

# Make Your Mark With Marketing

By Sharon Berman

In today's marketplace, having a book of business can make all the difference — between making the cut and losing one's job. Associates who never thought much about building their own book of business in the past are now realizing they need to set themselves apart from the crowd or face the possibility of joining their fungible peers on the unemployment line.

A book of business is the foundation for differentiating yourself in the eyes of firm management. But the age-old question that has stymied even seasoned attorneys is where to begin marketing your services. Resolving to take action is the first step, but what are the following steps that will get you where you want to go?

First, you need a plan to guide you through the application of the core principles of marketing. These principles apply to everyone — associates and partners established in firms who want to differentiate themselves, as well as those who didn't make the cut and have vowed to do things differently in their next position.

Start by answering some basic questions. First, what exactly are you going to market? Before you leap into action, ask your firm management for some direction because your marketing initiative must support and contribute to the firm's overall game plan. You may find that the partners want you to market their core services or practice area. Or, their strategy may be to expand and develop a burgeoning practice area, in which case they may encourage you to help them focus on this area.

Your next step is to identify your own strengths and interests so you can leverage them. If there are specific practice areas or specialties within a practice area that intrigue you, see how you can align these interests with the firm's direction. If that's not possible now, keep your eyes open for opportunities as the firm evolves.

Before you decide on your tactics, however, you need to establish the parameters of your target market. For instance, will you be marketing directly to "end-users," such as company presidents or consumers, or will you be marketing to referral sources such as CPAs or other professionals? Research where your targets can be found and

how you can reach them. For example, do they participate in specific online groups? Where and when are their conferences? What are they reading or listening to? What professional groups do they belong to?

Once you know where to find your targets, your next challenge is how to approach them. Here you may need help from colleagues and friends. Most likely, you already know people who can make an introduction. Younger attorneys tend to discount the value of their contact databases, such as ACT! or Outlook, because they might not be filled with names of senior executives and CEOs. But these contacts are actually the core of your marketing program. In the blink of an eye — a few years from now — a pal from law school might be in a position to dole out exactly the kind of

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business you want.

Add to your database all the people with whom you want to communicate from a business perspective. This will include current and former colleagues, law school alumni, bar association colleagues and other people you know in the business world. It's crucial that your database is up to date and well organized. Consistent communication with your markets is a key factor in successful marketing, and you can't be consistent without a shipshape database. Organize your contacts into categories and code them as A's, B's and C's in terms of priority. For example, A's are the people who warrant monthly contact, while a quar-

terly "touch" might be sufficient for the C's. Keep expanding this core database as you identify prospective clients and referral sources.

If you've ever taken a marketing class, it's likely you have heard the term "marketing mix." It refers to the fact that effective marketing consists of a mix of tactics, such as direct mail, e-mail, networking, speaking, writing, Web site, social networking, advertising, etc. Relying on just one tactic is like putting all the proverbial eggs in one basket. Unfortunately, there is no magic formula for the perfect blend; it just comes down to an educated guess that is refined by experience. Further, because your mix may change over time depending on the marketplace and your objectives, the marketing mix has to be monitored and measured.

Explore a range of tactics and decide what fits your personality and firm culture. Then, choose two or three tactics to which you can commit to with consistency. Start blogging, get involved in a strategically selected organization with the goal of working up to a leadership position or develop a means to communicate consistently with your database (e.g., forwarding your firm's client alert or newsletter with a personal note). Quantify your goals as much as possible and assign a timeframe to them. For example, specify that you are going to send a news alert to your markets once each quarter, or join one committee by the end of August.

Don't set yourself up for failure by aiming too high. Market to your level of experience. As a second-year associate, for example, you should not expect to bring in the same kind of business as a senior associate or partner. You may, however, be able to create opportunities for senior attorneys to be introduced to people they might not otherwise meet, whether potential clients or referral sources.

Marketing success is notoriously difficult to measure, but it's important to capture as much data as you can so you know what is working and what is not. From the start, develop the habit of tracking the results of your marketing activity. An example would be the number of responses you get to an e-mail blast — not just new clients you landed, but people contacting you in response to your communication. The brass ring is a



lead generated — someone who would like to talk with you further about using your services — but there are preliminary steps, like reminding people of who you are and what you do.

While it's difficult to cut through the clutter when marketing a professional service, consistency and persistence usually win out over a blockbuster approach. Keep answering those questions on LinkedIn or distributing that article you published because someday someone will need your services and on that day, they will finally "get" the message you delivered 20 times before. Marketing is a numbers game, whether in the size of your market or the number of times you "touch" prospects. Keep those numbers up!

The core principles of marketing — your

plan, your organized database, your measurement of results, your consistency and persistence — remain the same in any economy, but in a way it's easier to stand out from the crowd during difficult times because so many others hunker down and stop marketing. Regardless of where you are in your associate career, now is the time to begin building a book of business or, if you already have one, to reinforce your business development activities. Your career depends on it.

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# Why Income Partners Are Increasingly Spared Over Associates

By Edwin B. Reeser

Reductions in professional staffing that are savaging associate attorney and staff ranks in BigLaw during the first quarter of 2009 (approximately 3,000 associates and 5,000 staff) have yet to be matched in the income or service partner ranks. There has been speculation from some quarters that this is the other "big shoe" that is going to drop in the ongoing worldwide employment horror drama in the legal profession. While there is no question that there will be cutbacks in the ranks of all partner categories, including equity stakeholders, the dynamics of profit contribution by partners other than equity, whatever their label (income, service, of counsel, senior attorney, etc.) are significantly different and generally superior financially to that of associates, which is one reason why the cuts to date have been heavily in the associate ranks. There has been an ongoing evaluation, and action to address, unproductive partners over the past five to 10 years, such that while there is always room to improve such a situation, it is not for many firms in BigLaw a pressing problem that is materially impacting profitability.

