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Big ideas for small firms

To manage your firm well, you need to build a team that shares your firm's core values. Do you have the employees and resources you need to serve your clients the way you want to?

GREG MONFORTON

The challenges facing small plaintiff personal injury firms in today's legal marketplace have never been more daunting. A host of factors continues to radically affect the practice of personal injury law, including the effects of tort "reform," increased competition, and ever more demanding and cost-conscious clients.

These trends will surely continue in the future. The importance of managerial excellence in a small plaintiff firm has never been greater.

Whether you consider your firm to be small depends on your individual point of view. It is not at all uncommon for law firms with 50 to 100 lawyers—which handle complex corporate and transactional matters for Fortune 500 companies—to describe themselves as small or "boutique" firms. But in the province of Ontario, where I practice, for example, there are only a few plaintiff personal injury firms with more than 30 lawyers. I define a "small" plaintiff personal injury firm as one with 10 or fewer lawyers.

Not that it makes that much difference. Why not? Because the rules and principles governing the growth and management of a small law firm apply, to a great extent, to firms of every size. Whether your firm is large, small, or somewhere in between, the key challenges remain the same.

Successful firms are differentiated not by their different goals, clever strategies, or special managerial tactics (these are remarkably similar worldwide). Successful firms are clearly differentiated by a strict adherence to values—more specifically, the value of professionalism.

Whether you are just starting out or are already many years into the life of your firm, the successful sustenance and growth of your practice and firm will be greatly enhanced by your commitment to a set of core values that will, to some degree, reflect the following basic ideas:

- All professionals in your firm agree to be coached and managed to strictly enforced, agreed-on standards.
- Teamwork is mandatory.
- You continually invest in getting better at generating better business (not just more business), lowering the firm's

cost of performing selected professional tasks, becoming more valuable to your existing clients, and disseminating your skills throughout the firm.

- Excellence in client satisfaction is an enforced standard.

- You set a certain non-negotiable minimum standard of personal professional growth.

- You do not tolerate the failure to pursue excellence (including being prepared to terminate the employment of any lawyer or support staff who does not consistently send the message that while everyone is allowed to fail, no one is allowed not to try).¹

David Maister, a leading consultant to professional services firms, presented a study that assembled data on the factors that drive the financial success of these firms. Surveying 139 offices of 29 firms in 15 countries and 15 different professions, he put to the firms' employees and members a series of propositions. The results pointed to nine key statements, which together "explained" more than 50 percent of all variation in profit performance. The statements were:

- Client satisfaction is a top priority at our firm.

- We have no room for those who put their personal agenda ahead of the interests of the clients or the office.

- Those who contribute the most to the overall success of the office are the most highly rewarded.

- Management gets the best work out of everybody in the office.

- Around here you are required, not just encouraged, to learn and develop new skills.

- We invest a significant amount of time in things that will pay off in the future.

- People within our office always treat others with respect.

- The quality of supervision on client projects is uniformly high.

- The quality of the professionals in our office is as high as can be expected.²

Following are some "must dos" that, through the hard-learned lessons of trial and error, I have concluded are essential to the effective management of a plaintiff personal injury law firm.

Take advantage of being small. By

this, I mean recognize and always strive to make full use of the numerous strategic and tactical advantages that come with the ability to move quickly. Large firms often find themselves constrained by the need to reach a consensus among many partners and associates before embarking on anything the least bit different from the status quo.

Lawyers are generally conservative

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and careful people, undertaking a great deal of protracted study and analysis before making a decision. Therein lies your strategic and tactical advantage. Regardless of the issue—be it staffing, marketing, the procurement of new technology, or the decision to move into (or out of) a particular field or subfield of practice—the advantage always flows to the one capable of moving most quickly.

Know what you want your firm to be.

This sounds simple and patently obvious. But I never cease to be amazed by the number of small firms that try to be all things to all people. It can take the form of mixing a plaintiff practice with another area of law. Or it can take the form of agreeing to represent every potential plaintiff who walks through your door, regardless of the magnitude of his or her claim or the challenges his or her story presents. Either way, the more focused your firm is, the more successful you will be.

Make sure the right people are on the bus.

The conventional wisdom has always been something to the effect of "People are our most important asset." Wrong! People are a professional services firm's *only* asset. Business consultant and bestselling author Jim Collins characterizes this notion as getting "the right people on the bus (and the wrong people off the bus)," and then proceeding to figure out how to take the bus "someplace great."³

In my experience, Collins has it exactly right. It's all about the people you find to work with you. One of the most common mistakes I find among law firm managers is their failure to appreciate the impact of this notion, at least insofar as their most junior or unskilled employees are concerned.

