

INSIDE THE MINDS™

BUILDING AND MAINTAINING CLIENT RELATIONSHIPS

LEADING LAWYERS ON ATTRACTING NEW CLIENTS,
DEVELOPING EFFECTIVE MARKETING TECHNIQUES,
AND ESTABLISHING A STRONG REPUTATION



ASPATORE

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Providing Value and Superior Client Service in an Era of Cost Pressure

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Providing Value-Added Service

The game has changed for law firms of all sizes. Since the recession, clients are demanding that counsel do more with less and are keeping a close eye on costs. Now, more than ever, law firms must ensure clients clearly understand the value of the legal work they provide. For firms to survive, the mantra “know your client” must be ingrained in every member—partners, associates, and staff.

For some firms, the new reality of value-added service has created something of a culture shock. They can no longer rely on simply being the biggest or most respected name to retain clients. They must provide demonstrable value that clients will recognize when they review statements—something they are now doing with a much more critical eye. It is no longer enough for firms to throw innumerable partners and associates at a particular matter and bill the client. The cost must reflect the value of the legal work, not just the size of the team.

For other firms, however, this has not been such a cataclysmic shift. At Pryor Cashman, for example, we have always believed in being a “right-sized” firm that is unencumbered by bureaucracy and not pressured by excessive leverage of associates to partners. We work closely with our clients to determine their specific needs and staff accordingly. We look at what a matter really needs and then work with the client to achieve its goals. This lean, cost-sensitive approach also keeps the firm agile in responding to market shifts. Compared with other firms, we are more able to make quick decisions regarding alternative fee arrangements and billing, which has proven advantageous.

But the success of any client service philosophy can be measured only in results. For Pryor Cashman, there has been a demonstrable benefit to operating in the way we do. We have not only survived, but also excelled, as a mid-sized firm in New York, which is arguably the most competitive legal market in the world. While other firms began a long spiral downward in 2008, that year was one of the best ever for Pryor Cashman. We experienced turbulence in the beginning of 2009 and saw a drop in work for our real estate and corporate practices in particular, as did most firms.

However, the last quarter of 2009 was the best ever for our firm, and 2010 looks strong.

In light of this, we believe our client-focused model for value-added legal services works—and can be adapted for any firm, regardless of market, size, or core practices. It allows us to take advantage of boom periods, while providing near bulletproof protection in the face of economic instability.

Methods to Maximize Client Satisfaction

Relationships are at the core of what we do. We find that friendships often develop between our attorneys and their clients, even if the original purpose for the relationship was purely business. This is the natural result of the way in which we partner with clients. Our attorneys pay close attention to the needs of their clients. They listen. They come to completely understand, and share in, the hopes, goals, and fears of their clients. This creates a personal bond that is crucial to client satisfaction. When clients feel they are truly understood, they are more likely to see value in the legal work we do for them.

But even strong client relationships can experience bumps in the road. When this happens, a client's trust in the attorney's complete understanding of their needs becomes invaluable. There is already a precedent for two-way communication, and a client will feel comfortable bringing the matter up. If attorneys have truly been doing their client-service job and demonstrating value, the client will communicate the problem and ask for help to fix it. If not, the client is far more likely to just move on.

Because we place such a high value on knowing our clients, we have never experienced a need for client satisfaction surveys. Having third parties speak to our clients would be inconsistent with who we are and seem out of character. If we are doing our job and providing value-added, client-focused service, we know what our clients think about our work because we have been listening throughout the engagement. We are in constant contact with our clients, so the need for a formal survey to take the pulse of the relationship is unnecessary.

Client Development Based on Relationships

Relationships are also at the core of how we manage and develop clients. This is driven not only by our firm's philosophy, but also by our client base. While we may represent some companies that fall within the Fortune 100, the majority of our clients are mid-sized, mid-market companies. They usually have come to the firm largely because of a relationship with one of our partners. This relationship then forms all of what we do for that client for as long as they are with us.

