

Finding Happiness at a Law Firm – Building a Portable Book of Business

By Michael Downey

As a litigation partner at a large firm and a law school professor who teaches law firm practice, I am often asked whether I like practicing law. I also often hear law students and younger lawyers wonder what they can do to find happiness working at a law firm.

My answer to these questions reflects my own happiness as well as my observations about which law firm lawyers generally are happy. In this article, I intend to share the secrets I've found for law firm happiness. Also, I hope to provide the reader with some practical advice for how a lawyer can find the path to this El Dorado.

The Secret(s) to Law Firm Happiness?

There are actually two secrets to happiness for law firm lawyers. First, regarding law practice, happy lawyers normally have a portable book of good clients or client-referrers who continue to refer legal work. Second, happy lawyers usually have something that motivates them outside of their law practice.

Good portable business.

For most law firm lawyers, a portable book of good clients or referral sources is crucial to long-term happiness. A lawyer who can generate their own work will have the relationships that allow direct communication with the clients. This will allow the lawyer to learn not only what the client needs but why. It provides an opportunity for the attorney to understand the client as

well as their business. These lawyer-client relationships give meaning to the lawyer's practice.

Further, lawyers often work long hours, particularly when the client comes to see the lawyer as an important ally and source of guidance. During those long hours, some good lawyer-client relationships grow into professional and personal friendships that can nourish the lawyer's soul.

A portable book of good clients also gives a lawyer control over their own workplace and career. Although law firms are often compared to pyramids, perhaps a better image would be a Viking longship. Lawyers who have business, and thus their own longships, can decide who crews the ship and where the ship will go. Lawyers without business are usually left to pull an oar on someone else's ship.

Experience has convinced me that a lawyer with freedom to go – or not – is usually much happier than someone who lacks that freedom. Plus, law firms can more readily dispose of a mere oarsman, an action that the firm believes is necessitated by the economic slowdown and other factors, than for a firm to dispose of a lawyer who will take client work to the new firm. Further, having a good book of portable business ensures that a lawyer can protect their turf if the lawyer feels the lawyer is

being mistreated or slighted. If necessary, that book allows the lawyer to take their clients to more verdant pastures. Law firms are often difficult places to work. Having portable clients who will follow a lawyer helps ensure that a lawyer will be able to command respect. After all, if such respect is not forthcoming with reasonable effort, the lawyer can leave. The portable book of business ensures the lawyer will never be trapped.

An Outside, Balancing Interest.

While a portable book of good clients is normally crucial to lawyer happiness, it is not the only requisite for happiness. "Law," Joseph Story warned, "is a jealous mistress." If allowed to spread without a check, law may drain the life out of a lawyer and leave a hollow shell. Therefore, most lawyers need a counterbalance, something else that motivates them and makes them happy outside the practice of law. Thus, a prudent attorney will cultivate some life outside of the practice to provide a check upon and respite from the law. This outside activity may be an active family life, or strong friendships, or a major hobby or avocation. What this second interest is matters less than that it exists.

Some lawyers will focus more on the outside interest than on their law

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practice and find happiness in such an arrangement. For these lawyers, having a portable book of good client work may be less important, particularly if the lawyer serves as a key lieutenant to another rainmaker. Such arrangements may work, but many have been seriously challenged by recent economic turmoil.

The remainder of this article focuses on how to develop a portable book of good clients. The reader will have to determine how to cultivate the second requisite for happiness, the interest outside law that balances and checks the lawyers' law practice.

Developing Good, Portable Business

Developing a Niche through a Strategic Client Development

Having been told to develop a portable book of good clients, a reader may ask how to develop such a book of business. At the macro or big-picture level, developing a book of portable business normally requires the lawyer to engage in strategic business development planning and then to work patiently and persistently toward the objects established in that plan.

Developing the strategic development plan, in turn, requires a lawyer to answer three questions. Then, the lawyer must execute or implement the plan. In doing so, the lawyer should be mindful that the initial answers were only tentative hypotheses. Attempting to execute the plan may cause the lawyer to realize that the answers, and thus the plan, need to be modified to achieve what the lawyer seeks.

The three main questions for developing a strategic client development plan are:

1. *What Type of Law/Clients?* To engage in strategic business development, a lawyer needs to determine what type of law or clients the lawyer will pursue. Often this involves asking which aspects of the lawyer-client relationship are most important to a lawyer. The questions to

assess such issues are plentiful. For example, does the lawyer thrive on tight deadlines and pressure? Does the lawyer really enjoy undertaking investigations, drafting documents, or arguing in court? Does the lawyer want to develop long-term relationships with a few, larger clients, or does the lawyer instead enjoy meeting new people (clients) all the time? Does the lawyer like taking risks, or would the lawyer prefer more of a steady, consistent practice?

