

from the  
*Walker Clark Resource Library*

---

## *Managing an International Legal Portfolio*

*What to Expect from a Foreign Law Firm*

### A Walker Clark Green Paper

by  
Norman K. Clark and  
Lisa M. Walker Johnson  
**Walker Clark, LLC**

***General counsels and chief legal officers report that they are spending more time and money than ever before on legal matters outside their companies' home jurisdictions. At the same time, a very clear set of best practices in client service is emerging among international law firms.***

***What should corporate clients expect from their foreign law firms? Clearly a good legal product is not enough. This Green Paper explores the same question discussed in the Green Paper Serving the Foreign Client, but from the client's perspective. It suggests questions that in-house lawyers should ask their foreign law firms.***

---

#### **New challenges in a global business environment**

The globalization of business presents new challenges for in-house counsel. General Counsels who formerly dealt primarily with local or national law firms are increasingly relying on foreign lawyers and law firms, which may not share the same legal foundations or traditions of the corporation's home jurisdiction. In addition to different legal institutions, substantive requirements, and professional traditions, in-house counsel often have to find their way through subtle differences in business cultures and social customs.

How should you approach the management of corporate legal work that spans countries and continents? Often, this work goes by default to one of the large global firms or to one of the largest firms in the venue. Corporate legal officers and their clients sometimes mistakenly assume that only the largest and best-known firms are able to serve them.

Our experience demonstrates that biggest is not always best. In many cases, smaller firms may be better able to meet your company's specific needs and service expectations. Many of the

### **Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*  
<http://www.walkerclark.com>

emerging economies, especially in Latin America, are served by national law firms with internal legal expertise, international experience, and progressive client relations strategies that are more sophisticated and more successful than those of many of the larger, better known law firms in North America and Europe. You should not underestimate or overlook them.

For large global firms and smaller local firms alike, the highest obstacle to successful long-term relationships with foreign clients is the clear communication and understanding of common expectations. What the your company client expects and what the local law firm understands about those expectations are often poles apart. International businesses – even those with local subsidiaries or operating divisions – often do not fully understand the way in which local political systems, legal practice customs, standards of professional responsibility, and economic environment may limit or shape their ability to achieve their business goals in another country. A critical management strategy – for you and your foreign law firms alike – should be to close the cultural gaps that can unnecessarily add complexity, risk, and cost to the management of your company's international legal portfolio.

### **The foreign lawyer as guide**

What should you expect from your foreign law firms?. Managing the international legal portfolio requires two sets of new responsibilities for lawyer and client, ones that many lawyers do not instinctively possess. What increasingly distinguishes the good international lawyer from the great one is that the great lawyer serves as a reliable guide to lead your company through what sometimes appear to be the bewildering intricacies of the practice of law in another country. This means that in-house lawyers often need to be better clients, by asking more questions and not operating on assumptions based on legal or business experience limited to one's home country.

### **An agenda for the discussion with the foreign law firm**

We recommend that you start an ongoing discussion as soon as you approach a foreign firm whom you are considering for legal work. To the extent permitted by local rules of professional responsibility, these earliest contacts should include a detailed exchange aimed at achieving four long-term goals in the engagement:

- A thorough understanding of your company's business objectives in the context of political, economic, and social systems in the local jurisdiction;
- An understanding of how different business practices, customs, and etiquette can affect the relationship between you and your foreign law firm;
- An agreement about engagement management and client service issues;
- A commitment to avoid unverified assumptions and to address issues when they arise.

These four points are important for three reasons.

First of all, they represent the four areas that most frequently cause client dissatisfaction with a law firm in another jurisdiction, whether across the border or across the world. When clients terminate their relationship with a foreign law firm, it is usually for reasons that fall within one or more of these four categories.

Second, close attention in each of these four areas will not only reduce misunderstandings, but will also improve the overall efficiency and cost-effectiveness of the relationship. By having

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

Page 2

discussed and defined the mutual expectations in advance, rather than learning them along the way, your company and your foreign law firm will increase enormously your ability to work together efficiently. This improves the probability that your company's legal work will be done correctly the first time.

Finally, the ability and willingness of a law firm to discuss these issues at the beginning of the relationship, and to demonstrate an ability to respond to them, should be decisive factors in your selection of a foreign law firm. Although large international firms may have offices and delivery capabilities in many countries, the most important question in selecting a foreign law firm is really rather simple: Which firm can best deliver high-quality service to your company in the local courts, regulatory agencies, and business community? Many smaller, national firms in foreign countries can compete quite favorably with the large international firms based in North America, the United Kingdom, or Europe.

One last point bears emphasis: This must not be a one-time discussion. Moreover, to be successful, the law firm should take the lead in providing opportunities and enthusiasm for a continuous conversation about these issues. The law firm's goal should be not just to satisfy you in one matter or piece of legal work. Instead, your foreign firm should be committed to build a trusting relationship that will encourage you to contact them whenever your company has legal work in their jurisdiction. You and the internal clients in your company should expect behaviors from the foreign firm that are consistent with this commitment.

