



Sales

In The Law Firm™

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A Marketing Program Without A Sales Component? Sheer Folly

By Michael O'Horo and Craig Levinson

Law firm marketing expenditures have grown from discretionary amounts that attracted little attention to seven- and eight-figure budgets. Partnerships now think more like investors; they expect an appropriate return from marketing investments in the form of better clients with higher margins. Why do so many firms struggle to achieve that return, despite dedicating more money, time and professional attention each year? Craig Levinson, Director of Business Development & Marketing at Brown Raysman Millstein Felder & Steiner, and Mike O'Horo, sales coach to law firm partners, discuss how Brown Raysman recently faced these challenges and began shaping a group of partners into an effective sales force.

O'Horo: Firms have spent serious amounts on marketing for years, and many partners are now asking, "Where's the business?" While their expectations are legitimate, not understanding the difference between marketing and selling creates a very real barrier to fulfilling them.

For most firms, "marketing" and "selling" are interchangeable terms, with "marketing" often a culturally acceptable euphemism for "selling." However, the

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A Dash Of Hope (And A Heaping Helping Of Reality)

By Darryl Cross

It is no secret that strategic business development and tactical sales efforts have become one of the hottest trends in the legal industry. Much like their brethren in other professional service organizations such as accounting and financial service firms, law firms are beginning to design and implement sales oriented initiatives in order to continue to grow in an ever more competitive marketplace. So far — despite the predictions of many in the industry — the sky has not come crashing down.

Perhaps one of the reasons why this shift has been not as tumultuous as insiders may have thought is because, in the minds of their clients, it really wasn't such a dramatic change at all. Granted, creating a sales culture at a law firm may be a foreign concept when viewed from inside the Executive Committee's boardroom. However, it is a business discipline that has been in place at all of their client's companies for decades. It has become expected from their other professional service providers as well. Is the legal industry really so different that it does not need to proactively react to increased competition, globalization and sophistication of the work they must perform for their top clients? It is probably more of a leap of faith to believe that it is.

The key to building a successful sales program at a law firm lies completely in adopting the proper point of view. A proactive sales philosophy at a law firm should be seen as being in the best interest of its clients. By properly matching the expertise and experience of the firm's attorneys with the needs of the marketplace, clients are better served. Simply reacting to the legal needs of a client does not have the same effect as seeking out ways to make a client more profitable through a methodical approach to business development.

For example, a law firm that offers world-class real estate legal services to a manufacturing company does little good in the long run if they cannot also address the workforce management issues that constantly hamper its profitability. In short, a firm without a sales culture waits for their client to ask them to help. A sales-oriented firm has teams in place that know the client and its industry well enough to offer help before they even know they need it.

To create such an orientation, a firm cannot design a sales program in the firm's own image. Those that do have programs that are based on what kind of work the firm would like to do, or try to sell, rather than constructed on market assessment and unsatisfied need. To fully realize the financial benefits of a sales program at a law firm, firms must mix a dash of hope with a heaping helping of reality. They need to analyze the attorney expertise they have on hand, audit the type of work they actually do and then find the areas of opportunity that offer the greatest probability, but not certainty, of winning new business.

THE INTELLECTUAL INVENTORY

Uncovering and documenting your attorneys' unique skill sets is more difficult than it might seem. The key word is unique. Someone that has twenty years of experience in

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real estate law makes them one of a few hundred “perfect choices” in a large city. Experience is essential for performing the work, but it must be focused enough in order to capture new work. Many firms get caught in an endless loop on this step because they cannot distinguish the important difference between what work they *can* do versus what work they choose to do.

First, in order document the inventory of your individual attorneys’ expertise. It should be easy to capture general practice knowledge quickly. However, it is important not to dilute each attorney’s experience by including every piece of work they have done as an expertise to be leveraged. The four hours they billed to IBM 8 years ago does not make them an expert on technology and intellectual property law.

