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ARTICLES

How to Launch and Grow a Successful Litigation Firm

By Francine Friedman Griesing, Esq. – May 9, 2012

In January 2010, after nearly 30 years in practice, I launched my own firm with two colleagues. We have since grown in size and strength, and we are now a collaborative team of five lawyers. As we celebrated our firm's second anniversary, I was asked to share my perspective on how to start and build a boutique law firm. In many ways, the challenges of doing so as a litigator can be particularly daunting—clients are often reluctant to select a sole practitioner or small group to handle significant matters. By facing and conquering this and other challenges, our group has managed to build a thriving practice in which each of us plays a vital role in our growth and success. We hope the lessons we have learned will help others take on this challenge and surpass their goals, as we have.

In today's tough market, every lawyer needs to take responsibility for her own career. Many of the following tips, and countless others, can be found in Chapter 7 of [*The Road to Independence: 101 Women's Journeys to Starting Their Own Law Firms*](#), for which Griesing Law was a contributing author. The tips shared here don't just apply to starting a firm; they apply to lawyers seeking to gain greater independence and professional satisfaction in *any* setting. If you set your mind on doing so, you can develop a prosperous practice within an existing firm, enjoying the benefits of greater control over and fulfillment from your professional life. Here are the essential steps to achieving that goal:

- Become an excellent lawyer, consistently delivering personal attention and achieving results *economically*. Particularly for litigators, keeping a close eye on costs and assuring that clients appreciate the budget issues up front is key to avoiding misunderstanding and maintaining good client relations. Professional excellence is the beginning.
- Take and maintain control of your professional life. Decide what type of practice you want to build, whom you hope to serve, where you want to practice, what you want to get out of it, and how you are going to accomplish those objectives. For example, try to differentiate yourself from the army of litigators in your community by developing a highly sought expertise in specialized matters or particular industries. Circulating an electronic newsletter on legal developments in your niche is an excellent way of keeping in touch with your clients and contacts.

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- Create a written strategic plan designed to accomplish the professional goals you set for yourself and follow your plan consistently. Your plan should have goals that challenge you without being so unrealistic that you set yourself up for disappointment. Also, set aside time each week to execute on the plan; if you do not act on it, it will not yield results. It will just gather dust.
- Evaluate your plan often to assess its effectiveness in bringing you closer to your goals, and update it to adapt to changes in your circumstances or objectives. Not every effort you make to generate business or create relationships will necessarily accomplish your goal. It is important to monitor and take stock at least annually, if not more often, so you are directing your resources where they are producing the most meaningful results. For some of us, speaking and writing is effective while for others, it is an ordeal with minimal benefit. It is important to be comfortable declining invitations if accepting is not the best use of your time.
- Surround yourself with people who support you unconditionally but care enough to tell you the hard truth. In addition to family and friends, assemble a range of people, in your organization and outside, who can serve as your professional cheerleaders, connectors, sponsors, mentors, and protégés. The team at our firm knows they can count on each other for meaningful advice and feedback. Launching a firm or growing a practice calls upon different skills than litigating a case, but both are enhanced when you are part of a collaborative team.
- Become meaningfully involved in professional groups where you are likely to meet others who can guide you, recommend you, and encourage you. However, be sure to give at least as much as you receive. A common mistake some people make is to join many groups without becoming engaged enough in any of them to demonstrate expertise or develop valuable relationships. Another misstep is to seek advice from others without offering to do something in return. Failing to demonstrate that you appreciate what others do for you will discourage people from supporting you in the future.
- Build a team upon which you can trust and rely. Then, empower your colleagues to advance shared goals. Working collaboratively brings out the best efforts in everyone. In a boutique firm, it is important that the lawyers are not distracted by competition to log in more billable hours or generate more business than colleagues. When all the lawyers in a firm, especially a new venture, share a vision of growing a successful practice, the team members are better able to increase the practice and serve their clients.

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Woman Advocate

FROM THE SECTION OF LITIGATION WOMAN ADVOCATE COMMITTEE

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- Treat people the way you want to be treated. As the founder of a firm, you will deal with clients, employees, vendors, and others. Without them, you cannot succeed and you should never forget that. Respond promptly, pay on time, and show respect to others. Even adversaries can become clients and referrals sources. Your reputation will follow you wherever you work and at every stage of your career, but it is especially valuable when the firm bears your name. Your actions and those of your team define your brand.
- No one can take care of you if you do not take care of yourself. For the first several months after I started my firm, I could barely tear myself away from work for fear I might miss the call for the case of a lifetime. Eventually, working relentlessly without enough replenishment will take its toll on your performance. Take time to reflect, exercise, and eat well. You are your own brand. Make sure to nurture yourself so your brand flourishes.
- Stay positive even when you are under pressure. Litigation is a contact sport and often a highly competitive and aggressive one. Without the support of an established firm backing you up, adversaries may try to exploit that you are on your own. Focus on remaining positive and strong even when adversaries or judges are hard on you. Clients expect their counsel to be in control. If you appear overwhelmed, stressed, or distracted your clients will lose confidence in you as their advocate.

