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LawBiz® TIPS – Week of April 3, 2012

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Let's take a look at the legal process as though we are in the industrial sector with the Lawyer as the manufacturer or seller, the Staff as the folks who create the inventory, produce and package the product, and the Defendant or the transactional adversary as the buyer.

The lawsuit or negotiation can be viewed as though we're purchasing and selling a product. The objective is to determine the price of the product. In the legal environment, the parties are seeking to reach a purchase price that both can accept. Not talking about a "lawsuit" may help keep the emotion out of the conflict and allows the parties to reach agreement.

Also, [sign up](#) for our Practice Management Institute, April 20/21, 2012 in Santa Monica. Promises to be very high value ... Still a few seats left.

Have a great day.

A handwritten signature in black ink, appearing to be "EJ".

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Testimonials *Still* Are Not a Good Idea

Clients Value Their Privacy

I do not provide references because my clients value their privacy and time, as do I. After practicing law for 25 years, I am thoroughly imbued with the concept of confidentiality, and I take it very seriously. My contrarian perspective is against the view of all sales people I've ever met. Most advice on this subject from marketers is that testimonials from recognizable clients/customers are good. People want to associate with others whom they want to emulate (witness today's flood of celebrity-focused advertising). For business clients, the reasoning seems to be that if you're a small but growing company, you should engage a law firm that has helped and can name other small companies that became big and successful. The implication, by naming these companies, is that the firm can do the same for you.

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Clients Want to Keep Their Names Out of the Press
However, the contrarian perspective is that clients don't want to acknowledge that they have circumstances requiring legal advice. Clients want to keep their name out of the press and off an attorney's web site. That's the whole idea of confidentiality. Not only is the subject matter to be confidential, but so also is the very fact of representation to be confidential.

The ABA's Position on Lawyer Advertising

There is another reason for questioning the value of testimonials. Although the Rules of Professional Conduct do not prohibit them, [the ABA's Commentary 3 on Rule 7.1](#) (lawyer advertising) states: "An advertisement that truthfully reports a lawyer's achievements on behalf of clients or former clients may be misleading if presented so as to lead a reasonable person to form an unjustified expectation that the same results could be obtained for other clients in similar matters without reference to the specific factual and legal circumstances of each client's case." That is why some states (South Carolina being the latest) require that with any use of a testimonial, a disclaimer must be included to the effect that results for one client may not be duplicated in another matter. New York requires a disclaimer with simple wording: "Prior results do not guarantee a similar outcome."

Client Confidentiality

Often the source of stress for such lawyers is a sense that their practice seems to be spinning out of control. They can't decide which practice areas to focus on, how to focus on them, and whether - if they are even able to decide on a practice focus - the area they choose will provide enough income to support family and practice. Lawyers facing such an impasse should pause and physically take a deep breath. Taking the time to think things through, especially with the help of a coach, is the equivalent of a deep breath that restores perspective. This, however, is just one step toward the complete erosion of client confidentiality. Lawyers can ask clients for permission to use their name, but I believe most clients subconsciously are reluctant, even if they overtly allow it. I've seen this reluctance in my own coaching practice - many of my clients ask me to keep their identity confidential, even though there is no rule governing this. The issue is one of propriety - even if the client participates, even if we tell the truth and even if we note that, yes, the results in one matter do not guarantee that the same results will be achieved in a second matter. We still continue down the slippery slope of eroding those vestiges of the legal profession that are different from all other businesses. The end of lawyers?*

*With apologies to Richard Susskind.

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What Clients Are Saying:

"Through Ed's invaluable coaching and no-nonsense approach, I was able to not only stay employed at the firm, but to make partner and have a future with the firm."

JM
Los Angeles, CA

"Ed knew the right questions to make me answer. He has taught me virtually everything I know about formation, planning, and now management of a successful law firm."

RJM
Los Angeles, CA

"Ed is fair, kind and forthright, is very professional and was a very enjoyable person with whom to work. I would highly recommend the services of Ed Poll to anyone in need of assistance with understanding their business, improving its operations or valuing it for sale or transition to some other operational format."

DMG, R.N., J.D.
Austin, TX

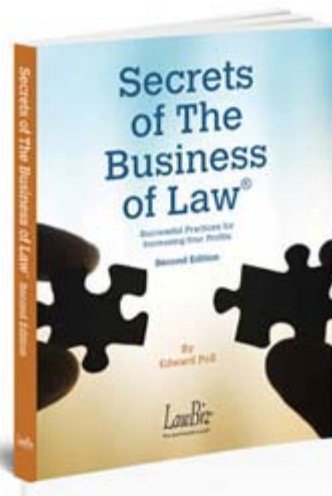
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increase their bottom lines. The book is not overwhelming, the individual articles are short and to the point, and the writing style is friendly. I highly recommend it."



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