

Derek Jones's notes of his presentation made at NMLS on 18.5.96  
BUSINESS IS BUSINESS AND THE FUNDAMENTALS OF  
GENTLEMEN'S UNDERSHIRTS  
LAW PRACTICE  
ICE CREAM  
ARE ALL THE SAME.

1. A LAW PRACTICE IS A BUSINESS
2. THE FUNDAMENTALS ARE NO DIFFERENT

SERVICE INDUSTRY, WHICH IN CLASSICAL TERMS MEANS THAT YOU  
EXIST FOR THE BENEFIT OF YOUR CLIENTS AND NOT THE OTHER WAY  
ROUND.

DOCTORS

UNDERSHIRTS, ICE CREAM OR LAW HAVE SAME PROBLEMS  
PREMISES, PERSONNEL, RESOURCES, MARKET

A GREAT DEAL OF WHAT I HAVE TO SAY IS SIMPLY COMMON SENSE.  
MANY OF YOU WILL REGARD IT AS OLD HAT.

PREPARE A BUDGET. I DON'T CARE IF IT IS ON THE BACK OF AN  
ENVELOPE OR ON FANCY ACCOUNTING AND MANAGEMENT SOFTWARE.

BUDGET HAS TWO SIDES  
RENT, STAFF (N.B. STATUTORY DEDUCTIONS APP. 13%), EQUIPMENT,  
UTILITIES, STATIONERY, AUDIT, INSURANCES, SUBSCRIPTIONS, OFFICE  
SUPPLIES, TRAINING, INTEREST AND OTHER FINANCE CHARGES ETC ETC  
ETC

INCOME SIDE

WHAT ARE SOURCES OF INCOME ?

WHAT ARE YOU SELLING ?

HOW MUCH DO YOU WANT TO SELL ?

HOW MUCH OF IT CAN YOU SELL ?

THEN OF COURSE THERE ARE ISSUES WHICH RELATE TO COMPETITION AND RESOURCES, NOT IN THE SENSE OF THE RESOURCES YOU REQUIRE, BUT IN THE SENSE OF THE SIZE AND NEEDS OF YOUR MARKET

I DIDN'T GO TO LAW SCHOOL TO BE A SALESMAN

WELL GUESS WHAT ?? NEITHER DID THE GUY WHO WENT TO ENGINEERING SCHOOL TO LEARN TO MAKE GENTLEMEN'S UNDERSHIRTS OR THE GUY WHO WAS PUT OUT TO PASTURE SO HE COULD LEARN TO MAKE ICE CREAM.

IN THE WORLD YOU LEARN WHAT YOUR CUSTOMERS WANT OR YOU CRASH AND BURN.

YOU LEARN OR YOU BURN

I KNOW THAT WE ARE UNACCUSTOMED TO HEAR THE WORD CUSTOMERS IN THIS CONTEXT, BUT THAT IS WHAT OUR CLIENTS ARE. WE JUST HAVE TO HAVE A FANCIER NAME FOR IT SINCE WE KNOW SO MUCH.

SO LET'S SAY YOU ARE RIGHT, AND THAT YOU DIDN'T GO TO LAW SCHOOL TO BE A SALESMAN

SINCE YOU ARE SO SMART, WHAT ARE YOU PLANNING TO DO WITH ALL THE KNOWLEDGE YOU HAVE ? KEEP IT TO YOURSELF ?? IT WOULD CERTAINLY BE A NICE LIFE, FREED FROM THE PRESSURES OF THE WORLD, IF ALL I HAD TO DO WAS TO RECITE THE REGISTRATION OF TILES ACT OR THE CIVIL PROCEDURE CODE TO MYSELF IN THE MIRROR EVERY DAY.

WHAT IS IT THAT YOU HAVE TO SELL?

KNOWLEDGE & EXPERTISE.

WE CAN'T STOP READING.

THE AREAS OF PRACTICE TODAY ARE SO MUCH WIDER AND THEY KEEP GROWING, FUNCTIONS BOTH OF THE MARKET AND OF LEGISLATIVE CHANGE AND REGULATION.

