

## LAW FIRM MARKETERS – IS THERE A FUTURE?

***Speech before the Chief Marketing Officers' Forum – September 17, 2008***

By Bruce W. Marcus

I want to thank Iris, Larry, and American Lawyer Media for inviting me to address you today. After all these years of marketing professional services, I think of you as my people. With all we've been through since *Bates v. State Bar of Arizona* told the lawyers and the accountants that it's okay to market out loud, those of us who've been doing this for any length of time share battle scars. And I'm not sure that war is over yet.

As many of you know, I've been marketing for lawyers and accountants for some four or five decades. *The Marcus Letter*, which began in the very early '80s in hard copy, sprung from my 1983 book, *Competing for Clients*, and then morphed into one of the earliest web-based newsletters for lawyers and accountants a few years later. The theme of that book is so revolutionary that people tended to not take it seriously. It was that in today's environment, the practice of law and accounting are – or should be – guided by the clients, not by the needs of the practice. Revolutionary. To gauge the progress of professional services marketing since *Bates* in 1977, you need only note that I had to write several new editions to keep up. The latest is *Client At The Core*, in 2005. Were I foolish enough to write a new version today, it would be substantially different than it was in 2005. Oh, well. New stuff every day.

*The Marcus Letter* was certainly one of the earliest chronicles to attempt to assault the brick wall between lawyers and accountants, and anybody who isn't a lawyer and an accountant. The problem with that wall is that traditionally, there's virtually no hospitality in most law firms for a non-lawyer. Lawyers tend to be insular that way.

In the early days, the resistance to marketing was palpable and intense. Unlike product marketing, there was no marketing tradition for professionals. Most of the lawyers back then thought that marketing was unseemly and unprofessional, that marketers were hucksters. Since then, despite the fact that lawyers realize on some levels that they have to do something to compete, it's been an uphill battle, with victories awarded begrudgingly. After all these years, this continues to baffle me. For all the glorious colors in its banner, the legal profession is still a business. How do you run a business without putting marketing first?

Back then, the concept of sales and selling was unthinkable. But now, marketing has morphed, appropriately, into sales. It was inevitable, as we came to realize that traditional marketing is simply a

context for selling. Progress.

Now, that's all the war stories I'm going to tell, because that was then, and this is now. What I want to talk to you about today, though, is the future for both law firms and law firm marketers. The future for both are, in many ways, intertwined. What, then, are we going to do about the future? What are the opportunities and what are the obstacles to a successful future for both of us?

The future, obviously, is generally unpredictable. But if we could resolve two problems, which are as well intertwined, we would have a substantial measure of control over the future for both lawyers and law firm marketers. That future, as you may well realize, is substantially altered by the events of the past few weeks, as more than 200 years of financial structures are upended.

One problem that still nags at us is equity at the table. Never mind the personal aspect of respect – I'm talking about accepting our professionalism – recognizing that we know our business – that we really do know how to compete. This is not petulance or ego – it's realizing that as professionals, we function best –and serve best -- when we are recognized as professional peers.

Now, I recognize that we don't have professional degrees, nor are we licensed. But professionalism doesn't need degrees or licenses to be professionals. It is, rather the degree to which we know and perform our craft. An old friend once told me that a professional is somebody who works at peak capacity even when he or she don't feel like it. That may be better than a degree.

The other major obstacle to addressing the future of marketing for lawyers, I strongly believe, is the reluctance of so many law firms to recognize that the need to become truly relevant to the changing needs of the economic, technological, and media environment. This reluctance is a significant anchor that impedes a law firm's ability to compete in this new and rapidly changing environment.

Now, I know that we all talk a lot about the changing economic environment. But let's look at what's really changing – what those problems that particularly affect the practice really are.

My good friend Bruce MacEwen widely known as the blogger Adam Smith Esq. – is perhaps the most astute chronicler of these problems. It's a laundry list. Two tier structures. Associate salary escalation. Governance. Economic problems that are attacking the bottom line. Value versus hourly billing. Globalization. New and then newer technology. A new regulatory environment that's going to change even more in just a few months, no matter who wins in November. New economic instability. Energy problems. Problems based on new economic paradigms that nobody's figured out yet.

And on top of this add increasing and intense competition – a word not in the lawyer's lexicon until *Bates* put it there in 1977.

Then there's a media revolution that's turned traditional media relations topsy turvey. Everything you've learned about press relations as recently as just a few years ago is now obsolete. Some very smart people now predict that papers like the *New York Times* won't exist five years from now It's a new game. Next week, as they condense sections, the Times continues to melt, like the

wicked witch.

Then there's a crucial factor in the turmoil facing law firms today, and especially those of us in the marketing profession -- the metamorphosis of the marketplace for lawyers -- the change of the clientele from passive to active.

