# In Conversation

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## Focus on: Changing Client-Law Firm Dynamics

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**Dan:** Casey thanks for taking a time to participate in our Intapp In Conversation series.

**Casey:** Thanks for having me.

**Dan:** You have such an interesting background. You started at a large, top-ranked law firm and then moved in-house with a Fortune Global 250 company.

And in that capacity you took some very public, provocative and thought provoking positions that really raised the profile of several issues on that side of the table. And now you're a consultant working with both firms and corporate legal departments.

I thought we could start with just getting a sense of your background — how you've gotten to the point you're at today and what your current focus is?

Casey: When I moved in-house I quickly understood a simple fact — that the lawyers that I was hiring were better than I am. That doesn't necessarily mean smarter, or more hardworking. But I had been a generalist. I did complex commercial litigation and electronic discovery. And now in-house, I was overseeing lots of matters that were manned by specialists.

A prime example — I had partners who had been specialists in dealer franchise law for decades. They were true substantive experts in this very specialized area. I have to respect that. There wasn't much I could do to improve their legal acumen.

There's always interplay with the other side when you're in litigation or negotiating a contract about what the political situation is. What's the right move given how your adversary is going to react? But when it comes to the specifics of the law, our firms were the domain experts and that's why we hired them. That was the reason that they existed and were part of our legal value chain.

Of course, I still needed to deliver value to the ultimate client, the business itself. To do that, it wasn't so much about supplementing our law firms' expertise with my own. It was more about the realization that much of the investment and cost associated was the mechanisms by which legal insight is translated and converted into concrete deliverables.

Whether it's policy documents or due diligence binders or any other example of output — there are some very labor intensive parts of the practice that are more about process and labor and technology than they are about acumen. I focused a lot of my efforts with outside counsel on that.

"How are my legal services being delivered?" As clients, we talk about this a lot across the legal marketplace. Industry survey after survey discusses inefficiency, lack of innovation, lack of cost effectiveness. It's not just that we complain — you can actually see this discontent manifest in the realization numbers.

When you look at the realization numbers over the last two decades they've dropped precipitously. But this isn't all just clients cutting the bills — this is clients nabbing discounts and it's firms writing things down. There's also an issue that doesn't show up in the numbers and that's self-censorship.

How many lawyers are saying: "You know what? I can't write that down in good conscience. Yes I expended that time, but it wasn't all valuable time and so instead of six I'm going to put down five hours." You get wide reports of self-censorship, to the point where the statistics were almost half the time a lawyer spends working is not captured in their time recording. All of these issues create a perfect storm — lawyer self-censorship, firm discounts at matter intake, firm write-downs and clients challenging bills.

Which suggests there's all kind of slack in a legal marketplace. I have done some analysis that shows that even if you're not in a flat fee world — even if you're on the billable hour — there is plenty of room to do higher quality work, faster and cheaper while being more profitable. Clients and firms are not playing a zero sum game when it comes to client cost and firm profitability — because of this delta.

That's been my more recent focus. What are the mechanisms by which legal services are delivered? How can we do so more effectively? More efficiently?

## Trust Between Firms and Clients

Dan: An important part of this dynamic is the fundamental question about trust — on both sides. Do clients trust their law firms? And do firms trust their clients? It's such a critical element of these organizational relationships.

For example, firms are effectively saying: "I'm going to bill you what it cost. You're going to trust me to work efficiently and I'm going to trust you to pay the bill." And for their part many clients are saying: "I also want to trust you to be focused on what success means to me rather than just doing the work that's on the project plan. And that definition of success relates both to the end results, and to how we interact throughout the engagement."

What's your sense of this dynamic? Is that affecting the level of attention that's being placed on questions of efficiency? How does that enter the mix?

Casey: Absolutely. Do you trust your outside lawyers? Yes. What do you trust them on? Again, it comes back to their expertise, their industry knowledge. You also trust them on that. You do trust that they have your best interest at heart. But do you trust them as project managers? Do you trust them as technologists? Do you trust the staff they are delegating work to? That's where the trust starts to fray.

