

HOW TO GUARANTEE SALES SUCCESS IN LAW FIRMS

An exclusive interview with leading marketing and sales experts

By Deborah McMurray and John Toth

Sales and business development are talked about more today than ever before. Several large firms have hired sales professionals to unearth new business, cold call (depending on the State Bar rules), train lawyers and coach them to increase the firm's win rate. Most of these individuals haven't lasted long, with numerous reasons being cited by both the firm and the outgoing professional.

Do the statistics suggest that this is a fad? The new TQM? Are law firm leaders too impatient, and are they setting these programs or individuals up to fail? Firms need to increase revenue—without sales, how can this happen?

We questioned some of the industry's leaders about the fundamentals of building a successful sales program in a law firm.

Participants: William J. Flannery, President of the WFJ Institute, has provided business development training and support to law firms since 1988.

Catherine MacDonagh, Director of Business Development for Day, Berry & Howard LLP, also serves as COO and Director of the Legal Sales and Service Organization.

Blain R. Banick, Chief Marketing Officer for Ballard Spahr Andrews & Ingersoll LLP, has more than 15 years' experience in professional services marketing.

Steven Wolf, National Business Development Partner and head of the largest new business pursuits for PriceWaterhouseCoopers, has been a business development pioneer in the accounting and consulting industries for two decades.

1. Firms often use the terms "sales" and "business development" interchangeably. Do you? If not, how do you define them?

Banick: I believe it is important to differentiate between the two. Business Development is the process of identifying, qualifying, and preparing to capture new business from new and existing clients. Sales is the actual process used to acquire new business resulting from the opportunities identified through the business development efforts.

Wolf: Some lawyers believe the term "business development" is more professional. To them "sales" connotes the car salesman with the white belt, white shoes and checkered sports coat. To me, the term "sales" does imply the ability to persuade buyers to purchase services they may not need. "Business development," on the other hand, is delivering a service that adds value to the client and helps build and strengthen client relationships. Whether you call the activity sales or business development, the important things are the function and skills that

enable the firm to profitably grow its practice by focusing on the client's issues and developing tailored solutions.

Flannery: I've concluded that the word "sales" causes lawyers to feel that they are unprofessional and therefore the word "sales" is inappropriate. My educated guess is that most law schools teach torts and fraud using case studies involving "sales puffing." The implication is that sales is associated with unethical behavior. I am not sure myself that the distinction between sales and business development is all that clear.

MacDonagh: I agree they can mean the same thing but lawyers may be more comfortable using the softer term business development versus sales. I don't mind either way as long as they don't call it marketing – they are two distinct, though intertwined, disciplines.

2. *Let's say that a law firm's leaders want to focus more on sales. What are the first five things they need to do for this effort to be successful both short- and long-term?*

Wolf: There are some things only leaders can encourage. First is to provide outstanding service to clients. Work that is perceived to be anything less than "outstanding" is the long-term kiss of death for business development. Leaders should take ownership of its firm's business development functions. The top business development professionals should report to senior management, because it sets the tone and reinforces the importance of building and sustaining long-term professional relationships and delivering outstanding client service.

Next, law firm leaders must provide adequate resources – the professionals and the training that enable the lawyers to succeed with their business development efforts. Fourth, leaders must promote and recognize effective business development efforts and successes using financial rewards and peer recognition. Achievement without recognition is sometimes worse than failure. Finally, they must ensure that lawyers learn proven business development methodologies for client feedback and proposals so they can efficiently and consistently apply them.

Flannery: I agree with Steve's list and would emphasize the proactive elements: train lawyers to be effective at business development, focus on current key clients, develop a culture that supports teamwork, create clear benchmarks of success, and periodically review what works and what doesn't.

Banick: I think leadership's support and participation can be particularly effective by pushing for the best business development tools – an effective competitive intelligence/research function, attorney and staff sales training, extensive and updated firm collateral and experiential databases. Leadership should also establish a clear system for institutional accountability regarding the overall sales effort.

MacDonagh: Everyone's suggestions are good. I would simply emphasize one more: willingness to support the program, with patience and persistence.

