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My Milkshake Is Better Than Yours: Part 2

Disruption and the Mid-Size Law Firm

By Jill Dessalines

Law360, New York (May 25, 2017, 4:52 PM EDT) -- Recognizing that new market entrants that provide a previously unattainable product to the masses results in constantly shifting market positions, Harvard Law Professor Clayton Christensen set out to examine how to keep customers and thus maintain market position. And, as we discussed in part 1 of this article, his message couldn't be timelier for mid-sized law firms.



Jill Dessalines

Christensen did a study of a well-known company that sells milkshakes. The company had done all kinds of market research to find out what their customers wanted from their milkshakes and how they could increase their market share. Did they want them colder, or creamier, or with chocolate sprinkles? Did they want them bigger, or sweeter or sold in cups that didn't sweat and leave a puddle in their cup holders?

The company implemented the dominant suggestions — which yielded imperceptible market share movement. What they eventually discovered was that people bought milkshakes to perform a particular function in their lives — to keep them occupied and awake, and to give them some between-meal comfort on their lengthy commutes to and from work. That was the job that people wanted their milkshakes to do; and armed with that crucial information, the company could deploy its resources to address that specific job, in every way it could.

So the question is: What is the job to be done that the client is seeking from your services? Most consultants will tell you to survey your clients constantly to elicit feedback on how you're doing and what you could do better. And that is certainly valuable input. But the real answer, as you already know, is not so simple.

Corporate clients want value, they want predictability, they want responsiveness and they want a great business partner. That is self-evident. The reality is that today's Corporate America applies constant pressure to grow earnings quarter after quarter; constant demand for your business clients and in-house colleagues (including your general counsel) to prove their value; seemingly endless cuts to resources to boost profits (with more and more work landing on your desk that used to be handled by outside counsel); and endless litigation risks to mitigate.

What your clients need most is to feel like we are all in this struggle together, to feel like your shoulder is to the wheel right alongside theirs, to feel like you're with them in the foxhole. That is the job to be done. And it's not getting done by the vast majority of law firms in this country.

Getting to the Job to Be Done

Since Clayton Christensen's research on retaining market share was done, that catch phrase has been circulating, telling businesses that they need to learn "the job to be done." Most firms have already received plenty of advice on what that job is, including a constant feedback loop on performance, measuring change in behaviors your clients identify as important to them, and making sure you have face time with key players. All that is well and good, and important. But it doesn't address the fundamental fact that there exists a major disconnect between the vast majority of law firms and their corporate clients when it comes to overall satisfaction with services rendered.

If you only measure those specifically identified aspects of performance that clients tell you matter, you are eating the sandwich by nibbling the crust. The heart of the matter is that too many corporate clients feel like law firms and the lawyers who populate them are uneasy allies and sometimes adversaries rather than the trusted advisers and partners they want. Why?

Well, it depends on who you talk to. If you're talking to the CEOs or CFOs, the answer is that they do not believe they are receiving value for their dollars, and that they are spending way too many of them. They want you to be judged as they are judged — by whether you provide business value greater than your cost. They want you to use all your skills and all your powers (plus technology) to deliver your best product at a reasonable price. They want to know how much your services are going to cost over what period of time and be given as much advance notice of deviations and as much detail on decision tree contingencies as possible.

If you're talking to in-house counsel, they feel like law firm lawyers are often clueless of their realities and environment. Outside counsel deliver great legal advice, but since that addresses only one part of their multidimensional in-house function, that's just not good enough. In-house counsel want to be, or appear to be, indispensable to the business. They want help in performing the mountain of administrative tasks they must handle. They want you to help them anticipate business needs and provide a legal solution to a business problem. They want you to make them look like stars.

This schism between what corporate clients want and what they feel they are getting is further exacerbated by the fact that, particularly with in-house counsel, they are suffering the effects of finance's never-ending quest to cut costs and drive efficiency, yet law firms seem most concerned with maximizing per partner profits.

In-house salaries are down while those of first-year associates have hit an all time high. Administrative responsibilities have burgeoned yet many outside counsel are either oblivious to these demands or make the in-house counsel's job harder by submitting budgets, projections and reports that are the result of magical thinking.

