

The Importance of Lawyers with Empathy: Pandemic Edition

The global pandemic has altered in so many ways how people communicate and stay in touch. However, lurking underneath these developments are signs that there may be something lost in lawyer – client relations.

By **Alexander C. Gavis and Mark Young** | March 12, 2021

The global pandemic has altered in so many ways how people communicate and stay in touch. The legal profession, as a prime example, moved quickly online in servicing clients, using audio and video conferencing to handle most interactions. Even the courts relatively quickly moved to online venues as of the late Spring of 2020. These developments, on the surface, were necessary and born out of expediency given the rapid movement of the pandemic across the globe. In some sense, because it happened so quickly, there was no time to take stock of what might have been lost with the movement to an all-digital world. The embrace of online video conferencing seemed to work as a good two-dimensional solve for the three-dimensional world, as it offered efficiency and immediacy in communications. However, lurking underneath these developments are signs that there may be something lost in lawyer – client relations.

While the best of lawyers might argue that they did not miss a beat in servicing their clients when moving solely to virtual communications, to take the full measure of this change requires a deeper examination. A good legal advisor can use technology tools in her favor to interact real-time with clients – such technology collaboration tools have improved greatly in past several years. But the tools are a means to an end when it comes to interacting and providing advice. We believe that it is important to take stock of some of the resources used—or not—perhaps resulting from these new rules of engagement, and to evaluate their effectiveness.

One resource that appeared in universal abundance was the publication of law reports on topics that implicated pandemic related legal issues. This occurred relatively immediately with the onset of the pandemic and resulted in client email boxes filled with legal information on far ranging subjects such as the effect of force majeure clauses, employment hiring and firing and health benefit exclusions.

Another common resource launched: expert webinars on a variety of pandemic-related topics, followed up with email links to the presentations. While certainly informative and timely, the waves of communications threatened to overwhelm even the most voracious of client readers and listeners. These communications were certainly meant to be helpful flares, but were they always pointed in the right direction and most relevant for what individual clients were experiencing and expecting?

What might be thought of as an absence of resource, we observed that some lawyers may have determined to lay low during the pandemic and forego reaching out affirmatively to clients out of concern that they might be wholly distracted or frazzled with the new realities. While a sensitivity to this may have been helpful during the early stages of the movement to virtual work, as time progressed, hearing from counsel could have been most welcome. In the all-virtual work environment there is no water cooler, no downtown crossing, subway or commuter rail in which to have casual collisions and impromptu conversations. These all-quiet times may have been deliberate, but would empathetic reach-outs to check on client needs and wherewithal been a breath of fresh air?

From the perspective of in-house law departments, for example, a key driver for these groups is maintaining communications with business teams who are on the front line dealing with pandemic related issues and quickly responding to and answering questions and issues that may arise. There is a need to access experts quickly and effectively for on-the-spot analysis and advice. Hearing from counsel on who are the experts in a certain area and being able to tap advice from these individuals quickly can be a significant priority. Further, a counsel who understands a client's business model and can pinpoint discrete parts of major pieces of legislation (think, out of hundreds of pages) and the emerging effects on the business is valuable.

These observations suggest that fast-moving events and changing environments may quickly disrupt what may have been effective service

models. Expectations regarding services change and morph over time, and sometimes they emerge within crises or the adoption and deployment of technologies. Whatever the source or scope, the reality of the pandemic and its disruption allow lawyers to take stock of their service models along with renewed opportunities to listen more and, like great journalists, talk less. By discerning the changing landscape of how clients define value, and demonstrating an understanding, the lawyer can most certainly improve perceptions of service delivery and, moreover, becomes poised to exceed these expectations.

Another area for disruption during changing times is what is perceived of as “value.” Clients typically expect, if not, demand it. But what is the *it*? Certainly no one wants to overpay for legal services, but expectations of value from service providers are most typically not all about money. Value is about something more, something else that the lawyer can—or must—bring to the relationship. Different clients have different definitions of value and now more than ever is it mission-critical to take the time to unlock these definitions. The ongoing pandemic continues to leave no shortage of loss, dismay and disruption in its wake, all of which in turn shape and inform clients’ value expectations.