Sometimes a lawyer will say, for example, that they like the tax-law firm where they work. But this does not simply mean they should be a tax lawyer. Rather, the lawyer needs to drill down and see what aspects of that job are pleasing. For example, maybe the draw is that the tax practice involves considerable client contact or involves solving complex problems in a quiet, rather contemplative setting. These factors are likely more important than the fact that the work involves interpretation of the Internal Revenue Code.

The lawyer should also consider what type of people they want to serve. In considering this question, it may be useful for the lawyer to consider the persons they already know or represent. For example, if the lawyer enjoys working with or knows many doctors, physicians might make appropriate clients. Doctors may also serve as connections between an attorney and those persons or entities the lawyer ultimately wants to represent such as medical practice managers.

In addition, a lawyer may be able to inherit or acquire another lawyer's practice or grow their practice as an extension of another lawyer's practice. This may limit the type of practice the lawyer can develop, but it may also expedite the growth of the practice. Building from the roots up, it may take five years or more for a lawyer to build a profitable, vibrant practice.

2. *Will the Proposed Legal Services Generate Adequate Fees?* Having determined the type of legal services the lawyer wants to provide, the next

step should be to decide whether those services will provide adequate revenue. For a lawyer at a larger firm, this may require a comparison between the rates the lawyer's clients will pay against the rates the firm wants to charge. As a general rule, it is usually easiest to build a new practice at a firm when the rates for the new practice fall within the bulk of the firm's existing clients.

A lawyer who does not work at a firm that sets target rates should reflect on how much they hope to make, and also the costs of generating that income. A law firm run on a shoestring budget may still have costs of \$30,000 per year or more, plus a similar amount in start-up costs. Offices, supplies, staff, and other overhead matching the top firms in town, meanwhile, may exceed \$150,000 or \$200,000 per lawyer. In addition, a lawyer's overhead, staff, and other spending will influence what clients the lawyer will be able to attract and what services the lawyer will best sell to those clients.

The lawyer will also need to be aware of the competition, the services those competitors provide, and the cost of such services. Sometimes the fiercest competition will come from nonlawyers, who may be more aggressive in pricing services and soliciting clients. For example, environmental lawyers learned long ago that they could not readily compete with engineering firms as providers for basic, run-of-the-mill environmental assessments and permits.

3. *Who Will Select the Lawyer and Pay for the Legal Services?* Once the lawyer begins to determine a practice that the lawyer will like and that can support the lawyer's desired lifestyle, they should determine who will hire and pay for those services. Sometimes the person who chooses or recommends the lawyer, or who pays for the lawyer, may not be the person who receives the legal services.

A lawyer who represents doctors in malpractice litigation, for example, may need to build a practice by building relationships with the malpractice insurers. A lawyer who in-

tends to represent unionized workers in employment matters, meanwhile, may benefit most from developing a relationship with union leadership, not individual workers. And a lawyer who wants to represent children in divorces may benefit most from seeking to build relationships with courts or other family law lawyers who will refer work.

Cultivate Relationships with the Key Prospects or Referral Sources

Once the lawyer has established a strategic client development plan, the lawyer should set out to attract the attention of and build relationships with the key people who will become the clients or the sources for clients. This requires the lawyer to determine how best to attract the key clients or referrers.

Attracting clients may involve two types of business development – outbound and inbound marketing. Outbound, or more traditional marketing, focuses on trying to locate potential clients. It may involve placing advertisements that the key referrers or potential clients may see. Inbound marketing, meanwhile, focuses on trying to help the clients find the lawyer. Blogs and informational videos might be positioned so that potential clients seeking relevant information will also find and learn about the lawyer’s practice.

Lawyers should be creative in deciding how they can reach out to and form relationships with the key prospects or referral sources. Often the best method to start this process is to brainstorm with a practice group or others (lawyers and nonlawyers) who are willing to help the lawyer develop the practice. Methods for cultivating relationships may involve varying amounts of time and money. The lawyer should carefully consider where to expend both these valuable resources.

Lawyers seeking to cultivate important relationships should recognize five principles. First, the lawyer must make sure the location and channel for the communication are

appropriate for the relationships sought. While an advertisement on the back page of a telephone directory might prove lucrative for a personal injury lawyer, it would be a waste of money for a lawyer seeking to prepare securities filings for major corporations.