There was a time when the lawyer's advice was handed down from Parnassus, and accepted unquestionably by clients. No more.

Maybe it's the internet. Maybe it's television -- *Law and Order* and *LA Law*, and the like. But now, clients begin to understand the process, and it's like reading the magician's handbook before seeing a performance by Houdini. The mystery is gone.

Now --when we talk of change, we're not talking of change instigated by lawyers, we're talking about meeting the changing demands of clients. Value billing, for example, didn't come from law firm leadership -- it came when clients said, "Wait a minute. You're charging me two hundred dollars an hour for lawyer A, and two hundred dollars an hour for lawyer B, but lawyer A is brilliant and lawyer B is an idiot. Let's renegotiate that last bill."

These factors keep adding new dimensions to the practice, and they sometimes require new law firm configurations, by creating new marketing demands, new kinds of client relationships, and new opportunities, which not enough lawyers know how to deal with. Marketing, remember, is our purview

Is this situation universal? Of course not. But it's a look at the future.

Where do you think the greatest impetus for change is going to come from? From you and me -- from every marketer in this room. Why? Because listening to the market is our stock in trade.

Yes, I know that there are some law firms that understand that, and they are the ones that thrive and will continue to thrive. Unfortunately, they are too few. And that's a difficulty, because the competition among law firms continues to get tougher and tougher.

Charles O'Neill, our keynote speaker, spelled out quite accurately what the successful CMO must do to demonstrate value to management, and he's absolutely right. It's still the bottom line that counts. Larry and Iris -- two of the best in our business -- talked today of how to train partners to be business developers, and they're right too. They're right because the skills of marketing need to be part of every successful law firm and every successful lawyer's portfolio -- certainly now, and certainly in the future. By the way, I still don't understand why marketing isn't taught in most law schools. They tell you, in law school, that your career depends on the ability to develop business, but they don't tell you how. It's sink or swim.

Our profession is full of admonitions to get the lawyers to respect marketing and to meet management needs, to build bridges to management. But not much realistic advice on how to do it.

Well, let's see if we can go beyond that. We'd better, because if we don't, the future will

swallow us all. What do we have to do to get there?

Now, I know a lot of you here today, and I know how smart and competent you are. But I know as well that the greatest impediment to the future of law firm marketing is not only you—the marketers, it's the lawyers. It's the law firm that hires you because you're a marketing professional, and then tells you how to do your job. It's the law firm whose partners understand marketing only in terms of mythology. "Why do we need a professional to write direct mail letters? I've been writing letters all my life." "If I'm smart enough to be a lawyer, I'm smart enough to do my own advertising." When a lawyer told me that once, I said, "It's true. And you're smart enough to be a nuclear physicist, too – but that doesn't make you one."

The *Bates* decision, remember, was in 1977. That's 41 years ago. That's 41 years of the ability to compete thoughtfully and aggressively – and there are still a great many firms that think that when they run expensive parties that's marketing. No, that's not marketing – that's bottom fishing. That's accumulating clients, and not always the ones you want. It's not building a practice, and it certainly doesn't put you on the leading edge of the future.

How, then, do you win the respect you need as a professional in an office full of professionals? Without it we're not much more than party planners, with a short tenure in your firm no matter how good you are. So how do we gain parity and become an integral part of the legal profession?

The short answer is that you build a marketing culture. Easy to say. Not all that hard to do. But essential. Lets look at one path I know works...

- For starters, you darn well better know your craft. Not just the how-to of the mechanics – the tools of marketing, because that's all they are – tools. To say that the ability to run a seminar or write an article is marketing is like saying that a great cabinet maker is a hammerer, or a sawyer, because those are the tools he uses.

We all have the same marketing tools. Articles, media relations, seminars, collateral material, and so forth. Here, the obstacle to inhibiting our future is seeing marketing as mechanics. It's not. It's an art form. It's the way you use the tools. It's strategy – but strategy with artfulness and imagination.

You recognize that any skills you have requires refreshing on a day-to-day basis. Every morning, ask yourself the question, "This is the way I did it yesterday. Is it still the best way to do it today?" You'll be amazed at how far that takes you.

And it's certainly not doing what you know instead of what the market needs.

- Then you have to recognize that the measure the lawyers use is the measure we have to use...building practice. And you do this not by starting with the skills of the firm and its several practices – they don't mean a thing if the market for those practices isn't there. You start with the market. To *not* start with the market for

your firm's practices is the most serious mistake that a marketing planner can make.

You calculate where the most profitable market is for your firm, and whether your firm has the ability to compete in that market. You build marketing programs market by market. Focus on the market – not for the firm, but market by market, and practice by practice.

