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Feature Article

Four Facts Outside Counsel Should Factor into Successfully Partnering with Clients

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The pessimist complains about the wind; the optimist expects it to change; the realist adjusts the sails. --William Arthur Ward

Introduction

“Partnering” is the current buzzword word to explain what successful lawyers have known for years – collaborating with the client in the plan for resolving a case or controversy sets the stage for the best result and a mutually beneficial long-term relationship. To that end, effective partnering inherently involves factoring in effective practices for complying with, and excelling at electronic case-management procedures and being a resource for clients.

Although the comments in this article reflect basic case-management procedures, the article highlights improvements that can be made in the attorney-client relationship by adjusting for and embracing current technology and collaborative efforts with the client.

1. Effective Partnering Includes Effective Use of Electronic Communications

Many corporations are now paperless and expect all communications, reports, budgets and billings to be transmitted to either a central location for the corporate department or by email to the client who saves the communication to an electronic file. Effective partnering with the client must include the ability and commitment to use electronic communication procedures.

Corporate clients have always had guidelines to control defense costs; however, they are now requiring comprehensive reports, submitted electronically, at early stages of the controversy. Lawyers need to be familiar with specific reporting requirements to be effective partners.

To achieve the maximum benefit from electronic reporting, it is important to make the reports as comprehensive as possible. This provides guidance to the client who can then fully assess and evaluate not only the case, but potential costs in achieving the expected outcome. To best collaborate with the client, it is not useful to leave parts of the report blank or assert “it is too early” to determine certain aspects of the case analysis. For example, if the form asks for identification of experts on key issues, it is not helpful to the corporate partner to indicate that experts have “not yet been

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determined.” Instead, the lawyer should provide information on experts used in the past along with the pros and cons of using particular experts. Providing the curriculum vitae for the expert and a fee schedule at this early stage allows for informed and accurate decisions to be made on key issues that may be affected by expert testimony. This underscores keeping the exit strategy and plan to achieve it as part of the focused team effort to achieve the best results for the client.

Over the last fifteen years, electronic enhancements to the practice of law and corporate business practices have been on the rise, including electronic billing. No longer is it standard practice to mail paper bills to the client to review and write a check. Bills are now transmitted from law firm computers to corporate computers and analyzed by software programs at either a third-party vendor or internally at the company. To continue to partner with clients, embracing electronic billing is crucial. Electronic billing should be seen as accentuating the partnership between client and lawyer. The system allows for quicker payment of bills but also requires consistent compliance with corporate billing guidelines. Law firms should have a point person in place on electronic billing to develop and maintain consistency in dealing with the billing requirements for each client.

2. Engaging in Early Case Assessment Is Crucial

Strategic decisions with respect to case management can now be made based on information easily transmitted and received. The efficiency of this process, especially in light of the growing use of electronic communications, is crucial to the partnering of the law firm and the client.

Attorneys need to be ready to consult with the client at every step of the way on the strategy for resolving the controversy. Even in the earliest stages of a case, the steps necessary to achieve the expected outcome, e.g. settlement or trial, can be framed out. No longer is it acceptable to meander along in the case for months or even years only to resolve the case by settlement after spending thousands of dollars in defense costs. Having an exit strategy is crucial and can be achieved through a dialogue with the client early on how to best move forward, along with built-in flexibility in the plan to allow for adjustments for new information obtained through the discovery process.

3. A Sense of Immediacy Is Key

Tied to the development of, enhancements to, and continued reliance by corporate clients on electronic case-management systems is the fact that a sense of immediacy is now a key aspect of partnering with clients. Part and parcel of electronic-case management systems requiring full case assessments early on, e.g. discovery plans, strategic analysis, and litigation budgets, is that as soon as case information and materials arrive in the office a sense of immediacy should begin. In order to best partner with the lawyer, the corporate client should quickly provide case information so the lawyer can hit the ground running with respect to case analysis and management.

Have a check list and point person in place so vital steps in early case assessment and reporting requirements are not overlooked. This means not only tracking response dates for specific lawsuits, but also getting witnesses interviewed, gathering factual information and documents, and framing out initial discovery. This advance organization and planning benefits both the client and the lawyer as case theories, litigation plans, budgets, and exit strategies are developed early on and with greater accuracy.



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4. Being a Resource Is Vital to the Partnering Process

Another fact of successfully doing business in today's legal world is the importance of being a resource for clients. Lawyers consistently need to be available as a resource both on their own initiative and through open invitations to be ready to answer questions, provide research, or put people on a project. To accomplish this, there should be continuing communications with clients about the current talent and skills available in firms. The partnering relationship extends to clients who need to be aware of available resource pools to assist on non-litigated matters.

Additionally, reach out to the client on a regular basis, perhaps quarterly, with relevant updates on the law and trends in select areas. When a significant case or article is published, be flexible and step out of the quarterly concept to immediately provide not only the case law or article but also a summary and analysis of the potential effect on the client's business or a specific litigation. The key to making this work across the board is to put a plan in place and a person accountable for tracking not only whether the plan is being followed, but also whether the process can be improved.

Conclusion

Electronic case management systems are here to stay. Embrace the electronic reporting and billing requirements and expect the needs of the client to continue to change as technology changes. Be a resource. Keep adjusting your procedures to meet and exceed the needs and expectations of your clients while enjoying the challenge and the benefits this will bring to your clients as well as your practice. Consistent delivery of high-quality collaborative efforts will achieve the results clients need and expect, and you will be able to foster and maintain the sense of trust necessary within the partnering relationship.

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