

Perspectives On Law Firm Strategy

by Patrick J. McKenna

In 2004 I was asked if I would author a brief, highly pragmatic and regular column for the ABA's Law Practice Magazine addressing important strategic issues that law firms, of all sizes, face on a continuing basis. To my chagrin, attempting to be relevant and prescriptive in a very brief number of words can be far more challenging than I ever imagined. What follows here are a number of my perspectives.

Fight Established Routines

Your routines represent all of those memoranda, reports, e-mails and trivial matters that conspire to sap your strength and smother your ability to focus attention on activities that really are the highest value-added use of your time. Routines will get you into ruts, dull your senses, stifle your creativity, constrict your thinking, remove you from real-world stimulation and destroy your firm's competitive vitality.

Constant questions. Many of the things that made you successful in the past may now prove to be nothing more than time-worn assumptions about what clients really value, or what services remain worthwhile offerings, or what constitutes profitability, or what ensures quality performance. You need to regularly examine your firm's various assumptions to see if they are still viable.

Constantly question "the way things are done," and never, never allow your partners to rest on their laurels. (Is it really reasonable to count on having a given client's work for a long time to come?) Some partners can be like those old spring-powered watches—they have to be shaken hard to get them going.

Especially beware one of the fallacies in the mindless espousing of "best practices"—you can't just be as good as the competition...that never leads to market leadership.

Next steps. Put these questions on the agenda of your next meeting: What are we best at? What makes us unique? How are we going to serve our clients in a way that nobody else can? And what are we going to do that will truly lead the market in this new year?

Articulate "Stretch" Targets

Incremental goals fail to bring out the best in law firms or partners. "Make no small goals," the old saw goes, "for they lack the power to stir our souls."

Subscribe to radical goals. Imagine what might occur if you declare to your partners that you want to achieve a 35% growth in revenues-per-partner over the next two years. Then asked them to come forward with ideas as to how you could make that happen.

In one firm, the managing partner decided she wanted to survey every member of the executive committee prior to an important meeting. Using a questionnaire, she asked each of them their views of what might constitute a reasonable expectation for the firm's future growth prospects. In the questionnaire she distributed, she told partners, "our profits-per-

partner have increased during the past five years at an average rate of around 4.2% per year. What do you believe is an acceptable annual rate of growth in profitability over the next five years?"

What she did not disclose was that 6.2% was not the real number, and in fact, the 6.2% quoted was somewhat less than the actual results achieved. Quite predictably, based on the information this managing partner provided, nearly all of her partners responded that they would be quite happy to realize a level of 6 to 7% growth over the next five years.

Be Warned. The evidence is irrefutable. No organization ever outperforms its aspirations. Our beliefs set the upper limit on what is possible.

What Is Your Competitive Advantage?

Prospects need to know what makes you and your firm special. Every law firm professes to have years of experience, be responsive and provide exceptional service – so once we've exhausted the clichés, what's left?

Your advantage should be quantifiable. Talk about the total number of clients served, total value of transactions, dollars saved, success rates, clients satisfied and provide impressive metrics to back up any assertion. Example: Our lawyers have handled more than 'X' commercial real estate transactions, at a total value of over '\$Y' during the past Z years.

Tout your star qualities. Provide a list of client testimonials. Prospects feel more secure with a firm widely acknowledged by their peers.

Identify an attribute that isn't claimed by a competitor. Let's say you serve a large number of women entrepreneurs. Even if your competitor does the same, claim it first and claim it loudly. Firms hate looking like copycats so you are likely to preempt their ever taking action.

Develop a proprietary solution. Make a list of your added-value methodologies, approaches, actions and / or those technology answers that serve to make your client's job (or lives) easier (or more profitable).

Your goal is to come up with a hard list of advantages to answer the prospect that asks, "Why should I choose your firm, what makes you distinctive and what specifically do you offer *that I cannot get anywhere else?*" And don't kid yourself, if they're not asking you this question, they're definitely thinking it!

Internal Effectiveness Is Not Strategy

There is a fundamental distinction between developing strategy and focusing on internal effectiveness. In a recent survey we discovered that among those law firms that have a formal strategic plan, 79% of those plans are predominantly internal focused.

Typically, "the strategy" seems to be either fixing problems or emulating best practices. We are trained to resolve the issue, put out the fire, correct the underperformance and generally fix the problem – all time spent in looking backwards rather than focusing on the future, exploiting opportunities and building on strengths. Meanwhile the more

benchmarking that you do and the more you seek to copy some other firm, the more indistinguishable you are from your competitors. Admirable, but not a winning strategy.

Shatter the mold. Your firm can outperform rivals only if you can establish a difference that clients actually value. Strategy is about making choices: Sorry, but you can't be all things to all people. It is about deliberately choosing to be different. So if you have a really great strategy, people are fired up: "We're not just another law firm. We're claiming a territory in which we can be unique and contribute something important to the profession."

If all you are trying to do is essentially the same thing as competitive firms, then it is unlikely that you will be very successful. Malcolm McLaren, manager of the notorious rock group the Sex Pistols, once said, "There are two ways to lead your life: karaoke (copying) or authenticity." Copy or break the mold. That's the choice we face every day.

