

Legal Marketing in Turbulent Times: Keeping Your Practice Afloat

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Introduction

These are wretched times for lawyers and law firms. We've seen the highs and lows of practicing law, but we've never seen the practice of law as battered as it is now. In the month of January 2009, more than 1500 legal jobs were lost (lawyers and staff). That number doubled in February. In the first week of March 2009, a new form of "March Madness" meant lost jobs for 1500 lawyers – in one week! In 12 months, over 21,000 legal jobs were lost, according to the *ABA Journal*. Virtually every day, the *ABA Journal Daily Newsletter* reports on the carnage at another law firm. Sometimes multiple law firms. And yet there is still shock and awe at watching it happen. Entire law firms have vanished from the landscape, including the once mighty Heller Ehrman (650 lawyers) and Thelen Reid (400 lawyers). Firm implosions have caught, and held, our collective attention.

If you like reading obituaries, you're going to love the Layoff List compiled by Law.com, <http://www.law.com/jsp/tal/PubArticleTAL.jsp?id=1202425647706> or the Layoff Tracker <http://lawshucks.com/layoff-tracker/>. According to the latter, there have been over 10,418 layoffs (3,906 lawyers/6,512 staff) layoffs in calendar 2009. As of June 4, 2009, the site reported 12,410 layoffs since the beginning of 2008 (4,836 lawyers, 7,574 staff).

If your law firm is still afloat in these violent seas, congratulations. Now the question is: How do you steer your firm toward calmer waters and fair winds? And if you have suddenly found yourself a solo or small firm refugee from BigLaw, how do you survive?

There is a lot you can do from the financial, marketing and technology perspectives, but we're going to focus on legal marketing in a down economy. Surrendering your marketing efforts is clearly a recipe for disaster. But you may need to rethink and retool your previous marketing strategies.

Some of our advice is short and sweet. We let the subject dictate the length of what we had to say, well aware that this subject could beget an epic novel, but that an abbreviated compendium of ideas and suggestions might be more useful. So we've attempted to write something that could be read, digested and annotated over a cup of coffee.

As is often said, business is war, and never more so than in a bad economy, so prepare yourself for battle. Onward.

Utilize Your Real Life Network

Turn off your computer. You're actually going to have to turn off your phone

and discover all that is human around us.
Google CEO Eric Schmidt at a 2009 graduation ceremony

In the days of social networking, real life networking seems so, well, old school. But guess what? It still works. Whether you're shaking hands at the PTA, the Lions Club, or your local bar association, you're creating a network of folks who know you. Although the authors are creatures of the ether, we also know the value of meeting people outside of the virtual world, and make concentrated efforts to do so.

That firm handshake, quick smile and keen interest in someone else is memorable in a way nothing else can be. Make sure that you DO in fact remember to ask questions of anyone you're talking to. No one is less interesting or memorable than people so self-absorbed that all they do is talk about themselves. And no one is more charming or memorable than someone who expresses a sincere and active interest in the person they are conversing with.

Repeat after us, do not sell, do not sell, do not sell. Such people are anathema in a social setting. However, conversations do meander – and talking about the economy is natural enough anywhere these days. It is easy enough to slip in a comment about how you've changed your practice in light of the economy – and then be sure to ask the person you're speaking with how their business has changed.

Go armed with your business cards and always, always with a smile, prepared to make new friends. Friends are not only potential clients but an excellent source of referrals.

Get Up to Speed on Social Networking

*In Network Marketing, the NETWORKING
always comes before the MARKETING
- Silke Stahl*

Yes, business does come in through social networks – but it takes some effort to get there.

LinkedIn, Facebook, Twitter, Plaxo. These are the major vehicles of social networking, though there are many others. The joy of these networking tools is that they take time, not money. The downside is that you must get a return on your investment in exchange for your investment of time, so don't over-participate if you are not seeing results.

Most experts believe that Facebook has won the war as THE social networking site, so perhaps you might want to start there. Facebook has more than 160 million active users – and that's a heck of a number. More than half of its users are college graduates and professionals.

LinkedIn, often seen as more professional, now has over 840,000 lawyers using the site. If the more social world of Facebook doesn't appeal to you, LinkedIn may be a good alternative.

