

# Keys to Client Service

## Addressing What Lawyers *Don't* Learn in Law School

BY ED POLL

One of the primary reasons why law firm administrators are indispensable (whether your lawyers know it or not) is that law schools have little relevance to law practices. Law school does not teach lawyers how to effectively interact with clients, efficiently manage their workloads, or become good rainmakers. Continuing legal education (CLE) programs generally are not approved for these skills. Lawyers learn them, if at all, from the "School of Hard Knocks." More often, they rely on administrators to "manage" these aspects of the practice.

### WHAT LAW SCHOOLS DO

In conversations that I've had with educators, their view of law as a profession means that any such programs about effective client relations or practice management topics are trade-oriented and therefore inappropriate for law schools. Is it any wonder that our bar associations discourage and even prohibit law practice management programs as part of mandatory CLE requirements? The attitude at the very start of our training is too often perpetuated throughout a lawyer's lifetime.

Several years ago, this viewpoint was echoed in a *Wall Street Journal* column by the publisher of the *New York Law School Law Review*. The writer observed that law school students are "reading about the law rather than engaging in it," with the result that "when they graduate, young lawyers rarely know how to interview clients, advocate for their positions, negotiate a settlement or perform any number of other tasks that lawyers do every day." They also have little or no concept of how to profitably run a law practice.

### WHAT TODAY'S "APPRENTICESHIPS" INVOLVE

Until our modern era, most lawyers learned their profession by apprenticing themselves to practicing lawyers, learning from them by watching and doing. It brought to mind the difference between the way lawyers and doctors are trained. Doctors, of course, put in years of residency as part of their training. They work in hospitals and clinics, treat patients, and observe other doctors as they go on their rounds. Most doctors thus begin their medical careers with a very good idea of what they will face. Contrast that to many young lawyers' "apprenticeships" as law clerks in their second or third years of law school. They may clerk at small firms and spend time photocopying and doing routine office tasks. They may clerk at large firms where they do much the same kind of work, plus have eight weeks filled with softball games, shrimp buffets, and amusement park outings. Then, of course, reality sets in once the young lawyer joins the firm, meaning that very few associates from



Lawyers should be encouraged to pursue the training needed to improve their practices.

any of the large law firms are satisfied. The current business model of these firms “eats ‘em up and spits ‘em out.” They grind away for eight years and, if they don’t make partner, they must leave to make way for the next group of young “unwashed” law school graduates.

#### WHAT CAUSES CLIENT SERVICE PROBLEMS

The “conspiracy” between law schools and bar associations continues to demonstrate the archaic attitude that management and customer/client care issues are irrelevant. And we wonder why lawyers get a bad rap and why clients are angry and rightfully believe they have no recourse to redress the management wrongs committed by lawyers! Bar associations give practice management training for attorneys short shrift. Yet, more than 60 percent of today’s discipline structure concerns complaints about practice management. This should be the major focus of the Bar’s education requirements.

Running a firm in a businesslike way improves the professionalism of the practice of law. The purpose is not simply to get more money for the lawyer; it also benefits the client. A profitable law practice is

much more likely to avoid such ethical problems as dipping into client trust accounts, either as direct fraud or as a stopgap “loan.” Moreover, a law firm run as a business will also approach client service more efficiently – returning phone calls promptly, creating and adhering to budgets, providing sufficient details on invoices, etc. As law firm administrators know, you can’t truly be a professional service business until you understand “The Business of Law.”<sup>®</sup>

Years ago, when I practiced law (before I began coaching and consulting with lawyers), I was very involved with the State Bar of California’s campaign to elevate the image of lawyers. I believed this was a losing battle for several reasons. By definition, 50 percent of the litigating population loses a lawsuit and will think the other side’s attorney was mean-spirited, unethical, and unprofessional. The State Bar conducted focus groups (I still have videotapes of them), and the participants’ comments surprised me. Every participant maintained that it was his or her lawyer (not the opposing lawyer) that created the problem, citing poor service, failure to return phone calls, inaccurate arithmetic on the billing statements, and on and on.



# WARNING!

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Whatever makes for a better lawyer benefits both the profession and its clients, whether it falls under a mandatory CLE banner or not. There's absolutely no reason why a lawyer shouldn't take the same professional approach to skill enhancement that a plumber or an accountant does.

#### WHAT DIFFERENTIATES CABBIES FROM LAWYERS

A perfect example of our profession's shortsightedness in not applying business sense to client service is the continued bane of many clients, the hourly billing rate. This issue was brought home to me on a visit to New York. Because the rules for taxi use allow cabs to be shared, I engaged a taxi at \$30, while another person engaging the same taxi was told that his fee was \$20. As we were driving, I thought about the fact that we were being double billed. The taxi company was getting \$50 when, if I was the only passenger, it would get only \$30. Was there anything unethical about this? Not at all! Taxi companies charge a fixed fee based on the value of the ride, not one based on time. (Time may be an element of the costing equation that enables a profit calculation, but it is not a pricing component.)

Contrast that with the ethical dilemma of lawyers who, almost universally, bill based on time alone. If a lawyer is sitting on a plane or waiting at the courthouse in order to handle a matter for Client A, can he or she use that time to do work for Client B? The rules of professional conduct in most states require billing only one client at a time because billable minutes are the measure of the fee. Firms that do not bill on the basis of time can increase their profits (sometimes called "take-home pay") for their services or products when they become more efficient. Lawyers don't really sell time; we sell a service at a fixed fee. Our goal should be providing value: advice that means solutions to our clients. Hourly billing doesn't address value and benefits – the worth, as opposed to the cost, of the service.

#### WHAT MAKES A BETTER LAWYER

The legal profession, as represented by bar associations, tries to maintain the fiction that mandatory

CLE programs (approximately 25 hours in three years, or eight-plus hours per year, in most states) address this issue. This in itself is telling, because certified public accountants are required to take 12 hours of additional education a year, doctors must take 25 hours, and plumbers in some states must take 40 hours of training to maintain their licenses. Yet lawyers often complain about being compelled to take continuing education programs.

The ironic aspect of mandating legal training is that the practical skills that lawyers most need to keep their practices profitable and problem-free – training in effective client service and law practice management techniques – either are not covered or actively eliminated as legitimate mandatory CLE credits. No matter what you think of the mandatory aspect of CLE, the state Bar/law school faculty roadblock should not keep lawyers from pursuing the training needed to improve their practices.

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