### **Understanding the political, economic, and social contexts**

*"We know that they are good lawyers, but they just don't understand our business."*

*"We don't need a big law firm. We need some lawyers who can be our legal guides in that country."*

*"They are always telling us what we cannot do in their country. We want someone to show us how we can do it consistent with local laws and business practice."*

*"We want practical legal advice – how to do something. All they give us are these great long dissertations about local law."*

Comments like these are all too typical of the great gap that exists between many corporate clients and their foreign law firms. They are not too dissimilar from criticisms that clients often have of law firms in their own jurisdictions. However, different cultures, legal systems and customs, and political environments make the fundamental process of communication much more complicated when dealing with a foreign client.

Understanding the client's business is one of the most important indicators of quality in legal services. It always appears among the top quality factors in client satisfaction surveys conducted by law firms and their marketing consultants. When dealing with a foreign law firm, however, it is not enough that the foreign lawyers learn and understand your company's business objectives. Most successful law firms already do this, regardless of their size or nationality.

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

You should expect more. The foreign law firm should also communicate back to you the practical ways in which local laws, regulations, business and professional customs, and economic and social issues will affect your company's ability to achieve your business goals in the law firm's jurisdiction. Understanding your business is very much a matter of two-way communication. Both sides have a responsibility to make sure that those communications are clear and timely.

Here are several questions that each of your foreign law firms should be able to answer:

### **1. What are your company's goals in the matter and how do they relate to the your overall business objectives and strategy?**

When a matter begins, especially in litigation, the business people in your company may be unaware of local factors that could make it more difficult to achieve the client's goals. The foreign law firm can provide substantial additional value to your company by identifying and explaining such obstacles at the earliest moment. This can lead to strategies and tactics that can save substantial amounts in legal fees, business losses, and opportunity costs.

### **2. What are the implications for your company's position in their home market?**

If, for example, your company has engaged the firm to help establish a large local manufacturing or assembly facility, there may be adverse reaction in the home market if this will result in the loss of a substantial number of jobs at home. The controversy in your home market, and the desire to mitigate any adverse effects, will affect the level of commitment and pace of execution for the project.

If labor or environmental regulations in the foreign jurisdiction are perceived as being weaker than those in your home market, this could require the foreign law firm to be able to explain local laws with a degree of clarity and precision that will avoid misinterpretation or misquoting in the press in the your company's home market.

Considerations such as these may produce quickly shifting priorities for the client with respect to the local legal work. The law firm needs to be aware of these risks from the beginning.

### **3. What are the implications in the foreign jurisdiction?**

This question will be discussed, in part, during the conversation about your company's overall business objectives and strategy. However, local implications in the foreign jurisdiction should also be a specific, ongoing agenda item as your company's legal strategy and implementing tactics emerge during the course of the engagement. What are the local political, social, and economic issues and implications involved in accomplishing your goals in the law firm's country? Could your company's position or objectives produce an adverse reaction in the foreign market, thereby worsening your position rather than strengthening it? By acting for your company, will the firm risk the loss of long-established relationships with local clients? Would some of the firm's local clients view the engagement as a commercial conflict of interest, even though it might not be a legal conflict?

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

Page 4

## Identify and understand cultural differences

Professional courtesy and tolerance for differences usually allow lawyers to overlook mistakes in cross-cultural relations. However, repeated insensitivity to the business customs and etiquette of each other's culture will eventually undermine the professional relationship.

You and your foreign law firm must understand differences in the professional and social cultures of the two countries, and at a level of intimacy that cannot be derived from a book. Proceeding on assumptions – even those derived from trusted sources – can be risky. The experiences of other lawyers, or one's own past experience with other lawyers from the same country, are not always reliable guides for building trust and confidence in a new professional relationship. This is why we recommend that you and your foreign law firm conduct a candid discussion about some very practical cultural differences. Each of you should also share that information with everyone who works on the matter.

Here are some of the more common differences:

- **Professional precedence and deference**

The rules of precedence and deference can vary significantly among countries, even in the same general region of the world. Observance of foreign courtesies in these areas – especially by support staff – can powerfully impress people in the other organization. It shows that you and your foreign law firm have tried not only to learn the each other's customs, but to disseminate the information throughout your respective organizations.

Some of these differences – such as the use of academic titles, using the word attorney as synonymous with lawyer, or the proper distinction between associate, assistant, legal assistant, and secretary – are relatively simple; but they are evidence of an effort to learn about each other's professional culture.

