

# *The Birth of the Megafirm*

## *Mergers and Acquisitions “M/A”*

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## Editors' Note

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One of our authors says that she often hears of the M/A boom that “was” in the ‘90s and thinks – *was?* Still *is!* And the numbers bear her out. According to Hildebrandt International, over 150 law firm mergers have taken place in the United States and Europe over the past two years. Hildebrandt predicts that as the economy’s pace quickens, the pace of business combinations will likewise accelerate. But there’s a downside. Other numbers show that few business combinations ultimately succeed in delivering the value and benefits envisioned. Consulting firm McKinsey & Co. conducted a study of 193 mergers that took place between 1990 and 1997 and found that only 12 percent succeeded in maintaining revenue growth in line with their non-merged peers. In McKinsey’s view, this was because too much emphasis was placed on post-merger cost cutting and too little on revenue generation.

Led by an extremely instructive article about how, through a charted course of mergers and acquisitions, Boston-based Bingham McCutchen rose from a top-200 law firm to join the top 25 in eight years, this white paper covers an assortment of issues involved in mergers and acquisitions and offers educated advice on how to avoid M/A pitfalls. If you are currently going through a merger or acquisition as a buyer or seller – or simply want to be better armed for what may eventually come – read on and benefit from our five authors’ knowledge and experience.

*Andy Spiegel and Randi Mayes, Editors*

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# Building a Megafirm:

*The Bingham McCutchen Strategy*



1995 was a pivotal year in the history of our firm, Bingham McCutchen. Jay S. Zimmerman, the firm's new Chairman, understood clearly that the legal industry was changing. Regional firms like the 105-year-old New England firm of Bingham Dana faced increased competition from larger, more diverse firms. This fact, coupled with the high level of consolidation and convergence occurring in our principal client base, threatened to seriously impact not only the firm's profitability but possibly its continued existence.

by William A. Bachman of Bingham McCutchen LLP

Mr. Zimmerman had three choices:

*Do nothing and continue relying on a few large clients in one major industry to support the firm*

*Pursue commodity legal work in large enough quantities to offset the reduced rates it would command*

*Focus on strengthening the firm by diversifying the practice groups, expanding the client base and bringing in the best and brightest legal minds he could find*

Although it was the most difficult path, Jay Zimmerman chose the third. He then laid out a vision of Bingham as a strong, national, multi-practice firm. The vision included:

*Strategic diversification of practice groups to reduce risk and provide more services to clients*

*Top clients to promote top-line growth*

*Pursuit of the best legal talent to make the firm stronger*

*High-end legal work to attract and retain the best talent*

The firm embraced his vision and devised a goal-directed strategy to achieve it. Within eight years, our 175-attorney, four-office, regional firm became a national legal powerhouse with more than 850 attorneys, 24 practice groups and 11 offices, including London and Tokyo. In addition, we took the industry-leading step of creating three subsidiaries that provide our growing client base with sound business, governmental, financial and strategic advice.

This is the story of how we grew from a top-200 law firm to join the top 25 in eight years and how we are continuing to progress and move forward.

## Turning Vision into Strategy

The strategy of letting goals drive the process keeps Bingham McCutchen on its path towards becoming a megafirm, while affording us the flexibility to take advantage of opportunities as they present themselves. The goals that make up the Bingham McCutchen strategy are:

### *Strength and Profitability*

Many law firms today see that growth is necessary to remain competitive. Where Bingham McCutchen may differ is that we are focused on growth in terms of strength and profitability – not necessarily in terms of size. If our strategy creates a very large firm, that's fine. We have the systems, the talent and the people to handle that; but we will measure our success

by our ability to have a strong firm that can represent significant clients while remaining competitive and profitable.

The foundation of our strategy is that every move we make must contribute to the strength and profitability of the firm. Every merger, every lateral or new hire, every technology investment must be tied to and help realize a strategic business objective. This means finding the high-end legal work that is the most interesting and lucrative and creating support mechanisms that enable and empower our attorneys, management and staff. It also means constantly reassessing our best options for continued profitability and growth.

#### *Strategic Diversification*

In 1995 our primary practice was focused on a single New England bank, and a significant portion of our revenue stream came from this client. In many ways this was the same type of eggs-in-one-basket scenario that would prove difficult for, and even fatal to, firms that became too heavily invested in the technology boom a few years later.

Our goal was to diversify our practice groups, and our emphasis was on high-end, high-value legal work that stimulates our top line profitability growth and creates opportunities for new business outside our traditional industry sectors. At the same time we felt that in addition to the ability to attract new clients, the strength of our diversification extended the services we can offer to our existing clientele. A good example of this is evident with our long-time banking client. While the amount of work we are now doing for them has increased, the proportion of our revenue derived from the relationship has significantly decreased.

Geography factors into this equation in the sense that we want to have a presence in the capital market cities where there are opportunities for top-quality clients and high-end legal work. We are not interested in having a lot of offices but rather in having offices in the right places.

#### *Talent and Ability*

At the higher end of law practice, clients demand the very best service, the most experienced litigators and the most effective corporate and finance counsel. Therefore, attracting and retaining the best people is of paramount importance. So whether we are presented with an opportunity to merge an entire firm or accomplish a lateral hire, it is the quality, not quantity, that determines our level of interest. We focus on the following questions:

*Does the move help us diversify and enhance our practice groups?*

*Does it improve our profitability?*

*Does it make the firm stronger?*

*Does it position us to attract new clients in our target markets?*

*And coming full circle, does it help us attract and retain more high-quality, high-impact talent?*

This philosophy extends to the administrative areas of the firm as well. We would rather have well-paid, top-notch, long-term employees than focus exclusively on administrative cost-control. The results are telling in that we believe we have fewer employees due to the high level of talent.

### **Executing the Strategy**

Even the clearest of visions and the finest strategic goals are of little use without an effective tactical implementation plan. In our case, we are lucky to have a strong team of highly creative professionals who were able to turn our strategic vision into a flexible, tactical plan and to position us to incorporate growth in an efficient, timely manner. The essential elements or objectives of that plan are:

#### *Create Speed and Maintain Momentum*

Too often, law firms miss opportunities for mergers or expansions due to a lengthy internal decision making-process or the slow pace of the consolidation process. This means that the ability to react quickly and move forward decisively represents a significant competitive advantage for Bingham McCutchen.

Our recent merger with Riordan & McKinzie is a perfect example. R & M was co-founded by Richard Riordan, two-term Mayor of Los Angeles; and beyond the obvious strong political connection, the firm was considered to be California's finest private equity boutique. The firm had been actively courted for years by many large firms – particularly Northern California firms that sought to increase their presence in Southern California. The success of our previous mergers and the speed at which we made them happen was critical in helping us move to the forefront of potential suitors. We made the deal others could not.

Creating speed and maintaining momentum is not easy. It takes attention to detail and the ability to rapidly and accurately analyze an opportunity and put the critical data in the hands of the management team. It certainly helps that our leadership has earned the respect and trust of the partners in achieving our vision, but it is equally important that the decision makers are given all the information they need in order to make the right decision in the shortest possible time.

With five mergers under our belts, the team at Bingham McCutchen has gained the experience and know-how to create speed and maintain momentum without sacrificing quality. As part of our due diligence when assessing merger candidates, we focus on economic and financial analysis, cultural fit and costs such as technology. This proforma not only is used to evaluate the opportunity, it also serves as a roadmap for consolidating the merging entities.

#### *Ensure that One Good Thing Leads to Another*

While it is impossible to create a multi-year plan of mergers and lateral hires with detailed specificity, it is important to understand that as in chess, each move has a consequence, and each is the precursor to the next. And also as in chess, success is rarely the result of serendipity; is most often the result of careful planning and placement.

A quick review of Bingham McCutchen's success story illustrates this point well.

One of Jay Zimmerman's early objectives was to establish a presence in New York. Our first merger was with Marks & Murase, a 30-attorney, Park Avenue firm with one of the largest and best Japanese practices in America. While this merger was significant in and of itself, it turned out to be a critical factor in setting the stage for our next move.