There are a number of reasons that this is so.

First, income partners are considerably more experienced and ef-

ficient. A higher proportion of their hours worked (even though there may be fewer of them) are billed and collected.

Income partner billing rates are higher, and every hour worked has a higher margin as against the allocation of fixed overhead to them as timekeepers.

Many income partners have a book of business, some amounting from hundreds of thousands to more than \$1 million a year in fees, just not enough to justify a full equity partnership position. This provides additional breadth and stability to the firm's business base.

Income partners have real expertise and can assist in marketing firm capability that lands new cases when presented as part of the professional team. Relative to young associates, income partners are a much easier "sell" to existing and prospective clients at their hourly rates.

Income partners contribute to administration and partnership duties, from recruiting, mentoring and training new associates, to service and leadership on all manner of committees, and firm initiatives, thus spreading that burden among a group wider than just the equity shareholders.

Based on years of past experience, it tends to be very easy to project what the contribution of the income partner to the bottom line of the firm will be, and their

performance-based compensation and benefits packages can be correspondingly tailored individually so that the firm makes a meaningful profit spread from every one of them.

One negative stigma attached to income partners is that by and large they are not "productive"; billing reduced numbers of hours relative to other classes of timekeepers. But the real factor is not production as much as it is profit — something that in this economic environment is valued highly. As a firm, you do not need to have all income partners working 2,000 billable hours. For example, look at 1,600 hours at \$500 per hour collected from a service partner, which puts \$800,000 into the firm coffers. Salary and benefits for that partner will come in at about \$400,000, (absent some significant client originations that are a basis for more income due to profits generated from that book of business, which is worked by others). A reasonable per capita overhead allocation is perhaps \$150,000, so the net to the firm for having her on the team is \$250,000. In a firm where the quadrant of income partners is roughly 1-to-1 with equity partners, every equity partner receives a quarter million for this segment of production in the firm. Where is the financial negative? Bonus structures are also available that can encourage more billable production and client

fee origination, and there is often generous sharing for such higher productivity, which is calculated to give more to the individual income partner, and more to the equity pool as well. There are income partners who reliably produce more than 2,000 billable hours year after year. But it is not required, and more, not to force the income partner out if the firm is making a quarter million dollars or more a year from their efforts, and they competently carry administrative burdens of operating a business that would be solely borne by equity partners, diluting and weakening their valued contributions to the firm.

Contrast that contribution with a younger associate doing perhaps 1,900 billable hours at \$300 per hour, but a fairly typical post-billing writedown of 6 percent on hours, or 120 hours. Net collected hours for the firm would be 1,780. All in salary and benefits is \$200,000 to \$250,000, less the per capita overhead allocation of \$150,000, and the firm nets \$114,000. But, there is great variability in associate productivity. Many will work 2,000 hours or more, but the pre-billing adjustments can easily amount to 15 percent (300 hours) each year for the first two years. Frankly, if you can collect 1,600 solid hours off an associate in each of the first two years,

you are not doing badly. And that means that you are about at zero net contribution to the income of the operation, if you are fortunate. But then there are the other costs that a firm must bear that are not reflected on the income statement, but are very real. Additional partner time is spent reviewing work product, most of which is not and should not be billed to the client. Associates in the first three to four years have little ability to carry administrative and other burdens. And certainly associates have no real professional "expertise" in the first few years. Additionally, with 20 percent per year attrition, associates are going to pursue other directions, after a couple of hundred thousand dollars of sunk costs in recruitment, summer programs etc., whereas the income/service partner has become a long-term participant on the team. Some associates have real adjustment problems and their performance drags the class statistical averages down, while they receive lock-step compensation that is unrelated to their individual performance. Bonus structures do exist to reward the star associates, but on balance the firm does not begin to make money on the class until sometime during the third year. Associates in the fourth through eighth years do begin to make profits for the firm, but their headcount numbers are smaller after attrition is taken into account. If

associates are put to work on large litigation matters involving document production, they can rack up large hours, but their rates are not rational for many clients when they are put to that purpose, and hourly contract lawyers with several years of experience and charging lower rates are being demanded increasingly. For transactional lawyers, it is difficult to get large hours other than in due diligence roles. This is brain-damaging clerical work if done for more than a year or two, and the educational benefit is over after only a few deals or cases. Clients are increasingly not willing to pay for the cost-ineffective application of attorneys working at BigLaw firm rates for these tasks, and rate accommodations and discounts often demanded and given. There may have been opportunities to leverage up on overpriced associate labor and to achieve profits in prior years; but most observers today would agree that those days are now severely limited, if not over.

**Edwin B. Reeser** is a business lawyer in Pasadena specializing in structuring, negotiating and documenting complex real estate and business transactions for international and domestic corporations and individuals. He has served on the executive committees and as a office managing partner of firms ranging from 25 to over 800 lawyers in size.



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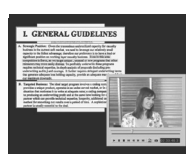
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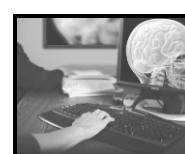
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