Business Development for a New Legal Ecosystem

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Contents

Executive summary

Pandemics bring the world to a standstill. All economies are based on confidence, yet during and after a pandemic, uncertainty and fear abounds. The entire professional services sector the world over – which includes law firms, accounting firms, brokerages, consulting firms, etc. – are cash-based, people-centric, and relationship-driven businesses. The rapid changes to relationships – both professional and personal – caused by a pandemic are structural and deep.

The definition of “business as usual” is altered, and all professional services providers need to adapt and change quickly to respond to the new ways that employees, clients, and everyone else will behave, communicate, buy, and use their services in the future. The speed at which information travels will not slow down.

This book is split into two parts – the first deals with the immediate effects of the COVID-19 pandemic in 2020 and the ways in which is immediately transformed – and is continuing to innovate – the delivery of legal services. The second looks to the future, examining how business development will change in the new legal ecosystem that will follow.

Our opening chapter, by Julie Savarino, chief client experience and value officer at Business Development Inc, contains a plethora of immediately usable and actionable information gathered throughout the early days of the COVID-19 pandemic, with lessons to be learnt from the 2020 global economic crisis.

Chapter two then explores the concept of distance development – how to develop an in-person feel to your business development efforts in a time of extended physical distancing. Even when restrictions are lifted, it will be some time before firms allow and clients will want to engage in in-person meetings, conferences and social activities. How do you overcome these barriers to maintaining relationships and, more importantly, developing new business? This chapter, by Michelle Murray and Yolanda Cartusciello, explores the combination of social media, video technology, and content developed for various points in the potential client's journey, to help firms create a stronger distance business development strategy.

Chapter three looks at the business development cornerstones that we've honed over many years pre-COVID-19, and how these will remain valid in our new legal ecosystem – if we change the delivery mechanisms. Sally Dyson identifies the services that clients want and need now – noting the importance of client listening to keep up to date, as well as the continuing role of relationships to drive loyalty and repeat business and how to continue to nurture those relationships – from personal approaches such as picking up the phone to the value of a properly populated and used CRM system. Providing value for money at a time of great financial pressure is essential, so Sally gives examples of creative ways of structuring and pricing services, and demonstrates how we can deliver differently at a time when we have to be physically distant, including the need to re-examine the customer experience to identify the pain points and opportunities to please.

As many have written over the past few months, our business world will likely never be the same. Specifically for legal, the COVID-19 pandemic has spurred change at an unprecedented rate. However, tracking and measuring business development efforts, cash flow, or intangible costs – all to identify the ideal client – is now more important than ever. In chapter four, Mary Juetten, founder and CEO at Traklight, discusses how human nature is flight or fight in response to crisis. Today, we have firms of all sizes fighting for business, from individual attorneys to large firms. Even for those types of law that expand in an economic downturn, like bankruptcy, not all clients are of equal value, nor ideal from a business point of view. The old adage, "what gets measured, gets managed" applies across all businesses, and legal is no exception. The message is crystal clear – without a systematic approach to measuring prospective clients' value, lawyers may not take on ideal clients for their firm. Developing a quantitative approach for ideal client identification sounds daunting, but by adopting a few basic principles, individual attorneys or law firms of any size can put together a system or set of filters to evaluate business development efforts, including pricing.

The voice of the client is an essential component of all successful business development initiatives. In chapter five, Nat Slavin of Wicker Park Group analyses brand new research undertaken in conjunction with ALM Intelligence, on the needs of in-house counsel during COVID-19, revealing what is new, what is different and what remains true in client-facing business development programs. The chapter explores the habits of the most successful rainmakers, why the habits they have developed over time remain effective today, and how they are tweaking their pitches, service offerings, and value propositions in the new normal.

When you're working virtually or your future workplace routine is not known or subject to change, it's hard to assess how you're supposed to network and naturally connect with professional contacts. It's also hard to know how to be visible to colleagues and clients with whom you are working or hope to be working. Chapter six, by Debbie Epstein Henry, explores what outreach is appropriate to pursue in an uncertain climate and what is the best approach. Debbie outlines thoughtful and effective communication and how to make sure you are striking the right balance, revealing ways to use your online presence, writing, and speaking to maximize your visibility, impact, and success in this uncharted territory.

