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# INSIGHT: Attorneys Need to Regain Their Clients' Trust

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**By Murray Schwartz, Partner, Warshaw Burstein, LLP**

Whenever I hear a lawyer joke, I am reminded that I am a self-professed strict Freudian. I believe that there are no jokes, just truths with a punch line.

All jokes aside, I feel the legal profession needs a reboot. We need:

- to better understand our client's businesses,
- better billing methods,
- more knowledge of our client's financial statements,
- more loyalty to our clients, and
- to connect the dots

In my first years out of law school I noticed that lawyers were much more involved in the inner circles of their client's decision-making process. They would be trusted counsel who would be vital to the process of decision making, especially in matters outside the ordinary course of business. I have seen that process eroding to where the lawyer's role has diminished to dotting the i's and crossing the t's.

In many cases, especially in the mid-level firms where I operate, we have lost our seat in the board room and have become a nuisance expense, a necessary evil whose costs must be carefully managed. Sadly, I think we lawyers have written our own ticket with our bad practices, and sadly too it is not the clients' fault.

Here are five handy ways to again become BFFs with our clients and have them take us on again as trusted counsel.

### 1. Know Your Client's Business

You should know the client's business on the operating level, legal level and financial level. Become intimate with all aspects of the business. Visit the operations. Know how they produce. Know the product lines. Learn how they sell and market. Know what kinds of sales and efficiency incentives they have in place. Carefully read and absorb the financials. Learn the cost centers, sources of supply, union and human resource issues, and the intangible property portfolio. And, of course, be familiar with all the operating and financial contracts. Keep track. Be proactive.

### 2. Change Billing Practices

Align the way you practice and bill to the best interest of the client. Not every billable hour is created equal. Clients also will appreciate capped fees with defined success fees above the cap. Produce real benefits for the client and you will be rewarded and gratefully acknowledged.

### 3. Study the **Financials**

Read clients' financial statements and set up red flags for things that your experience says can be a problem.

In my practice, I have advised about many things that have proven to be helpful. Two recent examples: I saw in the accounts receivable part of the balance sheet that too many dollars were hitting the 90-day mark without being collected. The collections people got paid large incentives for collecting 90-day-old receivables. In fact, they were incentivized to let collections go to 90 days. So, I offered an incentive program that rewarded the effort to keep collections at 45 days. It worked and helped considerably with cash flow.

In another case, after reading the long term debt section of the balance sheet, I noticed that senior borrowings were at about 5.5 times earnings before interest, tax, depreciation and amortization. The borrowing originated in the reckless days of boom and little diligence lending. There were days when senior lending might have averaged higher but none of the high flying banks were doing enough diligence to find out. I advised the client that when regulators start pressuring the banks, the banks do the only thing they can do. Call good loans, for the bad ones are not collectible.

I urged the client to make the effort to lower the leverage and to put in some equity and obtain more from outside sources. They now own 78 percent of a larger and more stable company with an excellent financial partner.

#### 4. Put Client Loyalties First

Place your loyalties to your client above your firm and personal self-interest. Even if you have a partner who dabbles in a specialty, don't saddle your client with his limited skills if you require a more serious player. It is always better to have a happy client than a passively grumpy partner. I have often referred matters to boutique specialists or BigLaw, rather than leave clients under represented.

#### 5. Connect the Dots to Financial Experts

Bring in possible investors, financial players, insurance experts, and others who can help. They will likely return the favor, although there can be no undisclosed quid pro quos.

Perhaps all of this comes down to the Golden Rule. Treat your client not as a caveat emptor customer but as a friend and trusted ally. Remember that we are fiduciaries. Operate in your clients' interest, align goals with them, and may we all go forth and prosper.

*This column does not necessarily reflect the opinion of The Bureau of National Affairs, Inc. or its owners.*

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