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LAW FIRM CONSULTANTS

## NEAR AND LONGER TERM CONSIDERATIONS FOR 2012 (AND BEYOND) PLANNING - WHAT'S ON THE HORIZON?

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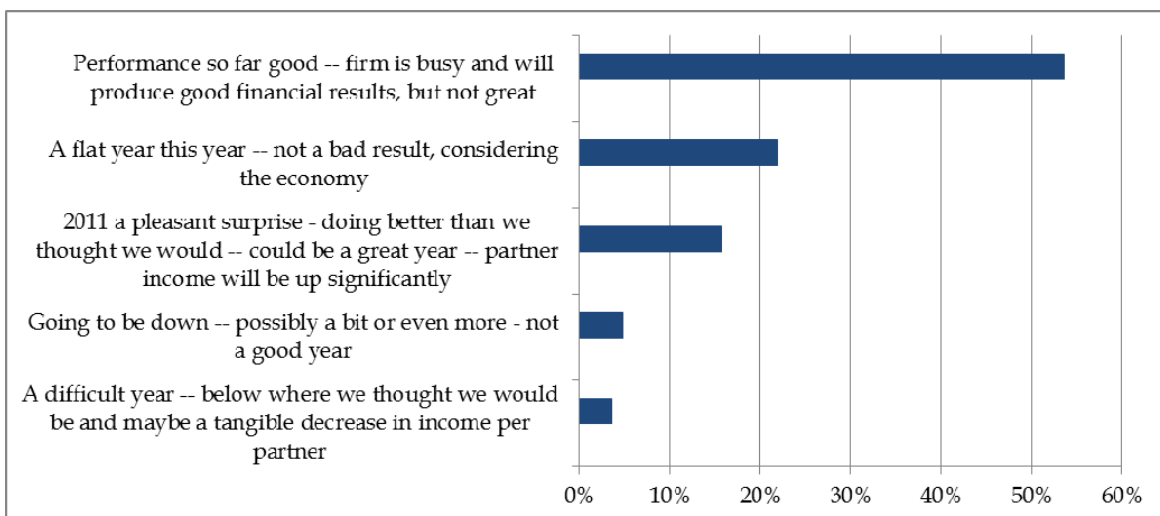
Most law firms - at least preliminarily - have already begun the 2012 budgeting and planning process. We thought we could add some value to that process by offering our thoughts on a variety of near and longer term issues for consideration going into the next year. Thus, we have drawn on our most recent market survey, the recent presentations (to individual firms and law firm groups) we have been asked to make, and our continuing law firm consulting assignments to develop this monograph. Included are near term considerations, longer term considerations, and our predictions for 2012.

### Near Term Considerations

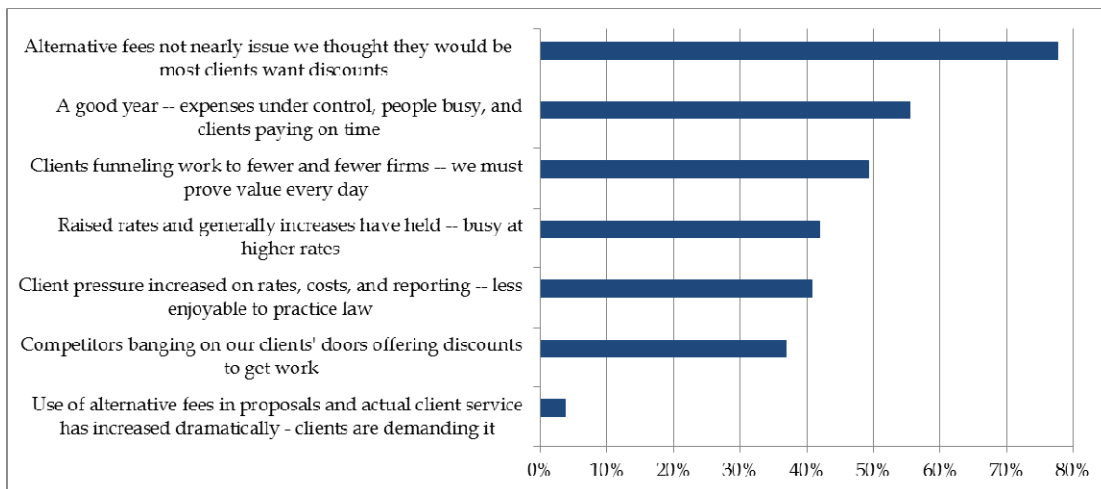
Twice a year Smock Law Firm Consultants (SLFC) surveys the legal marketplace using a simple, straightforward web-based methodology. We do this for two reasons - to keep abreast of the market we are dedicated to serving and, selfishly, to distinguish ourselves from our competition.