3. *Firm lawyers will say, in explaining why sales “won’t work” in their firm, “We just don’t have a sales culture.” Does having or not having a sales culture have any relevance or meaning to you? Please explain why or why not.*

MacDonagh: I suggest that most firms actually do have a sales culture, they just don’t recognize it as such. Any firm that doesn’t have one better get one or they won’t be in business for long – no one can survive, never mind stay competitive, without making sales.

Flannery: Those firms where the leadership is focused on profitability generally foster an environment where business development is valued and encouraged, actively and visibly.

Banick: That’s true, but any institutional effort that completely ignores firm culture is bound to fail. The key to making business development compatible with firm culture is to ensure that there is clear and consistent support from the top down, plus long-term communication and training to overcome culture barriers.

Wolf: Which comes first, culture or sales? I go back to what Catherine said. Firm lawyers must first have a strong desire to learn and apply business development skills that will enable them to profitably grow their practice. This collective need for a business development effort will lay the foundation for a “business development or sales culture” in the firm through consistent practices, leadership commitment and shared vision.

4. *Do you believe in having dedicated sales people in law firms—where they would make new business calls alone or as an active participant on a team? Why or why not?*

Flannery: The key to developing business is building relationships based on trust. My observation is that a non-lawyer sales force cannot build that trust bond as well as lawyers who are going to do the work.

Wolf: I believe that large prestigious corporate law firms should not hire professional sales people to represent them in the market. There are too many complexities and risks. Would you buy open-heart surgery from a sales person representing a doctor? I don’t think so, because you’re buying the doctor, not the surgery. It is the same with buying legal services. Besides most good sales people work on a commission or sales bonus basis which doesn’t fit very well within a law firm. It makes more sense to train lawyers how to effectively communicate and distinguish their practice than to hire professional sales people to do that.

Banick: I agree with Bill and Steve. I don’t believe most firms are ready to effectively utilize high-level, external sales professionals in their business development. There continues to exist internal and external resistance to non-lawyer sales professionals taking leading roles in the sales process, especially among many prominent GCs and within the attorney ranks of our own firms. I believe the best use of sales professionals would be in more internally focused roles, such as internal sales coach supporting the overall business development function.

MacDonagh: I'll be the voice of dissent, because I believe a trained sales professional will develop trust and credibility with lawyers. Most lawyers did not receive an education or training in the "science" of sales (it's amazing how well firms have done without a deeper understanding of the process). But the climate grows increasingly competitive for these busy professionals and most would rather be allowed to continue practicing law. So a dedicated sales person can really provide some much needed revenue and support.

5. *Given the various State Bar ethics rules about profit sharing with non-licensed individuals, what's the most effective way to compensate those who are tasked with bringing in the business?*

MacDonagh: Then the rules need to be changed – they were created to prevent "overreaching." But that rationale simply does not apply in the case of a sophisticated buyer who's considering purchasing sophisticated legal services. Law firms have already figured out ways around it and so it's happening anyway—via tracking business and client development efforts to measure success and "merit" bonuses.

Banick: Not necessarily. Most effective sales professionals are driven by the pursuit of increased compensation through sales success. As a result, firms often find it difficult to develop effective compensation systems that can stand up to the letter and intent of the various state ethics rules. Instead, they hire BD professionals with high dollar, fixed compensation systems that do little to incentivize the sales professional.

Wolf: If firms are doing that, they should determine compensation by looking at other factors besides business development. These might include practice economics, associate retention and development, teaming and chargeable hours.

Flannery: Steve makes an interesting point, but I would think carefully about having lawyers abandon the business development mission. I would also think carefully about providing monetary bonuses to non-lawyers if they do not have the direct authority over the lawyers. In the corporate world you can't drive sales without the authority to fire non-performers.

6. *Have firms been successful identifying, training and compensating "super sales teams" of lawyers? These teams would include the natural rainmakers, who would participate in pitches/meetings regardless if they are a part of the team actually providing legal services. Please explain why you do or why you don't think this is a good practice.*

Flannery. Of all the efforts I've seen at almost two-thirds of the AmLaw 200 firms, the most successful have been the client team efforts. These teams are inclusive of everyone from "rainmakers to drought makers." Frequently members of the pitch teams have been managing partners, office heads and practice group leaders. They participate because they sense the client wants to know that the firm's management is involved.

