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The Law Firm of the Future



by Norm Rubenstein

If, like me, you prefer your glass at least half-full, it is tempting to look for some hidden benefit in the current downturn—some lesson that will help us plan effectively for the future and, along the way, weather future recessions. Indeed, it's not only death and taxes we now take for granted, it's the inevitability of economic cyclicalities. But what is less certain is what the legal profession will look like a decade from now. Can we say with complete confidence which effects of the current downturn will prove transitory and which will prove transformational? No, the Psychic Friends Network is long gone.

For many law firms, focusing on the exigencies of the last two years has left little time for contemplating the distant future. Those that have risen above the daily challenge of balancing workflow and workforce long enough to plan for the recovery likely have used the same two-to-three-year planning horizon of traditional strategic planning. But rethinking the law firm of 2020? Not so much. So when the editors of *Strategies* offered the opportunity to prognosticate about what the legal profession might look like in another decade, I jumped at the chance.

There Is Good News Ahead

Why would I agree to play “seer for a day” when the Internet creates a permanent audit trail? One reason is that I've already surfeited on the incessant crepe-hanging that characterizes discussions of the downturn and its long-term effects. About now, we all could use a reminder that there are probable industry futures in which we both improve the law firm business model and realize much of its untapped potential. So, while a fair number of industry pundits predict the imminent death of Big Law I can't help but feel that the Godzilla-like scenario they forecast – a world in which in-house counsel run amok, exacting revenge on law firms for years of double-digit growth—is nothing more than science fiction disguised as scenario planning.

I was coming to this conclusion on my own when recently I had the opportunity to moderate a panel of law firm chairs presenting to an audience of experienced CMOs. Predictably, I asked all four how the downturn was

affecting their firms. A common theme emerged: Following conventional wisdom, all had built countercyclical practices hoping that litigation would save the day when deal flow faltered, and vice versa. But during this recession, litigation has not been performing as reliably as they had hoped, at least not across the board, and all were grappling with how they could maintain their competitive edge in a marketplace where the old rules don't necessarily apply.

Hearing their challenges – from forecasting demand to sustaining a scalable workforce to solidifying key client relationships to maintaining culture and collegiality—their equanimity and their enthusiasm were striking. For them, the issue post-recession is not how to survive, but how to thrive. And what began to take shape was a vision of the legal profession 10 years hence – a vision in which savvy law firms, having embraced dramatic structural and operational change, have emerged stronger, more resilient and in greater synchronicity with their clients.

Expect Evolution, Not Revolution

While others are predicting tsunami-like change, I believe our industry will continue to evolve more slowly over time. That evolution, if not linear, certainly will be progressive, and the emerging best practices of the future will differ from today's more in degree than in kind. There is a point of inflection when we recognize that worshipping precedent or pursuing change for its own sake tilts toward false idolatry; the most successful law firm leaders know how to keep their fingers on the pulse of their firms and their clients to discern when to act. It's the role of legal marketers to help them consider and choose the best path.

Future-Shaping Trends

No one can model the future with unerring accuracy, but I'd stake my imaginary palazzo on the Grand Canal on the relationship between how law firms respond to certain critical marketplace trends and their future claim to market leadership. Three of these trends individually and collectively presage a potentially bright future for 2020's market-leading law firms:

(1) The ongoing segmentation of the legal marketplace;

- (2) Greater alignment among law firms and their clients; and
- (3) The continuing maturation of professional services marketing.

Let's look at why these trends are ripe with possibilities for legal marketers.

1) The Role of Segmentation

The trend of increasing market segmentation is neither new nor showing signs of abatement. Segmentation, whether defined by specialized practice or industry expertise, geographic focus or pricing strategy, is likely to be as much a factor a decade from now as it is today.

One lesson being driven home by this recession is that, among several potentially successful business models, from regionally defined full-service to specialized boutique to global powerhouse, law firms are better served deciding and executing on a specific value proposition.

There is no shortage of strategies from which to choose, but more important than the model a firm selects is that it align its strategy, structure and systems with the preferences and priorities of the markets it seeks to penetrate.

The market-leading law firms of the future will not be those that tried to be all things to all people, but those that staked a distinctive position in a segment they were equipped to occupy. If the current recession has taught us nothing else, it is that you cannot staff a law firm for maximum profitability if you have to demonstrate competitive capacity in all areas of practices and in all markets. Very few companies, save perhaps the newly minted or those with only the most routine of needs, will vest all their legal work in the hands of a single law firm and I, for one, won't miss the day when law firms stop invoking "full-service" as either descriptor or universal objective.

Firms that have resisted definition (read: focus) have learned the hard way that, like it or not, there is a difference between Neiman Marcus and T.J. Maxx. Both "high end" and "commodity" can represent potentially profitable models, but they attract different clientele. Similarly, corporate decision makers distinguish between the kinds of firms to which they vend commoditized work and those to which they instruct precedent-setting patent litigation or the highest-value M&A. Helping them know where you truly add value is sounder strategy than hoping they'll confuse you with Cravath.

From the most fundamental questions about the firm's vision and aspirations; to the marketing and pricing of firm services; to the recruiting, hiring and training of legal talent, defining what one wants to be, pursuing it relentlessly and eschewing distractions from that course is

like the difference between choosing the shortest route your GPS offers and meandering aimlessly down back roads. The latter has its own pleasures, but in a race, it won't get you there first.

