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Creating Value in the Legal Marketplace: The More Things Change, the More They Remain the Same

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Over the past several years, the corporate legal industry has been grappling with important changes to the business model by which law firms have traditionally operated. Until just a few years ago, attorneys were less subject to the market forces that have driven their corporate clients: They enjoyed working relationships that were often free from competitive forces, frequently inherited rather than won in the open market, and rarely lost to another firm in the absence of some unusual development. Furthermore, for the most part there was as much work available as there were hours to devote to it, so sales and marketing were of lesser import. Perhaps more significantly, the need for legal services was generally so great, year in and year out, that hourly rates tended to rise with little or no business rationale. In short, low competition, combined with high and inelastic demand for services, allowed many lawyers to think much more about the practice of law and much less about the challenges that most corporate businesses face every day.

All of that seemed to change overnight, at least from the perspective of a typical law firm, and the new realities of acquiring and retaining clients have appeared to require swift, if unwelcome, cultural and operational evolution for the sake of survival in the 21st Century. With the economic tumult of 2008, the marketplace shrank, and suddenly even venerable relationships between in-house and outside counsel were only as safe as last year's performance and next year's rate structure. Routine annual rate hikes not only undermined new business development but offended even the most loyal clients, who were facing draconian budget cuts and expected their outside counsel to share the pain.

For many law firms, the world in which they long practiced their craft has shattered, and the future may seem to have taken on a grim hue.

In fact, what's most important hasn't changed at all. What the legal marketplace has demanded all along, and continues to demand, is *value*. All that's changed is its definition, and even that hasn't changed much. Clients have always wanted, and still want, lawyers who understand their businesses and industries. They continue to look for relationships within which they are the clear focus

of their outside firms' care and attention. Of course, like everyone else, they want a sound return on their dollar at the end of the day. And perhaps most importantly, they want to rest assured that their outside attorneys always place their clients' interests over monthly billings. Good law firms have always brought these qualities to their relationships — the only real difference is that they now have to do so in fierce competition with their peer firms, and they can never rest on yesterday's laurels. In that sense, they've merely joined their clients in the modern business world, which isn't a bad thing at all.

Contemporary corporate businesses learned decades ago that successful organizations learn as much as they can about their target markets and then design products and services that meet explicit and latent needs in order to gain competitive advantage, rather than first producing something and then searching for a market that will buy it. Law firms have had to learn this lesson more recently, having so long operated in an environment that simply demanded their core services almost without qualification. Today, lawyers need to recognize their clients' needs five years from now as well as currently. That means they need to spend a lot more time understanding the environments in which their clients operate, as well as their clients' own near-, mid-, and long-term goals. While the impulse is to evaluate current legal circumstances, an attorney's job is also to study, ruminate, discuss, and augur the future of each client's business fortunes. Outside counsel generate superior value by functioning as an informed and objective outside observer who's dedicated to making the client more competitive, both today and tomorrow — handling legal issues is simply the way they derive a return for their efforts. That's a far cry from the traditional and reactive role of the "white knight." Again, this is nothing new: The best attorney-client relationships have always included a deep understanding of the business, but when such relationships are often newly developed and always-always vulnerable to aggressive competition, the modern law firm must develop and practice extreme and constant client focus, on a firm-wide scale, rather than depending on time and one-to-one associations to build such important institutional knowledge.

"Extreme and constant client focus" goes beyond a

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About the Author

John W. Daniels Jr. is the chairman of Quarles & Brady LLP, a 400-attorney national law firm. In his position, he has led the firm through a fundamental transformation, shifting from the traditional operational model upon which most major law firms are built to a client-centric, business-minded organization. Mr. Daniels will be a recipient of the prestigious American Bar Association 2012 Spirit of Excellence Award that will be presented in February 2012. A Harvard Law School graduate, Mr. Daniels is a nationally recognized real estate and business transactional lawyer, representing Fortune 500 entities, public pension funds and some of the largest life insurance and financial services companies in the nation.

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comprehensive study of the client and its industry as well. Most businesses understand that satisfying and keeping customers means staying in touch, becoming a part of their “lifestyle,” maintaining the quality of products and services “after the sale,” changing and upgrading products and services to meet their changing needs, asking them if they’re happy and what else can be done for them, and so on. Law firms are used to providing excellent legal services, and for the most part that’s all they’ve needed to do. Worrying about projecting how far unanticipated discovery costs are likely to run over budget before beginning the work, or meeting with the client after a matter has concluded to talk about what went right and wrong takes effort, but going the extra mile is how law firms inject additional and ongoing value into their services.

Each of these concepts contribute to a client’s sense of value for the dollar, but in an increasingly commoditized industry, the successful law firm must consistently provide services beyond those that require a J.D. Such offerings will vary from client to client, but among them are training programs, CLE and otherwise; multi-disciplinary representation, offered with a clear knowledge of the client’s needs rather than an attempt to up-sell; a proactive approach to creative fee structures, and intense budget management to honor them; sweet-spot communications, keeping clients in the loop without interrupting their busy days; and clearly defined service standards, with hard metrics for gauging their success and periodical reviews to refine and improve them. Successful results “in the courtroom” remain paramount, but what

law firms offer in excess of their brilliant attorneys is the difference between treading water until they ultimately sink beneath the waves and swimming the distance.

Understanding the business and industry, practicing extreme client focus, and every other form of client service beyond legal representation combine to build this quintessential form of trust, but fully reaching that point of true faith has to come from inside each attorney, and those who excel in this relationship-cementing characteristic are going to be the new masters of the legal universe. You can *believe* your outside counsel is always there for you, and you can *know* it — unassailable competitive advantage lies in establishing the latter. It isn’t something you can teach or make into a policy; you have to sense it, live it, grow it, acculturate it, and intuitively acknowledge its raw power to harness and make it work for you.

Alas, in today’s marketplace, superb legal skills are only the prerequisite. That’s a hard truth for a group of professionals whose abilities were always the centerpiece of their value proposition. Billable hours are now the result of all the value that attorneys generate, rather than all the value that attorneys generate, itself. The good and bad news, both, is that there’s nothing particularly new that law firms must invent to succeed — they merely need to do what their profitable clients have been doing all along as they conduct commerce in a highly competitive, fully global, economically volatile world. Accepting and embracing that reality may be the only truly difficult challenge. ❧

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