Small Firms Big Clients—It takes more than legal expertise to compete with the big guys

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Traditionally, corporate clients turned to the nations' largest firms when they needed outside legal help. But in today's economic environment, less can be more. Small firms can offer speed, economy, flexibility, and personal service – and many corporations are taking notice. So how can your small firm attract and keep corporate clients? We gathered success stories, and advice from corporate counsel, outside experts and small firm practitioners. For starters, corporations are no longer operating on autopilot when it comes to selecting a firm. Apparently, there are many in-house counsel looking for better ways to spend their money. In particular, Michael Rynowecer, president of Boston-based The BTI Consulting Group Inc., says there's an increased willingness by Fortune 1000 companies to try smaller firms. BTI regularly surveys corporate America about its use of outside counsel. He says, "It's experimentation, and it's related to the underlying dissatisfaction with the costs and level of service of larger firms."

For its 2004 report on the legal services industry, BTI interviewed 180 in-house counsel at Fortune 1000 companies and found that seven out of 10 do not recommend their primary law firm to peers who may be looking to hire a firm.

But while cost is a factor that can help a firm displace the competition, it's rarely enough. Firms must build relationships, demonstrate substantive expertise, and invest in technology before they will attract the attention of corporate counsel.

A firm must show that it can make a real difference, especially in service. Particularly because the old adage that "clients don't hire firms, they hire individual lawyers," is an inescapable truth. It can be difficult to get noticed if there is a longstanding relationship that binds the client to a firm.

Many general counsels who hire small firms have worked with the attorneys before – often at their previous, and usually larger, firms. So the GCs know what they're getting in terms of style, work ethic can compatibility.

But familiarity doesn't mean that there's a pass as far as quality service goes. Of course a high quality work product is expected, but a small firm needs to be ready to upgrade its computers to keep the pace, and simply be responsive to its client's needs – whatever their size may be.

In-house Looking Out

In 2000, Bruce Fitzgerald – now retired – was general counsel of Houston-based Union Carbide Corp. and in the midst of trying to close a nearly $12 billion merger with The Dow Chemical Co., based in Midland, Mich.

The deal was proceeding through the necessary regulatory clearances, when Nathan Eimer – then the Sidley & Austin partner in charge of the Union Carbide account – decided to jump ship and lead 10 attorneys to create Eimer Stahl LLP, a litigation boutique.

Suddenly, Fitzgerald had a decision to make.

He had been working with Eimer since 1978. And Fitzgerald needed someone he could absolutely trust, because the deal was, as they say, a "bet the company" transaction. "As the company that agreed to be acquired, [Union Carbide was] at some risk and peril if the merger did not go through," he says.

Ultimately he retained Eimer's new Chicago-based firm to handle the antitrust implications of the merger. Of course, the two men did have the expected conversation, says Fitzgerald. "[We] talked about whether he could marshal the extra support he needed, partnering with other firms or anybody else."

Reassured, Fitzgerald never worried about the "CYA issue." Hiring a small firm can come back to haunt a GC. "I always figured they hired me to run the law department and not cover my butt," he says. "I just decided this was the person I had the most faith in to do the job."

High-tech, High-efficiency

Sure, a relationship helped Nate Eimer bring Union Carbide's business over to Eimer Stahl. But coming from a big firm with a book of business is not an unusual path for boutiques. Eimer also brought over CITGO Petroleum Corp. and paper-giant Kimberly-Clark Corp. among others. But how do you keep such large companies happy – all while working to attract new clients?

Undoubtedly a big plus is the lower rates. At the time of the firm's launch, the Chicago Lawyer said that Eimer reportedly dropped his billing rate to $395 – approximately $100 less than his rate while at Sidley.

Within the first few months of operation, the firm invested nearly $2 million in technology. "We realized that we were going to depend on technology to increase the level of service we could provide," says Eimer.

Some of the software that the partners thought could help them: iManage Inc. (now Interwoven Inc.) document management software; Elite Enterprise accounting and billing software (now Thomson Elite); Citrix Metaframe (to permit off-site access to the firm's server) and Secure ID password software.

Eimer Stahl also ponied up for sophisticated scanning and software technology. It owns two portable scanners that use software from Document Strategies Inc. and sell for $125,000 each. These devices are very small, and allow staffers to scan documents at the client's office, so that important papers never leave the premises. A prices tool, yet the firm is planning to purchase a third scanner.

But the firm's technology spending is the exception to the rule. "We are very conservative about how we build our firm, and the last thing we want to do is to go too far too fast," Eimer says. "Part of our business model is to be debt-free and live only off the income of the firm."

As a result, the firm uses temp lawyers when a new client comes aboard. Moreover, it takes advantage of what Eimer calls "an enormous resource that's often over-looked" – professors from local law schools. In fact, there is usually a top-ranked law school professor working on one case or another, says Eimer. Including – from Eimer's alma mater Northwestern University – professor Ronald Allen, evidence and criminal law; and professor James Speta, regulated industries, particularly telecommunications. The firm also calls upon the University of Chicago' Randal Picker for his insight on antitrust and bankruptcy.

Eimer won't say how much these professors bill. Nor will he talk about costs of ramping up for a big case. The firm has 22 attorneys, but he says that by hiring temps the firm has staffed up to as many as 60 lawyers and brought the headcount back down as soon as the need was over.

Rent Control

Douglas Ellenoff of Ellenoff, Grossman & Schole in New York City, isn't interested in fighting over the Fortune 500. As he sees it, there are plenty of companies – all which generate several hundred million dollars worth of business – that his 20 lawyer shop is well suited to service.

