Ten Things I'd Do Differently as a Law Firm CEO

By Timothy B. Corcoran

There are many good reasons for law firms to adopt business practices from other industry segments. As has been made abundantly clear, the laws of economics apply equally to law firms as to other businesses.

Faced with declining demand and an oversupply of providers, law firms are experiencing unprecedented downward price pressure and clients are aggressively seeking substitutes. Law firm leaders who have reduced overhead to maintain profit margins have learned that this approach falters when adverse economic conditions persist. Many law firm leaders now struggle with what to do next to survive.

Alternative fee arrangements are still considered necessary evils, rarely embraced but reluctantly accepted upon client demands. Growing top line revenue through lateral recruiting remains a risky proposition because there is no guarantee that a lawyer's clients are as portable as the lawyer.
Too, a lesson most of us learned as teens applies to lateral love affairs: the pretty girl too popular to commit to one guy is, statistically speaking, unlikely to stay with you for very long either.

Lawyers, not unlike their forbears in other industries facing massive upheaval, tend to do more of what they know rather than proactively seek change, and as a result simple techniques to improve client satisfaction and retention — efforts that in other industries are generally called "sales" — are discarded as unseemly or unnecessary for educated professionals to take on.

Law firms are not mere factories, churning out countless replicas of a popular product. Nor are they think tanks focused on producing thought leadership

for academics to ponder. But law firms are somewhere on that continuum, subject to market forces, facing changing client needs, price pressure from entrenched competitors and constant innovation from new entrants. Few law firm leaders have sufficient experience to navigate this maze.

But there is hope. Unlike the leaders of, say, print encyclopedias, whose business model was disrupted by the unprecedented speed and force of the Internet, law firm leaders have plenty of corollary lessons to draw on to chart a course from fear to prosperity. To be clear, I don't believe a law firm should be run primarily as a business.

I've been a CEO of a publicly-traded company and I climbed the corporate ladder in divisions of private and public multi-national corporations and there is a common thread: the business school maxim that earning a profit is the primary goal is interpreted primarily as a toxic quest for short-term profits above all else, including the long-term health of the business, typically because executive incentive plans are pegged to short-term profit measures.

A law firm can generate a healthy profit, which is not a shameful goal, while simultaneously improving client satisfaction and work product quality, and building a sustainable culture for the long haul. But how?

Here are ten ideas drawn from my own corporate experience that law firm leaders can embrace to improve the fortunes of their firms.

1. **Change the governance model.** Let's first dispense with the arcane notion that a partnership is an effective or efficient management structure. Notwithstanding any potential tax or liability benefits of the business form, it is ridiculous to believe that all partners should have an equal say in the operations of the business, particularly after an organization reaches a certain size.

   Nor is a dictatorship acceptable, even when led by a benevolent leader, because such organizations lack sustainable business processes and falter when the leader inevitably departs. Identify a core leadership team at the firm and practice group level and give them the authority to lead. Stop allowing the blowhard down the hall to substitute his childish behavior for sound business practices. Stop crowd-sourcing important decisions. Speed up the decision process by eliminating needless voices. Let the lawyers practice law and the leaders lead.

2. **Productize the offerings.** Every law firm has products. We just choose the collective delusion that legal services are unique and non-repeatable actions. Sure, some matters require unique tasks, but every

legal matter includes tasks that have been done before, usually many times before.

Figure out which products — or service offerings if you will — the firm produces profitably and effectively and commit these to a repeatable series of actions. Repeatability leads to improved profitability and improved quality by reducing variability. And yes, there will still be plenty of unique matters that only highly trained and creative minds can tackle. If you can find a matter or task that's so unique that it's never been done before, bill for it by the hour. Otherwise…

3. **Embrace strategic pricing.** Here's a revelation: clients will care less about the mechanics of your invoice, whether you bill by the hour, by the word or offer flat fees based on astrology charts, so long as the value delivered is commensurate with the price paid.

   The practice of issuing invoices with "services rendered" didn't die because clients grew smarter; it died because law firms grew stupider and adopted billing practices with perverse incentives. The idea that a law firm might not need a fax machine if not for client demand, and therefore we charged $1 per page sent or received until the fax machine earned in excess of 100,000 times its cost was idiotic. Thankfully, we learned the lesson and today don't charge per email. Or view legal research as a profit center… wait, what?

