

PART I

MARKETING AND THE PRACTICE OF LAW

If you mention the word “marketing” to attorneys, it conjures up a wide and disparate range of reactions. Marketing is related to such positive aspects of the practice as client satisfaction, client retention and lawyer training. At the same time, it is associated with activities considered distasteful by many attorneys, such as selling, television advertising or direct mail.

In fact, the marketing function is so broad and comprehensive in a law firm that it is hard to draw its boundaries. Marketing is inherent in some of the more mundane aspects of the firm, such as the firm’s stationery or its mailing list; it is also inherent in the strategic direction of the firm, such as mergers or the pricing of services.

The marketing function contributes to a law firm’s success by allowing it to: (1) monitor its targeted publics (e.g., clients, prospects, referral sources and other important audiences) and their needs; (2) create services or products that meet those needs; and (3) communicate the firm’s services, benefits, and identity to the appropriate audiences. The result of a well organized marketing effort is a satisfied and growing clientele, and satisfied and stable personnel.

Part I of this book presents an overview of the marketing function, including an introduction to the marketing concept and marketing principles, and information on clients and their use of outside counsel; discusses why marketing is so difficult in a law firm, and how various tools and techniques can help overcome existing obstacles to marketing; and finally provides a framework for marketing planning into which the firm’s activities and tactics should fit.

CHAPTER 1

Overview of Marketing in a Law Firm

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§ 1.01 Why Law Firms Need Marketing

It is quite possible that in an industry with little competition, great differentiation and high demand, marketing would not be necessary. To the dismay of many attorneys, however, this environment does not exist. In fact, the practice of law has become extremely competitive, there is little differentiation among firms, and the increased use of in-house legal staffs and other professionals has resulted in a decline in the use of private law firms.

Truly dramatic changes have been taking place within the legal profession. An increasingly competitive marketplace and declining economic indicators have resulted for many in the hard realization that the practice of law must be viewed not simply as a profession, but also as a business.

Among the most significant influences on the practice of law are the increase in the number of attorneys, the foray into traditional legal services by other professional service providers, the growth of in-house legal staffs, the *Bates vs. State Bar of Arizona* decision,¹ specialization, changes in law firm structures and size, increasing malpractice coverage costs, the introduction of technology, rising overhead costs, declining profitability, and client quality and cost containment efforts.

[1]—The Number of Attorneys

The growth in the sheer number of people practicing law is evidenced by the growth in the number of law firms, which has increased by 50% during the 1980's. Futurists predict that there will be one million attorneys by the year 2000, an average of one per every 300 people in the United States.

[2]—Blurred Distinctions Between Professions

Accountants, financial planners, mediators and a whole host of other professional service providers have easily pirated away work traditionally done by law firms as they have expanded their missions and looked for new service growth areas. The largest law firm in Europe is now owned by an accounting firm, and law firms in the United States similarly have forayed into some non-legal service areas.^{1.1}

The ABA Commission on Multidisciplinary Practice was formed in 1998 to determine what changes, if any, should be made to the ABA Model Rules of Professional Conduct with respect to the delivery of legal services by professional services firms. In its 1999

¹ *Bates v. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977).

^{1.1} See § 14.01[4] *infra* for a discussion of law firm diversification.

report the Commission concluded that clients are interested in retaining lawyers who deliver legal services as part of a multidisciplinary practice (MDP). If the ABA accepts the Commission's recommendations, it will be possible for non-lawyer entities (e.g., accounting firms) to own businesses that provide legal services, within certain constraints.^{1.2}

[3]—In-House Staffs and Client Economics

The growth of corporate counsel not only has taken away much traditional, ongoing corporate work from law firms, it has resulted in a more sophisticated consumer of legal services who is better able to judge effectiveness, less concerned with long-standing relationships, and more sensitive to accountability and costs. This type of client also is requesting information and services previously unavailable from law firms, such as budgets for litigation, formal proposals for representation, more detailed invoices, etc.