During my thirty years in practice I have often wondered whether practicing law was right for me. This is especially true in the throes of high stakes litigation with unrelenting demands and a client's interests on the line. Many have faced the same challenges. It was not until I took my future out of the hands of others that I looked forward to coming to work as a lawyer every day. You can enjoy that feeling as well if you assert control over your professional path by starting your own firm or building your own practice within your current setting. Good luck.

Keywords: woman advocate, litigation, law firm, starting a firm, strategic plan

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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.

Keywords: woman advocate, litigation, client, budgets, invoices, case management

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Transitioning Client Relationships Within a Firm

By Teresa G. Minor – May 9, 2012

The lifeblood of any law firm is its clients. A firm can have lawyers with the highest credentials, stellar reputations, and track records of success but without strong, ongoing client relationships, the firm simply will not survive. This truism begs the question: How do you make sure those client relationships are successfully transitioned from one lawyer to the next generation so the firm maintains the client? A few points to consider:

Establish the Right Firm Culture

One of the first, and perhaps most important, steps is to make sure your firm culture supports successful client transitions. In other words, make sure the firm has procedures in place to make the experience as positive as possible. All attorneys get anxious when they see their careers winding down. Perhaps they do not want to acknowledge that they are getting older, or perhaps they bristle that the firm is trying to push them out the door. On the other hand, younger partners want to know where they stand in the firm and need to feel that they have an important role with the firm's clients. A stable transition process can help to allay these concerns. Consider requiring all partners, regardless of status (i.e., equity or non-equity), to draft a transition plan for all of their clients at a certain point. This point can be a specific age or some other milestone. The benefit to this is that no partner can reasonably believe that he or she is being singled out. Moreover, it will help the firm ensure that no clients fall through the cracks. Firms spend lots of resources engaging in succession planning for high-revenue clients, but the reality should be to have a transition plan for every client.

Select the Right Person(s)

The decision as to whom the successor will be needs to be a joint decision between the firm and the retiring partner. Factors to consider in making this decision include legal expertise and practice area. Equally important is personality and other subjective factors. Is the successor already known to the client and if so, how does the client perceive the successor? Does the successor have the same hobbies and interests as the client contact? Depending on the situation and the needs of the particular client, it is possible that you may need more than one successor. Do not be afraid to be creative and do not be timid in soliciting input from the client in the appropriate circumstances.

Another pitfall to avoid is having a rigid "one-size-fits-all" succession plan. The firm may need different successors for different situations. For example, if the current relationship partner has a sudden illness or accident and is unable to return to practice, the successor obviously has to be

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someone who can immediately take the reins. Conversely, if the retiring partner has a sufficient length of time to bring along his or her successor, another lawyer who is still developing in his or her practice might be the right choice.

Consider Diversity

Often, if the retiring partner—who is generally a white male—is permitted to make the decision on his own, his default will be to select someone like himself, another white male. Yet, most clients today embrace diversity in the workplace, and some clients may even insist during discussions regarding transition planning that a woman or a minority be named in the successor role. Make sure equal consideration is given to all partners who are qualified to assume the successor role.

Begin the Transition Early

Once the successor has been identified, immediately begin to slowly integrate the successor into the legal work and any important client meetings. In addition, the successor should be included in any social functions or other outings with the client. Ideally, there should be a significant period of time for the successor to develop his or her own relationship with the client and to create his or her own successful track record of performance. This time also can be used by the retiring partner to observe the dynamics between the successor and the client to make certain that the right person has been selected. If friction exists, perhaps the selection of the successor needs to be revisited.

Provide Motivation and Structure

It is vital that both the retiring partner and the successor work together and present a united front to the client. The transition will be in jeopardy and the likelihood of the client leaving the firm will increase if the retiring partner and the successor are at odds. One thing that might cause anxiety is concern by the retiring partner that his or her compensation will be adversely affected by transitioning clients. In fact, this anxiety could cause the partner to hold on more tightly and exclude the successor. Consider dealing with this anxiety by offering financial incentives to the retiring partner for reaching different transition goals. Similarly, the successor can be provided some type of financial protection during the transition if he or she demonstrates that certain goals in the transition process have been met.

