OF COUNSEL
The Legal Practice and Management Report

Vol. 43 • No. 2 • February 2024

In This Issue

Pace is Picking Up …

After a Downturn in Deals, Real Estate Market Begins to Rebound

Toward the end of each year and in the first couple of months of a new one, legal market prognosticators—law firm and practice group leaders, consultants, recruiters, and public relations service provides, among others—take long looks down the road. They want to see which trends, practice areas, and recruitment patterns will ebb and which will flow. When it comes to practices, naturally the vicissitudes of the market affect activity cycles.

"Hot and slow practice areas are based on various factors and the workflow between practice areas within a firm can differ, influenced by economic conditions and societal changes," says Elizabeth Lampert, a PR and crisis management consultant in the Bay Area who works with lawyers and other professionals across the country. And, she adds, it's no secret that one primary driver has been setting the pace for the real estate market and this practice area: the Federal Reserve Board's repeated interest rate increases.

Lampert says the media outreach efforts she and her team do for real estate attorneys had slowed recently but that's changing. "Interest rates were putting a damper on [the workload for real estate law PR). But now that interest rates are relaxed, things should pick up for us in this area," she says.

Clearly, those who consult managing partners, heads of practice groups, and other

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law firm leaders regularly take the proverbial pulse of the economy and the actions of governmental decision-makers, which include overarching legislation and nuanced regulations that can affect the market. Like Lampert, many of these advisors also see sunny skies ahead in the real estate forecast.

"During the last year, developers, investors, and others have been leery of making large real estate purchases so it's been a little quieter," says Lisa Smith, a consultant with Washington-based Fairfax Associates. "But I think that's going to change in 2024. And as rates drop that will likely spur activity."

The Fed's multiple moves to inch up rates to help stymie inflation—which some economists say is effective and others, perhaps more, say it isn't—affect the real estate arena more than most sectors.

"The real estate business is cyclical," says Seth Weissman, real estate attorney and partner at Los Angeles-headquartered Jeffer Mangels Butler & Mitchell. "Real estate, as a highly leveraged investment, is more sensitive to interest rate fluctuations than any other asset class," he says, adding that real estate law "remains active and evolving, even if the transactional real estate process has slowed."

For the past year-plus, many law firm clients have been taking a wait-and-see approach to making real estate deals, primarily, of course, because of interest rates, according to Richard Cipolla, an attorney in this dynamic area and partner at Tulsa, OK-based Frederic Dorwart Lawyers. But, he agrees that a boost in transactions is on the horizon.

"Many have been deferring major sales and acquisitions until interest rates regress to their historical mean," Cipolla says. "I believe that the continued reduction in inflation will result in a commensurate reduction in interest rates, and reinvigorate the real estate markets in the near-to-mid future."

It seems that while real estate buying and selling has fallen off a bit, real estate lawyers at some firms have remained busy with non-deal work. For example, Cipolla and his team have seen "a discernible decline in purchases and sales, and an increase in leasing and subleasing activity."

The reasons? While the interest rate hikes have caused a dip in transactions, they have also, to some extent, created a rise in leasing. What's more, return-to-work trends and policies are acting as a catalyst for leasing, as some

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OF COUNSEL

OF COUNSEL (ISSN 0730-3815) is published monthly by Wolters Kluwer, 28 Liberty Street, New York, NY 10005. For customer service, call 1-800-234-1660. Address correspondence to **OF COUNSEL,** 28 Liberty Street, New York, NY 10005. Send address changes to **OF COUNSEL,** Wolters Kluwer, Distribution Center, 7201 McKinney Circle, Frederick, MD 21704.

Taylor's Perspective …

Talking to the Press: A Journalist's Perspective

During a 10-minute phone call with an attorney regarding what I thought was a straightforward topic, I became confused and frustrated. I hung up the phone uncertain of exactly what he was *trying* to say.

That's how I felt a few months ago while and after interviewing an attorney for an article, one that essentially showcased him and his law firm for their expertise in a particular, cutting-edge but growing practice area. And, it wasn't as though he was talking about a complicated subject that I was incapable of understanding (although that does happen sometimes, I hate to admit). He was simply inarticulate—and/or failed to prepare for our conversation—and spit out a verbal mess. I wouldn't hire him if I needed a lawyer, and I certainly didn't quote him.

Like most reporters in the legal trade press, I can tell almost immediately when interviewing a lawyer if he, she or they is familiar with talking to the media. Those attorneys who have paid attention to and apply the media-relations tips they've been trained on or read about many—sometimes in this publication—get it.

Fortunately, most of my sources fall into the "get-it" category. They know how to listen to a reporter's questions, speak succinctly but elaborate when necessary or asked to, talk in complete sentences (although a few fragments are certainly ok and sometimes spot-on), and use the classic interviewing techniques of flagging their points to show emphasis and bridging those points smoothly from topic to topic to demonstrate cohesion.

As suggested above, tips on talking to the press are ubiquitous but they're worth reviewing from time to time. One very talented law firm marketing director I work with frequently reminds the lawyers at her firm about the basic, and sometimes the more advanced, interviewing techniques before I talk to them.

Honesty really matters. But I haven't offered my two cents on this topic in quite awhile, so here goes. First, consider this: Although you're right in the middle of something, you hear the phone ring, and pick it up because you're expecting an important call—or maybe you're just the type of person who always answers your phone—and you get a reporter on the line. You're too busy to talk? OK, that's understandable. Be forthcoming. Tell me you're swamped with work. I've been there too. I'll work with you to schedule a time when you do a have a few minutes, provided that you do want to talk. If you don't, politely decline the interview request. I won't take it personally but most of the time it's in your interest to do the short interview.

