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MERGERS – GETTING YOUR DUCKS IN A ROW

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About a year ago I wrote an article about the increasing merger activity among law firms nationally, including an increase in Pennsylvania. I talked about the various benefits one might realistically expect from a merger. I then focused more briefly on the negatives that frequently arise.

Space often precludes me from diving as deeply into topics as I'd prefer. So as usual, I encouraged PBA members considering such a move to contact me for further discussion.

That strategy has paid off in spades. I have had a steady flow of phone calls in this past year, from solos to members of midsize firms, who were exploring merger as a strategic move. The strategic reasons vary. Some were looking to put themselves into a position which made scaling back and ultimately retiring an easier — and often more profitable — proposition. Others were looking to shore up weaknesses to enhance any combination of factors, such as:

- Profit margin improvement
- Depth of bench
- Addition of complimentary practice areas / retaining formerly referred-out work
- Greater ability to attract and retain professional talent
- Easing / spreading out the administrative burden of managing the firm

One thing became abundantly clear in the handling of so many calls on the same topic: Few, if any, firms, other than firms which have acquired solo and small firms several times before, understood that there is a methodology of best practices to be used to get to the “yes” or “no” point. From my perspective, when I assist a firm, I find it is more important to know for sure when “no” is the right conclusion.

When the conclusion is “yes,” then there is another methodology of best practices to ensure a successful transition. How does one spell success? With a smartly created and comprehensive transition plan. Here are just a few of the considerations to be included:

- Internal communications, so that all involved get to “know” the new people and what value they add to the firm and its clients. Ensuring that those entering the firm get the same information about their new teammates.
- Creating new teams that incorporate connections between old and new members. Orchestrating events which demonstrate and affirm the firm’s culture.
- Carefully examining administrative resources and eliminating any unnecessary redundancies. Favoritism must yield to sheer skill and job performance for this to be effective.
- External communications to clients, prospects and the legal community. Flying the flag of the firm’s brand. Highlighting new capabilities and increased strengths. Helping ideal clients self-identify and enticing them to contact the firm. Helping current and potential referral sources feel even more confident in the firm’s ability to adeptly service their cherished referrals.
- Nuts-and-bolts issues, like getting the newcomers up and running and properly trained on all new systems and procedures. Providing adequate support for all the data entry and communications necessary to enable them to hit the ground running. Paying extra attention here can have a significant impact on client retention.
- Incorporating key member(s) into firm management when appropriate.

This is certainly not an exhaustive list, but it gives you an idea of the time and work involved to do it right. I can testify that more than one firm, when faced with the prospect of putting in the work to do it right, walks away. You may wonder why would a firm get to the point of yes and then fail to move forward? Because they simply fail to realize all that *should* be considered and done. And that, folks, is why so many mergers continue to fail.

Let me give you a brief overview of some of the considerations to properly get your “ducks in a row” for this type of process. I like to address it in stages.

First, you need to determine what are the various reasons you are considering a merger. There are right reasons and wrong reasons. What are the specific outcomes that will make it a success in your mind and those of your partners? What client factors are part of your thinking? What does your firm bring to the table? Be honest in assessing how important is it that your firm's culture and brand remain intact. Do you need to continue to dominate and have a central role in calling the shots post-merger?

Do a simple strengths, weaknesses, opportunities and threats (SWOT) analysis, and be sure to look closely at your numbers. Hint: if you have unprofitable partners and think this strategy will enable you to avoid difficult conversations with them, think again.

What are the various characteristics of potential merger partners? Can you find them on your own, or do you need professional assistance? If you will find them on your own, what strategies will you employ? Are you going to be comfortable doing it?

Second, once there is an initial overture that leads to mutual interest in exploring possibilities further, you enter an intense phase of due diligence. Many firms erroneously believe this is just about client conflict checking, followed by compensation and billing rate and method compatibility assessment.

These are all easy, objective factors to examine. If these align, many firms proceed full speed ahead. About half are doomed to fail miserably, because they have not performed the most important aspects of due diligence. They have not examined the factors that, just months to a few years later, will have them hating the people across their conference room table, and lead to their exodus. Usually one by one, but I have seen entire mergers unwind in one loud — and usually publicly noticeable — explosion.

Real due diligence is about cultural compatibilities, the level of trust and respect among partners and the care and feeding of associates and staff. Who has a real say in management? Is management reactive, proactive, overbearing or nonexistent? What are the attitudes toward marketing and cross-marketing? Is the compensation scheme one that leads to hoarding and dabbling, or teamwork to bring in and service clients? There are other items to consider, including communication style, ethics, staffing ratios and whether people share nicely or hoard or “own” staff resources. Does the firm use technology effectively? Does it strive to continue to make incremental improvements to its infrastructure to work smarter instead of harder?

Wow, that's a lot of stuff to consider, isn't it? Some of you are wondering how to formulate the right questions to discern the answers. For PBA members, start by contacting me to discuss how to unearth the answers. Because the due diligence provides the key information to determine whether your "yes" should be a "no."

My grandmother always said, "there's a lid for every pot" and that wisdom certainly applies here. Getting to *no* is OK. You avoid a potential mismatch or possible career disaster. It doesn't mean you stop looking if your reasons for beginning the search were valid. In fact, you proceed anew, realizing that you're now a bit smarter at the process.

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