



Flexibility and Value

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As 2010 winds to a close, it's more clear than ever that the threatened obsolescence of the mid-size law firm has turned out to be overblown and, in fact, completely unfounded.

Prior to the financial downturn, conventional wisdom saw legal industry consolidation as an inexorable trend, with national and international firms acquiring profitable independents and leaving no ground between themselves and practice-specific boutiques.

Many of us working and prospering in mid-size firms never bought into that logic. We have always believed that a compelling staffing and pricing model existed which filled an important service void between the two extreme ends of the legal market.

Even more importantly, we feel strongly that only a mid-sized firm can offer a culture that successfully balances the desire of well-credentialed attorneys to work consistently on sophisticated legal problems with the increasing pricing pressure besetting the legal market.

We are confident that we can provide our lawyers with excellent career opportunities while also providing demonstrable value and savings to our clients. And as we enter 2011, we consider our position as a mid-sized law firm to be more secure and advantageous than ever.

Weighing the Alternatives

Many firms have been slow to adapt to the economic realities of today's market. In spite of everything clients have been telling us about the need to reduce costs, billing rates actually increased last year (albeit at a more modest rate than in the past) according to the *National Law Journal's* annual survey.

In response, more and more clients are expecting and demanding alternatives to the hourly billing model. A survey by American Lawyer and the Association of Corporate Counsel found that almost 40 percent of chief legal officers saw an increase last year in the amount of work being handled via alternative fee arrangements. Of course, a more drastic "alternative" for those slow to get on board is that corporate legal departments will continue to ship less work out to law firms. One quarter of in-house counsel surveyed in 2010 by Robert Half Legal said they planned to decrease their work with outside firms. And with the current economic picture, there's little reason to believe that trend won't continue.

What Clients Really Want

This pressing interest in alternative fee arrangements has been interesting to observe among those of us who have been focused all along on finding creative approaches to meeting clients' cost-management needs. We have found that when it comes to controlling costs, clients want two things.

First and foremost, they want *predictability*. That involves a commitment and an investment on the law firm's part. Where it was previously the case that clients were liable for any excess to the quoted fee, those instances are becoming more rare and certainly more narrowly defined.

So within a budget there might be components of work that we agree to do for a flat or capped fee. Our willingness to agree to such a fee arrangement comes only after extensive communication with our clients about expectations and assumptions involving the engagement.

In addition, capped or flat-fee pricing is typically done only in connection with matter types for which we have years of detailed billing history from similar matters that we can draw upon to support

the proposed pricing. Finally, in exchange for bearing any firm liability caused by exceeding the fee cap, the set fee incorporates a premium justifying this risk.

The second thing clients demand in connection with fee structuring is *transparency*. While rates must be sensibly linked to the type of work being done, it is equally important that fees be billed in a way that allows the client to review them for compliance with the firm's fee agreement.

Beyond Cost

Of course, it's not all about cost. Clients also want their work to be handled by the best, most qualified lawyers in the business.

Fortunately, companies don't have to compromise on quality when seeking to reduce costs, because many of the best lawyers can now be found working at mid-size firms. The Robert Half report found that "114 partners left The AmLaw 200 to start or join small practices, up from 70 in the previous 12-month period."

Our firm has been built this way. We're entirely made of former big-firm partners who were looking for a better place to practice the law. And our recruiting has thrived during this downturn. We've added more partners during each of the last three years, all from national and international firms, than we have during any other period in the firm's history.

Lawyers from larger firms are attracted to mid-size and small firms now for many reasons, but two factors arise in literally every recruitment from "biglaw." First, candidates consistently say that the rate structures of their current firm are simply no longer competitive in the current climate. Second, they have found that the growing conflicts that arise in larger organizations pose a significant impediment to growing a practice.

A Performance-based Culture

In our case, we feel strongly that it's about more than simply being a mid-sized firm. It's about being a certain kind of firm. At Freeborn & Peters we have cultivated a culture that attracts lawyers who not only want to do sophisticated work, they want to build their own practice with the kind of support and resources that are unavailable elsewhere.

We have always attracted qualified lateral candidates who aspire to build or grow their practices. Our partnership and administrative services are both structured around supporting that proposition.

To that end, the importance of a strong, collaborative, collegial culture cannot be overstated. As a law firm grows (or any organization, for that matter), it becomes inherently more difficult to maintain a firm-wide, team-based, mission-centric environment.

While the emphasis on management and autonomy at the practice group level reflects an attempt to fill that void within larger firms, the increasing demands of clients for an interdisciplinary approach to service, and one that remains team-based, restates the problem anew. Mid-size firms with the requisite substantive capabilities are uniquely suited to provide a solution to this contemporary scenario. They are large enough to capably handle sophisticated engagements, but small enough to do so with team members culled from throughout the firm who know each other and have a history of working together successfully.

We see the payoff for this way of doing business every day. While we have always secured the type of work that we most want to perform, it is far easier now to gain an audience with potential new clients whose prior legal relationships may have been with far larger organizations. Our value proposition is compelling now and the market is more responsive to it.

The Outlook Ahead

Though the economy is rebounding, all indicators point to a gradual recovery. It is a safe bet that clients will continue to expect value and flexibility in their legal services for some time to come.

Those firms that are best able to deliver on that proposition will be best positioned for success. And for the time being, at least, it seems the mid-size firms have a distinct advantage. ■



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