Because a large part of the practice is in business transactions and corporate financings, it's been easy for larger clients to try the firm by offering it a discrete portion of their business. "They sample you and see if they're going to give you more," says Ellenoff. Part of the firm's attractiveness is its pricing. "We are going to give them a relatively large discount from what they would pay at the largest firms – I would say 30 percent to 40 percent off."

It's a discount he bases less on an hourly rate than on fee caps for particular types of transactions, such as: corporate formations and start-up work or private placements. Low costs are particularly important to Ellenoff's price sensitive real estate client base. "Our real estate development firms are owned by individuals rather than public shareholders," says Ellenoff. For them, a penny saved is a penny earned. "Consequently they tend to be more careful how they spend money on outside professionals."

Given the lower fees, how does Ellenoff's firm protect its profit margin? "The only way we can compete, is if we keep our rent down," offers Ellenoff. "We try to keep our rent at the right percentage of gross revenue, between eight percent and 10 percent." Maintaining rent control can be a real challenge in midtown Manhattan where office space rents on average for $52.29 per square foot according to the global real estate services firm of BC Richard Ellis Group Inc. Compare Philadelphia where office space rents for an average $23.24 per square foot.

By lowering operating expenses Ellenoff sys the firm is able to attract more lateral attorneys, including partners, who are able to make a comparable amount of money to larger firms, "but with much less risk and a much greater ability to service more business."

Managing the Workload

Rath, Young and Pignatelli, of concord, N.H., has grown from four lawyers to 30 lawyers since its founding in 1987. The firm's expansion has been slow and steady, but a balancing exercise nonetheless – juggling the firm's workload and the necessity for new hires.

In the late ‘80s, the largest firms in the state had fewer than 40 lawyers, so even firms of five or six lawyers tried to cover general practice areas, says name partner Sherilyn Burnett young. With those statistics in mind, the firm bet that it could best serve the Granite state by positioning itself as a full-service practice. Like a shopping mall developer, Young says the firm began by trying to identify key clients that could function as the "department store," and draw other clients to the firm. "Our plan was to add attorneys and staff to meet the needs of these clients."

But the firm's first big representation created a problem. A large 1988 bankruptcy proceeding helped the firm's billings rise by 50 percent – climbing from the $800,000 to about $1.2 million. But given the nature of the matter the firm was in a precarious position.

Rath Young had to ramp up to meet the demands of this large case and continue to see to the needs of its other clients, all while knowing that the reorganization might not be successful and the client could disappear overnight.

The firm's response? Initially, it hired just two lawyers, going from seven to nine. Even then, it asked everyone to work harder – temporarily. It was the usual drill of long days and the occasional weekend work which added an estimated 10 additional billable hours to the attorneys' weekly totals.

The partners didn't want to commit to a significant investment in staff, until they knew that the client would be around for at least one year. It's a policy that the firm continues to use – that is, stretch existing staff until there's confidence of a long-term relationship. Softening the hardship is the fact that, because the firm is so profitable during these periods, everyone is compensated for their extra effort, including bigger staff bonuses.

This approach recently paid off when a utility client bid on the sale of the Seabrook nuclear power plant "[It was] a lot of work in a short burst of time, but, in that case, the client did not win the bid, so the matter ended rather abruptly," says Young. The firm didn't add any staff and everyone just worked harder to get through it.

"I suppose if we were always in max stress mode, it would create morale problems, but we have not really seen that," she says. "It is very exciting to be involved in a major matter, and the whole firm is part of the team when that happens. " Attorneys who are not working on the big case, may be covering other matters for those who are directly involved. "As long as it is a one-year or so duration I think folks can manage it pretty well," Young says.

Secondhand Rose

There are a number of ways that firms try to control their fee structures. Billing rates at the 30 lawyer Zeichner Ellman & Krause based in New York City are kept in check by several measures – among them, hiring seasoned associates, paying them a bit less, and not going overboard with its office décor.

The firm passes along its cost savings directly to clients. The top rate for the firm's partners is $445 an hour, compared to partners at larger firms who can earn double that. Associate bill at about $250 per hour.

Personnel and the associated costs are key to the firm's management approach. The partners look for attorneys with a few years of experience to appropriately serve such large clients as Bear Stearns & Co, Citigroup Inc. and a number of its affiliates.

"We have to work a lot harder to find good attorney," offers name partner Stuart Krause. "We probably interview associates at greater depth and over a longer period of time than large firms. We use recruiters, word of mouth and media ads, but the main point is that the applicant sees many people." This includes many of the firm's 15 partners and even a few of the 15 associates.

By keeping junior associates to a minimum, the firm's clients aren't underwriting the cost of associate training. Nevertheless, the partners still pay a modest amount for an experienced staff. For example, the firm pays associates over $25,000 less than the approximately $125,000 annual salary that associates start at at most large firms in new York City. When it hires a first-year associate, that is.

For the lower compensation, firm associates usually bill around 200 hours a month – hardly inconsequential, but less than the largest corporate firms.

And finally, atmosphere isn't everything, at least at Zeichner Ellman & Krause. "We're probably a little more careful about expenses than a big firm," says name partner Mark Zeichner. "Our offices while pretty nice are not as opulent" as some others. Infact, some of the furniture was bought secondhand. For instance, the conference room table was bought new, but most of the lawyers' desks came from a bank that was downsizing.