Routine work, such as labor, contract or collection matters, best fits into the framework, but even sophisticated work may have aspects that work for AFAs.

Making clients aware of alternative fee arrangements can set a firm apart from the rest and highlight innovation and flexibility.

Market your billing practices

Sharon Berman

Alternative fee arrangements are here to stay and offer firms an opportunity from a profitability, infrastructure and business development standpoint. By AFAs, I’m referring to a nonhourly billing arrangement; this does not include a discounted hourly rate, nor contingency work. The level of talk, puzzlement and concern currently exceeds AFAs actual implementation, but interest keeps mounting and will only continue. While the financial aspect of AFAs is vital, using them to your marketing benefit as a point of differentiation is equally important.

When a firm lets its markets know that it is willing to create compensation arrangements that let go of the billable hour, it is sending several messages. A primary message is that the firm is listening to its clients and the marketplace. It has heard and understood the dissatisfaction many clients have with the hourly arrangement and has put its financial and creative minds to work to develop a different offering. By implementing AFAs, the firm is also more closely aligning with its clients. The firm imparts the message that it understands clients have also been under tremendous pressure to not just cut costs, but to be more efficient. By releasing its tenacious grip on the billable hour, the firm conveys that it also has done an internal review and fashioned a way to deliver value more efficiently and profitably.

The messages your firm communicates by offering AFAs as an option are not inconsequential as you can see; however, you must disseminate those messages to your markets if they are to be heard and remembered. If you keep this fee option in your back pocket and only bring it out when asked or pressed, you suppress its marketing power. Given that the unquestioning acceptance of the billable hour is gone, no matter how healthy the economy, it is wise to gain an understanding of AFAs now while you still have the comitant beneficial communication points.

From a marketing perspective, the success of AFAs has to do with the same counsel in-house lawyers have been giving those in private practice for years in terms of asking what the client wants and then listening. It’s also vital that you not do this in a vacuum. You want to ask your clients for data, especially if you are developing a proposal for a prospective client. For example, ask the client how much their matters cost, how many hours on average they have been billed for this type of work, and other similar questions. While this information is important, gathering it gives you an opportunity to understand your clients better — their processes, needs and politics — all of which can be helpful in solidifying your relationships with them.

Being successful in incorporating AFAs is similar to being successful in marketing. To make AFAs work, you need solid financial metrics with reliable budget and tracking mechanisms. The same is true of measuring your marketing efforts. You need a means to capture lead generation, not just new business. Some firms resist offering financial options because they don’t have detailed enough financial data — information that can be analyzed in many different ways. Similarly, many firms resist tracking their marketing results, insisting that they have enough information simply because they can track — sort of — where their new business comes from, as opposed to where all leads come from. While you are re-examining your financial foundation, you can take advantage of this process and implement the systems that will support your success, such as a means to capture all your leads no matter the source.

Some firms consider “shadow” invoicing, going back to clients after the fact and showing...
Developing a marketing strategy

Zach Olsen and Sophie Cikovsky

It is no secret how much work is involved in succeeding in the legal profession. Making partner takes years and years and once you have made it – well, some say the process is like a pie-eating contest where the prize is more pie.

It might come as a surprise to some that an increasing number of attorneys — both partners and associates — are taking time out of their already busy days to engage in PR and marketing activities to build their media resumes. Whether the end goal is to advance your career within your existing firm, transition to a new one, or become more well-known in your field of expertise, attorneys are, more than ever, buying into PR and marketing to set themselves apart from the pack and build their own individual brands.

The first step in engaging the media is to consider who you are and how you want to be viewed as an attorney, and identify the greatest opportunities for visibility and new business. Oftentimes, solid chances to build media resumes come about following the birth of a new industry, contentious legislation or some other news event that creates a new or modified niche practice area. Once you’ve identified where your opening lies and who your target audiences are, try to answer the deceptively simple question: What can I do for them?

WHAT CAN I DO FOR YOU (ME)?

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If you’re an associate, chances are you are either looking to grow within your current firm or build a foundation that will allow you to move on to greener pastures. If the former, approach your media strategy as a way to demonstrate your willingness to assist rainmakers and key partners with whom you work. Offer to help them write articles that are bogging them down, or suggest a topic of interest to your clients and write an outline to get the process started. Having your name on the byline will reinforce the relationship you built with your senior colleague, and when it comes time to make partner recommendations, the extra effort may be what lands your name at the top of the list.

If, on the other hand, you are hoping to change firms, building a media resume by co-authoring articles with partners will serve to reinforce the experience and expertise you have demonstrated on your resume. Use the media as a tool to showcase what you’re capable of accomplishing.