Second, pick the top two areas of law for each attorney and find out more about the most common non-legal business issues that they seem to regularly deal with. For example, a corporate attorney might have years of experience in mergers and acquisitions. Are there particular industries that seem to keep coming up? Some industries have a great need for attorneys that can combine skills such as redevelopment for highly regulated companies in an expansion mode. Or, do they seem to do a great amount of work for companies that are located in a specific area of the country or use a certain financing structure? By documenting the “flavor” of their functional practice, you can create an intellectual inventory that is hard to mimic and easy to deploy.

THE HISTORICAL REALITY

There are probably many attorneys at your firm that are just as good as the ones that handle Microsoft’s most complex litigation matters. Perhaps your firm wants to grow by riding the

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biotechnology wave even though you are located hundreds of miles from the industry epicenter. Maybe, 20 years ago, your firm used to do a wealth of public securities work. However, all of this does not change the fact that your firm does not perform this type of work now. Unless you are prepared to increase your marketing budget by a factor of ten, it is going to be hard to gain market share in areas where you will have to dislodge entrenched, highly-competent competitors.

Having a meeting and deciding to establish a sales culture does not mean that clients will view you in a different way or give you a small matter “just to get your foot in the door.” They get no benefit from giving your firm a chance to prove themselves, so stick with the kind of work that you already do. Surprisingly, most firms as a whole do not have a realistic idea of what that is. A smarter strategy is to look at the recent historical reality of the type of work your firm actually does on a daily basis.

Conduct a detailed financial audit of your client base. You should analyze a 5-year snapshot of your top clients and identify how you originally won the business, what specific work you do for them, what industry they are in and other key data points. Ideally, you are trying to discover common threads that may shed some light on why certain clients choose your firm over a number of other choices they might have. Of course, relationships always drive the final decision of which attorney is chosen. But, much like a demographic segment model used by the media (*eg*, 35-54 year old males), you will spot trends.

This is an extremely useful exercise to flesh out the reality of your firm’s work. You should be able to identify a few areas where business tends to originate from whether it is from a referral source, industry, marketing initiative or a unique strategic advantage your firm has. You also should be looking for past work where you have served companies in a variety of practice areas.

One thing to be careful of is fixating on false areas of strength. For example, just because you successfully completed a real estate deal for an airline a couple of years ago does not mean that you are one call away

from becoming Southwest Airlines chief corporate counsel. Also, if your top clients came from incident related matters such as a major lawsuit or a merger, you should be wary in expecting that it will be easy to duplicate it. Similarly, watch out for clients that may appear in the 5-year snapshot, but winning it really was a matter of being in the right place at the right time.

THE GREAT HOPE

A sophisticated, business-savvy attorney has to know what most affects profitability for their clients. They should be able to name the top three business issues affecting profits for them and their industry. If they can’t, they are not in a position to serve.

A useful tool in identifying market need is to create an opportunity analysis matrix. Such a matrix includes a scoring system that analyzes the specific business issues associated with clients and industries, competitive forces and how they relate to the strength of your firm’s expertise. This helps to determine possible barriers to entry, recruiting needs, and even the investment required to gain market share. This final step is externally focused. It is based on determining what business problems related to profit, process or people that you your potential clients may have.

For example, the nursing home industry typically has high probabilities of litigation and complex employment issues, but relatively low IP dependence. In your region, there are a number of existing competitors, but few that have attorneys that specialize in union issues related to registered nurses. This may be an opportunity for your firm to capitalize on its existing expertise by fulfilling an unmet market need.

By carefully analyzing potential opportunities and how they match up with your firm’s strengths, you greatly increase the probability of winning new business. However, business development always involves making choices and accepting frequent rejection. Can your firm get work from a company halfway across the country in an industry they have never worked with before? It can, but with attorneys

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distinction is more than semantic.

Marketing's purpose is to generate qualified leads. That means:

1. Defining the makeup or emphasis of the firm's service mix, and targeting the optimal demand;

2. Formulating communication that demonstrates how the firm's value proposition aligns with the buyers' self-interest; and

3. Communicating that value proposition with sufficient frequency and reach to create receptivity for a sales interaction.

