



# Marketing

## THE LAW FIRM

Volume 16, Number 3

July 2002

### PRACTICE TIPS

## Why Clients Choose Firms—and Why Lawyers Lose Clients

By Peter A. Johnson

Over the last year, I organized panels consisting of CEOs and general counsel to respond to questions from attorneys and marketing directors about what attorneys need to do to ensure client retention. The panel described behaviors and attitudes important to them in choosing a firm as well as behaviors and attitudes that should be avoided. Specific comments are addressed below, but the common theme was that business was won and lost based on *relationships*. All other things being equal, the firms and attorneys skilled at relationship-building are valued and rewarded. Those who simply assume the existence of a relationship are often ignored when it comes to new business. The following is a synopsis of panelists' comments:

### Listen to What the Client Is Saying

Attorneys need to develop active listening skills. Sometimes attorneys ignore or don't listen to what the client is saying or requesting. Resist the temptation to interrupt or assume you know the answer. One panelist told of a situation where an attorney did not listen, made assumptions and provided bad advice based on those assumptions. The firm was replaced.

### Respond to What the Client Is Requesting

One of the most pervasive criticisms of attorneys is that they are unresponsive or inattentive. Clients deserve and expect good service.

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### STRATEGY

## Marketing Awareness Can Be the Key To a Successful Law Firm Merger: 5 Steps

By Cecilia M. Alers

This year is poised to be a record year for law firm consolidations. At the core of most law firm mergers is a desire for the merging firms to remain competitive in an ever-changing business environment and to gain a competitive advantage over other firms in a certain marketplace. Not all law firm mergers are successful, however, with many breaking down into factions of "us" and "them," resulting in newfound internal competition that impedes the achievement of marketing goals. What, then, are the key factors to a successful law firm merger from a marketing viewpoint, and what should firms contemplating a merger look for during the courting stage? Here are five important steps to take for a successful law firm merger from a marketing perspective.

### 1 Look for a merger candidate that will expand the surviving firm's capabilities and not just increase its size.

A successful law firm merger will be one that allows the newly combined firm to gain a competitive advantage in serving particular market segments. Merging law firms should look to create a new firm that allows them to keep more work in-house through increased cross-selling. The result is a merger that is larger than the sum of its parts.

Thus, one of the first steps firms should take when considering a merger should be an in-depth review and audit of each firm's client base. This usually can be done before the firms approach each other based on information in the public domain. Do a SWOT analysis (strengths, weaknesses, opportunities and threats) of both firms individually and, even more important, do one of the hypothetical new firm to see if the merger makes sense. Look for synergies and look for conflicts. For example, in an effort to gain a competitive advantage in the food and beverage industry, a law firm seeking growth and a competitive advantage in this market segment may seek out other firms representing the food and beverage industry. However, if one firm represents Coca-

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### Marketing Bibliography: A Roundup of Related Articles

## CMO Roundtable

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can't take you seriously if you have no business maturity."

ROI, said Mr. O'Horo has "for years been the elusive target of marketers in industries far more sophisticated than the legal profession. It is next to impossible to measure with any reliability, the dubious result being that people tend to fit the facts to match their expectations. So, the most powerful thing that's available to you is the buyer's expectations. In your case, the buyers are the partners and the executive committees. And when you're asking them about a business problem and the economic impact of it not being solved, also ask them to assign an economic impact if the problem *were* solved. Now you're getting into their aspirations and expectations and, while not an absolute measuring stick, it gives them some basis for evaluating what you do.

"And it's to your advantage to do so right on the front end: When they first talk about making an investment in solving a problem, get them to assign a perceived value, and then they will fit the facts to match the model they've created, because they're the author and it's therefore reliable."

Ms. Boza applauded Mr. O'Horo's "very valuable advice," adding, "I counsel my staff to always ask the question, 'What does success look like?' That's their way of getting at what the expectations are about."

Mr. Isner's best advice to a CMO: Don't be afraid to be creative.

"Be able to really paint a compelling picture and to back it up," he said. "And on the subject of reading, go outside of the legal marketing field as much as possible and know what's happening in the corporate world, in the consumer world, the product world, and see how you can bring that back into this industry. That's where some of the unique things that are changing the legal marketing today are coming from. We're introducing other ways of advertising and marketing and promotion and sales into this new and growing opportunity."

## How Clients Choose

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Panelists agreed that responding to phone calls promptly was one of the most valued behaviors of their favored firms. Firms that miss deadlines or fail to deliver what is promised, risk losing the client.

### Make Frequent and Relevant Contacts

Contact your clients regularly, even when not working on a case or when there is nothing pressing in the representation. When making the contact, however, make sure that the contact is relevant to the client or the representation. Clients value receiving information relevant to their business or personal interest more than they do a general mailing or newsletter. Don't underestimate the value of a client visit, but *off* the clock. Panelists confirmed that the law firms that periodically visited their business generated significant work because they demonstrated interest, and invariably left each visit with additional work.

### How You Bill Is as Important As What You Bill

A panelist replaced a law firm because that firm refused to bill the company on a monthly basis. After several attempts to persuade the firm to respond to his requests, the client found another firm equally talented but more attentive. Clients do not like surprises, and when another panelist continually received bills consistently over budget with no advance explanation, that law firm, too, was fired. That firm was reluctant to reduce the bills, which were paid, but the firm lost more than \$250,000 of work the next year.