In staffing matters, these relationships form our approach. Generally, one partner is responsible for guiding our work for a client. This partner not only works directly with the client, but also ensures all matters are properly staffed, assigned, and billed. The relationship partner is also responsible for ensuring a matter is not passed off to another attorney who is unfamiliar with the client's business and industry and the issue at hand. Pryor Cashman clients will always know the attorneys working on their matters. It is a given in our firm. Relationship partners are also responsible for ensuring that clients receive value for their legal services dollar and that we are providing what they need in terms of service.

Adding New Practice Areas to Attract New Clients

In addition to pressures on billing, the recession has also brought about dramatic changes in the profitability of practice areas once thought to be bulletproof. It is no secret that in the past two years real estate and merger and acquisition (M&A) practices lost much of their luster. Anything connected to banking or financial services also took a hit. Firms were scrambling to pinpoint new profit centers and attract clients.

Figuring out the new growth practices has meant firms must think creatively and reconsider long-held beliefs. For example, before the economic downturn, the conventional wisdom among larger firms was that personal services practices—trusts and estates, family law, and other areas—were less profitable than corporate work. This is no longer the case. At Pryor Cashman, we saw these practices as a way to retain clients, expand services, and develop new business. In 2009, we expanded our family law practice, added a business immigration practice, and grew a practice with

China-based companies. In addition, in early 2010 we expanded our charities and tax-exempt organizations practice, complementing our larger litigation and corporate practices. By offering a wider array of services, we were able to secure additional business from current clients, when we might have lost them completely when their real estate or M&A matters dried up. Moreover, we lured in new clients by building our reputation as a firm that could handle the full scope of their legal work at a reasonable price. Where we were once thought of as just a corporate firm, we are now known for our personal services practices, as well.

Our willingness to embrace change has also meant that we have been able to tap entirely new client markets. When we saw our traditional U.S.-based mid-market M&A work contract, we looked beyond national borders for new clients. That led us to targeting companies in China, a market that is vibrant and growing. We recruited a young attorney from China with an American law degree with the potential to develop business relationships in her native country. While we already handled finance work for a few China-based companies, our new hire enabled us to add significant value to what we could offer these existing clients, create critical mass, and attract new business. This market is very cost-conscious in terms of what they will spend on American legal services, and our reputation for lean staffing and exceptional value has resonated well with these clients.

New Client Billing Strategies

As with exploring new practice areas, the recession forced firms to explore alternative and creative billing. For some firms, this was merely a Band-Aid solution used to appease clients and did not reflect a true change in philosophy. Again, if these firms had been listening to clients before the economic downturn, they would have already been sensitive to billing issues.

Because we have always focused on being cost-effective, Pryor Cashman had already considered alternative billing and had implemented alternative fee arrangements with great success in appropriate circumstances for many years. In the end, if it means providing value to our clients, we are willing to experiment with billing. Our structure allows us to make quick decisions about alternative arrangements promptly and carefully, while keeping in mind that alternative billing does come with risks. Because we have

traditionally paid such close attention to staffing, we have a good sense of what given matters will require in terms of the amount of work, and this reduces the risk that we will underestimate the arrangement. For firms that do not have this kind of internal culture, however, the prospect of fixed-fee billing is likely far more risky.

Of course, alternative billing arrangements are better suited for certain types of work. With transactional matters, for example, it is easier to anticipate the requirements of a given matter and anticipate costs. It is also easier to foresee potential problems and plan for them. When developing alternative billing arrangements for transactional work, we set specific parameters and expectations with a client so there are no surprises.

Litigation poses a unique challenge in terms of alternative fee arrangements. For those matters appropriate, we have used premium billing or upside arrangements, offsetting significant rate adjustments. We will, for example, implement billing caps or use premiums to reduce fees based on our results. Generally, these arrangements have worked out well for both the firm and our clients.

Strategies for Retaining Top Attorneys

A law firm's success depends on the quality of the attorneys who work there. A firm must foster the growth of partners and associates and strategically recruit new talent. Where some firms fall down is in ensuring that they retain these top attorneys.