A recent survey reporting on the spending of the in-house legal departments of 241 leading companies, reinforces these trends.^{1.3} The study showed that 45% of the respondents expect to use fewer law firms in the future, while only 4% plan to use more. In addition, there is evidence that the total market for outside legal services is dwindling. First, according to the survey, total legal spending as a percentage of corporate revenue has declined steadily and significantly since 1992, from .41% to .34%. Second, while total legal spending was up 5% in 1995, spending on in-house legal staffs was up much more than spending on outside counsel.

[4]—Case Law^{1.4}

The impact of the Supreme Court's 1977 decision in *Bates*, and the after effects, cannot be overestimated.² Once attorneys were able to advertise, a series of challenges to traditional professional ethics resulted, leading up to the 1988 decision that attorneys can engage in direct mail solicitation of prospective clients with need for their services.³ Although ethics still vary from state to state, and restrictions on taste often supersede those on conduct, every new

^{1.2} American Bar Association Commission on the Multidisciplinary Practice Report to the House of Delegates (www.abanet.org/cpr/mdprecommendation).

^{1.3} The 12th Annual Price Waterhouse LLP Law Department Spending Survey (1996) is available by calling (212) 596-7242.

^{1.4} See § 4A.03 *infra* for a discussion of ethical issues.

² *Bates v. State Bar of Arizona*, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed.2d 810 (1977).

³ *Shapiro v. Kentucky Bar Ass'n.*, 486 U.S. 466, 108 S.Ct. 1916, 100 L.Ed.2d 475 (1988).

marketing opportunity will find a willing pioneer, and the result is an extremely marketing conscious profession.

[5]—Specialization

The number of legal certifications is on the rise, and the trend in the legal profession is unquestionably towards specialization. Clients are interested in hiring professionals who have a demonstrated level of experience and expertise in a certain practice area, and the perception, if not reality, of a focused practice has been growing in importance.

Studies of consumer and corporate clients alike consistently show that “expertise” is the most important factor to clients in selecting a lawyer. Bar associations and other professional bodies are increasing their efforts to provide certifications in everything from litigation to bankruptcy to tax law.

[6]—Firm Structure and Size

The rise of the giant law firm and a “bigger is better” mentality have had a tremendous impact on the legal profession. The large, institutional nature of firms has caused many young lawyers to adopt an employee mentality. Consequently, they have lost a little of the personal commitment and involvement so necessary to providing excellent professional services. In addition, the growing number of mergers, acquisitions and lateral movements appears to have desensitized clients and lawyers to the strong sense of firm loyalty which previously existed.

[7]—Malpractice Insurance

The cost of malpractice coverage is making firms analyze more carefully than ever before what services they will provide. Firms are becoming reluctant to tout a “full service” capability if the number of professionals does not support this contention.

[8]—Introduction of Technology

Technology is having a tremendous effect on the legal profession and particularly on the way that legal services are delivered. Facsimile machines and computer linkages with clients require faster turnaround on projects or requests. “Know-how” systems can capture firm intelligence, such as issues dealt with in the past, to provide a more efficient way to research. Lawyers can communicate with clients instantly via e-mail.

Although technology is a necessity for the modern practice, by its nature, it also dehumanizes the practice. Voice mail systems have been installed at most major law firms, and yet most clients expect a human being to answer telephones during business hours. Computer-generated invoices are a less effective communication

vehicle than the more personal formats which often preceded them. Using technology wisely, particularly as it interfaces with clients, is a critical marketing challenge.

[9]—Rising Costs

Overhead costs have become a much greater percentage of law firm expenditures over the past decade. Completely automating a law firm can cost \$20,000 to \$30,000 per lawyer over two to three years, malpractice insurance in some states can run as high as \$10,500 or more per lawyer, and rents have increased. In addition, the competition for new associates has driven starting salaries to a previously unimaginable level.

[10]—Declining Profitability

Industry-wide revenue growth and net income per partner both declined for law firms during the past decade. The reasons for this are many:

(1) *Reduced leverage.* Firms continued to make partners of the bulging classes of senior associates hired in the early to mid-1980s. At the same time they reduced the number of incoming law students. Some law firms departed from their strategy of hiring new associates and instead focused on recruiting lateral partners presumably bringing books of business, further increasing the partner ranks.

