Clients Rule: 
Emerging Risks for Law Firms

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For the benefit of working journalists, this presentation is off the record.
Today’s Agenda

1) The change in the law firm client relationship

2) New Client Demands

3) New ways firms are providing legal services and the potential liability & coverage issues

4) The future of the practice of law

Law Firm – Client Relationship

• Historic dynamic
• Shift in power
• Current state – Clients RULE!
POLLING QUESTION: Do you feel that the power dynamic in your Client Relationships have changed in the last ten years?

1. Yes
2. No
3. I don’t know

Why have Client Relationships Changed?

• **Clients rule** for the last ten years.
• Recession – More in house lawyers, more aggregation of services, General Counsels answering to CFO’s, CEO’s.
• Demands for more efficiency
• Cost cutting
Clients Making Demands

• Outside Counsel Guidelines
• Indemnifications agreements
• Secondment Attorneys

Outside Counsel Guidelines – Where Do They Show Up?

• RFP’s
• Billing Guidelines
• Retainer Agreements
• Invoicing
Polling Question - How do you manage OCG’s?

1. All must go through a centralized person or review department.
2. Individual lawyers with the client relationship can sign with no overall firm oversight.
3. I don’t know.

Outside Counsel Guidelines – How do you ensure compliance?

- Do you have a policy or procedure to manage guidelines?
- How do you control individual lawyers from agreeing to guidelines?
- How do you push back?
Outside Counsel Guidelines – Ways to Push Back

• Condition indemnity upon “availability” of professional liability insurance coverage, i.e. there are exclusions on professional liability policies.
• Try to limit indemnity to a fixed amount or at least to the extent of professional liability coverage.

Outside Counsel Guidelines – Ways to Push Back

• “No – Not All the Other Law Firms are Agreeing to Terms”
• Eliminate any obligation to “defend” or “hold harmless” the client, or pay legal fees or costs
• Limit indemnity to specific, enumerated circumstances only
Impacted Insurance Provisions

• Cooperation and Defense Clauses – May not “obligate the insurance company”
• Definition of a claim – “Not Client Indemnification”
• Subrogation Clauses
• Insured vs. Insured Exclusion – Additional Insured Requests
• Contractual Liability Exclusions
• Sanctions, Punitive Damages Exclusion
• Insurance doesn’t cover “everything” – Indemnification Agreements often do!

Impacted Insurance Policies

Insurer – Insured Agreements…..
• Lawyers Professional Liability Insurance
• Cyber Insurance
• General Liability Insurance
• Employment Practices Liability Insurance
• Workers Compensation Insurance
Client Demands – Secondment attorneys

• Who is asking for secondment attorneys?
• How are underwriters viewing this?
• What are potential liability issues with this arrangement?

Meeting Client Demands

• Evolution of the practice of law
• New Ways firms are providing legal services
• Potential Dangers...
New ways to practice law – Technology

- Artificial Intelligence – first drafts of answers and Discovery, technology that learns
- Software - ediscovery, law firm management software, billing software
- Replacing attorneys?
- Driving efficiency & savings

New ways to practice law – Alternative Fee Arrangements

- Fixed fee / Capped fee
- Blended rates
- Volume discount
- Predictable
New ways to practice law – Virtual Law Firms

• No overhead
• All remote
• Flexible hours /wellness
• How do you oversee?
• LPL Implications?

New ways to practice law – Data Analytics / Big Data

• Predictive modeling
• Jury
• Judges
• Opposing counsel
New ways to practice law – Ancillary services

• Non lawyers
• Examples – tax preparation, financial services, real estate services
• IT, Accounting, Security specialists, project managers
• Multi disciplinary
• Impact on LPL?

Polling Question - Does your firm provide non-traditional ancillary services to clients?

1. Yes
2. No
3. I don’t know.
New ways to practice law – Subscription services / Apps

• Yearly subscription – access to lawyers for term
• Predictable costs
• Apps with Online tools
• “Do it yourself” materials
• Dangers?

Polling Question - New ways to practice law – Does your firm reward or encourage innovation?

1. Yes
2. No
3. I don’t know
Are law firms embracing innovation?  
How important is innovation to your firm’s growth and prosperity?

![Figure 1: How important do you think being innovative is to your firm’s long-term growth and prosperity?](image)

**Innovation:** Does your firm have a formal process for recognizing and rewarding innovators?

![Figure 3: We have a formal process for recognizing and rewarding innovators.](image)
Innovation: How would you describe your firm’s innovation achievements?

Figure 2: How would you describe your firm’s innovation achievements?

- 32% fairly advanced and progressing
- 24% still in initial development stages
- 30% fast follower in a new area
- 27% first mover in a new area

Innovation: We have a formal process for recognizing and rewarding innovators

Figure 3: We have a formal process for recognizing and rewarding innovators.
Has your firm established a formal, well defined innovation process for phases such as idea generation, development & commercialization/marketing

OD Innovations
OD Innovations

OD Innovations
Are You **Covered** for These New Risks?

- Does your Lawyers Professional Policy Respond?
- Does your Cyber Insurance Policy Respond?
- Are you providing technology Services?
- Are you asking these questions?

Innovation

- Chief Innovation Officers – 32 of the AMLAW 200
- ROI Challenges to Innovation Investments
- Compensation Rewards – Reap more interest
What does the future hold?

- Further expected innovations
- Morphing of the practice of law
- Points of resistance

Accounting Firms vs. Law Firms

...the assumption is that clients will always prize traditional law firms for the biggest deals and the most consequential litigation.

Dentons global chairman Joe Andrew says that line of thinking is a mistake.

“Big accounting firms going into law is a Trojan horse. They are some of big law firms’ best clients. They partner with us in serving some of our best clients. We are some of their best clients,” he says. “They may not start not competing directly with big law firms for high-value work, but the history of innovation tells us that with their expertise in processing, their scale, their relationships with our best clients and their familiarity with technology, they will continue to go upstream until they are some of the largest and best law firms in the business.”
What does the future hold? Accounting Firms vs. Law Firms

• Big four hiring top legal talent
• High volume, technology aided work
• Accounting firms forming alliances with law firms for immigration work
• Big Four close to putting lawyers in 100 countries

Panel’s Predictions For The Future....

• Law Firm perspective
• Broker perspective
• Underwriter / Carrier perspective
YOUR OPINION MATTERS!

PLEASE TAKE A MOMENT NOW TO EVALUATE THIS SESSION.

Thank You!