

“WE’VE GOTTA RUN THIS PLACE LIKE A BUSINESS” – A PRIMER ON WHAT MANY LAW FIRM MANAGERS SAY THEY MUST DO, BUT VERY OFTEN DO NOT

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In our consulting assignments for law firms, regardless of the management issue Smock Law Firm Consultants (SLFC) is asked to address, we continually hear the refrain that *“we have to run this place like a business.”* But, when we ask what that means, the responses are often quite vague and not specific. So, we decided to write a monograph that defines – from our perspective – what *“running a law firm like a business”* really means.

We should note that this has been an interesting monograph to develop. Our usual consulting efforts are focused – as they should be – on the specific needs of each client and the recommendations we develop are rightfully guided by the *“facts on the ground”* for each client. Our clients are paying us to creatively address their own issues, not spout our own opinions on the law firm universe (a critique we have often made of competitors). But in monographs like this, we get the opportunity to spout some of our opinions – although we hope, in a productive way. We believe there is real meat in here for law firm management – you may not implement exactly what we suggest, but we hope what we have to say does influence your decisions as you do *“run this place like a business.”*

After an initial definition of what we mean by running a law firm like a business, we start with partner management and progress to governance, partner compensation, practice team management, marketing, planning, cost management, and culture. Please note that we have not written this for either *“big law”* or *“small law”* – rather, we have written it for law firms of all sizes. Where there are real differences caused by size, most of our focus and our points are not size related.

DEFINITION OF RUNNING A LAW FIRM LIKE A BUSINESS

Law firms (or, more accurately, the lawyers in a law firm) provide legal services (defined and prescribed by the tenets of the legal profession) to clients in response to clients’ stated legal needs and expectations. The purpose of law firm management is to provide the necessary resources to meet those client expectations and attract and retain the resources needed to provide those services and to produce an appropriate surplus or profit, so that the law firm can continue to deliver those services. Peter Drucker (still the consummate management guru years after his death, particularly when compared to the charlatans and mountebanks that followed him) defined profit as *“the cost of successfully doing business in the future.”* That definition particularly fits the nature of law firms, their true purpose, and why running a firm like a profitable business is clearly the right thing to do.

SUMMARY

As a brief summary of our thoughts on this topic, we have stolen Jeff Foxworthy’s *“you’ll know you might be a redneck if...”* construct. Thus, *“you’ll know you might be running your law firm like a successful business if you have:”*

- (1) Broad based, but professionally sensitive, management of the partner ranks to include an effective partner promotion process, an effective lateral recruiting process, clear and measurable individual (and firm) partner expectations, a well defined process for dealing with underperforming partners, and effective communications to/from partners
- (2) A clear governance and decision making structure that provides a voice for all equity partners, firmwide leadership responsibility by a CEO, high performing practice teams with true team leadership, collaboration among teams, and solid non-attorney management
- (3) A partner compensation system that rewards those who bring it in, is perceived as fair by the partners, and aligns with and rewards what the firm is strategically trying to achieve

- (4) A well-functioning practice team structure focused externally on client service and attracting clients, organized by client need (be it industry, service, or legal specialty), and with all teams responsible for achieving agreed upon plans
- (5) A marketing and business development structure focused on the full range of marketing activities, from need identification to a satisfied client; meeting the marketing needs of practice teams, rather than individual partners; and measuring results and activity from all that is done in marketing, in order to determine what is working and what is not
- (6) Management processes built on developing, monitoring and following up on key business plans (firmwide and by practice team) – strategic, financial, marketing, and operational
- (7) A regular planned review of all firm processes (front office and back office) to result in improved processes, better service to clients, reduced costs, and increased profitability
- (8) Finally, a well-defined firm culture that is well understood (by all in the firm), rewarded (for behavior and results consistent with that culture), and sanctioned (for behavior counter to and inconsistent with the culture).

PARTNER MANAGEMENT

The most important asset to any law firm is its partners. They are the most experienced and tested professionals. Their skills are the primary professional product delivered to the clients. And, very importantly, they (in equity status) own the firm. Managing these resources effectively is critical to *“running a firm like a business.”* We recognize that many law firms have a corporate legal form – but, shareholder can be substituted for partner in the discussion. So, how do you run a law firm like a business and still remain sensitive to an equity partner’s position and rights as a professional and as an owner?