Wherever you choose to network, make yourself a go-to person, engineer your image, cultivate friends in your areas of practice to keep abreast of new developments, and make friends in other areas of practice in your geographic area who might refer clients to you. Ask questions to get a conversation started. Exchange tips and information – and always give more than you get.

If people are helpful to you – perhaps introducing you to someone in their network or agreeing to talk to you for 10-15 minutes about the services you provide, make sure to write and thank them.

Be sure you have a polished and comprehensive profile. Look to join or to start networks or groups, post content that demonstrates your expertise, interact with others (essential), and most importantly, once you've started a relationship within Facebook, take it outside of the virtual world and make it real if geography permits.

There's a Facebook page just for blogging lawyers:

<http://www.facebook.com/group.php?gid=2375454341> to get you started.

There are still a lot of lawyers unfamiliar with Twitter. <http://twitter.com>. Twitter is a free platform that allows users to post tweets (online messages of up to 140 characters) visible to those who choose to follow them. It is often called a micro-blog. As your reserves of posts grow, you will find that, if you post useful content, people will find you and follow you. And of course, you can follow others as well, though it is wise to be wary of that time investment too. The site itself is very easy to understand and use, so take a look. This is not the place to indicate what kind of pizza you had at lunch or what clever thing your toddler said. If that's your approach, people will soon stop following you.

But say you're a California divorce lawyer and you constantly post about developments in family law, current cases, new statutes, etc. Pretty soon, folks who have an interest in that sort of information will follow you. If you are thinking of joining Twitter, find a few reputable people you know who are on Twitter and watch how they use it. You'll get the hang of it very quickly. The best users are those who share information, posting a brief message such as: "Congress passes anti-terrorism bill by slim margin: (insert link)" This allows others to scan for the stories which interest them amongst the people they are following. They also ask questions and begin conversations, which sometimes move offline. Can you actually get business this way? Yup, we've seen it – and requests from reporters for interviews as well. From a marketing perspective, all good stuff. For a beginner's guide, see

http://online.wsj.com/public/article/SB122826572677574415-rXaM5BTzeRQMfvAuP3_4gjVJm_A_20091203.html?mod=rss_personal_technology.

On <http://www.law.com>, look for two excellent articles by noted legal commentator Bob Ambrogi, “Sixteen Reasons to Tweet on Twitter” and “Tools on the Web to Let Twitter Sing.” Bob also let us know that he is working on a new book, with much more, so watch for that.

Don't allow yourself to become obsessed with social networking, which can be a huge time-suck, and therefore counter-productive. It is always important to find a balance between electronic networking and the real thing. Nothing replaces a friendly smile and a warm handshake.

Be Careful With What You Do and Say On Social Networking Sites

This here's Miss Bonnie Parker.

I'm Clyde Barrow. We rob banks.

- From the movie *Bonnie and Clyde*

Some stuff just doesn't need to be said online, where its lifetime is, approximately, forever. Even if you have a restricted Facebook page, you have no control over what your “friends” do with what is posted there. It is, of course, a good idea to restrict access to your social networking sites, but don't think that necessarily solves all problems. And if you use Twitter, you can be sure your “tweets” will live on. As far as experts can tell, Twitter keeps them indefinitely.

Perfect Your Elevator Speech

Hear the meaning within the words.

- William Shakespeare

For those of you who missed Marketing 101, your elevator speech is a 15-30 second rendition (the time span for a typical elevator ride, hence the name) of who you are and what you do. Tailored to this economy, it can be a brief but memorable advertisement for your services. Reduce it to e-mail too – and remember where you saved it! You'll find yourself trotting it out again and again.

A good elevator speech and e-mail are pivotal to making an initial impression. This is often the first step toward securing a client.

Want an example? "Hi, I'm Jill Smith. I practice family law in Oshkosh. My practice has really changed recently in light of the economy - I'm doing a lot collaborative divorce and arbitration these days to help clients save money at a time when they need it most." Maybe, if the conversation continues, you'll get to mention that you are working a lot with clients who have

negative equity in their homes, and how you handle that. But make the opening short - and for these times, make sure you get the economy in there somehow. "It's the economy stupid" really is the key component for legal marketing these days.