- A few weeks ago - in advance of a variety of law firm retreats, where we were asked to comment on the present and future legal marketplace - we completed the second of our two legal marketplace surveys this year.
- This survey was sent to CEOs/COOs (i.e. - the chief attorney leader/manager and the chief non-attorney leader/manager) and over 100 firms responded to this brief survey.
- Although we received responses from firms of less than 100 attorneys and firms with more than 500 attorneys, 82% of firms responding had from 100 to 500 attorneys, which represent the majority of the firms we serve.

To begin with, we asked firms how they had done so far in 2011. As shown below, 70% of the firms saw good or really good financial results; 92% good, really good, or flat; and only 8% went down.



To drill down on these results, we provided a further series of statements describing 2011 performance and asked the responding firms to respond to all of those that fit. These provided some interesting results, as shown below.



- These survey results reflect what we have been hearing and seeing in client assignments throughout the year. 2011 is generally a good year across the board for law firms – particularly given the continuing economic uncertainty – although in most cases certainly not record breaking.
- Fee/rate pressure from clients and competitive pressure from other law firms remain strong.
- But, alternative fees have clearly not become the major issue predicted.

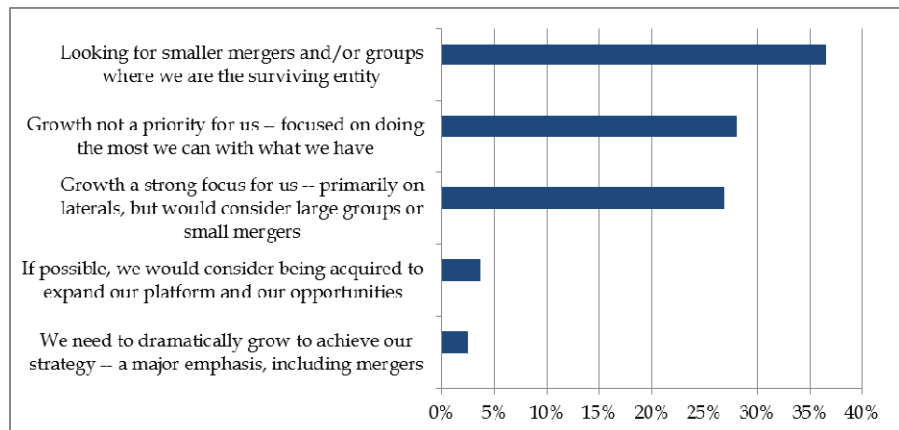
At the end of 2010 (our prior survey), we asked what strategic/operational improvements firms intended to focus on in 2011 (from 20 choices). There was a five way tie at the top – **dealing with underproductive partners, practice group management improvements, practice group planning, regular formal client feedback, and increased lateral hiring**. We asked this again in this most recent survey and the first five this time were **increased lateral hiring, dealing with underproductive partners, practice group management improvements, better associate training and development, and website revision/improvement**. These results are shown below.

	2011 Rank	2010 Rank
<b>Increased lateral hiring</b>	<b>1</b>	1 (tie)
<b>Dealing with underproductive partners</b>	<b>2 (tie)</b>	1 (tie)
<b>Practice group management improvements</b>	<b>2 (tie)</b>	1 (tie)
<b>Better associate training and development</b>	<b>2 (tie)</b>	7 (tie)
<b>Website revision/improvement</b>	<b>2 (tie)</b>	11
Practice group planning	6 (tie)	1 (tie)
Industry focused marketing	6 (tie)	7 (tie)
Strategic plan development/revision	6 (tie)	9 (tie)
Better strategic plan implementation	6 (tie)	1 (tie)
Regular, formal client feedback	10	1 (tie)
Alternative fee approaches (AFAs)	11 (tie)	9 (tie)
Project management techniques/training	11 (tie)	12
Revising partner compensation	13 (tie)	14
Smaller mergers/acquisitions	13 (tie)	13
<b>Revising the associate salary structure</b>	<b>15</b>	<b>16 (tie)</b>
<b>Revising partner structure - equity/income</b>	<b>16 (tie)</b>	<b>16 (tie)</b>
<b>Firm governance restructuring</b>	<b>16 (tie)</b>	<b>16 (tie)</b>
<b>Balanced scorecard/performance measurement</b>	<b>16 (tie)</b>	<b>15</b>
<b>A large merger</b>	<b>19</b>	<b>19</b>

By mid-2011, we had been hearing from clients and contacts that in 2011, strategic growth (lateral and lateral group acquisitions and firm combinations – small and large) was consuming a good bit more time and attention.