Some of the differences may be more subtle and may even appear counter-intuitive. For example, in some countries deference is shown to the person with the senior position in an organization; in others, deference is based on age. Speaking first to the senior officer would be expected at a meeting on one country; but, in another country, it could be considered discourteous to an older person, even though that person is not senior in the organization.

It is unlikely that any professional engagement was ever terminated because of one or two unintentional breaches of local etiquette; but repeated ignorance of basic professional courtesies can quickly undermine the relationship.

- **Communications**

In some countries, it is expected or even preferred that routine, administrative messages be communicated through assistants or secretaries. In others, a partner might be offended, and consider it disrespectful, to receive a message directly from a secretary in another organization – even a client organization. Whether across town, across a border, or across an ocean, communications are the lifeblood of the lawyer-

client relationship. Even unintentional breaches of communications decorum, if repeated, can become a relationship-threatening obstruction.

- **Holidays**

Not all countries consider “24-by-7 availability” to be particularly admirable or a part of their professional or business culture. Holidays and vacations are considered inviolable family and personal time. In these cultures, for a client to telephone a lawyer at home or on holiday, except in the direst emergency, could be considered deeply disrespectful toward the family. Lawyers and clients need to learn and respect each other’s expectations about communications during non-business hours. The best way to do this is to ask directly.

- **Role of associates and assistants**

There is considerable variation in the role and authority of associates and legal assistants from country to country. Some law firms will usually have all but the most basic functions and tasks performed by partners. Others will routinely delegate work to associates and assistants whenever possible. If the identity and qualifications of the person doing your company’s legal work are important to you, you should make sure that your expectations are clearly communicated.

## **Agree on policies and standards for engagement management and client service**

Defining service standards and policies on items such as responsiveness in communications, billing, and the respective responsibilities of the law firm and the client should take place at the outset of any engagement. It becomes even more important to do so when dealing with a foreign law firm. Your expectations about administrative details of the engagement may be very different from the law firm’s standard operating practices.

Here are some of the issues that have the greatest potential for misunderstandings and client dissatisfaction. Each should be addressed in the engagement letter:

### **1. Availability and access**

Who will be the law firm’s points of contact for you and your company? What direct access will the law firm have to your senior and mid-level managers? To what extent do you expect the firm’s lawyers to be available to travel to your headquarters or some other distant site of your company’s operations?

### **2. Responsiveness**

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

What will be the normal time for response to telephone calls, electronic mail, and other correspondence from your company?

### 3. Working language(s)

Language is one of the areas with the greatest risk of misunderstandings arising from unverified assumptions. It often requires the most detailed discussion at the outset of the engagement. If the first language of your company is different from that of the law firm, be sure to address language-related questions such as:

- **What will be the working language or languages for the engagement?** The term working language refers to the language in which correspondence, pleadings, memoranda, and other documents will normally be prepared, absent specific direction otherwise. Working language issues are often complicated when an international company engages the firm to perform legal work arising out of operations of a subsidiary in the firm's country. To avoid costly additional work later, you and the foreign firm should clarify the working language questions at the earliest opportunity.
- **Will documents be translated or in original language?** Some foreign law firms prefer to work with untranslated documents, even when they are in a language other than the first language of the firm's lawyers. If documents are to be translated, who will provide the translations? What qualifications and quality assurance standards will the client require of translations contracted or provided by the law firm?
- **What are the language capabilities of the firm's support staff and technician?** What effect will reduced language skills and capabilities among junior personnel in the law firm have on the delivery of legal services to your company? Even though the lawyers in the foreign law firm will usually be fluent in English, as well as other major European languages, these capabilities may decrease sharply among staff.
- **Are regional or technical vocabularies required?** Does your company observe any significant regional variations in the working language? For example, a Latin American lawyer may have little difficulty working with in-house counsel in Chicago, but it may find the accent and vocabulary of one of your company's managers in Boston to be almost impenetrable. Likewise, the law firm should identify the need to learn any special technical jargon, colloquialisms, and acronyms used in your company.

### 4. Status reports

Do you want periodic status reports? If so, what should they address and in what format should they be prepared? Local practices in foreign law firms vary considerably; so be sure to address this point.

### 5. Delegation of legal work

## Walker Clark, LLC

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

What are your expectations with respect to the delegation of legal tasks and functions to junior lawyers and non-lawyer fee earners? What functions do you or your business colleagues expect to be performed by a partner?

## **6. Communications with the your home office and local subsidiaries**

To what extent, and with respect to what issues, may the law firm communicate directly with your headquarters? When should the firm communicate through your company's local subsidiary?

## **7. Communications with third parties**

When, if at all, may the firm communicate directly with other providers of professional or business services to your company, such as accountants, engineers, or banks? Some clients may desire and expect that the law firm will communicate directly with local providers in the firm's jurisdiction. Other clients may prefer to have all such communications routed through in-house counsel or other corporate officers. Make sure your foreign law firm knows your preferences in this regard.