WHAT IS NOW SCARY, OR WHAT OUGHT TO BE, IS HOW MUCH WE DON'T KNOW.

THE CONSTRAINT OF THE BUSINESS IS TIME, AND IN THIS RESPECT IT IS DIFFERENT FROM UNDERSHIRTS AND ICE CREAM.

LET'S LOOK AT THEIR CONSTRAINTS.

#### UNDERSHIRTS

ALL OTHER THINGS BEING EQUAL, LESS THAN HALF THE WORLD WILL HAVE AN INTEREST IN THEM.

THE COST AND SUPPLY OF COTTON AFFECTS THEIR PRICE, AND THEY HAVE NO CONTROL OVER THIS  
THERE IS NOT A HELL OF A LOT YOU CAN DO WITH DESIGN  
THEY DON'T MELT

#### ICE CREAM

IT IS NOT EASY TO PERSUADE PEOPLE THAT CHOCOLATE OR VANILLA SOUP IS JUST AS NICE OR NUTRITIOUS AS ICE CREAM - POWER CUTS ARE A BIG NO-NO

FAT PEOPLE TRY TO AVOID IT

CRUEL IRONIES OF LIFE FOR THOSE OF US WITH A GIRTH CONTROL PROBLEM, THIN PEOPLE DON'T LIKE IT THAT MUCH

COMPETITION FROM SOFT DRINKS AND OTHER CONFECTIONERY ITEMS

HIGHLY LOCALIZED MARKET - SOMEONE FROM MONTEGO BAY WON'T COME TO KINGSTON TO BUY IT. YOU HAVE TO BE WHERE THE PERSON IS

OUR BIG PROBLEM IS TIME

TIME IS FINITE

TWO APPROACHES

ONE APPROACH SAYS THAT YOU TRACK TIME AS COST OF PROVIDING SERVICE

ONE SAYS THAT TIME IS THE MEASURE OF THE VALUE OF THAT SERVICE

METROPOLITAN COUNTRIES DRIVEN BY TIME

CONSEQUENCE OF REPETITIVE WORK IS THAT YOU WOULD EVENTUALLY HAVE TO PAY THE CLIENT

TIME DOES NOT EQUAL VALUE BUT WHAT HAS HAPPENED IS THAT HOURLY CHARGES HAVE BECOME A CONVENIENT METHOD OF REFLECTING CHARGES INCLUDING THE ELEMENT OF PROFIT

WHEN WE BUY A QUART OF ICE CREAM, WE DON'T ASK THE CHAP HOW LONG IT TOOK TO MAKE IT - THE PRICE IS \$X AND YOU TAKE IT OR YOU LEAVE IT

FIRST OF ALL HE DOESN'T KNOW, AND IF HE DID HE WOULDN'T TELL YOU

THIS DEMONSTRATES THE ESSENTIAL DIFFERENCE IN A SERVICE INDUSTRY WHICH IS THAT WE ARE THE DIRECT LABOUR. WE ARE ALSO THE RAW MATERIAL, THE MARKETING DEPT, RESEARCH AND DEVELOPMENT DEPT, ADMIN, HUMAN RESOURCES. CUSTOMER SERVICE AND EVERYTHING ELSE IN OUR BUSINESSES.

LAST ILLUSTRATION FOR THOSE OF YOU WHO DON'T THINK YOUR CUSTOMERS THINK OF YOU AS A BUSINESS.

YOU PHONE AIR JAMAICA ...

YOU THINK YOUR CLIENTS ARE ANY DIFFERENT WHEN THEY SPEAK TO YOU, OR YOUR SECRETARY OR WHOEVER AND DON'T GET THE TREATMENT THEY DESERVE ?? WELL YOU CAN GUESS AGAIN.

LETS LOOK AT TIME AVAILABLE  
DIVIDE OVERHEADS BY E.G. 1200

52 WEEKS

15 OF THOSE ARE WEEKENDS

2 ARE PUBLIC HOLIDAYS

3 MORE ARE FOR VACATION

TWO MORE MISC

THAT LEAVES 30

1200 DIVIDED BY 30 IS 40 WHICH DIVIDE BY 5 IS 8

NON-CHARGEABLE TIME FOR PRO-BONO WORK, PERSONAL AND PROFESSIONAL DEVELOPMENT, TRAINING, MARKETING, THINKING, ADMINISTRATIVE PROBLEMS ETC.