(2) *Increased overhead.* Expenses as a percentage of fees rose for many firms with the inflated associate salaries, technological expenses, cost of office space, etc.

(3) *Client demands.* In many cases, firms have been required to cut their hourly rates or develop alternative discounted arrangements for clients in exchange for their business.⁴

[11]—Client Quality and Cost Containment Efforts

Partly as a result of having in-house lawyers whose primary function is to oversee outside counsel, and partly because legal costs have become such a large and seemingly uncontrolled expense, many client companies have implemented procedures and processes to reduce the monetary risk involved in their legal work. The demands on outside law firms in some cases are quite rigorous, and include: soliciting detailed proposals and budgets from a number of law firms for each new file; requesting alternative billing strategies which place some of the financial risk on the law firm; and requiring outside lawyers to submit “task-based” bills whereby the time and subsequent cost involved in each small task

⁴ See Chapter 11A *infra* for a discussion of pricing and billing techniques.

associated with the project is recorded, the tasks typically identified by the client.

A recent survey of 241 in-house legal departments reported that companies continue to experiment with cost-cutting and ways to increase efficiency.⁵ For example, although litigation costs increased 4.0% in 1995, when normalized as a percentage of outside counsel spending, they actually decreased slightly. In fact, 51% of the survey participants reported an overall decrease in litigation costs.

Client efforts to implement Total Quality Management (TQM) programs have had a similarly profound impact on their outside counsel. In particular, clients with TQM programs are interested in establishing strong and long-standing relationships with their vendors, a category into which outside counsel now fall. The word used to describe this concept is “partnering,” and it can mean several things:

(1) The client entity may actually seek to minimize the number of law firms with which it works, reversing the former trend to delegate some work to many firms.

(2) The client will require that each of its selected law firms has its own TQM or quality improvement program in place.⁶

(3) The client will expect the law firm to make certain concessions or propose new initiatives in exchange for the increased volume of work. This might take the form of a discounted rate or an offer to send its lawyers on-site for a day to learn more about the client’s business.

(4) The client may want its own personnel to play a more active role in the legal representation, from taking depositions to making changes to documents.

[12]—Conclusion

A law firm’s ability to cope with these changes to the profession will be the measure of its future success or, in some cases, survival. Many well-established and prestigious firms have ceased to exist for a variety of reasons, all of which point to one principal factor: The practice of law, and its functional areas, such as personnel, finance, operations, and marketing, must be managed like a business.

Marketing is an important—some argue the most important—function of any business. According to a noted management expert,

⁵ The 12th Annual Price Waterhouse LLP Law Department Spending Survey (1996) is available by calling (212) 596-7242.

⁶ See Chapter 13E *infra* for a discussion of law firm quality improvement programs.

“Marketing is so basic that it cannot be considered a separate function (i.e., a separate skill or work) within the business, on a par with others, such as manufacturing or personnel It is the whole business seen from the point of view of its final result, that is, from the customer’s point of view.”⁷

Marketing in its most strategic sense will drive the entire firm, by focusing on profitable services, selecting obtainable markets, and pricing, designing, and communicating the services in the most effective fashion. Perhaps most important, it will promote a philosophy of client service among the practitioners in the firm.

⁷ Drucker, *Management: Tasks, Responsibilities, Practices* 63 (1974).

§ 1.02 What Is Marketing?

It is clear that at least one reason many attorneys have resisted marketing is a misunderstanding of what it is. In its broadest definition, marketing is inherent in any business transaction, including the provision of legal services. Marketing is an exchange of activities conducted by individuals and organizations to satisfy human needs and wants.

[1]—The Marketing Concept

The marketing concept states that the client, not the firm, is the center of the economic universe. In short, it should be the goal of any law firm to satisfy clients' needs. In doing so, a firm will retain and develop its existing clients, and attract business from an ongoing stream of new clients as well.

