

Practice Building

Getting a Handle on Marketing (Part 1)

By John F. Reed

Compared to other industries, marketing in the legal profession is relatively new, with many dating its birth to the United States Supreme Court's 1977 decision in *Bates v State Bar of Arizona*.¹ Since then, lawyers and law firms in Michigan and across the country have become fixtures in print and broadcast media and, more recently, in the digital arena.

Despite the flurry of radio and TV spots, direct e-mail, rankings and directories, and pay-per-click ads, we've lost sight of an important distinction: legal *marketing* may only be 35 years old, but *business development*—the true driver of law-practice growth—is as old as the profession itself. Understanding the difference and allocating your time and investment appropriately between the two can be the ticket to better results.

Marketing vs. Business Development

Think of marketing as a megaphone. You use that megaphone to unilaterally announce your competencies, practice strengths, and accomplishments to the world. You determine what to say according to what will

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resonate with your audience, with the hope that those hearing your message will take interest and act. Marketing is the means to communicate information about you and an invitation to others to engage with you.

Business development begins when you connect with the people hearing your message, the moment you put down the megaphone and begin a dialogue. At that point, the communication becomes a conversation and the focus turns from you to the other person—a shift that occurs as you ask questions, explore needs and challenges, and respond with ideas about how you can help.

Seen in this light, marketing sets the stage for business development, with the former serving as the necessary precursor to the latter. A lawyer can have a thriving, profitable practice and never spend a dime on marketing, but no attorney can keep a practice afloat without the proper commitment to business development. Nor has any law firm been retained by a new client from a billboard or bus-stop sign without first having a conversation about the client's specific situation and needs.

The problem, as we all know, is time. We simply don't have sufficient hours in the day to devote to making new acquaintances, seeking or offering introductions, and growing our network of contacts. On a broader scale, marketing provides greater economy and the opportunity to reach a larger population of prospective clients, as well as to remind existing clients of our presence and reinforce our relationships with them.

The Strategic Planning Framework

Whether you are litigating a case, negotiating the sale of a business, trying to lose weight, or devising a marketing plan for

yourself or your law firm, the framework is the same:

- **Establish your goals.** Where are you now and where do you want to go? How long should it take? Determine the objectives you wish to achieve, such as an increase in revenues or number of clients, becoming known and valued as an expert resource, or building awareness of your name or brand. Once you've envisioned what the future should look like, take a snapshot of your present situation and identify the metrics by which you will gauge your success.
- **Craft your strategy.** How will you meet your goals? If you decided to take a family vacation to the Grand Canyon next year (your goal), your next step would be to determine if you want to drive or fly, camp or stay in a hotel, etc. Your strategy establishes the blueprint for achieving your objective, taking into account timing, market factors, competition, and cost.
- **Identify tactics to execute your strategy.** Which tools and activities will you leverage? Revisiting our Grand Canyon vacation example, the flight itinerary or interstate route you choose, the hotel or campground you pick, and the hiking guide or rafting outfit you select are all necessary elements to a memorable holiday. Similarly, the mix of marketing channels and activities you implement should align with your larger strategy and goals.
- **Find the means to measure and monitor your progress.** How will you evaluate your efforts? Frequency of activity,

number of responses, new contacts generated, and the like can be meaningful and easy to track. Even if your goal has a financial objective, avoid using billing or revenue yardsticks exclusively; many attorneys become unnecessarily discouraged or impatient when dollar goals aren't met, prematurely abandoning what may have been a promising marketing plan.

This basic framework can be scaled up or down to the large law firm or the solo practitioner, with a hierarchy of smaller plans focused on different goals and objectives at different times. And just like a trial, company merger, or weight-loss regimen, the key to success is sticking to the program, tweaking and adjusting as necessary along the way.

Why Marketing Fails

Even a well-constructed marketing plan can fall short, and the forward-thinking law firm will then examine its strategies and tactics to diagnose the problem before making appropriate corrections or pursuing a different tack. When a plan underdelivers and no critical review is performed, the attorney and the firm not only fail to learn from the shortcoming, but may also forsake an otherwise viable marketing effort. Frequently, this occurs because of a lack of realistic metrics to track and assess the plan's progress.

More prevalent, however, are those occasions when an attorney or firm is attracted to a particular marketing tactic because of its novelty, hype, widespread use, or other allure, despite its inconsistency with the stated marketing strategy. Worse is the scenario in which there is no marketing plan at all. There's a name for these situations—*accidental marketing*—and the consequences can be costly.

To evaluate any new marketing tactic, you or your firm should ask these questions:

- Is this opportunity reasonably calculated to achieve my goal?
- Is this opportunity in alignment with my marketing strategy?
- Will this opportunity reach my target audience?

- Is this opportunity consistent with my brand and practice?

Even if the answer to each of these questions is yes, you must also consider the potential return on your marketing investment. While you shouldn't necessarily discard a new opportunity on the basis of price, the results you anticipate must justify the expense.

Attorney or Law Firm: Who Does What?

The marketing planning process applies equally to the individual lawyer and the law firm. Both have their own goals, strategies, tactics, and measurables, but different economies and responsibilities.

Truth be told, the marketing channels available to law firms are fairly limited. Advertising, websites, brochures and collateral, paid and organic search engine optimization, events and sponsorships, directories and rankings, and public relations encompass the majority of a firm's institutional activities and can sometimes be quite expensive and time consuming. While attorneys at various stages of seniority may be tapped to contribute or participate, firm leadership and management should oversee these efforts at the organizational level, perhaps contracting with business partners and vendors to execute certain pieces of the larger strategic marketing plan.

By comparison, an attorney's choice of personal marketing channels generally extends only to writing and speaking (and more recently, social media), usually at a much lower cost. For example, a lawyer may have a goal to become a recognized authority in a particular niche area of the law. Her strategy might be to communicate her command of the subject matter to a target audience by means of expert analysis and commentary through a series of written articles, white papers, or blog posts, or via speaking engagements and presentations to industry groups. While the firm may provide a platform such as a newsletter or event, the attorney is best suited to the task and benefits the most from taking on this responsibility, with the only real investment being her own time and energy.

Marketing Budgets and Expenditures

When law firms forecast the next year's budgets, questions regarding the amount to be allocated to marketing are inevitably asked. The answers vary according to the size of the firm, practice-area mix, geographic location, and perceived competition.

Calculated as a percentage of projected gross annual receipts (exclusive of staff salaries, benefits, and other overhead items), the figures can range anywhere from less than 2 percent to 8 percent or more, depending on the source you consult. Many firms apply these set percentages while others opt to increase or decrease the budget in proportion to the prior year's revenue growth or loss. Some firms multiply the number of attorneys by a predetermined figure to arrive at the number, and still others engage in zero-based budgeting, ignoring formulas and revenues in favor of what the marketing plan demands to reach the stated goals.

Next Up: A Closer Look at Business Development

In next month's Law Practice Solutions column, we'll break down the business development process and the skills it takes to become your client's trusted advisor. ■



John F. Reed, Esq. is the founder of Rain BDM, a consultancy helping law firms of all sizes to build outstanding client relationships. He trains and coaches attorneys in business development and provides firms with strategic planning, project management, and outsourced marketing department services. John earned his law degree, cum laude, from Detroit College of Law and his bachelor's degree in marketing, with honors, from Babson College.

ENDNOTE

1. *Bates v State Bar of Arizona*, 433 US 350; 97 S Ct 2691; 53 L Ed 2d 810 (1977).