Aren't We All?

You're not the only one. About being busy with work … most of us work hard, too, and have tight schedules. Please lose your inflated sense of self-importance. (Again, I'm

fortunate because most of the attorneys I talk with are down-to-earth people who don't have this annoying character flaw.) On a related note: Don't be an arrogant @##*o%+. To put that positively, modesty goes a long way. Even if it shouldn't matter, it does; most journalists appreciate some humility mixed in with the experience and expertise a lawyer has about the subject at hand.

Return phones call and emails. Sound familiar? It should be because unresponsiveness is almost always listed as the first or second thing clients say when they complain about their lawyers. Those of us in the press want responsiveness too, even if it's just to say, "Sorry I didn't get back to you earlier this week. I was traveling (or in a trial or working a complicated transaction or whatever)" or even "I'm sorry. I simply forgot to call you." After all, we all drop the ball from time to time.

Style and substance. Find the right balance in both the tone and content of what you say. That is, don't condescend—assume the reporter has a working knowledge of the subject—but don't fall into legalese or hit the interviewer with overly detailed, lawyerly fine points. "Lawyers need to understand that the external world is not a deposition or a trial or an M&A deal," a PR consultant recently told me. "Be real. What's more, I tell my law firm clients to develop relationships with reporters. It pays PR dividends and if you don't it can come back to bite you in the ass."

Take a Breath

Keep in mind the pause and pace. When talking to a reporter remember to speak slowly but not too slowly. And take a brief pause from time to time to allow the listener to capture and digest all of the wisdom you're imparting. The journalist may also want to change topics with another question or repeat back to you the gist of what you said, for clarification's sake.

Lively language, lively stories. While there's much more to be said on this topic, let me end with this: For some articles, particularly features and profiles, reporters are looking for color and kick. We want anecdotes. We want to hear a narrative with important journalistically "sexy" details that help make the experience being described come alive. So practice your storytelling, give us quick but colorful details about the setting, characters, dialogue, plot and all of those other narrative devices we learned about in Literature 101 years ago.

Responding in writing. Okay, just one more thing. These days on certain topics, some journalists are willing to email written questions and accept written answers. I'm often okay with it. In fact, sometimes I prefer this method of information gathering, provided that I receive sound answers, and get them by the deadline I include with the questions.

It's often best for the information source, as well. One law firm marketing expert puts it this way to his clients when he acts as a go-between for the reporter and the lawyer being quoted. "I highly recommend responding in writing because it gives you [the client] the opportunity to ensure that you phrase your responses perfectly, rather than risking an off-the-cuff answer where you might not sound quite as eloquent." ■

—Steven T. Taylor

The Latest Law Firm Fad: "Co-Leadership"

Seven Guidelines For Working With a Co-Leader

Part Two

Despite some problems with sharing responsibilities, numerous firms have made their various co-leadership arrangements work. Here are the key components I counsel co-leaders to sit down and have a frank discussion about:

1. What are we each good at?

Cultivate Self-Awareness: facilitation skills/ work style/emotional disposition

DISCUSS: *"Are there any areas that you feel some discomfort with handling***?"**

As I mentioned in my earlier article, one of the initial hurdles to sharing leadership responsibilities is that you do not usually get to choose your partner and this can obviously cause some frustration.

In the ideal situation, co-leaders would have complimentary capabilities and different sets of experiences. Perhaps one of you is from the corporate side of the firm while the other a litigator. Or one is perceived as the more senior statesman while the other is recognized for their youthful entrepreneurial spirit. In other words, the best situation is where the two partners bring different skill sets and different talents to the table such that either of you would freely admit that you could not do the things that the other does. This allows different leadership styles and different competencies to be available to benefit your firm.

OF COUNSEL

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In beginning to understand each other, each of you must be brutally honest—in understanding your respective strengths and weaknesses. It is highly advisable, early in your working relationship, to engage in some form of self-assessment to obtain a measure of your leadership strengths, personal work style and emotional disposition, in order to have some hard data to examine and compare. It is valuable when two professionals who are set to co-lead and work closely together can examine their respective backgrounds, personalities, management styles and begin to appreciate where they are similar and where they are quite different.

One self-assessment tool that I have invested 15 minutes into doing on myself, is available at no charge and can be easily accessed at: *http://personal.psu.edu/j5j/IPIP/ipipneo120.htm* This assessment measures five domains of personality: extraversion, agreeableness, conscientiousness, emotional stability, and intellect. It provides you with an instantaneous written report of about 9 to 10 pages presenting a detailed description of your personality according to the six sub-facets that comprise each of the five main domains.

You might also consider asking for formal (or informal) 360-degree feedback to get an accurate sense of how others in your firm, who know you, are viewing each of your respective attributes and shortcomings.

2. Who is the better choice to provide leadership in which areas?

Clearly define your respective roles / Division of labor, setting up meetings, geographical responsibility, following up with which specific members, etc.

DISCUSS: *"Who is going to be taking primary responsibility for what?*

Agreeing to work together as a leadership duo always involves some upfront discussion about roles—and those roles must be carefully designed. One of the more common distinctions when dividing the workload is to have one individual dedicated to the external environment (strategic direction, client service and new business development) while the other takes responsibility for the internal environment (budgets, personnel, and operations).

That said, you can divide the leadership duties in any number of ways. I know of one situation where one is responsible for the international offices, while the other focuses on the domestic. One might be in charge of technology and finance, while the other oversees marketing and partnership issues. One can have a task-orientation while the other is better with handling the intricacies of working with the people – partners and staff. Responsibilities can be divided by interests (strategy vs. operations), skills (innovation vs. implementation), or personality bent (being task-oriented vs. people oriented).