THEN ADD PROFIT I.E. WHAT YOU WOULD LIKE TO TAKE HOME AND YOU WILL GET A VERY INTERESTING HOURLY RATE YOU HAVE TO RECOVER

WHO WANTS TO BUY IT?

THIS DEPENDS ON WHAT YOU DO E.G.

COURT

CORPORATE -

CONVEYANCING -

CORPSES

EACH HAS DIFFERENT MARKETS, REQUIRES DIFFERENT TALENTS AND MAKES DIFFERENT DEMANDS

SOME MIX - SOME DON'T

EXAMPLES

WHAT PREMISES AND STAFF REQUIRED - WHERE, HOW KEPT, DO I NEED A VAULT,

WHERE TO LOCATE - COMMUNICATIONS - TYPE OF PRACTICE

RESOURCES - EQUIPMENT, TYPEWRITERS, COMPUTER, PRINTER,

FAX MACHINE, ADDING MACHINE

WORKING CAPITAL (DEFINE), RUNNING EXPENSES

WE DON'T HAVE TO BUY RAW MATERIAL - IT IS A PERPETUALLY RENEWABLE RESOURCE WHICH IS 100% FREE.

ACCOUNTING SUPPORT -

CASH FLOW, - CASH FLOW - EXPLAIN PROJECTIONS/FUNDING EXPECTATIONS

COLLECTIONS, TERMS OF TRADE - EXTENDING CREDIT -

COMPETITION - GCT

COMPLETION HONG KONG STYLE

TECHNOLOGY ISSUE - TOOL TO BE USED NOT AN END IN ITSELF. ALTON IS GOING TO DEAL WITH THAT.

I MUST HOWEVER ADDRESS IT IN THE CONTEXT OF MANAGEMENT BECAUSE THIS IS VERY IMPORTANT AS TOOL AND YOU SHOULD ALL MAKE IT YOUR BUSINESS TO KNOW ABOUT IT TO A LEVEL WHICH MAKES YOU THE MORE PRODUCTIVE.

THERE IS A COST ASSOCIATED WITH IT, BOTH IN TERMS OF ACQUISITION AND WHAT A LOT OF PEOPLE FORGET NAMELY THE OBSOLESCENCE

THERE IS A LEARNING CURVE

THERE ARE SECURITY ISSUES

IT ALSO PROVIDES A KEY TO THE QUESTION OF TIME DRIVEN CHARGES. I HAVE SPENT THE TIME, THE MONEY THE BLOOD SWEAT AND TEARS TO BUILD MY STOCK - WHY SHOULDN'T I PROFIT FROM IT

SERVICE IS, TO THE CONSUMER, JUST ANOTHER COMMODITY HE HAS TO BUY.

SAME RANGE OF ISSUES AS REGARDS STAFF - WHO, WHAT, WHY,  
WHEN AND HOW MUCH.  
PERMANENT OR TEMPORARY -  
RENT A SECRETARY  
RENT A LAWYER

DAYS FOR PEOPLE WHO STILL REGARD A COMPUTER AS  
SOMETHING WHICH MAY BITE ARE OVER. THERE IS INCREASING  
PRESSURE FOR SPEED OF COMMUNICATION, FUELED BY THE  
ADVENT OF COURIER SERVICES, THEN THE FAX MACHINE AND  
WORSE E-MAIL. THERE IS AN EXPECTATION THAT YOU ARE SITTING  
THERE WAITING FOR THE FAX

CUSTOM IS THAT WE WILL SEND A "BEARER".

QUARREL OVER FAX MACHINE

COMMUNICATION  
FOLLOW UP , ENSURING THAT THINGS HAPPEN  
QUALITY OF SERVICE AND HOW YOU MONITOR THIS  
REASONABLENESS OF PRICE -

I ORGANIZATIONS THERE IS OF COURSE THE ISSUE OF INTERNAL  
COMMUNICATION, A SUBJECT UNTO ITSELF.