Marketing has always been an integral part of the practice of law. In some respects, lawyers historically have done naturally what many lawyers today must be taught: that ongoing communication with clients and helping clients solve problems are the keys to client satisfaction.

Any size firm, from sole practitioner to megafirm, already engages in marketing, although the methods or techniques may vary dramatically. Typically, marketing activities are performed at a very personal level. However, the advent of advertising, the increase in firm size, and the integration of traditional corporate management techniques and growth strategies have resulted in marketing programs and activities that are more externally apparent.

As marketing activities become more institutional and visible, it is essential that they be done more systematically and professionally, to enhance and protect the firm's position in its market.

Applying the marketing concept—that the fundamental objective of the organization should be customer satisfaction—will provide law firms with many competitive benefits. With a well-defined mission underlying the firm, its activities will be united, and its conflicts will be minimized. In addition, the firm will be positioned to recognize changes in client needs or demands, new opportunities or markets, and shifts in the external environment.

Some say that the marketing concept should be expanded to include social responsibility, and marketing programs designed to meet the needs of all of a firm's constituents. However, through civic and professional activities, lawyers already appear to be more sensitive to such concerns than many other kinds of organizations.

[2]—The Components of Marketing

Since the popular components of marketing, "Product, Price, Place and Promotion," were identified by Jerome McCarthy in

1971,¹ academicians have been attempting to adjust and refine this model for use in the marketing of services. Tailoring the “Four P’s” to the legal profession is not difficult, however, and attorneys who understand the relationship between these components will be well on their way to acquiring a marketing orientation.

Each of the four components of marketing involves strategy. In determining what services to offer clients, a firm must gauge how much demand exists, whether the firm can compete effectively, and whether the work can be done profitably. In setting hourly rates, a firm must consider how the rates will position the firm vis-à-vis its competitors, what the market will bear, and, once again, profitability. In selecting physical sites or facilities, a firm must think about how it will be perceived by clients, the convenience of the location, and how to create a layout conducive to practicing law efficiently and well. Finally, in developing a promotional program, a firm must consider the targets it wants to reach, the message it wishes to convey, the impact of the medium it selects, and the measurement technique to apply.

The most important thing to remember with respect to these marketing components is that in order to be effective, they must work together. A decision regarding any one aspect of marketing will affect all others, and how well a firm integrates these components will determine its success with marketing.

[a]—“Product”

In the legal profession, there are few tangible products, and those which exist are frequently difficult for clients to evaluate. A law firm’s “products” are generally its services, and services require people to perform them. The difficulty in ensuring quality control and the inability to inventory are only two of the characteristics which make services more difficult to market than products.

The “products” of a law firm include:

(1) Client contact or service personnel, and all that entails, from their ability to communicate, to their aptitude in performing work on a client’s behalf, to the interpersonal skills they exhibit in dealing with clients.

(2) The services which the firm provides, including legal services (real estate law or personal injury, for example) as well as other services, such as word processing, copying, research or consultation.

(3) Written work products, such as briefs, estate plans, contracts, letters, invoices and other documents.

In the absence of a tangible product, clients must rely on other evidence to help them evaluate the service, such as the quality of

¹ McCarthy, *Basic Marketing: A Managerial Approach* (1971).

written materials, the responsiveness of the attorneys with whom they work, or the way they are treated by a receptionist.

[b]—“Price”

It seems that many attorneys fail to deal adequately with the price function in the marketing equation because they assume it requires a reduction in hourly rates. Many lawyers watched closely as accountants made the nearly fatal mistake of engaging in price competition with respect to audits.

The legal profession as a whole has long depended on a few pricing strategies: charging by the hour for work performed; retainer agreements; and contingency fees. The price function thus involves decisions regarding:

- (1) Hourly rates, and how they are set for paralegals, associates, partners, and other timekeepers;
- (2) Retainer agreements;
- (3) Billable hour quotas for timekeepers;
- (4) Contingent fees, and when they are accepted; and
- (5) Whether to provide free initial consultations.