Two years later we were attracted to Hebb & Gitlin for a number of reasons. They were a 55-attorney firm and, like Bingham, had offices in Hartford and London. More importantly, they were one of the world's premier firms in the areas of financial restructuring and bankruptcy. They were attracted to us in a large part because of our presence in New York.

As a result of our merger with H & G, New York's chief bankruptcy judge, whose second term was about to expire, decided to step down from the bench to join our firm. Shortly thereafter, we merged with Richards & O'Neil, a highly regarded, mid-sized Manhattan firm.

One thing leads to another. The strength of our east coast practice groups made us a good fit for McCutchen, Doyle, Brown & Enersen, a 300-attorney, west coast firm seeking a national presence. This in turn led to the merger with Riordan & McKinzie, California's finest private equity boutique. One of their criteria was that a merger partner be strong on both coasts and have a presence in both New York and Washington.

While this is a highly abbreviated account, it serves to demonstrate that progress is made, one step at a time, and that careful positioning is critical to success.

#### *Become a Change-Embracing Culture*

While we are very proud of our past, we realize that our industry, like those of our clients, is in a state of perpetual motion and that successful firms must keep focused on the present and the future, constantly adapting to changing business realities. To this end we have tried very hard to create a change-embracing culture.

We understand that what we do today will have to change and adjust to the realities of the world tomorrow. This philosophy is accepted and practiced by the senior leadership of the firm and is taught at all levels. We are fortunate that as we have grown we have come into contact with people who have new ideas and different ways of doing things. Many of our new partners bring with them a sense that change is necessary, that change is a good thing and that clients appreciate the efforts we make on their behalf.

Bingham is a learning organization. We always look to incorporate the best aspects of every merger we undertake, and we spend more money on training and managing change than the great majority of law firms.

#### *Be Flexible and Opportunistic*

An effective game plan plays on an organization's strengths, while allowing adaptation and stimulating the ability to take advantage of opportunities. Attention to our vision and strategic objectives gives us direction, but we are not restrained by a rigid process or timeline that would cause us to miss an opportunity.

Our merger with Richards & O'Neil was just such an opportunity. We had achieved our strategic goal in New York and were not actively pursuing another east coast merger. However, when the opportunity presented itself to join with a firm born and bred in New York with an outstanding corporate practice, we were in a position to take advantage of it. As a result, we doubled the size of our New York office and became a far more significant player in the New York area.

#### *Manage Economies of Risk*

In the corporate arena, significant emphasis is placed on economies of scale, particularly in reference to mergers and acquisitions. In our experience, there is not much economy of scale for law firms. However, there is a great economy of risk; and that is our focus. Diversifying our practices and removing the profit and loss responsibility of the local offices reduces risk on the large scale.

On the smaller scale, our process for accurately assessing growth opportunities and identifying the real cost of each

merger has paid off in terms of reduced risk and profitability. In each of our five mergers, we have realized a return on our investment well ahead of our estimated timeline.

#### *Take a Team-Based Approach*

When Jay Zimmerman took over, one of the first things he did was to realign the firm to have a practice group focus. This has served us well in many ways. Our practice groups are firm-wide, which empowers group members to take on the most interesting work and to compete with any law firm in the world. It is also easier to consolidate a merger, as it gives us the ability to have the attorneys working together and provide them with the tools they need much more quickly than would otherwise be possible.

As mentioned earlier, geography does not matter. We are one firm. Our offices are not islands unto themselves and are not charged with profit and loss responsibility on a local or regional basis. We do not have local governance systems in place, nor do we perform management reporting at the office level.

Many of our 24 practice groups have multi-office identities, which is very helpful from the perspective of our global and national clients. Even though our model may be more complex from a purely administrative standpoint, it is clearly better for our attorneys and clients.

We have extended the model to create client-focused teams that combine practices to quickly and expertly resolve a client issue. A current focus is to take what we have learned and create industry-focused teams that cross practice groups.

#### *Add Value to Clients*

Everything we do is designed to provide greater value to clients. The more value we can bring them, whether in terms of problem solving or expertise, the stronger our relationship and the stronger our firm.

Mergers and lateral hiring are key components in being able to add value to clients, but we believe we have to do more. We have to be proactive in anticipating changing client needs and creative in developing solutions that may break with traditional law firm thinking.

This outside-the-box mentality has led to several industry leading ideas, including:

*Subsidiary businesses to complement our legal practices and provide additional services to clients. Clients often have complex issues that require the perspective,*

*Everything we do is designed to provide greater value to clients. The more value we can bring them, whether in terms of problem solving or expertise, the stronger our relationship and the stronger our firm.*

*experience and objectivity of senior professionals that complement the practice of law.*

*Beginning in 1999, Bingham launched Bingham Consulting, a wholly owned subsidiary offering unparalleled insight into the complex workings of governmental organizations and agencies. This was so successful that two additional subsidiaries were formed shortly thereafter: Bingham Legg Advisers and Bingham Strategic Advisors.*

*Industry-focused teams. We are studying the needs of certain industries to see how we can bring the full value of our wide-ranging expertise to bear on issues that are unique to that industry. For example, we are developing an expertise in professional sports that has led to working with teams in Major League Baseball, the National Football League and Major League Soccer.*

*Client information systems. Law firms have long used data contained in their accounting and financial systems to make critical business decisions. We asked ourselves if the information we keep on each client would be useful to that client. The answer was a resounding yes. We are now in the process of creating a secure system that clients will be able to access in order to get up-to-date information about their matters, including billing information.*

#### *Make the Best Use of Internal Resources*

We believe it is very important to maximize the strengths of the staff of both firms involved in a merger. In all of our mergers we evaluated the staff of both firms and identified how to accomplish the merger as quickly and efficiently as possible. We think it is in the best interest of the firm to keep as much of this work in-house as possible. This not only saves money, but it also reduces the cost of ownership and maintenance on any new process or technology.

When necessary, we do bring in outside consultants. For example, Baker Robbins & Company and Bridge4Solutions have assisted us with business process analysis and converting financial data on all five of our mergers.

## Communicate

The ability to communicate effectively and to maintain communications throughout the process is the cornerstone of our success. It is critical that all parties be aware of the progress of the activity – how it will affect them and their role in it. Communication keeps people interested and involved. It prepares individuals and practice groups for an easier transition to a new situation and helps ensure that we retain the high-end talent that brought us to the opportunity in the first place.

## Timeline

### 1995

*In his first full year as Chairman, Jay S. Zimmerman lays out a vision for growth and diversification. Bingham Dana begins its quest to become a megafirm.*

### 1997

*Bingham merges with Marks & Murase, a leading Japanese law practice in the United States, headquartered in New York.*

### 1999

*Bingham merges with Hebb & Gitlin, a 55-lawyer, Hartford-based firm recognized for its strength in international financial restructuring and insolvency.*

*Bingham Consulting Group is formed. This wholly owned subsidiary provides national, international and state-by-state strategic consulting services in government relations and regulated industries.*

*Bingham Legg Advisers is created. This first-of-its-type joint venture with Legg Mason provides investment and trust administration services to high net-worth clients.*

### 2001

*The merger with Richards & O'Neil, with 75 attorneys, more than doubles the size of the New York office and firmly establishes the combined firm as a major player in the New York legal market.*

*Another wholly owned subsidiary, Bingham Strategic Advisors, is created to advise clients on mergers and acquisitions, joint ventures and business restructurings.*

### 2002

*The firm becomes Bingham McCutchen through a merger with 300-attorney McCutchen, Doyle, Brown & Enersen, securing not only a west coast presence but also marking the creation of an international law firm with complementary practices in major business, financial and technology centers.*

### 2003

*Riordan & McKinzie, Southern California's premiere corporate and private-equity practice, joined Bingham McCutchen to provide the firm with a significantly strengthened corporate practice on the West Coast.*

## Moving Forward

Building a megafirm is not a plan with an end game. It has required an ongoing discipline practiced by firm management to ensure the health and continued profitability of Bingham McCutchen.

If the question is, “Are we looking for additional mergers?” – the answer is no, not for the sake of just another merger.

But if the question is, “Are we looking for opportunities to enhance our practice groups, contribute to top line growth and become a stronger firm?” – the answer is decidedly yes.

