon for advice on a plethora of business and personal issues. The continuum of professional relationship development usually looks something like this:

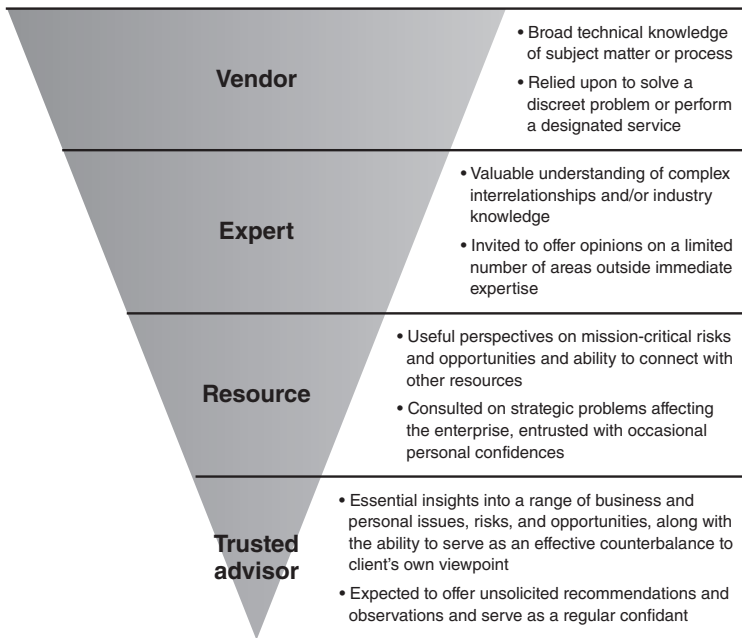


Diagram 8.4: Evolution of the Client/Advisor Relationship

Client interviews are an essential catalyst for moving along this continuum. These are structured conversations that involve advance research, skillful posing of questions, disciplined listening, and follow-up.

Interviews are preferably conducted by the lead attorney who works with the client, but there may be a reason to assign this task to designated staff or an outside consultant. Clients are not billed for any time associated with interviews. The point of interviews is threefold:

- › to gain the client's direct feedback on the firm's work and what clients value in it
- › to demonstrate willingness to invest in the relationship—and in the client
- › to probe for potential opportunities to do more business with the client by providing more value—or by expanding the areas in which value is provided

The interview process is critical for building loyalty because it is often the only reliable checkpoint to review results achieved, solicit feedback on service, and gain a firsthand view of what is valuable to the client.

$$\text{Quality (service} \times \text{results)} + \frac{\text{Value}}{\text{Time}} = \text{Loyalty}$$

Diagram 8.5: The Loyalty Equation

Loyal clients will return to a firm time and again, gladly pay its fees, provide stimulating work, and make requests rather than demands.

## Master Communication Techniques to Build a Client-Centric Practice

The practice of law has communication at its core. From the initial consultation, through the preparation of legal documents, through representation in court, attorneys are constantly communicating with, and on behalf of, their clients. Successful attorneys are highly adept at communication in the delivery of legal services. Communication in the course of building and managing a client relationship is not always treated with the same level of attention. Communication-related issues are the single biggest reason clients cite in leaving a law firm. These include

- › lack of understanding of the client
- › failure to do what the client wanted

- › delay in returning phone calls and responding to inquiry

As with value, perception rules in communication—and again the important perception here is the client’s, rather than the attorney’s. The client’s perception of communication is also frequently a stand-in for how he perceives the service. In many instances, this means that quality of service is more important (or at least more evident) to the client than the quality of work. A strong interpersonal relationship with the attorney, supported by effective communication, is essential.

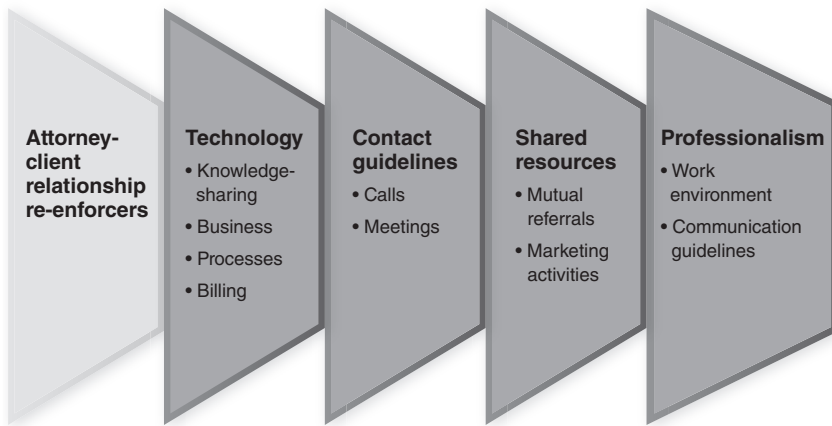


Diagram 8.6: Aspects of 360° Communication

This goes far beyond responsiveness. Effective communication between attorney and client is characterized by equality within the relationship, open lines of communication, an emotional connection, and the ability to think ahead. It is facilitated by attorneys understanding client communication preferences (method, timing, etc.), involving the client appropriately in matter management, and being responsive to client inquiries. It is supported by strict adherence to professional ethics; the ability to present items in clear English without legal terms of art; and clear management of expectations, including desired results, roles, and responsibilities in relation to the matter, process, and budget.



Diagram 8.7: Effective Communication in Attorney/Client Relationships

There are several opportunities for communication. During the course of a matter, they occur naturally; between matters, it is essential for the attorney to actively seek out opportunities to communicate through casual face-to-face encounters, participation in client charitable activities, and strategic offers of complimentary assistance.

It is also important to remember that everything communicates. A cluttered conference room or unhelpful paraprofessional introduces tremendous risk of communication failure. A bill that lists hours spent without showing progress toward the client's desired outcome or value delivered is also a potential communication failure. Technology can help attorneys and firms communicate more successfully with clients. Mobile technologies facilitate staying in touch, cloud technologies allow for shared workspaces between attorney and client—or even within the firm, and knowledge management tools help the firm access its own expertise across disciplines (similar tools allow for cross-firm collaboration or the creation of virtual firms).

Shared communication activities can be profoundly useful in building an attorney/client relationship and can even contribute to both the attorney's and the client's financial well-being. Attorneys, like professionals in other fields, can thrive by becoming thought leaders, intellectual resources whose ideas and opinions are widely quoted. Communi-

cation vehicles such as articles, newsletters, blogs, and podcasts can help establish an attorney as a thought leader, starting with the firm's client base. Joint marketing efforts or attorney contributions to client marketing efforts can also prove valuable.

Effective communication is a process with many intersecting elements. The more of them a firm can employ strategically with foundation clients, the greater its likelihood of making a smooth transition from vendor to trusted advisor.

### Research to Understand Your Current Practice

Most attorneys can readily list at least some of their best clients. Simply making the list does not provide the information needed to deepen—and replicate—foundation client relationships. The circumstances of both the client's world and the attorney's world need to be taken into account and the nexus between the two identified.

"The Five Cs" are an old marketing mnemonic used to provide insight into what a business needs and why. To perform a "Five C" analysis of any business from the inside, work from what is closest to the business itself to what is furthest away.



Diagram 8.8: The Five Cs, Firm View

The company/firm analysis looks at the firm's competitive position in the marketplace for similar legal services. The competitor analysis looks at any firm—law firm or not—that offers similar services. The collaborator analysis examines client service delivery from a broad view of opportunities to work with other service providers, such as financial advisors or even other attorneys. The client/customer analysis is a detailed view of the client within the context of the firm, and then in their own world. Finally, the context analysis explores the climate within which both the firm and its clients operate.

An important part of the company/firm analysis is identifying the clients on which the firm should focus—its foundation clients. Some clients are a good fit for a particular firm, and offer opportunities to expand the relationship, while some are not. Firm analysis helps to clearly recognize the twenty percent of clients who provide eighty percent of the firm's revenues. Another way to examine the firm's client base is to segment it into A, B, C, and D categories, with "A" clients being the most profitable and easiest to work with and "D" being the least profitable and most difficult to work with.

Another component of the comprehensive firm analysis is the SWOT (Strengths, Weaknesses, Opportunities, and Threats) analysis, which lays out all the firm's advantages and disadvantages on a single sheet of paper.

## Research to Understand Your Foundation Clients' Worlds

Once the firm's foundation clients and candidates (the twenty percent of clients that contribute eighty percent of the revenue or the "A" and "B" segment clients) have been identified, similar analysis is performed on their businesses or life circumstances.

The company—or family—analysis involves understanding many aspects of the client's circumstances. Some information—too much in some circumstances—will be available online or through the corporate client's publications. This information should be gathered first. Next, a macro-level understanding should be achieved through a client interview.





Diagram 8.9: The Five Cs Company View

For businesses:

<b>Structure</b>	<ul style="list-style-type: none"> <li>• Legal form:</li> <li>• Year founded:</li> <li>• State founded:</li> <li>• Public or private:</li> </ul>
<b>Geographic research</b>	<ul style="list-style-type: none"> <li>• Number of entities:</li> <li>• HQ location:</li> <li>• US only or global:</li> <li>• If global, where?</li> </ul>
<b>Revenue</b>	<ul style="list-style-type: none"> <li>• Revenue current year:</li> <li>• Revenue past year:</li> <li>• Major changes in past 12 months?</li> <li>• Anticipated changes in next 12 months?</li> </ul>

Diagram 8.10: Client Basics - Businesses

And for individuals:

<b>Structure</b>	<ul style="list-style-type: none"> <li>• Legal status:</li> <li>• Key dates:</li> <li>• Extended family components:</li> <li>• Relevant business interests:</li> </ul>
<b>Geographic research</b>	<ul style="list-style-type: none"> <li>• Where live now:</li> <li>• Extended family locations:</li> <li>• Business locations:</li> <li>• Where want to live:</li> </ul>
<b>Revenue</b>	<ul style="list-style-type: none"> <li>• Revenue current year:</li> <li>• Revenue past year:</li> <li>• Major changes in past 12 months?</li> <li>• Anticipated changes in next 12 months?</li> </ul>

Diagram 8.11: Client Basics - Individuals

The firm will also want to understand the decision-making structure in place for each client. For companies, this is usually somewhat formal; for families, it can be quite informal, and include both involved family members and outside influencers.

