

‘Ask Clients To Prepare An Attorney Report Card? Are You Crazy?’

By Nancy Byerly Jones
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The following is a mini-survey for your clients. How would your clients answer the following questions?

1. Did your attorney provide you with a written attorney/client agreement that documents the type and scope of legal services you would be receiving, the professional fee or hourly rate and any other anticipated costs for which you would be responsible?

2. Did your attorney allow adequate time for you to explain your concerns at your initial consultation and subsequent meetings?

3. Was attorney/client confidentiality and how to protect it explained to you?

4. Did your attorney make any promises to you about what the results of your case would be?

5. Did your attorney answer all your questions clearly and patiently?

6. Were you kept informed about the status of your case on a regular basis?

7. Did your attorney return your calls promptly?

8. Were you treated professionally and courteously by your attorney's staff on the phone and in person?

9. How did you find your attorney (e.g. yellow pages, a friend or business associate's referral, television ads, other)?

10. Would you recommend the attorney to others?

Hopefully, you feel that your clients would have responded with eight "yes" answers and one "no." If not, are any changes needed regarding the quality of your client servicing efforts?

The Believers

More and more attorneys are discovering the powerful practice management tool that client feedback offers whether it is gathered informally or through a more structured format. These attorneys have cast aside their fears, doubts and egos to seek input from the most credible resource available to them – clients who have trusted them with their money, time and confidences. They have learned that if done right, client surveys will give them uplifting and helpful positive feedback in addition to constructive suggestions for improvement. Equally important and useful is feedback from ex-clients who have fired you. Yes, their views may be a wee bit biased to say the least, but nevertheless it's good information to learn *all* the possible ways our actions (or non-actions) are perceived by others. The client survey "believers" represent a growing number of attorneys who understand and value the type of input that only their clients can offer them. These men and women work in a wide range of legal fields in addition to private practices (e.g. corporate legal departments, government employees, consultants, etc.). They welcome feedback and enjoy looking for new and cre-



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Managing Your Office & Staff
NANCY BYERLY JONES



"Most are suggesting we get a box to hold the suggestions."

ative ways to gather client input. Likewise, their clients greatly appreciate being given the chance to offer their two cents worth.

The Nay Sayers

Here is a sampling of the responses I have received from attorneys who oppose client surveys of any kind:

- "Nancy, why in the world would I want to open the door to a flood of client gripes; I hear enough of them as it is!"
- "I can hardly keep up as it is and there sure isn't any spare time for conducting client surveys."
- "Talk about opening a Pandora's Box!" "We'd be out of our minds to open that can of worms!"
- "My firm can't afford to hire a public relations firm and that's what I understand the big firms do when it comes to client surveys."
- "If my clients have any concerns, I'm sure they would let me know. No news is good news, as they say."

What's Any Of This Have To Do With Consumer Complaints?

When consumers purchase defective goods, they usually return them and request an exchange or refund in full. In such situations, many sellers wisely inquire as to the reasons for the return. The explanations they receive from their customers provide sellers (and manufacturers) with valuable information regarding the product's quality and their customers' needs. In short, this exchange of information between purchasers and sellers means defects can be discovered and problems can be correct-

ed. Without such feedback, a company loses the opportunity to retain a disgruntled customer and to fix a legitimate problem or defect. Most hotels provide their guests with easy to spot "Thank You for Staying With Us" notes and postcard-sized question-

naires in which they request both positive and negative feedback. (i.e., "Would you stay with us again? How could we serve our guests better? Are there any hotel employees who should be commended for a job well done?") This type of feedback method is relatively inexpensive. The information gained, however, is extremely valuable when it comes to improving hotel accommodations and services and ultimately its profitability margins.

Empathy Is Critical

New product failures are often the result of businesses making incorrect *assumptions* about what potential purchasers will buy rather than creating a product based on the *actual* needs and expectations of their targeted customers. Success can only be obtained by learning what consumers' needs and expectations *actually* are. Once that information is known, the appropriate goods can be manufactured and sold at a reasonable cost and within the appropriate markets. It is no different for attorneys and the services they provide to their clients. Only by putting ourselves into the "shoes" of our clients can we fully provide them with the types of services they want and need. Client surveys help us do this. Additionally, surveys can reveal what clients appreciate.

