Law Practice TODAY
THE MONTHLY WEBZINE OF THE ABA LAW PRACTICE MANAGEMENT SECTION

Why Do Law Firms Die? Three Characteristics
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June 2010

Upon inspecting law firms that have recently failed, three common traits can be found among the ruins and lawsuits: leadership, strategic focus and financial discipline (or lack thereof).

When I was a young boy growing, up my mother's father lived with us. A vigorous man in his late 70s, he was renowned in our neighborhood for the garden he cultivated (whose bounty he freely shared) and his collection of corncob pipes (which he always seemed to be smoking).

I remember many days working next to my grandfather in the garden growing tired and thirsty while he, decades my senior, would (like the Energizer Bunny) just keep going and going.

He died, quite suddenly in the early spring, and that was the year we had no garden. In subsequent years we planted our garden but it was never quite as large, never as productive and never as much fun.

I remember asking my mother how such a healthy man as my grandfather could just die and (not wanting to upset a 12- year-old with the reality of cancer) she told me that sometimes people just "wear out".

Periodically, law firms die and I have been thinking about my mother's words and how they might apply to law firms. Do law firms just wear out and die, or do firms fail for other reasons?

Looking at the firms that have failed over the past 18 months, I believe that there are three common traits that can be found among the ruins and lawsuits. Because of the individual nature of law firms, these traits exist to some degree or another in all firms and, like the Roman god Janus, there are two sides to every trait. The very strengths of these traits can build a great law firm—but if followed to their illogical conclusion they can destroy a firm as well.

Leadership

Everyone has read about leadership in law firms. There are numerous examples of truly visionary lawyers who have led good law firms to greatness. These individuals have inspired their partners and firms to practice excellence, geographic expansion and improved profitability.

But in some instances, leadership falls to the partner with the biggest book of business, the loudest voice at the monthly luncheon or the most available time. These firms prosper in the good years (a rising tide truly lifts all boats) and flounder in the bad ones. Decision making is erratic and driven not by strategy or fact but mood and whim. Often, weak firm leadership is buttressed and encouraged by myopic administrative staff.

Innovative firm leadership is planned for, nurtured and valued. One of the best examples I know of is found in a global firm whose now managing partner was identified at an early age and rotated through a series of administrative roles and responsibilities so that he developed a deep understanding of how a law firm works. The results have been very successful and the firm has expanded from its Midwest origins to a global firm in the last 15 years.

Strategy

Strategy in law firms can mean many things. Developing one is a difficult, time-consuming and resource-intensive undertaking. Because it is difficult, time-consuming and expensive, many law firms never develop a strategy, or they adopt a "mom and apple pie" one that is not actionable and therefore the partners can not execute it. For a law firm to say that it will be the best law firm in the city, state, region or country in hundreds of specialty areas is to say nothing except perhaps that the firm has no strategy, no plan and no clue.

At the end of the day, successful firms know what they can do and they do it. They resist the temptation to expand into areas where they lack the expertise, resources and commitment to succeed. At the same time, they invest heavily in those areas that they excel in and are constantly on the lookout for new practice areas where they can develop a niche and reputation ahead of their competition.

Financial Discipline

There are many stories about the lack of financial discipline in law firms. One of my favorites involves a firm that occupied a high floor in a new downtown office building. Among the building's many amenities were the setbacks that afforded the tenants the opportunity to have terrace space outside their offices. This firm had those spaces turned into a lawn complete with outdoor furniture and umbrellas. Unfortunately, the building would only allow the grass to be cut on the weekend and then only after the stone floors were covered in protective plywood and while supervised by the building engineer and safety coordinator (both on overtime). The cost to "cut" the perhaps quarter acre of grass exceeded $4,000 a week. But the view was wonderful!

While obviously an extreme example, perhaps *the* extreme example, there are many others. For one, law firms frequently allow partners to invoice their non-transaction-based clients when they feel it appropriate as opposed to doing it monthly.

Many law firms engage in the annual collection ritual whereby 40 to 60 percent of their annual revenue is collected in the last 60 to 75 days of the year. Significant write-offs are tolerated because of the size or prestige of a client but there is no concomitant economic analysis to support the contention that the big client is a profitable client. Often, it is not.

Expenses are controlled not by thoughtful analysis and plan but by demanding immediate (and usually transient) vendor discounts. Resources best supplied by outside vendors remain on law firm payrolls. In the past, law firm expense control was an unnecessary burden that few firms undertook. Today, it has become a necessity.

Why do law firms die? I think they die because, as my mother said, they just wear out. But not all firms wear out, and I believe they do not have to. Each new generation of law firm management has the opportunity to provide the leadership, the clarity of vision and the fiscal acumen to guide their firms to a better tomorrow. The question is: Will you allow your firm to wear out or will you meet the opportunity and build on your legacy?

About the Author

J. Mark Santiago is a partner with the KermaPartners LLP and leads the North American practice. He has consulted to the legal profession for more than 25 years in the areas of performance improvement, compensation systems, merger due diligence and integration and administrative support outsourcing. He was Chairman of the AmLaw CFO conferences for 11 years and was also one of the three originators of LegalTech in 1981.