Banick: Clients are very wary of the "bait and switch" approach. An effective sales process usually requires building trust between the client and the eventual service providers. Most prospective clients can see behind the empty sales pitch and the effort will be unsuccessful,

regardless of the BD skill of the sales team. I believe a well-trained client service team, with an effective sales pitch that features true points of differentiation, should beat out the parachuted-in super sales team most times.

Wolf: Either way, firms should talk about rewarding teams, including younger team members, for their business development efforts and results. Where that's the case, as I said earlier, compensation should be based on a variety of components rather than chargeable hour production.

7. *In your experience, how would a GC or C-level executive respond to an initial meeting with lawyers who are selling services outside their subject matter expertise?*

MacDonagh: It is important for the lawyers to really connect with the prospect and that requires the ability to form relationships. They will be successful if they can also demonstrate in depth knowledge of that prospect's business and industry by showing that they've done their homework, really listening to the responses, and having the insight to delve deeper and understand the prospect's need.

Wolf: I agree with Catherine. Successful lawyers don't sell. They build relationships, identify issues, verify the issues with their clients, jointly develop actions to address the issues and then discuss the outcome. The client's issues should drive the process, not what the lawyer wants to sell.

Banick: There's an additional factor. GCs and most C-level executives have a very strong understanding of their legal needs. If individuals don't have an obvious role in the eventual client service team, most prospective clients will quickly discount the contributions of those lawyers to the sales process and potentially use his/her presence as a reason not to hire the firm.

Flannery: Let me offer a caveat. Law firms tell us that often their meetings with clients are impromptu and they may only have one shot at the opportunity. It is better to have these meetings and identify the client's needs even if you don't have the expertise. Often these meetings are more about giving the client a sense of what it would be like to work with your firm's lawyers sometime in the future.

8. *According to Altman Weil, there has been a rise in overall satisfaction of clients with their law firms over the last couple years. 63% say they are "totally satisfied" with their law firm. If we add the "mostly satisfied," this number rises to more than 90%. This suggests it's harder and harder to steal clients. Given these high numbers, where should law firms invest their sales time and money?*

Banick: As it is in most cases, a firm's best sales targets are those top 100 to 300 clients that already know and trust them. You expand this relationship by including other key decision makers who can help you better understand the client's current and emerging business issues/needs. Top clients where you only have relationships with a small group of decision

makers and influencers are often not your best options. However, they are definitely better targets than those where you have little or no existing business.

Flannery: Either way, the key is whether the clients are loyal. I have seen data that clearly indicates that satisfied clients are not necessarily loyal. Satisfied clients may take their business elsewhere for a number of different reasons. When surveyed after they defected, 85% indicated they were satisfied, but not overwhelmed by their previous firm.

Wolf: I agree that “satisfied” clients would consider defecting to another firm if they had relationships there and the opportunity was right. “Loyal” clients, on the other hand, would generally inform their present law firm about being approached by another firm and would give the current firm an opportunity to respond. Loyal clients do not want to change law firms.

MacDonagh: You can distinguish between “satisfied” and “loyal” clients by using the Bill Flannery tip: create a spreadsheet with the clients that represent 80% or so of your business on the left, and all the services you could provide along the top. Put an X in each box where you provide the service. If you don’t have some real penetration, view that client as “at risk.”

9. *What’s the best way to quantify sales success? Is it simply new revenue generated?*

Flannery: Three measurements are critical: 1) An increase in profitable business; 2) increased usage of more of the firm’s lawyers and practice groups; and 3) increased loyalty even if the client has “beefs” with the firm.

MacDonagh: An additional measure is whether they’ve referred business.

Wolf: Profitable revenue is another good measure if you pick the right time frame, more than one year. You can also measure the number of formal and informal RFPs received, the number of RFPs won, the number of specialty practices penetrating a client, the number of new executive relationships established, and new client meetings generated.

Banick: I’ll suggest a few more: 1) individual client market share for client targets; 2) increased revenue from new clients/new areas of law and from existing clients as an overall percentage of revenues; 3) increased realization rate on new work captured vs. work lost; and 4) increased overall profitability of firm collections. The sales conversion rate (that is, the number of targets captured vis-à-vis targets undertaken) is another important success sign.

10. *How can a law firm get lawyer/business developers to focus on the likely profitability of a new client?*

MacDonagh: Teach them about an important step in the sales cycle: assess and qualify. Not all business is good business!