However, the industry as a whole must become more sensitive to setting prices based on the value perceived by the client, rather than on some internal formula.^{1.1}

[c]—“Place”

The term “place” represents the distribution function, or those tasks and activities involved in getting the product to the customer. For a company, this might include warehouses, trucks and retail outlets. For a law firm, however, the distribution function is indistinct, and it is difficult to establish parameters around it.

The elements involved in providing the legal service to the client are:

^{1.1} See Chapter 11A *infra* for a discussion of pricing and billing techniques.

(1) *Location*. Office locations; geographic regions served; the location of meetings with clients; and messenger services, for example.

(2) *Physical Facilities*. Conference rooms; lobby and office decor; the firm's address; office layout; and filing systems, for example.

(3) *Technology*. Using computers, facsimile machines, telecopiers, telephone systems, electronic mail, and copy machines to reproduce to transmit client work.

[d]—"Promotion"

Unfortunately, many attorneys equate marketing with the final component, promotion. While making clients and prospective clients aware of the firm's services and benefits is indeed important, it is certainly not an end unto itself.

Promotion involves those activities which communicate a firm's capabilities and offerings to those who are in a position to need them. Some activities are subtle, such as the placement of an article in a trade publication; some, such as advertising, are very direct. Examples of promotional activities include:

- (1) Seminars;
- (2) Newsletters;
- (3) Advertising;
- (4) Public Relations Activities;
- (5) Community Relations Activities;
- (6) Directory Listings;
- (7) Brochures; and
- (8) Announcements of New Partners.

The key to effective promotion is effective communication, and that involves determining: (1) who is the intended target; (2) what is the intended message; and (3) how best to capture the target's attention.

The promotional aspects of a firm's program tie in closely to a firm's image in the marketplace.^{1.2} The image that a law firm develops is extremely important for several reasons:

- (1) There is often no tangible product;
- (2) Most competitive firms charge about the same rates;
- (3) The time of delivery of the service to the client is indistinguishable; and
- (4) Most of what a lawyer does is done outside the view of the client.

^{1.2} See § 4.02 *infra* for a discussion of law firm image and identity programs.

Lacking the ability to distinguish service quality or value, clients often will look to visible, tangible materials for clues. A firm's office decor, its stationery, the dress of its people, its brochure, and its office address all help a client formulate opinions as to the value and quality of the services rendered.

[3]—Marketing Functions

One of the great myths in the legal industry is that marketing is a new phenomenon. In its emerging formal and institutional state, perhaps so, but marketing activities have been performed in every successful law firm throughout the ages. Only the techniques and level of sophistication have changed.

A close look reveals that the traditional marketing activities of corporate America are being performed in the law firm setting.

Research: It may be informal, but attorneys continually are scanning the environment for new prospects and opportunities. Increasingly, law firms are utilizing surveys to determine the satisfaction of existing clients as well. In addition, they are conducting proprietary research to make better decisions about marketing activities or opportunities.^{1.3}

Training: Most attorneys learn client development techniques through mentoring and imitation. However, more and more law firms are implementing formal, ongoing marketing training programs.^{1.4}

Sales: There are usually a few rainmakers in every firm, and many others who have the ability to develop additional work from existing clients.

Communications: The traditional forms of internal communications, attorney meetings or the grapevine, are giving way to more structured in-house communications programs including newsletters and intranets. External communications vehicles, historically taking the form of business cards and announcements, have expanded to include brochures, newsletters, seminars and web sites.

Public Relations: Dealing with the media, placing articles, and making speeches have been standard marketing techniques for attorneys for many years.

Advertising: While most corporate firms do little electronic advertising, very few firms are not found in the Yellow Pages listings or in directories such as *Martindale-Hubbell*² or *Best's Insurance Directory*.³

^{1.3} See Chapter 8 *infra* for a discussion of market research, including client surveys.

^{1.4} See § 12.02 *infra* for a discussion of lawyer marketing training.

² *Martindale-Hubbell Law Directory* (Martindale-Hubbell, Inc., Summit, N.J.).