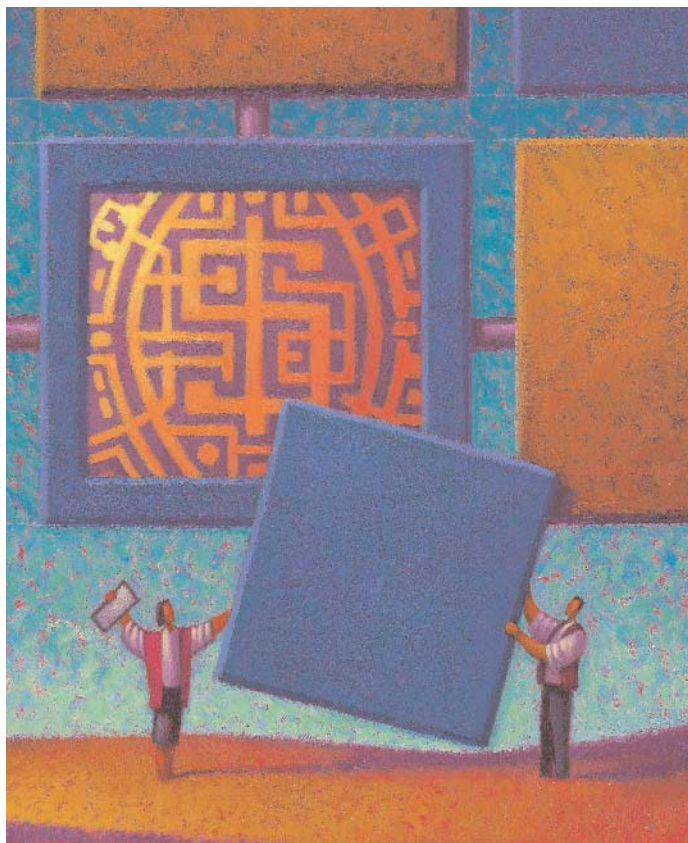
## Author's Note

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# The Science of Successful Mergers

## Applying Financial Analytics During the Merger Lifecycle

by Jeffrey H. Steinberg of Redwood Analytics



In today's legal landscape it's highly likely that your firm will eventually be involved in a merger or acquisition, either as the acquirer or seller. Decisions to merge with or acquire another firm pass through many stages – from setting strategic goals to identifying potential targets and performing due diligence to the final partner votes. Considerations are many and include firm culture, reputations, client base, infrastructure, debt, revenues, compensation, attorney productivity, profitability and more – but there's basically one end goal: to form a stronger, more profitable firm.

The financial analytics and associated planning are often the key science behind the art of the negotiations. Typically, the handling of merger-related financials is largely a paper-based process that poses risks for firms and introduces inefficiencies in time and money. Both acquiring and selling firms can benefit from utilizing sophisticated business intelligence tools and advancing the financial analysis at every stage of the merger process to make sure that their goals are reached.

This article focuses on the financial considerations and analyses that should be performed throughout the merger lifecycle and the technology that enables the most insightful results.

### Perform an Internal Audit

The first step in the merger process is to conduct a thorough and honest self-audit of your firm's strengths and shortcomings. Your firm's business is made up of many moving pieces – timekeepers, clients, practices, offices – and the information needed for comprehensive analysis resides in different systems. This necessitates producing numerous reports and manual number-crunching to get a true view of the firm's position and projections for the future.

Pulling together accurate, lower-level measurements can be challenging. For example, even if general trends are positive (or negative) there are typically underlying patterns that may be at conflict with the general trends. It's critical to be able to drill down from the reports into the pieces to identify issue areas and opportunities. That information must therefore be on a multi-dimensional technology platform so that firm trends can be separated into manageable pieces. If an analytic environment is not multi-dimensional by nature, the onus is on your firm's IT and accounting staff to manually define the dimensions and construct queries. Fortunately, the business intelligence tools available today can do this work for you.

From a financial perspective, you should consider the following questions pre-merger:

*Measuring client profitability. What are our profitability drivers? Which clients are most profitable? Would we be at risk of losing any of these clients as the result of a merger? Are there any firms with whom merging would be advantageous in order to keep these clients?*

**Identifying at-risk clients.** *Which clients are at risk of leaving the firm? How would attorney attrition affect the client base?*

**Identifying at-risk attorneys.** *Which attorneys are at risk of leaving the firm? How would a merger influence this?*

**Understanding productivity.** *What is our attorney utilization? Would a merger help or hurt these percentages? How do our targeted hours compare to the industry's norms?*

**Improving realization.** *Are billing realization and collections percentages above or below other firms? Can we find ways to bill or collect more quickly?*

**Projecting performance.** *What is the trend of hours and profitability over the last one, three and five years? What is driving (volume or rate) the positive and negative financial variances against our budget?*

**Managing expenses.** *Where can we trim costs (i.e., storage space and leases)?*

**Eliminating debt.** *Do we have any debt that negatively impacts our position (e.g., unfunded retirement plans, partner compensation debt)? How can we reduce existing debt?*

Good operations go hand-in-hand with good finances. As an acquirer, bringing to the table a strong operational base in practice management, financial processes, marketing and human resources makes you a more attractive partner. As a seller, understanding your business makes you better prepared for the negotiation table and helps you to showcase the complementary benefits your firm brings.

Together with a clearer picture of your firm's financial and operational position you can formulate a strategic focus. Answer the question, "Who are we, and where do we want to be?" This is a critical and often overlooked step that provides two key benefits: first, by understanding your firm's goals you have a yardstick with which to screen and measure potential targets; and second, by pre-establishing your goals you can move more quickly when an opportunity arises. This is important, as time delays often translate into lost deals. You don't want to be right in the middle of a negotiation and have to go back to rethink what you want and where you stand.

## Identify Prospects

Once you have an internal yardstick and strategic focus, develop "must have," "like to have," and "red flag" criteria for identifying and evaluating potential targets. Look for firms with complementary strengths. For example, if your firm

specializes in litigation for a national client base, you may want to target an IP practice in a geographic location where you already have an office, so as to take advantage of cross-sell opportunities. Once you've determined your criteria, you can create a list of merger candidates and start the dialogues.

From a financial perspective, there is some competitive intelligence you can do to screen potential targets beforehand. Publicly generated statistics track AmLaw 200 firms according to profits per partner, revenues per lawyer and number of attorneys. For smaller firms whose information is not typically published, you may have to rely on reputation and firsthand experience as a starting point. Survey data such as salary or turnover statistics from the National Association of Legal Placement can give you a comparative index when you're looking at firms in new geographies. Deal-oriented databases provide a perspective on the clients and prospects that you may want to target.

**Ann Lee Gibson, Ph.D., a consultant specializing in competitive intelligence and business development for law firms:** *"When researching, look at several years' worth of information from databases that track the kind of legal work your firm is seeking to do for the types of clients your firm would like to attract. Then pay attention to lawyers and firms already working for the clients you want to target. Some databases such as LexisNexis CourtLink offer amazingly detailed information about litigation work, including the types of litigation particular lawyers do and the companies they represent."*

## Conduct Due Diligence

Whereas qualitative factors such as firm culture and reputation are less tangibly measured, financial due diligence is the quantitative part of the decision-making process and should be as thorough and accurate as possible, given available data and toolsets. The traditional model for discerning whether a target meets a firm's established criteria has historically been through conversations. Typically, the potential seller provides volumes of reports for review (e.g., three years of financial statements). The receiving firm evaluates the information and inputs it into spreadsheets for interpretation. This process usually includes sampling to make sure that the reports are accurate. Given the business intelligence technology available today, this labor-intensive process can be streamlined to provide the greater insights that firms need to protect against risks and make strategic business decisions.