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## Support Staff Influences The Client Relationship

In an earlier panel discussion, a panelist told of a firm's messenger who was unprofessional to the client's receptionist. He was curt, would "throw" papers on the desk and was generally impolite. The law firm must have thought that the messenger was more valuable than the client, because the firm did not respond to the complaints, and the client got rid of the firm. Recognize that clients speak more often to support staff than to attorneys, and a responsive, informed assistant can enhance the relationship.

### Use E-Mail Appropriately

Panelists voiced a concern about the overuse of e-mail. E-mail has become an excuse for poor writing or communication skills. Everything you do leaves an impression, and e-mail is no exception. Don't hit the send button until you have checked the content, spelling and relevance of the communication. Spell check only goes so far.

### Let Research Open the Door

When asked how to get their firm's "foot in the door," a panelist told the story of how one of his current firms was retained. The attorney researched the company by going to its web site, and, thereafter, wrote a number of letters demonstrating a knowledge of the company and its industry, and offered some observations related to the company's business. The firm followed up with phone calls and, ultimately, met general counsel, who retained the firm. There are many web sites that will assist you in discovering what keeps potential clients awake at night.

### Make the Client Feel Important

Avoid arrogance and egos when dealing with clients. Clients are not impressed with attorneys who try to demonstrate how smart they are. A general counsel recounted the time in his career when he was one of many assistants dealing with a law firm that presumably assumed he would always be an assistant. The firm did not show the proper

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## PRACTICE STRATEGY

## Do General Counsel Drink Bottled Water?

By **Richard S. Levick**

To understand what marketing is about, start with something as basic as water.

Several popular bottled waters, including some of the best sellers, are not drawn from the natural springs of sylvan landscapes, but are just filtered municipal tap water gathered from such bucolic sites as Baltimore and Allentown, Pa. Children in affluent areas now drink so much of this stuff that the absence of fluoride in their bloodstreams may well engender a new cavity-prone population. Yet we think nothing of spending from \$1 to \$10 a bottle—yes, \$10 in some restaurants—for bottled water.

Who says marketing doesn't work?

It's not that bottled water doesn't have value. Some of the water we buy is clearly better than what comes out of the local tap. But the real impact on buying habits has little to do with those marginal quality differentiations. The impact is all about perception, and perception that is then transformed into instinct. And perception transformed into

instinct is marketing at its most effective.

Do you think that general counsel and other buyers of legal services drink bottled water?

Too many lawyers think that marketing is all about being "smarter lawyers" than their competition, just like Poland Spring is superior pedigreed water. More than one lawyer has snickered about competitors across the street who aren't good enough to "hold my briefcase." Perhaps they're not—but it's not a briefcase your competitors are holding so successfully; it's your clients' hand!

### Fear and Opportunity

Two factors drive buyers of legal services to make decisions—fear and opportunity. Fear is the far greater motivator. Knowing they will not be second-guessed for a hiring decision in a bet-the-company litigation is an incredibly strong motivator for clients. Is your law firm positioned in your markets as an "IBM-safe choice?" Is it on one of the short lists of law firms to count on for some important type of matter? Or

is it just another firm that does "everything well"?

What you think doesn't matter. What is the perception of the market?

In blind tests, do target audiences continuously mention your firm's name among those they would count on for a critical matter? Do they associate your name with something you "own"—as Jones Day owns litigation; as McDermott Will owns health care; as Finnegan Henderson owns intellectual property?

General counsel and senior executives assume the lawyers they talk to are smart. Telling them you are smarter than somebody else has no value. You have to articulate the difference between you and them in ways that matter to the buyer. Is Skadden Arps really the better billion dollar M&A firm? Is Littler Mendelson really the "go-to" national labor and employment firm?

I don't really know, but the market thinks they are. Selling is overcoming objections, and anticipating the reasons why a buyer might say no. If a law firm prequalifies itself, so that a dozen problems don't obtrude on the seller-buyer dialogue, then the selling cycle just got much shorter and easier.

Why tell buyers what they already know? Why not build an identity (or interrelated practice area identities) that presumes excellence in specific vertical markets (e.g., generic drug IP) and communicate this focused excellence repeatedly to target audiences in multiple ways, through advertising, public relations, one-on-one meetings, seminars, sponsorships, etc.? It will get you found, land you on short lists ahead of the competition, and begin the process of branding a firm or practice area and its expertise in ways that matter to your buyers.

## How Clients Choose Firms

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respect or deference, and when the assistant was promoted to general counsel, the firm was replaced.

### Assume Ownership of Mistakes

Clients' understanding that attorneys will inevitably make mistakes, generally will be forgiving. Clients will not understand or accept, however, when attorneys don't inform them; trying to hide the mistakes is a sure way of not being rehired. Take responsibility for the mistake and don't blame others. If the mistake is significant, visit the client in person.

### Conclusion

The legal environment is client-driven, and the presumption of client loyalty is misplaced. Notwithstanding new marketing initiatives, web sites, etc., strength of the personal relationship with a client is still the best indication of success. To maintain clients and be successful with new opportunities, attorneys and firms have to work harder and smarter in developing and nurturing the relationship, and those firms that concentrate on new targets to the exclusion of existing clients, risk the loss of those clients. In this environment, legal competence is expected, and clients are more demanding of value, and less reluctant to change firms if they don't perceive the "value added" to the representation. To succeed and prosper, firms must demonstrate not only traditional legal skills, but also superior relational skills.

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