³ *Best's Directory of Recommended Insurance Attorneys* (A.M. Best Company,

Marketing Information Systems: Unfortunately, marketing information in law firms usually is kept only in the minds of the attorneys. With the increasing use of computers, however, a full range of marketing information can be obtained easily.⁴

Most of these marketing activities have been done throughout time, albeit on a very informal and unorganized basis.

there are several good reasons why these marketing programs should become more formal in law firms. First, new demands from clients and prospective clients, requiring the preparation of formal proposals or presentations, for example, place attorneys in a competitive position with which they are often unfamiliar or uncomfortable. Unfortunately, even the most popular promotional activities, such as law firm brochures or newsletters, often demonstrate quite visibly lawyers' lack of expertise in these communication vehicles. Producing a poorly written (e.g., jargon-filled and internally focused) and indistinctive (e.g., gray or blue flannel) brochure is not likely to result in much positive effect for a firm, and may even result in some negative reactions.

Second, as competition increases, it is essential that marketing decisions and activities are undertaken with considerably more thought and strategy. Research shows that companies which set goals, determine priorities, and develop plans to attain them consistently outperform those which make decisions informally. The same holds true for law firms.

Third, without formal marketing training programs, the sheer number of people in today's law firms makes it difficult to ensure that lawyers learn their responsibilities and roles with respect to business development. The larger a firm is, the more removed its attorneys are from the entrepreneurial spirit which inspired its beginnings.

Oldwick, N.J.).

⁴ See Chapter 5 *infra* for a discussion of marketing information systems.

§ 1.03 A Client's View of the Law Firm

In the minds of most consumers of legal services, law firms are basically fungible. What distinctive characteristics can one medium-sized, full-service, high quality law firm boast over another?

Herein lies one of the most difficult challenges to the legal industry as it embraces marketing: how to position lawyers or law firms distinctively in the minds of clients and prospective clients.

[1]—Quality

One of the most consistent beliefs held by lawyers (often stated as a rebuttal against marketing) is that if a firm provides high quality work, clients will flock to its door. This is a myth of great proportion.

Providing quality services is not enough to ensure a successful firm. For one, this does not explain the loss of clients for reasons beyond a firm's control: mergers, management changes, etc. Second, there are many excellent attorneys practicing high quality law. Third, if a firm practices quality law, but no one had heard of it, its success is not guaranteed.

Fourth, clients for the most part are unable to judge quality. Except for sophisticated in-house counsel, how is a client to know that a contract is first rate (unless it is challenged) or if a brief is unequalled? Most clients assume quality until it is apparent that the representation is substandard. In other words, quality may be recognized only when it does not exist.

Fifth, even if a client is able to evaluate the quality of the service received, he or she is still uncertain whether the outcome would have been better or worse with another law firm.

Finally, research has shown that organizations offering intangible products need continual marketing activities, perhaps even more than those selling products.¹

This discussion is not meant to diminish the importance of providing high quality legal services. As with any organization, offering inferior quality products or services will not be supported by the marketplace in the long run. However, although satisfied clients do return and refer other clients to a law firm, clients' satisfaction and positive evaluations are based on a number of characteristics of the service, of which quality is only one.

[2]—Client's Judgment of Legal Services

Most clients base their judgment of the legal services rendered on the experience of working with the firm. This is determined in large part by their perceptions and their expectations, and whether

¹ Levitt, "Marketing Intangible Products and Product Intangibles," Harv. Bus. Rev. 94-102 (May-June 1981).

and how they were met. The factors involved in their experience with the firm include turnaround time, responsiveness, the attitudes of the people with whom they worked, whether the attorneys showed a sincere interest in their matter, and a whole range of other service-related factors.

A 1985 study, conducted by professors at the Center for Services Marketing at Arizona State University, surveyed CEO's and General Counsel of companies listed in *Martindale-Hubbell* as representative clients of law firms in two western metropolitan areas.² The 341 respondents represented a range of businesses and indicated, among other things, the importance of various factors in evaluating their outside law firms.