Wolf: I agree. Before a full-blown client service team is deployed, the firm should qualify the potential to become a good, profitable client. Review the prospect’s historical legal

spend to predict likely future legal consumption and profitability.

Flannery: Another idea is for the firm’s leaders to review the intake process and the performance and penetration of client teams, then make choices about what work they want and what work they don’t see as profitable.

Banick: There are many different tools now available to educate attorneys that increased billing doesn’t necessarily mean success. At Ballard Spahr we depend heavily on the profitability analysis tools available through Redwood Analytics®.

11. You have all mentioned client teams and client service teams. Many firm leaders believe this is the best approach for sales and client service. But few firms appear to make client teams an intrinsic part of a firm’s culture. What can firms do to make client teams successful?

Is it true that an origination-based compensation will kill any hopes of a team approach?

Banick: Lawyers instinctively understand the importance of teams in the delivery of client service excellence. Therefore, the team approach is not a foreign concept to most attorneys. Origination-based compensation systems can present hurdles. However, if origination is evaluated on a semi-regular basis (not granted for life) and multiple attorneys are eligible to share in the credit for extending the client relationship, client teams can be successful—even within that comp environment.

Wolf: Blain has it right. Make “teaming” a component of the lawyer’s compensation. Assign teams to clients, not just one or two lawyers. Origination-based compensation does make it more difficult for the firm to adopt a teaming culture.

Flannery: It is lack of leadership that kills the team approach. Compensation and origination can have an effect. However, I have never seen a compensation system in a law firm that cannot be tweaked to get the results that the team and firm’s management believe is in the best interest of the firm and the client. Whether it is a law firm, a corporate sales team or a sports team, the motivation is pride and passion. Compensation cannot give team members passion, integrity, trustworthiness, energy or creativity.

MacDonagh: I think we all agree that teams can work, but firms need training to make them work. Provide opportunities for partners, especially those in multi-office firms, to get to know one another. Make team building an initiative and a theme at retreats. Offer ongoing, proactive coaching support. Celebrate and publicize team success stories. As for compensation, don’t let people narrowly focus on their slice of the pie rather than the size of the whole pie.

12. What role should RFPs play in a law firm sales program?

Banick: Too many RFPs are fixed from the start – either the “winner” is already chosen, or the process is an exercise to reduce fees from existing service providers. They are not real sales opportunities. Firms should establish a process for deciding which RFPs to pursue and

which to decline. However, it's much better to focus on developing high-level sales opportunities through proactive client proposals before a competition even exists.

Wolf: Blain is right that the best way to grow a practice is to generate new business without a formal, competitive RFP process. Often RFPs are issued to determine the lowest or market price for a particular service. An effective sales program would vet the client's needs and deliver an action plan that addresses those needs so that price is not the deciding factor. Having strong client relationships will provide insight into what the client is *really* looking for in a response to a competitive RFP process.

Flannery: That being said, all firms still need a process that will result in a favorable outcome. I would suggest that the marketing and business development professional manage the process. My rule is that the response should be as diligent as doing legal work. If your firm "under responds" the consequences could be as dire as legal malpractice. Most lawyers dislike the RFP process for hiring outside counsel, and therefore, they are either defensive or they view the preparation time as a waste of billable hours.

13. If a firm receives an RFP from a desirable company, say a Fortune 1000 company, what steps should the firm take before it decides what to do—respond or decline?

Flannery: Take the opportunity to ask for an in-person visit with the decision makers at the company. Our experience has been that the visits will give your firm a clear idea on how to respond.

Banick: And when you make your decision, base it on the likelihood of success in capturing a sizable amount of profitable legal work. Figure in whether it might conflict you out of pursuing even better work from other clients.

Wolf: As Bill and Blain say, each firm should adopt a proactive proposal process that affords it the best opportunity to win work efficiently and economically. Once developed, it should be adopted firmwide so that every lawyer and business development professional in the firm understands the process, terminology and expectations.

For example, we suggest appointing a senior lawyer to assess the firm's chances of winning compared to the cost, the competition and the client's risk profile. The right methodology can substantially reduce the proposal response time. Ensure that you involve the right people and you will improve the firm's winning percentage.

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