Owing to their experience and the value the media puts on legal expertise, partners have a wealth of options available to them when building their media strategies and resumes. Do you want to be the go-to attorney for a new cottage industry? Get recognition for winning a tough case by looking at the issues differently than your peers? Stand out among a crowd of attorneys who are all going after the same piece of business? Each necessitates a different approach, yet all can be aided by creatively and consistently engaging important audiences on timely topics in the right forums.

ALL NEWS IS NOT CREATED EQUAL

The Internet has expanded the role of media in our daily lives. We can now interact with news outlets in ways that were never possible before, aggregating and commenting on articles, sharing them on social media and blogging about them. In the process, it has also blurred the lines between reputable outlets — those that have the power to credential you in the eyes of potential clients or professional contacts — and those that attract less relevant readers.

These various media, however, also allow you to get a second (or third, or fourth) set of legs from articles you’ve been quoted in or written yourself. Say, for example, you write an article for a trade publication. Five or 10 years ago, the article would just sit on the publication’s website for a year or so before being archived. Now, you can [and should] link to the article on your LinkedIn, post it on your firm’s website, and if your firm’s social media policy allows it, share the content with clients and prospects on Facebook, Twitter, and the like. Clients and prospects get their information from a wide variety of sources, so the more vehicles you can employ to redistribute your content and reach relevant audiences, the better.

When it comes to content on the web, it’s important to remember that sharing is caring. You can do yourself an enormous favor and garner the trust of your followers and peers by not just sharing your own content, but the articles, ideas and opinions of others in your sphere of influence. By giving your audiences access to content other than just your own, you will show them that you’re in it to help them, and are not just a self-promoter.

Looking beyond traditional media, most successful firms recognize that potential clients and employees consume news and information via blogs, social media and content marketing.

Improving your visibility in the media and on the Internet can increase business and build credentials
When crisis strikes

Having a plan in place in the event of a data breach can save a law firm’s reputation and protect its clients

Elizabeth Lampert and Lara Cupit

Law firms and corporations have a long-standing history of being faced with traditional crisis situations, whether that means attorney malpractice, firm bankruptcy or dealing with a partner’s reckless actions. But today, companies are facing potential crisis situations that are outside the scope of anything they have dealt with in the past — the threat of a cybercrisis. Cybercrisis incidents receive considerable media attention. Do you know what to do if your company has a breach?

We have seen countless U.S. businesses and individuals fall victim to hackers, and it seems to become more commonplace every day. Hackers gain access to the proprietary and confidential information stored on company networks and often publish the information or sell it, creating a very serious and very public crisis situation. As law firms store a large amount of confidential client information, this makes them a prime target.

So how do you respond if your firm finds itself the victim of hacking or a serious data breach? The laws governing this area are still developing, but one thing is clear — these events get a lot of media attention, and while not every cybermatter will blow up and become a major, national media event, law firms need to be prepared and plan ahead.

**WHAT’S THE PLAN?**

In a 24/7 world of social media, if a cybercrisis hits, it is essential that your firm has taken the time to plan in advance. Like any crisis plan, the goal of a cybersecurity crisis plan is to provide internal and external order as the cyberincident is played out, and being prepared gives you the best opportunity to ensure the most salient information is disseminated and you are the master of your ship.

- Define your response team: The core response team should be composed of your IT director, your managing partner, the HR director, the practice group attorney and your internal and external PR people.
- Take notes: While we usually suggest the HR director take detailed notes of each response team meeting, you will need to appoint someone to memorialize the meeting notes, action items and post messages to share on the crisis intranet page, or verbally if your intranet has been breached.
- Create a crisis page on your intranet: Build a crisis page that includes need-to-know information about the firm that can be updated quickly and easily in case of a crisis. Familiarize your employees with it. The page could have security controls on it so that core team has access to everything. Be sure there are printed copies of this for each member of your core team.
- Establish procedures: Establish a communications protocol whereby all personnel will forward any inquiries related to a crisis to internal and external PR contacts.
- Understand the impact: Understand that in crisis situations, decisions often must be made based on complete information. There is no room to speculate about what has been breached so take the necessary time to investigate what and how much has been compromised.
- Cyber-specific outside counsel: The attorneys on your core team should quickly figure out if legal assistance, an attorney with cyber security experience, is needed.

**SPEAKING OUT**

- Plan ahead: A communications plan is a key element of an effective crisis management response. A communications plan that’s deployed early in the process gives you the advantage when developing media statements and with your outreach.
- Establish an inclusive media list: Prepare a list of reporters and editors who write about your firm on a consistent basis and who would likely call in a crisis. Make sure this list is updated on a regular basis and includes full contact information.
- Notify clients if needed: You may at some point have to inform your clients during a cybercrisis incident. While you have the responsibility to communicate this new first, before it goes viral, until the investigation is over, facts about what has been breached are moving targets. Before you reach out, make sure all information is accurate. Know the extent of the breach and be prepared to tell the client the steps you have taken to investigate and assure then the proper methods are in place to prevent another an occurrence in the future.