To fully understand the benefits of applying business intelligence tools to pre-merger financial analysis, it's important to recognize the problems inherent in standard, paper-based reporting, including:

*The target firm controls the filtering and definitions that may not match your own (e.g., management hours included in billable time).*

*Reports by definition are incomplete, since you're only getting a subset of information.*

*Paper reports are "flat" and do not provide the ability to dig deeper within the data. They don't provide a mechanism for following up on red flag issues other than a live conversation, which slows the process.*

*Paper reports are inefficient, as they have to be run and copied, thus generating volumes of paper and creating an administrative burden for both parties. Even if your firm transfers the information into Excel for analysis, the information has to be rekeyed.*

*Reports vary from firm to firm, making comparative measurement difficult. If the target firm uses a different financial system, report structure or data fields, you may not be able to interpret the results effectively.*

A faster and more thorough way of conducting pre-merger financial due diligence is to compile a data request specific to the other firm's systems (e.g., billing and collections), specifying tables so that the data can be received electronically and normalized to your data structures. This data can then be run through an analytic platform modeled in your firm's image. Even if the conversation does not lend itself to getting the data digitally, you can get similar base inputs verbally or in hard copy that allow you to then leverage the standard outputs. Using a multi-dimensional approach, you can analyze the target firm on a standalone basis for a *pro forma* review of material clients, billing timekeepers, working timekeepers, overhead, etc. Once you've developed a *pro forma* on the acquired firm, you can use the information to do an as-merged analysis on the new combined firm. By utilizing the power of advanced analytic tools, you can perform a more thorough and accurate analysis in less time than with traditional evaluation processes.

Whether you employ multi-dimensional analytics, use a database or manually crunch numbers, it's still the evaluation that counts. Focus on areas that will drive revenue (e.g., clients, billable hours, collections) and ones that could potentially offer cost savings (e.g., operational staffing ratios, leases). As a seller, it's equally important to conduct an analysis of the acquiring firm's data. This will help both

parties identify financial synergies as well as disparities. The analysis should be iterative. Don't try to get all the answers on the first pass – you'll have wasted valuable time if the deal cannot be consummated. Don't dive all the way to the bottom; dive broadly but shallow. Stop to ask questions and then go in deeper to understand the key drivers. You don't need to analyze everything, only what's most important based on the strategic goals set forth. Identify the important financial issues, validate and understand the data and proceed in a focused manner. The benefit of conducting this review in an automated universe is that you can do multiple analyses instead of one lengthy analysis.

**Lisa Smith, Director and Merger and Consolidation Group leader for Hildebrandt International:** *"We typically look at the current year's budget, as well as the financials for the three years prior. It's important to consider the variables such as how each firm measures profits and how partnerships are structured. For example, you could have firms with different incomes per equity partner, but they may actually have similar compensation. Similarly, geographic differences can affect the numbers. If a firm in Cleveland and a firm in New York City both have average revenues per lawyer of \$400,000, the firm in New York City is probably not as strong a firm given its market."*

Another key technique in quickly understanding a target's business is to develop an automatic scoring system as part of your top-level financial evaluation. Scoring methodologies should include a series of measures encompassing the key profitability drivers and focus on accountability. For example, client scores from A to D can be generated using a combination of billing realization or margin, collection speeds and size. Billing attorney scores should derive from the key financial metrics that they control – billing speeds, leverage, client discounts and the scores of their clients. Finally, productivity and direct margins can be used to analyze the working timekeepers.

Use the data to develop rankings for practices, offices, clients and billing attorneys. This is an important way to identify what to keep and also what you may be at risk of losing. Keep your firm's goals in mind and override lower "grades" if they do not detract from the pre-determined strategic focus. For example, an important segment is the intersection between billing attorneys at risk of leaving but whose clients you need to retain. This list enables you to proactively formulate a plan

to maintain those clients, even if the billing attorney leaves on your terms or of his/her own volition.

Be on the lookout for red flags such as capacity issues (e.g., under or over-utilized attorneys), work ethic differences (e.g., billable hours per attorney), realization differences and compensation disparity. Also, be wary of recent changes such as fewer thriving clients, lower productivity or declining effective prices. By methodically moving between the client and attorney views and evaluating the trends you'll not only improve your due diligence but also better plan for Day One following the merger.

*John Smith, Chief Operating Officer at Ogletree, Deakins, Nash, Smoak & Stewart P.C.: "Real estate, debt level and retirement obligations need to be assessed early on. We find it helps immensely to have some parity between the firms, and we try to look at the numbers on a consistent basis – billable hours, effective rates, compensation and revenue. Our objective isn't just to add attorneys or office locations but to create complementary practices and client synergies – a win-win where we can be successful together. So we spend a great deal of time looking for those opportunities together."*

Of course, technology alone shouldn't eliminate face-to-face conversations, but it can change the nature of those discussions and help the parties focus attention on the issues that should be covered. Many negotiations start with easy points and push problem areas to the back burner. This can lead to dead-ends and wasted efforts. Start with the non-negotiable or potential deal-breakers rather than waste time on a deal that cannot be consummated. Most importantly, remember that negotiation is not a transaction – it's the first step in the relationship. Manage upfront conversations in line with the way you would treat an existing partner. Be candid with the other party about your intentions and objectives and look to build value for both parties.

### Integrating People and Processes

Successful mergers involve a tremendous amount of operational planning, such as blending HR or client intake processes, training attorneys and staff, consolidating technology systems and monitoring financial measures. "We're always looking for better ideas," according to Ogletree's John Smith. "We learn something each time we look at another firm." Smith adds that integrating attorneys and billing rate practices can take time. "In markets where

rate increases are appropriate, we would implement them over time to avoid sticker shock. However, we have some attorneys join us because we have a more competitive rate structure than their current firm."

Once you've decided to merge, how do you get off to a fast start and build post-merger momentum from a business development perspective? Since you're acquiring the merged firm's history, including their past and existing relationships, another area in which business intelligence tools can be utilized is to mine both firms' active and dormant clients for sales opportunities. Your marketing department can mitigate risks by identifying clients at risk of leaving the firm and by predicting the impact that the lost revenues would have on the firm, then seize opportunities by targeting clients that offer the most revenue potential and leverage marketing dollars accordingly.

### Measuring Success

Post-merger analysis can be difficult and is rarely done to the extent that it should be, because from a cultural perspective merged firms don't retain separate identities. Most firms don't want to talk about legacy firms – especially not the legacy firms themselves, since that is divisive to the culture of the new firm. However, not analyzing post-merger performance is a lost learning opportunity and may leave cash on the table. Find a way to analyze what *occurred* compared to what was *expected*, so you can make adjustments for both the future of the existing firm and in future merger target identification and negotiation. To avoid divisiveness, the results need not be shared broadly, just with those who will be involved in future acquisitions. Understand that while it can take a few years for the firms to fully integrate and produce desired results, you can be learning in the interim.

To determine if the merger is producing results:

*Code for a year the original source of clients and prospects by firm, responsible attorney or other mechanism and track if new business has developed as expected.*

*Evaluate how the cost of the acquisition and its integration impacts short-term profits.*

*Quantify the pace of the integration of processes and systems, so that in the next deal you can fine-tune your work plan to yield quicker results and more substantial savings.*

*Measure success based on how the type of work you're doing, new clients and lawyers measure up to the firm's strategic goals.*

Both sides of the negotiation table can benefit from utilizing business intelligence tools to dig deeper during due diligence. By performing a thorough financial and client analysis throughout every stage of the merger lifecycle, your firm can avoid pitfalls and maneuver effectively to reach strategic goals, thus improving the likelihood of a successful merger.

**For information about merger planning and analytics, visit the following:**

|  |  |
|--|--|
| <i>Redwood Analytics</i>                       | <a href="http://www.redwoodanalytics.com">www.redwoodanalytics.com</a> |
| <i>Hildebrandt International</i>               | <a href="http://www.hildebrandt.com">www.hildebrandt.com</a>           |
| <i>American Bar Association</i>                | <a href="http://www.abanet.org">www.abanet.org</a>                     |
| <i>American Lawyer Media</i>                   | <a href="http://www.law.com">www.law.com</a>                           |
| <i>Thomson Financial</i>                       | <a href="http://www.thomson.com">www.thomson.com</a>                   |
| <i>LexisNexis CourtLink</i>                    | <a href="http://www.lexisnexis.com">www.lexisnexis.com</a>             |
| <i>National Association of Legal Placement</i> | <a href="http://www.nalp.org">www.nalp.org</a>                         |
| <i>CFO Magazine</i>                            | <a href="http://www.cfo.com">www.cfo.com</a>                           |

## *Leveraging the Sales Culture*

### *In Post-Merger Firms*



by Barry Solomon of Interface Software, Inc.