Selling's purpose is to help potential buyers make a decision by facilitating a process that results in all the decision stakeholders:

1. Describing the underlying business problem or opportunity;

2. Recognizing its impact on institutional and individual self-interest;

3. Evaluating solution options relative to those interests; and

4. Aligning behind a workable solution.

The "selling" part is the rub. Firms are only beginning to acknowledge that selling is a separate function, with unique protocols and skills.

Levinson: When I joined my firm, we suffered from the same problem that plagues most AmLaw 200 firms. The firm had spent 10-15 years ramping up its promotional machine — making a name in industries, sectors and legal disciplines, while the partners built impressive Rolodexes in each of these areas. Despite increased recognition and steady growth, the firm felt it was leaving significant business on the table.

Management saw increased revenues and client share as necessary to combat the market forces affecting all firms — client consolidation, and more robust and sophisticated legal departments that use fewer outside firms. It was equally clear that additional business would translate into growth flexibility (eg, increasing our Marketing and product development investments), greater partner compensation and a more attractive destination for laterals and law students.

In this industry, where marketing is still nascent, the answer to, "How do we bring in more business?" tends to be, "Get out there and market more!" Considering partners' billing pressures (including rainmakers) and their administrative responsibilities, it is impractical for them to add 100 business development hours to their schedules.

O'Horo: Lawyer time is always scarce. Your phraseology reminds us that firms still perceive business development as an add-on. The unspoken assumption is that the basic service-delivery-focused law firm business model can remain unchanged, with business acquisition bolted on as an afterthought.

Lawyers don't need to *market* more, which means generating more leads. They need to *sell* more of the leads they now generate through seminars, speeches, etc., and follow up on leads more reliably and consistently.

Levinson: That's what I looked at first. When we evaluated our attorneys' sales methodology, predictably many were using the age-old "pitch" model. A "gang-of-four" would meet a prospect armed with two-inch-thick firm brochures and rave about our expertise, our attentiveness and our

understanding of the client's business. They would exit saying: "That was a good meeting." Four weeks later, however, the phone had not rung.

The firm concluded that there had to be a better mousetrap; that we had to change the way we do business to adapt to the changing legal market. Twenty years ago, law firms enjoyed a *demand economy* with a glut of work for aggressive firms with smart lawyers. The competition was not as fierce, and "pitching" to clients worked.

O'Horo: Absolutely. Your observations match what I've seen in firms of every description. As clients have consolidated and competition has stiffened, law firms are now in a *supply economy* — where the supply of very good lawyers exceeds the demand, and numerous top firms fight for the same business. In such conditions, firms can no longer sell themselves solely as skilled practitioners. Pitching doesn't work when everyone on the short list has comparable credentials. This really frustrates attorneys. Tactics that once worked well now regularly fail. This is not because they've suddenly become inept. The game changed, and these methods cannot work any longer. It's not a question of effort; trying harder doesn't change anything. You can't do the wrong thing well enough or intensely enough to make it work.

Levinson: These factors crystallized the view that we needed to institute a sales training program that would accomplish the following:

1. Show the lawyers that pitching is not only ineffective, but is often counterproductive.

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that have only a few hours per week to devote to business development, you need to be careful that you do not confuse hope with wishful thinking.

CONCLUSION

The greatest danger to creating a sales oriented culture is rooted in choosing where to focus your firm's finite resources of time, money and attention. Your internal resources

cannot support unlimited efforts, and you cannot change the makeup of your firm by deciding to have a meeting and make a pretty brochure. In addition, simply letting clients know the hundreds of services you have to offer them is self-serving at best.

Clients do not want a list of what is in your cupboard. They want you to bake them a cake. The creation of an effective sales oriented culture must be centered around an objective analysis of what skill sets you already

have in-house, what work you have recently performed and what problem the market needs solved. Using this point of view, clients are better served, and that is the quickest path to continuous firm prosperity.



