

Chapter Six

Marketing and Business Development

The terms “marketing” and “business development” are often used interchangeably by lawyers when describing their plan for growing their law firm. They are actually two distinct business functions, however, despite covering similar ground. In the legal context, marketing involves developing a strategic plan for communicating a law firm’s overall message, including its brand, service offerings, and benefits to potential clients, existing clients, partners, and the community at large. Once a marketing plan is in place, lawyers in a law firm can then begin their business development efforts, which typically consist of engaging in activities that will help them strategically build relationships with potential referral sources, such as colleagues and other professionals. Lawyers should plan on devoting a significant amount of time to both marketing and business development when starting a law firm.

DEVELOP A LAW FIRM BRAND

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Clients have many lawyers to choose from when they have a legal issue. What makes you different and sets you apart from other lawyers and law firms? This is where a law firm brand comes in. A law firm brand is your opportunity to convey to clients who you are, what legal service packages you have to offer, and how you are unique.

In the legal profession, attorneys sell an intangible set of skills including their expertise, knowledge, and problem solving abilities. This makes the profession ideal for branding as it gives attorneys a way to set themselves apart. Especially today, with the prolific use of the internet and social media, having a law firm brand is essential.

When developing your brand, consider:

- Target audience;
- Your firm values;
- What your personal and firm strengths are;
- What is unique about you and your firm; and
- How you can offer value to potential clients in your target market.

For more information on what clients in your target market value and what services you can offer, see Chapter 1, Business Planning.

A brand is more than just a logo or a tagline. It is the way people think of you through a combination of your website, logo, letterhead, business cards, social media, and other marketing channels.

MARKETING PLAN AND BUDGET

Every lawyer needs to develop a plan and determine how much money, if any, he or she is going to set aside for communicating and promoting his or her law firm brand, service offerings, and benefits to potential clients. One trap that many lawyers fall into is spending an exorbitant amount of money on marketing and advertising without first determining who their potential clients are and forming the basis for evaluating various marketing and advertising options.

When assessing your marketing options, keep in mind:

- How your potential clients search for legal information;
- Your expected return on investment (whether anticipated revenue will justify the expense of the service); and
- The need to reevaluate your expenses each year to determine whether the expected return has been realized.

The “Marketing and Business Development Planning Template” (see Forms2Share on the Law Practice Management page at www.cobar.org) offers excellent suggestions and forms to use in marketing your services. It can be easily customized and is a good starting point for any law firm.

It is also important to consider the following avenues for marketing your business:

Referrals

The best and most important asset you have is your relationship with colleagues and clients. This means that if you’re just starting out and don’t have any clients, your priority should be cultivating an active source of referrals.

Former clients are many lawyers’ best referral source, so you should be sure to keep your former clients updated on your practice, services, and expertise via social media or some other medium. Ask clients for feedback about why they hired you and what you can do to improve. Use their constructive criticism to improve. Clients will be more likely to refer their family and friends to you later if they feel like you helped them. Another way to maximize these referrals is to include a statement in your closing letter which advises that you maintain your practice through referrals, list your areas of practice, and request that the client keep you in mind for future legal needs or as a referral for family and friends.

Leverage your network of peers, get involved with your local bar association, and do pro bono work. Participating in these types of activities will put you in contact with individuals who can refer potential clients to you if they know what legal services you offer and believe that you will do good work and give good customer service. If you do receive a referral from another attorney, be sure to call that attorney or send them a handwritten note thanking them for the referral. It will only take a moment but can have a long-lasting positive effect.

Internet Presence

A 2014 survey by FindLaw and Thomson Reuters (<http://thomsonreuters.com>) found that consumers turn to the internet first to help them find a lawyer. What's more, the survey was a follow up to one conducted in 2005 where using the internet was the least popular choice. Establishing an internet presence is no longer simply advisable, but required.