This new environment has taken several tools for business development off the table for many lawyers. Live meetings, attending conferences, meals with clients – all have been put on hold, perhaps indefinitely, but the show must go on. New prospects must be developed, existing contacts must be nurtured, and new referral sources must be uncovered, which means lawyers and leaders must employ new approaches to attract work in this virtual world. In chapter seven, David Freeman, CEO of David Freeman Consulting Group, shares practical tools and tactics for building your network and strengthening relationships, all without having to be face-to-face. In fact, David argues, some of these approaches can create stronger connections than the methods lawyers have traditionally used in the past. Using virtual meeting technology, phone, email, text or media (traditional and social), David presents upward of 20 techniques for developing and deepening relationships with high potential clients and referral sources.

What does networking, virtual or physical, mean for lawyers? How does virtual networking change capabilities? In chapter eight, Pam Loch of Loch Associates looks at the implications of virtual networking for women, including boundaries, corporate and personal brands, self and authenticity, security, empowerment, and choice, concluding that when it works well virtually it ends in real life experience, personal and business growth.

Part II – Business development in the new normal

They say we live in uncertain times, but one thing is certain when it comes to your business – the need for solid decision-making. Surviving (and even growing) as a legal practice in this new post-COVID-19 reality requires making the right decisions about practice management, client services, marketing, and human resources. But, as Nika Kabiri says in chapter nine, uncertainty brings stress and the need for control, which leads us to think and behave differently than we do when life is predictable. The coping mechanisms that the human brain relies on to deal with our current scary circumstances also push us to make bad choices, and it's all happening under the radar – which could mean trouble for your practice. This chapter draws on decision science principles to explain common pitfalls that lead to poor decision-making under stress and uncertainty. Using insights from behavioral economics, psychology, sociology, and medicine to explain the sources of those pitfalls, Nika discusses how mental shortcuts, biases, and social influences can sway our rational thinking, offering solid tips for making sure that the choices you face regarding your practice are made with confidence.

The COVID-19 pandemic forced an increasing amount of introspection on the part of law firm partners as they attempted to unwind what the next norm will be like. As the pandemic unfolded it became obvious to those of us watching the trends in the legal marketplace that clients are seeking greater collaboration, predictability and innovation from their outside law firms. These ideas shine a bright light on strategies which can yield new business – even with targeted non-clients. In chapter ten, Merry Neitlich of EM Consulting explores ways in which firms can innovate the delivery of their services.

Chapter 11 then looks at how to incorporate your clients' needs into your post-pandemic business development strategy. Incorporating recent feedback from in-house counsel and other clients, Yolanda Cartusciello and Bob Robertson discuss how to create strategy that takes advantage of your strengths in meeting your clients' short-, medium- and long-term needs during and post-pandemic.

Chapter 12, by Natasha Innocenti of Macrae Inc., looks at antitrust. Government investigations, white collar criminal defense and antitrust are expected to become busy post-COVID-19. These partners often market internally so that their partners know how to recognize a need with their client and pitch that practice area. This chapter looks at how to integrate into a new partnership, and build internal relationships to become successful. With literally trillions of dollars being poured into companies by governments worldwide, there is inevitably going to be an uptick in fraud investigations.

The recent expansion in the number of lawyers, as well as the impact of COVID-19, means that many careers will need to be rethought and reinvented. How should you do this? Should you remain in law or do something else? As an in-house lawyer, there may be options to go and work in the business but it is a very different world and a career choice that needs careful thought. Or do you stay with law but widen your remit and your approach? How do you adapt to a changing world where there may be less for lawyers and a greater requirement for AI? How can you stand out from the many other lawyers in the same positions? All these questions and more are conveyed in chapter 13 by Ian White, a GC looking back over his career and what he might have done differently.

Chapter 14, by Rachel Khiara, looks at law firm constitutions in the post-pandemic era, including adjustments to partner profit sharing arrangements, deferral or reduction of profit shares, capital calls and financing options, and new working arrangements. Responding to client needs and adjusting staff and partner levels in certain departments will be essential, as will making amendments to LLP deeds and management powers.

Developing business requires much more than proving an attorney's subject matter expertise and skills. Today, landing new business requires lawyers to demonstrate their creativity and ability to deliver new solutions and services. Chapter 15, by Lucy Bassli, reviews some of the approaches lawyers can take to offer new value to clients.