- **Partner selection from within** – should be subject to a rigorous selection process that evaluates exhibited performance (or, in some cases, potential) in all of those qualities expected of a partner. While being a good lawyer is important, it is well short of what is required of a partner. Actually, most firms now do reasonably well in selecting partners from inside/within (a critical business decision), particularly when compared to prior years’ decisions, when a good number of people were selected as equity partner merely because they were *“good lawyers.”* Processes are in place, they operate reasonably well, and good decisions are being made. Unfortunately, many law firms are still working through the bad decisions made in past years (as in *“there are a number of people here we should not have made equity partners”*).
- **Lateral partner recruitment** is not nearly as well done (i.e. – not nearly as businesslike) as internal partner selection. Many, if not most, law firms view attraction of laterals as their primary growth strategy, yet the generally agreed upon success rate of 25% is daunting (and considerably more risky than ordinarily believed). Most firms do not do this well – but again, some firms do it better than others. The essential *“run it like a business”* step is to create a **continuing and formal lateral recruitment process** that (1) fixes responsibility for lateral recruiting (overall and by task and by definition, broader than just the Managing Partner); (2) sets criteria for desired laterals; and (3) has standard required and repeatable steps (input, approvals, etc.) and specific information required, such as a formal business plan developed by the potential lateral. For more information on such a process, we direct you to two recent monographs developed by our partner, Gary Fiebert ([The Lateral Partner Conundrum I](#) and [The Lateral Partner Conundrum II](#)).
- **Partner expectations for performance** are very seldom communicated and, if so, they tend to be limited to billable hours and usually just a single billable hour standard for all partners within a firm.
 - If a law firm can learn something from a business, it is the importance of determining and communicating expectations, setting expectations for each individual partner, providing each partner an opportunity to input and react to her/his expectations (which should not be a single billable hour objective), measuring performance against those multiple individualized expectations, and initiating corrective action if required. Businesses look at identifying and achieving the potential for key executives on a long term basis, not just a short-term, one-year, billable hour objective.
 - Not only should the well run firm have a process of development, measuring, and responding to individualized expectations, but it should clearly state (and discuss) the common expectations of all partners in the equity partner group. These common expectations should be clearly disseminated among and understood by all partners – and they should be **a critical part of the firm culture!**

- Perhaps the most important common expectation of an equity partner is that she/he will behave like an owner. Not only should *“behaving like an owner”* be defined (by each firm), but *“not behaving like an owner”* should also be clearly defined and, importantly, sanctioned. As the Vice Chairman of Arthur Young (who John Smock worked for when he was the firm’s Marketing Partner) said – *“every now and then you need a truly deserved public execution to remind the partners what is expected of them.”*
- **Underperforming partners** continue to be a major area of concern for law firm management. We do not mean those partners that are simply having an off year. *“Chronic underperforming”* partners, as opposed to merely *“underproductive”* ones, should display most or all of a variety of negative criteria over a multi-year period – namely, (1) a lack of sufficient economic value added to her/his firm, expressed either in billable hours or, more appropriately, collected revenue; (2) an unacceptably low work ethic; (3) a dislike, aversion, or resistance to meaningful business development efforts; and (4) a lack of participation in and support for essential firm building activities – most notably people development. In a prior monograph ([*“Dealing with Underperforming Partners – at the Top of Every Managing Partner’s ‘To Do’ List”*](#)) John Smock defined *“run-it-like-a-business”* practices for underperforming partners as both short term and longer-term steps – they are summarized below.
 - **Short-term businesslike solutions** – (1) define within a firm, what unacceptable underperformance really means; (2) confront (either at the firm or practice level) those who fit that definition (there has to be a direct intervention – it cannot be avoided); (3) for those whom the firm wants to improve, develop an improvement program/plan with measurable milestones (not just billable hours) and objectives; (4) routinely and periodically measure, evaluate, and communicate results of that program/plan; and (5) directly deal with those who do not achieve their improvement programs (remember the *“public execution”* statement above).
 - **Longer-term businesslike solutions** – (1) streamline the partner expulsion (and/or de-equitization) process; (2) ensure that those who are promoted continue to demonstrate expected and measurable equity partner performance; (3) clearly state and enforce equity partner expectations (to all attorneys); (4) ensure professional development programs at the partner level; and (5) define (and evaluate) the role of each partner within her/his practice team.
- **Communications to/from partners** – is an essential good business management technique, yet most firms (and the individual partners) do a job that can best be rated on a scale from *“passable”* to *“horrible.”*
 - Specifically, Firm management needs to regularly provide information to equity partners on all elements that affect their ownership status and expectations (as above). Moreover, equity partners must provide required and regular communications to firm management in such areas as information needed to make compensation decisions (yes, the *“hero memo”*), plans for retirement and succession, and, if underperforming, what has been accomplished to change that situation.
 - Effective communications requires regular partner meetings. In most firms, however, this process can be described as *“same-old, same-old”* (often a recitation of financial information already received and reviewed and discussion of internal issues – with little focus on and discussion about clients, growth, and external strategy implementation). Good partner meetings require advance notice, a clear objective and written agenda (with starting and ending times), preparation by those leading the meeting, a chance for and an encouragement of feedback, and creativity and variety. Every now and then, those partner meetings also have to have a social component.
 - Interestingly, partners in firms of all sizes report that they are afraid to speak up in partners’ meetings (that is, the adage *“keep your head down”* is a guiding principle for success in many firms). Yet, that clearly is and should be a requirement of ownership. If a partner is concerned that speaking up (by equity partners/owners) is frowned upon internally, she/he may have selected the wrong firm for a career.