If a natural division of labor is not apparent, you may wish to start by conducting an inventory of the tasks, activities, and responsibilities of the leader's role. (I did this a few years back and came up with a list of 50 bullet-point activity items). Now choose which of these activities would best be performed by which partner, and which activities should be done together. At the conclusion of this exercise, you need to be absolutely clear amongst the two of you, as to what activity should be performed by who (that individual who has the better knowledge, experience, or contacts) and you need to be absolutely transparent with your other partners on who has responsibility for what. Having distinct responsibilities helps mitigate one of the potential pitfalls of any co-leadership arrangement: confusion among partners and staff as to who is responsible for what aspect of the firm's business and thereby helps resolve communications and reporting problems.

You also need to be very clear concerning the degree of freedom each of you has around taking individual action. For

example, will it become an eventual cause for conflict if one of you is constantly the source of media commentary and has their name in the papers representing the views of the firm? Or, while it may be unrealistic for both co-leaders to be present in all meetings and interactions with other partners, on which subjects do you have complete discretion to represent the other?

Finally, there needs to be a purposeful effort to ensure that no administrative professional (CFO, CMO, HR, etc.) ever reports to both co-leaders. It is conceivable to have the marketing and IT professionals reporting to Mr. External and the financial and personnel professionals reporting to Ms. Internal. It is important to avoid any potential for confusion. Nobody should not be seen "shopping" their pet projects around, and subordinates should not be allowed to play you off against one another by asking you for something after your co-leader has already said no.

3. How do we keep our communications seamless?

Identify expectations and preferred communications protocols

DISCUSS: *How you define "urgent?"| What response time do you expect from emails or voicemails?|What are preferred communication modes: in person, in writing, by email?*

Most co-leaders report that they make it a habit to communicate regularly, at least a couple times a week with their counterpart, and far more frequently at the onset of the relationship. Your communications should include formal and informal venues, be open, respectful, and accommodating of your partner's communication preferences – be they by e-mail, video or telephone conversations, texts, or in-person.

Many note that they make an intentional effort to stay in touch by setting aside dedicated time to work with their counterpart. Make face time (even virtually) a priority. For one co-leader I know, that meant flying to the opposite coast and working there for a few days of each month. For another, it meant scheduling a regular monthly luncheon with a pre-agreed upon agenda to share thoughts, debate issues, develop common positions and plan their work. The important lesson is to specifically make time to meet and communicate – **don't leave it to chance**.

The "staying in touch" process creates the context – it allows each of you to keep your fingers on the pulse of the firm, to be sensitive to opinions and issues that need attention. Ultimately, each of you as the firm's co-leaders, must be able to speak for his or her partner so that the communication comes across with 'a single voice.'

One important element of your communications protocol is that you should never be 'surprised' by news – and particularly bad news. It must be the desire of both to keep the other fully informed of issues and potential problems that relate to your firm's performance and leadership.

4. How should we define our decision-making process?

DISCUSS: *"What are our specific ground rules for making various kinds of decisions?*

There is a fundamental dilemma involved in having two people sharing leadership responsibility: If you strongly disagree with your co-leader on some course of action, now what do you do?

Co-leaders report that having some pre-agreed formal process, protocol, or ground rules (you choose the term you favor) in place that allows for open debate and true

decision-making is important. The process is required to help determine how specifically, they will deal with any disagreements that may arise between them.

In effect, you and your partner should create a decision-making model wherein you attempt to identify the decisions (or types of decisions) that will need to be made. You can then collaborate on determining which decisions can be made by either of you alone (with one simply informing the other), and which decisions require agreement of both co-leaders.

For Example:

LEVEL A: Decisions reserved for only one specific leader to make.

LEVEL B: Decisions requiring discussion, dialogue and debate; involving decision by consensus of both co-leaders – or –

LEVEL C: Decisions involving others such that the co-leaders may want to solicit and listen to input and ideas, but still make final decision.

In some situations, the easiest approach is simply to defer to the individual who would appear to have the most experience with the particular issue at hand. In other instances, I have seen two co-leaders agree that they will be prepared to defer to that individual who expresses the strongest feeling about a particular decision. So, if the situation were such that my colleague felt strongly about something, I would have agreed to back off and defer to my colleague on that precise topic.

And, in those instances where both of you may have equal expertise or strong feelings about the subject, you need to resolve any disagreement by choosing some independent trusted advisor(s) to serve as arbitrator and help you both reach a satisfactory decision. Your capacity to reach a compromise in cases of divergent views is the glue that builds your relationship.

Leadership watching is a great spectator sport among many of your fellow partners and even the most inconsequential differences can be perceived as indications of a rift between you. Like good parents who try never to fight in front of their children, it is important to have a rule whereby you will hash out any issues of discord in private.

5. How are we going to coordinate so we don't step on each other's toes?

Establish some working guidelines: Guidelines to operate by (How do we avoid: divide-and-conquer) / Regular communication huddles – how often?

DISCUSS: *"What do we need to do to ensure that each of us knows that the other has our back?"*

In discussing with co-managing partners, the nature of their relationships, the first thoughts offered on what makes for an effective relationship are terms like "good chemistry, trust, mutual respect, and confidence." These broad descriptions convey a general feel of the relationship, but

- what are the specifics that make these relationships work?

- what are the elements that make up this "good chemistry"— and can they be replicated?