Long before the COVID-19 pandemic, consumer expectations about legal services were changing. Consumers have been seeking fixed pricing, mobility, ease of use, and instant response, and demand for these delivery methods grew significantly during the pandemic. That demand is likely here to stay. Lawyers must promptly and fully adapt. Legal service plans have long been focused on consumer expectations. In chapter 16, Keri Norris, chief legal officer for legal service plan, LegalShield outlines the consumer expectations it has carefully monitored for over 45 years, including during the pandemic, while servicing over 1.7 million families and businesses in North America. Wayne Hassay, managing partner of Maguire Schneider Hassay LLP, whose firm has a contract to provide legal services for LegalShield members, spotlights how the insights and strategies the legal plan provides are valuable tools for the development of business in the post-pandemic world.

Our final chapter takes a look at who is actually in the new legal ecosystem. Bearing in mind that this includes everyone that plays a role in the doing and delivery of legal work and business processes that serve clients, smart lawyers are adding business expertise to their client teams.

In chapter 17, Catherine Alman MacDonagh discusses firms that have introduced client-facing professionals from their firms to their prospects, clients, and referral sources. From sales, process improvement, and pricing professionals to human resources, IT, and KM resources, there's no better time to bring a cross-functional team to the table. It's well established that clients want to work with lawyers and firm that will be their business partners. A diverse business development team positions the firm for greater understanding, deeper and broader relationships, and delivering even greater value than ever before – ideal for times of uncertainty, and looking to the future.

About the authors

Catherine Alman MacDonagh is a former corporate counsel and law firm executive. She now teaches and provides training and consulting services with a focus on process improvement, project management, operational and process excellence, innovation, organizational development and strategy. A Legal Lean Sigma® Black Belt and a certified Six Sigma Green Belt, Catherine is the CEO and a founder of the Legal Lean Sigma Institute, which offers consulting and the first and only process improvement and project management certifications, courses, and workshops designed specifically for the legal profession. Catherine created Legal Lean Sigma® and invented the Legal WorkOut®, a collaborative method of engaging in process improvement together that has won multiple awards, including the 2018 Process Excellence Award for Best Business Transformation Project and the ACC Value Champion Award.

Lucy Bassli is an attorney, author of *The Simple Guide to Legal Innovation*, and a former assistant general counsel of legal operations and contracting at Microsoft. While at Microsoft, she redefined how legal work is done and created one of the first managed service engagements with a law firm. Lucy was tapped to teach the Legal Operations course for Suffolk University Law School's Legal Innovation and Technology Certificate Program and has a deep partnership with Dentons, the world's largest law firm, to deliver legal operations consulting to corporate legal departments. Lucy is a highly sought-after legal industry expert who works with corporate legal departments and law firms on legal service delivery, automation, smart risk-taking and alternative resourcing models. She educates and consults with lawyers to take best practices in the legal industry to a new level. Lucy is also a strategy advisor for LawGeex, an AI legal start-up that automates contract review services. She is a frequent writer and speaker on legal services innovation, legal technology and legal process outsourcing. In 2015, she was named to the *National Law Journal* list of Outstanding Women Lawyers.

For more than 20 years, **Yolanda Cartusciello** served in senior administrative leadership roles in major law firms, including Debevoise & Plimpton and Cleary Gottlieb. At both firms, she led the marketing teams, designed their business development and media strategies and took charge of their implementation. She was the chief architect of profile enhancement strategies, perception studies, branding exercises, comprehensive client interview programs, and practice and lateral partner rollouts. She co-developed marketing technology solutions and created media relations and digital strategies. She has also developed business development and communications training and coaching programs for lawyers at all levels. For the last five years of her tenure at Debevoise, Yolanda was a permanent participant in the weekly Management Committee meetings and worked on a number of firm committees and projects, including an evaluation of all of the partner-facing support functions of the firm. Since joining PP&C Consulting in January 2016, Yolanda has undertaken a number of strategic planning projects, working with firm management to adopt firmwide, practice- and office-specific strategies. She has also performed marketing function analyses, including a review of people, processes, and technology. Yolanda has also helped to launch several smaller firms, leading the marketing and business development rollout and providing overall administrative direction. In addition, Yolanda has long experience handling organizational and personnel issues. She has advised on the development of the legal assistant, knowledge, and practice management, and legal marketing staff roles at various firms. She hired, trained, and supervised more than 150 administrative employees for work in high-achieving cultures. Yolanda has a BA from the University of Iowa and an MFA from Brooklyn College.

