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SOMETIMES YOU HAVE TO SAY “NO”

Everyone (well, maybe not quite everyone) wants to be liked if not loved. Most of us generally feel this means saying “Yes” to every request or opportunity. However, in addition to ethical issues – when there should be no doubt about what the answer should be – there are times in every business, organization or professional practice when you have to, or should, say “No”. Here are some examples from law firms.

Lateral Entry Opportunity

A 40-lawyer litigation firm with a national practice was considering bringing in a widely recognized lateral entry partner from a large firm. He had a blue chip client list and a large book of business. He planned to bring his entire group with him, including two younger partners and two associates, and demanded a compensation package that would have made him by far the highest paid partner in the firm. He also demanded that, not only his two partners but also the two associates, be brought in as partners.

Our client very much wanted this litigator, his team, his clients and the revenues that would almost definitely ensue. But, after thoughtful consideration of our analysis and pro formas, the partners decided that, if they met his demands, it would disrupt the firm. They said “No”. The litigator has remained with his firm. Meanwhile our client has continued to do well – and also has further strengthened its already strong culture.

Excessive Bonus

A mid-size firm with a strong financial services practice was retained by a new client for a major acquisition project. The originating partner had never originated any new business and another partner, who was marginally productive, handled the matter. The acquisition was completed and, as a result of the alternate fee arrangement the firm had agreed to, it received a \$2.5 million bonus. The firm’s partnership agreement specified that 80% of any such bonuses were to be distributed among all the partners. In this case, the originating and responsible partners demanded that 80% go to them. The two partners were also fighting between themselves on how much of that \$2 million each of them should receive.

Confronted with this problem, the Managing Partner requested our opinion on whether or not they should amend the partnership agreement to accommodate the two partners, a position some of the other partners supported. After reviewing the situation, we posed this question: “Which is more important, the partnership or the greed of two partners?” The MP decided the firm was more important and said “No” to the two partners. The rest of the partners unanimously supported his decision.

Client Demand

One of the top three clients of another mid-size firm demanded additional “value added” services as part of an alternate fee arrangement that would substantially reduce the fees. But it would make this client unprofitable for the firm to serve. Despite the importance of the client and the strength of its demands, the firm said “No”. It did, however, offer to provide some additional services at no charge and also proposed a different AFA which, despite the additional services, would still be profitable. After some discussion and negotiation, the client agreed to the firm’s offer and proposal. Furthermore, in a surprising development, the client has now announced it is terminating another firm and is giving that work to this firm – work, by the way, which will also be profitable.

As difficult and challenging as the above situations were at the time – and there are many other similar examples – the most far-reaching situations when a firm should consider saying “No” involve strategy development and implementation.

Achieving Differentiation

In today’s post-recession market in which clients are seeking ways to reduce their legal expenses, firms are struggling to be known and to differentiate themselves from their competition. This is not just an operational decision. It is a fundamental decision about firm strategy.

But it is not enough just to be known. That’s the same as name awareness, which is not the same as being differentiated. To be differentiated in the marketplace, a firm has to be known for certain things. For example: its expertise in certain practice areas or industries or its reasonable fees or its outstanding client service. To achieve effective differentiation, a firm sometimes has to say “No” to a revenue-generating opportunity.

The Managing Partner of one of the largest international law firms once said, “The hardest thing in the world for most professionals to do is to turn work away.” Yet many firms, MidLaw as well as BigLaw, emphasize as part of their business development strategy the cross-selling of additional services to their clients. They mistakenly want to be “all things to all people” or at least to all their clients. What they should do is to decide there are certain services they will not provide and decline to serve clients in those areas. If a firm never says “no” to a client, it will continue to be just one more undifferentiated firm

How To Say “No”

This does not mean firms should say to their clients at times, “We don’t want your additional work.” What they should say is, “We’re not the best choice for this work. Let us refer you to a firm that has the expertise you need in this area.” By handling the situation this way, the firm strengthens its relationship with its clients because it demonstrates that it places their interests ahead of its own desire for additional business.

Despite the soundness of this decision, there will still be partners or managers in the firm who disagree. Some will say, “That’s all well and good but that’s just bringing a competitor into the picture and running the risk of our eventually losing the client.” That misses the point. The realities are:

1. You can’t keep a client from using other law firms or professional advisors and . . .
2. You keep clients loyal to you by serving them superbly and earning their trust.

Others in the firm will say, “That’s fine for established firms who have so much business they can afford to say ‘No’. We can’t.” The reality in this case is that, if you can’t afford to say “no” until you’re established and overwhelmed with business, you’ll never be established and differentiated.

This principle doesn’t just apply to law firms. It applies to every professional firm or business and even to non-profit organizations. It’s not easy and it requires courage. But successful operations have learned that sometimes you have to say “No”.

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