If a firm does not provide challenging work and an environment that encourages all attorneys to grow and develop, they will leave. At Pryor Cashman, we have always taken this risk seriously and have taken steps to address it. Unlike large firms where even partners complain about how hard it is to stand out, we provide ample opportunities for our attorneys to shine. The entrepreneurial nature of the firm allows and encourages attorneys to bring in their own clients and develop business. They work on lean teams consisting of three or four individuals in which associates are granted a high level of responsibility. Work is assigned based on ability, not rank, and associates are afforded an opportunity to assume important roles on cases from inception through trial on a day-to-day basis, which is unheard of at

most firms of similar size. Our attorneys work hard, but the workload is manageable, and they have lives outside the office.

There is also a clear trajectory from associate to partner. As a result, we are able to attract top talent and offer them a different kind of practice. A new hire may work on more matters in their few first months at Pryor Cashman than they did during years at their previous firm. The nature of much of our litigation, including intellectual property work, creates cases that resolve themselves without years of discovery and the opportunity for associates to go from the beginning to the end of the case.

We are also an entrepreneurial firm, which is another key to retaining talent. Our attorneys are encouraged and rewarded for their efforts, success, and business development—and this process starts at an early stage. Associates receive commissions on work they originate; attorneys at all levels are encouraged and supported to develop business; and our compensation model generally favors originators. This means we have built a culture of business development. It is no longer a shock to associates when they make partner and are told they must now shoulder marketing responsibilities they have not been trained to do. Attorneys are far less likely to feel expendable during difficult times because they have developed the skill to bring in new business. They simply put what they know to use and go after new business.

Attorneys are also encouraged to sell internally and cross-promote their expertise among current clients. In this collaborative environment, partners open their book of business and identify opportunities to bring in a colleague to work on such business. Long gone are the days when partners were reluctant to share clients for fear that the quality of the work would be compromised or their compensation would be diminished. This creates an environment of collegiality and teamwork that talented attorneys are reluctant to leave.

Mentoring Young Attorneys

Developing talent in up-and-coming attorneys is important to secure the future of the firm. We have a one-to-one ratio between partners and non-partners. Associates work closely with seasoned attorneys who have more experience with clients and added responsibilities at the firm.

Partners are expected to closely monitor the work of the associates they mentor or manage. They give clear information as to time parameters and expectations and operate with an open-door approach. If an associate feels she is spending more time on a matter than has been approved, she is encouraged to address this with the responsible partner, who may offer further direction, insight, or instruction. This not only provides an environment where associates are encouraged to ask questions and learn, but it also ensures we are being cost-effective in our work for clients. Associates are not permitted to merely churn out hours, but they are held accountable for their work being focused and directed.

Trends in Summer Associate Hiring and Billing

The recession has surely affected firms' hiring and billing practices when it comes to summer associates. With a still sluggish economy, companies will no longer pay for a summer associate's on-the-job-training or commit to hiring levels beyond two years after the hiring decision. A recent article in the *New York Law Journal* ("Summer Colds are the Worst: Client Freeze Paying for 2Ls Time," June 8, 2010), for example, reported that of the ten large firms surveyed, nine had reduced their summer associate class sizes by at least 20 percent, and some by as much as 80 percent. The article also noted that Citibank has put its law firms on notice that it will not pay for summer associate time. Viacom has not allowed law firms to bill for summer associate work for several years. This is clearly a sea change for most firms.

Had the *New York Law Journal* surveyed Pryor Cashman for its story, the reporter would have discovered the firm took a conservative approach to summer associate billing even well before the recession. For our summer program, we generally hire a select group of three to five second-year law students whom we hope to hire eventually as first-year lawyers after they graduate. If candidates are not right for our firm, we do not make offers simply to round out a summer class.

In terms of billing, we address the issue on a case-by-case basis. Our well-vetted summer associates are managed closely by mentoring attorneys who have authority to write off their time on a matter. We see this as a form of alternative billing where the attorney responsible for the client relationship serves as the gatekeeper to ensure all bills accurately reflect the value of

services rendered. As the *Law Journal* article indicated, our approach is the one favored by clients.

Being a Cost-Effective Law Firm

As we pull out of the recession with the recognition that there is a long road ahead to recovery with the potential still for setbacks, the watchword for law firms will be *value*. Not only are clients weary of escalating legal costs, but they are refusing to pay them and taking their business to more receptive and cost-sensitive firms. Firms must be cost-effective if they are to survive, and this means that some long-standing practices must end.

