



BY HEATHER SUTTIE

# Banishing Ostrich Syndrome

Any relationship worth having deserves to be nurtured, so don't duck client conversations about service



**CORPORATE COUNSEL** are frustrated and some are angry. They expect their outside law firms to behave like business allies and are disappointed when this doesn't happen. Corporate counsel expect their industry, needs and culture to be clearly understood by firms that service them, and rather than being offered advice and completion of tasks, they want solutions and help getting things done. Is this asking too much? Many in-house lawyers have the impression that it is, and they've had it.

Any relationship worth having needs to be nurtured. Open communication is paramount, especially with increasing competition in the legal marketplace and loyalty a thing of the past. However, the thought of engaging in service-oriented conversations with clients causes many lawyers to clench so tightly they sit two inches taller.

## TWO EARS, ONE MOUTH

We've been in a buyers' market since 2008, which marked the end of the traditional law firm's 20-year bull run. Clients, including in-house counsel, have had the whip hand ever since — along with permanent buying power — and they're not afraid to use either when doing business with outside advisers.

Listening with both ears open, mouth shut and defences down is when magic happens. While discussions about money are one thing and conversations about service

are another, these exchanges often yield new insights.

"Lots of us grew up in private practice, so we understand it," says Peter Nguyen, General Counsel, Corporate Security and Privacy Officer for Resolver Inc. He's been working with his current Canadian counsel for 20 months, following him to a new firm six months ago because when it comes to client service, "he gets it." They have regular conversations about service that are unrelated to fees, and when it comes to cost, Nguyen's not nickel-and-dimed or billed for juniors.

Nguyen also uses counsel in the US, UK, New Zealand, and a boutique employment firm. The UK lawyer stands out for inquiring about billing for a discussion about basic jurisdictional matters. Nguyen appreciated being asked and said yes. He's happy with his current US firm after ditching previous counsel over reasons including response tardiness and a multi-page memo citing statute and case law.

## GET OFF YOUR TAIL

Only a handful of law firms have a client advisory board or panel, and astonishingly, most don't bother to survey their clients. If they do, it's rarely done in person. It might occasionally happen electronically, usually at the end of a matter. The Big Four accounting and professional services firms, however, have been doing in-person client surveys for over 20 years. As a result, they're light years ahead of law firms when it comes to understanding client expectations, so it's no wonder they are the most dangerous competitors.

For years, client input initiatives have been launched by corporate counsel, even though the impetus for doing this should be on the law firms that serve them. In the US, the Association of Corporate Coun-

sel's Value Challenge Proposition, which launched to much acclaim in 2008 with a goal of helping members "implement practices to reconnect the cost and value of legal services," fizzled like a wet firecracker, at least in Canada. The next great hope appears to be the two-year-old Corporate Legal Operations Consortium, which helps in-house and external counsel create more productive relationships. And AdvanceLaw's new GC Thought Leaders Experiment involves 25 American GCs pooling information to assess which firms and billing processes are most effective.

This last undertaking might make firms from Big Law to New Law rather jumpy since "I'm not sure if the New Law firms have an edge on client service," says Nguyen. So far, he's been disappointed that, while fees from a New Law firm he used were lower, client service was no better. It was "more of the same, just cheaper."

## NO IFS, ANDs OR BUTTS

Some law firms employ professionals with "client" as part of their title. Whether they are Chief Client Officers or involved in business development, these people should be bringing in business, and entrusted with client care and communication. That is how the Big Four have handled client engagement for almost three decades. It is also how they've leveraged the development of industry teams and sales cultures that turned their fortunes around for the better.

Until law firms restructure to adopt some of these traits, client unrest will escalate. These days, any law firm that continues to hide from having conversations with clients by sticking its head in the sand like an ostrich is apt to get bitten on the butt. ☛

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