Keri Coleman Norris joined LegalShield, formerly Pre-Paid Legal Services, Inc., as its first general counsel in 2003. Today, as chief legal officer, she manages the company's corporate legal matters, government and regulatory affairs, and oversees delivery of the company's core product offering, legal services, and a network of over 40 independent law firms. Keri earned her BA in English in 1994 from Oklahoma City University, summa cum laude, and her JD in 1997, also summa cum laude, from Oklahoma City University School of Law. Keri joined LegalShield after working as a litigation attorney for Crowe & Dunlevy, PC in Oklahoma City, and Hunton & Williams, PC in Raleigh, North

Carolina. A member of the American Bar Association, and the Oklahoma and North Carolina Bar Associations, Keri served as chairman of the ABA's Standing Committee on Group and Prepaid Legal Services and serves on the Board of Directors for the Group Legal Services Association. A two-time nominee for Oklahoma's Woman of the Year "Fifty Making a Difference", Keri serves on a variety of local and state nonprofit boards, and was elected in 2015 to the Ada City Schools Board of Education.

Sally Dyson is the founder of Firm Sense, a legal sector specialist consultancy bridging the communication gap between law firms and their clients. Drawing on her experience as a solicitor and business coach, Sally enhances the effectiveness of lawyers and the success of their firms using a combination of strategic advice, business coaching, skills training and client listening. Sally is the author of several business books for lawyers including *Client Listening: Why it Pays and How to Do it* (ARK Group) and *The Real Deal: Law Firm Leadership that Works* (Sweet & Maxwell).

Debbie Epstein Henry is an expert, consultant, bestselling author, and public speaker on careers, workplaces, women, and law. She runs DEH Consulting, Speaking, Writing where she consults and speaks internationally, including The Hague, the French Senate, London, and Vienna. Debbie conceived of Best Law Firms for Women, a benchmarking survey and competition she ran for a decade with Working Mother. She has written two ABA bestselling books, *Law & Reorder* (author, 2010) and *Finding Bliss* (co-author, 2015) and has been featured by hundreds of news outlets including the *New York Times*, *NBC Nightly News*, and the *Wall Street Journal*. In 2011, Debbie co-founded Bliss Lawyers to employ lawyers in temporary roles for in-house and law firm clients. In 2020, her company was acquired by Axiom, the global leader in high-caliber, on-demand legal talent, and she now serves as their executive consultant. Debbie volunteers her time with a number of non-profits. She is vice president of The Forum of Executive Women, a nomination-only, membership organization of the top 450 women in business in Philadelphia. Debbie also sits on The Forum's Board and co-chairs its annual leadership symposium. Additionally, she chairs Brooklyn Law School Women's Leadership Circle, which runs a national women's law student and alumnae initiative. Debbie has received numerous awards including being named among the *Philadelphia Business Journal*'s "Women of Distinction". In 2017, Debbie received the Anne X. Alpern

Award, presented annually to a female lawyer who demonstrates excellence in the legal profession and who makes a significant professional impact on women in the law.

David Freeman, JD is a world-renowned authority on using high-impact techniques to grow new revenue. He is a multiple award-winning consultant and two-time bestselling ARK Group author who has trained and coached thousands of lawyers and leaders in 200 law firms, including nearly half of the AmLaw 200. He was inducted into the *National Law Journal* Hall of Fame for being voted the number one business development consultant and coach for three consecutive years, and has written four books on law firm business development and leadership. David practiced law in New York, he is a Trusted Advisor with the Professional Development Consortium, a Fellow in the College of Law Practice Management and CEO of the David Freeman Consulting Group. Widely recognized as an innovator, he is the founder of Law Firm CultureShift®, developer of technology that automates cross-selling coaching (Cross Serving®) and creator of Culture Xray® (an internal business development culture assessment).