In today’s legal landscape it’s highly likely that your firm will eventually be involved in a merger or acquisition, either as the acquirer or seller. Decisions to merge with or acquire another firm pass through many stages – from setting strategic goals to identifying potential targets and performing due diligence to the final partner votes. Considerations are many and include firm culture, reputations, client base, infrastructure, debt, revenues, compensation, attorney productivity, profitability and more – but there’s basically one end goal: to form a stronger, more profitable firm.

#### Now for the “Bad” News

In view of this ongoing trend, it is perhaps surprising that few business combinations ultimately succeed in delivering the value and benefits envisioned. Consulting firm McKinsey & Co. conducted an eye-opening study of 193 mergers that took place between 1990 and 1997. They found that only 12 percent succeeded in maintaining revenue growth in line with their non-merged peers\*.

The reason, in McKinsey’s view, was that too much emphasis was placed on post-merger cost-cutting and too little on

revenue generation. The report concludes that success is determined by an organization's ability to protect and generate revenue growth just after the merger.

### Shift in Emphasis

The implication for law firms of the McKinsey study is evident. Undertaking efforts to cut costs and increase efficiencies will always be a necessary element of post-merger activity – after all, redundancies in fixed overhead costs, such as administrative services, inevitably result when two organizations combine. But the ultimate success of the newly merged entity will not hinge upon how quickly and thoroughly efficiency gains can be measured; rather, how effective the firm is at leveraging its strategic assets in revenue generating activities.

### Blossoming of the Sales Culture

Until very recently, the mere suggestion that law firms engaged in anything remotely resembling sales would have been ridiculed. Convention dictated that lawyers attract clients via competent and zealous representation, not by “peddling” door-to-door. Yet times have changed. A sluggish economy, increased competition due to the spate of recent mergers, loosening marketing restrictions and the growing sophistication of clients with a willingness to shop law firms have created a new sense of urgency. Firms can no longer rely upon only talent and success to bring clients in the door. They are starting to borrow sales techniques from the mainstream corporate world to ensure a steady flow of matters and to better predict future opportunities that will lead to revenue generation.

Following are some sales techniques that are now becoming mainstream in law firms, both to meet projected revenue targets post-merger and generally to improve a firm's competitiveness.

### Opportunity Management

Traditionally, a firm's ability to manage prospective business – both new client acquisition and cross-selling opportunities – has been extremely limited. Lawyers charged with business development more or less worked in isolation or in small teams as they pursued new matters and clients. Coordination among individuals and groups was minimal, often leading to unintended conflict such as when two lawyers unwittingly pitch the same client on the firm's services. In megafirms or those that recently underwent a merger, the problem was magnified because often one office's business development efforts were completely independent of another's. And the lack of personal relationships among large firm colleagues or among colleagues of newly combined firms increased the likelihood of confusion or embarrassing mishaps.

The lack of centralized visibility into prospective business opportunities also takes a toll on the management of large and newly combined firms. High fixed costs such as salaries and large debt burdens make revenue predictability particularly critical for large firms. Management committees increasingly must understand the pipeline of current business development projects and the likelihood of their conversion into revenue in order to ensure liquidity and profitability.

In response to these business needs, many firms are turning to sales techniques common in traditional corporations to ensure healthy and robust opportunity pipelines. Client development teams meticulously track potential engagements and the revenues that can be expected based upon the probability of closing new business. These reports are combined and funnel up to management to present an accurate snapshot of the overall flow of prospective work that the firm can expect over a given period of time.

Technology infrastructures are also available to help systematize previously chaotic reporting mechanisms that firms have cobbled together. For example, client relationship management (CRM) systems have evolved beyond their traditional focus on people, companies and relationships to provide structured opportunity management. They empower firms to manage new opportunities through firm-defined sales stages to closure, making it easier to predict future revenues and take preemptive action if the sales pipeline does not match expectations.

These systems will also track and manage referrals or acquisition candidates, enabling firms to identify and focus efforts on relationships that bring business to the firm. They also can estimate and forecast revenues, monitor the opportunity pipeline and produce meaningful management reports so that management has constant intelligence pertaining to the sales health of the organization. They can also support distribution list management and maintenance, providing firms and organizations with the ability to streamline day-to-day communications surrounding any pending deal or opportunity.

### Relationship Capital Management

Other assets law firms have at their disposal that can be leveraged in a sales culture for new business development fall into two categories: knowledge assets (what lawyers know) and relationship intelligence (whom lawyers know).

As the McKinsey report implied, by placing primary emphasis on maximizing knowledge and relationship assets firms will see the greatest bottom-line revenue impact following a merger or acquisition. To support these activities firms will

require the correct IT infrastructure to support these activities. CRM systems are also playing a central role in this regard.

For instance, the business of law always has and always will be centered upon personal relationships. Regardless of how sophisticated marketing and business development programs become, clients ultimately are retained by – and remain with – a law firm based upon the quality of relationships they forge with their lawyers and the service they receive.

Historically, as part of their “rainmaking” duties, lawyers involve themselves with religious, business, civic, charitable and social institutions as a means of networking and ultimately building their practices. Over time, their network of relationships becomes an ongoing source of referrals and new business.

After a law firm merger, however, a major disconnect immediately emerges, because the relationship networks between the two formerly independent firms are not integrated. For example, a business development team might be submitting an RFP to win a new Fortune 1000 client. Part of the process would naturally include internal queries to uncover whether any other lawyers within the firm possess relationships with the prospective client that could potentially benefit the outcome.

In most instances immediately after a merger, individuals are not well acquainted with the new lawyers who now comprise their firm, let alone the relationships they possess that could be instrumental in business development. But it is precisely a firm’s ability to leverage these additional relationship networks that will determine how successful the merger will be.

At many successful law firms, CRM software capable of managing and tracking relationship intelligence has been put in place to help leverage the collective relationship networks of all lawyers within the organization. CRM software can also play a pivotal role in quickly linking together the relationship networks of all the lawyers within the newly combined entity.

Through social networking functions built into these systems, users can instantly view, for example, who else within the firm has a relationship with a prospective client. Some systems also offer relationship-mapping capabilities, providing a lawyer with a relationship pathway to a prospect via intermediary relationships. So using this CRM functionality, I might discover that two lawyers with whom I am not personally acquainted but who are now colleagues might be in a position to broker an introduction between me and the prospective client I’m trying to win.

By employing strategies and IT tools capable of integrating a firm’s relationship intelligence, law firms can quickly and efficiently harness their hybrid network of relationships in a manner that can deliver value quickly to the firm.

## Cross-Selling

Most law firms merge with or acquire other firms not simply to obtain the clients of the target firm – doing so would be of marginal value, as the firm is also taking on the overhead of additional lawyers, support staff and other fixed costs. Rather, the “holy grail” of mergers is the hope of leveraging expanded staff and capabilities to enhance cross-selling opportunities, thus increasing per-client revenues and profits.

Two challenges immediately confront a merged law firm seeking to increase cross-selling opportunities: visibility into internal experience and expertise and obtaining a shared, 360-degree client view. For example, to cross-sell more effectively, client development teams must necessarily know who the firm’s clients are and understand their businesses and the past work that has already been done for them. Without access to this information, analysis into potential cross-selling opportunities is virtually impossible. The challenge is even more daunting in a post-merger situation in which an entirely new and unfamiliar client base is being assimilated.

Likewise, once the client base has been analyzed and segmented, a client development team must then match potential revenue opportunities with internal staff capable of delivering the necessary legal services. Often in a post-merger environment it takes considerable time for lawyers and marketing staff to become acquainted with the new firm members and their practice specializations and experience. When time is of the essence in business development, this lack of familiarity with the firm’s collective experience and expertise pool can be a considerable threat to garnering cross-selling success.

Again, CRM systems can drastically reduce a firm’s ignorance of its own knowledge resources and increase visibility of experience and expertise information required in effective cross-selling. For example, these systems can integrate with time and billing, human resources, contact managers and other back-office systems and aggregate this relationship intelligence to provide a holistic view of clients and their entire relationship with the firm. Once deployed, this allows users instantly to see profiles of all firm clients, with whom they’ve worked in the past, on which matters and to what result.

