

PRACTICE GROUPS AND MERGER DISCUSSIONS

by Thomas S. Clay

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It is typical these days, when two law firms are considering a merger, for like practice groups from the different firms to get together for discussions. However, in my experience, those discussions are often extremely cursory and do not include the depth necessary to truly decide whether or not synergies are likely to occur as a result of combination of the two groups.

If you are going to have such meetings with your counterparts in another firm to discuss the synergies and business benefits of a prospective merger, I suggest that you consider the following.

Purpose of Meetings

The overall purpose of the meetings is to allow partners with similar practices to thoroughly discuss and understand those practices. This includes:

- ◆ Specific core services offered to clients
- ◆ Methods of service delivery
- ◆ Level of technology used, including plans for increased technological use
- ◆ Staffing, i.e., use of partners, associates, paraprofessionals, others
- ◆ Dollar volume of practices
- ◆ Economic issues, such as hours devoted to this practice, billing rates, alternative billing methods used, etc.
- ◆ Depth and breadth of personnel
- ◆ Specific expertise of attorneys in the practice

You will also need to learn about the core clients of each practice, including:

- ◆ Who are they?
- ◆ Where are they?
- ◆ Contacts and strengths of relationships
- ◆ Number of years as a client
- ◆ Acquisition history
- ◆ Potential conflicts or synergies

Vision and Plans

There should be a dialogue regarding each firm's vision for this particular practice. You should share specific strategic and marketing plans and indicate the status of implementation for each.

Opportunities

The groups should explore ways that the combined groups could be more competitive, approach new markets, and better serve clients. The dialogue should address specific opportunities, including: attracting better lawyers, improving cross-selling capabilities, becoming more attractive to current and potential clients and building a stronger image.

Objectives

One objective is to make a *realistic* assessment of whether the merged groups would be better able to compete in the marketplace and determine why that might be the case.

In addition, you have the opportunity to evaluate both firm cultures — their likes and dislikes, similarities and differences — an issue that is so important when considering a merger.

Finally, you should identify additional practice related questions to address, evaluate and consider as part of further negotiations and the due diligence process.

Procedures

Following are procedures that have proved useful for other practice groups.

1. Information Exchange

At least one week prior to the meeting, practice groups should exchange as much information about individual lawyers, clients and the practice as is possible. This would include bios on group members; brochures; lists of matters and clients, if possible; economic data the firm or practice group is willing to share; and the like.

2. Group Recorders

Each group should designate a recorder or scribe. You will be documenting the salient results of the meeting.

3. Specific Discussions

I have found that the best way to initiate and guide the discussions is to use an agenda (this article might serve that purpose). It would be helpful to cover each of the topics set forth. However, you should not feel foreclosed from addressing other issues that help achieve the purpose and objectives of the meeting. You should avoid issues outside the scope

of these meetings. These would include discussions on governance, compensation, etc.

4. Documentation

The scribes should prepare a brief set of comments resulting from the meeting (no more than two typed pages). This should include areas of consensus, potential opportunities, and suggestions regarding further evaluation/due diligence. You are not seeking to create a beautifully crafted report, but only to record your independent, candid comments. Your memorandum should be made available within 3 or 4 days of the meeting.

Summary

It has been our experience that these exercises result in, by far, the most important and beneficial interaction that can occur when two firms are considering a merger. These discussions will allow people to begin to understand practices, know the people involved and evaluate cultures. They can also be fun and rewarding.

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