   Learn what it costs the firm to produce and deliver its legal services. Accept that there's no "perfect" way to allocate overhead. Determine the differential value your firm offers against the competition, if any. Determine the client's perceived value, if any. Establish a price that covers your costs, delivers value and generates a profit. If you can't figure this out, hire a new finance team. If you can't find a profitable price, focus on lowering your cost of delivery, not just your overhead. Or accept that the client may not place the same value on the offering that you do and find something else to offer that has greater value.

4. **Reduce inefficiencies.** Law firms carry extraordinarily wasteful overhead. If you want fine art in your Italian granite-tiled restroom, go for it. If you want to sponsor every 5k run or splash your logo on every cocktail napkin offered and pretend it's a wise marketing investment, go for it.

   But say no to the partner who demands his own graphic designer and high-capacity printing operation on the off chance he might leave a

key proposal to the last second and need to run an after-hours-all-hands-on-deck fire drill to generate a boilerplate RFP response. Stop running the same conflict checks on the same conflicted prospects, or their subsidiaries, by investing in a data cleanup operation, adding in corporate trees and linking your CRM system to your billing system and the conflicts database. Improve your RFP win rate by requiring the lawyers adhere to best practices, instead of repeating the same mistakes.

Look at every single process in the firm's back office and find ways to eliminate redundant and wasteful steps. Don't know how? Hire a firm that specializes in business process improvement to do it for you, or to train you to do it. Or hire a business process outsourcing firm and let someone else manage your accounts payable function.

On second thought, cease the silly sponsorships unless you secure a substantive speaking role and categorize the 5k run as a charitable donation or brand building exercise, not a business development activity.

5. **Reduce the cost of goods sold.** The way to productize your offerings is to embrace legal project management and process improvement. The techniques used to identify and reduce inefficiencies in the back office can be effectively applied to a legal practice.

   When faced with flat or declining revenues, the sustainable way to maintain or grow profits and to defend against predatory competitors is to reduce costs at a faster rate. If you've advised 100 clients on over 1,000 class action defense lawsuits, what are the specific factors correlated with defeating class certification? If you've filed 500 appeals with the state's regulatory authority, what are the specific steps correlated with success?

   Whether in litigation or transactions, there are repeatable steps on the critical path to success and excess steps that may be deemed helpful or necessary by risk-averse lawyers, but are not statistically relevant to risk-taking clients. If all tasks in all matters are of high value to the client, then your realization rates would approach 100%. If your realization rate is lower than 95% (or closer to the new normal of 85%) then by definition you are billing for steps that are either unnecessary or that the client deems unnecessary.

   Learn how to talk to clients about budgets on every single matter — how can you possibly employ strategic pricing otherwise? Undergo a

rigorous examination of your processes and develop project plans that reflect successful and profitable approaches.

6. **Invest in knowledge management.** Back in the day, knowledge management (KM) meant writing summaries of notable briefs and memoranda and indexing and filing them away in a database for later retrieval in order to save time, which combined a task that no one liked with a result that no one wanted.

   KM should be synonymous with a learning curve, or the economic principle that what we've done multiple times we can do more efficiently. If your pricing analysis tells you the maximum market appetite for service X is $5,000, then find ways to produce and deliver service X for far less than $5,000, relying on past experience to inform the process. Poor leaders believe KM is a technology problem and will invest millions in tools that the lawyers happily ignore, but wise leaders recognize this as primarily a cultural problem. Also, if you're lamenting the decline of associate training fully funded by clients, you'll be pleased to learn that a KM culture both accelerates and improves associate education.

7. **Don't guess. Forecast.** In countless practice group retreats I hear the same goal: "We'll grow the practice by 20% next year." Yet inevitably there is little rigor applied to the target, let alone how to achieve it.

   Businesses thrive on certainty and generally value repeatable revenue streams over one-time transactions, and corporate budgeting is a never-ending exercise to identify revenues and expenses. No business can operate without a clear sense of its working capital, cash flow and resource needs. Yet most law firms employ lagging indicators such as profits per partner to determine fiscal health. That's like driving a car until the gas tank is empty to determine the gas tank's capacity, which is then retroactively applied to the prior day's agenda to see if we should have refilled the tank before embarking upon a series of errands or perhaps scheduled fewer errands.

   Create and maintain a sales pipeline, applying simple methods to target the right prospects and predict not only future engagements but the resources needed, the likely cash flow and potential profits. Implement zero-based expense budgets and hold everyone accountable. Measure the ROI of marketing investments, and not just the ad campaign but identify the partners whose entire "marketing" spend consists of taking the same clients or law school pals to sporting events with no discernible incremental business resulting from the

expense. Not sure how? Select a client, any client, and ask them to walk you through their revenue and expense forecasting process. But buckle in first, as it will be quite a jolt.