You need to sincerely want to see your co-leader be successful. Where that exists, conflict and criticism are easier to deal with professionally. It starts with having two firm leaders who have the right attitude, in that they are ***always*** prepared to give the other the benefit of the doubt and trust that the other person is doing what is right for the benefit of the firm. You must also have a willingness to accept that someone else may disagree with

your approach and actually have a better way of handling some situation.

Find out how your co-leader deals with conflict and stress and share how you tend to deal with difficult and stressful situations. Agree on how you will best work with one another if one or both of you find yourselves tired, stressed or finding that things are not going so smoothly.

Finally, there is a need to be honest about those areas where one is weak and agree to help fill any gaps by teaching each other. You will have strengths and competencies that your partner lacks, but you should compensate without undermining your colleagues' weaknesses.

6. How do we manage our respective egos?

Develop a working relationship. Share responsibility - the glory and the agony.

DISCUSS: *"What triggers does someone need to know to stay on your good side"*

Being a co-leader is demanding in that it runs counter to the natural tendency of lawyers to strive for individual achievement. A lawyer's identity and self-worth is often focused around what he or she accomplished as a practitioner and upon developing competencies that serve to distinguish them in meaningful ways.

There may be fewer opportunities for individual achievements when you share leadership. Indeed, you must agree to share the responsibility – both the glory and the agony – as a team, not as individuals. Many achievements will be joint achievements. When some outcome is achieved primarily by one of the two co-leaders, your partners may assume that you worked together or feel that it is appropriate to recognize both leaders equally. The greatest challenge for you both to overcome will be to subordinate your respective egos. Are you comfortable with walking on stage and taking your bows together, even though you may feel that you did the lion's share of the work on the project that your partners thought deserved such kudos? Co-leadership can only work if each partner is prepared to share credit and . . . **share blame, equally.**

The co-managing partner of one accounting firm I know reported that their views of "working together seamlessly" are so strong that following his giving a professional journal an interview, he refused to have his picture taken for the article about his firm unless his counterpart was also included in the photo.

7. Can we agree to put the firm first?

Ensure there is a shared commitment to the firm.

DISCUSS: *"What specifically would we both like to see our firm accomplish during our leadership tenure?"*

In order for two professionals (you and your partner) to successfully lead one group or one firm, you need to develop or come together on a shared ambition for where you would like to see the firm go and what you would like to see the firm achieve during your joint tenure.

Having examined a number of shared leadership arrangements, I believe one factor is paramount – those partners involved have to be prepared to work together as a team for the good of the entire firm. This element, more than any other, allows you to work through any differences and collaborate effectively. Each of you must be prepared to learn how to take a step back in the areas where the other is better equipped to take the lead.

There can be **no competition** between you for power or accolades. A very specific problem arises when motives are suspect. If either of you is perceived to be pursuing a personal agenda – it is a clear red flag.

When one thinks of having co-leaders, the favored analogy is riding a tandem bicycle. Riding a bike with two seats, two sets of pedals and powered by two individuals who may at any second decide they would like to go in different directions, can be exceedingly difficult. Attempting to steer any group of traditionally autonomous professionals in tandem requires a delicate balancing act. The good news is that it can be accomplished, but only with some very deliberate and thoughtful preparation. ■

—Patrick J. McKenna

Patrick J. McKenna is an internationally recognized author, lecturer, strategist, and seasoned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries. He is author/co-author of twelve books most notably his international business best seller, First Among Equals, *currently in its seventh printing and translated into nine languages. His most recent work,* Industry Specialization: Making Competitors Irrelevant *(Legal Business World Publishing, 2022) provides in-depth guidance on organizing your firm with an industry focus. Patrick is the recipient of an "Honorary Fellowship" from Leaders Excellence of Harvard Square. Reach him at: patrick@patrickmckenna.com*

Looking Back & Looking Ahead: The Great Growth Race

As we wrap up 2023 and start identifying strategic priorities for 2024, a resounding theme dominates law firm leader discussions: growth. Law firms have never been more keenly focused on growth, and in today's market, the vast majority of mid-size and large firms are dedicating a substantial amount of leadership time, energy and resources to proactively pursuing growth. One might argue that we have entered the Great Growth Race, a race in which law firms are competing with one another to grab market share, talent, client relationships and practice depth—at a faster rate than their competitors and before those opportunities get scooped up by other firms. This competitive pressure is causing firms to not only better define their growth strategy and key priorities, but also to more proactively and aggressively pursue strategy implementation.

Looking Back

Before we dive into a discussion of future growth, let's take a look back at law firm growth over the past twenty years. To evaluate the magnitude of growth among firms, we compared the 2023 AmLaw 100 to the 2003 AmLaw 100. In 2003, total gross revenue for all AmLaw 100 firms was $38.1 billion and only two firms reported gross revenue greater than $1 billion, Skadden and Baker & McKenzie. The average gross revenue for the group was roughly $381 million.

Fast forward to 2023 and among the 2023 AmLaw 100, fifty firms reported gross revenue over $1 billion. This number was actually down slightly from 2022 when fifty-two firms reported gross revenue in excess of $1 billion.

The average gross revenue among AmLaw 100 firms in 2023 was over $1.3 billion. As one might expect, all other key performance indicators also increased dramatically over the past twenty years as well, including size and profitability.

So what are the most noteworthy observations from this twenty-year look? First, AmLaw 100 firms, *on average*, each added roughly $1 billion in gross revenue during this time period. Although, the average is a bit misleading, as AmLaw 50 firms grew revenue at a disproportionate rate during this time. However, a second, and related, key observation, based on the current trajectory, *all* current AmLaw 100 firms will likely join the billion (or 2 billion) dollar club in the next 5-7 years, or fall out of the AmLaw 100 and be replaced by firms growing at a more rapid pace.

