

Mid-sized firms jockey for clients

By Christopher Guly

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While the Canadian economy appears to be more stable in early 2010 as compared to last year, one lasting result from the turbulence of 2009 is increased competition among law firms for clients.

But the race to attract new business shouldn't focus only on reducing fees, warns **Lisa Borsook**, managing partner of the mid-sized firm **WeirFoulds LLP**, which has about 85 lawyers, all in Toronto.

'Law firms can offer anyone a discounted rate with a view to bringing business in. But at the end of the day, what matters isn't the rate but the number of hours that are being billed.'

She says clients 'shouldn't be seduced by a lower billing rate and should be more conscious of how many hours it will take to complete a task.

'I've always thought that rates were a bit of a red herring,' says Borsook, a commercial leasing and property development lawyer, who also heads her firm's leasing practice.

'Clients have to look at all sorts of factors, such as the size of a transaction and who's doing the work, because a more experienced lawyer will take less time to work on a file or complete a transaction. What 2009 taught clients was to be more sophisticated in knowing what they're bargaining for in terms of rates.'

She would also be interested in seeing the results of a study — if one were ever done or if one might be in the works — as to whether or not a firm's discounted rates resulted in lowering a client's legal expenses over the course of a year.

'But companies do that kind of analysis — law firms don't,' says Borsook.

Still, in light of the recent economic uncertainty, she believes that 'all clients and all law firms are looking at the fee equation between them and finding ways to make it work — or should be trying to find ways to make it work.'

However, law firms also face practical realities in the increasingly competitive marketplace. And, size sometimes matters.

'When a file demands that a firm is able to put 30 lawyers on a transaction to get it completed within a small period of time, clients are going to go to larger firms because they have the manpower to manage such transactions,' Borsook explains.

'I can't compete when Kraft [Foods Inc.] decides to buy Cadbury [Plc], because I don't have the manpower to deal with that kind of file. I'd have to put the whole firm on it.'

Yet, she says the bottom line for clients has more to do with quality than quantity, as the latter pertains to the number of lawyers available.

'The issue is who has the best expertise to meet the challenges of a file,' explains Borsook. 'It's a little



too simplistic to talk about competition among legal service providers in terms of firm size.'

Her comments are somewhat echoed by David Dunlop, a senior partner and member of the board of partners at McMillan LLP in Toronto, which in recent years has grown from a mid-sized firm to a large one national in scope, with offices in Montreal and Calgary.

'We're always competing with a cross-section of firms, regardless of their size, in trying to expand our client base,' says Dunlop, a corporate lawyer and former member of McMillan's management committee.

However, he says, the firm seeks clients that not only can use McMillan's 'expertise' but can also 'benefit from the size and scope and depth that a large firm like ours has.'

Dunlop adds that McMillan doesn't target clients from any firm of any size.

But others might be doing that type of poaching, says Borsook.

'It wouldn't surprise me if some of my competitors in the same area in which I practice and who work in larger firms try to get some of that work that I do — that's business. However, I don't work in a big firm, so I don't know what strategic decisions they make to go after work done by mid-sized firms,' she says.

Lerners LLP, a mid-sized Ontario firm of just over 100 lawyers, has not experienced any recent 'encroachment' from larger firms on its litigation practice in Toronto or on its business law department in London, Ont. says Ian Dantzer, chairman of the firm and managing partner of the London, Ont. office.

'We've not been impacted by the big firms any more than has been the case in terms of clients' choices, as to who they wish to represent them,' explains Dantzer, who also maintains an active civil and commercial litigation practice.

'Our business rose significantly last year in all areas of litigation and there was a small slowing in the business law group, but that was a result of the economy.'

The only significant competition Lerners usually receives is in the area of family law (such as divorces, marriage contracts) from smaller firms, but the impact over the past year has been 'almost zero,' he says.

'Much of the litigation we do a smaller firm couldn't afford to carry or handle in terms of manpower disbursements.'

Still, the legal marketplace overall remains 'very competitive because the legal community in Canada wasn't as busy in 2009 as it has been in previous years,' maintains Borsook.

'Even though Canada didn't have it nearly as bad as the United States had in the downturn, there was a marked slowdown in work. And when that happens, whether you're a managing partner or a practice group chair, you're going to try to find ways to fill up the plates of associates who usually aren't generating work on their own, and because you've made commitments to these people and have infrastructure costs.'

In staying competitive, firms should focus on what 'they're good at,' advises Borsook.

'It's important that everybody knows who they are and what they do.'

For instance, she says that in light of the federal government's recent economic-recovery expenditures for infrastructure projects, law firms have been scrambling to find related expertise in an attempt to attract clients.

'The important thing for every firm is that it aggressively pursues work from clients who need the expertise they have. In running a mid-sized firm, I don't have the luxury of having the resources to buy expertise we don't have in-house — such as in the area of trademark law.' (WeirFoulds' focus practice areas include government-related work, such as infrastructure projects, litigation, property development, and corporate-commercial law.)

At McMillan, infrastructure is a high-growth practice area, along with corporate finance, tax law and restructuring, as witnessed by the firm's significant participation in the reorganization of such major companies as CanWest LP, General Motors of Canada Ltd. and Chrysler Canada Inc.

And clients will turn to firms with demonstrated expertise, says Dunlop, who notes that fees involved in larger transactions are periodically up for 'discussion' with clients, especially if they have a long-standing relationship with the firm.

'We are open for business to talk about the best way to get a project done.

But we want to be compensated fairly — particularly in large public takeovers that may require some special consideration. If a transaction happens to go sideways, we're prepared to talk about the value we delivered and the costs we incurred, and come to a reasonable conclusion,' he explains.

'We are seeking optimum efficiency and the best results for our clients.'