

Trading Places

By Allan Colman

Marketing abounds with buzzwords and bromides — and dangerous ones at that. When, for example, we sling catch-phrases like “partnering,” or pontificate about how important it is to “understand the client’s business,” it becomes way too easy to talk a lot of sanctified talk without ever really walking the proverbial walk.

In prior *MLF* columns, we’ve attempted to put some meat on these rhetorical bones by offering practical examples of what lawyers actually do when they *partner* with their clients as well as what it specifically means to *understand* the client’s business. In practice, the two concepts are interrelated. In order to partner with clients and develop new business, you must understand the marketplace trends that drive their strategies. You must understand the liabilities both in and out of court that keep corporate executives awake at night. And so forth ...

But let’s drill down a little deeper. Lawyers operate in two very different worlds. One is the law firm, with its flat structure and unique owner/operator dynamics. The other is the law department, which exists within a hierarchal corporate structure, and where the politics, if also Byzantine, are fundamentally different. So, to

partner with clients and develop new business, understand those politics. Understand the internal responsibilities that the person to whom you are selling must constantly shoulder. Understand how you might actually help that person become a hero in his or her own world. In other words, change priorities altogether, from yours to theirs.

A MILE IN THEIR SHOES

The television show *Trading Places* has a most interesting premise. Two families know enough about each other to decorate a room in the other’s house without prior consultation. In almost every case, both families are pleased with the results. Similarly, the great jazz musician Charlie Parker once described his colleague Dizzy Gillespie as “the other half of my heartbeat.” Rest assured, the mighty senior partners who dominate today’s legal landscape can describe their relationships with the General Counsel of the world’s biggest banks and corporations in very much the same way. Lawyers at every level shuffle between in-house and law firm positions. For law firms in particular, there is much to learn from this transmigration of souls.

On the one hand, law firms can learn quite a bit from their in-house transplants about the decision-making that drives every retention decision. My own work counseling law firms has been enriched by the years I spent working closely with corporate counsel as they deliberated over their choice of lawyers to litigate major cases. The discussions that many law firms now have

with prospective clients would be very different indeed if the in-house counsel I’ve known were to ever join those firms and guide their discussions.

On the other hand, an even greater benefit would accrue to outside lawyers if they could wear the General Counsel’s mantle for a few weeks or months. They’d learn (and in some cases be shocked to learn) that even the most critical legal services that outside counsel provide the corporation — the case strategies, the cost-efficient workload delegations, even the anticipation of future liabilities — are not necessarily their in-house clients’ paramount concerns.

There are instead more fundamental concerns about the role that they, as in-house counsel, play in the evolution and implementation of their own clients’ longer-term business strategies. By sitting in the GC’s chair, a law firm partner would thus learn to rethink the inside/outside relationship altogether. Cost control and compliance? Small potatoes! What in-house counsel really want is a seat at the table, a *de facto* C-Suite presence.

What they want is power. Can you help them get it?

GRAND DELIVERABLES

Of course the process by which you, as an outside adviser, can help clients pursue such agendas depends on each unique relationship and set of circumstances. That said, in each case, remember the common internal challenges that most in-house counsel face. In each case, at least begin to reflect on a possible role for yourself

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as *consigliere* to your in-house counterpart. For example:

Look for ways to help your client impress the boss. How does the C-Suite perceive the law department and how can those perceptions be enhanced? If you are pitching a new engagement, is there something you can offer beyond assurances of work quality and cost control — something substantially more strategic that in-house can then use as an internal selling tool for themselves?

Look for ways to help your client make friends. The in-house department is bombarded with requests for guidance from business unit executives as well as departmental managers (HR, for example) who want to “get things done” without exposing themselves or the company. If you are proposing new work, look for opportunities to communicate how you would efficiently support that guidance.

Anticipate generic problems, not just company-specific ones. The latter include product cases or compliance issues that dog certain industries. Your client expects you to be ahead of that curve. But what about more general issues where outside counsel can help inside counsel provide internal thought leadership? I'm thinking, for example, of executive compensation and the persistent impact of that controversy on both public and investor relations. If you are pitching a new engagement, can you communicate how you might help the client become an internal problem-solver for such pandemic challenges?

Help transform your client's liability into an asset. Your client has no greater liability than the internal perception that the law department is and always will be a cost center. It's not easy to reverse this picture but Tom Sager, fabled Associate General Counsel at DuPont, isn't the only in-house wizard to have turned a law department into a profit center. LyondellBassell, under the creative leadership of Associate GC Joe Speelman, has done so as well, using an aggressive litigation strategy to change red to black. Study these examples carefully. If you're pitching new business, such talk is music to the in-house ear.

Help clients generate business. Beyond the profit-centering of the law department, the in-house counsel is as able as any other executive to make introductions, suggest alliances, and find new relationships that could add to the corporate bottom line. You have other clients, and you know people throughout the client's industry or in industries the client has targeted for expansion. If you're pitching new business, don't hide the fact that these are people whom your in-house buyer might do well to know.

THE LARGER MESSAGE

Reflect carefully on such in-house dynamics as you craft your firm-wide marketing strategies. Maximum marketing impact is multifaceted. On the one hand, you communicate expertise at substantive levels, giving away intellectual capital in order to win the right to charge money for that same capital. That is the impersonal, institutional side of lawyer marketing.

But marketing is also personal. When you invite in-house buyers to a luncheon program at your firm, and you sit them next to people with whom they can develop mutually beneficial relationships, you are sending a subtle but strong message about the overall professional advantages of working with your law firm.

When, in your deliverables, you talk about industry trends and not just competent lawyering, you are telling in-house clients that, by knowing you, they can then communicate strategically with their own clients. In general, the more you can talk about the realities of in-house practice, and demonstrate your sensitivity to those dynamics, the more potential buyers will begin to see you as combat ally and not just a hired gun.

There's a darker sub-text here as well. Under the best of circumstances, downturns happen, mergers occur, and C-Suites revolve. Every single one of your in-house counsel understands just how at-will “employment at-will” really is. Should the ax fall, they'll want someone to turn to for help. If you can't help them prosper at their current companies, you'll want them to know that you'll help them prosper elsewhere.

CONCLUSION

Marketing at every level requires seeing things as the other guy sees them. Even if it's only a lowly brochure, you still need to imagine what the reader will feel like reading it. How much more imagination is required for marketing that communicates professional and moral support in the most complex and decisive relationships of the buyer's professional life!