MARKETING - WHAT IS AND ISN'T  
IT ISN'T ADVERTISING  
WHAT ARE TOOLS -  
SERVICE  
SERVICE CLUBS,  
PUBLICITY,  
SERVICE TO PROFESSIONAL ORGANIZATIONS  
PUBLIC SPEAKING,  
CHARITABLE WORKS AND OLD STUDENTS ASSOC  
POLITICS

## BOOKS AND PERIODICALS ON THE SUBJECT

BUT FOR GOODNESS SAKE DO SOMETHING. WE REALLY ARE A PRETTY DULL AND INSULAR BUNCH, WHO HAVE BEEN FLATTERED BY THE FACT MOST PEOPLE HAVE TO COME IN CONTACT WITH US AT SOME TIME IN THEIR LIVES, NOT NECESSARILY BECAUSE THEY WANT TO BUT BECAUSE OF THE TINY BODY OF KNOWLEDGE WE ACTUALLY HAVE, AND ALL THE KNOWLEDGE THEY THINK WE HAVE.

ALL WE TALK ABOUT IS LAW WHICH MEANS THAT WE MISS WHAT OUR CUSTOMERS WANT

WHAT VALUE HAS JONES ADDED TO MY LIFE, OR TO MY TRANSACTION OR TO MY AFFAIRS. WHAT SPECIFICALLY HAS HE DONE FOR ME ? IF I CAN'T ANSWER THAT WILL SOMEONE PLEASE TELL ME WHY I NEED JONES IN THE FIRST PLACE, AND WHY SHOULD I PAY HIM SO MUCH MONEY TO DO IT ??

THE FACT IS THAT THERE IS AN INTRINSIC DIFFICULTY FOR US IN THE MEASUREMENT OF PRODUCTIVITY IN WHAT WE DO, MUCH LESS IN WHAT OUR STAFF DOES. AS A MANAGEMENT ISSUE THIS IS SOMETHING ABOUT WHICH I COULD RAMBLE ON BUT THAT IS FOR ANOTHER DAY

SURE THERE ARE SOME CRUDE MEASUREMENT BUT THEY ARE NOT NEARLY AS PRECISE AS FOR OTHER FORMS OF DIRECT LABOUR. WHAT IS CRUCIAL FOR US IS NOT NECESSARILY HOW HARD WE WORK ALTHOUGH THAT IS OBVIOUSLY IMPORTANT, BUT HOW SMART WE WORK.

IMAGINE THE DIFFICULTY OF THE CUSTOMER.  
ALSO HE HAS THE ABILITY TO DETERMINE THE QUALITY OF THE PRODUCT AND IT IS VISIBLE AND HE OWNS IT  
HE JUDGES THE ICE CREAM - NICE AND COLD AND FIRM AND SWEET  
HE JUDGES THE UNDERSHIRT - NICE AND SMOOTH AND THE RIGHT



SIZE TOO.  
HE GETS SOMETHING TO KEEP OR CONSUME  
NOT SO WITH US IN MOST CASES.

BIG SHOPS AND LITTLE SHOPS  
PROBLEMS OF RUNNING A BIG SHOP HAS ITS OWN FASCINATION  
MULTIPLY THE PROBLEMS IN A GEOMETRIC PROGRESSION

JOB OF THE MANAGING PARTNER IS IN TRUTH AND IN FACT  
SIMPLE.  
KEEP YOUR LAWYERS/STAFF HAPPY AND KEEP YOUR CLIENTS  
HAPPY.  
NOTHING TO IT.

FOR THOSE OF YOU IN FIRMS I THOUGHT I WOULD IDENTIFY WHAT  
ARE STRUCTURAL CONFLICTS WHICH HAVE CONFOUNDED THE  
MANAGEMENT SCIENTISTS  
DIRECT LABOUR  
SHAREHOLDER  
DIRECTOR  
WHICH HAT ??  
WHAT INFORMATION ENTITLED TO HAVE

GREAT RESOURCES OF KNOWLEDGE RESOURCES  
THE PROBLEMS HOWEVER ARE GENERIC, AND INTERNATIONAL  
OVERALL PLAN - NOBODY PLANS TO FAIL, MANY FAIL TO PLAN

WITHOUT CLIENTS YOU HAVE NOTHING TO MANAGE

10 THINGS CLIENTS WANT

# What Clients REALLY WANT from Their Lawyers

*By Milton W. Zwicker*

**R**ecently, I took a business trip on a big-name airline from Toronto to Vancouver. I arrived there safe and on time, but I swear never to use the airline again.