Plan for Client Transitions

As every law firm must plan for the transition of client relationships from one lawyer to the next, it is likewise necessary to plan for transitions in the client contact role. Today's decision maker for legal services may not be the same person next year or five years down the road. Spend as much time learning about the client's succession plans as you do on the law firm's succession plans. Does the client have any upcoming retirements in key positions? Is there any reorganization or restructuring planned? The answers to these questions will have a tangible

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Woman Advocate

FROM THE SECTION OF LITIGATION WOMAN ADVOCATE COMMITTEE

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impact on who should be selected as the successor to the client relationship and how the transition process should be carried out.

Above all, do not delay and stay flexible so you can address the changes that are certain to come.

Keywords: woman advocate, litigation, law firm, transition, client relationship, succession planning

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Managing a High-Volume Practice: Tips for Young Attorneys

By Melisa A. San Martin Esq. –May 9, 2012

What is often not taught in law school are the expectations and responsibilities imposed upon young attorneys in addition to the practice of law. The demands of litigating a case in accordance with ethical boundaries and rules of procedure leave most attorneys with little time for nonbillable tasks. Nonetheless, attorneys are required to capture every six minutes of their time for billing purposes, manage accounts receivables, market new and existing clients, and keep current with the latest statutes and court opinions. The pressure can be overwhelming, often causing young attorneys to question why they voluntarily chose law as a career. As a young lawyer, I had my fair share of anxiety ridden nights when I worried about the work day ahead; and I can certainly relate to the overwhelming nature of a high volume caseload and demanding clients. It was not until I implemented basic but essential strategies into my everyday practice that I effectively and efficiently progressed toward managing a high-volume caseload.

The key principles are simple. The challenge, however, is changing one's behavior to implement these principles.

Get Organized

Create an organized case list that includes the claim number/court case number; the judge and the judicial assistant's name and phone number; the client address, email, and phone number; opposing counsel's contact information; and any other key information about the case. This is useful for many reasons—the most important of which is that it acts as a simple reference when communicating about a case. Having this information handy saves time and prevents you from having to search the file for basic information that should be at your fingertips. You should gather the pertinent information at the inception of the case and ask your assistant to keep the information current for you. I suggest updating your case list on at least a monthly basis.

In addition to your case list, you should also maintain a detailed daily calendar. The importance of keeping a calendar cannot be stressed enough. From court-mandated and client-imposed reporting deadlines, to hearings and client conferences, your life should be tracked on your calendar. My recommendation is to use the note section of the calendar entry to identify important details about the event (e.g., "Hearing Room 500, confirmed with J.A. on 3/10/12"). Although calendaring is typically an administrative task, the buck stops with you. Be sure that deadlines are calendared accurately. In addition, do not hesitate to use your calendar to remind yourself to complete tasks that might otherwise be pushed to the back burner. I have found this most helpful when setting follow-up reminders for myself. For example, insert calendar entries for two to three days after leaving a voicemail for the client reminding yourself to follow up if

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you don't hear back by that date. An entry as simple as "[case name] – have you heard back re: discovery?" can be extremely useful in ensuring the timeliness of your work product.

Play by the Rules

Virtually every client has its own set of guidelines that outside attorneys are required to follow. Often, the guidelines are comprised of meticulous details that are difficult to remember, ranging from required court reporters and copying services to reporting requirements and specific language to incorporate into discovery responses. The challenge is not necessarily in the guidelines, but in keeping the differences straight for all your cases.

I recommend immediately reviewing the guidelines contained in the case assignment document as soon as you receive a new case. Save the appropriate documentation so you can refer to it throughout the litigation as necessary. At the outset, make certain that your legal assistant calendars any preset client deadlines, such as initial reports, budgets, and conference calls. And as discussed above, upon receipt of a new file, your legal assistant should simultaneously update your case list with the relevant file details.

When assessing your client's expectations at the beginning of a matter, you should ask:

- Do I report to a certain group of individuals at the client? If so, create a list-serve designed to copy all designated individuals and make sure all of their contact information is in your client list.
- Am I required to use a specific template for reports, mediation statements, trial reports, or budgets? If so, upload the various templates to the appropriate system at your firm to ensure accurate use of the form and minimize lost billable time locating the form.
- Is the client's approval required before filing pleadings, serving discovery, or performing research? If so, make sure to allow your client ample opportunity before the deadline to review the document. In my experience, clients become irritated when they receive information within a day or two of the deadline. Effective calendaring and a disciplined work ethic can avoid this predicament. Create a firm deadline for the draft to be sent to the client for approval. I suggest calendaring your client deadline two weeks before the filing date or other external deadline.

