

Battling the big boys

How Maine's middle-market law firms are facing the challenge

BY LEISCHEN STELTER

Not many industry leaders can reflect on the economic crash that began in 2008 and say it was good for business. But for many middle-market law firms, the down economy translated to business opportunities as struggling corporations sought to slash costs — with legal expenses often high on the chopping block.

"[These corporations] began asking why they were spending \$800 an hour for a New York firm if there were other middle-market firms in Portland or Cleveland, for example, who had the same specialized expertise [at a lower fee]," says Scot Draeger, an attorney with Bernstein Shur, which has approximately 105 attorneys in offices in Portland, Augusta and Manchester, N.H. "The bad economy facilitated the trajectory of our practice and our success in courting big business," he says.

To capture those opportunities, Bernstein Shur and other Maine firms have been marketing their expertise and Maine-based value to clients out of state. This new approach to business development has led firms to emphasize social media and marketing, and opened them to new ideas in areas such as billing. It also rides a trend reported by Peer Monitor Index, a legal trade publication of Thomson Reuters, that notes successful law firms are adopting strategies that drive value for clients, such as reduced cost of service, while also driving profitability. They are identified by a "a willingness to invest significant partner hours in projects that re-examine firm structures, client relationship management, compensation models, billing practices, business development and more,"



Scot Draeger, an attorney with Bernstein Shur

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according to the PMI October newsletter.

Some of these changes are already apparent at Maine firms. "I think as the economy shifted, law firms switched gears and moved from thinking 'clients will find us when they need us' ... to a more client-focused approach to identifying and keeping clients," says Gretchen Johnson, director of marketing at Verrill Dana, which has about 110 attorneys based mostly in Portland and Boston.

Charging fees that are often half of larger, metropolitan firms is one of their strongest advantages. "We're expanding into southern New England in part because we have a good value proposition," says James Matsoukas, director of marketing and business development at Pierce Atwood, which now has seven offices throughout New England and about 140 attorneys. "We can provide the same quality of service at a lower rate and we are more nimble. The smaller you are, there's not a lot of overhead and you can move more quickly." Because smaller firms like Pierce Atwood have fewer offices and employees to maintain than large firms, they have less overhead expenses and can pass that reduced cost along to clients. Even if the leading attorney is based in Boston, there's a good chance the supporting staff will be located in lower-cost areas, like offices in Maine or New Hampshire, so fees can still remain low. Also, the cultural advantages of a smaller firm can be beneficial to clients because there tends to be less internal conflict and a stronger sense of community, says Matsoukas. "A lot of large firms got that big by acquiring other firms and not only do they have more offices and employees to maintain, but there also tends to

be more cultural tension stemming from merger integrations," he says.

Changing fees, specialties

Some firms have begun giving clients a say in setting fee structures. For example, Bernstein Shur started offering clients a fixed fee for certain legal services, most routinely the start-up of mutual funds, hedge funds and private equity funds. "There are five to 10 legal components of such a project and we have an excellent understanding of the scope of our efforts on each element," says Draeger. The firm often charges a fixed fee for work involving private capital raising projects, whether it involves a Real Estate Investment Trust, mezzanine financing or a small business needing to raise capital for research and development. For some of its corporate clients, the firm performs 100% of their legal work in certain areas as an "output contract." The client pays an annual retainer and the firm agrees to perform all of the "in-scope" legal work. On an annual basis, they revisit the arrangement terms with the client to ensure they are fair for both parties, says Draeger.

"Businesses need certainty in expenses and legal is no different," says Draeger. "A fixed fee is something they can plug right into their balance sheet."

Using a fixed fee strategy also encourages the firm to resolve the case efficiently and quickly. It's a trend that not many larger law firms have embraced, says Draeger. "We're far ahead of this trend and many firms in New York and D.C. have not shown a willingness to take that risk, but that's the trend and that's

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Gretchen Johnson, director of marketing at Verrill Dana, Portland

been a major piece of our business," he says.

The economic crash also made apparent the importance of differentiating one firm from another through specialization. "Historically, firms were more generalists, like the physician of 30 years ago, and now, just like someone who needs knee surgery goes to a knee surgeon, people go to experts in security for security projects," says Draeger.

Bernstein Shur recruited and assembled a team of eight lateral lawyers specializing in securities and asset management law to form its securities and financial services industry group in early 2009. The company tapped experienced lawyers like Draeger, who is a former senior legal counsel to the U.S. Securities and Exchange Commission and also served as a senior in-house lawyer for Citigroup, to develop the firm's expertise, allowing it to compete for national business "Now it's a much more targeted approach, divided into highly specialized areas of expertise," says Draeger.