The plane had a brief midroute stop and took on supplies. The airline asked those passengers continuing on to Vancouver to stay on the plane. My seat was near the service door, so I got a 10-minute surge of cold air while the ground crew loaded the supplies. I soon felt like an icicle and asked for a blanket to keep warm. The flight attendant refused, reciting some obscure regulation about blankets when the plane was on the ground.

I returned home with a cold. Guess who got the blame? The airline did not supply the service I had a reasonable right to expect.

## Client-Driven Systems

When my thoughts turn to clients' expectations and their satisfaction with most legal services, I remember this experience. Most lawyers pride themselves on the quality of the services they deliver to their clients, yet many clients are no longer loyal; some are downright unhappy and others are even hostile. Why? They don't define quality the same way we do. There is a huge difference. The disappointments clients experience and express come from this difference.

## ARTICLE ABSTRACT

Lawyers deliver value by meeting their clients' needs. But are you sure you understand their needs? Surveys indicate that what lawyers consider to be quality service is out of sync with their clients' definition of quality.

Astonishingly, many surveys show clients' unmet needs and expectations *infrequently* have to do with our competence. My complaint to the airline had nothing to do with its technical competence. Karl Albrecht in his book *The Only Thing That Matters* describes what happens when we let our technical competence take precedence over people's service needs:

You'll find systems craziness whenever there's disparity between what the customer has a reasonable right to expect and what he or she actually experiences. This occurs when the systems aren't compatible with the customer's experience, or when the systems are operationally driven, rather than customer-driven.

Habitually, client dissatisfaction flows from our insensitivity, real and perceived, to clients' needs. Clients see lawyers as insensitive people who show little respect for their views.

Today, whether we are clients, patients or customers, we want value and quality when we buy services and products. To meet this demand, some lawyers have begun a process of defining quality from their clients' perspective. They are taking their cues from the total quality management (TQM) movement that is sweeping the industry. TQM teaches that customer feedback is not only essential but is an obligation of business. We're at long last asking our clients what they think and using what we learn to measure and plan how to serve our clients better.

We now know our value package must include competent legal work, but equally important, our clients must perceive it as such. Thus, our first obligation is to know what our clients need and expect. A lawyer must go from "How can I apply my legal talents to solve this problem?" to "How can I respond to the needs of my clients?"

Lawyers can get isolated doing what they like, not what clients like. The client message is clear: Change the professional-oriented process you use to run your law firms to a client-oriented process. We can start this process by applying what some client-needs and satisfaction studies tell us. These studies challenge us with this question:

"Why can't lawyers make people feel good about our system of justice?"

I have analyzed some of these surveys. Here is what they tell us our clients want.

### The Big 10 Needs

**1. ~~Listen to me, please!~~** Clients will tell us what they expect and need, if we really listen. Many clients feel intimidated by lawyers and the legal process. Our legal jargon often adds to their frustration with a process they don't understand.

"I don't want my lawyer to think I am questioning his judgment," said Brian, a friend of mine caught up in a contract law suit. I carefully listened to what Brian had to say. It was clear his lawyer failed to meet Brian's need for a detailed explanation of the legal process required to settle. "He does not speak my language," Brian explained.

We need to refine our listening skills because it's the best way to assess a client's needs. Kevin J. Murphy, in his book *Effective Listening*, tells us how to listen.

Listening is not the simple ability to decode information; it is a two-way exchange in which both parties involved must always be receptive to the thoughts, ideas, and emotions of the other. To be an effective listener, one must not only open the lines of communication and relax: one must compel others to do the same.

Clients may hire us to talk, but first we must listen, and listen hard.