- Does the client prefer specific court reporters or copying vendors? If so, stress the importance of complying with these requirements to your assistant and office staff and confirm that they are aware of these requirements when performing their administrative duties.

Just when you think you have figured it out, the client is bound to throw a curve ball—they switch the “standard” form or suddenly decide they prefer receiving attachments in Word format rather than Adobe. As the attorney, you must adapt. Don’t make the client tell you twice. If the client wants Adobe documents there is probably a reason for it; if the client wants a new form, use that new form when preparing your reports. How do you keep all of these preferences and requirements straight? Place a note on your case list!

Leave Nothing for Tomorrow That Can be Done Today

Sound familiar? When you complete a deposition, summarize it as soon as you return to the office. When you return from a hearing, immediately report the outcome to the client. Experience will tell you that if you report on an event soon after it occurs, the report will be much more accurate and detailed than if you wait a few days to prepare it.

For this same reason, you should capture your time throughout the day and enter your time on a daily basis. It can be tempting to think, “I’m too busy today; I’ll put my time in tomorrow.” Inevitably, though, you will forget that 0.1 phone call or that 0.1 correspondence received. Remember, if you fail to document your time, it is as if you never completed the task. Managing billable hours is one of the few things about this profession that is in our control—take advantage of it.

When You Start Something, Finish It

Make it a habit to finish a task once you start it rather than putting partially completed piles of work aside. For example, when answering discovery, complete it in one sitting as efficiently as possible. Similarly, with reports, correspondences, and budgets—when you start it, finish it and then bill for it.

I recommend that you set aside a certain amount of time each day to accomplish specific tasks. I know it can be challenging to find the time to complete a task from start to finish without interruptions from phone calls and emails. As difficult as it might be, unless you are faced with an emergency, resist the temptation. I often close my door, forward my calls, and silence my computer so I avoid the urge to respond to email instantaneously. I have found that these strategies really help me to focus on the tasks at hand. Time permitting, I recommend that you budget one hour each day to accomplish key tasks without distractions. If this is too hard to accomplish during the work day, consider arriving to the office prior to your typical start time or staying late at the end of the day.

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As in Life, This Job Is a Marathon, Not a Sprint

Slow down, maintain a balance, and don't lose yourself in it. Maybe it's because of the high and mighty "billable hour," or maybe it's because of unreasonable client demands, or it could just be the nature of the business, but there is no denying it: Attorneys work a lot. It is too easy to lose your balance in this profession. As important as it is to calendar reporting requirements and discovery deadlines, it is also important to calendar personal time for yourself. This is especially easy to overlook as a young lawyer.

The truth is, though, the work is not going anywhere. Your daughter's school play or your grandfather's birthday will never happen again. Take advantage of those special events. Implementing the strategies referenced above and maintaining a disciplined work ethic for the hours that you are *in* the office should prevent you from missing time with family and friends *outside* the office. The goal is to develop your practice for many years to come (or at least until retirement age) and, to that end, no one wants to see a young lawyer lose her passion before her prime.

So when you are considering how to best implement the strategies referenced above, please remember the most important one—you. Know yourself and recognize your strengths as an attorney and advocate for your client. Keep organized so you can devote valuable time to developing your passions throughout your career. And remember—take your time and enjoy the process.

Keywords: woman advocate, litigation, young lawyer, firm, practice

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Maintaining Friendships Between In-House and Outside Counsel

By Angela A. Turiano, Esq. – May 9, 2012

There are many circumstances where lawyers and clients maintain friendships without issue. For example, the family lawyer who after 20+ years of service is considered more of a friend than a hired professional. But the dynamic changes when the client is a company and the lawyer is with an outside law firm hired to represent the company's interest. In this situation, where the in-house lawyer assumes the role of "the client," the friendships that often form between the outside lawyers and their in-house clients can be difficult to navigate and, if not kept in check, adverse to the company's interests.

It is not uncommon for friendships to exist in this context. Many attorneys develop friendships early on in their careers and only later find themselves in an "attorney-client" scenario with these same friends. As a former Brooklyn prosecutor, I have many former colleagues who now serve as in-house counsel to the various financial institutions my firm represents. These lawyers—with whom I bonded in my first years out of law school—are now my clients. These preexisting friendships between firm lawyers and their corporate clients are actually quite common in my field because many former prosecutors ultimately make the transition to securities litigation. In addition, given that these attorneys are usually in constant communication regarding their client's legal matters, it is not unusual for new friendships to develop between outside attorneys and in-house counsel through the course of legal representation. When you combine this frequent professional interaction with the occasional dinners, sporting events, and other outings filed under the heading of "client entertainment," close relationships often form—or, in the case of the preexisting relationships, continue to develop.

