

Rainmaking Lessons from a Top Woman Litigator

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Sharla Frost is the co-founder and managing partner of Powers and Frost, a 31 attorney, woman-owned law firm in Houston. She is a member of the firm's management committee and also the partner in charge of marketing and business development. For the last three years running, Sharla is been recognized as a Texas Super Lawyer. Her litigation practice focus is product liability, mass tort litigation, as well as complex litigation.

In this interview, Ms. Frost discusses the ways she builds relationships with clients and prospects. The first part is included in the December Issue, where Ms. Frost vividly describes how she got going in her career and how she deals with clients and opportunities.

General counsel tell us they want their litigators is to be business “problem solvers.” What advice do you have for people about how do they behave like a business advisor rather than a technical litigator?

Sharla Frost: You have to be able to do both. The real skill we bring to the table as litigators is that we're able to go in and dissect the problem and figure out how to fix it.

But from a business development standpoint, and frankly from a long-term survival standpoint in the legal field, you need to spend some time reading the management and business materials. I subscribe to that silly service called Executive Summaries. I met a guy on a place who was a senior principal with Merrill Lynch. We as lawyers have to learn both to analyze things from a business perspective and to put them in terms that our business colleagues internally are able to use.



There's a wonderful book called *Why Flip a Coin*. A friend of mine who was in-house for a while recommended it to me. It explains how fiduciaries and financial people inside corporations try to evaluate and categorize litigation risk. If you learn to put risk in terms of statistics and numbers and percentages, it helps our internal colleagues speak to the business side of their businesses about what it is that is at risk with litigation. So I think if you learn to view what you are doing in the way that clients view it, it makes it easier to both have the dialogue and provide the service for them.

One challenge that I hear from litigators is they have an active matter with one client, then another active matter comes up with another client, so they're always

busy with executing work. Sometimes that can take away from the focus on the building of a relationship with a client when there's nothing really active there. How do you handle that? Do you budget specific time on a client? How do you market when there's nothing particularly active going on with a client?

What I do and what my firm does is we monitor ongoing, active appellate issues, as an example. I think every firm probably does this, but for clients that we don't have something active for, if we see something come up that is relevant to the area that we've handled for them, we provide them with a copy of the case. Here's such and such case. Borg-Warner had a big issue recently in Texas. Anyone who does toxic tort work is aware of the Texas Supreme Court Flores vs. Borg-Warner, which is a very fundamental change in substantive law in Texas on causation. So we did an analysis of that and provided it to our in-house colleagues, even for those people that we didn't currently have something for, so that we continued the relationship.

We keep our name in front of them, they're aware that we're on top of the legal issues that relate to their work. In this way, our clients have a ready-reference if someone else asks them about that issue. Will we necessarily get the next case from them? Maybe, maybe not. We may not be next up in the queue, or we may not be the people that they have in mind for whatever comes in next. But this approach helps to continue the relationship. So, when the appropriate case does come in, the chances of our getting it are significantly higher.

Studies show that 80 percent of your work long term – whether you're a litigator or any other sort of lawyer – comes from existing or previous clients who are satisfied with your work. That being so, continuing a relationship and continuing to have what I call “touches,” but they have to be legitimate touches. You don't want to seem like a stalker. You want to be someone who is providing value to them and making their life easier, not being a burden to them as being someone else that's always in their face – “Send me work; send me work; send me work.” When the time is appropriate, it's always okay to ask that, but the way I view it is a long-term maintenance responsibility to take care of those people. In my view, once my client, always my client. I am working on ways to continue the connection, even if it's not necessarily in the context of an active, ongoing case.

Let's touch on the need to be cross-marketing and cross-selling. What we've heard clients say is that they really value the attorneys, particularly litigators, who they view as a “go-to resource.” How do you become this kind of resource for your clients?

It depends on the client. As I tell young lawyers, I try to train my clients to call me first if they need a hairdresser. I want to be the person they call. I want to be the resource. If they have a type of case that we don't handle, I still want them to call me so I can assist them in finding the appropriate person to handle that. The lawyer in-house very well may not know the right person – they clearly don't or they wouldn't be calling me – and it

is time out of their lives to try to find that, when I may already have that resource. That's a win-win situation

For example, if they call and say, "I need somebody who is a regulatory lawyer in Texas. Who should I call?" Not only do I get to help them solve their problem by finding them the right person, but I then make a friend with whoever I sent the work to because this may be an opportunity they wouldn't have gotten otherwise.

But in order to be a resource for your client, it has to be a two-way street. I try to view them as someone that I am providing services for, both legal services and other services that they need. Recently, I sent a book recommendation to a client that I know has a very deep interest in history. I ran across a book; somebody else said it was great; it's new; this is someone I know is very, very busy and doesn't really have time to do that sort of shopping.

I sent him a two line email: "Hey, Bob. Ran across this book that I think you'll love. Recommended by a friend. Here's the title. Let me know what you think about it." It is providing them the shortcuts that make it easier for them to live their lives.

As our last point, how do you get the attention of a prospective client and start the business development dialogue with them?

One of my partners Andrea is fabulous at "cold calling." She has sort of a moveable seminar. It's not a completely canned seminar. But she has a one-hour presentation that she can do for new business clients on employment issues, which is her area of specialty. She has been very effective at calling in-house counsel and saying, "You don't really know me, but this is what I've done for some other clients who have similar profiles to you. We would love an opportunity to come in and spend an hour with you. We'll bring lunch and show you some breaking issues in the employment area."

Personally, I find that for in-house litigation people, calling them as the first step is, for many of them, is much too intrusive. One, they don't really have the time. In addition, a lot of them hate marketing almost as much as the lawyers who are doing the marketing do. So I start a little bit further back in the process. People will say, "Never send anybody a brochure." Well, never send anybody a brochure unless it makes sense to. We have a very distinctive firm brochure. I will drop a note to someone and say, "I saw in the Wall Street Journal that you are new to the town. You may not be familiar with us. I'm enclosing a copy of our brochure. If you ever have some time on your calendar, I'd love a chance to sit down and talk with you; take you to lunch; take you to breakfast; whatever makes sense for you. Here's my contact information. Please give me a call if that's something you'd be interested in."

Then I calendar that, and in 30 days or 45 days, whatever makes sense in the context, I will follow up with something substantively specific: "Dear Jane: I hope you enjoyed our brochure. In addition, I noticed that your firm is involved in (XYZ) litigation. There's a new case on this topic from California, not directly on point in Texas, but it may be an

indicator where court is heading. Thought you would like to see it. Hope that we have an opportunity to get together sometime.” Then, I will try as the third step to find an opportunity – if this is someone I haven’t met personally – to meet them personally. Then I will make the follow-up call saying, “I would really like the opportunity to sit down and talk with you. Is that possible?”

For me, it's a much more strategic, step-by-step approach. Everyone does it differently, and every in-house person perceives those things differently. So I wouldn't necessarily say “No, don't ever make the call the first step.” But you need to think about it a little bit more strategically than that because you want them to know who you are when they call. They may not really spend a lot of time on the stuff that you send them, but the name recognition lodges somewhere in the deep subconscious. Using this approach, you won't be viewed quite so much as a telemarketer if you call when they already have some concept of who you are and what value you might bring to them.

As you probably gathered, business development, particularly for women, is one of my great passions, and I enjoy the opportunity to talk about it anytime anyone is willing to listen. I hope that everyone gets something useful.

For more on this topic, call:

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