

THE NEW RAINMAKER

AN ARGUMENT THAT LAWYERS SHOULD EMBRACE SALES
AS A NECESSARY BUSINESS FUNCTION

BY LISA GOLDSTEIN

From the beginning of civilization, different cultures have created myths with super-humans possessing god-like powers and mighty forces. Ancient Greece had Hercules, who was famous for his strength and courage. The Romans spoke of Jupiter, the sky god who used rain, thunder and lightning as weapons. Lawyers have created the myth of the rainmaker: a deity-like figure standing on top of a mountain, removed from the law firm, mysteriously causing rain (i.e., business) to fall from the sky.



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LAWYERS ARE REALIZING THAT LAW FIRMS
MUST ESTABLISH BOTH MARKETING AND SALES DEPARTMENTS
IN ORDER TO SUCCEED IN TODAY'S
COMPETITIVE MARKET.

Historically, most Pennsylvania lawyers have been under the misguided impression that if they performed good legal work, the business would continue to flow and a few rainmakers could magically help their firms to flourish. However, in the past decade, competition among law firms has increased dramatically, law firms have consolidated, corporations have implemented convergence programs and existing business relationships have been challenged. As a result, we have seen the demise of major Pennsylvania law firms such as Mesirov Gelman Jaffe Cramer & Janieson and LaBrum & Doak.

In response to this plight, many Pennsylvania law firms have developed marketing departments. However, these firms have lumped marketing and sales together. Most lawyers feel that "sales" is beneath the legal profession. Even the word "sales" conjures up the stereotypical image of the pushy, high-pressure salesperson, at odds with the customer, slamming a solution down the prospect's throat. Although "rainmaking" connotes both marketing and sales, selling is actually only *one* activity of the entire marketing process.

Corporate America has long recognized the need for both marketing and sales departments. Complex services involving long sales cycles, such as law firm services, require a sales team to

engage potential clients to buy. The role of the sales team is to persuade or influence a customer to buy a product or service. Complex sales involve a direct in-person exchange between the salesperson and the potential client. Sales results are measurable. The prospect either becomes a client or does not.

Marketing departments create services and establish the pricing, promotion and distribution of the services. Although the results of some marketing activities can be tracked, most marketing does not result in a direct sale.

Lawyers across the country are realizing that just as corporate America has recognized the sales function as a business discipline, law firms must establish both marketing and sales departments in order to succeed in today's competitive legal market. In 2001, North Carolina-based Womble Carlyle was the first law firm to embrace sales by hiring a director of sales. Although most Pennsylvania firms have created separate marketing departments, they have not developed sales departments. Lawyers typically cite one of three reasons for not embracing the sales culture:

- Selling is unethical and/or unprofessional;
- Lawyers are too busy to sell; or
- Selling is innate and only "rainmakers" know how to sell.

Although at first glance these arguments have merit, a closer examination

THE SALES DISCIPLINE **SHOULD** BE STUDIED AND MASTERED SO LAWYERS DON'T WASTE TIME APPROACHING **THE** WRONG TARGETS WITH INEFFECTIVE "PITCHES."

of these objections will enable lawyers to move beyond their fears and embrace sales as a necessary business function.

THE ETHICS OF SALES IN THE LEGAL PROFESSION

While many lawyers feel that Rule 7.3 of the Pennsylvania Rules of Professional Conduct prohibits selling, the revised version of the rule allows more flexibility than the previous version. Rule 7.3 governs Direct Contact with Prospective Clients. The rule prohibits "in-person" and telephone solicitation of potential new clients. Instant messaging and solicitation of new clients in Internet chat rooms also are unethical.

The rationale behind the original ban on solicitation was that the prospective client was a layperson in need of legal services at a time of distress and not capable of making a rational decision about hiring a lawyer — especially when the lawyer was trained in the art of persuasion and the layperson was not. The Supreme Court of Pennsylvania recognized that solicitation could be appropriate in certain situations, as reflected in the changes to Rule 7.3 adopted in 2004, which allow direct solicitation of other lawyers and familial or business contacts.

Although Rule 7.3 allows for direct solicitation of business contacts, the rule does not distinguish between sophisticated corporate buyers of legal services and the layperson. Such a distinction should be provided because corporate purchasers of legal services are accustomed to high-level business transactions. Nonetheless, Rule 7.3 does permit lawyer-to-lawyer solicitation or "cold calling." Lawyers seeking to establish a business relationship with a corporation may directly contact the general counsel of the corporation. In addition, networking and third-party introductions are permitted. From a strategic standpoint, a relationship

that begins with a personal introduction is more likely to result in a sale than a cold call is anyway.

CREATING AN EFFICIENT METHOD OF SALES WITHIN THE LAW FIRM

In addition to ethical constraints regarding the sales process, lawyers also face time constraints. For most lawyers, the sales process becomes a part-time job, which must be performed in conjunction with the actual practice of law. Contrary to the theory that rainmakers are born with rainmaking skills, the art of sales must be learned. In every other industry, sales people undergo extensive training regarding buyer behavior, the decision-making process and identification of potential buyers. This training enables them to master a systematic approach to become adept relationship builders. Therefore, the sales discipline should be studied and mastered so lawyers do not waste time approaching the wrong targets with ineffective "pitches."

THE ART OF THE SALE

The final concern regarding rainmaking is that some lawyers believe they do not know how to sell. Anyone with a desire to sell can improve his or her results. Therefore, law firms should implement a sales function in order to develop a strategic sales plan and a formal sales training program for the attorneys. The following action plan will help your firm to begin this process:

1. *Quantify the firm's sales plan.* What number does the firm need to reach to achieve anticipated revenue goals?

2. *Funnel the firm's sales plan down to each individual attorney.* The sum of the individual lawyers' goals must equal the overall law firm goal. Every lawyer involved in the sales process must be held accountable for his or her goals. Each lawyer should know the value of his or her

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average client and how many clients the lawyer needs to bring in annually to achieve his or her goals.

3. *Understand the sales process or sales cycle.* The average sales cycle varies depending upon the area of practice, industry and matter that each lawyer is selling. These numbers need to be studied to discover selling patterns. Once patterns are identified, law firms can discover how many meetings it takes to close a deal and how many prospects must be visited to obtain a new client.

4. *Develop your target list.* The target list should be made up of the clients your law firm is best suited to serve. Target clients based upon company size, industry, technology, etc.

5. *Identify the typical decision maker.* Should you be meeting with the general counsel, contracts administrators, human resource professionals or other lawyers as referral sources?

6. *Develop a firm-wide communication system.* Some of the biggest problems in the sales process stem from insufficient internal communication. What would happen if a new partner unintentionally contacted an existing client company and offered a better bill rate than the client already had with the firm? To avoid this problem, most law firms rely on some form of contact- or case-management software. There is no magical software that will avoid duplication of sales efforts. However, the firm needs to have one system in place to track and target prospective clients and to manage communication with existing clients.

7. *Compensate for cross selling.* Cross selling is expanding the client relationship to offer additional services to a client. If your law firm is capable of servicing a client in many different areas and it is not, you have missed an opportunity for additional business. It is safe to assume that other law firms working with the same

client will be cross selling and your client relationship is at risk.

The main reason lawyers are not cross selling is that individual lawyers are often not compensated for cross-selling efforts. Compensation systems such as rewarding only the "originating" partner for bringing the business to the law firm need to be revised to reward behavior that leads to further development of business from that client.

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As the law firm business model continues to evolve, the rainmaker will no longer be standing on top of the mountain. The rainmaker will come in all shapes and sizes, and every lawyer in every Pennsylvania law firm will know the rainmaker. ☐



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