Maintaining a professional relationship with people you genuinely consider to be friends may seem like a win-win. Hopefully, the friendship will encourage open communication and discussion, which is essential to effective teamwork and productivity. In addition to the professional advantages, there are also social perks. Not only does each lawyer get to work in tandem with someone whom he or she presumably gets along with, but he or she also gets to spend time with friends under the guise of "client relations and development." Rather than a chore, work dinners and other client outings become a pleasure that both parties look forward to attending.

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Still, with all the advantages that come with the “inside/outside” friendship, there are potential pitfalls. For outside counsel, there is the tendency to take advantage of the relationship and become less conscientious. For example, an outside lawyer might not strictly adhere to client protocol with regard to draft review deadlines or status updates, or she may allow the overall quality of her work product to decline because she is less concerned with pleasing her in-house friend. Conversely, the in-house lawyer may find it difficult to enforce quality control. That is, she may not be comfortable confronting her friend about sub-par work-product or general lackluster efforts. This can be especially challenging for attorneys who do not like confrontation or who want to avoid insulting people close to them.

All this begs the question: How do we avoid these pitfalls? The first step is simply to be aware of the problem or, at least, the potential for the problem to exist. The second step is learning how to maintain the appropriate balance so the relationship can thrive rather than falter. Here are a few tips on how to achieve this balance.

Know When to Separate Your Professional and Social Relationships

The most important thing to remember is to keep your professional and personal dealings separate—both inside and outside of work. For example, when communicating about a case, whether by email or by telephone, uphold a level of professionalism. Refrain from, for example, using nicknames or intertwining social chatter with the matter at hand as demonstrated in the these emails:

Email 1: “Sarah, I just wanted to confirm with you that, as we discussed yesterday, we have \$100,000 in authority to settle this matter.”

NOT

Email 2: “What’s up SJ, I assume we are all good with 100k. Now, on to more fun things—what time we meeting for happy hour?”

I make my point a bit through exaggeration, but the point is still made. Certainly, there is no problem with sending social emails to your friend, but they should be sent separate and apart from emails regarding the case you are handling together. Keep business first, social time second.

Maintain Professionalism and Adhere to Your Duties as a Lawyer

Don’t let your in-house pal’s laissez-faire attitude affect how you perform your job. Instead, always be on top of your game. Even if your in-house friend would permit you to miss internal deadlines, you should nonetheless turn over all work product in a timely fashion. In fact, rather than simply meeting your friend’s expectations, you should strive to exceed them. While it is

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tempting to take advantage of the friendship and shirk your responsibilities because you know you can “get away with it,” instead use the respect you have for your friend as an incentive to increase your diligence.

If you are an in-house lawyer, as soon as you see even a slight decline in the quality of work product or performance, immediately put your friend on notice. The biggest mistake you can make is to continually ignore the decline, as it is not only likely to continue, but to gradually get worse. Also, the conversation is much easier and less confrontational at the early stages of decline. For example, a comment can be sent by email and can be as simple as:

“Thank you for the draft. I just wanted to let you know that I saw a few more typos with this memo than the last one, so just be mindful. As always, I really appreciate your time and efforts!”

If this tactic is not successful, shift the focus to the outside attorney’s welfare and the opinion that “others” will have of her work product or work ethic. Tell your outside attorney that her reputation is on the line and if your superiors find out that she has been missing deadlines or displaying inattention to detail, it will end up harming her professionally.

Maintain Performance Reviews

Set up annual or biannual performance reviews wherein the in-house counsel has the opportunity to express both her likes and dislikes about the way the outside firm *overall* is handling the cases. Chances are that the in-house lawyer works with more than one lawyer from the outside firm and thus will be able to comment generally on anything that needs improvement. (e.g., “We are finding too many typos in draft reviews” or “We are not being kept apprised of important deadlines.”) These scheduled reviews will allow in-house counsel to avoid the direct confrontation that so many find distasteful while at the same time provide an opportunity to remind outside counsel to maintain or improve the quality of his work.

Being a lawyer is a demanding job that often requires long hours and almost painstaking attention to detail. As a result, if given the opportunity by our in-house friends to “slack off,” it is easy to take that opportunity. Resist the urge! The friendships that exist among in-house and outside counsel can increase productivity and quality of work even as they make our jobs more enjoyable. As you walk the line between the friendship and the business relationship, use the above tips to avoid slipping, or worse, tumbling to the ground. When standing on the line, make sure you walk it straight and tall, while maintaining balance, so that you not only reach the end, but also reach it in the best possible manner and with optimum results for your client.

