

## LAW FIRM MANAGEMENT IN 2002 – THIS IS WHAT WE REALLY THINK

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Chris Matthews of MSNBC's *Hardball* recently penned a book entitled, *Now Let Me Tell You What I Really Think: Playing Hardball With Chris Matthews*. I was given the book by one of my sons, read it, and felt it was a good light read for an airplane. While I did not agree with everything he said, I liked Mathews' approach – addressing a variety of topics in terms of what he really thinks. So, being a good consultant, I have copied his format and, in the following paragraphs, use it to address a variety of key 2002 law firm management issues.

### IF THIS IS A RECESSION – HIT ME AGAIN

The law firm management press has been publicizing recent examples of associate and staff layoffs, freezes in associate salaries, significant decreases in revenue, and major reductions in partner income. One well known West Coast firm's partner income was off 43.5% year-to-year (2000 to 2001) with drops of 10% to 15% experienced by other noted Silicon Valley firms. A variety of firms have either directly asked associates to leave (as part of a "right sizing" exercise) or have been unusually "tough" in annual evaluations with the same results – fewer associates.

One might conclude that most major business law firms are suffering significant economic dislocations. However, that is definitely not what is happening. Most law firms just finalized their results for 2001 and, with few exceptions, those results have ranged from neutral to very, very positive. Most of our clients had solid increases in partner income in 2001 and many experienced record years. Importantly, law firms are proving to be, as they have been before, remarkably recession proof.

The problems – and there definitely are some – tend to be focused on those firms that overextended themselves (i.e. – grew too quickly in terms of their ability to assimilate solid young and/or experienced attorneys), and did not understand that, as they grew, practice diversification was a necessary element for long term success. The good firms who did not overextend themselves did just fine in 2001. If a firm in a non-leveraged city (e.g. – Chicago, Atlanta, Houston, Cleveland, etc.) suffered a downturn in 2001, it was slight and directly related, more often than not, to reduced activity in M&A deals.

If hunkering down during a recession means, at worst, a relatively flat year from the year before, than I think most managers in other industries would willingly take this hunkering down. In reality, the private practice of law is a very good place to be. Income is high during good times and generally stays high in bad times (when business executives and management consultants really take a hit). The work is intellectually challenging and complex and the potential rate of return far outstrips the relatively low risk.

### ENOUGH WITH THE "BRANDING," ALREADY

Our consistent complaint about law firm marketing – from its beginnings in the early 1980s to now – has been that it too often is primarily focused on promotional and fluff things, rather than on those things that directly support firms' practice groups and attorneys securing more work from present clients and new work from new clients (the only desirable marketing outcomes). You would think that, over time, law firms would have learned – but most have not.

The present "branding" fad (e.g. – everybody is talking about their "brand," but virtually no one really has one) and the firm promotion and image advertising focus of marketing directors, outside consultants, and firm management would be worth more than a few laughs (it truly is an "emperor's new clothes" situation), if it were not such a waste of direction, resources, talent, and effort.

- Developing "image" advertising and/or changing the firm's logo (and business cards and stationary, and on and on) as primary steps in "brand development" are, at best, wishful thinking.
- For example, most legal market observers would agree that Skadden Arps, for a variety of reasons, is a successfully "branded" law firm. They did not get there by either image advertising or changing their logo – but, by determining and staking out a strategic position and applying resources, attention, and focus to achieving that position.

Marketing is a critical function in a competitive environment and effective marketing by a law firm and its practices can be a point of true differentiation. Most law firms should take a critical look at where they are spending their marketing dollars and, more importantly, their marketing time and refocus much of it through their practice groups to actually impact the acquisition of new/additional work.

#### **KEEP FOCUSING ON IMPLEMENTING YOUR STRATEGIC PLAN – BUT, IF IT IS NOT ANY GOOD, DEVELOP A NEW ONE**

Most good business law firms – by now – have a strategic plan. The better ones state a clear direction for the future and where – strategically – the firm should be focusing its resources. Many of those firms have made an honest attempt at implementation, although the effectiveness of implementation usually lags the effectiveness of strategic plan itself. In spite of recent economic conditions and dislocations, it is important that those law firms that have a solid strategic plan continue to implement it.