Once a client has been profiled in this way, it is incumbent upon the business development team to determine what areas

of opportunity exist for selling additional services to existing clients. This requires access to practice group information as well as the skills and expertise of lawyers that would potentially service a client.

The challenge of manually aggregating this information can be difficult enough for firms even under ordinary circumstances. However, in a post-merger environment where familiarity with new members of the team is at its lowest, effectively aggregating experience and expertise information and applying it to existing opportunities can be a near-impossible task.

Today, most firms lessen this challenge by implementing CRM packages capable of aggregating and managing experience and expertise data. With quick access to lawyer specializations, matters worked upon, industry experience, etc., matching lawyers to cross-selling opportunities can be greatly simplified.

Dangers also present themselves in the weeks and months following a merger. Firms must be aware of these risks and manage them; otherwise, they might lose the competitive advantages garnered by the combination.

## Client Service

Foremost among these dangers is the negative impact that merger activity can have on client service. New lawyers and staff unfamiliar with the details of an engagement or the client's preferences may be brought into existing matters. New responsibilities and administrative duties imposed upon lawyers and administrative staff may reduce the amount of time they normally spend with clients. And the inevitable integration of multiple IT systems can lead to duplicate data and resulting miscommunications to clients.

CRM packages can be most effective in these circumstances to ensure quick, accurate and consistent client communications. Some of these systems now have sophisticated built-in data quality and data-change management tools. This is critical because as much as 30 to 40 percent of all contact data possessed by the merging entities can be duplicate or inconsistent. Without tools to identify potentially inaccurate, duplicate or out-of-date information, client and prospect communications can suffer, causing unnecessary embarrassment to the firm and client doubts about the firm's ability to emerge stronger from the business combination.

CRM can also be used as a tool for client relationship managers who need to ensure consistency among all client

touch points. For instance, during the tumult of a merger important client activities can easily be overlooked or forgotten. To minimize these risks, business activity monitoring functionality within the CRM system can be set to notify a lawyer of specific events or non-events warranting attention. Examples include:

*Notification of all top clients who have not been communicated with by anyone within the firm for certain periods of time*

*Alerts when "overdue" billing notifications are sent to key clients*

*Alerts when other firm members telephone, e-mail or otherwise communicate with top clients*

*Notifications when client contacts have changed jobs, received promotions or left their companies*

Clients must have confidence that their legal advisors are tuned in and totally aware of all activities relating to their matter. During a merger or acquisition, lawyers who are already busy can easily overlook an important detail and hence unwittingly do damage to the relationship. CRM systems are now sophisticated enough to serve as a backup resource, constantly monitoring client interactions and alerting the lawyer when something important has happened (or failed to happen) that warrants attention.

## Combine Strengths, Not Weaknesses

The overwhelming majority of corporate mergers and acquisitions do not bring about the increased revenue and profits originally envisioned. Why? Because the merged entity fails to adequately leverage the strengths of the combining organizations. For law firms, the ability to proactively manage opportunities and leverage the knowledge and relationship assets of professionals are essential activities.

CRM systems have already proven themselves in the marketplace to be the most effective tools for managing a firm's relationship intelligence and helping lawyers leverage who and what they know for competitive advantage. In a post-merger environment, the need for a centralized CRM system emerges as critical, enabling the firm to capitalize on the strengths of the combined entity while enabling consistent high levels of client care. Any firm considering a venture of this sort should think twice if it does not have the CRM infrastructure already in place to ensure revenue growth and consistent client service. The success of the merger could well depend on it!

\* "Why Mergers Fail," Matthias M. Bekier, Anna J. Bogardus, and Tim Oldham, *The McKinsey Quarterly*, 2001 Number 4

# Supporting Document Production

*In a Newly Merged Firm*

by Teresa Morris of Legal MacPac



In today's environment, "the birth of the megafirm" is generally the result of a merger of two or more large firms. There are many challenges associated with this scenario, not the least of which is the daunting task of combining two, often disparate, technology environments. This coming together of two entities also adds the complexity of expanded collaboration requirements (often encompassing both domestic and international offices), expanded court jurisdictions, expanded practice areas and much broader support imperatives.

This article will focus specifically on a strategy for evaluating, selecting and implementing template, macro and numbering solutions to support the document production requirements of the large, multi-office, multi-national firm formed when two large firms come together.

Given that recent surveys indicate that most large firms today are using Microsoft Word, we will assume that as the baseline document production platform.

## Interim Steps

In a perfect world, when a merger occurs, the technology staff receives enough notice to form a viable plan for merging the two technology environments prior to the merger date. Unfortunately, we don't live in a perfect world, and interim strategies must be employed to allow time for proper assessment, project planning and implementation of a cohesive document production strategy that will meet the needs of a large enterprise, including:

*Modification of firm templates, letterhead and styles to reflect changes to the firm name, office locations, etc.*

*Development of interim strategies to support the flow of documents between members of the firm. This strategy may require the acquisition and deployment of third-party conversion or document manipulation tools to maintain the health and viability of the documents, particularly if the two merging firms are using different document production platforms (e.g., MS Word and WordPerfect) or significantly different releases of the same product.*

*Adjusting support resources to ensure that when issues come up they are handled quickly and with minimal disruption to document production. This might include cross-training the support staff of the formerly separate entities to ensure adequate support for both environments, adjusting support service hours to accommodate multiple time zones and providing training workshops for attorneys and staff who collaborate with other groups within the firm.*

With those pieces in place, technology personnel are able to focus on a more comprehensive plan for merging the two document production environments into one.

## Needs Assessment

This stage of the process requires careful coordination with firm members. It's important to gather requirements from all

practice areas, as well as from the administrative areas of the firm, such as accounting and HR. Involving and receiving input from all types of users will significantly enhance the quality of the data gathered. While the technologists are in a position to evaluate the technical viability of the product(s) being considered, it's the users who determine the features necessary to produce documents to support the firm. The attorneys can articulate their specific practice-related document requirements, and the support staff (secretaries, document processors, legal assistants) can generally relate current practices and creative solutions to existing technology gaps and the process for producing the firm's documents. This information can be gathered via questionnaires, focus groups and one-on-one conversations, as well as a thorough review of representative documents submitted by each practice group.

To prepare for evaluating all aspects of the document production software you should also examine the desired integration points between other firm software. Examples include (1) using the word processing program to format bills generated by the accounting system, (2) using the contact address information of a CRM (contact relationship manager) to generate letters, memos, faxes, labels, and envelopes and (3) using a human resources database to insert information such as names and attorney bar numbers in specific document types like letters, memos, faxes and pleadings.

It is also important to determine what additional products need to be incorporated to provide a complete and fully functional document production environment. Such add-on products should be determined by the needs of your specific practice areas and include:

***Metadata tools.** If the firm routinely sends electronic versions of documents outside the firm, it's important to have a strategy in place to ensure that no hidden data is inadvertently sent along with the document. Several tools are available to scan for metadata before a document leaves the firm in electronic format.*

***Redlining tools.** Particularly if the firm has a large business practice, an automated tool for redlining documents is important. There are multiple add-on products available, as well as features inside Word, to accomplish this. If the firm is planning to deploy a redlining tool, this should be tested not only with native Word documents but also with the template and macro package the firm is deploying.*

***Litigation-specific tools.** If the firm houses a large litigation department, automated tools for checking citations, as well as the generation of tables of authorities, should also be considered.*

***Tools for document assessment and repair.** Even when deploying good document automation tools, you're bound to encounter situations where documents start behaving in unexpected and undesirable ways. Fortunately there are tools available to assess the health of documents and make repairs when needed. Again it's important to ensure that these tools function with native Word files, as well as with the template and macro package you're deploying.*

***Tools for conversion and/or reformatting.** One last issue to consider in this phase of the project is a methodology for bringing older documents into the new environment. If the baseline word processing software is the same, this can be as simple as some minor modifications to settings within the document (e.g., compatibility options) and application of the new firm styles and templates. But if the documents are moving from an entirely different product or a much earlier version of Word – or if the document population as a whole has been exhibiting instability or unexpected behavior – tools for converting and/or repairing existing documents should also be built into the plan. Finally, you should devise a strategy for replacing references to old firm names, letterhead and other firm-specific references as you revise older documents.*

During this assessment phase, it's as important to determine what the users *want* to do as what they *are* doing. It's an opportunity to fill in the gaps where users have been employing creative but often time-consuming and inefficient solutions to technology deficiencies. The disruption and natural aversion to change can be mitigated by offering new capabilities and solutions to long-standing document production challenges. To facilitate the evaluation of available products, it's helpful to prepare a matrix that includes both required elements and those features that are desirable but not absolutely required. Reviewing the solutions employed in other firms of similar size and practice types will also augment the product assessment. If the merger includes the addition of overseas offices, it is important to determine the practices and conventions of those regions, as they generally exhibit significantly different approaches and requirements than those employed domestically.