**FOLLOW UP AND FOLLOW THROUGH**

The importance of follow-up in a crisis situation cannot be overstated. You must continue to reassure those involved, as well as the media that you are doing everything possible to deal with the issue at hand, as well as to prevent a future cybercrisis situation.

Let the media know what you have done to implement a plan to protect your company from attacks in the future. Meet with your core group and review the situation. Take the necessary steps to ensure you are prepared should a cybercrisis strike your firm. Having a written plan and an internal response team is key. If you don’t have plan, get one in place now. If you do, review it for relevancy and at your next law firm retreat, test it out.

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ing them what they saved via AFAs as opposed to your firm’s charging hourly. Opinions are divided as to whether or not this system is beneficial. There are firms who report back on savings after the fact and find that this enhances their client relationship and marketing. I’m more in line with the opposing camp, which eschews shadow invoicing and focuses instead on the results. The underlying philosophy is that you gave your client a price, which he accepted. You completed the work and achieved the results. As far as the client is concerned, that is the end of the story. There is no right or wrong to the question of shadow invoicing, and it may make sense in some situations and practice areas, while in others it does not.

Not every kind of work lends itself to AFAs. Routine work, such as labor, contract or collection matters, best fits into the framework, but even sophisticated work may have aspects that work for AFAs. In litigation, perhaps this includes the work up through trial. Most likely, if you analyze the work your firm does, there are some aspects where you can offer choices when it comes to how clients pay.

Right now, having AFAs gives you the competitive advantage. Therefore, consider leading with it. Make use of the seemingly obvious but often overlooked marketing vehicles to let your prospective clients know that you offer options. Talk about your offering AFAs on your website and in your other marketing literature. Getting the message out to your current and prospective clients and referral sources makes them aware that you are efficient and will not waste a client’s time and money or your own. Instead, you have devised a way to make the process as efficient and streamlined as possible for both of you. This places you above your competitors who may approach your clients to discuss how they can provide the same quality service better, faster and less expensively.

Getting AFAs right is a worthwhile, multifaceted and long-term process. You need accurate time-tracking systems and teams of data. However, the more you do it, the more information you will have to help you refine the process. You can’t wait until you have it all figured out to start letting your markets know that you offer AFAs. The biggest challenge firms face, however, is overcoming attorneys’ resistance. To help clear this obstacle, foster a climate that encourages change and help lawyers see that in the long term, adapting to a new marketplace is the only way to ensure a firm’s ongoing survival. Similar to the technical aspects of AFAs, the sooner you start “chipping the paint off of the walls,” the sooner you’ve made progress in changing the culture. And while AFAs are not new, firms who implement them now are still at the forefront, enough so that they can claim the mantle of industry leader. At some point this will change, and those who get on board later will be viewed as laggards and find themselves left behind.

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YOUR HELP

It is the rare law firm these days that does not engage with the media on some level. Most successful firms, in fact, look to new and creative media engagement strategies as a way to attract new business, and hire and retain new associates and partners. Looking beyond traditional media, these firms recognize that potential clients and employees consume information, make decisions and develop opinions. According to a recent Pew study, 48 percent of American adults turn to social networking sites like Facebook, LinkedIn or Google+ to connect with their peers, get news and ask for professional recommendations.

There is no escaping it. Your clients, like the 59 percent of adults in the U.S. who use a search engine such as Google to find information, rely on the web to find and review information, make decisions and develop opinions. According to a recent Pew study, 48 percent of American adults turn to social networking sites like Facebook, LinkedIn or Google+ to connect with their peers, get news and ask for professional recommendations.

For better or worse, if you’re not actively building your media resume and credentials online via media placements and other supporting content, you’re missing out because your competitors are. Take advantage of the tools that are at hand and the marketing professionals who know how to help you build the profile you need to stay competitive in the hyperconnected, Internet-dependent world in which we all live and work.

Zach Olsen is Infinite Public Relations’ executive vice president. Based in San Francisco, he and his team assist law and professional services firms around the country with developing and implementing effective, creative media strategies. Sophie Cikovsky is a client supervisor at Infinite PR.

Regardless of your goals and level of experience, most if not all firms want to see their lawyers build their media resumes and have the infrastructure and marketing talent available to help them succeed. In most cases, all you need to do is ask.