When you look at the juggernaut that is rolling through the world, remaking industries one after another into the image of our corporate clients, it seems that those clients won't be happy until law firms are just like corporations. And there is something to that — but only to a point.

Yes, law firms need to realign their focus on value rather than price. Yes, law firms need to leverage efficiencies and technology to create a better, more predictable product. Becoming like your clients in form and function alone, though, ignores the fundamental job clients are looking to you to do. So how do you change the existing dynamic and focus on doing the job that clients want you to do? Well, for one thing you need to change your approach.

We lawyers have laser-like focus on just about any legal task you put before us. But when it comes to getting and keeping corporate clients, that approach ignores the real job to be done. Yes, you must do excellent legal work. The good and bad news in our profession is

that excellent legal work is so abundant that it is a fungible commodity. Aside from doing excellent legal work, you must also know the client as well as you know your friends or your colleagues or even your family. You must become so knowledgeable and so in tune with the rhythms of your clients' businesses and everyday realities that you anticipate their needs. You must become so embedded in their world that you know who's coming, who's going, what's in, what's out, and what's on the horizon.

Strategies for Becoming Indispensable

And how do you accomplish this seemingly Herculean feat? The first thing you need to do is to understand the reality of your corporate clients, including your counterparts who are in-house counsel. How are they motivated? How is their performance measured? How does their hierarchy impact the power and respect they enjoy? How do you speak their language? And what kinds of transformations are occurring in-house that impact outside counsel?

Another thing you can do to improve long-term "stickiness" is to change the way you target your contacts within your corporate clients. Historically, firms have targeted the ultimate decision-makers (GC and perhaps department heads) for client development and ignored lower level in-house counsel with the thought that, devoid of hiring power, they were mere functionaries that did not factor into the equation. Worse still, the mindset that too often followed this dismissal was transparent to its object, resulting in, at best, dissatisfaction with outside counsel and, at worst, subversive actions to change the status quo.

No matter whether your client relationship is your golf buddy, your former partner or the godparent of your first-born child, it will never survive the relentless onslaught of the troops that will be brought to bear against targeted outside counsel — whether that takes one engagement or years to accomplish.

The inherent conflict that having someone ostensibly manage a matter who lacks the direct authority to hire and fire outside counsel makes these skirmishes inevitable under the old centralized client relationship approach. A multifocused team approach to client relationships prevents and addresses these pitfalls by matching subject matter team members with their in-house comparators in order to gain insight into current performance, internal administrative priorities and future business needs. I call this approach "matrixed client development process" and it can be implemented first with existing clients and then as new clients are landed, staffed in the same fashion.

Another technique is to retool your marketing and social media functions. Many firms have marketing departments tasked with outward facing resources for pitches, RFP responses, media packages and white papers. Some firms have social media resources to establish and maintain an online identity; and firms that have library services often use them for legal research but they can be especially important in intelligence gathering.

In order to fully implement matrixed relationship strategies and anticipate business needs, something more is required. Task your firm's existing resources in these areas to greater potential. You can use this consolidated intelligence to anticipate areas of need and propose creative solutions to deliver services. You can use this intelligence to establish niche brands that align with client need and calculated market expansion. You can more effectively cross-sell adjacent services.

Consider consolidating intelligence across industry sector and replicating services across your client base. Cross-train team members within a practice area or across complementary practice areas so that you build in flexibility in creating and retasking these new capabilities. Use intelligence to aid in determining new or bolstered practice groups.

You must learn how your corporate clients are motivated, how they are evaluated, how they are structured, what they value and how to feed their need to feel like you have their backs.

You have to crack the code and learn their language. You have to help them succeed so that you can succeed. You need to make them feel safe and protected and in a partnership that values their contribution. You need to stop with the "them" and move toward the "us."

And if you do these things, if you can embrace their reality and become an indispensable partner, if you can make their problems your problems and create solutions that make their lives easier, you will never again have to rely on PACER to let you know when your client has been sued.

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