## Product Evaluation and Selection

Armed with the results of a needs assessment, a product evaluation and selection process can begin. It's important to look at not only the products already in use but other product offerings that might better suit the new environment. Initial vendor presentations should be used to narrow the field, measuring these initial evaluations against the requirements matrix prepared in the needs assessment phase.

When considering the available products, the firm should factor in the depth of its technology staff, as well as whether it chooses to engage in internal development tasks or prefers a more off-the-shelf suite of products. If the technology staff can't support a product that meets all of the requirements determined in the needs assessment phase – or if the products don't allow for the type of internal development or customization required – the project likely won't succeed. When evaluating the pricing structure of the products under consideration, assess not only the initial cost of the product but also any ongoing costs associated with maintenance, new customization requests, support, etc. Often, one product may appear to be more costly at the outset but in the long run will provide a better mechanism for internal staff to further develop, customize and maintain the product – thus producing a significant cost savings over time.

When assessing products already in use, they should be evaluated not only for how well they performed in the previous environment but how well they will transition to serve the needs of the now much larger and growing enterprise.

The evaluation should focus on the functional aspects of the product (usability, efficiency, etc.), as well as supportability and extensibility. Finally, the evaluation should consider integration points with other products used in the environment, such as document management systems, CRM products, metadata tools and redlining tools,

Some of the evaluation criteria to consider are:

**Scalability.** *Is the product architected to allow increasing numbers of users without adversely affecting other areas of the system (e.g., network traffic, interaction with other programs, etc)?*

**Viability.** *Does the product's architecture take advantage of current technologies? Does it demonstrate a clear future development path? Does the vendor keep current with new releases of the baseline software (MS Office versions, operating systems, network architecture)? Is the product updated regularly, adding new features and addressing open issues?*

**Distribution.** *Is the product architected to allow for straightforward packaging and distribution methodologies? Can updates be deployed without compromising user settings and individual customization choices?*

**Supportability.** *Does the product provide a mechanism for continued development to meet the needs of the larger organization? Can changes be made by the firm, or is*

*there a built-in reliance on the vendor or outside consultants? Is there a stable development platform to facilitate future changes? Does the vendor provide support and training in this development platform?*

**Vendor Support.** *Does the vendor provide ongoing support for questions, issues and further development? Do they offer training opportunities for new technical staff? Do they have a proven track record of providing good telephone support and being responsive to critical issues?*

**Integration.** *Does the product "play well with others" – in other words, is integration with the firm's chosen DMS (document management system), CRM (contact relationship manager) or e-mail contact program, redlining tools, metadata tools, etc. supported?*

**User perception.** *If the product has been used previously by one of the merged entities, how do the current users regard the product?*

**Training.** *How complex is the product to teach? Do documents that are produced using the product port well to environments that employ differing technology approaches?*

## Take a Test Drive

Once the choices have been narrowed down, the next step in the evaluation process is to actually test the final two or three options. While an evaluation copy of any template and macro package will not include firm-specific customizations, experienced document processors should be able to objectively evaluate the products apart from that. Additionally, to ensure that all facets of the products being considered are evaluated, a testing script is helpful.

During the hands-on evaluation, real documents should be created, edited, printed, e-mailed and faxed. The documents created using the potential products should be evaluated against Word's best practices. A determination of the health and viability of the documents produced should be made.

Finally, all types of users should work with the products in order to gauge the relative complexity of the training tasks ahead and the usability of the products.

## Product Customization, Configuration and Testing

Once you've selected the template and macro package that best suits your firm's needs, the customization and configuration process begins. Close collaboration with the vendor and users is required. To determine the customization required to make the product most efficient within your organization, consider the following:

**Firm standards.** Nowadays, documents are delivered electronically as often or more so than paper copies. When designing letters, memos, faxes, pleadings and business transactional documents, consistency is essential – not only in the “look” of the document but also in the non-wavering adherence to pre-defined styles and formats. To facilitate this, templates should be created that are flexible enough to meet complex document creation requirements, while adhering to the firm’s selected standards for fonts, formatting and paragraph constructs. In many firms, these standards are determined by the marketing or client relations department, which simplifies the task of devising templates and styles to accommodate these standards. In other organizations there are no pre-defined standards, so the best way to determine common practice is a thorough review of existing documents. Where no standards exist, the door opens to introducing the concept of standardization.

**Existing document practices.** A careful review of current work product from all practice areas, as well as the administrative areas of the firm, will provide a guideline for the templates and styles you need to create and/or customize. These documents, coupled with input from attorneys and document processors, ensure that the needs of the entire firm are accommodated. Additionally this review provides an opportunity to devise the templates and styles in such a way that those new techniques and more efficient methods can be gained in the new environment. Working with attorneys and those responsible for creating and formatting the firm’s documents allows you to gain buy-in by those who will be using the new product – a definite advantage.

**Document production practices.** When devising templates and styles, consider the organization of the document production support staff. If secretaries and document processors support multiple attorneys and multiple practice areas, you can gain efficiency by devising the templates and styles such that preferences can be set by attorney or practice area and recalled for later use. Close collaboration with the template vendor will help the firm devise strategies to accomplish this goal.

**Technology staff education.** If the template vendor or other outside consultant is providing template creation and customization services, it is important that members of the technology staff stay involved in the process, answering questions as needed, thoroughly testing customizations requested by the vendor and becoming familiar with the chosen application. If technology people are involved and become comfortable with the technical details of the product, the firm becomes more self-

sufficient, avoiding a situation whereby every modification and troubleshooting event requires intervention by the vendor or consultant.

**Training development.** Involve the training people early in the customization phase of the project. They have unique insights into the way your users work and can provide valuable information when determining the customizations to be done. Once the first phase of customization has been delivered, use them to review the resulting documents to ensure the accuracy of all formats. This familiarizes the trainers with the product and gives them the opportunity to develop training materials and curricula early on.

**Testing.** Once the vendor or consultant has delivered the customized product, thorough testing is imperative. Testing should be conducted not only by the technology staff and trainers but also by end-users at all levels. The process should include testing for the completeness and stability of the customized product, as well as usability. If the product as configured is too complex and/or provides too few or too many choices for styles and formats, your users won’t use the tools you’ve provided. It’s important to conduct both functional and usability testing in an organized, well-documented fashion, ideally using a testing script to ensure completeness.

The final testing step is to ensure that the document production environment you’ve created “plays well with others.” It’s important to make sure the product works well with the DMS in place – that integration with a CRM, e-mail contact program and/or firm database is solid and has no adverse effect on other portions of the system and that the solution will continue to work as designed, as the number of users increases.

## Product Deployment

The plan for deployment of the new document production environment can be developed concurrently with the customization and testing phase. Careful planning is required to ensure a smooth transition. In preparing the deployment plan, consider the following:

**Pilot.** Plan for a pilot to deploy the new environment to a limited number of users, one that encompasses all aspects of the total project. During this phase, gather feedback from all participants, including pilot participants, trainers, help desk, floor support staff and the project team. Be sure to build in time between the pilot and actual rollout for any refinements based on feedback.

**Scheduling.** When developing the schedule for deployment, carefully consider workload. You don’t want

to schedule the financial practice group for training and deployment during the holiday season, for instance, or schedule a litigation team for deployment in the middle of a trial. And it's important to consider working groups when creating the schedule. This can be one of the most challenging aspects of the deployment phase of the project. It is best to schedule individuals or groups of individuals who share documents and regularly collaborate as closely together as possible. Likewise, it's advantageous to minimize the amount of time a practice group is working in both the old and new environments. Although it's impossible to avoid this situation altogether, be sure to have a plan for moving the documents back and forth between old and new environments as required.