This remarkable growth in both the size and economics of the AmLaw 100 serves to further perpetuate the Great Growth Race. The legal industry continues to see both consolidation and segmentation pressures by which the big get bigger, and the rich get richer. As large law firms continue to increase both their size and profitability, many of these firms are competing more effectively for clients by demonstrating superior practice or industry depth, bench strength, breadth of related capabilities, geographic reach, and brand recognition. These firms also have the advantage of competing more effectively for talent, attracting attorneys with large practices and niche sub-specialties, through premium compensation.

Looking Ahead

Given the dynamics of the Great Growth Race, how should firms—big and small—approach setting strategic priorities for 2024? This year's process for setting strategic priorities does not necessarily differ from prior years - with one exception. As the market continues to get tighter, the need for clarity around strategic focus and prioritization of investment will only intensify. Regardless of size and growth trajectory, firms must take a hard look at where they compete in the market, define a strategy which plays to their strengths, prioritize investments to build on those strengths, and take action to implement.

Be Specific About and Play to Your Strengths: Few, if any, law firms can legitimately claim to beat out competitors by attempting to be all things to all people. When firms define the practices or industries they

	2002 Results (AmLaw 100 2003)	2022 Results (AmLaw 100 2023)	Percentage Change: 2002-2022	CAGR
Total Gross Revenue	$38,103,500,000	$130,838,161,000	243%	6.7%
Average Gross Revenue	$381,035,000	$1,308,381,610	243%	6.7%
Number of Firms with Over $1 Billion in Revenue	2	50	2400%	18.5%
Number of Firms with Over $2 Billion in Revenue	0	18		
Revenue per Lawyer	$607,700	$1,186,740	95%	3.6%
Profits per Equity Partner	$847,350	$2,599,460	207%	6.1%
Comp Average All Partners	$759,150	$1,945,640	156%	5.1%
Total Number of Lawyers	64,708	112,966	75%	3.0%
Average Number of Lawyers	647	1,130	75%	3.0%

are strongest in, and where they can most effectively compete for profitable client work, they are better positioned to develop strategies that lean into and grow those practices and industries of particular strength. This, in turn, helps firms to remain competitive and win more work, even when these firms may not be the largest.

Prioritize Investments: Like most businesses, law firms face limits on the availability of internal resources, and despite the desires of many law firm partners, firms simply cannot invest in everything at once. Compensation dollars, leadership time, business development resources, and lateral hires all represent scarce resources. And because such resources are limited, law firms must choose: Which practices, industries, geographic markets, or other opportunities represent the best strategic investments? By identifying and focusing resources on the areas that offer the greatest current and future market opportunity *and* that also most effectively leverage the firm's core strengths, the firm's investment in pursuing strategic priorities is more likely to deliver the desired result and improve the firm's long-term competitiveness.

Follow Through: In today's rapidly consolidating and segmenting market, there is no room for firms to drop the ball on implementation. Pursuing strategic objectives can be both challenging and frustrating at times, and producing results requires a true leadership commitment and dogged follow through. Firms must hold leaders and partners accountable for taking bold action to pursue strategic objectives for 2024 and beyond.

The coming years will undoubtedly see ongoing consolidation and competitive pressures, as an increasing number of firms join in the Great Growth Race. To effectively combat this pressure, now is the time for firms to step back and ensure that they have clearly defined their growth strategy, are investing sufficient resources in high priority growth areas, and taking bolder action to implement strategic and growth goals. ■

—Lisa Smith and Kristin Stark

This Insight was written by Lisa Smith and Kristin Stark, Principals at Fairfax Associates. Fairfax is a specialist firm of highly experienced consultants focused on serving law firms. Our focus is built on a deep understanding of the strategy, organization, and motivation of professionals. Fairfax assists law firms in defining and executing strategy, pursuing strategic growth and merger, and addressing partnership issues including partner compensation, governance, and firm performance. The Insights series draws upon our collective consulting experience to address topics that we consider of current interest to the senior leaders of law firms.

The Mount Everest Syndrome

Editor's note: The following two articles are excerpted from the second edition of Gerry Riskin's The Successful Lawyer*: powerful strategies for transforming your practice, reprinted by permission of the author.*

In many firms, good lawyers with good minds who are contemplating desirable changes, perhaps to address specific problems, will decide on overly grandiose initiatives that they can never actually achieve. Perhaps, for example, in response to a comment by someone that people in the office are out of shape and look rather sleepy by 5 p.m., somebody will say, "Maybe we should go for some hikes around here—get the blood pumping, get ourselves into better shape. That might make us better lawyers and make us happier."

Typically, within about a nanosecond somebody else in the group will say, "Look, if we're going to do some hiking, given the nature of our firm, we really ought to be climbing Everest. I mean, what kind of firm are we? We don't want to be second-tier. If we are going to take on a project like this, we're going to do it at the top of the curve."

Now the group needs a volunteer. Perhaps one of them has seen a documentary about climbing Everest—knows what a Sherpa is, knows what oxygen tanks look like, knows that you need tents at a base camp, that maybe you should have a helicopter, and so on. So that person volunteers to look into climbing Mount Everest. (Needless to say, in the case of a sole practitioner, these three speakers—the originator of the idea, the elaborator of the idea and the volunteer—are all the same person.) A month later when the group gets together (or when the sole practitioner reviews his or her plans), the answer to "What has been accomplished in regard to the Everest climb?" is—nothing.

The fact that nothing has happened on the Everest initiative is far less important at this point than what happens next.