When the “Five C” analysis is complete, a SWOT analysis is performed just as it was for the law firm. One further step is taken for a client-side SWOT analysis: an examination of the law as an action driver (for example, compliance with *Dodd-Frank* regulations). With all of the data aggregated into a “client portrait,” you will do some creative thinking about each client in order to define more exactly the nature of your relationship and your emotional response.

The final step is to turn all of the research into an action plan.

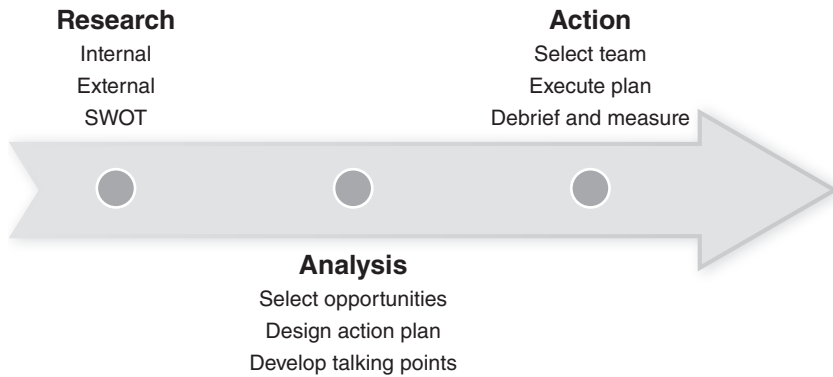


Diagram 8.12: Three-Step Process from Research to Analysis to Action

Your previous analysis will tell you which decision-makers you need to approach at the client, the products and services you want to offer, and the benefits and value the client will be interested in. Set up measurement metrics, assignments for your team and a schedule. Even if the client does not accept your recommendations and hire you for additional business, your stature as an advisor will have grown and more opportunities will arise.

Not surprisingly, client portraits age rather quickly, meaning that some opportunities will become obsolete, while others will emerge. To build a legal practice on foundation client relationships, it is essential to keep portraits up-to-date. Technology can help.

### Build a Client-Centric Firm

Much of what is traditional in the practice of law was established for the comfort and convenience of attorneys, with the expectation that clients would recognize and appreciate the highly-skilled legal services provided. This is no longer so. As stated previously, in the current competitive environment for legal services, clients are demanding more concrete outcomes from their attorneys, greater responsiveness, more involvement as matters progress, and more predictable fees. This means that successful firms of all sizes will need to shift their focus to what matters to clients.

A client-centric firm is one where attorneys' technical skills and service focus and the firm's processes and procedures are deliberately aligned with foundation clients' agendas.

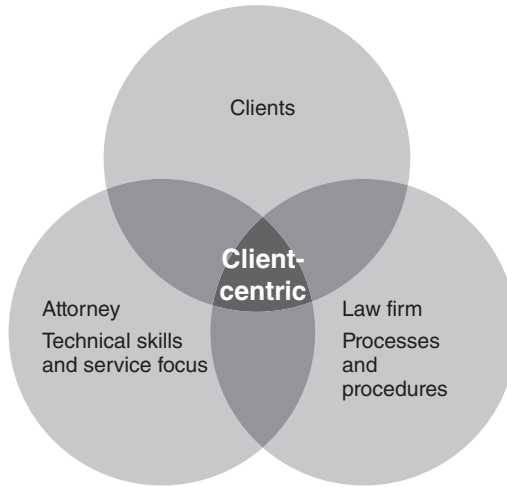


Diagram 8.13: Anatomy of a Client-Centric Firm

Successfully doing this will build a mutually-profitable relationship between the law firm and its foundation clients, allowing the firm to respond to changing client needs while simultaneously bringing clients appropriately into the lawyering process through education and teamwork.

Almost every element that makes a law firm function can also help it function in a more client centric manner.

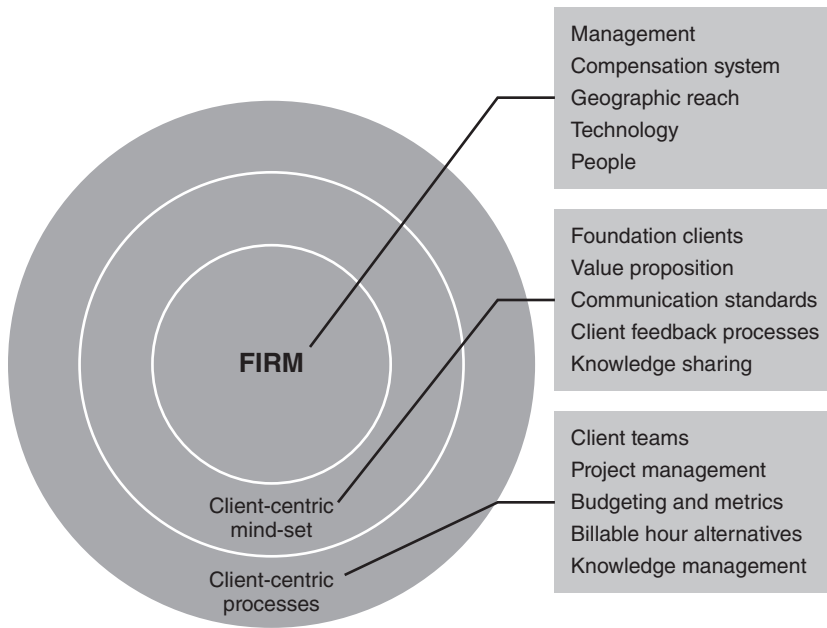


Diagram 8.14: Components of a Client-Centric Firm

Cultural alignment with foundation clients is critical to becoming client-centric. Culture is one of those “soft-focus” concepts that can nevertheless have a tremendous impact on a firm’s relationships with its key clients. Culture is roughly equivalent to a physician’s bedside manner. Attorneys are often called upon to counsel clients at the worst times in their company—or personal—history. People want to work with professionals who treat them in the way they would like to be treated, who understand both their business-driven and personal wishes, and who listen attentively to their concerns before considering courses of action.

This has broad implications for the way law is practiced and law firms constituted. The behaviors law firms reward reveal a great deal about their underlying cultures. Traditional compensation structures are skewed toward a few senior attorneys who bring in new business. Little or no recognition is given to the work that goes into developing longevity in client relationships. Furthermore, because archetypal firms operate as loose associations of practice areas, there is little encouragement to build breadth of client across practice areas.

Client-centric firms use flexible compensation and recognition structures that reward personnel for contributing to the long-term success of a client relationship. They also create cross-disciplinary teams to move client ownership from a single senior attorney to the entire firm. Over time, the firm benefits by being able to cross-sell services from a variety of practice areas, while clients benefit from receiving full-spectrum legal service, where nothing is done in a vacuum. In some ways, this mirrors the primary care model that has been applied so successfully to medical practice. There will always be a lead attorney, but in a client-centric model that attorney has the freedom and the incentive to draw on other expertise. This can be within the firm, or in the case of solos and other small-scale practices, through carefully-chosen alliances.

Project management is another critical differentiator of the client-centric firm. Four elements impact any legal matter: people, time, scope, and cost. Changes in any one of these will impact the others.

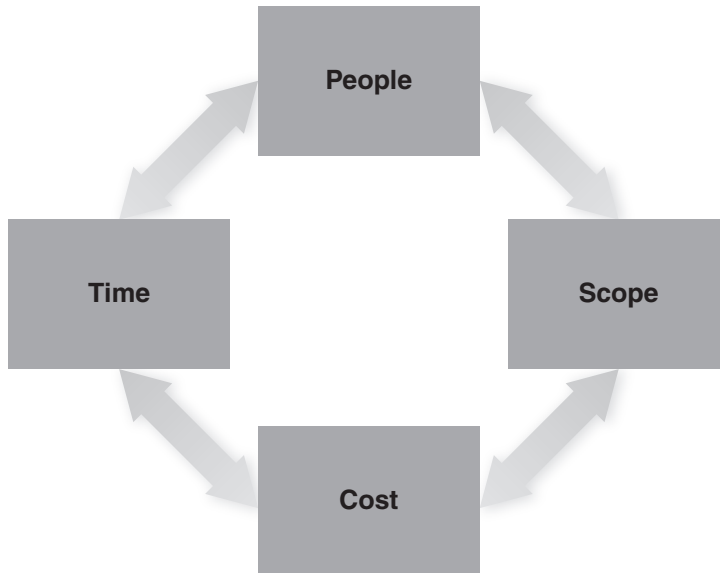


Diagram 8.15: Project Constraints

The traditional practice of law needed no mechanisms to take this into account. Changes in the legal team, time spent, or scope simply resulted in additional billable hours, which was good for the short-term interests of the law firm. This is not, however, necessarily good for client interests, as clients are under pressure to control costs and have become increasingly intolerant of surprises. Project management processes support close collaboration between attorney and client, allow for joint decision-making when appropriate, and help the attorney manage client expectations.

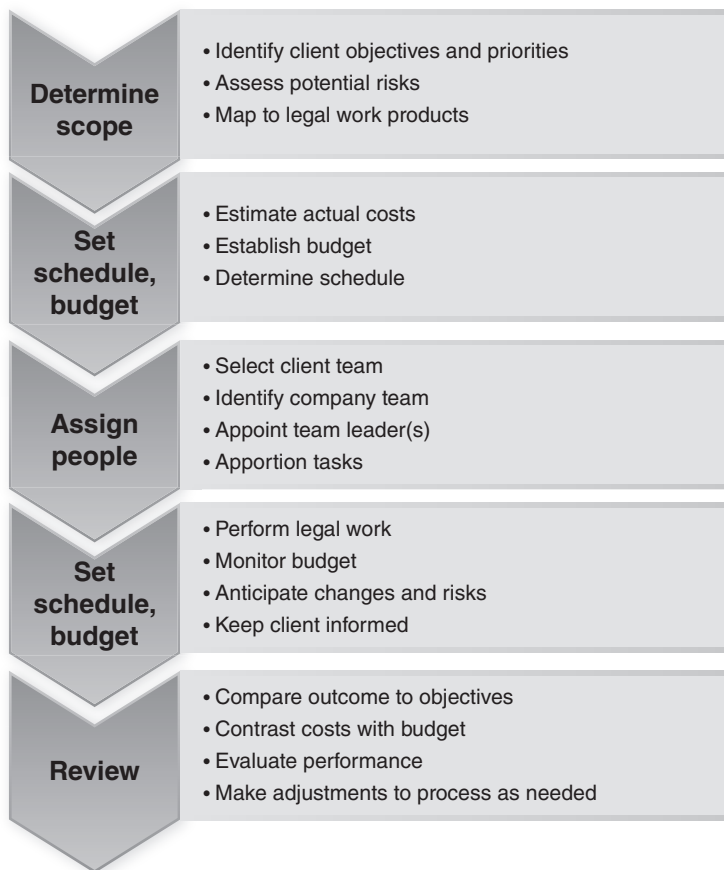


Diagram 8.16: Steps in Legal Project Management

Larger firms use project management software, but the process can be readily scaled to fit the resources at hand.

