
Partnering with Your Clients Before Your Invoices

By Rebecca Woods – May 9, 2012

On a monthly basis attorneys face, and dread, one of the great difficulties of private practice: We send invoices to clients so we can get paid and perhaps even increase the firm's annual profits per partner. These are good things for lawyers in private practice. But invoices also remind clients what they dislike most about purchasing legal services—the unpredictability of those services and the uncertainty of their value. They can trigger tough conversations between you and the client; they can be a wedge in an otherwise solid relationship; and they can even be the cause of a client's decision to find new legal counsel. There is hope, however. You can transform your invoices from an odious and risky proposition to a source of strength. Here are some pointers.

Keep Your Client Close

By far the most successful strategy is to make your client part of the decision making, rather than sending a monthly invoice that leaves the client scratching her head. If done properly, the work that those time entries represent should be old news by the time the client gets the invoice. This is because you've not only done the basic work of keeping your client informed, but you've taken the client relationship to the next level and made your client part of the team. For the basics, do your homework each month and identify for the client what you anticipate will happen next in the case. When something unanticipated, and unbudgeted, comes up—perhaps a motion to compel, a TRO, or a surprise witness—communicate with your client promptly.

Taking mere updates to the next level, however, is critical for a stronger client relationship. Ideally, you will want to make your client part of the decision making. For example, before embarking on a motion to compel, discuss with your client the pros and cons, including cost, and make her part of the team that decides whether to proceed with the motion. Similarly, before issuing subpoenas that might need to be enforced, make your client part of the discovery strategy and engage your client in the value proposition discussion (i.e., What will it cost to issue and enforce the subpoenas and what are the potential benefits?). Because she was part of the team that decided what to do, your client is not only unsurprised by the fees, she “owns” them too.

If you think you already do this, challenge yourself to look at a large invoice and assess whether the client was part of the work that is reflected in those entries. And if you think this is easy, you're a rare bird: keeping the client close can be treacherous waters, which is why so many lawyers aren't good at it. Every client is different and some clients are more apt to be engaged in the matters you're handling than others. The risk is that by involving your client in day-to-day

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decisions, you open yourself up to more questions and push-back from the client, and your powers of prediction are tested more finely because the accuracy of your menu of pros and cons will be determined by the outcome. Plus, it takes time out of a busy day.

Involving your client in decision making also requires solid people skills, especially if you and your client disagree about something. But the upside is well worth the risk. You will get better at it, and the process achieves far more than just a client who happily—okay, less grudgingly—pays your invoices. If you do it reasonably well, you will have transformed yourself from a mere outside counsel handling a matter into a trusted advisor who walks the walk of “partnering” with her clients.

Get Better at Budgeting

Most lawyers are not good at budgeting, and they freely tell their clients that it is very difficult to come up with an accurate budget where the matter involves any degree of unpredictability. If you're lucky, your client was once in private practice and has some empathy for you. But all clients have a diminishing tolerance for excuses. They have a business to run and are not exempt from the need to plan and manage their legal budgets.

The first step will sound familiar: Admit that budgeting is hard and commit to getting better at doing it. Don't just create the budget, send it to your client, and then ignore it for the remainder of the matter. Rather, expect to spend time and energy creating, updating, and revisiting your budget.

The second step is to manage the matter according to the budget that you created. This means staffing the matter appropriately with a shrew eye toward the number, cost, and skill set of the timekeepers involved. It also means that when circumstances arise that threaten to break the budget, go to the first pointer. Going off budget may be unavoidable, but you can involve your client before it happens so she is part of the process and can manage any fallout within her legal department or executive leadership team before they receive your invoice. Finally, spend nonbillable time comparing actual performance with the budget, both with respect to discrete portions of the budget—e.g., did you accurately predict the cost to file that motion for summary judgment?—and the entire budget as a whole. Identify the reasons for the discrepancies and use that information to create a more accurate budget for the next matter. This iterative process of refining budgets need not be a one-woman show, either. Work with colleagues to share information and experiences so you all improve.

Be a Better Case Manager

The only management training that lawyers get is on the job, and many of us do it poorly. There are a variety of ways a matter can be effectively managed, depending on your personal style, your firm's culture, and the type of matter you are handling. Here are some universal principles:

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- Empower all timekeepers to be managers. Do this by sharing your budget with them. Ask that they be vigilant, not just about legal issues, but also about the time they are committing to tasks, how the matter is being handled, and whether the right people are doing the right job. Have discussions with them about what work was value added, what wasn't, and why.
- Get comfortable with giving timekeepers feedback and do it immediately. If you have an associate who seems to be inefficient, address the issue before many invoices are inflated. One associate-training method is to limit the associate to a certain number of hours for a task and ask that she check in with you during or after the task. Discuss the time allotment and provide associate coaching—or realign your expectations accordingly.
- Celebrate quality work done within the budgeted time. Higher hours should not be the only motivator for associates.
- Be thoughtful about the division of labor in the matter to avoid duplication and unnecessary revisions. This is easier said than done, especially in large cases where it's not possible for the same person covering the critical depositions to be the author of the summary judgment motion. Map out everyone's role at the beginning of the matter and develop (and respect!) your subject-matter experts.
- Be knowledgeable about the legal resources in your firm and use them. Resources like document and fact management systems, matter management systems, and free legal research can greatly increase your team's efficiency.
- Be engaged and flexible. You are not making widgets, after all, and variables such as opposing counsel, the status of your client's business, your team's capabilities, and changing facts require active engagement and recalibration as needed.

Demonstrate Value Added

In addition to the above, there are two easy strategies for demonstrating to your client that the invoice represents work that was worth doing. First, draft a cover letter for the invoice that explains what work was done and why. Don't make your client work hard to determine what your team did from the sea of tenth-hour time entries. Tell your client in simple prose and explain how that work was necessary and beneficial. Second, work with your timekeepers to ensure that their entries indicate the value of the work. Each entry should convey what was done

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in reasonable detail, why it was meaningful to the case, and why that timekeeper—as opposed to a lower cost one—did the work. Examples of some entries that don’t demonstrate value include: those that look as if a lawyer did administrative work, large blocks of nondescriptive work like “research” or “draft motion,” multiple lawyers reviewing the same materials, and mere monitoring of something. Unless your client has clearly expressed a desire for anemic time entries, err on the side of greater detail in each entry. Then, save your client the time it takes to read all those entries with your cover letter.

Be a “Lifemaker” in Your Legal Practice

Whether you are already a devotee of lifemaking (using a tool or technique that makes some aspect of one’s life easier or more efficient) or you are content to live an analog life, embrace the way that tools, technology, innovative approaches, and even self-assessments can better your legal practice. If you’ve read this article, you’re on the right track. There will always be better ways to manage a case, to bill for work, to partner with a client. Remain open to them and be a trailblazer yourself. Your relationships with your clients can only benefit.

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[Rebecca Woods](#) is a partner at Seyfarth Shaw LLP in Washington, DC.