Keywords: woman advocate, litigation, in-house lawyer, outside lawyer, relationship, client

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How to Write a Good Invoice

By Teresa Beck, Esq. – May 9, 2012

Billing clients for our work is one of the most important tasks for lawyers. Our bills say a lot about us, both as individuals and as members of firms, and it is critical for lawyers to master the art and skill of billing to succeed at the highest levels of the profession. Although it is impossible to predict what will pass muster in every billing situation, below are some general principles to guide you.

Above All, Be Honest and Ethical

It is imperative that our bills are honest reflections of valuable and necessary work performed for our clients. Our clients have developed complex billing review programs because, among other reasons, there is a sense of distrust. We can overcome these concerns by carefully billing for our work, ensuring we are doing only work that is required and that has value to our client.

Pretend You Are the Client Reviewing the Bill

One of the best ways to become great at the art of billing is to review your billing entries from the client's perspective. If you were the client, would you want to pay for the work being described or for the amount of time billed? If not, make revisions. If you wouldn't want to pay for the work or wouldn't appreciate the time spent to complete it, then they won't either. Your goal should be for your client to review your bill and say, "I am so glad my lawyer did that work and I appreciate that she took this amount of time to do the work well." I promise: This is an achievable goal.

The Bill Should Tell a Story of Why Payment is Justified

One way to look at the bill is to think of it as a story about the case or legal matter. And it really is! Reading a bill from the inception of a matter to the end of a matter should tell a story about every event that occurred in the case, from the time the lawyer first reviewed the complaint or the client's concern, to the time the matter is finally resolved. Every motion and discovery matter, and every phone call and meeting in between, should be part of that story. If the bill is not communicating the story of the case in a way that justifies the work, then the client is going to wonder why the bill should be paid.

For example, most clients will question a bill for trial preparation shortly after the complaint is filed. Such a bill would not be telling a story that makes sense. Similarly, a billing entry for "Telephone conference with Roger Jones" does not describe how Roger Jones relates to the story. A better description might be "Telephone conference with Roger Jones, the plaintiff's

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direct supervisor and witness to numerous critical events relating to the plaintiff's employment." This entry fully describes the legal work you performed and explains why the work was justified.

Every Biller is Part of the Story

Every person billing on a case or matter should make sure that his or her role fits into the overall story of the case. For example, if an associate bills for preparing discovery on the eve of trial but the partner has already told the client that discovery was completed a month before, the client is going to wonder what is going on. Similarly, if a client who is interested in pursuing settlement does not see any reference to settlement efforts in the bill, the client is going to wonder why her lawyers do not seem to understand the litigation strategy. Finally, a client may cringe to see Tom Brown, the paralegal, doing the same work as Jennifer Black, the associate. The bill should tell a story that clearly and concisely reflects tasks that the client expects to be performed, with everyone playing the right role to accomplish those tasks.

Communication is Key

To ensure that your bill is telling a story your client wants to hear, it is critical that you discuss your client's expectations at the beginning of the case or assignment, including the anticipated fees and costs. Many clients have developed litigation plans and budget forms for this very purpose. Make a thoughtful and honest assessment of the tasks you think will be necessary to get the job done and estimate how long it should take the appropriate legal personnel to accomplish those tasks. If you don't have much experience with budgeting, ask those with more experience for their estimations. After you prepare the budget, keep track of what you estimated and let the client know when there are deviations—which, invariably, there will be because no one has yet fully mastered the art of predicting the future!

Most clients are forgiving when our forecasts change, as long as we keep them in the loop. Problems arise when we forget to keep track of what we forecasted, and when we neglect to tell the client of the need to make adjustments. If you can master the discipline of monitoring the initial plan and updating the client as the matter progresses, you can avoid many of these problems. If you don't communicate these issues before the client gets the bill, you will invariably end up having the discussion *after* your client gets the bill and does not want to pay. It is far better to have the conversation in advance—and clients appreciate it.

Know the Rules Before You Get Started

Many clients have guidelines they want followed for their legal work. Before getting started on any new matter, it is a good idea to ask your clients for their guidelines. Client A may want paralegals to perform certain tasks, and Client B may require you to use a certain copy service or attorney service. Client C may want you to get authority before you do legal research and to identify *in the bill* who provided the authority to do the research. Your clients expect you to know their guidelines, and they have every right to expect that you will do so. It is amazing how

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many lawyers and law firms do not follow the guidelines of their clients out of simple carelessness. Trust me, if you don't want to follow the guidelines there are other lawyers and law firms out there who will be happy to do so. Make sure you do the easy things right. This is one of them.