The final critical element of creating a client-centric firm is the alternative fee arrangement (AFA). The legal profession's long-established reliance on the billable hour shifts all the risk to clients, while reserving all the reward for the attorney. Several models of alternative fee arrangement have been successfully developed and deployed, often leading to reduction in legal costs for clients while not having a deleterious impact on the law firm's bottom line. Combined with project management practices, carefully crafted AFAs can help attorneys work more efficiently and manage client expectations more effectively.

Firms that develop robust client-centric practices are more attractive to clients, current and new, than those that follow established attorney-centric practices. They will have a strong competitive edge in what is becoming a global market with increasing avenues for obtaining legal services, some of which will not involve attorneys.

The learning curve about clients' worlds can be steep; attorneys can maximize their knowledge investment by focusing on the clients, and industries or demographic cohorts that represent the foundation clients. To do this successfully, take what you know about your foundation clients and create an action plan to increase your depth of client. This could involve work for additional practice areas or expansion into different kinds of work within one practice area. From the beginning, this action plan should be driven by goals and fueled by data. Start by benchmarking where you are when you initiate client-centric changes and think about how you can measure the success of the activity. While you can use software to do this, straightforward benchmarks include the number of matters you complete with a particular client, the number of practice areas they use, ways in which the relationship has expanded, and the number of referrals you receive from the client. With a carefully designed and meticulously executed set of client-centric initiatives, you will see steady growth in all of these areas.

## Replicate Your Foundation Clients

Approximately ten percent of every firm's clients leave each year, often for reasons beyond the firm's control. This creates a need for firms to be



continually prospecting for new clients. Foundation clients are the key to successful prospecting. You already have a deep understanding of their values and needs—and you have configured your firm to accommodate them. Rather than accepting any client who happens to walk through the door, it makes far more sense to actively search for the kind of client you know you can work with successfully.

Your foundation clients provide a blueprint for an ideal client profile. Once you have created this, you can begin to target prospects by identifying where the people who match those characteristics can be found, whether they are individuals or representatives of organizations. Keep in mind, though, that it will likely require eight to twelve relevant interactions with a prospect before he decides to hire you. The reason for this is twofold: you are seeking to initiate a relationship, not sell a product or even a stand-alone service; your prospect has a particular reference point when it comes to buying professional services.

Buyers of professional services tend to act only when they feel a need—either a problem to be resolved or an opportunity to be captured. Sometimes this need exists and is urgent, sometimes addressing it has been put off, and sometimes the prospect is not even aware of it. The precise circumstances will become evident as you interact with the prospect and ask relevant questions.

In addition to the fact that professional services are typically purchased on a need-driven basis, prospective buyers often feel some level of uncertainty about the problem or opportunity they face. They are uncomfortable about the risk involved in taking action, they are skeptical because they have been treated poorly by other professionals, they are insecure in making a decision based on incomplete information, and they are concerned that you will not give their matter priority. Note that most of this is unquantifiable and emotional. Most buying decisions are made at the emotional level and only confirmed at the rational level. During the relationship marketing process, it is important to build personal and emotional connections with the prospect, just as you do when you try to deepen a client relationship from vendor to trusted advisor status.

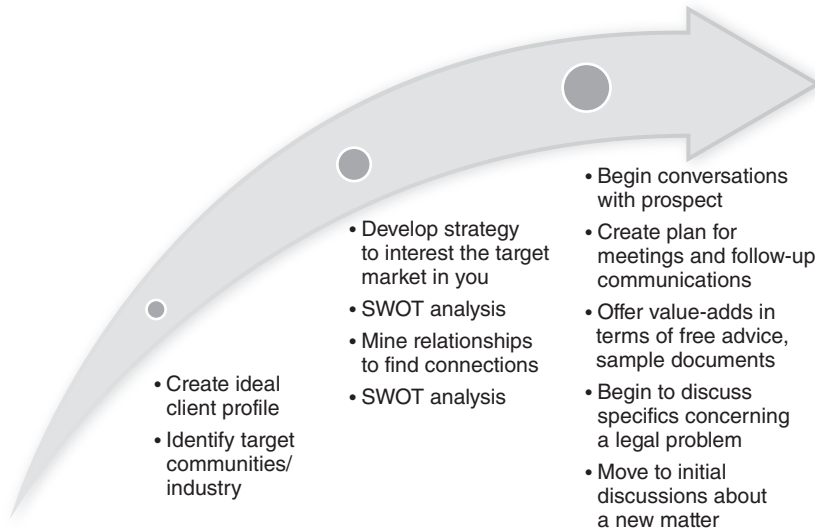


Diagram 8.17: Targeted Sales Pipeline

Marketing materials can support coaxing a prospect through the sales pipeline, but they, too, must keep the prospect's state of mind at the forefront. Materials that emphasize firm or attorney credentials are ineffective at best. Materials that present problems or opportunities similar to those the prospect is facing and provide information about how the firm addresses such situations are far more powerful, and build on the personal connection you are trying to create.

Seeking referrals is an effective way to shorten the marketing/sales process. Your foundation clients are likely well-positioned to help you identify people or organizations with needs and situations similar to their own. This can help you overcome some of the initial objections and move quickly to more substantial interactions.

Before your first meeting with a prospect, develop a strategy. Be prepared to ask insightful questions about the prospect's world—just as you would with a client. It is often difficult to identify the precise transition point between the marketing/sales stage and the engagement stage. The dialog can continue over a long period of time and many contacts. You may be asked to provide informal legal advice. This is acceptable up to a point, as it will give both you and the prospect an opportunity to see if you are a good fit for each other.

The progression continues with each step, moving the relationship forward by allowing the prospect to visualize how it would be to work with you until the process ends with a decision to proceed on a specific matter.

### **Follow the Process for a More Profitable, Enjoyable Practice**

This system shows you how to create a more profitable—and enjoyable—law practice by focusing on three core elements. Foremost, there are your clients. Identifying those that are the best fit for your firm, understanding who they really are and what they genuinely value about the work you do for them is a critical first step. Next, there is you, the attorney. Aligning your technical skills, business knowledge, and service practices with foundation clients' desires is the second step. Finally, there are the processes, technologies, and procedures that support your work. Reconfiguring them to support managing client expectations, meeting client requirements, and cultivating appropriate client collaboration is the third step. Taking the time now to follow the processes outlined in this book will yield only dividends as the market for legal services becomes ever more competitive and commoditized.



# APPENDIX 1

## Model Rules of Professional Responsibility

### Links to Selected Portions

ABA list of the forty-six jurisdictions that have adopted the *Model Rules*, with the date of adoption: [http://www.americanbar.org/groups/professional\\_responsibility/publications/model\\_rules\\_of\\_professional\\_conduct/alpha\\_list\\_state\\_adopting\\_model\\_rules.html](http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/alpha_list_state_adopting_model_rules.html)

ABA Ethics Review Status Chart—Status of state review of professional conduct rules showing state changes to *Rules* and status of proposed changes: [http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/ethics\\_2000\\_status\\_chart.authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/cpr/pic/ethics_2000_status_chart.authcheckdam.pdf)

ABA links to state legal ethics rules: [http://www.americanbar.org/groups/professional\\_responsibility/resources/links\\_of\\_interest.html](http://www.americanbar.org/groups/professional_responsibility/resources/links_of_interest.html)

ABA list of professionalism codes adopted by local and state bar associations and state court systems: [http://www.americanbar.org/groups/professional\\_responsibility/resources/professionalism/professionalism\\_codes.html](http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/professionalism_codes.html)

ABA list of professionalism commissions: [http://www.americanbar.org/groups/professional\\_responsibility/resources/professionalism/profcomm\\_issians.html](http://www.americanbar.org/groups/professional_responsibility/resources/professionalism/profcomm_issians.html)

### Pertinent Excerpts from the Model Rules

#### Rule 1.0 Terminology

(b) “Confirmed in writing,” when used in reference to the informed consent of a person, denotes informed consent that is given in writing by the person or a writing that a lawyer promptly transmits to the person confirming an oral informed consent. . . .

(e) "Informed consent" denotes the agreement by a person to a proposed course of conduct after the lawyer has communicated adequate information and explanation about the material risks of and reasonably available alternatives to the proposed course of conduct.

(n) "Writing" or "written" denotes a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photostating, photography, audio or videorecording, and email. A "signed" writing includes an electronic sound, symbol, or process attached to or logically associated with a writing and executed or adopted by a person with the intent to sign the writing.

## Client-Lawyer Relationship

### Rule 1.1 Competence

A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation.

### Rule 1.1(6) Informed Consent Comment

[6] Many of the Rules of Professional Conduct require the lawyer to obtain the informed consent of a client or other person (e.g., a former client or, under certain circumstances, a prospective client) before accepting or continuing representation or pursuing a course of conduct. See, e.g., Rules 1.2(c), 1.6(a) and 1.7(b). The communication necessary to obtain such consent will vary according to the Rule involved and the circumstances giving rise to the need to obtain informed consent. The lawyer must make reasonable efforts to ensure that the client or other person possesses information reasonably adequate to make an informed decision. Ordinarily, this will require communication that includes a disclosure of the facts and circumstances giving rise to the situation, any explanation reasonably necessary to inform the client or other person of the material advantages and disadvantages of the proposed course of conduct and a discussion of the client's or other person's options and alternatives. In some circumstances it may be appropriate for a lawyer to advise a client or other person to seek the advice of other counsel. A lawyer need not inform a client or other person of facts or implications already known to the client or other person; nevertheless, a lawyer who does not personally inform the client or other person assumes the risk that

the client or other person is inadequately informed and the consent is invalid. In determining whether the information and explanation provided are reasonably adequate, relevant factors include whether the client or other person is experienced in legal matters generally and in making decisions of the type involved, and whether the client or other person is independently represented by other counsel in giving the consent. Normally, such persons need less information and explanation than others, and generally a client or other person who is independently represented by other counsel in giving the consent should be assumed to have given informed consent.

