Altman Weil



*Report to Legal Management*

**May 2002**
Volume 29, Number 8

OUR 28TH YEAR

# How To Profit in the Upturn


*Thomas S. Clay*

*By Thomas S. Clay*

I met with a number of law firm management committees toward the end of last year and most were concerned with how to deal with recession-related issues. But one managing partner stood out. At the beginning of a meeting to discuss cost cutting, possible downsizing and related activities, he said, very forcefully, “This meeting is just fine and necessary, but there are two ground rules. One, we are not developing plans to hunker down and protect the status quo, and, two, I want equal time spent on thinking about how we are going to be in front of our clients and competitors when the upturn comes.” His was a refreshing and fundamentally sound business position. He recognized that opportunities for continued growth and profitability need to be ferreted out now, at a time when competitors may be timid or hesitant. By doing so he could gain a competitive advantage.

Peter Drucker wrote in his book, *Managing for Results*, “Results are obtained by exploiting opportunities, not by solving problems. All one can hope to get by solving a problem is to restore normality.”

Here are three things that a law firm can do to focus on opportunities as the economy improves.

**Refocus on Clients**

Be prepared. The Boy Scout motto was never so appropriate. Economic growth will return and law firm clients will emerge from the recession with a pent up demand to grow, increase production and exploit opportunities. Typically law firms wait for such an emergence and follow along. But the opportunistic firm will pursue two initiatives. One, it will actively help clients identify growth opportunities and secondly, position itself to seize opportunities to garner new clients unhappy with other law firms’ lack of attention.

Recent research demonstrates opportunity for law firms.

- The 2nd *Annual Chief Legal Officers Survey* conducted in October 2001 by Altman Weil and The American Corporate Counsel Association shows that 62% of corporate General Counsel surveyed had fired or were considering firing one of their law firms in 2001. The number one reason for firing was lack of responsiveness. 86% of those respondents also said that within the next 12 months,

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they plan to increase their use of outside counsel. Opportunities will be there for quick acting firms. (You can e-mail Daniel J. DiLucchio at *djdilucchio@altmanweil.com* for a copy of the survey.)

- The Altman Weil Client Survey Database (including data from over 5,000 law firm clients) shows that 70.5% of respondents said that their law firms were always responsive to phone calls. Is that acceptable to your firm? Would your clients rate your responsiveness level higher or lower?

Clearly there are opportunities to leverage your position with current clients and pursue opportunities from other firms' clients.

First, make sure your clients are happy and find out what opportunities for additional work exists. If you have not conducted a survey of your key clients within the last 18 months, do so. It is imperative that you demonstrate you care, especially now. It is equally important that you identify easy opportunities for growth that exist within your current client base.

Survey clients with the objective of soliciting answers to the issues below. The results will demonstrate what opportunities exist to improve the quality of your service and what opportunities there are for additional work.

A useful survey will tell you:

- Whether your responsiveness is consistent with clients' needs and expectations.
- How your responsiveness compares to *other law firms*. You may be doing a satisfactory job while a competitor is doing a superior job. This is an unacceptable position.
- What types of legal services will be required most by clients as the upturn continues.
- What areas of service your clients do not use you for but would consider using you for.

A partner in a law firm said that he thinks it unwise to survey clients during the recession because it might look as if the law firm only cared about getting more work. Nonsense. When clients are experiencing tough times, it is *the best* time to ask how you are doing. It shows you care, and that goes a long way toward cementing strong client relationships.

**Increase Your Prices**

At the close of 2001, many clients were asking whether or not they should increase billing rates. It may seem counterintuitive but my uniform response was "yes." But, don't expect to spread rate increases across the board. Increasing prices is the best and most effective way to increase profitability but rate increases should be accomplished in a targeted manner.

***"Rate increases should not be calculated by lawyer class or age but by an individual's value in the marketplace."***

Use the following guidelines to help secure price/rate increases:

- Get personal. Rate increases should not be calculated by lawyer class or age but by an individual's value in the marketplace. After the third or fourth year, lawyers' value in the marketplace differs by how effective they are individually, the quality of their client relationships, and the type of work they do. Ignore internal political issues and increase individual lawyer rates based upon the market in which each practices and the quality of service provided (as rated by clients). It takes a bit longer and may ruffle some feathers, but don't miss the opportunities to increase the rates of lawyers who are outstanding practitioners and service providers, particularly when they work in vertical markets where they can demand higher rates.
- Use the right metrics. Many firms use survey data showing averages of partner or associate rates to make decisions on rate increases. In pricing strategy, averages are of very little value. You need data that reflects what others doing similar work are charging. For example, *The 2001 Survey of Law Firm Economics* by Altman Weil shows that the national average billing rate for partners handling healthcare work was $249 in 2001. For partners handling taxation work it was $282 nationally. This $33 per hour differential could make an enormous impact on pricing and therefore on profitability opportunities seized or lost. Get richer data to inform your decision-making process.
- Attack those discounts. I worked with a large firm last year, wherein 48% of their total fees came from discounted work on behalf of major clients. Discounts are insidious in law firms. Too many partners use discounts as a means by which to get work and then balk at any rate increases, alleging that the client will leave. Clients obviously like discounts, especially when they enjoy high levels of service and responsiveness.
- Discounted work should be engaged in *only when the law firm receives a benefit as well*. Typically, this is a guarantee or likelihood of a large volume of work, a continuation of some other kind of work for the client, or the like. Make sure your discounts measure up. If not, you should negotiate more equitable deals or rid yourself of those clients.