TIPS

1. Develop a brand by considering target audience, strengths, and firm values. Colo. RPC 7.5.
2. Create a marketing plan and calendar.
3. Try to do at least one marketing activity a day.
4. Develop an Internet presence; create a website and use social media (such as Facebook, Twitter, and LinkedIn) to connect with potential clients.
5. Make sure your advertisements, including your website, are free of false or misleading statements. Colo. RPC 7.1, 7.2.
6. Make sure your website has a disclaimer stating viewers are not considered clients unless there is a signed retainer agreement. Colo. RPC 7.2, CBA Formal Ethics Opinion 76.
7. Think of inexpensive ways to advertise, including create a listing on Find A Lawyer or AVVO.
8. Get your name out by writing articles for legal publications or blogs, speaking at community organizations, or volunteering.
9. Network with colleges and clients to cultivate referrals.
10. Request client feedback.
11. Create an elevator speech — know what you do and be able to explain it in 30 seconds or less.

There are various avenues for internet presence. Developing a personalized firm website is arguably the most important. Also, Facebook, Twitter, and LinkedIn can be some of the most cost-effective means of communicating and promoting your legal services and practice. Many younger lawyers who have grown up using social media leverage it and do not spend a dime on marketing aside from funds spent to develop their websites.

Importantly, be extremely careful what you post online. Be sure to review the commonly implicated Rules of Professional Conduct in the Appendix to this chapter, keeping in mind potential ethical violations that can arise when using social media.

Referral Services

Additional inexpensive ways to communicate and promote your legal services and practice include listing your practice on bar association lawyer lists, such as CBA Find a Lawyer (www.cobar.org/Find-a-Lawyer), and branded legal networks. You may also consider participating in online attorney review sites such as AVVO and Martindale.

Since 2010, Colorado's state courts have been establishing self-help centers in courthouses throughout the state. The purpose of these self-help centers is to facilitate access to the courts by providing basic information about court procedures and practices to litigants who are not represented by lawyers. Although the courts are prohibited from recommending a specific lawyer or law firm, many local bar associations and access to justice committees collect contact and practice information from lawyers who are interested in having their information made available to these litigants. These lists are then often distributed through self-help centers.

Traditional Advertising

There are many traditional methods of advertising that should not be overlooked if they are avenues that you feel your potential clients will pursue to find an attorney, including:

- Direct mail or email advertisements;
- Printed advertisements displayed in public places or printed in newspapers;
- Television or radio advertisements;
- Purchasing Google AdWords.

Again, before pursuing these avenues, make sure you consider cost, target audience and estimated return on your investment. It is advisable to develop a marketing budget to incorporate into your overall budget and be realistic about all expenditures. Be sure to evaluate every expense to determine your expected return and to reevaluate expenses a year later to determine whether the expected return was realized. Remember to consider how you treat unsolicited ads, mailers, and emails, and remind yourself that most people will treat your advertisement that same way.

Also, as you consider advertising, be sure to thoroughly review the commonly implicated Rules of Professional Conduct in the Appendix to this chapter.

BUSINESS DEVELOPMENT

Once you have a marketing plan and budget in place, you can begin your business development efforts. Business development also requires funds, so you will need to determine how much money you are going to allocate for it and develop an associated plan, budget, and calendar.

Business development is a time-consuming task, especially when you are first starting your law practice. You should plan on devoting at least a third of your time to business development efforts until you have developed a solid client base. For many lawyers, business development feels unnatural and unpleasant. There are numerous ways a lawyer can develop business, however. The key is to choose a strategy that is a natural fit with your personality.

Networking

Some more formal and traditional business development activities include leveraging peer networks, such as getting involved with state and local bar association sections and committees. Don't forget about networking with non-attorney groups as well, such as college alumni associations, rotary groups, religious groups, or neighborhood associations.

Today, some lawyers are also finding business development success through more informal gatherings, such as meetups or through branded legal networks. Again, the key is to choose a strategy and activities that are a good fit for you. Participating in these types of activities will put you in contact with individuals who can refer potential clients to you if they know what legal services you offer and believe that you will do good work and provide client value.

Develop an elevator speech that is less than 30 seconds and constantly practice it so that you can quickly and succinctly summarize your brand identity, legal service offerings, and how you can benefit moderate income clients (*e.g.*, "My firm's mission is to provide client-centric legal services that are affordable, responsive, and accountable to the unique needs of individuals and families in the greater Denver area."). Identify your firm brand, your legal service offerings, and the value you can provide clients, including any alternative fee arrangements and billing methods that you offer. Following up with new contacts — even if it is just sending them a quick email to say it was nice to meet them — will show you are conscientious and serious about developing your practice.