[7] Obtaining informed consent will usually require an affirmative response by the client or other person. In general, a lawyer may not assume consent from a client's or other person's silence. Consent may be inferred, however, from the conduct of a client or other person who has reasonably adequate information about the matter. A number of Rules require that a person's consent be confirmed in writing. See Rules 1.7(b) and 1.9(a). For a definition of "writing" and "confirmed in writing," see paragraphs (n) and (b). Other Rules require that a client's consent be obtained in a writing signed by the client. See, e.g., Rules 1.8(a) and (g). For a definition of "signed," see paragraph (n).

## Client-Lawyer Relationship

### Rule 1.2 Scope of Representation and Allocation of Authority Between Client and Lawyer

(a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial, and whether the client will testify.

(b) A lawyer's representation of a client, including representation by appointment, does not constitute an endorsement of the client's political, economic, social or moral views or activities.

(c) A lawyer may limit the scope of the representation if the limitation is reasonable under the circumstances and the client gives informed consent.

(d) A lawyer shall not counsel a client to engage, or assist a client, in conduct that the lawyer knows is criminal or fraudulent, but a lawyer may discuss the legal consequences of any proposed course of conduct with a client and may counsel or assist a client to make a good faith effort to determine the validity, scope, meaning, or application of the law.

### **Rule 1.2 Scope of Representation and Allocation of Authority between Client and Lawyer Comment**

[1] Paragraph (a) confers upon the client the ultimate authority to determine the purposes to be served by legal representation, within the limits imposed by law and the lawyer's professional obligations. The decisions specified in paragraph (a), such as whether to settle a civil matter, must also be made by the client. See Rule 1.4(a)(1) for the lawyer's duty to communicate with the client about such decisions. With respect to the means by which the client's objectives are to be pursued, the lawyer shall consult with the client as required by Rule 1.4(a)(2) and may take such action as is impliedly authorized to carry out the representation.

[2] On occasion, however, a lawyer and a client may disagree about the means to be used to accomplish the client's objectives. Clients normally defer to the special knowledge and skill of their lawyer with respect to the means to be used to accomplish their objectives, particularly with respect to technical, legal, and tactical matters. Conversely, lawyers usually defer to the client regarding such questions as the expense to be incurred and concern for third persons who might be adversely affected. Because of the varied nature of the matters about which a lawyer and client might disagree and because the actions in question may implicate the interests of a tribunal or other persons, this Rule does not prescribe how such disagreements are to be resolved. Other law, however, may be applicable and should be consulted by the lawyer. The lawyer should also consult with the client and seek a mutually acceptable resolution of the disagreement. If such efforts are unavailing and the lawyer has a fundamental disagreement with the client, the lawyer may withdraw from the representation. See Rule 1.16(b)(4). Conversely, the client may resolve the disagreement by discharging the lawyer. See Rule 1.16(a)(3).

[3] At the outset of a representation, the client may authorize the lawyer to take specific action on the client's behalf without further consultation. Absent a material change in circumstances and subject to Rule 1.4, a lawyer may rely on



such an advance authorization. The client may, however, revoke such authority at any time.

[4] In a case in which the client appears to be suffering diminished capacity, the lawyer's duty to abide by the client's decisions is to be guided by reference to Rule 1.14.

### **Independence from Client's Views or Activities**

[5] Legal representation should not be denied to people who are unable to afford legal services, or whose cause is controversial or the subject of popular disapproval. By the same token, representing a client does not constitute approval of the client's views or activities.

### **Agreements Limiting Scope of Representation**

[6] The scope of services to be provided by a lawyer may be limited by agreement with the client or by the terms under which the lawyer's services are made available to the client. When a lawyer has been retained by an insurer to represent an insured, for example, the representation may be limited to matters related to the insurance coverage. A limited representation may be appropriate because the client has limited objectives for the representation. In addition, the terms upon which representation is undertaken may exclude specific means that might otherwise be used to accomplish the client's objectives. Such limitations may exclude actions that the client thinks are too costly or that the lawyer regards as repugnant or imprudent.

[7] Although this Rule affords the lawyer and client substantial latitude to limit the representation, the limitation must be reasonable under the circumstances. If, for example, a client's objective is limited to securing general information about the law the client needs in order to handle a common and typically uncomplicated legal problem, the lawyer and client may agree that the lawyer's services will be limited to a brief telephone consultation. Such a limitation, however, would not be reasonable if the time allotted was not sufficient to yield advice upon which the client could rely. Although an agreement for a limited representation does not exempt a lawyer from the duty to provide competent representation, the limitation is a factor to be considered when determining the legal knowledge, skill, thoroughness, and preparation reasonably necessary for the representation. See Rule 1.1.

[8] All agreements concerning a lawyer's representation of a client must accord with the Rules of Professional Conduct and other law. See, e.g., Rules 1.1, 1.8, and 5.6.

### **Criminal, Fraudulent, and Prohibited Transactions**

[9] Paragraph (d) prohibits a lawyer from knowingly counseling or assisting a client to commit a crime or fraud. This prohibition, however, does not preclude the lawyer from giving an honest opinion about the actual consequences that appear likely to result from a client's conduct. Nor does the fact that a client uses advice in a course of action that is criminal or fraudulent of itself make a lawyer a party to the course of action. There is a critical distinction between presenting an analysis of legal aspects of questionable conduct and recommending the means by which a crime or fraud might be committed with impunity.

[10] When the client's course of action has already begun and is continuing, the lawyer's responsibility is especially delicate. The lawyer is required to avoid assisting the client, for example, by drafting or delivering documents that the lawyer knows are fraudulent or by suggesting how the wrongdoing might be concealed. A lawyer may not continue assisting a client in conduct that the lawyer originally supposed was legally proper but then discovers is criminal or fraudulent. The lawyer must, therefore, withdraw from the representation of the client in the matter. See Rule 1.16(a). In some cases, withdrawal alone might be insufficient. It may be necessary for the lawyer to give notice of the fact of withdrawal and to disaffirm any opinion, document, affirmation, or the like. See Rule 4.1.

[11] Where the client is a fiduciary, the lawyer may be charged with special obligations in dealings with a beneficiary.

[12] Paragraph (d) applies whether or not the defrauded party is a party to the transaction. Hence, a lawyer must not participate in a transaction to effectuate criminal or fraudulent avoidance of tax liability. Paragraph (d) does not preclude undertaking a criminal defense incident to a general retainer for legal services to a lawful enterprise. The last clause of paragraph (d) recognizes that determining the validity or interpretation of a statute or regulation may require a course of action involving disobedience of the statute or regulation or of the interpretation placed upon it by governmental authorities.

[13] If a lawyer comes to know or reasonably should know that a client expects assistance not permitted by the Rules of Professional Conduct or other law or if the lawyer intends to act contrary to the client's instructions, the lawyer

must consult with the client regarding the limitations on the lawyer's conduct. See Rule 1.4(a)(5).

## Client-Lawyer Relationship

### Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

#### Rule 1.3 Diligence Comment

[1] A lawyer should pursue a matter on behalf of a client despite opposition, obstruction, or personal inconvenience to the lawyer, and take whatever lawful and ethical measures are required to vindicate a client's cause or endeavor. A lawyer must also act with commitment and dedication to the interests of the client and with zeal in advocacy upon the client's behalf. A lawyer is not bound, however, to press for every advantage that might be realized for a client. For example, a lawyer may have authority to exercise professional discretion in determining the means by which a matter should be pursued. See Rule 1.2. The lawyer's duty to act with reasonable diligence does not require the use of offensive tactics or preclude the treating of all persons involved in the legal process with courtesy and respect.

[2] A lawyer's work load must be controlled so that each matter can be handled competently.

[3] Perhaps no professional shortcoming is more widely resented than procrastination. A client's interests often can be adversely affected by the passage of time or the change of conditions; in extreme instances, as when a lawyer overlooks a statute of limitations, the client's legal position may be destroyed. Even when the client's interests are not affected in substance, however, unreasonable delay can cause a client needless anxiety and undermine confidence in the lawyer's trustworthiness. A lawyer's duty to act with reasonable promptness, however, does not preclude the lawyer from agreeing to a reasonable request for a postponement that will not prejudice the lawyer's client.

[4] Unless the relationship is terminated as provided in Rule 1.16, a lawyer should carry through to conclusion all matters undertaken for a client. If a lawyer's employment is limited to a specific matter, the relationship terminates

when the matter has been resolved. If a lawyer has served a client over a substantial period in a variety of matters, the client sometimes may assume that the lawyer will continue to serve on a continuing basis unless the lawyer gives notice of withdrawal. Doubt about whether a client-lawyer relationship still exists should be clarified by the lawyer, preferably in writing, so that the client will not mistakenly suppose the lawyer is looking after the client's affairs when the lawyer has ceased to do so. For example, if a lawyer has handled a judicial or administrative proceeding that produced a result adverse to the client and the lawyer and the client have not agreed that the lawyer will handle the matter on appeal, the lawyer must consult with the client about the possibility of appeal before relinquishing responsibility for the matter. See Rule 1.4(a)(2). Whether the lawyer is obligated to prosecute the appeal for the client depends on the scope of the representation the lawyer has agreed to provide to the client. See Rule 1.2.

[5] To prevent neglect of client matters in the event of a sole practitioner's death or disability, the duty of diligence may require that each sole practitioner prepare a plan, in conformity with applicable rules, that designates another competent lawyer to review client files, notify each client of the lawyer's death or disability, and determine whether there is a need for immediate protective action. *Cf.* Rule 28 of the American Bar Association Model Rules for Lawyer Disciplinary Enforcement (providing for court appointment of a lawyer to inventory files and take other protective action in absence of a plan providing for another lawyer to protect the interests of the clients of a deceased or disabled lawyer).

## Client-Lawyer Relationship

### Rule 1.4 Communication

(a) A lawyer shall:

(1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client reasonably informed about the status of the matter;

(4) promptly comply with reasonable requests for information; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

(b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

### Rule 1.4 Communication Comment

[1] Reasonable communication between the lawyer and the client is necessary for the client effectively to participate in the representation.

### Communicating with Client

[2] If these Rules require that a particular decision about the representation be made by the client, paragraph (a)(1) requires that the lawyer promptly consult with and secure the client's consent prior to taking action unless prior discussions with the client have resolved what action the client wants the lawyer to take. For example, a lawyer who receives from opposing counsel an offer of settlement in a civil controversy or a proffered plea bargain in a criminal case must promptly inform the client of its substance unless the client has previously indicated that the proposal will be acceptable or unacceptable or has authorized the lawyer to accept or to reject the offer. See Rule 1.2(a).