In group settings in this type of situation, two questions are typically asked by those present. (They are usually asked silently: the partners already know the answers.) The first question is this: "What are this individual's billings like? Are they pretty good? Yes? Good. OK, then, we're almost there." Second question: "Does this individual attract a fair amount of business? Bit of a rainmaker? Yes? OK, we're there. We're not going to trouble this individual over some nutty idea to climb Everest. After all, the mountain will wait. We can always do it next year." In essence, what that group has done is to forgive that individual. Similarly, sole practitioners or lawyers working on individual projects will look for justifications in order to forgive themselves.

But look at the syndrome that has developed: Promise big, deliver nothing, be forgiven. Promise big, deliver nothing, be forgiven. Whether this scenario is occurring in a mega-firm meeting, in a small group or on an individual basis, the need to forgive and move on month after month is a losing syndrome. Champions do not do this.

Two simple steps will allow you to avoid becoming involved in the Mount Everest Syndrome ever again. These steps are useful both in your leadership of others, and in your guidance of yourself.

Achievable Actions

In the previous chapter, we carefully examined the difference between a concept and an action. Your first step in avoiding the Everest Syndrome is to be very certain that you are indeed creating specific actions rather than concepts—actions with potentially positive outcomes that are viable in your practice. The second step, which is also critically important, is that you take on, in a logical sequence, only

bite-sized pieces of those actions. So in managing our friend who was looking into climbing Everest for example, you could ask that individual, "What is your first step? What are you going to do first? What will happen over the next few days?"

To provide a more realistic example from a professional-practice point of view, imagine that you have decided that you want to write an article. Perhaps it relates to a matter you are dealing with in your practice—you are going to tie together intellectual property aspects with employment law, let us say, and you feel that by creating an article on that subject you will impress some appropriate clients or prospective clients. This is a great idea.

What typically happens at this juncture is that you say to yourself, "Well, how long will it take to get that article done? Four weeks, six weeks?"

"Six weeks," you may answer, giving yourself plenty of time.

Six weeks later, what has happened? Nothing.

So what do you do now? Shoot yourself? Feel guilty? Feel like you are unable to accomplish anything? Feel your self-esteem diminished? Feel like this is all a waste of time? After that, do you forgive yourself?

To break the Everest Syndrome, you must break your task down into small components. Because as lawyers we tend to be cerebral and to think conceptually, very frequently we do not pause to break the task down into its component parts, thus allowing ourselves to move forward incrementally. If you describe three or four or five or six phases to getting the article done, you *will* be able to move forward.

Whether you are managing yourself or managing others, the critical first questions for any task are these:

- What needs to be done first?
- What must happen over the next few days?

In the case of the article, the first step may be to identify subjects for the article, and here I mean *specific* subjects—i.e., a general outline of the contents. Getting a list of the specific subject matter for the article done within three or four days is a definite move in the right direction. You are moving from concept to action. No longer are you spinning your wheels: you now have traction. Ultimately, even if it takes eight weeks to write the article rather than the six you first projected, you *will* get the thing done. In fact, it will probably take you less time than you had thought.

People who kid themselves, who have grandiose plans and never get started, are the ones who soon decide that it is worthless and futile to make plans in the first place. They give up completely. I assure you that if you plan in the manner I have described, and if you set for yourself *realistic* actions and break them down into *incremental* portions and follow them *one step after the other*, you will leave your competition in the dust. Why? Because your competitors suffer from the Mount Everest Syndrome, too.

Return to your journal and look at the action items you created in the last chapter. Break them down into incremental steps and track your progress. This lesson in this chapter is powerful only when applied.

Getting to Base Camp

There is another enemy that can stand between us and the accomplishment of our objectives, and if you are not careful it will stand between you and the achievement of the actions you set for yourself during the planning process. This is the problem: in any particular moment, if there is a competition between an action you have selected and some billable work for a client, you will likely default to the billable work. Now, that is the right decision ninety-nine percent of the time.

However, it is not the right decision one hundred percent of the time. You must allocate time to complete your action plan, or you will never achieve your goals.

Look at your working schedule: month by month, are you budgeting any time at all to get your actions accomplished? It doesn't really matter what amount of time you decide to budget—an hour a week or an hour a day—but it *is* necessary to set aside some specific amount of time that you think is appropriate for you, given your lifestyle and the pressures of your practice. Then you must treat that non-billable time as sacred. If you fail to do that, you will never accomplish the actions you have set out for yourself.

What I have seen from superb practitioners or, in other words, what I have observed of best practices, is that the winners are the ones who do allocate or assign a portion of their time to accomplishing their pre-determined actions. It may be a small amount of time but they assign some. On the time sheets of one enormously successful firm, one hour of every day must be devoted to work on some of the actions that the firm has set, individual by individual, and must be accounted for in that way. There is a slogan in that firm that says, "One hour of non-billable time is worth more than an hour of billable time." Now, they do not mean that at the end of the day if you have spent ten non-billable hours and zero billable hours you are an asset to the organization. What they mean is, if you have failed to spend at least one quality, non-billable hour in the day then you have failed to achieve something far more important than the billable time you have achieved.

Will it be an hour a day or an hour a week? You must be the judge of that, but whatever you decide, budget it, allocate it, put it in your diary—do that now, if possible—and then use that time in the way it is intended, toward the accomplishment of your actions. When you look back over a period of weeks and months, you will begin to see a change, an incremental rate of progress, and that progress will begin to separate you from your competitors.