GOVERNANCE

What a commercial business calls a *“management structure,”* law firms call *“governance,”* so we will use the law firm term. Partners love to talk about governance, but not nearly as much as they like to talk about partner compensation. In their discussions on governance, there is a common misperception – namely that there is a perfect governance structure, just like there is a perfect compensation structure. In truth, neither exists.

While there is not a perfect governance structure, some are markedly better than others. Below we point out elements of good governance or good management in law firms of different sizes focused on their utility in running the firms’ businesses.

Firms of 25 Attorneys or Fewer	Firms of 25 to 100 Attorneys	Firms Greater Than 100 Attorneys
<ul style="list-style-type: none"> • All equity partners (owners) have a direct say in selecting leaders • Individual partner professional independence/inherent, but not performance/managerial independence (not an “<i>orgy of democracy</i>”) • An appointed/selected, and obvious leader/manager – not a dictator, but also not powerless • Attorneys organized in teams (team leaders appointed by firm leader) – but, not too many teams (e.g. – a 25 attorney firm should have about three to four teams) • Management by an Operating Committee – the leader and the team leaders (do not futz with a separate Board, the partners ought to be the Board) 	<ul style="list-style-type: none"> • A bit more formality and structure • Also, all equity partners have say in selecting firm leaders (but, not team leaders) • An appointed/selected leader/manager (CEO, President, Chairman, or Managing Partner) • A representative group of partners to serve as a Board (representing all partners) – not to manage the firm • Practice teams with leaders appointed by firm leader • An operating Committee of Practice Team leaders and CEO – to run the firm • COO to manage non-attorney functions and to have a respected say in overall firm management – also, part of the Operating Committee 	<ul style="list-style-type: none"> • Not terribly different than a smaller firm – the idea is to push responsibility down to team leaders • All equity partners have say (a vote, if you will) in firm leadership • An appointed/elected leader/ CEO • An elected Board of Partners to set policy, but critically not to manage the firm • Firmwide practice teams led by appointed leaders, but also office leaders – but priority generally more team than office focused • Teams focused on market needs (industry, service, or legal specialty), not just legal specialties • An Operating Committee representing both teams and offices – but, not every team or office – also serves a day-to-day management responsibility in support of the CEO and as the primary marketing/ business development committee of the firm • COO to manage non-attorney functions with a respected say in overall firm management – also, part of the Operating Committee

PARTNER COMPENSATION

Peter Drucker defined the management process as “*the allocation of scarce resources*” – but, he probably never knew how closely that definition fit the modern law firm. Nothing in law firm management takes the time and attention of partner compensation and nothing is as fraught with angst, risk, miscommunication, and emotion. That said, if a law firm is going to “*run like a business*” it has to undertake this process in a truly businesslike manner.

- First, we should state that we do not favor or espouse “*the one best way*” to effectively compensate partners. We have seen both objective (usually a formula) and subjective (usually with a good bit of objective data) systems work very effectively and quite ineffectively in a variety of firms. There are too many factors and variables at work in any firm to declare either type a winner.
- We do believe, however, that an effective partner compensation system (which implies businesslike) requires three things – and all three things – as follows:
 - **Take care of those who bring in the work** – yes, bringing it in is more important than doing the work, while both are important, the acquisition of work has to be rewarded, it is the lifeblood of the firm.
 - **Be as fair as possible** – with fair defined as “*evenhandedness defined and perceived by the partnership.*”
 - **Align partner compensation with the agreed upon strategic direction of the firm.** In other words, reward for achieving what the firm – strategically – is trying to achieve.
- Our experience is that usually the first and second of these exist in most systems – but, almost never the third. Most businesses reward based on what their full business wants to achieve – rather, than just on independent, individual performance. This is an enormous hurdle for law firms to get over (and it is not easy), but they have to.

PRACTICE TEAM MANAGEMENT

The area where “*running it like a business*” can possibly have the greatest impact on achieving financial performance and enhancing market position for a law firm is that of “*practice team management*” (notice the deliberate use of the term “*team*,” rather than “*group*”). We find virtually every law firm – regardless of size – substantially sub-optimizes the potential and performance of its practice teams.