Ask For The Business

The number one fear that all of us share, is having to ask for the business. "I don't want to appear too pushy," confessed one lawyer. Here are some phrases that might help you comfortably close your next deal:

- We would be honored to work with you on this matter. What will it take to get started?
- You mentioned that you needed to move on this and that time was of some importance; does that mean you would like us to begin today?
- Now that we both have a better feel for what I can do for you and how we might approach this situation, shall we get started?
- It looks like we have created the right solution for what you need, and we can do this within a reasonable budget. Are you ready to move forward?
- If you do not have any further questions, there's just one left for me to ask of you: When should we start?
- You said that you would like to have these agreements in place by the end of this month. Working backwards, that gives us only two weeks to get all the parties to meet, so I'd recommend starting on Tuesday. Does that work with your schedule, or would you rather begin on Monday?

Remember, asking for the business is the natural conclusion of having a solution to your prospect's problem. All you have to do is say so, and ask when you can get started.

When You Absolutely Must Provide a Discount

Your last resort should be to discount fees. In such situations, you must extract a reasonable quid pro quo in exchange for the discounted fee. This is because we all know, giving away a service will only cause your client to attach no worth to it, and also create a precedent for repeating the practice. Here is a short list of quid pro quos that you might want to consider:

- I am constantly surprised at the willingness of sophisticated attorneys to offer discounts unconditionally. If you are going to offer a discount, that by definition affects your firm's profitability, it should only be in exchange for a commitment from your client that the deal is yours as a result of the concession.
- Your request might be that the client pay your accounts on a monthly basis and render payment electronically within two business days of receiving the account. The effect of this quid pro quo is to enhance your cash flow and profitability.
- It may be somewhat easier to provide a fee concession if you can reduce some of the time you or your people might have to spend on the more mundane aspects of the transaction. If your client then would be willing to provide some human resources to supplement the effort, the effect would be to reduce your costs.
- There could be enormous compensatory value to your firm in having a client agree to serve as a spokesman for your firm or as a reference with interested prospects.

Quantify and Communicate Real Value

Clients need and want you to identify what adds value (to them), deliver that value, and demonstrate that you have done so. Your mission is to communicate to your client what has been accomplished or achieved as a direct result of their retaining you, and how the outcome more than offsets the cost of the services.

Wherever possible, *quantify your outcome* in a meaningful framework such as potential revenue generated; better terms obtained; value of brand image or intellectual property protected; investigations, fines or litigation avoided; quicker speed in closing transactions; time or money saved; importance toward helping company achieve its corporate goals; etc.

Here are a couple of examples:

- Filing for both permits now, before deciding on the project specifications enables you to be operational months sooner. An early opening could generate about \$500,000 in additional revenue and certainly justify the cost of the two applications.
- This settlement will save you up to \$1 million in protracted litigation expenses and preserve your company's character by keeping you out of the press.
- We have reorganized the transaction to ensure that the royalty rights remain in your hands. This change should yield up to \$ 75,000 in licensing fees, annually.
- Selling these assets will reduce your onerous debt. While seemingly drastic, the improvement in cash flow should protect you from having to declare bankruptcy.

At the end of every matter and to truly satisfy clients, your job involves identifying a specific value outcome for each legal service you deliver.

It's Not About You

Recently, a law firm sought help as they practiced for a presentation in response to an RFP invitation. They were interviewing with a business client and were nervous, as they had been less than successful in a number of their recent pitches. They attributed their poor showing to a shift in the marketplace, increased competition, and prospects who were becoming increasingly sophisticated.

First they talked about their firm's long history in the profession, and some of the impressive clients they had worked with. Then they presented their unique process and their wonderful team. Finally, they closed with a number of testimonial comments from other satisfied clients. It was clearly a presentation designed to impress the prospective client (or maybe themselves) about them. It was clear why they were striking out – and why they were destined to fail again!

The problem. All too frequently, firms pitch prospects focused only on how they think they differ from their competitors, what unique process they have that the other guy doesn't, and how successful they've been in the past. Nothing at all in this presentation talked to the specific situation, the needs of this particular client, an understanding of this client's industry or what specific rewards the prospect could enjoy as a result of doing business with this law firm.

Too many pitches are like that old actor's joke. "Well, I guess I've talked enough about me. Now it's your turn. So, what do you think of me?"

The solution. Clients want to hear that you're thinking about them.

What Is Your Succession Strategy?

Do you know that today, every seven seconds, someone is turning sixty? Indeed, it is expected that 40% of lawyers will be retiring soon, leaving not a hole in many law firms, but a sizable cavity!

It is very likely that someone important to your firm's future is getting closer to retirement. When that professional leaves, so too will valuable knowledge and key access to many of your firm's most valuable clients. Do you know that there is a competitive firm out there right now that is targeting the clients of your soon-to- retire partners? They are gambling that you will not get your succession matters in order and that client will soon be up for grabs.

There is also a concurrent gap in leadership being created as baby boomers retire . . . but we ignore all these warning signs until it is too late. Is your firm ready? Ask yourselves these questions:

- * How many of our partners will be retiring over the next 10 years?
- * What is the impact to our firm if we lose the knowledge those individuals possess?
- * What is the impact to our firm if we lose the client contacts those individuals enjoy?
- * What specific action plan do we have in place to ensure the next generation of leaders are in the pipeline?

Your current state of busyness can distract you to the point that, the next time you look up, it may be far too late to act. Develop your succession plan now!

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