Legal work has become much more labor intensive — and there's the labor that can be done by human beings or ma-

chines — and the more emphasis there is on the labor side of the equation, the less trust you have. I do think that there has been a fraying of the trust between client and counsel.

Again, it has nothing to do with them being bad lawyers, or not being smart, hardworking, or honest. It's almost too much to expect a lawyer to be a great lawyer, and a great project manager, and a great technologist, and a great everything.

That's where clients need to be more proactive in their monitoring. And I think it's an area where clients could be doing a much better job.

## Can Clients Create a Better Dynamic?

Dan: I think a lot of these issues are symptoms manifesting from several underlying problems. One issue is trust. What I hear you saying is that law firms are tremendous houses of expertise and knowledge, and that's where they excel — as much as every firm may claim to be the most efficient, it can be a bit of black box to clients trying to verify that. And clients are looking to trust but verify, as they have their own set of related pressures to contend with.

You've worked with both sides of this equation and I would be interested in hearing generally your philosophy and how you've been applying that in your new role. What have you been seeing? And what advice do you have for both sides?

Casey: I think most clients can only point to a general sense discontent with law firm efficiency. They make general complaints about lack of law firm innovation. They take these general impressions and instinctively translate them to requests for discounts and write-downs. But that only gets you so far.

I want to digress a bit and talk about the car industry, but I think the example will help connect the dots and illustrate what's possible. We saw something like this at the turn of this last century. In late '90s, the SUV bubble pops and, for the first time, the Big Three see the Japanese as this existential threat.

They had absolutely been competition, but now they're an existential threat. The Big Three, they look at the Japanese system to try and figure out where the advantages are. They study their cost structure and determine that a major point of Japanese advantage is their supplier cost. They

have drastically lower supplier costs and this includes American suppliers of Japanese-run American plants — it's not just a Japanese-American dichotomy.

The Big Three initiate a lot of cost cutting measures where they give their suppliers lower cost targets and say: "Hit them. We don't care how you do it, just hit them, and the magic of the market will make efficiency appear."

To some extent it worked, the Big Three did in fact see the major cost reductions, but they also saw huge reductions in quality, and they ended up with an antagonized, unprofitable supply base, many of whom go bankrupt when the Great Recession hits.

When I say they got reductions, they did, but not enough. The reason it was not enough is the Japanese responded with cost reduction mandates of their own. They actually paired their cost reduction mandates with mandates for quality improvement. They got both cost reduction and quality improvement. They got through it and graduated this period with an engaged, profitable supply base.

The big difference is that the Japanese dispatched teams of consultants that worked with the suppliers on many of these mandates. Not only did they look at the processes the suppliers were running internally, but they looked at the way that the suppliers integrated into the value chain as a whole. They worked on strengthening every piece of the value chain and, as a result, suppliers were able to hit the targets and remain profitable.

This idea of deep supplier relationships is founded on a commitment to rigorous collaboration and co-prosperity. The whole idea that we're in this together. Because even though they were dealing with unit priced commodities in a sense, there's a lot of soft and hard costs when it comes to switching suppliers. The same is true in legal. There are a lot genuine advantages to incumbency.

It's not just industry knowledge, but it's the knowledge of the client and where the client fits within the industry. Because of that ramp up time, it's not easy to switch from one law firm to another. Instead, you have to take a strategic sourcing approach with each supplier relationship. That's what I think is missing in legal. Although we complain about inefficiency, we don't tell law firms what that means. We throw work over the wall. They throw it back.

"We think this is too expensive, do it cheaper." We expect the magic of the market will clear everything up. It doesn't

work that way. On the one hand, the client has responsibilities. There are ways that they can better integrate the law firm into their legal value chain. I have examples of that where when I initiated structured dialogue about service delivery my firms were telling me: "It takes us way too long to get this kind of information."

We came up with ways to streamline their access to pertinent information. Instead of having to email five people to get the current versions of five different reports, there was now a secured synced folder on their desktop that always had the most up-to-date version of the report. They didn't have to ask anybody for it, it always just there. It reduced the effort on both sides.

It made everything easier, but it was something that we had to do on our end. So that integration is an important element of their efficiency in providing the services to us. It's not that I think clients should run law firms, but if you're complaining about inefficiency in the delivery of legal services, it is incumbent upon you to tell the firm what you're talking about.