8. **Measure client satisfaction constantly.** There are many ways to do this. Hire a consultant; send your managing partner on the road; ask your CMO to conduct interviews; conduct an annual satisfaction survey; conduct an end-of-matter survey after every matter. Whatever you do and however you do it, study it, sustain it, and act on it.

   Most law firms are "too busy" to systematically gather client feedback, naively believing good legal work speaks for itself. Many who claim to care sit on findings that are too challenging to address, e.g., toxic rainmakers, institutional overbilling, etc. Even those who measure client satisfaction effectively well tend to do so at too-infrequent intervals.

   Take a cue from Disney, Ritz Carlton, even the local hairdresser — know why clients hire you, know why they don't hire you, know why (and when!) they fire you, know what you do well and what you can improve. Know these explicitly and implement programs specifically designed to improve performance.

9. **Compensate for retention and profit.** Partner compensation is often described as the third-rail of law firm management. We can talk all day long about changing the law firm model and improving client satisfaction, but nothing changes unless the partners are compensated for doing so.

   Sadly, lawyers often must choose between personal wealth and client satisfaction. Hogwash. Partners will obviously act in their own self-interest when there is no alternative. So let's give them some alternatives that tie improved compensation to improved client satisfaction. Profiting from long-term client value always beats short-term transactional profit.

   Said differently, satisfied clients will generate higher profits over a longer period by lowering the cost of sales (retaining existing clients is always less costly than acquiring new clients), because of a reduced learning curve (see above), because of steady utilization and because many-to-many relationships between firms and clients magnify these benefits. Contrast this with over-billing a client on a single matter, generating short-term billable hours and high profit, but resulting in client defection and constant utilization peaks and valleys. Huzzah, the

partner hit her billable hours target… but was doing so good for the law firm?

Businesses deal with these compensation conundrums every day. Do we reward the high-volume hunter salespeople who bring in the most new clients but also the least happy clients (because of a poor fit) and who require the highest commissions? Or do we reward the farmers who nurture key clients over time but generate less incremental revenue? Do we compensate more for selling high-margin products, often because there is little competition, or do we compensate more for selling low-margin high-potential products, because gaining market share is more critical? Do we compensate for profits, even though salespeople have little influence on the cost of goods sold?

It may seem complex but relatively simple calculations can help us identify the optimal approach. At present law firms tend to maximize one factor: hours. By tweaking the formula, leaders can better recognize and reward lawyers who contribute at different points in the process.

10. **Require leadership and management training.** There are terms and concepts above that may be unfamiliar to law firm leaders. Indeed, many successful business leaders have strengths in some areas but not in others. It doesn't require an MBA to lead a successful business, but it helps to be consciously competent. In other words, know why you're successful and how to repeat it. Many law firms and their leaders have been unconsciously competent for a long time — successful, to be sure, but no one is quite sure why. We believed it was because we were good lawyers offering necessary services at a fair, albeit supremely profitable, price. But as it turns out, years of unlimited demand for legal services may have been more of a factor than our own efforts — and when that demand disappeared, our best efforts failed.

    I sat in a law firm executive committee meeting recently where the partners struggled to understand to the nuances of corporate finance so they could better manage the inherent risk of alternative fees. They were stunned to learn that others could understand, even explain, their law firm business model quite clearly. They were more stunned to learn that by treating non-hourly fees as a risk to be minimized, they had eschewed significant profits on several sizable matters. Your own mileage may vary.

    But you don't have to do it on your own. There are educated people who are willing to teach law firm leaders these techniques, and there

are many who are eager to join firms to demonstrate from the inside. Stop treating the law firm leadership track as a hobby. Stop hiring experienced administrators whose primary asset is not rocking the boat. Cast aside, or at least gently nudge, the unqualified or uninterested from the corner office and replace them with committed leaders — at the firm and practice group level — who have or will learn new skills and who will employ experts to advise them along the way.

Contrary to what you may have heard, the law firm model isn't dead. Nor is law firm growth. But law firms and law firm leaders stubbornly adhering to outdated models are gasping for their last breath. The modern law firm can thrive, but not if we pretend it's still 2007. Or 1995. Or 1975. The future is now. You can't do nothing. Are you ready to lead?

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