It's Time to Contemplate Alternative Billing (and to use it in ALL your marketing efforts)

*The voyage of discovery lies not in finding
new landscapes but in having new eyes.*
- Marcel Proust

“Kill the Billable Hour” was the title of an article published in Forbes magazine in January, 2009. The author was Evan R. Chesler, a Presiding Partner at Cravath, Swaine & Moore LLP, a prestigious New York City law firm. In the article he stated, “Clients have long hated the billable hour, and I understand why. The hours seem to pile up to fill the available space. The clients feel they have no control, that there is no correlation between cost and quality...In truth, most of the lawyers I know don't like the billable hour either.” He added, “The billable hour makes no sense, not even for lawyers. If you are successful and win a case early on, you put yourself out of work. If you get bogged down in a land war in Asia, you make more money. That is frankly nuts.”

Yet, no matter how many times its imminent demise is predicted, the billable hour still holds a firm place in the United States legal landscape. It may well be that the current economic crisis will finally be the “tipping point” that causes a true reexamination of this pervasive practice.

In an increasingly competitive business environment, businesses are trying to cut costs and limit risks. A proposal for an alternative billing on legal work may seem like the proverbial music to the potential client's ears. Perhaps there are elements of your practice that you can flat fee. You might consider task-based billing, using a case plan, so that a client can see what costs will be, depending on what happens in the case. You may choose to bill on a contingency basis. If the client changes the scope of work, you could document what the change will cost. Perhaps you offer task based billing in combination with an additional fee if there is a successful result. Law firms have become very innovative in approaching the subject of billing.

Advertising that your firm offers alternative billing may also yield significant results. Displaying your alternative billing methodologies on your website is a great way to let potential clients know what they all want to know: “What will this cost me?”

For more information on this topic, you might want to read *Winning Alternatives to the Billable Hour: Strategies That Work* (3rd edition 2008) by Mark A. Robertson and James A. Calloway, which is available from the American Bar Association Law Practice Management Section at <http://www.abanet.org/abastore/index.cfm?section=main&fm=Product.AddToCart&pid=5110660>.

Take Good Care of Current Clients

Keep your friendships in repair.

- Ralph Waldo Emerson

Clients are hard and expensive to replace. And current clients are one of the best sources of referrals.

Have meetings with clients, especially the important ones. Assure them that you will not raise rates. If you've determined to change your billing structure, let them know. Give them useful advice for their business, given the current economic climate. How can you collaborate to help them and to save them money? Do they have any suggestions for you? Are they happy with your services? If not, address their concerns. It is key in a bad economy that you are perceived as providing exceptional client service. Think long and hard about how to create that perception.

This is a very good time for a modest outing, some bonding time and the forging or reinforcement of the relationship between you and your client. This is not the time for swanky parties and retreats. Clients, even if they are invited, are apt to see large social expenses through the prism of the economy - and let's face it, they know that they are ultimately paying. A couple of beers and pub grub at a local establishment may be all that's needed to cement a relationship or nurture a friendship. Taking care of current clients may not be what you think of as marketing, but indeed it is. Current clients are the most likely to bring you new matters – and to refer someone else to you. Find a way to touch them often enough that you will immediately come to mind should they hear of someone who might need your services.

Your website is probably your most powerful marketing vehicle

*Make it simple. Make it memorable. Make it
inviting to look at. Make it fun to read.*

- Leo Burnett

These days, more than 65% of people begin their search for a lawyer on the Internet. Not only should you be there, but you should look good in comparison to your competitors' websites. Prospective clients can and will compare so make sure you do a little competitive intelligence as you work on your site.

For sure-fire value in marketing, put monies and time into your website and search engine optimization. As long as you're not squandering your monies by doing foolish things, work on your website is going to have more return on investment (ROI) than almost anything you can do. If your site is tired and you haven't been updating it, this is a good time for a redesign. Concentrate on deepening and broadening your site, and commit to making this an ongoing project. Content is still king.

Don't let your nephew (or cousin or uncle) design your site unless he or she is a professional website designer. Make sure your site is engaging with graphics that "speak" to your potential client and some kind of tag line that brands you. For instance, a criminal lawyer might have someone being handcuffed (which certainly speaks to someone looking for a criminal lawyer), with the tag line: "In trouble? We can help."

Search engine optimization (SEO) is a complicated subject. Most website designers are not SEO experts. Look at the sites a company has optimized and see how they place on Google. Without any question, design and optimize for Google. What does well on Google will generally do well on the other search engines as well.

If you have limited funds to spend on marketing, your website is the first place to spend them.