Know the Words Clients Hate

Many clients are driven crazy by certain buzz words that appear in bills. For some, it's the word "review" because it sounds like the lawyer is casually reviewing the file over lunch and mindlessly billing for something that has no value. Some clients hate entries for 0.1 (or 1/10 of an hour) because they feel this level of billing is just nickeling and diming them. Others *love* entries of 0.1 because they feel the lawyer is being accurate about the time it took to do a task. The truth is, we cannot make everyone happy all of the time but individual clients, including large businesses, have pet peeves when it comes to billing. Try to discover your client's pet peeves early on so you can avoid them. Once you know the words they hate, don't use them!

Look at Previous Bills for Good Tips

One of the best pieces of billing advice I ever received was to ask my billing department to give me some old bills that the client had paid without dispute. By reviewing the terms used by the lawyers on those files, I quickly picked up great ideas about not only how to bill for that particular client, but also some great ideas about general successful billing techniques to use in other cases and for other clients. Similarly, you can review disputed bills, which often come with explanations to obtain some great insight about what *not* to do. Reviewing what has worked in the past, and what has not worked, can be very helpful.

Address Billing Disputes as Soon as You Know

Once a client voices a concern about the bill, address it immediately or tell the responsible partner about such discussions so he or she can address the matter. These issues never get easier to resolve over time. Billing concerns can fester and grow if not addressed. Sometimes resolution is easy—perhaps an entry was posted to the wrong file, or maybe a 6.0 was supposed to be a 0.6—but sometimes the issues are bigger, like miscommunication about strategy. No matter the size of the dispute, billing issues are always easier to resolve early. Once you know of a client's concern, be sure not to make the same mistake again. Either way, handle those issues as early as possible.

Happy Billing

"Happy billing" might seem like an oxymoron but keep in mind, it is our livelihood. For new lawyers, it can be mind-boggling to think you have to account for every 0.1 increment of your day. More experienced lawyers can do it in their sleep. Learn the rules for each client. Once you know the rules, they are often very simple to follow.



Woman Advocate

FROM THE SECTION OF LITIGATION WOMAN ADVOCATE COMMITTEE

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If you follow these rules and draft your legal bills both accurately and descriptively into stories that your clients both expect and accept, you will have finally mastered the art of billing.

Keywords: woman advocate, litigation, invoices, clients, billing

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NEWS & DEVELOPMENTS

Female Academic Achievement and Earnings

“Why do women perform so much better in school than their male classmates? And why hasn’t this academic prowess translated into higher earnings for women than for men?” The answer to the first question may supply the answer to the second, according to a recent article, [“Women’s Successes in School . . . Bleed Away in Their Paychecks,”](#) recently published in the *National Journal*.

Considering nearly 30 years has elapsed since women began their educational climb, patience is no longer an acceptable solution for the income disparities between women and men, suggests the author. According to the National Center for Education Statistics, men with a bachelors degree earned a median \$62,440, versus \$46,830 for women, among year-round employees over the age of 25. Additionally, women with a master’s degree earned less, on average, than men with only a B.A. Despite these statistics, however, disparity doesn’t become immediately apparent out of college. In fact, young, single, college-educated women without children earn close to or even more than their male counterparts, says Nancy Folbre, an economist at the University of Massachusetts.

It is no mystery that things change as women approach their child-rearing years. Indeed, career paths, particularly in higher-paying, formerly male-dominated fields, are often timed in ways that make it harder to serve the dual roles of mother and professional. Lawyers aiming for partner, doctors completing their residencies, and MBAs climbing the corporate ladder all face the obstacles of reaching those goals well into their 30s, toward the end of a woman’s childbearing years.

Does awareness of these difficulties cause women to self-select out of more lucrative professions? Paula England, a New York University sociologist, says it does. Her research indicates that undergraduate majors and fields of Ph.D. study “continue to be very sex-segregated” and women continue pursuing majors that lead to lower-paying employment. Self-selection is also seen in education at the professional level. Women receive only 37 percent of MBAs, women doctors gravitate toward family practice over higher-paying surgery, and “freshly minted female lawyers tend to choose public-interest law over a corporate practice,” according to the author.

The author suggests that “[t]he answer may lie in a fault line that runs through the U.S. education system from pre-K to Ph.D.: a mismatch between qualities that the schools reward versus those that the real world will prize.” Thus, although girls outperform boys in school due to their superior communication and interpersonal skills, they also succeed “because of a greater

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willingness to follow rules, line up quietly, and listen.” The latter skills don’t count for a lot in a quick, globally competitive economy that “rewards assertiveness and innovation over sitting still or knowing which bubbles to fill in on a standardized test.” “Women need boldness to strike into male-dominated majors,” the author states.

