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Alternative Fee Arrangements and Marketing 101: Back to Basics

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Recently, [Patrick J. McKenna](#) a well respected Canadian based law firm consultant, [lamented](#) on the fact that despite the fact that so many corporate clients seem to be relentlessly demanding Alternative fee Arrangements, many of his law firm clients were experiencing less than resounding results when AFA's when approaching *prospective new clients* with AFA proposals. While our experiences have not mirrored those described by Patrick, his comments did provide me with some food for thought.

Our clients have repeatedly advised us that they are seeing revenue erosion from existing clients, who are either diverting matters to other firms with more attractive billing models or some clients were simply electing not to proceed with either litigations or transactions relying on outside counsel, as a cost saving matter. A significant number of these "diverted matters" wound up being handled by different law firms, often smaller, but nonetheless many of the firms which were actually engaged for these matters were law firms with whom the client already had some relationship, albeit in previously limited roles.

These facts and Patrick's observations set me to thinking about some marketing basics: We know that the cost of attracting new clients is *five times higher* than getting business from existing clients. Given the new paradigm within which we find ourselves operating, which of course, includes both AFA's and the universal need by law firms to limit expenses wherever possible, while at the same time, seeking to grow a firm's revenue base, it seems quite obvious that marketing investments would certainly experience a higher return on investments by increased focus on existing clients.

Accordingly, a return to some basis essentials and maxims of marketing are, in my view appropriate:

1. **Communications.** Regular substantive communications are essential. This does not mean the occasional lunch or the annual pilgrimage by management to the client.

Nor does mere reliance on [Client Alerts or Bulletins](#) , while critical, suffice.

These communications should serve a number of purposes:

- For our purpose here, your *existing clients* should be made aware of various AFA's which your firm is offering. You may think you are rocking the boat when you propose an AFA to a client which seems satisfied with the traditional hourly billing model, but you surely will be extremely disappointed when you see a client leave your mooring and engage another firm which offered an attractive AFA. And, you certainly don't want to be at a competitive and economic disadvantage by chasing the client, already boarding another boat, by shouting from dockside, "Wait! We can beat that price!"
- Clients have relationships with others in their industry; they get together formally and informally with others in the same industry. Clients are prone to call colleagues and ask for referrals for vendors of professional services and most often currently ask about pricing. Having a satisfied client begets another satisfied client. Growing a client base, done correctly, becomes a viral experience.
- Gain market intelligence. Find out what deals and services the competition is offering. Determine your client's receptivity to these other options (although do not feel your client's receptivity is dispositive) and when you return home, carefully assess and evaluate the information acquired.
- Recall that the [ACC Value Index consistently reports that law firms score lowest in the areas of communications, responsiveness and budgeting skills.](#) Raise your score and your clients' appreciation by using these regular communications to discuss the progress of particular matters and provide timely reports of the progress *and budgets* for existing matters.
- Make sure you understand your client's goals, business objectives and intermediate and long term growth strategies. As you absorb this information, bear in mind how other practice areas in your firm may serve these plans. Mention these capacities and as time progresses and you continue to stay in touch with the client and follow up, as discussed below, be alert, listen and use good judgment in more actively marketing these capacities.
- Discuss new practice areas and new capabilities of your firm, in addition to those discussed in the immediately preceding paragraph. Don't rely on formal engraved, glossy announcements or emailed press releases. The first two get tossed in to the trash bin unopened and the latter instinctively sends the reader to the "delete" button.
- Also discuss with clients opportunities your firm is considering, whether they be new practice areas or new offices. Seek their counsel. Invite your clients to make some level of at least emotional investment in your firm's growth. And, heed and take into account their advice and recommendations when making the final decisions. Share the information with your partners.
- Most well managed law firms annually conduct annual client satisfaction surveys. Yes, these are important, but more regular discussions on the issues

are far more productive.