What is clearly needed to run like a business (and we sometimes feel that we are “*jousting at windmills*” in pushing for this) is **active, effective practice team management**. This includes:

- **A clear, well understood firmwide practice team organization and a clear articulation of teams’ responsibilities** – firms must be clear regarding practice team (leaders and members) job requirements, expectations, and policies/procedures.
- **Assigned leadership** – practice teams require a single leader. They do not work without one – while there may be solid reasons (only on a case-by-case basis) for co-chairs or co-leaders, these should be few and far between.
- **“It’s the team, not the leader”** – while an effective leader clearly trumps an ineffective leader, the secret to practice team effectiveness is not the leader, but the members operating as a cohesive team. Firms need to focus attention on the involvement of the full team and expect all team members to fully participate.
- **Broad delegation within the team** – partners (and associates, paralegals, and staff) within the team each need some team related responsibility/task for which they are accountable to the full team. Broad based delegation is essential to practice team success, the leader cannot/should not do it all. Ultimately, everyone has a defined and valuable role to play.
- **Planning and budgeting** – these are the critical management tasks that make practice team management work – budgeting should be pushed down to the practice teams (and supported by the CFO) and teams should be held accountable for achieving a budgeted **contribution to profit** (defined as revenue minus direct expenses).
- **Practice team leaders functioning as a team** – firms need deliberate, planned interaction among the practice team leaders to exchange information, to serve as a firm-wide marketing (and cross-marketing) team – and, in some firms – to serve as the primary decision making body for the firm.
- **Meetings, meetings, meetings** – practice teams have to formally get their members together, interact and exchange information. Those meetings must also be effective (i.e. – have an agenda and objectives, encourage and require participation, be creative, and end on time).
- **Sufficient support and resources** – most firms provide leaders and their teams with insufficient support and resources, yet expect the leader to do everything while also practicing law (full-time). The concept works considerably better when sufficient resources (people and technology) and support (finance, marketing, etc.) are provided consistently to the teams and their leaders.

MARKETING

Overall marketing, together with its younger brother, business development, still remain a source of major concern in most law firms and, in the consulting assignments we conduct, a source of many partner complaints about effectiveness (sometimes spot on and other times quite ill informed).

We find **four major common problems** with most firm’s law firms’ marketing effectiveness (or lack thereof) – (1) the mistaken presumption that promotion (e.g. – advertising and related impersonal “*concierge marketing*” activities) and marketing are the same thing, (2) focusing the bulk of marketing resources on the efforts of individuals (i.e. – responding to the “*squeaky wheel*”) or on firm promotional activities, rather than on teams, and (3) a lack of effective measurement of end results and activity.

While all three of those common problems and the ways to solve them are candidates for a separate monograph/article, we suggest three businesslike steps/strategies.

- First, a law firm needs to base all of its marketing and business development activities on what marketing really is. When John Smock was the Marketing Partner at Arthur Young, he defined it for his partners as “*all of those activities from need identification, service definition, promotion of the benefits, and creating awareness and attracting clients through the actual provision of the service, and very importantly, achieving client satisfaction.*” Promotion is a very small piece of that continuum and, often, one of the least important.

- Cease focusing on individual partner marketing efforts. Rather, focus the resources and efforts on marketing the firm's practice teams, particularly those that the firm determines are of high/higher priority (yes Virginia, there are some teams that deserve more resources than others). This includes assigning specific resources and marketing personnel directly to the practice teams.
- Measure results and activity to ensure a focus on what is working and to fix what is not. David Ogilvy (called both the "*King of Madison Avenue*" and the "*Father of Advertising*") is famous for his quotes, but to paraphrase one of the more famous in the context of law firm marketing, "*if a marketing strategy does not result in more work from present clients and new work from new clients, it is a waste of time, money, and attention.*" You will not know how effective marketing is unless you measure it – both results and activity. Sometimes cause and effect are difficult to see. But, that simply means measure more, rather than less.

PLANNING

Smock Law Firm Consultants' practice and reputation have been built on our base and significant history of effective strategic planning. In fact, in a professional service organization like a law firm, we could make a very good argument that effective planning is the most important business function in running the law firm like a business. While we could provide a long narrative on the examples of poor planning, suffice it to say that it suffers from three drawbacks – (1) planning is not done often or comprehensively enough; (2) when it is, it is not done as well as it needs to be; and (3) there is usually very little follow-up to learn what worked and what did not.