No one's position should be considered simply a space to be filled by an in-

terchangeable person. Everyone's job is important, and everyone needs to understand, believe in, and conduct themselves in accordance with the firm's core values and culture.

So you have to start with the hiring. Be careful. Never hire out of desperation. Wait until you have truly found the right person. Look for people with the right attitude. By this, I mean hire only people who sincerely display real and palpable "fire and desire." An applicant with little or no experience but a burning desire to learn and be part of an excellent firm will be a better employee than a highly experienced or pedigreed slouch.

Think of, for example, the legal assistant who is not afraid to revise a document 10 times to get it right. Look for people who are ready to do whatever it takes. And again, never hire a lesser person out of desperation. It is critical to marshal the patience and self-discipline to wait until you have found the right person for the job.

Have a marketing and advertising plan. There is simply no other way to say it: Marketing is important. Or, as I often

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say in perhaps a futile attempt at humor, there's not much point in being the world's greatest lover if you live all alone on a desert island. Your practice's success depends on those whom you wish to represent knowing of your reputation, your skills, your firm's pool of talent, and your past successes.

Many lawyers make the mistake of implementing a short-sighted, undercapitalized, poorly conceived, and utterly misconceived series of television or Yellow Pages ads (or whatever). And when these ads fail to yield immediate and

and foremost, don't oversell yourself—and be fully prepared to deliver even more than you promise.

Know that marketing is much more than merely advertising. Insofar as the broader-based notion of marketing is concerned, Maister argues that all truly successful marketing efforts involve the effective execution of five specific things that must be done in strict order:

- Ask your existing clients how to serve them better. Find out what they would like you to do more of and less of.

- Focus on your existing clients by

service and helping people.

Become a convert to the notion of continual self-analysis, reform, and change. No matter how successful your practice might be, an absolutely essential element of continued success and viability is the willingness and self-discipline to persistently, regularly, and rigorously evaluate where your firm stands. Evaluate whether its principles are satisfied, whether forces (either external or internal) have the capacity to result in change, and, if so, what you intend to do about it.

It behooves us as personal injury lawyers to put our own practices under the same kind of "productivity searchlight" that manual labor was subjected to during the last half of the 20th century. We should also strive to constantly and critically re-evaluate our own practices and firms, not with the naïve expectation that moving into new services or specialties will necessarily be the answer to our problems, but with the intent of achieving a balance between developing the "new" and enhancing the competitiveness and excellence of our existing practices.

There is, of course, no one right way to make this happen, but in my experience, it is best achieved through a combination of regular (in our firm's case, monthly) meetings of partners to critically examine and monitor where you are, from the perspective of the short and medium term, and yearly or twice-yearly "retreats" in which an agenda is carefully crafted to ensure the serious and rigorous analysis of any issues bearing on the achievement of the firm's long-term strategic goals.

Learn how to effectively delegate. Maister argues that most firms' biggest profit-reducing bad habit is systematic under-delegation.⁵ It hurts profitability and the skill-building of a firm's more junior people, and it dampens morale, motivation, satisfaction, and excitement. It also causes a firm's more senior people to neglect high-value tasks that are critical to the firm's success.

Changing one's habits on this front is not easy. Like changing any ingrained behavior, it requires self-discipline and self-awareness. It requires taking the time to

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groundbreaking results, they give up and conclude that marketing and advertising do not work. To put it simply, they are wrong.

While advertising and marketing do work, they only work when done properly. Unfortunately, it is much easier to identify bad advertising than to delineate the prescription for good advertising. And in my view, the majority of lawyer advertising is worse than bad. For starters, here are some common lawyer advertising errors:

- Yellow Pages advertising that stresses the lawyer's or law firm's name at the expense of the type of law practice being offered. If the consumer knew who you were, he or she wouldn't bother going to the Yellow Pages.

- Yellow Pages or TV advertising that is in blatant bad taste (with scantily clad women or chimpanzees, for example).

- Advertising that attempts to offer all things to all people.

- Undercapitalized and therefore short-lived television, radio, or billboard "campaigns."

For advertising to work, it has to be long-term and it has to be truthful. There is an old advertising axiom that "nothing kills a bad product (or service) faster than advertising." Therefore, first

demonstrating a genuine interest in their affairs. Stay in as close contact with them as is reasonably possible and don't hesitate to do small favors without the expectation of reward. Don't stop doing this until the majority of your new files are by way of referrals from your existing clients.

- If referrals from your existing client base are not providing enough new-client business to meet your needs, make sure you're doing all you can to follow the previous two steps.

- Ensure that your interactions with your clients demonstrate a genuine and special interest in them, that you have something truly of value to offer them, and that you are willing to work hard to deserve and earn their trust.