So, what about the obstacles of child-rearing? Mentorship and planning ahead can make a big difference, suggests Mary Ann Mason, a University of California at Berkeley law professor, and the first woman to serve as the school’s graduate dean. “Young women are unaware of how difficult it becomes fitting childbirth into your career plans. But . . . if you think in advance, it becomes easier.” How exactly does it become easier to juggle the converging timeline of reaching the pinnacle of your career and raising children? The author doesn’t offer an answer. But getting back to money talk, women with mentors saw their salaries rise 27 percent higher than women without, according to Catalyst, the women’s professional organization.

Keywords: litigation, woman advocate, income, children, women, education

–[Claudia Hartleben](#), *Curtis, Mallet-Prevost, Colt & Mosle LLP, Washington, D.C.*

“Women in the Law” Survey

LexisNexis and the Law Society, an organization that represents, protects, and promotes solicitors in England and Wales, recently commissioned a survey entitled “Women in the Law.” The survey notes that while women in recent years have accounted for more than half of the new entrants into the legal profession, far more women than men leave the practice of law well in advance of normal retirement age. It aims to establish how far women have come in the legal profession, to ascertain the barriers to women’s career development in law firms, and to determine what can be done to address those barriers.

Of the 1,100 worldwide respondents to the survey, 85 percent were from an “Anglo-connected” country and 90 percent were female.

According to the survey results, 64 percent of respondents acknowledged that gender diversity is an important commercial issue for their law firms. Just over 30 percent of respondents, however, believe that quotas are necessary to achieve diversity.

When asked what is the primary reason that more women do not attain senior-level positions, the respondents identified the time and effort required to reach senior-level status as the biggest impediment. Many respondents also cited unconscious gender bias within the legal profession and that traditional networks/routes to promotion are male-orientated.

When asked to name the biggest change law firms could make to encourage more women to reach senior levels in law firms, the most common response was to adopt more flexible working practices. The second most common response was for law firms to change the way they assess performance (i.e. changing the performance metrics to allow for fewer hours in the office).

Based on the responses, the study’s authors concluded that the biggest changes required, according to survey respondents, are cultural.

Keywords: women, law firm, career development

–[*Candace Duff*](#), *Greenberg Traurig, P.A., Miami, FL*

WORDS OF WISDOM**Female Academic Achievement and Earnings**

The best career advice I ever received was from Carmelite Bertaut, a former cochair of the Woman Advocate Committee. I was going through a particularly difficult period in my career when I was dealing with an extremely heavy work load and struggling with multiple facets of being a litigator and a new mom. She told me: “The most difficult times in our career are the times in which we experience the most growth.” After the storm passed and I was through the difficult period, I looked back and realized that I really had learned more about being an attorney, making decisions as an attorney, preparing for depositions and hearings, drafting, and balancing a busy work load while continuing to get in exercise, “me time,” and most importantly, family time. I definitely learn more during the trying times than the easy times. Now, when I’m having a tough week (or longer!), I remind myself of this advice. It helps me maintain a positive perspective and look for the growing opportunities in the midst of the difficulties.

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Be yourself. It is important to spend time with senior lawyers learning how to handle all aspects of the job: writing, oral advocacy, dealing with clients, and opposing counsel. Learn from a variety of personalities, but along the way figure out how to make those lessons work for you in your own way. Some of us are loud and aggressive; others are quiet and restrained. Each style can make for a great lawyer. But it has to be genuine and it has to be your own.

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The most important words of wisdom that have guided my career have come from my father and from some partners in law firms who became mentors to me. My father’s advice at the outset of my legal career made an indelible mark. He told me that I had to do my absolute best on every project in the corporate world and not rely on any past accomplishments because I would always be judged on the current work. He also advised me always to act with integrity, ethically in line with my principles, and to be completely honest with clients even if they do not want to hear what I have to say. As a CPA and corporate auditor, my father spoke from experience, and my own experience has proven how sound his advice is.

My law firm mentors taught me three important things: to develop my own style as a litigator by emulating the best of what more experienced and effective lawyers had to teach me; to develop my own book of business to attain the satisfaction and independence that comes from having one’s own client base; and always to go after what I wanted, and not wait to be asked. Their collective wisdom has greatly contributed to my career success.

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Woman Advocate

FROM THE SECTION OF LITIGATION WOMAN ADVOCATE COMMITTEE

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Keywords: woman advocate, litigation, career advice

ABA Section of Litigation Woman Advocate Committee

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