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A Very Limited Sampling of Potential Client Survey Questions

- You first contacted [us] because of:
 - a. A friend or co-worker's recommendation
 - b. A visit to our website
 - c. Newspaper ad
 - d. Yellow Page ad
 - e. Another attorney
 - f. Don't remember
 - g. Other _____
- How satisfied were you with the initial consultation?
 - a. Very satisfied
 - b. Somewhat satisfied
 - c. Somewhat dissatisfied
 - d. Quite dissatisfied
- Were your concerns and questions addressed adequately and in a non-rushed manner at the initial consultation?
 - a. Yes, completely
 - b. Yes, somewhat
 - c. Not at all
 - d. Don't remember
- Did you find the fees to be reasonable based on the services received?
 - a. Yes
 - b. Somewhat
 - c. No
- Did you recommend your attorney or his/her firm to any of your friends or colleagues?
 - a. Yes, to more than 5 people
 - b. Yes, to fewer than 5 people
 - c. No, because I felt uncomfortable recommending you
 - d. No, because I didn't want to tell anyone I had seen an attorney
- Were your calls returned promptly?
 - a. Usually
 - b. Rarely
 - c. Never
- When you had an appointment, were you seen reasonably close to your appointment time?
 - a. Always
 - b. Sometimes
 - c. Never

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ciate about us and what we may have done or failed to do that they do *not* appreciate. With this type of information, attorneys can greatly enhance client relations and services – a smart move for many reasons including the fact that poor client relations continues to be one of the leading causes of malpractice in our nation today.

Types Of Surveys

Client surveys can be developed by attorneys and their employees or by outside public relations or management consulting firms. Likewise, they can be analyzed in-house or by more scientific means.

They can be conducted through telephone or office consultations or by written surveys. Some firms regularly include postcards in their client statements which request responses to one or two “How are we doing” types of questions (i.e. “Are your calls returned promptly? Are their any legal services you need that we do not offer?”). They ask their clients to enclose their completed postcard surveys with their payment when sent (which you hope will be in the very near future).

Client Survey Options On A ‘Shoestring Budget’

Client surveys can be costly, but they do not have to be. Below is a sampling of some fairly inexpensive methods for collecting client feedback:

1. Questionnaires (given to clients while their case is active and at the time of closing their file) Please see the sidebar for a partial sample of a simple client feedback questionnaire.
2. Telephone surveys: (a) at random with select clients; (b) scheduled quarterly calls; (c) every client call (ask a different question every week such as: “When you call our office, do you always receive a courteous and professional greeting?”). All telephone feedback obtained by attorneys and staff should be entered into a specified database or word processing file for review and evaluation.
3. Internet surveys (e-mail, website feedback forms, etc.).
4. Postcards (alone or enclosed with other mail to client).
5. Focus groups (invite a small group of

people from your community to a brainstorming session on what clients expect from their attorneys).

6. A dedicated voice-mailbox “hotline” for client concerns & suggestions.
7. Suggestion/idea box or basket placed in reception area.
8. Client interviews conducted by an outsider (a retired partner or judge, contract attorney).
9. A support staff trained to be alert and perceptive to client “cues”: (a) remarks reflecting disgruntlement; (b) body language reflecting impatience, frustration, etc.
10. Exit interviews with departing employees and with ex-clients who have terminated the attorney/client relationship and sought other counsel.
11. Add survey questions to the firm’s client intake form (e.g. “Why did you choose this firm? Upon your arrival, were you greeted promptly, professionally and courteously?”)
12. Create a “Board of Personal Advisors” for occasional meetings to discuss how to serve your clients better (possible “board” members: business associates, friends, mentors, etc.)
13. Have all firm attorneys and other employees conduct daily “mini” self-audits. (Ask yourself: “Would you want to be a client of this firm knowing what you do about its people, the work ethic, organization and the firm’s managers and leaders?”)

Clients Are Our Best Judges

Who, besides our clients, can better tell us if the manner and quality of the services provided to them was satisfactory? While clients may lack the necessary know-how to critique the quality of an attorney’s *legal* expertise, they are excellent judges when it comes to evaluating someone’s *interpersonal* or people skills. For example, they need no legal training themselves to know the answers to the following:

- How they were treated by you and your staff;
- Whether they were kept informed of the progress of their case on a regular basis;
- How promptly their telephone calls were returned;
- The friendliness and courteousness with which their telephone calls were handled;
- If all procedures, documents and trans-

actions were clearly and patiently explained to them; and

- Whether their needs and questions were addressed by the attorney in a respectful way (as opposed to a condescending or hurried manner).

Survey Considerations

Outlined below is a checklist of things to consider when developing the right client survey form and procedures for you and your office:

1. Will the survey be mailed or conducted by telephone or one-on-one interviews with clients (remember to consider time and objectivity factors in selecting the manner of surveying clients)?
2. Which clients should be targeted to participate in the survey (you will receive a broader range of feedback by including dissatisfied clients and/or persons with whom you have met, but who did not retain you)?
3. What types of information are you seeking from the survey (i.e. feedback regarding attorney/client relationships; staff/client relationships; specific areas of law or departments within the firm; client suggestions for expanding firm services and/or areas of law practiced, etc.)?
4. What types of other marketing related questions do you want to include such as finding out which factors and referral sources influenced clients to select your firm?
5. What types of questions should be used (open-ended, closed-ended or a combination of both)?
6. Should the survey offer an anonymous manner of responding (response rates are usually higher when there is a method provided for responding anonymously)?
7. Should you hire an outside consultant or public relations expert to assist in developing, distributing and evaluating the surveys?
8. If not, should a “Client Survey Team” of attorneys and staff be created to direct the survey’s development, distribution and review of the evaluations?
9. What procedures have been established to ensure that changes agreed upon in response to the survey results are actually implemented (i.e. policies, procedures, improved and/or expanded services, expansion of areas of practice, etc.)?
10. What safeguards will be established to ensure that clients who identified them-

selves on the surveys have been thanked for participating and notified about what, if any, actions are being taken to address their concerns concerns (e.g. “Thanks to your helpful suggestion, we have added additional reading lights in our reception area.”).