- Once a prospective client shows some interest in considering you or your firm, stop talking about yourself and your firm and instead listen to what *he or she* wants and needs. Treat the prospect like a client from the minute you meet; don't wait until you're being paid before you're helpful.⁴

Maister argues (and I completely agree) that professionalism and marketing are not in conflict with each other at all: They are in fact the same thing. They are both dedicated to being of

ensure those who work under you are given the proper tools, skills, and knowledge base to do the job properly. And it requires ensuring that those to whom tasks are assigned have clear instructions regarding the underlying reason for the assignment, specifically what is required, direction to resources that will increase efficiency, and the time by which the assignment must be completed.

Like a diet, for the first few weeks the changes in behavior are not easy. But the pain will be more than outweighed by the benefits flowing from the renewed health and vigor of your firm, regardless of its size.

Use technology, but use it wisely. Is technology important? Of course it is. An increasingly complex legal environment, an increasingly demanding clientele, and perpetually rising overhead costs all point to the undeniably beneficial role of technology in the legal profession. But don't forget that no software or hardware in and of itself has ever instilled in a client the sense of confidence and satisfaction that accompanies a job well done. And no piece of software has ever convinced a jury or judge of the rightness of a client's cause or settled a case after sitting through a marathon mediation session.

Avoid the urge to buy the latest technology simply because colleagues or friends you admire may have already done so. Whether you're considering a change to your accounting software or your calendaring system, or even a move to an entirely paperless environment, be absolutely sure to do your homework.

Speak to others who already have experience with whatever product you are contemplating. Find out the cost of technical support and how genuinely responsive the support people really are. Find out if it is truly and practically compatible with your existing hardware. And find out if its maintenance will require an increase in your current level of information technology support.

Effective technology can make your work life much easier and more efficient. Lousy technology can make your work life a living hell. So be careful.

Manage your budget. One of the most valuable management tools is a de-

tailed annual and monthly budget summary of anticipated receivables and expenses. Your budget is the place where you reflect the cost and timing of your planning. As your fiscal year unfolds, you will look at your budget variance report and your year-to-date performance to ensure that all is proceeding as planned, and if it is not, you can make necessary adjustments.

Examine your client disbursements. Many firms no longer ask clients to fund disbursements. This means that the firm carries this obligation either through

capital investment or through debt. If your firm chooses to finance disbursements, you will want to ensure that you keep a close eye on your cash position and that you negotiate a line of credit that accommodates your cash needs.

Realize that it's a profession, but it's also a business. In the final analysis, the income you are able to derive from your practice is more a function of your net revenue than your gross revenue. Put another way, fundamental to financial management of any business is knowing not only your realistically anticipated revenues for any given period of time, but also your costs.⁶

The German philosopher and social theorist G.W.F. Hegel wrote that "to be independent of public opinion is the first formal condition for achieving anything great."⁷ These are words that have often given me comfort and encouragement in the face of setbacks and detractors. They are words that you, too, may wish to take to heart.

One of the things you come to realize as you progress through your legal career is that it often seems that you are working while everyone you know is out living life and having fun. And it is true that the lawyer's world is one with longer hours and more intense work than in

many other walks of life.

But, on the other hand, with the passage of time, a lawyer's life seems to become more interesting and fulfilling in many respects. This is particularly so as your self-confidence develops. This is also particularly so if you strive throughout your career to seek the best mentors and colleagues, because you are only as good as the experience you acquire and the people you work with.

This is not to suggest that being a good lawyer or growing your practice in the direction of excellence requires some

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form of self-denial. Quite the contrary. The work is demanding but interesting, and every day brings new issues and situations that challenge the best of your heart and mind. You will develop lifelong friendships that will bring a sense of satisfaction and happiness that work in and of itself cannot provide.

And, most important, you will be doing what you love. Always try to remember that no one ever does great things by playing small. So make a decision and, like Nike says, just do it. ■

Notes

1. David H. Maister, *True Professionalism: The Courage to Care about Your People, Your Clients, and Your Career* (The Free Press, Touchstone ed. 2000).

2. David H. Maister, *Practice What You Preach: What Managers Must Do to Create a High Achievement Culture* 63-69 (The Free Press 2001).

3. Jim Collins, *Good to Great: Why Some Companies Make the Leap . . . and Others Don't* 41 (HarperCollins 2001).

4. Maister, *supra* n. 1, at 168-70.

5. See David H. Maister, *Managing the Professional Service Firm* 41-52 (Free Press Paperbacks 1993).

6. See Pascale Daigneault, *Controlling the Overhead*, Ontario Trial Lawyers Assn. Conference (Spring 2007) (containing excellent ideas to control costs).

7. Georg Wilhelm Friedrich Hegel, *Hegel's Philosophy of Right* §318 (G. Bell & Sons 1896).