Wayne Hassay began private practice in 1991 as a civil litigator and is now the managing partner of Maguire Schneider Hassay, LLP, in Columbus, Ohio. He serves on the Board of Directors of the American Bar Association affiliated Group Legal Services Association for the 2019-2021 term. His law firm serves as a provider firm for the legal service plan, LegalShield. As managing partner of MSH, his mission is to bring innovation and technology to the practice of law for the benefit of clients. The philosophy is to broaden access to justice by using technology in a way that helps clients afford the legal services they need. Wayne believes this will achieve the best possible result for his clients, while making their experience as stress-free as possible.

Natasha Innocenti has over 20 years of experience in placing successful law firm partners across most practice areas, including private equity, emerging company corporate, M&A, capital markets, intellectual property and all areas of high stakes litigation and enforcement. She has helped open 14 California offices for AmLaw 100 and 200 law firms. While her practice is not restricted to the Bay Area, her extensive experience in the region has enabled her to gain expertise in technology and life sciences related practices.

Over the years, Natasha has developed a robust practice, representing lawyers moving from government service to private practice, including representing high level government attorneys out of the Department of Justice and the United States Attorney's office with expertise in antitrust, white collar crime, securities enforcement and privacy/cyber security.

About 45 percent of Natasha's practice is representing diverse partners. Because of her extensive work in the advancement and empowerment of women lawyers, Natasha understands the challenges women partners face and the competitive importance for firms to retain and recruit top women, partners of color, and LBGTQ partners. Natasha has written and spoken extensively about the gender gap in law firm partner compensation, the advancement of women attorneys, and related issues.

Prior to joining Macrae, Natasha founded Innocenti Partners, a premier legal recruiting boutique, and spent 13 years with the prestigious Major, Lindsey & Africa. Prior to this, Natasha was part of the Legal Search Practice in the Executive Search Division at TMP Worldwide. She began her career working with the Chair of the Legal Search Practice at Heidrick & Struggles, Inc.

Natasha earned her MA in Philosophy from the University of London. She earned her BA in English Literature and Philosophy from Mills College, with honors. She is a certified professional coach. Natasha keeps a busy speaking schedule and serves as a Board Member of The Law Foundation of Silicon Valley and as Advisory Board Member with Legal Momentum. Natasha was honored by Lawdragon as one of 100 Leading legal consultants and strategists in both 2019 and 2020.

Nika Kabiri, JD PhD, has spent 20+ years studying how people make decisions in a variety of contexts, including society, consumerism, business, and politics. A social scientist by training, Nika draws insights from multiple disciplines – psychology, behavioral economics, sociology, anthropology, and political science – to help people make better decisions and effectively influence the decisions of others. Nika has a PhD in Sociology from the University of Washington and a JD from the University of Texas. She teaches decision science at the University of Washington and is founder and owner of Kabiri Consulting LLC, where she uses decision science to help businesses grow.

Rachel Khiara is recognized as a leading lawyer advising law firms and new entrants into the legal services sector on all aspects of governance, management, regulation, structural and financial reform. Khiara Law provides assistance on ground-breaking deals in the legal services sector and is one of the most experienced advisors available to ABS applicants. The firm's excellence in Partnership and LLP law is recognized in both *Legal 500 UK Directory* and *Chambers & Partners Directory*.

In 2007, **Pam Loch** set up Loch Associates Group after spotting an opportunity to support businesses with expert employment law advice and HR support hand in hand. Today, the Group is made up of four businesses that work both independently and in conjunction with one another – Loch Employment Law, HR Advise Me, Loch Health and Loch Mediation. As managing director of Loch Associates Group, Pam oversees the strategy of the company when it comes to business development. She also sees it in practice on a day-to-day basis in her role as an employment law solicitor with Loch Employment Law. Beyond working with her clients, Pam frequently helps others to understand key changes in the workplace via media, professional associations, and industry bodies. As a regular guest on BBC programs and contributor to online newspapers, she gives expert opinions on all things relating to people in business. From her many years of experience, Pam also knows that business development strategy is critical and an ever-changing entity during the most certain of times. Pam is a strong believer in the power of networking, and the COVID-19 pandemic has seen an exponential rise in virtual networking taking place. Pam and her team of employment lawyers and HR consultants are all heavily involved in presenting webinars, as well as recognizing the benefits of participating in online networking events themselves.