And, for most of 2011, growth or strategic growth has been the focus of law firm conferences, legal management articles, and discussions.

In our most recent survey, we asked people to respond to a series of statements about growth (results shown in the graph). We thought the responses were more cautious than reality. The number of mergers this year has increased dramatically, there were and are an enormous amount of pre-merger discussions that never result in a merger, and our firm's law firm merger work has picked up exponentially. So, major growth efforts appear to be considerably more front and center for the rest of this year and the next than possibly the first part of this year.



When you take the responses to all of our questions, as well as the comments we hear in the course of our consulting assignments, we can make some straightforward conclusions.

- There is no question that 2011 will be a very good year for law firms – with results in excess of even the optimistic responses shown in the survey. Firms have continued to do well, particularly in comparison to their own very cautious projections.
- In truth, it is very difficult for law firms not to make very good money if their people are busy, their rates are at least competitive, and their clients are paying regularly (even if delayed a bit).
- Those firms not doing well in 2011 usually have a reason. They may have been coming off a particularly good 2010, have a practice mix that still suffers from the 2008-2009 downturn, or have conditions unique to the firm (major client or attorney losses, poor management, etc.). They are the exception rather than the rule.
- In 2008, the legal market shifted dramatically (and almost instantly) from generally a seller's market to a buyer's one – that still exists, as does fee/rate/cost pressure from clients – but most economists would agree that a buyer's market is better for the long term and is one that benefits the clients who pay the bills.

When we view the market trends, these very positive results most firms are posting, and the continuing client pressure, we see four key issues that most firms (with some very positive exceptions) are not addressing well or effectively. These include:

- **Continuing underwhelming performance in effectively implementing practice groups** (or, as we prefer to call them, practice teams) and a broad based lack of understanding of what practice teams must be and do to be successful. This is true even when most firms' managements know that effective practice teams are one of the few strategies left to them to improve long term firm profitability.
- **Many partners in many (most?) firms not behaving as owners** and clearly not understanding what the role of a partner is – that is, not just to bill hours, but perform to a needed broader role of enhancing client relationships, business development, mentoring and leadership, and overall "good citizenship."
- **Inability for firms to get off a short term focus** – law firms appropriately focused on managing the short term in the 2008-2009 downturn and it worked, but now firms are having real problems refocusing on longer term profitability and longer term strategic issues. Many want to keep doing what they have been doing, even if that turnip has already been thoroughly squeezed.
- **Ineffective attention to client succession** – while many firms are appropriately attuned to the need for succession in practice and firm management, most pay insufficient attention to succession in client responsibility and relationships.

## Longer Term Considerations

We were recently asked to make a presentation to a group of large national/international firms on what we thought the longer term legal marketplace trends were. To do that, we looked at a longer range horizon – say, ten years – and came up with the following broad trends.

- **Legal marketplace will remain a buyer's market** – the major sea change the 2008-2009 downturn caused was to shift the controls of the market back to law firms' clients – the buyers. Their overriding attention to the cost of outside legal services put real skids on the relatively easy to achieve 6% to 8% annual rate increases. Those clients will remain at the controls in the long term – and, in truth, that is what it should be.
- **Clients' long term focus on value** – while many see such things as alternative fees and project management as major trends, we see them as only manifestations of a much broader and more significant trend – that of clients' focus on value (*value = results/cost*). That is what clients will continue to focus on for years to come. If a firm only competes on cost, it will provide no value (statistically, a zero result divided by cost equals zero value). The long term strategic imperative for a law firm will have to be on providing real value (and demonstrating it), so it is recognized and rewarded.
- **The "cult of the individual attorney" disappearing** – most law firms' cultures have valued and celebrated the professional independence of individual attorney and law firm management performance has been built around the performance of that individual attorney (i.e. – partners are compensated on individual performance, not their contribution or value to the firm). But, that is slowly but universally eroding – not because law firms are changing, but because American (and international) business is clearly now rooted in the concepts of teamwork and collaboration. The legal market is lagging in this concept, but it has no choice – in the long run – except to emulate and match it.
- **True client responsiveness becoming the underpinning for law firms behavior and management** – while client responsiveness has always been there, now that responsiveness (at clients' insistence) involves not only knowing clients' real needs, but organizing all that is done in a law firm (e.g. – practice teams, marketing, etc.) to directly meet specific and identified client needs. We believe that market need based practice teams will become the primary organizational unit (industries, specific services, etc.) for most firms.
- **Globalization of the legal marketplace** – while not a surprise to anyone, the level of business globalization has advanced much further than most felt possible just a few years ago. If a company's business needs are worldwide, then so are its legal needs. Since no firm can be everywhere internationally (with a very few exceptions), this means that the various international groupings (Lex Mundi, Terra Lex, MSI, TAGLaw, Meritas, etc.) will become considerably more strategic for law firms and their clients.
- **Technology changing the practice of law** – this long-term trend is clearly well underway and it only will accelerate. Its most recent manifestation is in the use of artificial intelligence for major cases and matters to effectively and efficiently process enormous amounts of data/information. This is causing leverage (partners/associates) to dramatically decline in larger firms ("*we no longer need and cannot use all these associates*").

