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# HOW TO UNSEAT THE COMPETITION

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Here is something they never taught you in law school: *No one changes lawyers unless they first question the value they get from their current lawyer.*

Many attorneys approach prospective clients without regard to how well the work is currently being performed by the incumbent lawyer. Even in situations in which they have knowledge of poor performance, most attorneys won't ask their clients to examine the performance of their current attorney or firm. That's a mistake since the vast majority of work a lawyer gets was previously being done by a competitor. So learning how to unseat an incumbent in order to facilitate this process is a key skill lawyers need to learn.

Obviously, client who recognize a lapse in service or work product quality from their incumbent law firm, take it upon themselves to seek out a replacement. Clients arrive at this position over the course of weeks, even months of trying to address the inadequate situation. During that time, they are quietly looking for alternatives. Once this happens, you will be competing with numerous other competitors for their business.

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## HELPING CLIENTS ASSESS THEIR CURRENT PROVIDER

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It's far better to get to the client at the point at which they first realize that the incumbent relationship has eroded. The best way to do that is to help the client question his current provider in a way that raises his doubts about the value and efficiency of his current selection of legal providers. Shaking a client loose from the comfort of an existing relationship requires that client to see a higher reward in quality or value than they get from their current provider or see some degree of risk in remaining with their current provider. Barring that, clients are unlikely to switch.

For the most part, clients don't formally think through the scope of qualities that make for productive attorney-client relationships. Clients tend to be fairly myopic in their assessment of quality and rarely have the discipline to consider the range of ways in which a provider can bring value to the relationship. And, when taking that journey, few attorneys will escape some degree of criticism from their clients. So, watching for the flashes of irritation can help you understand the qualities that the prospect finds most attractive (or painful) and thereby will respond to most favorably in the future.

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## USING DIAGNOSTIC QUESTIONING TECHNIQUES

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Diagnostic questioning is a process which will reveal the lapses or under performance of any service provider. It requires a subtle line of questioning which helps clients reveal unmet needs and unrealized issues. In an interview-like process, the client is walked through the various attributes which make for productive and mutually satisfying service provider relationships. And it helps the client to prioritize the service delivery components which are most meaningful to them. These attributes can include the incumbent attorney's response time, work product quality, accessibility, technological systems, subject matter knowledge, communication frequency and quality, ease of working with other firms, knowledge of emerging trends and issues, and business acumen of the attorneys, just to name a few.



## NEVER CRITICIZE YOUR COMPETITION. THAT'S YOUR PROSPECT'S JOB.

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Before I explain how to begin the diagnostic questioning process to unseat an incumbent, I want to warn you of an issue that you probably know already too well. But, it bears repeating because it is critically important to the process. Never criticize the incumbent lawyer or law firm. That's your prospect's job. Even if your prospective client makes comments regarding the poor performance of his current provider, never follow suit and criticize the incumbent. You do not have working knowledge of that attorney's performance and anything you have heard about them is hearsay, at best. You will lose your perceived objectivity the minute you criticize your competitor. Worse, more than likely, you will unseat the competitor for another one of your competitors.

## CONFIRM THE PERCEPTIONS OF THEIR OWN ASSESSMENT

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Piling on to your client's criticism of their current provider will not result in anything positive for you. Instead, respond with confirming language that affirms the client's perception of the issues. You can do this by simply agreeing with their observations such as by saying, 'is that so?' or 'Really, tell me more'. Or, you can be more forthright in your affirmation by saying something like, 'that must be difficult and challenging' or 'by asking 'how often is this been a problem'. Or, you can use a transitional confirmation technique which sets you up to provide an alternative solution by saying something like, 'I can see that you prize the degree with which your service providers make your job easier' or 'the clarity of these reports would better help you work with other top executives in your company, wouldn't it?'

The assertiveness of your confirmation depends upon how the discussion is going and the level of trust you have built with the prospect. But it is always better to be safe and allow the prospective client to judge the quality of their current service provider. In fact, there's always a chance that the client will be hesitant to comment to you about the incumbent's performance. No worries. You have still don't what you needed to do and that is to cause them to think more critically about the level of service and quality they are currently getting from their law firm.

## PRACTICE THE QUESTIONING FIRST. THEN PRACTICE IT AGAIN. AND AGAIN.

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The potential issues and the potential paths of the conversation should be carefully analyzed. The more time you put into rehearsing the questioning the more likely you are to successfully accomplish your objectives. You should have someone role play these conversations with you using a set of circumstances that are likely to be present in their existing relationship. It must feel to the client that you are being objective, non-competitive and genuinely focused on improving the client's condition. You are not criticizing but instead helping the client review and examine the quality of the service they currently receive. These standards are standards which you assume the client will apply to any provider of services to them- yourself included should you happen to gain them as a client. This proposition needs to come across clearly and indisputably as it helps to augment the objectivity of your questions.

You should also be prepared for the fact that in most cases you will confirm that they are in very capable hands. Confirm this analysis as well. But in other cases, this diagnostic questioning process will sow the seeds of doubt, a doubt which can fester over time and result in a client ready and eager to make a change.

## EXAMPLES OF DIAGNOSTIC QUESTIONING

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To illustrate by example, you might ask a question that cites a recent study and ask the prospective client how they address the issue in their company. For example, “A study just came out reporting that companies can improve the resolution of premises liability cases by as much as 30% using process improvement methods. How is your company handling these matters?” If the incumbent firm has a process in place, you’ll learn something about your client and your competition. If not, it’ll pique your prospect’s interest to question how she can improve the pace of premises liability case resolutions. Either way, you win.

Or, try approaching it with non-legal operational areas in which you or your firm excel. Then, ask questions which seed doubt in those areas. For instance, ask “we recently noticed a number of our client feedback surveys mention the competence of junior associates as being important and the relative billing rates for these junior associates. What has been your experience in this area?”

Lastly, be sure to gauge the relative importance of the issues that you uncover. You can do this by asking a question like, “Which of these issues cause you the greatest concern or present the greatest risk to your company?” In this line of questioning, you are trying to understand the sensitive pain points the client experiences. And, where possible, determine the relative importance and urgency of any issues that you have uncovered. This information can be extremely useful in crafting follow up communications with the prospect.

Regardless, during the discussion you’ll likely hear about the issues that most irritate the prospective client about their current provider(s). By engineering this conversation in such a way as to illuminate the variety of areas that can cause friction or discomfort in a client relationship, you will cast doubt and sow the seeds of discontent. And, of course, this is the ideal position from which to offer your viable alternative.

If I can help you unseat your competition, please don’t hesitate to call Eric at 502-693-4731. You’ll find that I am an eager resource and that it costs nothing to talk.