We believe there are four types of planning and all are important:

- **Strategic planning** – law firms, importantly, need to plan their future with that future defined and achieved through the effective strategic planning and implementation of that plan. Doing so well can give law firms a competitive advantage (what all businesses are trying to achieve) and, from another perspective, the lack of an effective strategic plan and/or the lack of solid implementation of that plan puts a law firm at a true competitive disadvantage.
- **Financial planning** – is not just preparing the annual budget (for the firm and its teams), but a multi-year budget (three or five years) and, as part of that, establishment of clear and measurable performance objectives, so that all know what the firm is trying to do and how well it has done.
- **Marketing planning** – it is difficult, if not impossible, to effectively market unless a firm has planned what to do and what it expects to achieve from it – in other words, a real marketing plan with real objectives.
- **Operational planning** – on a broad basis this kind of tactical planning sets forth what the firm intends to do operationally (from an IT upgrade to a new lease to work flow process improvements), why, and what it expects to achieve (again, measurements).

It can be easily inferred that a common factor in all types of good effective planning is measurement – what do you plan to achieve. **Good businesses measure, measure, measure** – then they adjust what are doing to the results of those measurements.

COST MANAGEMENT AND PROCESS IMPROVEMENT

Law firms – generally – do a reasonably good job of managing current costs. But, if they are going to run their law firms like a business, they have to manage and affect future costs. Most business managers believe that, generally, there is always a better way to do virtually anything. They believe in "*process improvement*" and, thanks to Deming and his acolytes, the concept of "*continuous improvement*." These concepts have received little attention in law firms until recently.

- The practice of law has changed much less than the practice of virtually any other profession (accountant, architect, etc.) and in spite of technology, use of paraprofessionals, and other changes, the actual service gets to the client in much the same way as it always has.
- The legal profession has resisted and still does resist change in the actual processes that deliver the service, although automation/technology has made some inroads.
- There is real change on the horizon, pushed by the increasing demands of clients. Law firms will have to change the way they provide the service or evolve into non-competitiveness. In a competitive environment (which includes price pressure), you cannot maintain or increase profitability without lowering costs.
- Simply put, running it like a business implies a focus on improving the processes of providing legal services, simplifying where you can, substituting lower cost resources (e.g. – paralegals or contract attorneys), and streamlining the end product.

- It requires a regular, planned review of all firm processes – the front office (delivery of the service to clients) and the back office (the support functions for that delivery of service).
- It also requires a regimen of activity measurement to ensure that planned results are achieved.
- Finally, it requires a mindset of improvement that a firm can always advance to the next stage of performance.

A broader discussion of this topic is included in our prior monograph ([“Operational Efficiency – the Route to Optimizing Profit Margins”](#)).

CULTURE

Culture is a legal management concept that comes up in virtually every law firm consulting assignment.

- Sometimes – particularly in strategic planning assignments – clients want to ensure that their strategic direction and their culture are in sync (and we agree that doing so is important).
- But more often than not, culture is used as an excuse for not doing what needs to be done, as in *“that will not work here, because of our culture.”* Some firms also have the mistaken impression that *“culture”* is something reserved to law firms and not present in those businesses solely dedicated to profit.
- In fact, the most successful businesses, large and small, clearly adhere to their cultures in what they do, the way(s) they do it, and how they treat their customers and stakeholders.
- If law firms are to use culture as a key element of running their firms like a business, they must (1) define that culture, (2) explain – firmwide – what that culture calls for and does not, and (3), very importantly, reward when the culture is followed and penalize (up to asking people to leave) when it is not.

In writing this monograph, we have elaborated on eight elements that we believe are essential to *“running a law firm like a business.”* If there is one over-arching theme that pervades all eight elements, it is the theme of *“plan, execute, measure, assess, and re-plan.”* All steps in this theme are equally important. Unfortunately, many firms stop at planning. Execution, therefore, is critically important, and is often the most challenging step and it often requires courage. Knowing what to do to run a business-like law firm is easy. Having the guts to do it is hard.

It is worth trying. Good luck!

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Smock Law Firm Consultants serves a wide range of law firm clients on a national basis (and, in some cases, internationally) in seven key areas of practice – strategic planning, strategy execution, practice group management, firm mergers and combinations, high level economic counsel, operational excellence, and resolving vexing strategic management issues. Our four partners – John Smock, Peter Giuliani, Gary Fiebert, and Joe Walker are clearly the most experienced *“first string”* serving the legal marketplace – each of us has greater than forty years of relevant professional service experience.

We invite you to contact us with questions or comments on this or other monographs or visit our website (www.smocklawfirmconsultants.com), more information on our services, our four senior consultants, and a library of the monographs we have written on other topics.