Obviously, certain clients will evaluate certain factors very differently. For an insurance company, low cost may be more important than this survey indicates. For a corporation working on a legislative issue, political connections may be very important. Nonetheless, the results which are set forth in order below, are very interesting.³

Importance of Various Factors in Evaluating a Law Firm

Factors	Mean⁴
Results of firm's work	1.11
Counsel and advice	1.17
Expertise in specific area	1.25
Personal interest in client's legal matters	1.28
Quality of written product	1.34
Keeping client informed of firm's progress	1.44
Verbal skills	1.48
Fast turnaround on work	1.52
Personal interest taken in client's business	1.72
Access to top people in the firm	1.79
The firm's reputation in the community	1.80
Ability to work with a specific lawyer	1.89
Representation of similar clients	2.62
Low cost	2.72
Size of firm	2.86
Location of firm's offices	2.96
Political connections	3.20

² Jackson, Brown & Keith "Business Executives' Evaluations of Various Aspects of Outside Legal Services," *Services Marketing in a Changing Environment* 130-134 (1985).

³ *Id.* at 130-134.

⁴ Means for responses were 1 = "very important," and 5 = "very important."

It is not surprising that “Results” was listed as the number one factor; after all, a business hires a law firm to achieve certain results. However, paralleling the discussion on quality, clients are often unable to judge results, save the outcome of a litigation matter, or a successful financing, for example. Even when unfavorable results are obtained, clients are less likely to evaluate their lawyer negatively if they feel he or she truly had their best interests in mind.

By and large, the results of the study indicate that the personal characteristics and skills of the individual lawyer (such as the interest exhibited in the client, verbal skills, and fast turnaround) are more important to clients than the institutional factors of a law firm, such as size, location or reputation.

Another study of 1,052 Canadian consumers of professional services, of which 36% had used lawyers, reported the major reasons for dissatisfaction with professional service providers.⁵ The 194 respondents who were “highly dissatisfied” with the services they had received indicated the following:⁶

Major Reasons for Consumers Dissatisfaction With Professional Services

Reasons	Percentage Share of Mentions
The service was provided in a careless, unprofessional manner.	19.2
I feel I was treated like an object rather than an individual.	12.3
The service was not performed correctly the first time.	8.8
Services were performed in an incompetent manner with very harmful results.	8.2
Things were worse after the service than before.	6.8
I feel I was treated with extreme rudeness.	5.9
The service was not completed in the agreed time.	4.3
The fee was much higher than the amount agreed upon in advance.	3.7
I was charged for services that were not performed.	3.5
A professional confidence was violated to my embarrassment or injury.	2.9

⁵ Quelch and Ash, “Consumer Satisfaction With Professional Services,” *Marketing of Services* 82-85 (1981).

⁶ *Id.* at 82-85.

A study of those responsible for hiring or overseeing legal counsel, which compiled surveys completed by representatives of 197 U.S. companies, reported that these clients are more satisfied with the manner in which their work is being handled (i.e., the expertise and results) than with the way the work is being delivered (i.e., the service and personal attention)⁷ Responses to two survey questions in particular offer insights into these issues:

(1) Companies that had worked with their primary law firm less than three years were asked why they had changed counsel. Twenty-two percent cited "service."

(2) In response to a question asking for the primary law firm's "most outstanding traits," the qualities receiving the highest percentages all involved service issues. Half or more of the respondents listed the following characteristics: "Attorney accessibility" (58%); "timely service" (54%); "rapport" (52%); and, "returns calls" (50%).

What these results mean to practicing lawyers is that, for all of the advances in the profession and precedent in the law, clients still desire legal services that are provided with a personal contact and a sincere interest. That leads the discussion back to marketing.

The key to the successful law firm of the future will be a client service approach and orientation, going beyond providing quality legal services to meeting and exceeding client expectations. In a truly marketing-oriented firm, all of its activities will be devoted to identifying and then providing services which satisfy clients' needs and wants.

⁷ LOMAR/Jay N. Nisberg and Associates Client Satisfaction Survey, reported in *Law Office Management and Administration Report* (Apr. 1996).