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LAW OFFICE MANAGEMENT

They Can Be Eliminated

10 Common Impediments to Law Firm Marketing

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TODAY'S competitive environment requires professionals to conduct their marketing efforts in a structured and well-managed fashion. A large number of lawyers traditionally have conducted individual marketing efforts successfully. Many law firms, however, have not yet implemented organized and firmwide programs because they fail to understand the significant impact organized marketing can have on preserving their businesses.

Firms must take an integrated management approach to marketing and develop a plan of action designed to meet its specific needs. By effectively managing their business through marketing and strategic planning, a firm can select the clients it wants to serve and weed out those clients and areas of practice that are not profitable in the short or long term.

Some firms continue to serve clients who do not pay on time or at all, who represent a dying area of business, who are unpleasant to deal with, or who produce no referrals or additional business. The advantage of developing a strategic marketing plan is that it allows the firm to control its own destiny with respect to the business in which it wants to be.

In order to take control of its destiny and enhance marketing effectiveness, law firms and individual lawyers must address and resolve several management issues and perceptions. Ten of the areas that commonly impede marketing are:

- Partner compensation.
- Associate review and promotion.
- Large-institution syndrome.
- Desire for a "quick fix."
- Cost of marketing.
- Skills training and "mentoring."
- Ethical considerations.
- Discomfort about practical aspects of marketing.
- Long-term time and resources conflict.

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• Short-term work overload.

Partner compensation: Compensation plays a major role in whether partners actively and voluntarily participate in marketing. Both marketing successes and efforts must be monitored, evaluated and acknowledged objectively and consistently.

Firms must build into their compensation policy a component for the evaluation of and reward for continuing or expanding business from existing clients. A firm can expand its business by providing exceptional legal services and general business advice or by "institutionalizing" the client by cross-selling it to other departments. Firms too often take for granted their most valuable resources — their existing

motion to partnership. Typically, however, associates are not trained or mentored to develop marketing skills and business relationships. Many firms still instruct their new associates to "work hard, put in your billable hours, be a good soldier, and you will become a partner." When an associate is considered for and promoted to partnership, the individual's "potential for developing business" usually is assessed subjectively and absent any measurable criteria.

A large number of associates and even junior partners in large law firms do not generate a significant client base of their own. This is due to many factors including the layering of cases, the isolation from clients and outside

mined number of marketing hours should be built into the formula and perhaps even accounted for as billable hours. All partners and associates in the firm should be expected to spend a specified number of hours on marketing. Obviously, some individuals will be selected as skilled marketers and may spend significantly more time than others on marketing. In either case, marketing efforts and billable hours should be treated equally from a compensation standpoint.

"The firm will take care of me": Recent generations of professionals are no longer interested in dedicating themselves to their professions at the expense of their personal lives and interests.

This attention to the "quality of life" manifests itself in several ways. First, lawyers are less likely to want to spend 60 or 70 hours a week in the office on a consistent basis. They are less interested in putting in time that will not directly affect their performance evaluation and/or compensation.

Second, while some associates would like to be involved in the management and other activities that help shape the future of the firm, many are not invited to participate. This lack of involvement inhibits institutional loyalty.

A problem particular to the large corporate law firm is that associates and partners see it as a secure and protective environment. Associates often view their long-term tenure with a firm skeptically. The tendency to look at the firm as a short-term provider, as "just a job" or as an entity that "owes me something" prevents many associates and partners from feeling obligated to nurture the firm through their participation in marketing and other firm activities.

Rather than looking to the firm to take care of them, lawyers must take responsibility for both managing and marketing the firm in addition to serving the clients. Rarely are these expectations clearly articulated and assessed on a regular basis or in a systematic way. It is therefore unlikely that marketing will be a voluntary and universal contribution by all lawyers until this sense

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clients — because managing partners assume clients are receiving the highest quality of service. Efforts made to enhance and expand service must be measured and recognized as the single most effective marketing tool.

Many compensation formulas for partners do accommodate new business generation. Unfortunately, remuneration often is limited to acquisition of "significant" new business and does not recognize marketing efforts. Few marketing efforts result in new business immediately. Only after a long period spent cultivating mature relationships, skills and reputations do these efforts bring results.

In order to build potential for future marketing successes, ongoing efforts must be encouraged. Lack of recognition and of credit for efforts act as serious deterrents. It is essential not only to appropriately evaluate these efforts, but also to properly prioritize and manage the particular activities.

Associate review and promotion criteria: New-business development has become a criterion for associate pro-

referral sources, the dilution of accountability and responsibility inherently present in large institutional law firms, and the age/maturity level of the lawyers and their colleagues before they grow into leadership positions.

Once associates become partners, the new label suddenly requires them to be business generators. Having had little or no prior mentoring in this area, the majority of lawyers — who could be excellent marketers — are at a loss about how to develop business. They also face a serious dilemma: Pressure to bill hours to clients remains strong and ensures compensation; marketing efforts do not.

It is as critical to credit associates for participating in marketing as it is for other management activities like recruiting. While a budgeted number of billable hours is necessary for fiscal management and the majority of a new associate's time must be devoted to developing legal skills, associates also must spend time marketing.

To avoid conflict and to clarify the importance of marketing, a predeter-

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of responsibility and accountability is instilled and recognized.