Devising a campaign

Medium-size law firms that have altered their business strategies and secured in-house expertise to compete against larger firms are then faced with a marketing dilemma: How do they get the word out to larger national entities?

In the recent past, the person in the marketing position of a typical law firm was someone who wrote the copy for print advertisements and helped execute various tasks at the firm. But that's no longer true for many firms. Now the director of marketing often reports directly to the CEO and has significant responsibility in the strategic planning and direction of the firm. "Marketing was given a whole new level of gravitas and financial support by the firm," Draeger says. "We were looking to give marketing and business development a whole new level of prominence within the executive structure."

Matsoukas, who has been with Pierce Atwood for just three months but has spent 11 years in marketing at various law firms, says, on the whole, more law firms are realizing the value of marketing. "You wouldn't have found a person like me in a law firm 20 years ago," he says. "They probably would have thought marketing was not as important 20 years ago, so why invest in someone like me if it's not essential to what they're doing?"

As the marketing role changes, so does the means by which law firms promote their

expertise. Technology has taken a more active role in business development. The breadth of information instantly available has changed the game and allowed law firms to take on an active role in looking after their clients.

"The research tools and information aggregators out there have made it easier for law firms to track information and stay on top of the marketplace with specific clients, so they can be more proactive instead of responsive," says Johnson of Verrill Dana. For example, the firm uses programs such as West's Monitor Suites and LexisNexis atVantage to research industry and market trends. These programs help attorneys stay up-to-date on legal activities impacting clients, as well as the industries they serve. Even something as basic as Google Alerts is a tool for attorneys to monitor developments in the market, says Johnson.

In general, law firms have become more creative with their marketing efforts and are taking more chances, she says. While print advertising and other traditional marketing tools remain an important part of the marketing strategy, law firms are finding more engaging ways to reach out to potential clients and drive them to the firm's website.

In a 2009 study published by Leader Network, a Boston-based consultancy that develops professional communities, of 1,474 lawyers, more than three quarters of the respondents used social networking sites to drum up new business. While peer and client referrals remained the top drivers of new business, more traditional methods such as alumni referrals and RFP work have dropped precipitously to 8% and 4%, respectively.

"The stodgy traditional methods are getting a shot of adrenaline and I think the same rules that bound law firms in the past are loosening. The ethical guidelines are strict and still have to be adhered to, but firms are getting more creative," Johnson says.

Several lawyers at Verrill Dana have embraced blogging as a communication channel to demonstrate expertise in a specific industry and at the same time reach potential clients involved in that field. "Our hope is that through our blogs people will find us more easily and find us based on their interest in the topic we handle," Johnson says.

It's also a way for people to verify the firm's credibility, involvement and familiarity in those specific industries. "It helps develop our thought leadership in key areas," she says. For example, the firm's lawyers regularly contribute to blogs like Banking Law Update, which is about bank-

ing regulatory issues and other legal trends targeting banking executives, and Law at the Water Line, a blog that addresses maritime legal issues. While these blogs are intended only to be an initial connection between a potential client and the firm, they've become a critical piece of the firm's marketing and outreach strategy.

Marketing on a personal level

To take that familiarity even further, some lawyers are spending time marketing themselves. "Last year, I spent 1,000 hours on business development, which is roughly a third of my time," says Draeger. At Bernstein Shur, the leaders of its specialized areas are responsible for business development and marketing of its groups. Draeger is heavily involved in industry and trade groups as a primary way to develop national business, which translates to an extensive travel schedule. But this approach is "critical to our success," he says, and wouldn't be possible without today's technological advancements. "We're fortunate to live in the electronic age where so much can be done via email and conference call and video calls," he says.

All interviewed for this article agreed that social media has a place in the overall marketing effort, but it's only a tool in the toolbox. "Social media doesn't change the game, it adds to the game, and it's another means of communication," says Matsoukas. When it comes down to it, nothing beats face-to-face interactions. "[The client/lawyer relationship] is a very intense, interpersonal experience and although you might do some of it virtually, eventually you want to meet and talk to that person," he says.

Draeger says his clientele tends to be traditional and "they make sure you have good posture when you're talking with them." While these face-to-face impressions remain critical to business, it would be foolish for any firm to avoid embracing outlets like Facebook, LinkedIn and social media in general, he says.

Johnson from Verrill Dana agrees. "We always see [social media] as an introduction and not the basis of a relationship. It helps break down barriers," she says. "It gives them the opportunity to get a feel for us as opposed to a one-dimensional brochure kind of thing, and it creates an initial impression that goes a long way in a relationship."

At the end of the day, lawyers are their own best salesmen, says Matsoukas. "I can talk to people about what we do and how that matches a client's needs and the talent we have, but when push comes to shove, lawyers have to sell themselves as an individual practitioner," he says.

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