It is no longer a given that law firms will offer astronomical salaries and bonuses to first-year associates fresh out of law school, and then pass those costs on to their clients. Clients will just not stand for that in this economic climate. They will not subsidize the training of inexperienced lawyers.

Today's law firm client must see a demonstrable relationship between the fees they are charged and the value they receive. Money matters, and clients will no longer pay outside counsel whatever they charge. This is more of a problem for larger law firms that were built on a culture of unlimited client cash flow. Mid-sized firms, because of their client base and operating constraints, have always had to be more sensitive to cost concerns. They were slower to increase salaries, were slower to increase fees, and are more driven to control costs. As a result, they have had less of a problem making the value case for the cost of their services with clients.

Simply put, clients are more likely to look at rising legal fees and ask, "Can we afford this any longer?" For firms unable to justify the value in their fees, the answer they receive from clients will more frequently be "no." For mid-sized firms that operate on a lean basis, without frills that cost clients money, this is a time of opportunity. They have always been the choice for value-added service, and clients are coming to understand this.

Final Thoughts

For any law firm to succeed in this environment, a relationship has to be created between the responsible attorney and the client. The relationship

has to be managed so the client understands the responsible attorney is completely dedicated to understanding the client's business and business needs, as reflected in the counsel he or she provides. The attorney must work with the client on developing a plan and a relationship where the client is getting value and understands it is fair and reasonable.

Throughout the representation, it is important there is sensitivity on the part of management in terms of value and responsiveness to ensure the attorneys who are working on the matter are doing exactly what the client wants and needs. The client should never have to try to figure out who is responsible and who is in charge, or wonder where to go to find out what is happening and why it is happening and what it means to the client in terms of either the case development or the cost.

Key Takeaways

- Client relationships fit no single mold. They should develop naturally and follow from the client's needs and the firm's measure of what is possible.
- Sensitivity to cost means skillfully monitoring one's resources and using them effectively.
- A client-focused process is the only way to provide value-added legal services. It can be adapted by any firm, regardless of market, size, or core practices. It is a necessity to thrive in a robust economy and survive in the face of economic instability.

Ronald H. Shechtman is Pryor Cashman's managing partner and chair of the firm's Labor and Employment Group. Before joining Pryor Cashman, he was a partner with Gordon & Shechtman PC.

Mr. Shechtman represents diverse clients in labor-management relations matters and in employment matters dealing with the increasing legal complexity of today's workplace. He litigates labor-management, Equal Employment Opportunity (EEO), wrongful discharge, Employee Retirement Income Security Act (ERISA), and related matters and assists clients in developing strategies to mitigate exposure to litigation and liability arising from the employment relationship.

Named a "Super Lawyer" in the area of Employment and Labor Law, Mr. Shechtman frequently lectures and publishes in this area. He is on the faculty of New York University Law School, where he has taught labor law courses. In addition, he is a board member of the Law School's Center for Labor and Employment Law.

Mr. Shechtman also represents many companies, non-profit organizations, and artists in the entertainment, insurance, and restaurant industries, among others. He is active on a pro bono basis with a number of non-profit organizations, primarily in the performing arts.

As Pryor Cashman's managing partner, Mr. Shechtman focuses on enhancing client relationships, attracting and retaining top legal talent to serve clients, and developing the firm's strategic direction. Since assuming the role in 2007, he has focused on preserving a culture at Pryor Cashman that fosters collegiality and an entrepreneurial spirit, allowing partners independence in how they develop and maintain their practices. The firm has recently been named by The American Lawyer as one of the forty "hot" mid-sized firms in the United States and by Crain's New York Business as one of the fifty best places to work in New York City.

A 1972 graduate of New York University School of Law, where he was an Arthur Garfield Hays Fellow and editor of the New York University Law Review, Mr. Shechtman has been a member of its faculty since 2004. He received his BA from Amherst College.

Mr. Shechtman is AV Peer Review Rated, Martindale Hubbell's highest peer recognition for ethical standards and legal ability.

Dedication: *We dedicate this chapter to our valued clients.*