Unfortunately, many law firm strategic plans – developed with fanfare within each firm – just are not any good.

- The biggest problem remains internal focus. Instead of focusing on achieving a strategic position or serving clients better (external issues), they focus on internal things (governance, improved management, “*feel good*” actions, etc.). In many firms, these strategic plans serve as internal political manifestos, rather than as guides to external strategic direction.
- Too many law firm strategic plans lack specificity – in their overall direction or what the firm intends to do. They just do not say anything actionable.
- Further, they focus on the individual act of delivering higher quality client services, rather than on the firm’s business objectives. A law firm’s strategic plan (and, for that matter, the plans of each of its practices) should focus on the business of practicing law, not the daily act of doing so.

If your firm’s strategic plan does not have an external focus, does not clearly state the firm’s strategic direction, or is not being implemented, then it may need to be scrapped. In today’s environment, we feel it is impossible to achieve ultimate success without a solid and effective strategic plan.

#### **LET’S TRY PAYING PARTNERS WHAT THEY ARE REALLY WORTH**

When we work with a law firm – almost regardless of the type of assignment – partner compensation becomes an issue. There are very few pure “*formula*” or “*objective*” firms left (those that pay their partners strictly on the objective results of a few key statistics). While most firms have a nominal “*subjective*” partner compensation system (i.e. – they collect objective statistics, but make subjective decisions), many of these actually function as formula firms, directly rewarding personal productivity and/or origination/billing responsibility – to the exclusion of anything else. In many firms, the perception of most partners is that they are rewarded for personal billable hours and everything else related to partner compensation is merely lip service. We seldom see firms that have aligned their partner compensation process with what is important to achieving their strategic direction, what the values of the firm are, and what creates true value within the firm and its partnership.

We believe it is time for firms to begin restructuring their partner compensation systems to reflect long-term value to the firm and to align with what is important to the firm. It would probably not materially change the allocation of the dollars in most firms, but it would change the perceptions and, very importantly, the behavior.

#### **QUIT WORRYING ABOUT MDPS – IF THEY HELP BETTER SERVE CLIENTS, DO IT**

An issue of seeming importance to many firms and lawyers is the future relevancy of multi-disciplinary practices – within the legal profession and coming from other professions (e.g. – the accountants) who might purchase or control legal practices, if they could legally do so. We have seen a lot of hand wringing on this issue. Some are concerned that if law firms do not react to this trend, they will quickly become dinosaurs. There is also recognition that a number of MDP efforts established by law firms have done very well (of course, there are others, with the recent economic problems facing consultants, who have not done very well at all). Some anti-MDP people feel that Arthur Andersen’s recent indictment is the death knell for law firm MDPs (a statement by the head of the New York Bar Association – a foe of MDPs – recently claimed that). This is wishful thinking on their part, MDPs are here to stay.

We believe that MDPs are not a moral issue, but a business one.

- If MDPs are considered at only the firm level and solely to squeeze more revenue (or non-billable hour fees) from the firm’s client base, their chances of success are low. Centralized MDPs – that do not interact with practices and offices – tend to operate almost entirely on their own, severely sub-optimize their growth potential, and rarely produce acceptable results.

- MDPs must be established in direct response to identified client needs. That usually requires that an MDPs be organizationally placed directly in support of a firms' practice groups. The only legitimate reason for an MDP is to better serve a firm's clients (and to differentiate the law firm by doing so).

So, if you have an opportunity to better serve your clients and truly differentiate the firm by adding non-legal resources (either as employees or as a separate business entity), do it.

### **THE ACCOUNTANTS ARE NOT COMING**

A recent ploy to get law firms interested in doing the right things managerially (or to hire consultants) has been to point out the competitive threat coming from the accountants.