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Volunteering

Do pro bono work. Not only will you provide a community benefit, but you will also gain knowledge that you otherwise would never have learned through paid work.

Visibility

To keep yourself disciplined with marketing, create a business development calendar in which you identify and schedule potential business development opportunities, such as:

- Write articles for *The Colorado Lawyer*, bar journals such as *The Docket*, or law school alumni magazines;
- Start a blog and consistently post articles;
- Join the board of an organization (legal or non-legal);
- Present or volunteer at a clinic;
- Participate in Listservs;
- Attend local bar association functions;
- Follow up with new contacts to build your network.

Be diligent about keeping up with this calendar to ensure your name and business are being distributed into the market consistently.

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Evaluation

Every time you meet with a new client, ask the client how he or she found you. This will help you determine which business development efforts are most productive for you. If one of your contacts refers a potential client to you, be sure to thank him or her. Lawyer referrals will likely be one of your biggest business development sources. It will take numerous contacts to determine how fruitful your potential referral sources are. Make sure to seize the opportunity to let your contacts know about developments in your practice, expansion of client services, successes, added staff, etc.

APPENDIX

Colorado Bar Association Resources

Law Practice Management

- As a service to its members, the CBA Department of Law Practice Management provides information and resources on a variety of law practice management issues, including templates on Forms2Share, a collection of materials in the Lending Library, Tech Tuesday Webinars, and monthly newsletters.
- *Personal Branding in One Hour for Lawyers*, Katayoun Goshtashi (2013), available to CBA members to check out at no cost through the Lending Library.

Articles

Branding

- “Marketing vs. Business Development – Why It’s Critical for Law Firms to Know the Difference,” Debra Andrews, Blog Post on go.marketri.com (June 30, 2014)
- “Branding Is the Heart of Your Marketing Message,” Micah U. Buchdahl, *Law Practice Magazine* (Nov./Dec. 2013)
- “Branding on a Shoestring,” David Gent, Blog Post on The Market Donut (date unknown)
- “Does a Small Law Firm Need to Have a Brand?,” Valerie Nelan, Nathan Smith & Stacy Smith, Blog Post on attorneyatwork.com (May 16, 2013)
- “Marketing Matters: Branding Your Law Firm,” Susan Van Dyke, Canadian Bar Association PracticeLink (date unknown)
- “Turn Clients into Client-Advocates: The Brand Experience,” Jay Harrington, Blog Post on AttorneyAtWork.com (Sept. 30, 2014)
- *Branding Yourself Online: Tips for Spinning Your Story with Blogs And Other Social Media*, David King Keller, American Bar Association Book Publishing Division

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Building a Basic Website

- “Why a Mobile-Friendly Law Firm Website is Essential,” Austen Loft, Blog Post on SoloInColo.com (Nov. 4, 2015)
- “How to Select a Domain Name for Your Law Firm,” Andrew Cabasso, Blog Post on Lawyerist.com (Feb. 12, 2015)

Business Development

- “Upping Your Marketing Game,” Sally J. Schmidt, Blog Post on AttorneyAtWork.com (Dec. 7, 2015)
- “Why Meetups Are A Solo’s Secret Weapon,” Susan Cartier Liebel, Blog Post on AboveTheLaw.com (Dec. 2, 2015)
- “Branded Legal Networks: What they are, and how lawyers can utilize them for business development,” Nicholas J. Gaffney, *Law Practice* (Jan./Feb. 2016)
- “Making it Rain – Practical Tips From Those Who Do,” Nakia Gray, Sakkara Turpin, *Law Practice Today* (Feb. 12, 2016)

