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YEAR-END APPROACHES RAPIDLY; TAKE STRATEGIC ACTION

Ellen Freedman, CLM
Law Practice Management Coordinator
Pennsylvania Bar Association

This year will differ significantly from the previous couple of years for most firms. For many firms, it is the first year working more from the office than home. A lot of management time has been focused on dealing with practical logistics, client service and employment best practices related to return to work.

Litigation and other practice areas that languished during the pandemic lockdown are back in full swing for most firms. Many firms have been hyperfocused on filling the pipeline with new cases to ensure future revenues. Older cases that were temporarily suspended during the lockdown built up volume. When courts and government agencies reopened, the backlog gushed forward at a pace greater than available bodies could handle.

Other practice areas have experienced increased demand because of all the pandemic-related complications that our new work models created. Legislative and political changes also positively impacted legal demand. Additional disruptions include massive departures from the workforce, increased lateral movement at all levels and a sharp increase in dissolutions, acquisitions and mergers.

In short, most firms find themselves with a generous volume of work, a challenging shortage of staff and too many management distractions. Despite the struggle to keep our rafts upright and on course while careening the fast-moving white rapids we're in, we need to focus our attention on the horizon.

We are nearing year-end. It's on the horizon. The time to take strategic action is upon us. Failing to do so now means losing the ability to directly influence the outcome for the year. That doesn't mean it won't or can't be a great year. For a lot of firms, it will be a landmark year. But as we know from experience, when we are strategic it's invariably better.

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Our first step is to determine what goals we need to set for year-end. What are the most important outcomes to achieve? For many of you, maximizing available cash and profit will be important this year. Holding onto and acquiring top talent will not come cheap: not in the short term, anyway.

Other important initiatives will require increased capital, such as increasing the computing security environment of the firm; further leveraging intellectual capital with technology, probably through use of newer tools utilizing artificial intelligence; and continuing on a path of digitizing the client file and enhancing everyone's ability to access the file to work from anywhere, anytime.

Identifying best marketing strategies and getting ready to hit the ground running in 2023 will also be key. Practice group defections often happen as a result of dissatisfaction with management strategies. More accurately, a result of what is seen as a *lack* of strategic action needed to sustain and grow the practice area.

I hope your firm has already examined year-to-date profits and cash and done some projections for year-end. Needed capital expenditures during the final quarter should be handled in tax-neutral methods such as seller-financing or leasing, which also preserves cash.

Focus on receivable management. Understand, if you have an effective receivable management program in place, the year-end push requires little additional effort. A thorough review is required to make sure appropriate receivables are declared uncollectible, so the firm can expense any advanced costs in the current fiscal year. Some additional focus will be required for cleaning up any lingering past-due items because of disputes or billing errors.

For firms that don't have a receivable management program, it usually requires attorneys of the firm to divert billable time into nonbillable collection activity. This is the least effective use of attorney time, especially since it requires not just one, but multiple calls made consistently to ensure payment.

It's a lack of consistent follow-up that undermines the efforts of most attorneys. If your time is going to be limited, and you won't be able to follow-up, invest it where you're likely to have the greatest chance of success with one call.

Focus on your work-in-progress, for example, develop an inventory of open matters in which you've invested time. Have you billed out every matter you can? Yes, I know how most lawyers hate billing. But if you don't get those bills out now, there's not a chance you'll receive the payment by year end.

Remember, the slower you are to bill, the longer the client will take to pay, because you've already delivered the clear message that getting paid for your work isn't that important.

There are a limited number of hours remaining to be worked before year-end. How will you use them? We don't always get a choice in what work must be done first. Deadlines are always pushing matters to the forefront.

But to the extent that you do get a choice, invest your time in matters which can have the greatest impact on cash and profit. That might be an hourly matter with a good paying client, instead of one for a client who is already in arrears. Perhaps it's a flat-fee matter, so that you can complete it and take your earned fee from trust.

Are there some contingent matters which have been lingering but can be pushed to conclusion by year-end with some additional investment of time? Is there strong potential for a far greater return than working on an hourly matter?

For some of you, particularly solo and small firms, you may actually want to reduce profit for tax reasons.

If you're a Sub-S for example, all profits flow directly through the business to your personal income. If you're on the cusp of reaching a higher income tax level, you should act strategically. Now may be the time to accelerate payment of some expenses in this fiscal year rather than have them come due in the next.

You may want to purposely concentrate investing your available time in matters which will not bill until the end of the year, thereby increasing cash flow in the beginning of the next fiscal year.

Clearly, strategies will differ from firm to firm, depending on the numbers and goals. The important takeaway is that there should be some assessment and some strategy employed.

Ellen Freedman, CLM is the Law Practice Management Coordinator of the Pennsylvania Bar Association. In that capacity, she assists PBA members with issues and problems that arise on the business side of their practice. Ellen is also president of Freedman Consulting.

Ellen encourages your feedback and questions. She can be reached at 1-800-932-0311 x2228, or by email at lawpractice@pabar.org.

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