- Accounting firms have invested dramatically in developing (and acquiring) close to full service law firms in certain international arenas, particularly Europe. But, in the United States, their inroads to the marketplace have been less direct – usually coming through practices that fit the skill set of many accounting firms, and can be planned for, managed, and grown – such as corporate finance, trust and estates, employee benefits, and tax. The presumption among lawyers has been that these accounting firms really know what they were doing and that they can plan for, fund, execute, and be successful in a variety of areas where law firms practice. In some ways that is true, but in other key ways, it is not.
- On the domestic front, the Andersen problems with Enron and the government's and capital markets reactions are causing a major dislocation in the accounting profession. The Big Five (or four) will be spending the next few years dealing with these issues and restructuring their core audit businesses. They will probably be forced to divest some or all of their MDPs. Also, their international legal practices are viewed as being hostage to their domestic accounting practices and those may or may not be divested. At this point, who knows?
- Accounting firms have not been very good at recruiting senior attorneys from law firms. There have been a number of cases where lawyers have gone to accounting firms – lured by money and prestige – only to return when they found out that they were not given the freedom they were used to and when they were held to task for directly selling work.

We would argue that the accountants' problems – both here and overseas – competitively play to the advantages law firms already have – better client service and relationships; more cohesive, supportive partnerships; and a better internal value system balance between growth and meeting client needs.

### **LAW FIRM CONSOLIDATION HAS NOT GONE AWAY – IT IS JUST ON VACATION**

Before the perceived downturn in legal services (which we described previously as being less severe than expected) and the aftermath of the events September 11<sup>th</sup>, merger mania was in full force. Everyone was talking to everyone else, whether or not there was any strategic reason for those firms talking to ever merge. While there is now an assumption that that merger mania is dead – it is not.

- Those law firms that were seriously talking before September 11<sup>th</sup> and/or seriously considering merger partners are still doing so. Their perceptions of the underlying strategic reasons for considering these mergers have not changed.
- Continued legal marketplace consolidation is unavoidable – reflecting the relatively immature nature of the legal industry and continued national and international consolidation of the client base.

Thus, if a law firm is seriously considering merger as part of a well thought out strategy, it should continue to do so. But, as before, it needs to be very prudent about how it goes about it.

### **YOU SHOULD TRY TRUE PRACTICE GROUP MANAGEMENT – YOU WILL LIKE IT**

Much has been written and said in the last few years about practice group management. But most law firms have resisted implementing full scale, effective practice group management. There is resistance, a lack of will to make the management decisions needed to truly organize and manage as practice groups, and a whole raft of excuses of why firms cannot do it. But, we believe that effective (and real) practice group management is necessary in a more competitive legal environment. While most firms are still not doing it as well as they should, many are learning how and learning very quickly. We strongly argue that the well run practice group focused firm will always win, particularly when up against the firm that has a culture of individual partners doing their own thing with little or no cooperation or practice structure.

## THERE ARE FINDERS, MINDERS, AND GRINDERS – BUT, GRINDERS CANNOT BE PARTNERS

I have served law firms as a strategic management consultant for the last eighteen years. Three terms have been kicked around by law firms for all of those eighteen years – **finders, minders, and grinders**.

- **Finders** are those lawyers who have the ability, the inclination, and the understanding of the need to go out and find new legal work – either from new clients or present clients.
- **Minders** are those lawyers who handle the client work and the client relationships of those clients already brought in. They maintain client satisfaction and expand work for those clients.
- **Grinders** are those lawyers who “*grind out*” the work and bill on an hour by hour basis. They usually invest little time either in new client development or client relationship enhancement.

All three – finders, minders, and grinders – are necessary. But, law firm management knows that, although grinders are necessary, the continued success of a law firm is built on the shoulders of its finders and minders. This relatively universal (and, we would argue, self evident) truth is not shared by all partners, particularly the grinders. In fact, virtually every grinder thinks that what he/she does is at least equally important or, in some cases, more important than bringing it in.

This fallacy is reinforced by most partner compensation systems. While many recognize finding, virtually all are built on the billable hour, so they disproportionately value “*grinding*.” The end result is that the grinders are often overcompensated for what they contribute.

Let me offer a radical notion – **in a competitive environment, grinders cannot remain equity partners or owners of a law firm**. While one can and should become a partner based on good legal skills, a strong work ethic and firm loyalty, and a “*sense*” that he/she will ultimately bring in business, we suggest that one cannot remain a partner unless they produce, consistently, at least enough work to take care of themselves and one-half an associate. The producers need to own the business and make the decisions about its future – not the non-producers.

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Smock Law Firm Consultants is focused on meeting the strategic needs of larger business law firms in four key areas – firm strategic planning, mergers and combinations, practice group management, and management issue resolution.