Marketing

- Legal Marketing Blog, www.legalmarketingblog.com
- The Rainmaker Blog, www.therainmakerblog.com
- Lexis/Nexis Law Firm Marketing Solutions, www.lexisnexis.com/law-firm-marketing/why-lexisnexis
- Law Marketing Monitor, www.lawmarketingmonitor.com
- The Attorney Marketing Blog, www.the-attorneys-atm.com/attorney-marketing-blog
- Practice Smarter, www.abacuslaw.com
- Social Media Marketing for Law Firms, <http://socialmediamarketingforlawfirms.com>
- Certified Practice Advisor’s Blog, www.copleycoaching.com/blog
- Real Lawyers Have Blogs, <http://kevin.lexblog.com>
- Zen & the Art of Legal Networking, www.zenlegalnetworking.com
- CaseDetails, www.casedetails.com
- Technology and Marketing Law Blog, <http://blog.ericgoldman.org>
- AttorneyBoost, www.attorneyboost.com/legal-marketing-blog.html
- AttorneySync, www.attorneysync.com/blog/law-firm-marketing-plan-2013-2
- Tools and Tricks to Automate Your Marketing, Joan Feldman, Blog Post on AttorneyAtWork.com (Feb. 26, 2016)
- How to Conduct Market Research on a Tight Budget, Meghan Keaney Anderson, Blog Post on HubSpot.com (June 4, 2014)
- Marketing Research on a Shoestring for Small Business, author unknown, Blog Post on Score.org (March 29, 2013)
- ABA Solo and Small Firm Resource Center – Marketing
- Axiom: redefining the practice of law and improving the way legal work is done. Axiom conveys this message through its website, social media, workspace, marketing and office materials, and its services.
- Useful YouTube Optimization Tips that Will Help Give Your Video High Ranking, Lalit Sharma, Blog Post on SocialMediaToday.com (Feb. 8, 2016)
- Most Lawyers Suck at Internet Marketing, Keith Lee, post on AboveTheLaw.com (Sept. 17, 2015)
- The 7 Lethal Internet Marketing Mistakes Law Firms Make, Steve Olenski, Forbes.com (March 5, 2015)

- Legal Marketing Blog.com
- ABA Journal Blawg 100_
- LMA – Rocky Mountain Chapter

Networking

- “Four Pre-Holiday Networking Tips for Introverts,” Kim Staflund, Blog Post on AttorneyAtWork.com (Nov. 24, 2015)
- “How to Chat at Networking Events,” Theda C. Snyder, Blog Post on AttorneyAtWork.com (Dec. 29, 2015)

Social Media

- “Social Media for Law Firms: It’s All About Adding Value,” Daniel Decker, *Law Practice Today* (November 13, 2015)

Authorities

Colorado Rules of Professional Conduct

- Colo. RPC 7.1, Communications Concerning a Lawyer’s Services
- Colo. RPC 7.2, Advertising
- Colo. RPC 7.3, Direct Contact with Prospective Clients
- Colo. RPC 7.4, Communication of Fields of Practice
- Colo. RPC 7.5, Firm Names and Letterheads

Colorado Ethics Opinions

- CBA Ethics Committee Formal Ethics Opinion 38, Referral Fees
- CBA Ethics Committee Formal Ethics Opinion 74, Lawyer Newsletters
- CBA Ethics Committee Formal Ethics Opinion 76, Lawyer Advertising Guidelines
- CBA Ethics Committee Formal Ethics Opinion 81, Lawyer’s Participation in Prepaid Legal Service Plans
- CBA Ethics Committee Formal Ethics Opinion 84, Listing of Support Personnel Names on Letterhead and Business Cards
- CBA Ethics Committee Formal Ethics Opinion 106, Referral Fees and Networking Organizations
- CBA Ethics Committee Formal Ethics Opinion 117, Ethical Responsibilities of Attorneys in Legal Services and Pro Bono Programs Concerning Prospective Clients
- CBA Ethics Committee Formal Ethics Opinion 122, The Applicability of Colo. RPC 7.2 to Internet-based Lawyer Marketing Programs

Case Law

- *People v. Smith*, 830 P.2d 1003 (Colo. 1992)
 - Letterhead cannot include statements or claims that are false, fraudulent, misleading, or deceptive.
- *Crowe v. Tull*, 126 P.3d 196 (Colo. 2006)
 - Attorneys may be held liable for violations of the Colorado Consumer Protection Act (CCPA). The complainant must allege that “the attorney or law firm knowingly engaged in a deceptive trade practice, which occurred in the course of the attorney or firm’s business, vocation, or occupation, significantly impacting the public as actual or potential consumers of legal services, and causing injury in fact to a legally protected interest of the plaintiff.”