## **8. Billing**

How often will fees be billed? How much detail do you require on the invoice? Billing practices vary considerably. If you are used to itemized, detailed hourly billing, you might take exception to the summary, "for professional services rendered," form of invoice that is still customary in some countries.

## **9. Expenses and disbursements**

The range of expenses and disbursements that are assumed to be reimbursable can vary considerably from country to country. What is customary in one jurisdiction might be viewed as bordering on dishonesty in another. Be sure to discuss and agree on these potentially disruptive issues at the start of the engagement.

## **Checking assumptions**

Implicit in the approach is the wisdom of avoiding acting on assumptions about what you and your foreign law firm want, need, and expect of each other. The better practice is always to ask directly, to transform unverified assumptions and anecdotes into clear standards and guidelines for you and your foreign law firm to work together more effectively.

When considering the practice of law in a foreign country, many lawyers often suffer from two apparently contradictory set of assumptions.

**Everyone practices law the same way I do.**

There are certain common cross-cultural principles in the practice of law, but there are also some important differences. For example, different standards of professional ethics can make the word marketing mean one thing to a lawyer in New York and quite another thing to a lawyer in Nigeria, where restrictions on communications with clients and non-clients are tighter than they are in the United States. The marketing consultant who is well-received by New York lawyers might horrify an audience in Lagos. Her aggressive recommendations to an American audience would not be practical in Nigeria, and could even weaken the position of a Nigerian firm that followed her advice. Even in this age of globalization, there remain important differences in practice customs from one country to another.

The practice customs of your company's home jurisdiction will shape your perceptions and expectations of all law firms, not just the local ones. What you have come to expect from engagements with local firms might be significantly different from the professional culture and practice customs among law firms in another country. When dealing with a foreign law firm, therefore, you cannot assume that the foreign lawyer's experiences or perceptions are identical to your own.

**Other legal systems are fundamentally different.**

The unfamiliar often appears irrational or even threatening. In the authors' consulting practice with lawyers around the world, we often encounter lawyers -- both in-house and in law firms --- who view foreign legal systems as being fundamentally different from their own. In fact, there are at least three common principles and values that we have found in law firms of all sizes, in all parts of the world: the respect for the rule of law; core ethical values of honesty, diligence, and loyalty; and dedication to serving the client in accordance with the law and professional ethics.

As a lawyer, you should look for points of similarity with your company's foreign counsel, as well as differences. The best way to do this is through frequent, candid communications. As the service provider, the law firm should take the responsibility and initiative to ensure that this ongoing dialogue remains candid, pertinent, and timely.

This can be challenging when dealing with someone from a culture that does not use candor or directness in business discourse. In fact, some foreign lawyers might consider as rude the frank, hard-hitting directness that is prized in North America. Subtle non-verbal cues and verbal nuances may be a better way for you to convey your full, but partly unspoken, message to your foreign law firm.

Ask your foreign law firm about its experience with client service teams. Law firms that operate dedicated client teams – a designated group of fee earners working together to serve a specific

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

client – are usually more effective at this ongoing dialogue than law firms organized along traditional practice group lines and departmental structures. Even if a firm keeps the traditional practice groups, it should always consider creation of a client team for each foreign client. The client team is by far the most successful way to be alert to and manage cross-cultural issues presented by engagements with foreign clients.

Regardless of the mechanism or vehicle you and your foreign law firms use, no one should ever rely on second-hand information, the experiences of others, or even your own experience with different lawyers from the same country. To do so substantially increases the risk of misunderstandings that can quickly escalate to the level of client service issues. As with any other professional relationship, when you are uncertain about whether your law firm understands your expectations, ask about it. Better still, don't wait until there is doubt.

### A learning process

Like every other worthwhile human relationship, working with foreign law firms and lawyers is a learning process. Therefore, these issues and topics should not be one-time discussions. Instead, you and your foreign law firms should constantly try to revalidate and update your knowledge of each other's professional and business culture, as well as the political, economic, and social contexts of the your company's international business goals. This is the best way to ensure that your company gets the best results from your international legal portfolio.

## About the authors



**Norman K. Clark** and **Lisa M. Walker Johnson** are principals in the international legal management consulting firm of Walker Clark, LLC, based in the firm's client service center in Miami, Florida. They can be contacted by telephone at 1-305-913-7180 or by email to [nkclark@walkerclark.com](mailto:nkclark@walkerclark.com) and [lwalkerjohnson@walkerclark.com](mailto:lwalkerjohnson@walkerclark.com)

Copyright 2003. Walker Clark, LLC. All Rights Reserved.

This paper may be reproduced and redistributed without prior authorization, provided that the authors are attributed and the content is not modified.

**Walker Clark, LLC**

*Performance Consultants to the International Legal Profession*

<http://www.walkerclark.com>

Page 10