## Smock Law Firm Consultants' Predictions for 2012

While we are not soothsayers, we are strategists and believe part of our responsibility is to prepare our clients for an uncertain future. Thus, we offer the following predictions for 2012.

- **Law firm performance in 2012 will closely resemble 2011 – good, but (for most) not great** – this is a fairly easy prediction to make, as the underlying conditions have not changed. The economy will not come roaring back in 2012 and it will not until (1) there is a political solution to the present Washington stalemate and (2) Europe addresses (and resolves) its issues. Clients will continue to apply cost pressures and the value equation will continue to hold. One difference though – we believe those firms that are focusing on revenue (that is, pursuing revenue growth strategies and removing non-revenue procedures) will clearly outpace those who are still cost focused.
- **That pursuit of revenue will impact mergers and lateral moves** – as mergers will be dramatically up in 2011, that growth will continue in 2012. The 2008-2009 downturn clearly dampened merger activity, the pent up demand is now catching up. Virtually every firm (whether they are interested in a firm combination or not) will increase their lateral acquisition efforts. That will put those firms in the lower two quartiles (in terms of performance) at real and increased risk of losing their best people.

- **Pressure on costs will continue and alternative fee arrangements will grow** – there clearly is an upward trend in the use of alternative fees – but, as shown by our most recent survey, it is not and will not be a tsunami. We believe that for alternative fees to grow dramatically, not only must law firms learn to work with them, but so must their clients.
- **The four major near term issues (practice group effectiveness, marketing effectiveness, underproductive partners, and client succession planning/determination) will see progress but not resolution** – we have seen these four issues present in virtually every consulting assignment we have conducted in the past two years. There is resistance (sometimes firmwide) for dealing with any or all of these – but, we believe progress against them will accelerate, because not dealing effectively with them clearly hurts a firm’s competitiveness and profitability and, thus, puts a firm’s people, clients, and profit at risk.
- And selfishly, **Smock Law Firm Consultants will continue to improve its market position** – we have had an excellent year; we have been contacted not only by our long term clients for assistance, but also by a large number of firms we have not served; and we have directly benefitted from the roiling in the legal management consulting marketplace.

### What Should Firms Do in 2012?

While we will discuss this topic in much more detail in our annual end of the year survey and monograph, we suggest that you consider the following general strategies:

- First, place the primary management focus of the firm on both providing differentiable value and demonstrating it (both are important – and interrelated). Get everyone in the firm (including non-attorneys) thinking and acting on “value” in service to clients.
- Then, determine and execute strategies to deal with the four common issues – practice group effectiveness, marketing effectiveness, underproductive partners, and succession planning. While the solutions will vary by firm, the end result should be the same – improvement in all four areas.
- Make short and longer term growth a priority for the firm – and develop the processes and invest the resources necessary to achieve real substantive growth (which, by the way, is not necessarily in the number of attorneys – it can also be in profitability, reputation, and expertise).
- Check your firm’s and practices strategies and, if necessary, revise them to reflect current and expected marketing conditions. Many firms’ strategies were developed without the benefit of the last three years of experience – it may be time for that strategy or those strategies to be updated.

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Smock Law Firm Consultants serves a wide range of law firm clients on a national basis in six key areas of practice – strategic planning, strategy execution, practice group management, firm mergers and combinations, high level economic counsel, and resolving vexing strategic management issues. Our three partners – John Smock, Peter Giuliani, and Joe Walker are clearly the most experienced “*first string*” serving the legal marketplace.