The Bottom Line

Attorneys differ as to the manner of conducting surveys, which and how many clients they ask to participate in their surveys and what types of questions they include. The *type* of format chosen is very important and careful thought must also be given to the kinds of feedback information desired so that the questions are designed and written accordingly.

Regardless of the particulars of a survey, the vast majority of attorneys who have conducted client surveys generally agree they were well worth the time, effort and costs. They do not think that asking their clients for a report card of sorts is crazy, but instead they think other lawyers are crazy *not* to solicit client feedback.

Of course, from a competitive standpoint, lawyers smart enough to ask for their clients’ opinions should be thrilled that many of their competitors do not recognize the short and long-term values gained from client surveys.

A Few Final Pointers

When reviewing your client-generated “report card,” it may help to put on an extra layer of imaginary thick skin, to turn off the ol’ ego button and to throw any excessive defensiveness out the window.

This will help get you through any negative feedback received so that you keep an open mind and reap the benefits of being made aware of valid areas needing improvement.

If your survey method and content is developed in the right way, however, you will also be receiving positive feedback along with any “how to improve” suggestions. And, fortunately, no further explanation is needed when it comes to explaining the joys and rewards from positive feedback.

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Questions or comments can be directed to the publisher at: pmartinek@lawyersweekly.com

Defense Wins Brain Injury Case, Alleges ‘Doc Shopping’

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plaintiff was not merely exaggerating, but malingering,” said Rantis.

Liability Hurdles

Bowron initially brought suit against the owner, (Metropolitan Water Reclamation District), the general contractor, (Perini), and eight subcontractors.

The owner got out on tort immunity. The claim against the general contractor, as the employer, had to go through workers’ comp. The eight subcontractors all got out on summary judgment because they didn’t have anything to do with the activities involved in the injury, said Majeske.

“Everybody got out except Bolton, who had some control over our man’s activities. We lucked into Bolton because we found out in discovery that [the plaintiff] had been assigned to and was being supervised by a Bolton supervisor at the time.”

But according to Rantis, a special provi-

sion on safety in the contract between the general contractor and the owner, Water Reclamation District, spelled out that “the contractor shall be solely responsible for the adequacy and safety of all construction methods and the safe prosecution of the work,” said Rantis.

Majeske contended that that provision would have applied to the subcontractor. “We argued that that obligation was passed down the line as part of the subcontracting agreement Bolton had with the general contractor, Perini. Our expert argued that it was a delegable duty, but the jury didn’t buy it,” he said.

Jury Selection

Rantis also cited jury selection as “essential” to the victory of their case. The defense strategy was to find jurors who could identify with the president of Bolton Corporation, an African-American. “He sat with us throughout jury selection, and that helped humanize the company,” said Rantis. “If I

had an Italian-American client, I would want to load up the jury with Italians or people of Mediterranean descent – and as dissimilar as possible to the plaintiff.”

Majeske acknowledged that their strategy worked. “Having a minority owner didn’t help me at all. We had a good number of minorities on the jury and they would identify with a minority businessman. But they have every right to bring him in; I can’t control that,” he said.

The defense attorneys were also interested in having jurors with family members who had suffered “debilitating” mental illness or brain injury and “would be offended by this calculating, malingering individual. We basically wanted to delineate the difference between a legitimate and a malingered injury.”

For his part, Majeske said he tried to hit “all the landmines” during voir dire. “And I asked them if big numbers, five million plus, would be a problem for them. They all

looked me straight in the eye and said, ‘No problem.’ Given the economy, this was not a good time to try a case like this. And the liability issue was thin.”

So why didn’t he settle? The defense offered \$75,000 – a figure Majeske characterized as “unrealistic.”

“AIG, the excess carrier, had a \$4 million umbrella,” he said. “At that point [of the settlement offer], we had incurred a lot of expenses. It was a very long time to carry a case.”

Defense attorneys: John Bell and Charles Rantis, of Johnson & Bell, in Chicago, Ill.

Plaintiffs’ attorney: Robert S. Majeske, of Foley & Majeske, in Chicago, Ill.

The Case: Steven Bowron and Laura Bowron v. Bolton Corporation, Circuit Court of Cook County, Ill.; Judge Martin Agran

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