With the past events unfolded, now may be a good opportunity for lawyers to evaluate their past approaches and use that analysis to develop new strategies going forward. We think that these three action-oriented areas warrant focus:

First, embark upon mapping client needs by focusing on client groups or personas. To address these needs, and as we have discussed in our previous article, *Lawyers with Empathy In Practice*, lawyers should consider conducting empathy research with their client base. The events of the past year can be used as a model for interviewing and understanding such needs for future delivery of services. This exercise can start with mapping client leads or groups on one axis with client needs and skills on another, identifying in a matrixed fashion where true outside legal expertise could fill a void. With this exercise, challenge the team to get inside clients’ mindsets or personas, focusing on developing a hierarchy of concerns or issues that may be top of list within a time of crisis management. Focus in on how to reach out to clients in an efficient but empathetic manner to discuss upcoming priorities and focus areas. Client interviews and surveys are very effective to understand client needs and obtain feedback to tune outreach and approaches. Use your

map/matrix as a starting point for discussion that can eventually lead to offering to match expertise with identified needs.

The next step is to focus on client service segments within the firm (industry sector, geography, leadership role within the organization). You can develop a similar matrix utility for your own legal department or law firm: what do we need to know, from whom, how and when? Use the mapping to determine gaps for identified client needs. Once that is moving along, the idea is to map client needs with expertise and develop a plan for matching the two in ways that help clients along with their journey. Helping clients may include forwarding alerts and updates on relevant legal topics, but it may also lead to more tailored outreach and presentations specifically designed for individual clients. In this regard, we have been encouraged to see creative ways that firms have used outside speakers on important social and environmental matters as a means in which to engage and start a dialogue with clients.

Third, use this collective experience as an opportunity to help and nurture talent. The pandemic has certainly put stresses on talent. Although lawyers generally have adapted to the virtual workplace, there is no substitute for in-person engagement with clients and colleagues. So, an assessment of what skills—both individually and collectively as a team—are needed to survive and thrive in this new paradigm is critically important. Action plans here may sync with the enhanced understanding of clients' needs. Existing strengths and skill gaps should be assessed and catalogued. Examples of gaps uncovered could include communication, project management, team leadership, and knowledge sharing skills. Once gaps are identified, then a team could be organized to develop creative solutions. Also, consider providing lawyers with fresh opportunities to develop enhanced legal skills; for example, encouraging pro bono engagements or rotating assignments to assist non-profit organizations or joining non-profit boards. This process can also help the team better plan for the future with the inevitable evolution of hybrid work at home and at the office. The planning should both identify the lawyering success factors and inform hiring strategies.

Finally, understanding how client relationships can be cemented should be a priority. Using virtual communications calls for a different way of interacting with clients. While conference and video calls existed before the pandemic, there is now a premium in understanding the new environment faced by clients. These individuals may be at home or in different locations, with

constraints not imagined in an office or work setting. Lawyers must bring their authentic selves to each interaction. Empathy has never been more important when interacting with clients who are facing unprecedented challenges with jobs, home, schooling, and more. An important consideration is letting clients drive the timing, agenda and calls, and maintaining a sense of humor and humility is critically important.

With the realities of today, lawyers are uniquely positioned to help clients as facilitators. Even before the pandemic clients have identified the importance of their go-to lawyers' ability and willingness to bring together best-in-class specialist resources and experts with market insight that exist outside of the law firm or in-house group. Think of this as tapping into networks and galvanizing people to come together to support a particular client imperative. This is a hallmark of innovation in professional services, one that must be even more purposefully embraced during this pandemic. Creative approaches can be fueled by the formation of innovation labs and project-based teams and partnerships. Furthermore, just as this kind of approach to talent identification and deployment creates a platform for innovation within a legal department or law firm, it can also serve as a catalyst for innovative thinking for clients and their organizations.

At its core, this is all about lawyers helping their clients through—and beyond—troubling, disruptive times. And along the way, these strategies will help lawyers to be more nimble and agile when it comes to managing change for client advantage. Or perhaps said differently: putting intelligence from empathy into action.

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