- You have to understand law. No, not how to do it, but how it's done. If you don't learn quickly what the lawyers are talking about, or worse yet, don't understand how the practice works, you might as well go back to selling lemonade on the corner.
- Work with the practice groups. Here is where you build the marketing culture. Get them to focus on key markets within each practice. Focus your programs on addressing each market, one by one. Promoting the rest of the firm, dabbling in the brand stuff, you do with your left hand. You're not there to build a brand – you're there to build a practice. The things you do to build a practice brings name recognition and reputation – and trust-- along with them. Ultimately, the clients care more about your firm's skills than the so-called brand. That means that instead of trying to sell the whole firm – which is very tempting – sell the practices one by one. And sell the people, practice by practice. In law, it's the people, not the firm, that performs.
- And now we talk of objectives. The firm's objective and the marketing objectives. First, if you don't know where you're going, how do you know how to get there? Sound objectives are not a wish list, they are based on the market for a firm's services.

Second, a great way to measure results is against objectives.

A program succeeds only when it meets its objectives.

I'll tell you the great marketing secret. When it comes to marketing, there's no such thing as a law firm. There are practices within a firm, and there are lawyers within each practice. When you sell the lawyers and practices to markets one by one the firm sells itself. Incidentally, that's how little firms become big firms.

- Learn the industries served by each practice. This is what you preach to your lawyers, but it's just as important that you understand each market and its practices and nuances.
- Teach them how to build teams. Iris Jones is the foremost master of client service teams. Ask her how it's done. It's complex practice that becomes simple if you know what you're doing – and it's worth learning how to do it right.

- Get the individuals in each group to participate in some way. A newsletter. An article. A blog. All politics is local? That's nothing compared to bringing marketing down to individual partners. Don't preach marketing – show them. Guide individual partners through the kind of networking that focuses on choosing the right organizations, and how to become useful within those organizations.
- Understand positioning, which begins by understanding a market's needs and then demonstrates your ability to meet those needs. Positioning isn't branding, and it isn't image, and it isn't a mission statement. It's a way of demonstrating your ability to get on the client's wave length. My favorite example of positioning is the sign in the war room of Clinton's first election campaign. "It's the economy, Stupid." Carville said that the economy was foremost on the people's mind, and that everything the campaign wrote, said or did have to address that point. That's positioning.
- Don't push selling skills. If you move the partners into a position where they have increased contact with prospects and influentials, believe me they'll come to you for help with selling skills. What you are doing, then, is earning trust, and isn't that the key to professionalism?

Selling is a process that's totally consistent with the practice of law. It consists of four points...

- Learn the prospect's problem
- Demonstrate that you understand the problem
- Demonstrate that you can help
- Offer to start Monday

Notice that at no point did I use the word selling.

- And most important, be realistic and clear about expectations – what the lawyers have a right to expect from your efforts. If you and the attorneys you serve share and understand the same expectations, and you meet those expectations, ye shall have longevity.
- Act professionally. You know what you're doing. Act like it. Marketing is dynamic. Don't get hung up on yesterday's tricks and methods. They may not work today.
- Think big. Big projects make news, build prestige, showcase your firm's capabilities.
- And for those of you who must deal with partners who want to turn you into party planners, the trick is not to dig your heels in and sulk, but to show them the better

way. And there is always a better way.

- Recognize -- and make much of -- the changing dynamics of the world in which lawyers function. Remember -- you are their eyes to the prospective clientele.
- Find allies in the firm's management -- somebody who understands what you're doing, and can help translate it to others in the firm.
- If you find that your firm is not what David Maister calls a one firm-firm, but rather a collection of individual entrepreneurs, each pulling at you for him or herself, and not for the firm, if you can't change it, quit. Might as well -- you'll be out of there in a year or so anyway.

Does this work? You bet it does. I've done it. And you can too.

So what are you going to do on Monday, when you're back in your office?

Assess your marketing program. Is it based on the mechanics of marketing, or is it based on the dynamic of the marketplace?

Focus on how each thing you do redounds to the firm's bottom line, and don't worry about your firm's image, or brand, or mission. Charles O'Neill spelled it out for you. Pay attention.

Build the marketing culture.

The next thing you know, you'll be a professional -- not just in the eyes of your peers, or in your own eyes, but in those of the other professionals -- the lawyers in your firm.

I put it to you that the future will look like the past for marketers if we don't recognize a few facts that we can see today.

And perhaps more than that, the firm that respects your professionalism is one that respects its own. That's the firm that will thrive.

If we do this, if we question every decision we make and challenge every idea to see if there's a better one, not alone in the realm of the past, but in the context of the present, with an eye to the future -- we can face the future with equanimity. And that, of course, means profitably.

Thank you.

**HOME**