



GAME RULES HAVE CHANGED

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Most lawyers who have been in practice for 15 or more years acknowledge that the marketplace has changed significantly from when they started practice. I have been in the legal industry for almost 40 years. Imagine the changes I've experienced.

When I entered the legal industry things were very different. It was a seller's market. A booming expanding market. Lots of clients, with little competition, created ideal conditions for lawyers to build books of business which not only sustained them into retirement, but often a lucky partner to whom the business transitioned.

Technology back then? Not a budget buster by any means. Copiers printed on rolls of onion-skin paper. They were usually the sole big technology expenditure. There was no electronic research. Fax machines were recently invented and not yet trusted or used at law firms. The newest telephones had rotary dials which enabled the user to dial a number without operator assistance. Typing was done on (almost exclusively manual) typewriters, using actual copy paper; a product which our newest generations of attorneys have never used. The first dedicated word processing machines — another big technology spend — were being tentatively introduced at just a few of the largest firms. Time & billing and bookkeeping were done with manual ledgers. IOLTA accounts did not yet exist.

I don't mean to romanticize those days. They were simpler days. The game rules were clearer; not necessarily better or fair. It was an "up or out" world. One rarely if ever moved from one firm to another. Few doors were open for women. Fewer for minorities. There were growing numbers of "worker bee" attorneys who would not be required to build their own books of business; their success and retention would forever rest on their ability to service the clients of another. They became the exception to the "up or out" career path. Continued expansion of client demand allowed two generations of attorneys to gain entry into partnership, often with equity, without developing books of business on their own.

There was no attorney advertising permitted. (Ok, I admit I greatly miss this aspect of the past.) Marketing consisted mostly of being “out there.” The attorney’s time would be invested in activities at such places as the bar association, charitable, civic, political or religious organizations, boards of directors, and country club and other social memberships. Activities selected often determined the attorney’s referral connections and clientele. Sometimes the reverse was true.

Building a book of business from scratch was like a long mostly uphill bicycle ride, on a bike with only 3 gears. A lot of hard work and sweat was expended over a long period of time. Substantial time on evenings and weekends — often at the sacrifice of home life — were invested. What motivated people to keep peddling was the knowledge that there was a summit ahead, and one would coast downhill, picking up speed, once that threshold was passed. The occasional small hill thereafter was quickly traversed with small additional effort.

And the ultimate goal was? The brass ring. Admission to the inner circle. Ownership. Building one’s “brand” in the marketplace to ensure a sufficient flow of work until retirement or death, whichever came first. Financial security. Recognition by one’s peers. For those with stronger aspirations, goals included power and influence, political office, and positions on the bench.

Fast forward to the present day. I don’t have to detail the changes which have occurred. You have already identified most while reading my narrative of what things were like when I started, and acknowledging how different your experience is today. Interestingly, when I started it was unwelcome to use terms such as “legal industry” or “business” when referring to law firms. The only acceptable descriptor was “profession”. Although law is still a profession, we now uniformly recognize it is also a business within an industry defined by its own marketplace. And well-run firms have embraced business management as a necessary ingredient to success.

The balance of this article will focus on what I believe is the biggest game changer of all: building and maintaining a book of business. From attorneys at solo to large firms, the number of telephone calls on the hot line centered around this phenomenon is high, and increasing. It is a trend which is growing.

What exactly is happening? Let’s go back to the bicycle analogy. I’m hearing from lawyers who had passed the summit and thought they were on an easy coast to retirement. Except they are now finding that they lack sufficient momentum to continue to coast. In fact, they are encountering significant new climbs, and lack the energy to overcome them. What has changed?

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The reality today is that for most attorneys, there is no more easy coast to the finish line. Unless you have been able to build a strong brand within a niche — traverse a significantly high summit — you will need to continue to pedal that bike. Yes, it's a real game changer.

For most attorneys it's counterintuitive to continue to build connections, referral sources, and actively market to past, present and prospective clients when you have a steady flow of work in your pipeline. And it's counterintuitive precisely because the rules have taught us that this is time to reap the rewards of the long pedal uphill; time to enjoy the fruits of your labor and coast.

Unfortunately, due to the high level of competition in the marketplace, coupled with an inability to institutionalize most business, most lawyers nowadays are not able to establish a sufficiently strong brand within a niche. (Stated differently, most attorneys are not able to sufficiently differentiate themselves from their competitors.) So while you may think you've crossed the summit, you have actually only gotten over one or more smaller hills. Yes, the effort was probably equal to or greater than those who went before you. And yet, you probably didn't get to the same height, e.g. size of overall sphere of influence, and book of business. Therefore, the downhill coast is less fast and less far.

The point is that if you cease pedaling, you're going to coast to a stop at the bottom of a hill. Except then you'll be older and have less energy. And retirement will likely be quite a distance further than you expected. In reality it means you will need to pedal even harder to climb once again.

Attorneys who contact me are disheartened. They tell me that they don't have the energy or budget to start a new climb. Many express thoughts about a career change as a better alternative. All acknowledge that if they had kept pedaling all along, even at a lower rate, they would probably have sufficient energy to face the continued climbs our new reality requires.

The rules of the game have changed, whether you realize it or not. What does that mean to you from a strategic perspective? You need to think about that, and plan on taking appropriate action. PBA members are encouraged to call me for assistance.

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