Michelle Murray spent 14 years in institutional fixed income sales on a trading desk before changing paths to become a leader of law firm marketing, business development, and communications. Michelle works closely with law firms' executive leadership, management, and practice groups to develop and execute strategic business and client-focused initiatives that advance the firms' objectives. In her legal marketing roles, Michelle has directed all aspects of law firm branding and marketing strategy, alumni relations, communications and public relations, digital marketing and social media. She has developed and implemented strategic individual and practice-based business development plans, coaching lawyers on how to differentiate themselves with their clients, which tools to use, and how best to use them. Michelle was the 2019 Chair of the LMA's New York Local Steering Committee. She continues to serve as a Member of the Local Steering Committee and Programming Committee. She is a certified White Belt in Legal Lean Sigma® and Project Management.

Merry Neitlich is the managing partner of EM Consulting, a leader in legal innovative solutions for law firms and legal departments. She is a member of the LMA Hall of Fame and was inducted into the College of Law Practice Management. With over 25 years of experience, Merry provides attorneys and legal operations professionals with tools to enhance the efficiency and predictability of legal services.

In a career that has spanned two decades, **Bob Robertson** has helped a diverse group of law firms organize, focus, and optimize their business development and marketing efforts. In roles that include serving as chief marketing officer at Greenberg Traurig, director of strategic business development at Cadwalader, and head of US marketing and business development at Freshfields, Bob successfully led initiatives aimed at generating new revenue, spearheaded programs focused on strengthening and expanding existing client relationships, advanced innovative approaches to winning high stakes proposals and bids, and developed supporting marketing and communications programs. At both Greenberg Traurig and Cadwalader, he restructured the existing business development and marketing function to enhance its impact, integration, and effectiveness, developing and recruiting high performance teams and laying a foundation of supporting systems, training and technology. Bob espouses a clear, client centric approach, and specializes in client focus/key account programs of various types; each tailored to the culture of the firms he works with. He was an early adopter of strategies that position service delivery as a competitive edge, and has successfully integrated matter management, alternative staffing, pricing and resource sharing into the business development "tool-kit". A graduate of the University of Chicago, Bob is a past-president of the Metropolitan New York Chapter of the Legal Marketing Association (LMA).

Julie Savarino is a leading expert in business and client development, and client experience, value, and service. During her 30-year career she has helped many law firms, lawyers, and other professional services firms and providers to develop significant new business and measurably enhance client satisfaction and value. Julie is a top-100 thought leader on LinkedIn, holds a JD and MBA, and devotes pro bono time to support diversity, inclusion, veteran-related, charitable, and community causes. She currently serves as chief client experience and value officer at Business Development Inc., https://busdevinc.com.

Nathaniel Slavin is a founder and partner in the Wicker Park Group. He plays a key role in all programs offered by WPG, regularly advises law firms on client service strategies, and has conducted client feedback interviews with more than 500 clients on behalf of law firms. He also leads law firm client teams, trains lawyers on all aspects of building client loyalty, and advises individual lawyers on leadership and client development. He has authored more than 100 articles on legal department management and frequently speaks on that topic as well as client service, client loyalty, and trends in the legal industry. Nat is an elected fellow in the College of Law Practice Management and a Legal Marketing Association (LMA) Hall of Fame inductee. He served as president of the International Board of Directors LMA in 2007 and as a board member from 2003-07 and as president of the West Region in 2017. He served on the board of directors for Across the Table, Open Books, Poder Learning Center, and Shift Worldwide.

Ian White is a former chief legal officer and company secretary for both listed and private companies. While he has spent most of his career as a lawyer, he also has an MBA and has spent some time working as a strategy consultant. Ian now works as a consultant, coach, trainer, and facilitator. His previous in-house experience has led him to develop an expertise in corporate governance, working with boards, leaders and lawyers on effectiveness, enhancement and performance. He spends much of his time reviewing and advising boards and management teams on structure, dynamics, and how they can excel in leading their organizations. While his main focus is on FTSE 100/250 and major private companies he also works with professional services firms, public sector bodies and a number of charities and other not-for-profit organizations. Ian also works with lawyers, both in-house and in private practice, on working more closely and effectively with their clients, encouraging lawyers to think of themselves as businesspeople first and lawyers second. As a coach and facilitator, Ian is careful to listen and listen again in order to really understand clients and their objectives, challenges and aspirations. Ian is a keen writer and has written widely on the legal profession and on business generally.