Don't Stop Marketing In Bad Times, But Look at HOW You Are Marketing.

Reach out and touch someone

- AT&T ad

As difficult financial times force law firms to focus on their budget and items that can be reduced or eliminated, it is often tempting to look at the marketing budget. In fact, some firms take a Sherman-like "slash and burn" approach to marketing, nearly always a mistake.

Your ongoing marketing efforts, whether robust or modest, are an investment in the future of your law practice. It is dangerous to stop ongoing marketing efforts merely for budget reasons as they are difficult to restart and the results of marketing efforts often lag the outreach by a significant amount of time.

However, it certainly may be appropriate to review all of the marketing efforts and make strategic changes. When there are less dollars to spend, the dollars you do spend better be smart dollars.

This might be the time to pull print, radio, TV and other generalized forms of marketing. If you haven't already disposed of your Yellow Pages ad, this may be the time to do so. At the very least, it may be time to make it much smaller. With most searches for lawyers beginning online, you need to adjust your marketing budget (which has probably already shrunk) and focus on electronic marketing and targeted marketing.

Send useful information to present and former clients via e-mail or mail. Write an article and post it on your website. Speak to community groups. Teach CLEs. Get creative. Try guerrilla marketing to save money. If you're not familiar with that form of marketing, just look for books on the subject on Amazon.com.

If you're not blogging and you have time enough to do it, consider whether you can deliver useful content that may be picked up by reporters (most of whom say they quote a blogger at

least once a week). Blogs can solidify your reputation as the "go-to" attorney in an area of practice - and many folks are using Google Alerts or something similar specifically to keep abreast of the area of law in which they practice. One of the best known experts on lawyers and blogging is Kevin O'Keefe - to learn more about lawyers and blogging, visit <http://kevin.lexblog.com> and explore.

More technical expertise is needed to become a podcaster, but podcasts (which you can post for free on iTunes) are an economical way to get your name out there. If 'podcasting' is a foreign term, you might start by checking out a panel discussion among podcasters at <http://www.abanet.org/lpm/lpt/articles/tch09071.shtml>.

Show me the money!

Jerry Maguire had it right, from the client's perspective. If there is anything you need to focus on in your marketing, it is the economy and demonstrating value to your clients. Retool any print or online advertising to address the economy. Even putting the words "A value-based law firm" on your website can call to the tightened wallets of corporate America. "In bad times, you need a good lawyer" - then explain why and what a good lawyer can do to save a client money. Brainstorm with your colleagues to find the right avenues of appeal. The way to a client's heart, these days, is directly through his or her wallet.

Keep Sniffing the Air

It is not the strongest of the species that survives, not the most intelligent that survives. It is the one that is most adaptable to change.

- Charles Darwin

Competitors are weak, clients are restless.

BigLaw will have to focus on their major clients. Smaller clients may be tempted to leave and feel less valued. Clients may be amenable to an approach that indicates that they can get high quality work done at lower costs. Write and introduce yourself. Go to bar meetings and other functions where you can tastefully talk to folks. You don't need to do the hard sell there. Just socialize - but get their card. Write and remind them that you had recently met, say something personal based on your conversation and then introduce your services and prices.

Don't wait for the phone to ring.

The folks who are in the worst trouble are those paralyzed by fear, and they seem to be legion in number. You can't watch your revenues fall precipitously and just wring your hands. We're sympathetic to that response, to be sure, but you've got to go into what animal behaviorists call the "flight or fight" mode. If you truly focus on what is going on and explore each and every

avenue of action open to you, your brain becomes far more acute, and you are far more likely to hone in on the plans of action that may work for your practice.

Thinking innovatively is key to surviving a bad economy. Can you create more value for clients? Is alternative billing a partial solution? Can you, at this time, appeal to different clients? We now have a bailout package - and the prediction of a Son of Bailout and a Grandson of Bailout. Make sure you read the details - some of the provisions of the bailout may create work - certainly in the banking and financial services industries, as well as the health care industry. Read the papers and watch the news on and offline, absorb, and consider new options afforded by the volatile economy.

Final words

There is no marketing which is going to work miracles overnight. But if you market for several hours a week, over time you'll certainly see results. The important thing is to start and then to keep your efforts going. In the words of the Marines, innovate, adapt and overcome. Good advice in a bad economy.

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