## Can Clients Catalyze a Better Dynamic?

Casey: I created the service delivery review, which was originally known as the legal tech audit. I went out and I mapped how my services were actually being delivered. I looked at ten categories from document automation, to technology, to legal project management.

I used my findings to create structured dialogue, which required identifying priorities. Because you don't just say: "Make everything better." You want to say: "I want you to make this and this better, and this is how I want you to do it."

Another approach is to ask firms what they're capable of; ask them what their priorities are, ask them what they already have in the pipeline, ask them what their capacity is, and what they think their strengths are.

Then slowly deepen the relationship and improve delivery of legal services in a transparent way, in a cooperative way. I really am a believer in collaboration — which is something the media headlines about me haven't always captured.

## Client Communication, Client Success

Dan: From your perspective are clients doing a good job of communicating how they feel both about the general relationship they have with outside counsel and more specifically around the service levels they're receiving from firms?

Casey: No.

Dan: I've seen one industry statistic that says nearly two-thirds of clients switch out a major firm at least once a year and sometimes don't even let the firm know that this is happening or why it did. Conventional wisdom says that on the firm side lawyers say: "We're delivering real expertise. We're the best at X, Y and Z. We're worth what we're charging. They should be happy. "But the client perspective can be very different.

Your model and philosophy rooted in cooperation, partnership, and transparency is really attractive. Because there really is a two-way communication street.

Do you see clients actually communicating how they feel to the firm? And, on the flip side, are firms doing a good job of asking and listening to their clients about the big picture questions not just a matter or project-level questions?

Casey: No to both. First, for the most part, clients don't sit down and think about it systematically. As lawyers, we're hyper-focused on individual matters. Again, these are all generalizations and there are absolutely exceptions.

As clients, we tend to think in individual matters not in a system. What I'm talking about is a system as approach. You're thinking about a process, not this individual matter, not this individual incident so that's one part of it.

Another part of it is clients are busy. They are really busy. They feel like they're under siege at all times and it takes a lot of work to think through systematically. It takes a lot of work to communicate in this manner and they are right to think that the firms are not that easy to communicate with. The second you start this conversation, the firms become defensive and start deploying their well-honed advocacy skills.

It's a tough conversation to have. It takes a lot of work and unless you feel like it's going to go somewhere, why bother? It's very hard for clients to do this.

As the client, you have to be pretty comfortable in having these discussions. Some clients are afraid to have them because their own houses aren't in order. This stuff is hard, it takes genuine investment and time and money they don't have. Put another way — if you live in a glass house, you feel bad about throwing stones at outside counsel.

**Dan:** It's fascinating — you're talking about addressing the systematic problems, and characterizing what really is a complex relationship. It sounds like with your background and perspective you're effectively acting like a relationship counselor. You've been on both sides of that table and have the standing to create a safe space to have that dialogue, with judgment on both sides at least put on pause.

Now, hovering in the background, of course, is the threat of competition in terms of either insourcing legal service or other law firms, but leaving that in the background for the moment, I'd be curious to hear examples of how you've worked across the table to accomplish positive outcomes.

**Casey:** I've worked on several specific projects designed to streamline legal processes in ways that made things faster and less costly for the client, while more efficient and profitable for the firm.

The thing I'm probably best known for is an assessment I created to test how well lawyers are using the most basic technology. I've tested thousands of lawyers, law students, and staff, and found that most of them struggle with even the most basic tasks. But I've also found how quickly they can improve outcomes with the right training. I have extensive data on this. Basic technology presents some very real and significant opportunities.

## On Technology as a Change Agent

**Dan:** I'm very much interested in your views on technology and how it relates to the earlier theme about fostering the "big," system-level conversation and dialogue between client and firm in a safe space. How do you see technology playing a role in improving things?

**Casey:** Firms have been actively investing in technology for decades. One of my favorite stories is being brought in by a partner to talk to a firm's CIO. I was supposed to be the translator — converting "lawyer" into IT. The partner had all these ideas about what he wanted to do, and he wanted the CIO at this very large firm to make it all happen.