Second, most business development efforts require patience and repetition. Sometimes lightning does strike quickly. More often, it requires persistence. Lawyers who attend only one meeting of a group, or publish a single advertisement or post one entry on a blog, often do not generate meaningful business from that one-shot effort. Likewise, buying a table at a charitable event where the lawyer has no other connections will likely not yield much work. Some experts say that a potential customer must encounter a firm’s advertisements six to eight times within a relatively short period before that potential customer will begin to recognize the firm or connect it to its message.

Third, a focused message often helps generate new work most effectively. Having a practice niche – whether limited by practice, client or industry, or geography – will often help a lawyer attract clients. The more distinct the niche is the better. But it must not be so narrow that it fails to attract attention, or only appeals to such a narrow group that the lawyer cannot build a practice on that group’s needs. Further, a lawyer should be able to alter the niche to reflect economic and other changes that may require the lawyer to shift the practice.

Fourth, a lawyer should be careful to avoid competing with the sources from which the lawyer hopes to receive referrals. A transactional lawyer who obtains most work through referral from litigators, for example, should be careful about partnering with a different litigator. The combination may result in less work, not more, because those referring litigators may hesitate to send the transactional lawyer work when that lawyer now has a partner who could be a competitor.

Finally, lawyers should select the channels to build a practice that they are willing to sustain. Lawyers can cultivate clients through a host of different channels, from traditional television, radio and print advertising to internet posts, speaking engagements and networking at business after-hours, lunches, and receptions. Lawyers should plan and build a practice using the methods they are comfortable and capable of using. Building a legal ethics practice, for example, would be much more challenging if I were not willing to write articles on legal ethics or present on ethics at continuing legal education seminars.

Ensure Compliance

Ethics rules and other law impose a series of restrictions on lawyer advertising and client solicitation. For example, Missouri Supreme Court Rule 4-7.3 generally prohibits unsolicited telephone calls and in-person solicitations of strangers, and Rule 4-7.2 generally prohibits a lawyer from paying a nonlawyer for referrals. The ethics rules governing lawyer advertising can be complex and somewhat counterintuitive. Does it make sense, for example, that under Rule 4-7.4 a lawyer must include special disclaimers if she wants to advertise she is a criminal defense law specialist, but may omit such disclaimers if she advertises she practices “only criminal defense law”?

To avoid such problems, a lawyer designing and implementing a business development plan should make certain that client development efforts will comply with the relevant rules of professional conduct as well as other law. These assurances may be obtained by consulting with an ethics lawyer, or in some instances advice may be available from Missouri’s legal ethics counsel.

Assess Effectiveness – and Keep Trying

Once a lawyer has determined the ideal practice, and has started to cultivate work, the lawyer should continue to evaluate and modify the

business development methods. Often the lawyer can supplement their evaluation by asking clients and potential clients what they believe the lawyer should be doing to provide better service.

The lawyer should also recognize that developing work takes time and persistence. A lawyer may need to dedicate some time every day or week to business development efforts. Perhaps an even greater challenge is to ensure these efforts continue even when the lawyer has other billable work to do. Otherwise, when the billable work runs out, the lawyer may experience a slow period. Such slow periods can be quite painful, particularly when they occur earlier in practice building before the lawyer has built a cushion

of funds to maintain the practice and lifestyle.

Conclusion – A Call to Look Up and Out

Good young lawyers quickly learn that they can be deemed successful in the short term by keeping their heads down and providing good, timely work for senior lawyers' clients. Keeping the nose to the grindstone, however, often leads to those lawyers having difficulty finding success and happiness later in their practice.

A young lawyer that wants a long-term, fulfilling practice generally should instead consider both providing excellent work to the senior lawyers and their clients as well as developing client contacts and a

practice niche. These efforts can – and should – begin slowly. But they should increase over time, and will be crucial in helping the lawyer ultimately find satisfaction in private law practice.

Finally, as mentioned at the outset, a lawyer should also maintain some balance so that clients do not come to completely rule the lawyer's life. This helps the lawyer find happiness and maintain greater balance. Interests outside law often also provide a lawyer with more meaningful and appropriate legal counsel to clients.

Good luck in building your practice and pursuing happiness.



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— W E L C O M E S —

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We are pleased to announce the addition of Mike Downey, a nationally known authority in the legal ethics field. His practice focuses on representing law and accounting firms in a wide range of business and risk management matters.



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