Specialty Versus Commodity Work

Almost everyone enjoys an occasional Pepsi or Coca-Cola (or Diet Pepsi or Diet Coca-Cola). Every time you enjoy such a beverage you expect it to taste somewhat the way it tasted the last time, and usually it does. When you pour one of those beverages into a glass you do not expect to see animal parts or other strange objects floating around in it (if you did, you likely would not be interested in acquiring more of the product very soon). In addition, if you look at the packaging, you will see that it is highly consistent too, usually unflawed.

When I am working with a firm of professionals, I present this idea of "the tangible product," and then I ask the group, "What is your product? What do you sell? Can you show me one? Did you bring any with you?"

Most professionals instinctively know that what they provide to their clientele is something very different than tangible items. All the rules for selling a Midas muffler or pots and pans simply seem irrelevant to a profession. That is because, of course, the interface between a professional and a client is not a product at all. It is something far less tangible. Therefore, typical responses to my questions are, "Well, I think we sell a service," or "I think we sell our knowledge."

The answers vary but the bottom line is that after reflection, most professionals realize that what we sell is ourselves. Our knowledge and skill is part of that. Certainly these are sometimes packaged into document form or report form, but basically we sell knowledge and expertise.

The Nature of Our Service

It is important to reflect upon the spectrum of services we provide, and to distinguish those which are considered "specialties" from those which are considered "commodities."

This assessment will provide insights into what clients will expect and/or tolerate from the professional who provides the service.

By way of an example of a specialist, there is a litigator in Washington, D.C. who is also a chemist—a brilliant scientist, in fact. If something happens in a laboratory of a big oil company that might endanger workers, this man is called in. He knows how to construct tests and, if possible (i.e., where appropriate and supported by the truth) to make findings which exonerate the owners of the laboratory. His value is, obviously, tremendous. His hourly rate is astronomical. This man offers a *specialty* service.

Now think for a moment about a lawyer who does routine mortgage work or routine residential real-estate transactions. We know that when you acquire a house you are as likely to get equally good title from one real-estate attorney as another. Certainly problems arise from time to time, and certainly in more specialized situations there may be environmental issues or other concerns that require a specialist, but for the typical residential transaction, there aren't too many specialized issues. That kind of work might be therefore be considered a *commodity*. Despite the fact that we are not selling products, a couple of specialty versus commodity examples from the retail world are pertinent to this subject. First, imagine for a moment that the head of state for your country wants to visit your firm as part of a public-relations initiative. You will get national press coverage, and in exchange all you need to do is provide some hors d'oeuvres for the head of state and his or her entourage.

Now a catering broker comes by and tells you that he knows some students at a local university who are starting a catering business, and that he can get you a price from them that is about 25 percent below the market rate. He also knows some specialists in the catering business who have dealt with heads of state before. They are probably 25 percent over-market, but they can handle your needs quite nicely. Without blinking, most professionals will choose to pay above-market prices for highly experienced professional caterers who have dealt with heads of state before. These caterers can be considered "specialists."

Now let us look at a situation relating to commodities. Your spouse asks you to come home with a case of Coca-Cola. You hear that a refuelling place on your way home from work is giving away cases of Coca-Cola today to anyone who fills up their tank *and* that their fuel prices are competitive *and* that it does not matter how much fuel you need: as long as you fill up, they will give you a free case. What do you do? Get the case free from the fuelling station, or buy it at premium rates from your local convenience store?

Most people to whom I put that question quickly decide that—unless there is some specific reason for patronizing the local convenience store or avoiding the fuelling station—they would take the free case and get their car refuelled. Why? Because they know that there is no appreciable difference between what they will pay for at the convenience store and what they will get free today at the fuel station. A case of Coca-Cola is something that we see as being the same no matter where we get it. As I said earlier, Coca-Cola manufacturers spend a lot of money to make sure that the quality is consistent, to make sure that the labelling is always pristine—and they do that so we can rely upon and trust the product. It is a commodity.

Where does this leave you? The commodity services you provide, like Coca Cola, are going to be greeted with fee resistance. However, in the specialty areas of your practice, you will see less fee resistance—especially if you are able to convey convincingly the specialty attributes of the service (for specific information on doing this, see Chapter 45, Overcoming Fee Resistance).

The Importance of The Client Relationship

I have taken you on an in-depth examination of the distinction between a commodity and a specialty because I believe that your awareness of the difference between the two—and your determination as a professional as to which (if any) of the services you provide are commodities, and which (if any) are specialties—is fundamental to the manner in which you present yourself, build relationships and market yourself. You may want to note in your journal the categories of work you do and their basic subcomponents and be brutally honest with yourself in labeling them as "specialty" or "commodity." If you are in doubt on an item, it's probably "commodity."

Those who are providing specialty services need to concentrate on the substantive nature of what they do. Clients and prospective clients are far less sensitive about the "bedside manner" and other service attributes of specialists than they are in situations where commodities are provided. However, the majority of the work that lawyers do has more in common with "commodities" than "specialties." And clearly, as professionals, we are not in a position where better packaging, more consistent packaging and other simple quality issues can assure us of successful futures. The interface between ourselves and our clients is not a product: it is us. We are in a profession that has a great deal to do with the relationship between our clients and ourselves.

Many lawyers cling to the myth that hard work and dedication alone entitle them to high levels of appreciation from existing clients, and ensure their selection by prospective clients. This view is naive to the point of being dangerous to the financial health of their firms. Traditional high-quality intellect- and knowledge-based lawyering skills are necessary but not sufficient for a prosperous practice today. As one professional put it, "Most clients want to know how much you care before they care how much you know." Lawyers need to think about how their clients *feel* as much as what they *need*.