When we walked away, the CIO was quite fond of me. I responded to almost every one of the partners' ideas with the suggestion that the firm had probably already licensed a tool—or tools—with the necessary functionality.

Each time, the CIO nodded. The problem wasn't whether or not the firm made the technology available. It's whether or not the lawyers used it.

Are you changing your workflow? Do you take advantage of the technology? We have this belief in the magical properties of technology, but forget the investments required in process design, training and maintenance.

We see that a lot with law firms. As an industry, we take the approach: "Let's buy it. We'll flip the switch, and it will either work or it won't." But we don't make the investments necessary to achieve longterm success.

There is a lot of very good legal technology available. It isn't perfect, and it's not magic. Organizations still have to ask and answer key questions: "How and where do we use it? How do we bake it into our internal processes? Into our client-facing service delivery? How does it become part of our day-to-day operations?" Because there is a learning curve, there are opportunity costs.

You have to expend real resources. For the most part we're unwilling to pay that upfront cost. So we continue doing things the same way we've always done, because that has worked for us. We lose the productivity gains that come with integrating new technology.

**Dan:** One word you used a moment ago that struck me was "struggle." It feels like there's a connection and analog between the dynamic across IT and firm management to that of clients and firms. What I mean is that each is trying to make the case to the other for investing in change, and sometimes finding it difficult to connect and be effective.

What are the best arguments that you've seen from those who see the opportunity for technology to deliver better results within law firms, particularly in replacing legacy systems which are doing some level of the job already, but arguably could be doing a much better job?

**Casey:** That's the big question, isn't it? It's easy to execute when you have management buy-in — but how do you get that it in the first place?

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This is the hardest thing, getting buy-in from the stake-holders that you need, because everybody is very busy with their day-to-day. I typically explore several angles. I mentioned earlier that I have studied the financial case.

Even with the billable hour, there is all kinds of room to do work better, faster and cheaper — and still be more profit-able. I start by talking to partners about all the associate time they're writing off and that normally gets their atten-tion. I talk about the work quality because it's not just about speed. There are lots of areas where the machine actually does a better job than a human being. It's about doing it better, not just faster.

There's also the quality of life argument. The kinds of work that software can take off of lawyers and staff is the awful stuff. It's laborious, it's drudgerous. When you survey all the professions, you find that the young lawyers are the least happy professionals in the U.S. by a huge margin.

There are lots of reasons why lawyers are often unhappy, but I think a big part of it is a disconnect between what lawyers imagined they would be doing and what they end up doing. There are all sorts of horror stories about late nights and long weekends doing boring stuff. And technol-ogy can really make an impact on getting rid of that grind.

The surveys also find that associate satisfaction was high-est at firms investing in technology and training. The most recent _American Lawyer_ survey shows technology and training as unsung retention heroes because of a high cor-relation with associate satisfaction.

Because again, what technology does is allow the lawyers to focus on where they add the most value — lawyering. To make the case for investment, I talk about productivity, efficiency, effectiveness, quality of work, quality of life.

Different things resonate with different people. I don't actu-ally have a problem getting people excited. My biggest problem is translating excitement into action. Attitudes are already changing, but practicalities often get in the way.

What I mean by that is that the second people get back to their desk, they go right back to doing what they were do-ing because they have deadlines, they have pressures, they just have to get things done right away.

The hard part is getting a firm or a law department to step back and make a real commitment to systematic improve-ments. Which is why you don't try to do it all at once, you pick projects and focus on building on success.

## Concluding Thoughts

Dan: Well, I suspect that with the clean way you've framed and called out these issues in our discussion today, many organizations are going to be taking a fresh look at their own approach and investment priorities — both in terms of technology, but also in terms of the broader discussions they're having across law departments and law firms.

Can I encourage organizations interested in a more tailored discussion about their specific issues and challenges to get in touch with you directly?

Casey: Yes, please do. I'd be happy to connect with anyone interested in learning more.

Dan: Great. Thanks again for making the time to talk, Casey. It was certainly thought provoking for me, and I suspect it will be for our readers as well.

Casey: You're quite welcome. I enjoyed it. ■