**2. ~~Don't forget to ask me what I think.~~** Not a new idea, but unfortunately studies show few lawyers ask their clients' what they think. Legal minds don't think clients can know what they need when needs require legal solutions. But clients believe otherwise, and it is a belief we can turn to our advantage because it helps make services more cost-effective. It also leads to better client outcomes.

**3. ~~Don't belittle or reject my concerns.~~** Brian is a very nervous individual who worries that he may be a poor witness. His lawyer tells him it's nothing to worry about. This is not good enough because it is a dismissal of Brian's concerns. Courtroom life may be routine to you, but it's not for most clients. Brian's concern underscores the importance of client perceptions, not just lawyers' perceptions, in delivering quality legal services.

Brian's lawyer must support his anxiety and find a way to address it. Perhaps he could invite Brian to attend another trial with him. The lawyer must show, "I care about your concerns and I'm here to help." Murphy writes, "There is no greater compli-

**Clients see lawyers as insensitive people who show little respect for clients' views.**

ment than demonstrating interest in another human being."

4. "Don't treat me like a file; treat me like a person." Lawyers collect facts about their clients instead of information about people. Client-matter data are a good example of how firms focus their systems on files and not people. Lawyers don't use their client-matter forms to elicit information to try to understand the people side of clients. This must change. It's more important to know what kind of client has a legal problem than what kind of legal problem the client has. Clients continually remind us of this principle.

I sent a client off to a large law firm for advice on a specialized matter. The next time I saw her she told me she got good legal advice, but she made this observation: "I wish he had not assumed that by reviewing the facts of my file and applying his judgment he knew me. I was only a file and the next case on his calendar."

This observation is a recipe for improved client relations, but we continue to ignore the ingredients. Instead, we use our own bland ingredients. Clients want us to add courtesy, sensitivity and respect. We must learn to treat each client as if he or she is the only one we have.

5. "Speak to me, not at me." Clients sometimes feel their lawyers treat them as if they're really not present. This lawyer attitude increases the more specialized lawyers become. Clients tell us, and good communication skills dictate, that we should avoid our legal jargon when we speak to them.

Many lawyers are impatient to get the facts; they just hand out solutions. They tune out the clients. They stop looking at their clients.

6. "Tell me how much you will charge for your services." Clients don't always appreciate that justice can carry an expensive price tag. But they at least expect us to put a price on the tag. Without price tags, legal fees become a real source of client discord. Most clients, like us, live their lives under the mantel of budgets. They want a clear indication of the costs.

Would you commission an artist to do a painting without a price? You can bet your law degree you would not. To clients, legal bills always seem too late and too large, and the time spent and the work done too vague. The solution is to establish a clear fee structure and put it in writing.

7. "Be available when I need you." Clients fret and worry about their legal problems. They need our guiding hand, and

when they telephone, they expect us to talk with them. Clients love lawyers who make themselves readily accessible to answer their concerns.

8. "Don't tell me how smart you are; show me." Clients expect us to be knowledgeable, but they want us to know how to talk about their legal issues in language they can understand. They expect us to explain the available options. Corporate clients and other specific industry clients want us to know their business. "Give me explanations I can understand. If I ask many questions, don't get defensive. I'm just trying to understand."

9. "Keep me informed." Clients want to know what is going on. Keep them informed regularly by letter, telephone and personal contact. Good communication with clients helps create rapport. Keeping clients informed, one study found, is the Number One need clients express. The satisfaction of clients jumps when they feel part of their legal care. Clients have the right to all the same information their lawyers possess so they can make the right choices.

10. "Let me know how much you care." Lawyers like to do battle with their intellects, and most enjoy devising ingenious arguments. Often clients become mere spectators in this process. We should paste this cliché on every client file: "People don't care what you know until they know that you care."

The legal process can be intimidating, so clients want to know their lawyers are available to help. Always ask, "How would I like a lawyer to treat me?" The treatment may be a simple telephone call to ask if the client has understood your advice. Caring is important to clients.

These are their needs, and when you come through, clients will know you gave them good value for their money. Value comes from satisfying clients' needs. Thus, we have to understand what our clients consider value. We have to communicate this value. And we have to deliver this value. ■

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