[3] Paragraph (a)(2) requires the lawyer to reasonably consult with the client about the means to be used to accomplish the client's objectives. In some situations—depending on both the importance of the action under consideration and the feasibility of consulting with the client—this duty will require consultation prior to taking action. In other circumstances, such as during a trial when an immediate decision must be made, the exigency of the situation may require the lawyer to act without prior consultation. In such cases the lawyer must nonetheless act reasonably to inform the client of actions the lawyer has taken on the client's behalf. Additionally, paragraph (a)(3) requires that the lawyer keep the client reasonably informed about the status of the matter, such as significant developments affecting the timing or the substance of the representation.

[4] A lawyer's regular communication with clients will minimize the occasions on which a client will need to request information concerning the representation. When a client makes a reasonable request for information, however, paragraph (a)(4) requires prompt compliance with the request, or if a prompt response is not feasible, that the lawyer, or a member of the lawyer's staff, acknowledge receipt of the request and advise the client when a response may be expected. Client telephone calls should be promptly returned or acknowledged.

### Explaining Matters

[5] The client should have sufficient information to participate intelligently in decisions concerning the objectives of the representation and the means by which they are to be pursued, to the extent the client is willing and able to do so. Adequacy of communication depends in part on the kind of advice or assistance that is involved. For example, when there is time to explain a proposal made in a negotiation, the lawyer should review all important provisions with the client before proceeding to an agreement. In litigation a lawyer should explain the general strategy and prospects of success and ordinarily should consult the client on tactics that are likely to result in significant expense or to injure or coerce others. On the other hand, a lawyer ordinarily will not be expected to describe trial or negotiation strategy in detail. The guiding principle is that the lawyer should fulfill reasonable client expectations for information consistent with the duty to act in the client's best interests, and the client's overall requirements as to the character of representation. In certain circumstances, such as when a lawyer asks a client to consent to a representation affected by a conflict of interest, the client must give informed consent, as defined in Rule 1.0(e).

[6] Ordinarily, the information to be provided is that appropriate for a client who is a comprehending and responsible adult. However, fully informing the client according to this standard may be impracticable, for example, where the client is a child or suffers from diminished capacity. See Rule 1.14. When the client is an organization or group, it is often impossible or inappropriate to inform every one of its members about its legal affairs; ordinarily, the lawyer should address communications to the appropriate officials of the organization. See Rule 1.13. Where many routine matters are involved, a system of limited or occasional reporting may be arranged with the client.

### Withholding Information

[7] In some circumstances, a lawyer may be justified in delaying transmission of information when the client would be likely to react imprudently to an immediate communication. Thus, a lawyer might withhold a psychiatric diagnosis of a client when the examining psychiatrist indicates that disclosure would harm the client. A lawyer may not withhold information to serve the lawyer's own interest or convenience or the interests or convenience of another person. Rules or court orders governing litigation may provide that information supplied to a lawyer may not be disclosed to the client. Rule 3.4(c) directs compliance with such rules or orders.

## Client-Lawyer Relationship

### Rule 1.5 Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.

(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial, or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of

the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

(d) A lawyer shall not enter into an arrangement for, charge, or collect:

(1) any fee in a domestic relations matter, the payment or amount of which is contingent upon the securing of a divorce or upon the amount of alimony or support, or property settlement in lieu thereof; or

(2) a contingent fee for representing a defendant in a criminal case.

(e) A division of a fee between lawyers who are not in the same firm may be made only if:

(1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation;

(2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and

(3) the total fee is reasonable.

## Client-Lawyer Relationship

### Rule 1.5 Fees - Comment

#### Reasonableness of Fee and Expenses

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

#### Basis or Rate of Fee

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer rela-



tionship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate or total amount of the fee, and whether and to what extent the client will be responsible for any costs, expenses, or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

### Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8 (i). However, a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

### Prohibited Contingent Fees

[6] Paragraph (d) prohibits a lawyer from charging a contingent fee in a domestic relations matter when payment is contingent upon the securing of a divorce or upon the amount of alimony or support or property settlement to be obtained. This provision does not preclude a contract for a contingent fee for legal representation in connection with the recovery of post-judgment balances due under support, alimony, or other financial orders because such contracts do not implicate the same policy concerns.

### Division of Fee

[7] A division of fee is a single billing to a client covering the fee of two or more lawyers who are not in the same firm. A division of fee facilitates association of more than one lawyer in a matter in which neither alone could serve the client as well, and most often is used when the fee is contingent and the division is between a referring lawyer and a trial specialist. Paragraph (e) permits the lawyers to divide a fee either on the basis of the proportion of services they render or if each lawyer assumes responsibility for the representation as a whole. In addition, the client must agree to the arrangement, including the share that each lawyer is to receive, and the agreement must be confirmed in writing. Contingent fee agreements must be in a writing signed by the client and must otherwise comply with paragraph (c) of this Rule. Joint responsibility for the representation entails financial and ethical responsibility for the representation as if the lawyers were associated in a partnership. A lawyer should only refer a matter to a lawyer whom the referring lawyer reasonably believes is competent to handle the matter. See Rule 1.1.

[8] Paragraph (e) does not prohibit or regulate division of fees to be received in the future for work done when lawyers were previously associated in a law firm.

### Disputes over Fees

[9] If a procedure has been established for resolution of fee disputes, such as an arbitration or mediation procedure established by the bar, the lawyer must comply with the procedure when it is mandatory, and, even when it is voluntary, the lawyer should conscientiously consider submitting to it. Law may prescribe a procedure for determining a lawyer's fee, for example, in representation of an

executor or administrator, a class or a person entitled to a reasonable fee as part of the measure of damages. The lawyer entitled to such a fee and a lawyer representing another party concerned with the fee should comply with the prescribed procedure.

## Client-Lawyer Relationship

### Rule 1.6 Confidentiality of Information

(a) A lawyer shall not reveal information relating to the representation of a client unless the client gives informed consent, the disclosure is impliedly authorized in order to carry out the representation or the disclosure is permitted by paragraph (b).

(b) A lawyer may reveal information relating to the representation of a client to the extent the lawyer reasonably believes necessary:

(1) to prevent reasonably certain death or substantial bodily harm;

(2) to prevent the client from committing a crime or fraud that is reasonably certain to result in substantial injury to the financial interests or property of another and in furtherance of which the client has used or is using the lawyer's services;

(3) to prevent, mitigate, or rectify substantial injury to the financial interests or property of another that is reasonably certain to result or has resulted from the client's commission of a crime or fraud in furtherance of which the client has used the lawyer's services;

(4) to secure legal advice about the lawyer's compliance with these Rules;

(5) to establish a claim or defense on behalf of the lawyer in a controversy between the lawyer and the client, to establish a defense to a criminal charge or civil claim against the lawyer based upon conduct in which the client was involved, or to respond to allegations in any proceeding concerning the lawyer's representation of the client; or

(6) to comply with other law or a court order.

## Client-Lawyer Relationship

### Rule 1.6 Confidentiality of Information - Comment

[1] This Rule governs the disclosure by a lawyer of information relating to the representation of a client during the lawyer's representation of the client. See

Rule 1.18 for the lawyer's duties with respect to information provided to the lawyer by a prospective client, Rule 1.9(c)(2) for the lawyer's duty not to reveal information relating to the lawyer's prior representation of a former client and Rules 1.8(b) and 1.9(c)(1) for the lawyer's duties with respect to the use of such information to the disadvantage of clients and former clients.

[2] A fundamental principle in the client-lawyer relationship is that, in the absence of the client's informed consent, the lawyer must not reveal information relating to the representation. See Rule 1.0(e) for the definition of informed consent. This contributes to the trust that is the hallmark of the client-lawyer relationship. The client is thereby encouraged to seek legal assistance and to communicate fully and frankly with the lawyer even as to embarrassing or legally damaging subject matter. The lawyer needs this information to represent the client effectively and, if necessary, to advise the client to refrain from wrongful conduct. Almost without exception, clients come to lawyers in order to determine their rights and what is, in the complex of laws and regulations, deemed to be legal and correct. Based upon experience, lawyers know that almost all clients follow the advice given, and the law is upheld.

[3] The principle of client-lawyer confidentiality is given effect by related bodies of law: the attorney-client privilege, the work product doctrine and the rule of confidentiality established in professional ethics. The attorney-client privilege and work-product doctrine apply in judicial and other proceedings in which a lawyer may be called as a witness or otherwise required to produce evidence concerning a client. The rule of client-lawyer confidentiality applies in situations other than those where evidence is sought from the lawyer through compulsion of law. The confidentiality rule, for example, applies not only to matters communicated in confidence by the client but also to all information relating to the representation, whatever its source. A lawyer may not disclose such information except as authorized or required by the Rules of Professional Conduct or other law. See also Scope.

Paragraphs [4]–[18] not included here.

## Client-Lawyer Relationship

### Rule 1.7 Conflict of Interest: Current Clients

(a) Except as provided in paragraph (b), a lawyer shall not represent a client if the representation involves a concurrent conflict of interest. A concurrent conflict of interest exists if:

(1) the representation of one client will be directly adverse to another client; or

(2) there is a significant risk that the representation of one or more clients will be materially limited by the lawyer's responsibilities to another client, a former client or a third person or by a personal interest of the lawyer.

(b) Notwithstanding the existence of a concurrent conflict of interest under paragraph (a), a lawyer may represent a client if:

(1) the lawyer reasonably believes that the lawyer will be able to provide competent and diligent representation to each affected client;

(2) the representation is not prohibited by law;

(3) the representation does not involve the assertion of a claim by one client against another client represented by the lawyer in the same litigation or other proceeding before a tribunal; and

(4) each affected client gives informed consent, confirmed in writing.

## Client-Lawyer Relationship

### Rule 1.7 Conflict of Interest: Current Clients—Comment

#### General Principles

[1] Loyalty and independent judgment are essential elements in the lawyer's relationship to a client. Concurrent conflicts of interest can arise from the lawyer's responsibilities to another client, a former client or a third person or from the lawyer's own interests. For specific Rules regarding certain concurrent conflicts of interest, see Rule 1.8. For former client conflicts of interest, see Rule 1.9. For conflicts of interest involving prospective clients, see Rule 1.18. For definitions of "informed consent" and "confirmed in writing," see Rule 1.0(e) and (b).

