

THE VOICE OF THE CLIENT

Billing As a Marketing And Business Development Tool

By Peter Johnson

“As a client, I can deal with disappointment, but not with surprises. Why does law firm billing have to seem like such an adversary process?”

Over the last several years, I have spent considerable time interviewing key clients of law firms, discovering what they like, what they don't like, and how the law firm can enhance the relationship. Inevitably, during most of these client interviews we get around to talking about fees and billing. Psychologists have said that most communication is nonverbal, and one need only observe a client discussing billing to understand how correct those psychologists are. Interestingly, the attorney-client relationship at the outset is one of conflict — the attorney generally gets paid more the more hours are spent on a matter, and the client works hard to minimize those hours. Alternative fees have ameliorated some of the conflict, but most firms still use hourly based billing for most matters. The following information and recommendations come directly from clients — the consumers of your legal services.

MANAGE EXPECTATIONS

At the beginning of an engagement, in addition to discussing the client's specific goals and how they define success, openly discuss rates and the firm's billing policies. For new clients, regardless of how sophisticated they may appear to be, show them your billing template and perhaps an

Peter A. Johnson, Esq., is a former practicing lawyer and managing partner of a mid-sized Boston law firm. He is the founder and President of Law Practice Consultants, LLC (www.lawpracticeconsultants.com), a Boston-based consulting firm working exclusively with attorneys and law firms in the areas of management, governance, business development and client retention.

actual bill. Time and billing systems provide several templates, and clients like having the opportunity to see what their bill will look like. A general counsel of a Fortune 200 company spent most of one interview I conducted complaining about the firm's resistance to changing its billing format, which he found difficult to understand as it covered several matters. “They don't understand how irritating it is to receive their bills and I get a sense they don't care. It takes me a long time to analyze them and that firm's bills get paid last.”

‘WHO ARE THEY?’

If you have the opportunity, introduce your client to those time-keepers whose initials will appear on the bill. It is disconcerting to clients to see time charges for people they have never met or even heard of. If you can't introduce them personally to the client, provide a list of the people who will be working on the matter, and a brief description of their backgrounds. Invariably, other attorneys or paralegals will be assigned to a case in which event the client should be advised of the additions.

THE BUDGET

For the most part, attorneys do not enjoy providing a budget for legal services. Litigators in particular bristle with the notion. “I can control what I do, but I can't control what the opposing side does” is the justification for not providing a budget. Many clients, however, are now requiring budgets and getting them. “They tell me they are experienced in this type of transaction, but can't give me a range of fees? I don't need precision, but I do need a guideline for cost allocation and reserve purposes.”

COMMUNICATION

One of the most effective ways to get bills paid quickly is to have frequent and relevant communication with the client. Clients like periodic updates (off the clock!) even when there is nothing pressing in the matter or case. A comment such as: “There is really nothing going on in the matter for a while, but I thought I would check in with you to see if you had any questions or if there was anything you needed to discuss.”

Although the communication is not really a billing discussion, it sets the desired tone.

‘WE HIT LEDGE!’

One of the most frequent complaints I hear from clients relates to “sticker shock.” NO client should ever be shocked by the amount of a bill if there is proper communication, yet more than 50% of the clients I have interviewed had that complaint about one or more of its law firms. How many times do you fear sending a bill to a client, and when it is sent, hope that you don't see the client's number in your caller ID!

When you get that queasy feeling, it is time to call the client (though you should have given the client a heads-up earlier.) It is your obligation to review time charges on a regular basis so you can advise a client in the event that you are exceeding the budget or what you think the client expects. Pick up the phone and discuss the fact that the matter is now going to cost more, and why, and assure the client that you are looking for ways to minimize the additional costs.

“I will be sending you a bill today.” — For your prized clients (if not all clients), pick up the phone and tell them you are sending out a bill and tell them the amount. Invite them to call you should they have any questions about the bill. As the saying goes, “If you are going to be run out of town on a rail, make sure you are leading the parade.” Get the bad news out early. If there is a tough discussion, don't wait for the client to call you after opening the envelope. If you have had effective communication, however, the call is a perfunctory one for which the client will thank you. More than one attorney who made such a call to a client reported that the latter gave him/her more work as a result of that phone call. The following e-mail I recently received from a law firm client is illustrative:

continued on page 4

The publisher of this newsletter is not engaged in rendering legal, accounting, financial, investment advisory or other professional services, and this publication is not meant to constitute legal, accounting, financial, investment advisory or other professional advice. If legal, financial, investment advisory or other professional assistance is required, the services of a competent professional person should be sought.