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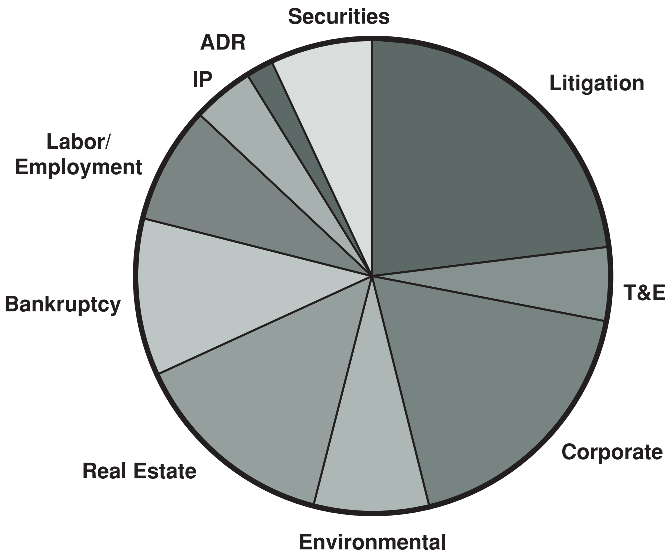
**Figure 1**




Ask yourself the following questions:

- Are all of our lawyers charging rates commensurate with their skill, expertise, and type of work they are doing? Are those rates consistent with market rates?
- Are all of our deals with clients fair from both parties' perspective?
- Are the lawyers in each of our practices, particularly our core practices, charging what other lawyers in similar practices are charging? Should our rates be even higher based upon our market position and image?

**Concentrate Your Practices for Profitability**

During the boom times too many firms had a fixation on growth, not profitability. As better times return, firms would be wise to change that orientation. Profitability, not volume, should be the goal.

Concentrating on your strongest practices is the key to profitability. Leveraging your strengths and playing to those strengths are concepts that sound like platitudes. They are not. Spending time, resources and management effort on service lines that are too small (i.e., one or two person practices) dilutes profitability.

Take this test. Have a pie chart produced, like the one above, using last year's revenues from your various practices. An even better pie chart would be one that had profitability figures instead of revenue figures, but most firms don't develop profitability data by practice, yet. However, we can get a pretty good sense of the profitability of the practices in this way.

If 80% of your revenues and/or 80% of your profits do not come from a total of three or four of the pie slices then the firm may be unfocused. In the upturn, you should concentrate on those areas in which you are strongest. This means deciding which practices will receive investment (or most of the investment) and which will not—a hard thing in law firms.

I have helped many firms through the knotty process of determining the best practices in which to invest. Using an analysis called *practice attractiveness* we have been able to determine where the best opportunities lie. A practice attractiveness analysis considers:

- Key Market Dynamics—expected growth and profitability of this type of practice
- Practice Size—size of the current practice in terms of professional personnel
- Business Development Quotient—number and effectiveness of business generators, and fees per partner
- Legal Fees—current volume and trends
- Realization—efficiency of yield/hours to fee receipts
- Billing Rates—current pricing and trends
- Billable Hours—current utilization and trends
- Key Clients and Relationships—who are the clients and what is the volume of fees
- Profitability of the Practice

By applying subjective and objective analyses of the foregoing criteria, we create a practice attractiveness rating such as the one shown in Figure 2.

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**Figure 2**

| Practice Line | Attractiveness Rating |
|---|---|
| Litigation | 5 |
| T & E | 3 |
| Corporate | 3 |
| Environmental | 2 |
| Real Estate | 4 |
| Bankruptcy | 3 |
| Labor/Employment | 3 |
| Intellectual Property | 2 |
| ADR | 2 |
| Securities | 3 |

**How To Profit ...** *continued from page 4*

Figure 3 can be used to make investment and concentration decisions.

All businesses must make investment decisions about product lines or service lines. This analysis is a fundamentally sound and rational means by which to decide where the firm's best opportunities lie. Couple this with the results of your client surveys and you have powerful data for use in development of your upturn strategies.

Thriving in the upturn is not about picking the next hot business area. It is about pursuing sound business practices with fervor. If you do the three things suggested herein: refocus on clients, selectively increase prices, and concentrate your practices for profitability, you will compete better and be more profitable. Your clients will also be happier. What's better than that combination? ◆

**Thomas S. Clay** *is a principal of Altman Weil. He can be reached at (610) 886-2000 or* tsclay@altmanweil.com.

**Figure 3**

| | |
|---|---|
| 5 | Practice is, or potentially is, highly competitive in the market — high value areas to clients with top/solid talent and leadership. Must invest. |
| 4 | Attractive with potential for market leadership; prevents a competitive disadvantage, talent is solid and highly competent with necessary scale. Investment is warranted. |
| 3 | Neutral at this time. Requires strategic decision and/or direction re: investment, divest or reorganization. May be "drifting." |
| 2 | Low contribution to the firm. May be in ramp-up or investment phase. Must have strategic vision or is a detriment, or competitive disadvantage to the firm. |
| 1 | Negative impact on firm — not attractive. |