You may not want to hear that. Most of our training as professionals has been technical. We have been taught to identify legal issues. We have been taught to see legal problems. We have been taught to prevent problems or provide solutions arising from the law. Sometimes it does not occur to us that the client wants far more than a solution.

Your client wants to know whether you understand the problem. Your client wants to know whether you understand how he or she *feels* about the problem. Your client wants to know whether you understand how *badly* he or she wants a solution to the problem.

Particularly in the case of commodity work—although it certainly doesn't hurt in the case of specialty work as well—the successful professional learns how to empathize with the client. The successful professional not only understands the client's perspective, but also *lets the client know* that he or she understands. ■

—Gerry Riskin

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but certainly not all corporate leaders want to see people in brick-and-mortar offices and sometimes slick and shiny new offices.

Cipolla explains. "Many employers currently desire, if not demand, that their employees return to the office for various reasons, such as real or perceived increased accountability, productivity, and collaborative synergy," he says. "In order to lure workers who enjoyed working from home during the pandemic back to their offices, these employers covet upscale, newly constructed commercial space with more employee friendly amenities, and are willing to pay for it. So the commercial leasing/subleasing market has been somewhat steadier and more resilient than the buy/sell market."

The same holds true for Jeffer Mangels. "On the leasing front, we are still seeing those who need space actively pursue attractive deals," Weissman says. "Landlords in many major markets are making significant concessions to attract and retain tenants. Many tenants, however, have excess space which they are seeking to sublease."

In Anchorage, Alaska, attorneys at Landye Bennett Blumstein are also experiencing activity within office buildings, particularly in certain economic sectors. "We continued to see leasing transactions of all types and sizes, including in the office market," according to written correspondence from partners Joshua Hodes, Lauren Sommer, and Benjamin Spiess. "While vacancy remains an issue in the office space as a result of the 'work from home' trend, we saw organizations in and related to the oil and gas industry continue to lease in our local market."

But Alaska is famously unique in many regards and that's also true in the real estate markets. The Landye Bennett attorneys say clients who own property across the nation's geographically biggest state and encounter problems or opportunities regularly need legal help regardless of the ups and downs of the economy, as do long-term, traditional industries.

"Real estate issues consistently arise for our clients with an enduring presence in, or connection to, Alaska, including for example for our Alaska Native Corporation clients—which own vast amounts of land throughout the state—and our clients in the commercial fishing and processing industries," the three attorneys say.

They add that the diverse nature of their real estate practice helps offset slower transactional activity. For example, the last two years have seen many mergers and acquisitions, particularly in the hospitality and tourist industries, and these deals need attorneys who can skillfully advise on the many real estate-related issues that arise in these deals.

Hodes, Sommer, and Spiess also point to another workload stream that's generating revenue for them, their team, and the partnership. "Developers and local governments have continued to explore public-private partnerships in expanding affordable housing opportunities in Alaska and the Rocky Mountain region, where we mostly practice. We expect this to continue as a key real estate area."

Over the last decade, Nevada has been one of the fastest-growing states with a robust real estate market. At McDonald Carano, with offices in Las Vegas and Reno and a statewide presence, the real estate lawyers seemed to have bucked the slow-market trend that those in other states experienced recently.

"Our real estate lawyers and clients were busy in 2023, and we do not expect a slowdown in 2024," says Andrew Gabriel, co-chair of the firm's real estate and land use practice as well as its business entities and transactions practice. "In Nevada's commercial real estate market, the industrial, retail, and gaming segments continue to be busier than [office leasing matters]."

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As with the real estate groups at Frederic Dorwart and Jeffer Mangels, attorneys at McDonald Carano have been helping some employers navigate moves to new offices as they upgrade workspaces. "While Nevada office building vacancy rates are not as high as other parts of the country," Gabriel says, "we see movement by tenants from older buildings in less desirable locations to new projects in suburban corridors."

Gabriel and his colleagues also serve clients with deep pockets who are seizing opportunities. "We see increasing activity from entrepreneurial businesses that have the resources to buy property when it is available," he says, "as well as small business owners with real estate needs relating to increasing M&A activity in that sector."

With real estate transactions expected to pick back up, some law firms plan to boost their attorney ranks to meet the coming increased demand. "I expect to grow our real estate team in the near future, through a combination of training our younger lawyers and hiring additional lawyers," Cipolla says.

But certainly, legal recruiters experienced stagnation recently in this practice area. "The market for real estate attorneys, like transactional attorneys more generally, slowed greatly in the second and third quarters of last year but has rebounded slightly from that point," says Taylor Miller, managing director at the national legal recruitment firm Whistler Partners.

Miller adds that when law firms do look for real estate lawyers to hire, they want candidates with experience in acquisitions, dispositions, divestitures, and joint ventures on the transactional front. Many hiring partners also want candidates with a background and knowledge in "other aspects of real estate that aren't necessarily transactional in nature, such as attorneys proficient in zoning laws."

Most real estate teams seek out diversity of experience and legal acumen. "The issue is not simply the size of the group," says Weissman when asked about growing his group, "but the balance of attorneys with appropriate skills and experience. To tackle the myriad tasks that our real estate attorneys face, we like to have a mix of partners and associates, at appropriate billing rates, with various specialties, to best meet the needs and expectations of our clients."

He also hires strategically with a long-term outlook. "We are also forward-thinking," he says, "making sure that we keep an eye out for talent not only to meet today's demands, but also future opportunities."

Cipolla seems to agree and brings a sense of urgency to his hiring approach. "It will be too late by the time the real estate markets return to their historic form," he says. "Now is the time to act and prepare." ■

—Steven T. Taylor