

CLIENT SPEAK

Capturing the Current Mood

Think Small, Whoever You Are

By Allan Colman

There's a big theme underlying current legal business headlines. Implicit in all the stories about layoffs or hourly versus value billing, the fundamental question is whether the severity of the economic downturn will permanently change what law firms look like and how they operate. Can they ever again support the notorious salary structures and leverage strategies of the past?

The question was not asked in past recessions. It may have been shocking when, in the early 1990s, the biggest names in the legal business laid off associates for the first time in history. But there was never any real thought that the retrenchment was permanent, nor was such a thought justified.

Today, there are clearly advantages in being a smaller law firm just as there are in being a smaller player in the financial services as brand-name behemoths topple or go begging at government doors. My own experience confirms that smaller law firms clearly sense a chance to really thrive in this environment as we're receiving an unusual number of inquiries from such firms looking for effective ways to compete and win.

Will the advantage be permanent? Once clients avail themselves of M&A expertise in Nashville or a superior antitrust practice

in Omaha — with costs appropriate to those cities — will they want to go back to New York or Washington?

There's reason to think they will. Growth is inherent in the free market and organizations always find ways to use growth as a powerful marketing asset. But there's also reason to think that many clients won't go back. The big-firm "safety sell" may be neutralized as clients learn from experience that their crown jewels are guarded equally well by top regional firms.

For our purposes as legal business developers, it may not actually matter or, at least, the question needs to be reformulated. For us, the real question is twofold: First, how can smaller firms exploit the current marketplace while it still tips in their favor? Second, what strategic and tactical lessons can all business developers, firm size notwithstanding, learn from the changed perceptions that drive legal purchasing during this downturn?

Let's start with strategy, from a 1,000-foot perspective.

MINDSET IS CRITICAL

Clients are battle-weary. History has not allowed them much sleep after the SOX ordeal as new challenges — for some, the acronym TARP is the latest bogeyman — percolate at every operational level. In this melee, they suffer what might be termed "rate fatigue," especially in dealing with perennially unresponsive law firms. Weary as they are, however, clients still have their wits about them. Like all smart buyers, they negotiate by first seeing themselves as the sellers see them. How important will we be to this

law firm? How desperate are they for our business? What do they see as the future of our relationship beyond next month's billables?

When they look at alternatives to the usual Wall Street or Beltway players — 150- or 200-lawyer firms in the heartlands as well as the smaller shops — they know they will be important; in fact, top-priority clients for such firms. At the same time, those firms may not be "desperate" for new business as they are closer to being right-sized in this market than, say, a 750-lawyer firm dependent on mergers and acquisitions at a time when transactions are mighty scarce. If you're not desperate, you negotiate for new business on a leveler playing field. The pendulum has swung: It's Tremendous & Mighty's turn to sweat.

Finally, and most important, every smart buyer at a Fortune 500 company or comparably sized private concern can then connect the dots as follows: "I am top priority to this attorney, who is not desperate, and whom I therefore need to treat with respect, and who is interested in more than a quick revenue transfusion at my expense ... So what are the attorneys looking for? They are looking for exactly the kind of relationship with me that I'm looking for: a big-picture, long-term engagement with someone I can trust ... someone who will implement the kind of practices that I have long asked for in vain from law firms ten times his size."

In this economy, smaller law firms that understand this dynamic and internalize the concomitant mindset are halfway to the bargaining table. For large firms, the fascinating challenge under the present circumstances is to think as if they

themselves were smaller firms in order to communicate the potential for the same kind of partnership that the client now sees as an advantage with regional or smaller firms.

However, the further challenge for large firms is that it may be unfeasible for them to implement the cost-efficiencies that the relationship with the smaller firm promises. That point is not lost on the client. Smaller firms can certainly remind prospects that, whatever promises are made on fees and service, they're the ones best positioned to make good on such promises.

WALKING THE WALK

To seize on this advantage, regional and smaller firms must hit hard on specific deliverables. Once they've communicated how they are advantageously positioned for longer-term client-centric engagements, they should underscore:

- Lower rates. They were lower before the downturn, they're lower now, and they will always be lower.
- Lower overhead. Maybe the big associate numbers will return; maybe not. Even if they do, overhead in Nashville or Omaha will never be as burdensome as in the primary markets.
- Enhanced talent. With massive layoffs at the big firms, top graduates from Vanderbilt or Case Western may no longer be in a hurry to work in New York or Los Angeles. More will stay at home and join firms just like yours. If associate compensation is, as some predict, permanently depressed, then the talent advantage for regional firms is likewise permanent.
- Alternative billing. Large firms always run a risk when they turn off the clock; smaller firms, much less so as they shoulder exponentially lower overhead. Especially if some minimum fee threshold is agreed to, the flexibility factor is a powerful selling point for smaller firms.
- Work assignment. Large firms aren't as eager to upgrade their practices as they may claim. If they resume old growth patterns when the economy recovers, they will still need high-volume commodity work

to feed the faithful. But we've seen how that work can be effectively outsourced. Smaller firms can actually encourage clients to do so and focus on pitching themselves for high-end transactions or bet-the-farm lawsuits.

The last point is additionally compelling as it only further neutralizes the big-firm safety buy when a smaller firm can so credibly focus during the sales process on how well positioned it is to address the client's most critical needs.

REDEFINING THE COMPETITION

To repeat, big firms may simply not be able to deliver the practical cost-efficiencies or day-to-day personal touches that clients are insisting on now more than ever. Traditional large firms are managed via committee structures that rarely provide classic engagement oversight. Meanwhile, clients are casting a much closer eye toward the effectiveness/budget ratio.

What's a Poor Old 1,000-Lawyer Firm to Do?

In my conversations with large-firm clients, I find that, when practice groups, office leadership, or industry teams are given much more independence, they are much more competitive. As independent selling units, they're already thinking like small firms. They have more opportunity to realistically talk about alternative billing or staffing issues because their reference point is the profitability of the group, not firm-wide overhead burdens and margin projections.

If, then, the forces now affecting legal purchase decisions continue beyond the current economic crisis, we may well see a whole new competitive dynamic in which small and regional firms no longer vie as directly with large firms but, rather, with discrete large firm teams better able to respond to client expectations.

For clients, that's very good news. Goodbye to all the palaver about "platform" and safety buys! Instead, lawyer/salespersons can put their emphasis solely on what clients actually need. The brand name on the masthead will decrease in importance as the practice group approach to selling proves its impact.

In past decades, mid-size firms had a

mantra: "We have the stability of the big firm with the client focus of a smaller one." It read well on paper, but it seldom had any real bottom-line effect. Today, however, a historic economic crisis has transformed the landscape.

Who knows, two years from now the legal marketplace may once again resemble what it was two years ago. Regardless, we're being taught an invaluable lesson — that, whoever you are, thinking like a small firm is a client-relationship and business-getting asset in any economic weather.