- Don't leave these areas of communication to the annual pilgrimage of a managing partner to a client. Rather, these dialogues need to be part of regular open and objective discourse; the whoop and wharf of your relationship.
- Inquire about their own growth within their own respective companies. Feed this information in to your data base and work to make a contribution to their own personal advancement within the company by giving them the opportunities to shine in the eyes of their superiors or boards of directors. Let the individual take credit for your contribution.
- Listen. Don't ignore a contribution from your client to a dialogue just so that you can "reload" and recite an anecdote relevant to a prior comment. Just like in court, listen to the comment or question posed and respond directly and candidly. A response of "I don't know but I will get back to you on that" is far better than a fabrication, a guess or a misstatement.
- *Do not make billing and payment for pending matters a staple of these meetings.* A more productive staple would be an Ed Koch inquiry: "How am I doing."
- Accept responsibility. If a client expresses dissatisfaction for any of the work you or your colleagues have done, do not seek to excuse it. Express personal remorse, take ownership of the problem and express your intention to remedy the issue and then follow up, both within your firm and with your client.

2. **Ditch the email.** When you are having these communications with your client, do not believe for an instant that you are doing your job by merely sending them an email. You have a telephone; use it, but only as a second resort. Nothing beats or even matches a face to face meeting (in the Middle East, these are called "Four Eyes Meetings"). Lunches and dinners are swell, but frankly, clients more sincerely your visiting them at their offices and your thereby communicating an interest in what they and their colleagues are doing. These visits are most appreciated when the client's office or plant is distantly removed from your office. While at the client's offices or plants, you should make it a point of pressing the flesh of other company executives with whom you have only had a telephone or email relationship. The office and plant visit also gives you the opportunity to meet other executives who might provide additional points of productive intersection with the client. Too often clients feel that a mere lunch or dinner is distracting. The office or plant visit might well be punctuated by a meal shared. Woody Allen was right: The key to success is showing up.

3. **Network your clients.** As you listen to what your clients are doing, keep your own contacts lists rumbling through your mind. Be ready to suggest the name of a different client, an acquaintance or a partner involved in a similar or complementary project and bring them together. And, do the reverse at the same time: Use the information acquired, with your client's permission, of course, to reach out to that other special somebody in your contact list. Amass business cards at conferences and acquire an understanding of the work these folks do and put that information in your

- contacts list. Work towards developing a relationship as both a master networker and somebody who knows everybody.
- a. The utility of having small, regular and very informal get together in your office cannot be overstated. Keep the fare and attendance relatively light. Make them regular; once a week, once a month or twice a month. Invite some partners. Use these events to stitch together clients and potential clients with each other as well as with other partners with potential synergies. Strive for a mystique in which people say to each other “You know, Bill has a small networking cocktail party the first Thursday of each month at his office; there are folks you might want to meet who could help you with your project. Let me see if I can get you an invitation.”
 4. **Show them that you care.** Keep their birthdays on your calendar and extend wishes. Keep information about spouses, children and other such information in the notes section of your contact list. Follow industry or other media news about the client or his or her company. Extend a greeting or commendation where appropriate. Ask about children by name.
 5. **Get help from your marketing professionals.** Your firm’s marketing directors and outside marketing consultants must be your partners in these exercises. Discuss plans for each of these activities with your marketing professionals. Have them conduct some market research for the client with whom you are meeting so that you have an understanding of any new trends in your client’s industry as well as information about any relevant press releases the client may have issued. Show up being prepared. Have your market professionals put together packets of take-aways that are relevant and germane. Ask your marketing professional to suggest other services your firm can offer the client. Be very selective about delivering these take-aways. Deliver too many and the contents will likely find their way quickly in to the trash been unopened and unread; maybe the folders will be retained for client’s kids as neat receptacles to keep their homework assignments. Upon your return, debrief your marketing professional. *You can never be too prepared for these meetings.*
 6. **Follow up, Follow up.** Success in marketing ultimately requires only adherence to three rules: (1) Follow up; (2) Follow up and (3) follow up.
 7. **Never leave home without it.** Bring along a copy of this, review it before the meeting and then after the meeting, use it as a checklist to make you have covered everything. (And if you find there is something I left out, call me).