As competition in all markets – local, regional, national and international – intensifies, retaining mindshare will be even harder than earning it in the first place. As a seemingly endless stream of law firms competes for the same business, owning a space will require a law firm to define and pursue a positioning strategy, however narrow or broad, relentlessly.

If the current downturn is the poster child for recessions, it nonetheless serves the purpose of compelling law firms to eschew the irrelevant, the unprofitable and the redundant and to distill what they do best and most competitively. In another 10 or so years, let's hope that the need for a strong and clearly defined position is viewed historically as a lesson learned and that law firms have not reverted to the marketplace laziness that we see in firms oblivious of the true meaning and potential value of segmentation.

2) The Role of Alignment

A law firm business model aligned with client priorities and preferences is the only truly enduring recipe for market leadership. What makes alignment so difficult is that it requires law firms to evaluate every aspect of their business model – from structure and size to compensation and pricing to service delivery and marketing – through the lens of their clients and how they define value.

Let's look at two areas in which the seeds of greater alignment already have been sown: staffing and pricing. Take, for example, the mechanics of recruiting young lawyers into private practice and then training, compensating and grooming them for partnership. Not that they haven't been brewing for a long time, but these are renewed concerns as law firms rethink conventional staffing ratios and matter-management techniques.

Law firms have known for a long time how much in-house counsel resent the prevalent talent recruitment and development model, a model that results in law firms building large entry classes and paying freshly minted associates chokingly high salaries to perform the most rudimentary of tasks.

Even law firms are hard-pressed to defend that value proposition, but until recently, fear of demand outstripping supply trumped growing client frustration with associate economics. As clients have grown more vociferous about their valuation of the lawyers who serve them, they have rejected the notion that the costs of recruiting and training young lawyers should be their burden or that supply and demand requires firms to recruit

and sustain workforce levels unaligned with demonstrated need.

With some firms using outsourcing and temporary lawyer solutions to address leverage concerns and others reevaluating whether their tiers of non-equity service partners are blocking the advancement of potentially talented prospective equity partners and budding rainmakers, I have no doubt that 2020 will see law firms with leaner and more flexible staffing models better aligned with how clients evaluate the contributions of outside counsel.

Pricing is another area in which law firms and clients will be better aligned in another decade, with win-win pricing replacing what now is largely conversations about the need for win-win pricing. Historically, law firms have alleged that clients, preferring the devil they know to uncertainty, are the real stumbling block to implementing alternative pricing mechanisms that share both risk and reward. Clients, predictably, place the blame squarely on law firms, claiming that outside counsel talk about willingness to engage in alternative pricing but bring no concrete or creative proposals to the table.

We can take some facts for granted: No law firm defines discounting as a win-win pricing strategy; client focus on cost is not going away; and a handful of firms already are using value-based pricing for an increasing percentage of their matters. Maybe it's too early to predict the death of the billable hour, which has as many lives as the villain of a horror-movie franchise. But I do feel confident that by 2020 we will see greater alignment of law firms and clients on pricing. For every legal marketer who has been forced to trumpet a partnering ethos devoid of true alignment on either pricing or staffing, 2020 can't come soon enough.

3) The Role of Marketing

As we close in on 30 years of institutional legal marketing, it is still a fact that, in many firms, the role of marketing is less well understood than that of finance, technology or recruiting. Some firms may have exacerbated the problem by crafting amorphous position descriptions, and some marketers may have possessed different skills than their resumes professed. But if I had a buck for every time I've heard a lawyer complain about his or her firm's marketing function, justifiably or not, I could be writing from a gondola moored alongside of my imaginary Venetian palace.

For me, the distinction between how marketing is appreciated by corporations and other entities that assume its pivotal role in their success and by law firms, which traditionally have struggled with its centrality to business generation and client satisfaction, is the application of a discipline to an environment where it is not traditionally understood as a core function. Since lawyers are not

taught about marketing in law school, it often has fallen to legal marketers to teach their employers how to value the contribution they make, an often-Sisyphean struggle.

But as I recently listened to those law firm leaders discussing their reliance on their CMOs and the strategic role that marketing plays in their organizations, it felt fresh to me, as if the truly progressive firms finally appreciate marketing, in its fullest sense, as the critical strategic driver it is in other industries. There is work to be done over the next decade in helping lawyers better appreciate the relationship between institutional marketing, individual business development and sales. There is work to be done in balancing law firm marketing programs so that we don't tilt precipitously towards mass marketing in flush times and abandon brand-development and maintenance efforts completely in leaner economies. And there still is room for firms to inject the voice of their clients more forcefully into their research efforts and resulting client-care programs. Indeed, the ways in which marketers can help their firms refine and enhance how they define and promote themselves are too legion to innumerate here.

Nonetheless, I am encouraged that, having proven to their firms that they deserve a seat at the table, a refreshing number of senior marketers are fully integrated into their firms' leadership circles and appreciated equally for their strategic and complementary skills.

A Glass More Than Half-Full

I am optimistic that marketing will continue to play an increasingly meaningful role in the lives of successful law firms; that firms will continue to align their interests with those of their clients, redefining value propositions and perceived value alike; and that as the marketplace demands greater focus of its competitors, law firms will reap the benefits of greater concentration. In my vision of the future of the legal marketplace, marketers may be saying many of the same things they have said for the past two decades, but people will be listening and attention will be paid.

All in all, from where I sit, the only thing better than being a legal marketer in 2020—when ideally we will be farther along the evolutionary curve—is being one of today's professional services marketers helping shape the legal marketplace of the future.

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