[2] Resolution of a conflict of interest problem under this Rule requires the lawyer to: 1) clearly identify the client or clients; 2) determine whether a conflict of interest exists; 3) decide whether the representation may be undertaken despite the existence of a conflict, i.e., whether the conflict is consentable; and 4) if so, consult with the clients affected under paragraph (a) and obtain their informed consent, confirmed in writing. The clients affected under paragraph (a) include both of the clients referred to in paragraph (a)(1) and the one or more clients whose representation might be materially limited under paragraph (a)(2).

[3] A conflict of interest may exist before representation is undertaken, in which event the representation must be declined, unless the lawyer obtains the informed consent of each client under the conditions of paragraph (b). To determine whether a conflict of interest exists, a lawyer should adopt reasonable procedures, appropriate for the size and type of firm and practice, to determine in both litigation and non-litigation matters the persons and issues involved. See also Comment to Rule 5.1. Ignorance caused by a failure to institute such procedures will not excuse a lawyer's violation of this Rule. As to whether a client-lawyer relationship exists or, having once been established, is continuing, see Comment to Rule 1.3 and Scope.

Paragraphs [4]–[17] omitted

### Informed Consent

[18] Informed consent requires that each affected client be aware of the relevant circumstances and of the material and reasonably foreseeable ways that the conflict could have adverse effects on the interests of that client. See Rule 1.0(e) (informed consent). The information required depends on the nature of the conflict and the nature of the risks involved. When representation of multiple clients in a single matter is undertaken, the information must include the implications of the common representation, including possible effects on loyalty, confidentiality and the attorney-client privilege, and the advantages and risks involved. See Comments [30] and [31] (effect of common representation on confidentiality).

Paragraphs [19]–[35] omitted

Rules 1.8–1.18 omitted.

## Counselor

### Rule 2.1 Advisor

In representing a client, a lawyer shall exercise independent professional judgment and render candid advice. In rendering advice, a lawyer may refer not only to law but to other considerations such as moral, economic, social, and political factors, that may be relevant to the client's situation.

## Counselor

### Rule 2.1 Advisor - Comment

#### Scope of Advice

[1] A client is entitled to straightforward advice expressing the lawyer's honest assessment. Legal advice often involves unpleasant facts and alternatives that a client may be disinclined to confront. In presenting advice, a lawyer endeavors to sustain the client's morale and may put advice in as acceptable a form as honesty permits. However, a lawyer should not be deterred from giving candid advice by the prospect that the advice will be unpalatable to the client.

[2] Advice couched in narrow legal terms may be of little value to a client, especially where practical considerations, such as cost or effects on other people, are predominant. Purely technical legal advice, therefore, can sometimes be inadequate. It is proper for a lawyer to refer to relevant moral and ethical considerations in giving advice. Although a lawyer is not a moral advisor as such, moral and ethical considerations impinge upon most legal questions and may decisively influence how the law will be applied.

[3] A client may expressly or impliedly ask the lawyer for purely technical advice. When such a request is made by a client experienced in legal matters, the lawyer may accept it at face value. When such a request is made by a client inexperienced in legal matters, however, the lawyer's responsibility as advisor may include indicating that more may be involved than strictly legal considerations.

[4] Matters that go beyond strictly legal questions may also be in the domain of another profession. Family matters can involve problems within the professional competence of psychiatry, clinical psychology, or social work; business matters can involve problems within the competence of the accounting profession or of financial specialists. Where consultation with a professional in another field is itself something a competent lawyer would recommend, the lawyer should make such a recommendation. At the same time, a lawyer's advice at its best often consists of recommending a course of action in the face of conflicting recommendations of experts.

#### Offering Advice

[5] In general, a lawyer is not expected to give advice until asked by the client. However, when a lawyer knows that a client proposes a course of action that is

likely to result in substantial adverse legal consequences to the client, the lawyer's duty to the client under Rule 1.4 may require that the lawyer offer advice if the client's course of action is related to the representation. Similarly, when a matter is likely to involve litigation, it may be necessary under Rule 1.4 to inform the client of forms of dispute resolution that might constitute reasonable alternatives to litigation. A lawyer ordinarily has no duty to initiate investigation of a client's affairs or to give advice that the client has indicated is unwanted, but a lawyer may initiate advice to a client when doing so appears to be in the client's interest.

## Client-Lawyer Relationship

### Rule 1.5 Fees

(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses. The factors to be considered in determining the reasonableness of a fee include the following:

- (1) the time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;
- (2) the likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;
- (3) the fee customarily charged in the locality for similar legal services;
- (4) the amount involved and the results obtained;
- (5) the time limitations imposed by the client or by the circumstances;
- (6) the nature and length of the professional relationship with the client;
- (7) the experience, reputation, and ability of the lawyer or lawyers performing the services; and
- (8) whether the fee is fixed or contingent.

(b) The scope of the representation and the basis or rate of the fee and expenses for which the client will be responsible shall be communicated to the client, preferably in writing, before or within a reasonable time after commencing the representation, except when the lawyer will charge a regularly represented client on the same basis or rate. Any changes in the basis or rate of the fee or expenses shall also be communicated to the client.



(c) A fee may be contingent on the outcome of the matter for which the service is rendered, except in a matter in which a contingent fee is prohibited by paragraph (d) or other law. A contingent fee agreement shall be in a writing signed by the client and shall state the method by which the fee is to be determined, including the percentage or percentages that shall accrue to the lawyer in the event of settlement, trial or appeal; litigation and other expenses to be deducted from the recovery; and whether such expenses are to be deducted before or after the contingent fee is calculated. The agreement must clearly notify the client of any expenses for which the client will be liable whether or not the client is the prevailing party. Upon conclusion of a contingent fee matter, the lawyer shall provide the client with a written statement stating the outcome of the matter and, if there is a recovery, showing the remittance to the client and the method of its determination.

Paragraphs (d) and (e) omitted

## **Client-Lawyer Relationship**

### **Rule 1.5 Fees - Comment** **Reasonableness of Fee and Expenses**

[1] Paragraph (a) requires that lawyers charge fees that are reasonable under the circumstances. The factors specified in (1) through (8) are not exclusive. Nor will each factor be relevant in each instance. Paragraph (a) also requires that expenses for which the client will be charged must be reasonable. A lawyer may seek reimbursement for the cost of services performed in-house, such as copying, or for other expenses incurred in-house, such as telephone charges, either by charging a reasonable amount to which the client has agreed in advance or by charging an amount that reasonably reflects the cost incurred by the lawyer.

#### **Basis or Rate of Fee**

[2] When the lawyer has regularly represented a client, they ordinarily will have evolved an understanding concerning the basis or rate of the fee and the expenses for which the client will be responsible. In a new client-lawyer relationship, however, an understanding as to fees and expenses must be promptly established. Generally, it is desirable to furnish the client with at least a simple memorandum or copy of the lawyer's customary fee arrangements that states the general nature of the legal services to be provided, the basis, rate or total amount

of the fee and whether and to what extent the client will be responsible for any costs, expenses, or disbursements in the course of the representation. A written statement concerning the terms of the engagement reduces the possibility of misunderstanding.

[3] Contingent fees, like any other fees, are subject to the reasonableness standard of paragraph (a) of this Rule. In determining whether a particular contingent fee is reasonable, or whether it is reasonable to charge any form of contingent fee, a lawyer must consider the factors that are relevant under the circumstances. Applicable law may impose limitations on contingent fees, such as a ceiling on the percentage allowable, or may require a lawyer to offer clients an alternative basis for the fee. Applicable law also may apply to situations other than a contingent fee, for example, government regulations regarding fees in certain tax matters.

### Terms of Payment

[4] A lawyer may require advance payment of a fee, but is obliged to return any unearned portion. See Rule 1.16(d). A lawyer may accept property in payment for services, such as an ownership interest in an enterprise, providing this does not involve acquisition of a proprietary interest in the cause of action or subject matter of the litigation contrary to Rule 1.8 (i). However, a fee paid in property instead of money may be subject to the requirements of Rule 1.8(a) because such fees often have the essential qualities of a business transaction with the client.

[5] An agreement may not be made whose terms might induce the lawyer improperly to curtail services for the client or perform them in a way contrary to the client's interest. For example, a lawyer should not enter into an agreement whereby services are to be provided only up to a stated amount when it is foreseeable that more extensive services probably will be required, unless the situation is adequately explained to the client. Otherwise, the client might have to bargain for further assistance in the midst of a proceeding or transaction. However, it is proper to define the extent of services in light of the client's ability to pay. A lawyer should not exploit a fee arrangement based primarily on hourly charges by using wasteful procedures.

## APPENDIX 2

### Basic Guide to Online Research

With almost infinite sites for Internet research, the trick is to make sure that you use the reputable ones. In this appendix, you'll find a listing of free sites for general research. You can also search for information at sites such as

- › trade associations
- › professional associations
- › major university Web sites
- › Lexis-Nexis, FindLaw, and other law resource sites
- › LinkedIn and other social sites
- › Yahoo and Google also have lists of trade associations, etc.