Unrealistic expectations for "a quick fix": Lawyers often look for an easy answer to fulfill what they perceive as pressure to "do marketing." Too often, a firm expects that a brochure, a consultant, or public relations will satisfy its marketing needs. In many cases, lawyers are not willing to spend the time necessary to implement marketing activities.

Even in those firms that have gone through the process of a marketing audit that effectively demonstrates past and current marketing successes and failures, partners are frustrated by having to spend time marketing. Marketing must be a coordinated effort in which lawyers must participate — no one else or nothing else (e.g., a brochure) can do it for them. Developing a short-range marketing plan of doable items will alleviate the fear that marketing takes too much time and is too overwhelming to begin.

Cost of marketing: Many partners believe that marketing will cost the firm and themselves a lot of money. In law firms, expenses and overhead usually are borne by the partners. At a time when the "profit squeeze" is particularly dramatic and overhead expenses such as liability insurance and associate salaries are at an all time high, spending additional capital is not appealing to most partners. The focus is on cutting expenses.

In actuality, marketing does not have to require a significant cash outlay; much of the expense is incurred in lost billable hours which may or may not result in "lost opportunity" cost. As most business managers know, however, you must spend money to make money. Collateral materials and activities such as seminars, newsletters and brochures will involve direct expenditures.

If lawyers expect to establish and maintain a competitive edge and increase the firm's visibility, they will have to think more like their corporate counterparts who often spend a significant percentage of overall revenue annually on marketing.

Skills training and mentoring: Law schools do not provide courses on client relations, or on developing a law practice. When associates are hired, firms often tell them to "do the work, don't worry about bringing in business." Many associates become partners without ever having developed key external relationships (including relationships with clients) or marketing skills.

The traditional reliance on a couple of rainmakers is not a luxury most firms can afford anymore, yet firms have not taken the steps to ensure that lawyers will participate effectively in marketing efforts. Many partners still espouse the philosophy that rainmak-

By involving associates and other personnel more in marketing and management functions, perhaps firms would be better able to attract and retain the types of 'stars' they need to promote planned, healthy growth.

ers are born with an innate talent — one that cannot be taught. This sink-or-swim philosophy ignores the reality that many lawyers can benefit from supplemental training or mentoring.

Training lawyers in marketing skills does not have to be a rigidly structured or forced activity. In fact, ongoing communication and mentoring is a more effective way of passing on marketing skills. Mentoring requires senior rainmakers to share success stories and techniques, to begin the process of transferring clients early on and to participate in strategic discussions about ways in which to cross-sell and further develop clients.

"Marketing is distasteful, unprofessional": Marketing continues to be misconstrued as advertising or the overt solicitation of business. Not only are lawyers in certain states not allowed to participate in specified marketing activities, but the traditional role of the lawyer was as a teacher, counselor, healer — not as an aggressive businessman out to "make a sale." The perceived crassness of the "ambulance chaser" intensifies this distaste.

The ethical restrictions placed on lawyer advertising and promotion have eased recently, and lawyers must refresh themselves on how these laws have changed. Perhaps knowing that many marketing techniques are legally and morally acceptable will help lawyers feel more comfortable with the concept.

Discomfort about practical aspects of marketing: The discomfort that many attorneys feel about the concept of marketing is only partly because of the ethical concerns they have. In many cases, other factors may include: a lack of accurate knowledge about marketing and what it is; a resistance to having to function as members of the business community; the tendency of lawyers to become narrowly focused on issues of law without involvement and perspective on their external environment; and in some cases, a lack of facility with interpersonal relations and communication.

Lawyers must be more client-driven — clients' needs must dictate what services lawyers offer and how lawyers should market themselves. In order to gauge these needs, lawyers must be more involved outside the office in business, civic and charitable activities, to develop relationships with pro-

spective clients and referral sources, and to be aware of what the needs and trends of the external environment are.

Long-term time and resource conflict: Unlike a corporate structure where marketing and service are two distinct and separate departments within the company, the lawyer is responsible for both acquiring and serving the client.

Lawyers are selected on the basis of their expertise and reputation, usually not from a promotional piece or an advertising campaign.

This conflict — that a lawyer must both market and service clients — can be alleviated greatly by employing an in-house marketing professional to organize and facilitate many of the firm's marketing efforts. Ultimately, however, the individual lawyer must be directly involved in marketing efforts and must maintain ongoing contact with clients, referral sources and prospective clients.

Short-term work overload: A common impediment to marketing is the perception that "we're too busy already and not serving existing clients well enough." Partners in firms are very concerned that they are not able to hire and retain enough highly qualified associates to do the existing work much less do more work if it came in the door.

While this problem is very real, it is short-term. Firms must think ahead to leaner times rather than react to the current crisis or work load crunch. In addition, they must manage more effectively so that they have the type of client in the areas that will contribute to the firm's long-term health and profitability. By involving associates and other personnel more actively in the marketing and management functions, perhaps firms would be better able to attract and retain the type of "stars" they need to perpetuate planned and healthy growth.

While the legal profession has made significant progress in initiating and modifying effective marketing techniques, certain management and attitudinal issues must be challenged and resolved. Fortunately, some of the ailments will heal themselves. Taking an active role in alleviating deficiencies in business and human resource management will remedy other ailments and will foster effective legal marketing.