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2. Recognize additional corporate stakeholders (business units, etc) in the buying process — beyond the legal department.

3. Reveal how the sales process works in our clients' and prospects' industries.

4. Give attorneys an intuitive methodology for conducting a sales meeting, that doesn't require them to embrace sales behaviors they find inappropriate or distasteful.

O'Horo: Many firms have reached a similar intellectual position. How did you get Brown Raysman to stop talking and take meaningful action?

Levinson: Fortunately, the attorneys had reached a frustration level with the old methods that made them receptive to something new. Otherwise, it wouldn't matter how sound the new method was or how accomplished the solution providers were. People — particularly successful people — resist change; they don't embrace it simply because it's available and makes intellectual sense, but rather when they have to, *ie*, when the cost of not doing so is unacceptable.

O'Horo: You're describing how people make any decision that

requires them to take action that includes investment or behavior change. It's beyond "What's in it for me?" It's more, "What consequences will I suffer if I don't act?"

After conducting the training, how are you getting the lawyers to get out in the market and use it to convert those expensive leads into sales?

Levinson: First, the method we embraced was easy for the lawyers to accept. It has them apply their proven "lawyering" skills exactly as they've used them throughout their careers, *ie*, helping clients make smart, self-interested business decisions. They don't have to change anything. This lets them relax and gives them confidence that they will succeed.

O'Horo: Many people — not just lawyers — equate "selling" to the methods they've fended off as consumers, so there's a built-in reluctance. OK. Now you've got them willing to try. What's next?

Levinson: I put in a lot of time overseeing the participants and following up on action items. I spend considerable time with each of them, discussing discrete business opportunities and connecting them with their coaches to refine their strategies.

O'Horo: What advice would you offer other firms wrestling with the "marketing isn't generating business" conundrum who think they're now ready to take on the sales component?

Levinson: Here are my recommendations:

1. Make sure you have commitment from, and participation by, firm leaders; you really want them to have a stake in the program's success, not in its failure.

2. Begin with a pilot program; don't try to implement this firm-wide. Start your program with the attorneys most willing to participate and most likely to succeed; their successes will encourage others to "ask into" the program.

3. Commit internal and external resources to help; the partners have to know they're not alone, that they will be given all the tools necessary for them to succeed.

4. Have each participant set a specific financial aspiration and a weekly time budget; hold them to their stated goals.

5. Lay out a clear roadmap consisting of achievable action items; limit each attorney's focus to the present action item; focusing on the end goal can be overwhelming and paralyzing.

6. Measure incremental gains. Quoting IBM's Lou Gerstner: "What gets measured gets done."

7. Encourage attorneys to stay the path. Reward progress. Advertise successes internally.

O'Horo: That's good advice. Your observations match what we have seen over the past dozen years. Too often, firms attempt to improve effectiveness without thinking through the actual human dynamic. People only take seriously initiatives that are associated with serious people. They become cynical when appropriate means and resources do not accompany new expectations. The keys are commitment, support, measurement, accountability and reward.

My advice is to establish and uphold performance standards, but also be patient and pursue program goals in sequence. Accomplishing each goal provides the foundation for the next:

1. **Increase activity volume.** Ramp up the amount, frequency and consistency of *directed* sales activity (no more occasional, random acts of golf and lunch).

2. **Improve activity effectiveness.** Make sure that lawyers consult with sales coaches before engaging in sales activity.

3. **Improve activity efficiency.** Reduce the cost of sales by taking an investor approach, *ie*, sales opportunities are merely *alleged* until vetted. Eliminate gratuitous or undirected activity and "hope-based" pursuit. Abandon discredited opportunities immediately.

A disciplined, thoughtful approach to building a sales-oriented team of lawyers within a firm will improve performance and morale, reduce the cost of client acquisition and development, generate a return on past marketing investments, and inform future investments. Successful firm partners will lead by example rather than forcing sales activity in a model directed by senior management.