#### General Research Information

[http://www.biblioscape.com/web\\_general.htm](http://www.biblioscape.com/web_general.htm)—portal to many libraries, research books, and online sources

<http://www.britannica.com>—access to the encyclopedia

<http://www.worldopinion.com>—international research Web site with research tips, findings from key reports, and research organization directory

<http://www.refdesk.com>—an encyclopedia-like reference resource

<http://2010.census.gov/2010census/data/>—2010 state and local census data

#### General Legal Sites

<http://www.acc.com/valuechallenge>—American Corporate Counsel value challenge resources site

<http://www.americanbar.org/portals.html>—American Bar Association, Resources for Lawyers section

<http://lp.findlaw.com/>—FindLaw for legal professionals

<http://www.ilrg.com>—public legal—a categorized list of four thousand legal Web sites from all over the world

<http://www.law-library.rutgers.edu/ilg/general.php>—General legal sites  
<http://scholar.google.com/>—Google Scholar—legal opinions and journals  
<http://www.oc.gov/law/index.php>—Law Library of Congress  
<http://www.lawyerist.com>—technology tips for small firm practices

## Company Information: Factual

<http://www.Bizweb.com>—guide to 44,140 companies within 190 industry categories  
<http://www.Businesswire.com>—corporate press releases and business articles  
<http://www.prnewswire.com>—press releases and key business news  
<http://www.Companiesonline.com>—Lycos business reference site with data from D&B  
<http://www.Freedgar.com> or <http://www.edgarscan.tc.pw.com/EdgarScan>—both sites make it easier to search the SEC's EDGAR database. The latter one is a free site provided by PricewaterhouseCoopers  
<http://www.Corpfinet.com>—profiles on financial services (banks, investment banks, mutual funds, etc.); professional services firms, finance, and technology companies; news; and link to EDGAR online  
<http://www.Corporateinformation.com>—profiles of 350,000+ public and private, U.S. and foreign companies, plus research reports and links to other research sites  
<http://www.Hoovers.com>—descriptions of over thirteen thousand companies (but you can access more data if you subscribe), plus news, newsletters, etc. (for more complete information you need to join)  
<http://www.Reportgallery.com>—links to over two thousand current corporate annual reports  
<http://www.Wsrn.com/home/companyresearch.html>—information on the markets and public companies  
<http://www.naics.com/search.htm> or [gov/epcd/naics02/N02TOS87.htm](http://gov/epcd/naics02/N02TOS87.htm)—NAIC-SIC industry classification correspondence tables

## Corporate Information: Softer, “Gossip”

<http://www.Deja.com>—searches Usenet discussion groups for mention of a particular company  
<http://www.Companysleuth.com>—“all” information on US publicly traded companies

<http://www.LinkedIn.com>—and other social Web sites, some specifically for doctors, realtors, etc.

<http://www.Vaultreports.com>—profiles and employee message boards for over one thousand companies and law firms

## Industry Information

<http://www.Industrylink.com>—links to industry specific and cross-industry databases and reference sites

<http://valuationresources.com/IndustryReport.htm>—covers four hundred industry categories

<http://www.Thomasregister.com>—information on 155,000 manufacturing companies

<http://legacy.www.nypl.org/research/sibl/trade/index.cfm>—directories within specific industries

<http://www.chiff.com/business/industry.htm>—a consumer-oriented listing of directories in an assortment of areas

## Not for Profit Organizations

<http://www.Uwnyc.org> or <http://www.opportunitynocs.org>—information on not-for-profit organizations

<http://www.irs.gov/charities/article/0,,id=96136,00.html>—all charities filing with the federal government

<http://charity.lovetoknow.com/>—List of Nonprofit Organizations—incomplete but wide-ranging list of charities organized by subject

<http://www.charitywatch.org/toprated.html>—watchdog site that rates charities according to the percentage of funds spent on the charitable purpose

<http://www.nonprofitlist.org/>—search for nonprofits by state/locale

## Trade and Professional Association Lists

<http://www.weddles.com/associations/index.cfm>—recruiting/human resources oriented site with profiles of over three thousand associations

[http://www.inc.com/articles/2001/02/22070\\_Printer\\_Friendly.html](http://www.inc.com/articles/2001/02/22070_Printer_Friendly.html)—INC magazine article with this attached list that links by industry category to trade and professional associations

<http://www.imex.com/imex/assoc/tradealpha.html>—alphabetical listing of international trade associations

[http://dir.yahoo.com/business\\_and\\_economy/organizations/trade\\_associations/](http://dir.yahoo.com/business_and_economy/organizations/trade_associations/)—eclectic mixture of trade association resources

<http://www.asaecenter.org/Community/Directories/associationsearch.cfm>—searchable database on the American Society for Association Executives' Web site

<http://www.valuationresources.com/MoreResources/TradeAssociationDirectories.htm>—searchable database

## U.S. Government Sites

<http://www.usa.gov>—basic U.S. government access portal

<http://www.usa.gov/Agencies/federal.shtml>—U.S. agency portal

<http://www.fedworld.gov/index.html>—Department of Commerce site that includes links to key government agencies, court decisions, government reports, etc.

State Government websites—e.g. <http://www.ny.gov>

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## APPENDIX 3

### Guide to Client-Centric Initiatives

Client-centricity is the sum of small changes—an attitude, a guideline, a process—all of which are designed to build a knowledge-based, transparent, client-responsive approach to the delivery of legal services. The goal is to create loyal clients, comfortable with you and your firm, who will give you more of their business and recommend your services to colleagues and friends. Each of the activities presented below can be part of the client-centric practice you build. Some activities will be more comfortable for rainmaker-lawyers, others will fit naturally into the practice of a shyer, more technically-focused attorney.

This list is not intended to be definitive. Consider it as you might a menu, where you can select the initiatives that work best for you and your foundation clients. Or use it as a springboard to develop initiatives customized to your firm, your style and personality, and your clients' personalities. The important thing is to deliberate on how you can make small changes to your practice that will eventually transform it into one with a solid—and well-deserved—reputation for client-centricity.

In addition to providing ideas for specific activities, the list also shows you how to use marketing tools such as Web sites, newsletters, and speaking engagements in an effective way to build a client-centric practice.

The initiatives are grouped around three client-centric goals. Some of these activities are more resource-intensive than others, but most can be adopted in smaller firms—especially if the attorneys are technologically-savvy. The firm sizes below represent the total number of firm employees, rather than number of attorneys, as many of the activities can be managed or maintained appropriately by paraprofessionals or administrative staff.

The five firm size groupings are:

1. 200+
2. 100–199
3. 11–99
4. 2–10
5. 1

The three client-centric goals are:

1. to develop a stronger relationship with the client
2. to establish regular and open communication pathways as part of the attorney/client relationship
3. to incorporate modern best business practices to make the legal processes within your firm more efficient and effective

## 1. To Develop a Stronger Relationship with the Client

### Become More Involved in Their Company

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Know the client's work environment and personnel:						
• Visit the client's place of business; if appropriate, ask for a tour		X	X	X	X	X
• Ask to meet everyone you work with in the client's organization		X	X	X	X	X
• Get to know your contact's support staff		X	X	X	X	X
• Get to know your contact's colleagues on the business side		X	X	X	X	X
• Get to know the staff whose work may impact yours, including billing, procurement, and internal legal support teams		X	X	X	X	X
Support the client's business by providing complimentary value-added services:						
• Offer legal briefings for the C-suite executives		X	X	X	X	X
• Perform compliance audits for a specific segment of the business		X	X	X	X	X
• Do on-site CLE programs for in-house counsel		X	X	X	X	X
• Offer to review a manual or contract		X	X	X	X	X
• Share relevant educational materials—especially on emerging issues that pose threats or present opportunities		X	X	X	X	X

(continued)



Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Become a familiar presence at the company:						
• Hold “office hours” at the client’s office to answer work-related questions about compliance issues, e-discovery, etc.		X	X	X	X	X
• Place junior attorneys with the client for a week		X	X	X		
• Ask if you can attend their planning meetings in order to understand their goals more completely		X	X	X	X	X
• Attend key events, such as new offices openings		X	X	X	X	X
Acknowledge their pride in their accomplishments:						
• Remember company milestones		X	X	X	X	X
• Support the company’s charitable activities		X	X	X	X	X
• Nominate the company and its executives for industry and community awards		X	X	X	X	X

**Build Personal Relationships with Clients**

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Socialize with them, as appropriate:						
• Include family members in activities when appropriate		X	X	X	X	X
• Invite clients to entertainment and sports events (be cognizant of the company’s gift guidelines)		X	X	X	X	X
• Create a series of knowledge-themed dinners for key clients		X	X	X	X	X
• Hold special dinners for key clients		X	X	X	X	X
• Create opportunities—educational and social—to get to know both the lawyers and executive decision-makers at the client		X	X	X	X	X

(continued)

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Support their personal interests:						
• Attend community and charity events		X	X	X	X	X
• Make contributions, as appropriate		X	X	X	X	X
Make helpful introductions:						
• Offer to help personally when your contacts are changing jobs		X	X	X	X	X
Give suitable gifts:						
• Keep gifts within corporate guidelines		X	X	X	X	X
• Key gift to individual interests		X	X	X	X	X

### Develop Joint Marketing Approaches

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Invite them to join a business or networking group of which you are a member		X	X	X	X	X
Collaborate on newsletters:						
• Submit an article for their newsletter or invite them to submit one to yours		X	X	X	X	X
• Join their newsletter editorial board		X	X	X	X	X
• Invite them to serve on the editorial board of your newsletter		X	X	X		
Consider a collaborative electronic marketing strategy:						
• Create guest posts for their blogs and invite them to do the same for yours		X	X	X	X	X
• Connect with them on business-focused social media pages (e.g., LinkedIn, Facebook, Twitter)		X	X	X	X	X
• Monitor their blogs and social media feeds, and comment as appropriate		X	X	X	X	X
• Invite their comments on your social media feeds and acknowledge them		X	X	X	X	X
• Link to their Web site and invite them to link to yours		X	X	X	X	X
• Post favorable news about them on your Web site, blog, and social media feeds		X	X	X	X	X

(continued)

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Join forces on presentations:						
• Collaborate on seminars, etc., for outside audiences		X	X	X	X	X
• Co-chair or present at one of their company seminars and invite them to do the same at yours		X	X	X	X	X
• Look for opportunities to involve them in your speaking engagements, such as panel discussions, educational cable TV programs, etc.		X	X	X	X	X

**Participate in Their World**

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Join their industry association or personal interest group:						
• Attend a meeting or conference with them		X	X	X	X	X
• Offer to participate on a panel at one of their meetings		X	X	X	X	X
• Offer to host one of their meetings at your office		X	X	X	X	X
Get to know their other professional service providers—accountant, banker, venture capitalist, insurance broker, financial broker, outside consultants		X	X	X	X	X
Use technology to keep up on—and advance—their interests:						
• Use Web alerts or news feeds to keep abreast of company and industry issues, or demographic and issue (e.g., sports, entertainment, public policy) interests for individual clients		X	X	X	X	X
• Create a client-centric blog(s) or podcast series, looking at their areas of interest from a legal angle (without offering legal advice)		X	X	X	X	X

### Support Client Products/Services

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Whenever possible, use your client's products/services:						
• Make them visible in your office environment, if appropriate		X	X	X	X	X
• Let your client know if you are using a product/service and enjoying it		X	X	X	X	X
Make connections that support their businesses:						
• Send them work, if appropriate		X	X	X	X	X
• Make helpful introductions—ask what they are looking for		X	X	X	X	X
• Offer to help them find new hires when they are looking for employees		X	X	X	X	X

### Cultivate Referral Relationships

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Ask for and make referrals		X	X	X	X	X
Send handwritten thank-you notes for new matters or introductions		X	X	X	X	X

