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Working with Corporate Clients to Drive Law Firm Profitability

By *Matthew Garza, J.D.*

The trend away from traditional “one-stop shop” relationships between companies and their outside counsel has continued to pressure law firm business models as corporate legal departments increase scrutiny on firms in search of the best value. Corporations are watching outside counsel expenses on every engagement while looking for innovative legal approaches, diversity of personnel, and of course good results. Approaching mid-2021 many law firms are seeing increased opportunities in areas such as M&A, cybersecurity, and privacy, but they are also seeing pre-pandemic costs return. This pressure on in-house budgets and the price of outside counsel services was a central topic in Ark Group’s *10th Annual Law Firm Profitability Summit*. Wolters Kluwer’s Senior VP and General Manager [Dean Sonderegger](#) spoke with his own corporate counsel [Robert Ingato](#), O’Melveny & Myers partner and Vice Chair [Mark Samuels](#), and law firm transformation specialist [Marcie Borgal Shunk](#) to get insight into what corporations expect from outside counsel and how firms can provide price transparency, leverage innovation to drive down costs, and develop closer relationships with clients.

It’s about value, not price. Sonderegger noted at the outset that when outside firms are asked to name the most important factor in landing a corporate client, they cite price of services. But when asking the same question of corporate legal departments, the answer wasn’t as simple. They respond that they are looking for the right specialization, the ability to partner closely, innovative use of technology, and then price. WK’s General Counsel Bob Ingato talked in more detail about what he looks for in firms, citing six factors central to the RFP process:

- **Quality.** Quality is not in short supply, Ingato said, so quality work is a ticket to get into the process, not a differentiator. The precise type of service sought, however, whether it is middle-market M&A transactions, commercial transactions, contract disputes, or litigation, must align with the firm’s expertise.
- **Value.** Price matters, but the focus is on more than the rate, with proper staffing levels, dedicated support personnel, and the time needed to complete the task as top considerations. “Obviously I’d rather pay \$1,000 an hour for an attorney that can get a project done in 5 hours than one that charges \$500 an hour and takes 25 hours,” said Mr. Ingato. Also, will there be 3 associates listening to every phone call? Reasonable staffing levels are expected.
- **Results.** Mr. Ingato noted that he focuses strongly on results. He doesn’t work with firms on a one-off basis and returns to firms that consistently provide quality results.
- **Partnership.** The firm needs to know or be dedicated to getting to know our company and our markets, said Ingato. A firm should know if a particular transaction is overly aggressive, or not aggressive enough, based on comparables in the industry. A firm should be able to guide the legal

department on developments and trends affecting our business, whether it is a new privacy law in Australia, an EU artificial intelligence regulation, or a cybersecurity development. The firm should also assign a point person to work with the company.

- **Scope.** The jurisdictions a firm supports and the ability to cover various subject matters are also considered. Mr. Ingato prefers to work with firms that cover most of his business's needs so he can avoid the need to work with highly specialized firms, although that can be necessary in areas like immigration or IP.
- **Diversity.** Lastly, Mr. Ingato looks for firms that demonstrate diversity, including on the team that supports his account.

Quality gets you into the game, it doesn't win it. Mark Samuels with O'Melveny highlighted an important point made by Mr. Ingato for law firms, which is that no matter how good the firm is, the client will see other firms in the market as offering equivalent quality. And even large, sophisticated companies confuse price and value. We don't aspire to offer the lowest price, he said, but we do aspire to provide the best value.

Most of the work O'Melveny provides is subject to a cap fee, a success fee, or some other type of fee arrangement that pushes some of the risk of the economics of the matter to the firm, said Mr. Samuels. Therefore, how efficiently and transparently the firm manages the engagement directly affects its profitability, especially given that there are often matters that pop up outside of the firm's control. For instance, in litigation, how many drafts of a pleading a client demands to see, or how many depositions the other side takes, can make costs skyrocket. The best way to handle this is to be open and candid with the client and prepare a scope of services document to go back to in case matters spin out of control so the firm and client can be in a position to "share the pain." But we can't focus entirely on matters out of our control, he said. The firm must control the things it can to drive profitability. To that end O'Melveny looks at:

- **Technology.** It is critical to focus on leveraging advanced technology and O'Melveny has a team scouring for suitable legal tech in order to drive efficiency and innovation within the firm, said Mr. Samuels. The firm has also invested in proprietary technology.
- **Push it down.** Work should be handled by the lowest cost resource able to produce a positive outcome. If research work can be handled by a paralegal or librarian, it should be. We do not want our lawyers researching the format for every local court filing, for instance, said Mr. Samuels. Most of these resources are provided without charge to the client.
- **Staffing choices.** Having too many "tourists" on a file should be avoided, and routine matters like due diligence and researching corporate minutes can be handled by staff attorneys. Large firms like O'Melveny have the ability to bring in top experts on key matters, giving the firm an advantage.
- **Training.** O'Melveny lawyers go to training, internal bootcamps, and online programs run by the firm that run all year long. The firm has also developed a culture of mentoring and focuses on making the firm a place lawyers want to work and stay, reducing turnover.

Mr. Samuels said his firm makes the attorneys working on a file aware of any alternative fee arrangements, provides a budget to the legal team, and arms teams with non-lawyer professionals to help manage costs. Time sheets are completed daily so the firm understands at all times how matters are

tracking to budget so effort can be rebalanced if necessary. Lawyers at top firms expect excellence in every detail, he said, but not every document on a file will be published in Harvard Law Review or end up on a shelf, so using common sense on level of effort is necessary.

Culture matters. Marcie Borgal Shunk, President & Founder of The Tilt Institute, which prepares firms for significant transformations, saw in the discussion an evolving understanding of law firm profitability. What used to be about only hourly rates and proper resource utilization is now a more sophisticated discussion of how profitability is made part of operations. More data has become available to clients and firms in the last 10-15 years, and the effort is now a more holistic approach focused on the entire law firm entity. The culture of the firm, Ms. Shunk said, is key to its success. Clients want someone who is responsible and accountable for client service on each engagement, but every firm employee must understand what makes the firm successful. A profitable entity is not just about the basic metrics so firms need to create an environment where everyone is thinking about what they are doing and asking if it is the best thing for the client and the firm.

Law firms need to build awareness of their own business situation and firms need to work with their leaders to be more than lawyers, said Ms. Shunk. Make them conscious of profitability goals, change management techniques, and teach them how to communicate in order to shift mindset and behavior. There must be an effort to drive small changes to support these goals, but don't expect a magic bullet, she said.

How the pandemic changed things. Communication habits driven by work-from-home mandates will be a lasting change to law firm business practices, according to Ms. Shunk. The pandemic forced us to communicate more intentionally and more deliberately. We spent a year looking into people's homes through video calls and connections were created where they didn't exist before. Firms were more conscious about checking in with clients and continuing these habits will have a lasting positive impact, she predicted.

Mr. Samuels, with his dog in the background padding around his home office, agreed that the firm spent a lot of time checking with each other and clients, and despite the Zoom fatigue, this created a window into the lives of clients and provided them a window into firm life. He also predicted that getting back together when we return to the office will drive a surge of personal connections. But cross-country trips for a 2-hour meeting? That may be over for good. He said that he does not expect O'Melveny to go back to completely in-office work, partially for competitive reasons. Millennials will opt for flexibility going forward. But a law practice needs a vibrant firm life and human interaction is key, so they are considering telling people to come in on a set schedule so they can be together for training and socialization. At some level, people need to be together, he said.

Bob Ingato noted that the most useful conversations in the office tend not to be technical discussions about a case or a regulation, but rather it is casual conversations that drive matters forward. This has become harder during the pandemic. Encourage communication with clients, in real time if possible, he advised, and the more the better. Learn to talk through what is going well with the relationship, what can be better, and what else in the business can benefit from the firm's expertise.

The invoice counts. Finally, don't forget that the invoice itself is an important form of communication. Mr. Ingato relayed an example of when he received an invoice for another client's work and another time an invoice was delivered a year after the services rendered. This spoke loudly to the lack of a point-person handling the relationship, and in the case of the late invoice, precluded insurance coverage. Tight communication can nip problems early and facilitate closer, more trusting relationships with clients, he said.