Voice of the Client

continued from page 3

"I called a client to give him a heads-up about a large bill I was going to be sending, which would have been a surprise to the client. I remembered the advice that we pick up the phone and call the client about billing where there was unexpected or possibly bad news. I bit the bullet and called the client and had a good discussion about what was done and why. At the end, the client said he was glad I had called and complimented me about the billing practice — and said he is sending a check."

DISCOUNTS

There is always debate about whether you should show a discount. I am a believer in showing the discount and telling the client why you provided it. If you are going to write off time, at least market the write-off. "Client, please note that I provided a 10% discount due to what I thought was too much time on some of the research we did." Clients tell me that they like getting the discount and they like seeing it on the bill.

DISBURSEMENTS

The tail that wags the dog. "I get a bill for \$30,000 for a transaction and then they bill for \$7.85 for a delivery charge. I do not like to see those nickel and dime charges and would rather pay a higher fee." I am not sure the statement about paying the higher fee is true, but billing for those minimal disbursement charges is a sure way to alienate a client. Either write off the disbursements (if a nominal amount) or explain to the client in advance that you are charging for third-party expenses only. (Obviously I am not suggesting that filing fees, deposition transcripts, etc. be written off.)

DON'T BILL FOR BILLING!

At the risk of stating the obvious, do not charge a client for the time it

takes to prepare a bill. While many firms encourage recording both billable and nonbillable time, bill preparation is administrative time. It is surprising how many general counsels I have interviewed have commented on receiving time charges for "bill preparation." And we wonder why there are so many lawyer jokes!

THE BILL NEED

NOT BE A TREATISE

Many attorneys spend countless hours massaging a narrative bill to get just the right description of work performed and the resources allocated. I suspect there is an inverse relationship between the amount of time taken to edit a bill and the amount of ongoing communication with the client about fees.

A general counsel for a publicly traded retail company commented on narrative bills he received from the company's law firm as follows: "It never ceases to amaze me how the bill becomes an art form as if the flowery descriptions make a difference. As far as I'm concerned, if they tell me it's going to be \$50,000 and keep me informed during the representation, and send me a bill for \$50,000 I don't need to see all those entries. I've practiced in a firm before and they should know that I know the drill!"

THE COVER LETTER

For more significant matters, take the time to send a cover letter with the bill. Presumably, you have already called the client to tell him the bill is coming, and the cover letter could merely be a thank you or a brief description of the status of the matter. The more you communicate with your client, the more likely it is you will get additional business.

THE 'THANK YOU' FOR PAYMENT RECEIVED

Most firms circulate a cash report to the partners. Take the time to call

or e-mail the client, thanking her for making payment. I was surprised that most of the clients I interviewed reported that few of the firms thanked them for their business. When you have that thank-you discussion, take the time to do your own client interview. Ask what he liked, and ways in which the service could be improved. You would be surprised how much you can learn during that exchange!

THE GOLDEN RULE

As we all know, the client is the final arbiter of value and billing fairness, and as they say, "He or she who has the gold, rules!" In too many instances, the real billing process starts when the client receives the bill and then begins to negotiate. Billing need not be a negotiation if you invest the time in speaking and partnering with your client.

'PV = WTG - WTP'

Clients often talk about "value billing" and often attempt to adjust bills (or payments) unilaterally if they don't think that the law firm has provided appropriate value. Recognize that the lawyer's definition of value is for the most part irrelevant — lawyers need to understand the clients' definition. To the client, Perceived Value equals What They Got minus What They Paid. If they just got what they paid for, what is the perceived value? When talking about bills and fees to a client make sure you understand how they perceive the value you have provided.

CONCLUSION

These are some thoughts about using the billing process as a marketing and business development tool. I know it is unrealistic to follow all these tips for all clients, but give some a try, and above all, try to put yourself in the client's shoes. After all, "Only the wearer knows where the shoe pinches." Good luck!

—♦—

Web Analytics

continued from page 2

exit pages (where visitors leave your site) and referral sources (direct traffic, search engines and other referral sites).

Among other things, Google Analytics can chart data over time, compare data month-by-month or year-by-year,

and internally compare different sets of results.

"Other commercial web analytics programs allow the site administrator to 'dig deeper' into the data," said Casey. "Most analytics programs will record detailed information at the user level, allowing administrators to track the number of times a given user came to the site, which pages he

or she viewed and, in some cases, the location from which that user is connecting.

"At Tenrec, we combine basic Google Analytics with a program called Urchin (essentially, Google's commercial analytics product) to obtain different levels of results for our

continued on page 8