## 2. To Establish Open Lines of Communication

### Develop Systems to Keep in Contact

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Schedule contact—calls, emails, and in-person—routinely as part of process management plan:						
• Follow up several weeks after matter is concluded to see how things are going		X	X	X	X	X
• Make “stay in touch” calls between matters		X	X	X	X	X
• Schedule regular lunch dates with foundation clients		X	X	X	X	X
Share contact information:						
• Include mobile and home telephone numbers as you feel comfortable		X	X	X	X	X
• Provide office directories with direct dial numbers and email addresses so client has easy access to whomever they need in the firm—include staff relevant to their matters		X	X	X	X	X
Share communication preferences:						
• Understand clients’ communication preferences		X	X	X	X	X
• Ask clients what contact information they would like from you		X	X	X	X	X
• Ask clients what time of day they prefer to be contacted		X	X	X	X	X
• Ask clients if they want to be called on weekends or vacations		X	X	X	X	X
• Establish contact guidelines		X	X	X	X	X
• Use preferred method of communication whenever possible		X	X	X	X	X

(continued)

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Prepare your staff to facilitate contacts courteously:						
• Appoint someone to cover your calls when you are out of the office or unable to take a call		X	X	X	X	X
• Make your out-of-office message reflect your current situation (rather than use the generic, “I am out of my office or away from my desk.”) so that it becomes another source of contact information for your clients and colleagues		X	X	X	X	X
• Instruct others who answer your phone to always give their name when they answer, i.e. Hello, this is Richard, Carol’s assistant. She is in a meeting; may I help you?”		X	X	X	X	X

### Configure Your Work Processes to Put Client Interests Front and Center

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Keep clients apprised of dates and times of legal deadlines and activities, and include them when possible:						
• Invite them to attend court hearings		X	X	X	X	X
• Send out scheduling orders and changes to scheduling orders		X	X	X	X	X
• Share calendar dates		X	X	X	X	X
• Be clear about matter timeline and progress		X	X	X	X	X
Follow up after each event (e.g., hearing) as appropriate:						
• Hold conference calls to review what happened		X	X	X	X	X
• Outline any changes to the matter plan as a result of the event		X	X	X	X	X

### Institute a Client Feedback Program

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Conduct regularly-scheduled formal client interviews:						
• Create a process to support client interviews that includes pre-interview preparation and interviewer training		X	X	X	X	X
• Distribute information from the interview afterwards		X	X	X	X	X
• Make appropriate changes—and let the client know		X	X	X	X	
Use questionnaires and surveys to obtain client feedback:						
• Use periodic surveys or focus groups to get client input into proposed changes in the way you deliver services, or regarding initiatives such as a new practice area		X	X	X	X	
• Distribute “How did we do?” post-matter/engagement questionnaires/surveys		X	X	X	X	X

### Involve Clients with Your Firm’s Activities

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Send anniversary cards on the anniversary of when they first became a client		X	X	X	X	X
Ask clients to speak to your lawyers about themselves and important issues in their world		X	X	X	X	
Invite them to participate in a special segment of a partner retreat or in firm planning meetings		X	X	X	X	
Convene ad hoc informal client roundtables to provide feedback and discussion about important trends		X	X	X	X	X

(continued)

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Share your ideas for planned firm investments in technology or online activities or new practice areas		X	X	X	X	X
Create a ten- to twelve-person client advisory board composed of key clients, key referral sources, relevant decision-makers in the financial, economic, and political world to serve as a sounding board and educational resource for the firm		X	X	X	X	X

### 3. To Ingrain Best Practices within Your Firm

#### Set Expectations by Using Defined Client Service Standards

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Develop a client service manual		X	X	X	X	X
Give a printed statement of your client service policies to clients		X	X	X	X	X
Provide client service training for everyone in the firm		X	X	X	X	

#### Offer Alternative Fee Arrangements Wherever Practical

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Offer clients the option of alternative fee arrangements such as success fees, blended rates, discounts, contingency fees		X	X	X	X	X
Consider flat fees for turnkey aspects of services, combined with billable hour-based fees for matters or tasks where the scope of work is unclear		X	X	X	X	X

(continued)



Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Develop a method for tracking time and costs by tasks to facilitate matter budgeting and cost estimates for non-billable hour based fees		X	X	X	X	X

**Establish Clear, Client-Friendly Billing Guidelines**

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Ask clients how they prefer to receive invoices and if there are any client billing guidelines they want you to follow		X	X	X	X	X
Organize invoices by activity rather than chronological time increments:						
• Tie to the budget and project process established at the beginning of the matter		X	X	X	X	X
• Use clear, active language so clients see your movement toward their goals		X	X	X	X	X
• Show complimentary services on the bill		X	X	X	X	X
Establish retainer arrangements for ongoing engagements such as serving in an outside counsel role for smaller and private businesses		X	X	X	X	X
Send bills as near the conclusion of a matter as possible (data show that the greater the time between completion of an activity and billing, the less likely you are to be paid in full.)		X	X	X	X	X

### Deploy Client Teams

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Take a comprehensive view when creating teams:						
• Involve attorneys from all legal practices relevant to client's business		X	X	X		
• Include all firm personnel who work with the client		X	X	X	X	
• Create "virtual alliances" with other firms and attorneys to provide the range of needed services					X	X
Institute structures to promote team success:						
• Ensure that team members understand client's business and concerns		X	X	X	X	X
• Train team members in their roles and responsibilities		X	X	X	X	X
• Develop a schedule for team meetings and measurement metrics for team activities		X	X	X	X	X
• Establish a reward structure that recognizes team success		X	X	X	X	
Adapt the client team concept to smaller firms:						
• Involve all staff who work on the client's matters		X	X	X	X	
• For solos and small partnerships, include attorneys with complementary skill sets from other small firms					X	X

**Invest in Technology, Particularly for Customer Relationship (CRM) and Knowledge Management (KM)**

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Evaluate the feasibility of key technologies for mobility, “cloud” storage, and collaboration, and implement those that are the best fit for your firm		X	X	X	X	X
Gather and manage knowledge within the firm:						
• Track “relationship intelligence,” i.e., who knows whom, who meets with whom, stylistic affinities, and stylistic clashes		X	X	X	X	X
• Establish protocols for accessing and reusing work products (see technology entries below)		X	X	X	X	X
Share technology investments:						
• Encourage clients to use your technology investments, such as videoconferencing facilities, for their own purposes		X	X	X	X	X
• Explore the possibility of using shared technology, such as budgeting software, process management evaluation software, billing system software, etc.		X	X	X	X	X
• Develop joint training programs		X	X	X	X	
Consider using technology to facilitate closer collaboration:						
• Build online shared work venues, such as extranets and deal rooms, where you can collaborate with clients		X	X	X	X	X
• Create processes that facilitate client transparency (ability to monitor progress, review work product, etc.)		X	X	X	X	X
• Share knowledge management initiatives, from whitepapers to document repositories		X	X	X	X	X
• Develop a section(s) on your firm Web site to aggregate articles and links related to common foundation client interests		X	X	X	X	X
• Create research databases that support the work of client teams		X	X	X	X	X

### Assemble Composite Service Packages

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Compile service packages from the client's perspective: <ul style="list-style-type: none"> <li>• Coordinate use of assorted practice areas by one attorney (e.g. a corporate merger client will work primarily with the attorney managing the deal, who will also be the point person for the other services the client needs such as employment law, compensation, benefits, pension planning, intellectual property etc.)</li> </ul>		X	X	X		
Solos and small firms can create similar packages by aligning with others who provide the needed services (e.g., a divorce attorney can establish connections with professionals in the fields of real estate, taxes, estate planning, and guardianship, etc.)					X	X

### Institute a Cross-Selling Program

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Develop internal knowledge-sharing programs: <ul style="list-style-type: none"> <li>• Hold meetings where one practice area or attorney shares specifics about their current practice with the goal of helping other attorneys understand when their services could be useful, and sharing stories that make the practice come alive</li> <li>• Place synopses of successes from different practices—and their relevance to clients—in firm newsletters, on intranets, etc.</li> <li>• Pair partners from complementary legal fields (e.g., the mergers and acquisitions/employment law and divorce/trusts and estates examples above) so they understand what each can offer and can work towards integrated service packages</li> </ul>		X	X	X	X	
		X	X	X	X	
		X	X	X	X	
Create programs to measure and reward/recognize cross-selling initiatives and results		X	X	X	X	

### Launch Diversity Initiatives

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Align values with your clients' (e.g. if diversity is important to them, consider recognizing it when you staff matters)		X	X	X	X	
Make a concerted effort to offer a workplace environment that encourages diversity in ideals, personnel, and vendor relations		X	X	X	X	

### Educate Clients as to the Value Received

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Teach attorneys how to use initial client meetings to establish expectations and process parameters for each matter		X	X	X	X	X
Send end of matter reports with the final bill summarizing the objective, process, and results and highlighting what you were able to do that provided value to the client		X	X	X	X	X
Consider compiling these end of matter reports into a year-end executive summary for key clients, and also present your perspective on important legal happenings for them in the past year, as well as some thoughts on what to expect for the coming year		X	X	X	X	X

### Add Legal Project Management Processes to Your Practice

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Incorporate business-style processes that coordinate with your client's business processes and enable you to anticipate, budget for, and coordinate your legal process		X	X	X	X	X
Agree on the points at which you and your client will want to reevaluate the original plans and projections		X	X	X	X	X

### Create an Office Environment That Reflects the Value of Your Profession

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Create a reception area that looks inviting and professional		X	X	X	X	X
Ensure that conference rooms and other public spaces are clean and clear of confidential client documents		X	X	X	X	X
Train all personnel, attorneys, and staff, in the proper attitude toward colleagues and clients		X	X	X	X	
Consider guidelines on appropriate dress and behavior		X	X	X	X	

### Reward Client-Centric Behavior (Both Compensation and Recognition)

Activity	Firm size →	200+ 1	100–199 2	11–99 3	2–10 4	Solo 5
Develop standards and measurements for client service and reward those who consistently meet or exceed them		X	X	X	X	
Include client-centric attitudes and activities in annual evaluations and reviews		X	X	X	X	
Compensate for exemplary performance of client service—include quality, responsiveness, availability, ability to collaborate with the client, timeliness of task completion		X	X	X	X	
Use soft rewards, such as public recognition or small “thank you” gifts (these are often more consistent motivators than money)		X	X	X	X	





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