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THE RESOLUTION EXPERTS
Internal versus outsourced PR

Traci Stuart and Michael Bond

The reality is that law firm marketing and business development departments have undergone a marked evolution. The function and personnel of these departments has shifted from jack-of-all-trades administrative assistants, de facto assuming marketing and communication functions, to highly specialized professionals expected to deliver a quantifiable ROI.

Through the course of this shift, increasing segmentation has occurred with generalists joining firms fresh out of college and gravitating toward their natural niche — such as competitive intelligence, proposal writing or communications. This is not unlike the technologists joining firms fresh out of college and gravitating toward their natural niche — such as marketing.

The post-recession economics has brought into sharp relief the delicate cost structure balance. Increasingly, firms have looked for levers to pull to contain costs and to shift into a different one that is a better fit, and in turn, thrive.

The post-recession economics has brought into sharp relief the delicate cost structure balance. Increasingly, firms have looked for levers to pull to contain costs and have kept on doing so despite a modest economic recovery. This has meant that legal marketing and business development teams have been under greater pressure than ever to justify their salaries and positions.

THE ROLE OF PUBLIC RELATIONS

The ability to see the world through a communications and media-centric filter is distinct and an important facet to a firm’s marketing communications strategy.

In terms of both cost and effective internal resource allocation, there is no “one-size-fits-all” strategy when it comes to whether it is better to have an in-house PR team or outsource this function to a professional services-focused agency.

Communications tools have evolved at a rapid clip, presenting firms myriad opportunities to create and leverage high-quality content. Strategic PR initiatives — including byline articles, routine press releases and providing expert commentary — create real value for a firm in terms of brand recognition, attorney engagement and recruiting efforts.

While not a direct one-to-one correlation, PR is frequently a major contributor to business development. In terms of client retention, the PR deliverable of high media visibility and market awareness affirms client loyalty by validating their purchase and relationship.

REASONS TO HIRE AN IN-HOUSE PR PROFESSIONAL

Firm size is often the biggest factor when it comes to hiring an in-house PR professional. For large, multi-office firms, the creation and support of an internal communications team is a worthwhile cost when amortized across the firm’s many attorneys.

Having an in-house PR professional provides numerous benefits to a firm including:

• Access: An in-house communications pro will naturally be privy to information to which an agency does not have access. The firmwide email and intranet are valuable resources for accessing firm “news,” monitoring trends in firm business and researching supporting materials on the nuggets of information one might pick up in the elevator, in the halls or around the proverbial watercooler. Congratulatory emails sent while basking in the glow of a big deal or large verdict can quickly trigger the PR function — and an in-house professional may be able to walk down the hall and stand in the attorney’s doorway to get a speedy approval to move an initiative ahead.

• Confidentiality: If your firm culture is such that sharing information on cases, deals or involvements is a closely guarded secret, it’s unlikely that the firm will take full advantage of an outside agency, fearing the loss of control over information flow. In these situations, it may prove more effective to support the marketing communications function with a firm-affiliated professional who shares the same email domain, document repository and cultural values.

• Familiarity: If your practice is highly focused or complex, it may be useful to have a dedicated marketing communications professional on staff. This gives the individual a chance to cost-effectively take a deep dive into the subject matter, following developments that may trigger external communications.

REASONS TO OUTSOURCE PR

For many firms, employing an outside PR agency is the right choice. Doing so removes from the equation issues such as concern over career development for an in-house PR professional and effective utilization of their skills given a firm’s often highly cyclical workflow.

In addition to the aforementioned benefits, outsourcing the PR function can also provide the following advantages:

• More resources: The day your in-house communications professional is out sick will be the day that the long-awaited, multimillion-dollar verdict comes down. It’s just Murphy’s Law. An agency provides a team of marketing communications pros who are available to help the firm get its messages out on a “breaking news” timeline. Further, most agencies staff accounts with a mix of senior- and more junior-level communicators. This means, like at a law firm, your top biller is not making copies or pulling lists, but they are there — on a moment’s notice — to guide the strategy or tackle the firm’s toughest reputational challenges.

PR agencies — much like law firms themselves — are virtual warehouses of like-minded talent. When a firm is looking to highlight an attorney or an issue, the chances are very good that at least one member of the agency is extremely well-versed in it and has valuable pre-existing connections with members of the media.

• Fresh perspective: Law firms and the practice or industry groups that walk their halls can be somewhat isolated in protection of their clients and their own trade secrets — whether the details of their latest RFP response or their innovative thinking in crafting a high-impact diversity program. Attorneys routinely present their ideas as new and different, but without insight as to what other firms are up to, how does one know? Working with a strategic partner helps break through groupthink, providing unique analysis and a reality check as to what is truly new and noteworthy.

In terms of client retention, the PR deliverable of high media visibility and market awareness affirms client loyalty by validating their purchase and relationship.