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Strategic Planning in a Post-Recession Market

By Ward Bower and Eric Seeger

The legal profession as a whole reached a tipping point two or three years ago when suddenly everyone seemed to agree: '*Things are significantly and permanently different out there*.' The changes include more price competition, a need for greater practice efficiency, increasing commoditization of legal work, smaller annual rate increases and more competition from non-traditional service providers, among others things. And because planning is supposed to be the exercise of making decisions in here about what's going on out there, that would suggest that the law firm planning process needs to adapt to these new circumstances.

If we go back to the days pre-recession, we had a seller's market in which the demand for legal services was greater than the supply. Law firms set the pricing, selected the project staff, determined the strategy, sent the bills to clients — and the clients paid them.

Post-recession, we have seen a shift to a buyer's market in which the supply of legal services is greater than the demand. In this market, clients are determining price. They say what they're willing to pay for a particular legal service and if the law firm doesn't meet their demands, they may take the work elsewhere. We see clients beginning to directly influence staffing. Some clients won't pay for first or second year associates working on matters because they don't want to train them. Others are demanding that their work be done by partners, work that once might have been done by associates. We even see clients dictating strategy, getting actively involved in the running of a case, a matter or a transaction.

In this kind of an environment, law firms can do one of two things. They either can submit to the dictates of the client (and an awful lot of firms have done that), or they can proactively plan to collaborate with clients on these decisions.

Clearly, the influences of the post-recession buyer's market have created a different planning environment. The market is imposing its will on law firms, requiring them to think differently about how to be more competitive, more successful, more productive and more profitable.

Profitability has to be one goal of planning — you will never plan to be less profitable. But law firms must be realistic about what they can expect to achieve in this new legal market where the general economy is expanding at a pace less than 2% and where revenues, particularly revenues of major law firms, are increasing on a basis of 0% to 4% annually, and in some cases actually declining.

The first thing firms tend to do when things get tough is hunker down and cut their way to greater or sustained profitability. But is that enough? We think law firms have to do more.

Unfortunately, the shocks of the great recession have not caused many noticeable changes in law firm planning. In our work and research, we frequently observe law firms that acknowledge the changes in the marketplace, but are not doing things very differently. There seems to be a disconnect between the reality firms say they accept and their actions.

We see some law firms plan in a vacuum, without considering the crucial question of client needs and priorities. In fact, some of the greatest opportunities that emerge in the context of law firm planning come from asking clients how the firm is doing, what it can do better, and what else the firm might do for them.

We also see firms ignoring competitors and changes in the marketplace in which they operate. They assume that they are in the same environment, not taking into account new and non-traditional players vying for market share or the shift in client attitudes.

Finally, a lot of firms plan from the status quo, viewing the plan as an extension of what they're doing now without stopping to think what might be different in five years. Just like any other industry, legal services have product lifecycles that must be considered.

A fundamental component of planning is determining a firm's current position in the marketplace. Typically, law firms overstate the strengths of their market position. It is critical for firms to make a realistic assessment of their current status so they can form reasonable projections of where things are going.

Firm leaders must deal in facts: facts about clients, facts about what's going on in the market, and facts about the firm. With this knowledge, they will have the ability to anticipate options and be more in control of outcomes. The aim is not to predict the future but to see the possibilities for the future, calculate how to take best advantage of that future, or perhaps even to shape it.

There is a saying that 'knowledge creates responsibility.' There will be times when the facts indicate business decisions that will not be popular. One example could be scaling back or even getting rid of practices that aren't contributing to profitability. These are never easy decisions, but sometimes they're the right decisions, and planning is the context within which they can be made.

You can reconcile concerns about collegiality and firm culture with tough planning decisions by ensuring that decision-making is always focused on bettering the long-term best interest of the firm as an institutional entity. Decisions should be driven by a strategic rationale, not based on short-term economics.

Planning requires strong leadership — but it can be the difference between successful firms and also-rans in the new, more competitive legal marketplace.

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Note: This article is excerpted and adapted from Altman Weil webinar, *Strategic Planning 2014*, presented by Ward Bower and Eric Seeger in December 2013. The webinar discussed how to orient and focus your law firm's planning process in the new legal landscape and develop an achievable plan that will move your firm towards its goals. CD recordings of the webinar are available to purchase at www.altmanweil.com/Strategy2014.