**Support.** Plan for plenty of it. This includes temporary secretarial help during training, help desk and immediate floor support for individuals who have just returned from training.

**Take Breaks.** The deployment of a new product or technology environment is stressful for both technology staff and the users. Build in time to catch your breath and make any needed modifications.

**Communication.** The value of communication throughout the life of the project cannot be underestimated. Keeping your users, colleagues and vendors apprised of status, schedules, issues and successes can be a determining factor in the success or failure of the project.

## Conclusion

While the task of combining document production practices in a merger can be daunting, it's a great opportunity to deliver the best possible tools to your users. By taking the time to assess, evaluate, plan and test, your chance of a successful program will be greatly increased. And though you can never please all your users all the time, if you put a process in place to receive and deal with continuing feedback and suggestions and if you continue to refine and build on the environment, the users will continue to feel a part of the process and therefore more readily will embrace the product(s) you provide them.

## Successful Roll-Ins

### Unifying People, Technology and Tradition



by Adriana Linares of LawTech Partners, Inc.

I often hear of the merger and acquisition boom that “was” in the ‘90s and think to myself – was? Why, the M/A boom still *is*! And the permutations are practically endless: large firm acquiring small firm, large firm merging with large firm, small firm merging with small firm to create medium firm ... and so on and so on. In this article I will the focus on one scenario – that of the large firm acquiring a smaller one. But I believe you will see that all the points made in that scenario are applicable to any type of merger or acquisition situation.

For many years I have participated in the activities involved in folding one firm into another, and I will share with you some merger/acquisition best practices from a technology, training and cultural perspective.

## Same O', Same O': C-o-m-m-u-n-i-c-a-t-e!

While it may sound trite, it's absolutely true – communication is critical. From the start of the M/A process it's key to convey information from the top down. When upper-level management fails to do that, you can be sure *someone* in the firm will step in to fill the void – usually inappropriately. The result too often is *miscommunication* – miscommunication from one secretary to another, from one associate to another, from one secretary of your firm to her best friend at the other firm and so forth. The worst way for attorneys and support staff to learn their firm is “talking” to another firm is through the “grapevine.” That sets off a firestorm of rumors, and the results are almost always counterproductive.

The formula to good communication is certainly *not* to “tell them; tell them everything; tell them everything now” – rather, the secret is knowing *when* to tell them *what*. Rumors immediately set members of both sides worrying – worrying about what will happen to their jobs, relationships, benefits, lifestyle and more. So much speculation and bad press could be avoided if leaders were forthcoming with information. It's like being on an airplane and experiencing turbulence. If the pilot would simply announce, “Hello folks, this is your captain speaking. Just wanted to assure you that all is okay – we're just experiencing a few potholes in the sky,” you know that you'd rest a bit easier. Same in a merger or acquisition. Details do not need to be discussed, and the announcements don't have to occur the minute the ink has dried on the legal documents. Yet there *is* a “right” time to tell staff *something*. Identify that moment and capitalize on it.

## How to Communicate the Merger Message

Firm management has the power to dominate the rumor mill, and again, it's not so much *what* is said as long as *something* is said. If you have an intranet, post a concise statement about “promising talks,” making sure to quickly market the positive effects of an acquisition or merger. Make the announcements positive and upbeat. Attorneys and staff will feel invested and therefore are more likely to support the effort. Hold a staff meeting, send out a memo and have shareholders inform their practice and support groups. There are so many ways to keep everyone in the loop, and they are bound to appreciate it.

## Whom to Involve and When

Obviously the details of M/A's must remain confidential during the negotiations and early phases of the process. But the time does come when those who should *be* in the know need to be *put* in the know. Who should they be, and why does it matter? You'll need to pull in the human resources, technology and training people; they're usually the “faces” of the merger. And as quickly as possible, a roll-in team should

be identified and huddled. The responsibility of this committee is to plan the events that will transpire in upcoming weeks to ensure a smooth roll-in of the new staff. The group should be composed of a representatives from all departments at each firm. The chair of this group is the “ambassador” of the union. He or she should be a person who is well-regarded and projects a positive outlook. He should understand the business of law. It's up to this person to consistently communicate a message of unity; there is no “your firm,” “my firm;” there is only “our firm.”

One must-have on the agenda is to determine the roles of other key players – members of training, technology, library, records and office services. For example, does the acquired firm have a benefits specialist or a trainer? If so, to whom will that person report after the merger, and what is his/her precise role? When directors don't understand the “new” organizational chart, it makes for a very unnerving situation. It causes people to speculate about other possible “unknowns,” and the rumor mill ratchets up again. The key to avoiding this scenario is to make the chain-of-command determinations and communicate a clear message regarding those roles.

This initial meeting or series of meetings should involve all major players and can later be broken down into departmental meetings. Valuable bits of information are mined from such meetings, enabling everyone to feel knowledgeable and empowered. This is your first level of communication. This team knows whom to tell, what to tell and when!

## Human Resources

HR specialists are charged with ensuring that the transition from one firm's administration to the other is as smooth and beneficial as possible. During your roll-in meetings they should become equally familiar with the policies, procedures, benefits and cultures of both firms. They should know about both the existing processes and the new plans in order to be able to knowledgeably address issues and answer questions. Obviously, they are essential in determining and communicating payroll changes. And since they will be dealing with the reconciliation of vacation days, sick days, personal days, etc., they should be given, when possible, the courtesy of time and information. The more of both they have, the better they will be able to meet their responsibilities.

This is the team that will assist firm leaders to determine which positions will be eliminated. It would be perfect in a merger if no jobs were lost, but when that is not the case, this team will need to have all the information about layoffs so as to be as humane as possible in handling those details.

## Technology

Chances are there will never be a “good time” for a technology department to orchestrate a merger. Often, firm management has little idea of the work it takes to integrate potentially opposing systems. The best time to let your technology leaders know of a pending merger is *immediately*. Much like the attorneys in your office, the tech department has events posted and scheduled on the calendar many months into the future, events that will involve both internal staff and external support, vendors, consultants, trainers and sales personnel. Having to pull people from projects not only disturbs the balance of that calendar but can and most likely will impede the rollout of that “priority” technology they’ve been charged with putting into place.

Once the seed has been planted and key players and roles are defined, your tech team should begin with an audit of the technology landscape as soon as possible. Findings of this audit should be circulated among all members of the roll-in team and to other key players. It should include a hardware, software and licensing inventory, and the inventory should be detailed enough to include the function of each program or hardware piece. This will help to determine comparable programs, viable solutions, new alternatives, training needs, hardware requirements and general decisions needed.

Merging data, applications and processes from one organization into another is tougher than you may think. Many times, a boutique or smaller firm will have homegrown applications or legacy databases; it will not always allow for a simple export and import. It’s critical for the technology staff to have sufficient time to plan for and implement merging systems.

## Training

Your trainers will often become the new staff’s most trusted confidants. They can be the sounding board for employees’ fears and personal concerns about the merger.

For this reason it is best to make sure your trainers have worked very closely with HR, management, accounting and IT so they will be armed with all the answers. And I mean *all* the answers. It’s so much better to say, for example: “Your benefits will begin on March 1. You will have the opportunity to ask all your questions to the HR department during your orientation on benefits, which is tomorrow at 2:00 p.m.” rather than “I don’t know.” A positive, informative-as-possible response puts questioners somewhat at ease; it makes them see that consideration for their position has been given. Moreover, it allows them to focus on the training rather than their personal concerns.

And trainers can help mitigate the stigma of “your way” and “our way.” During a training session, they should gently and perhaps humorously correct trainees who refer to the new firm as “you” – for example, “How do *you* handle time exceptions?” A skilled trainer can capitalize on this situation and promote the unity of the new firm.

## Timing: When to Train

When to train and how can be a logistical nightmare. Obviously, the training is easier in a small acquisition. But what do you do when you’re starting 100 people on the same day? Schedule a meeting of the roll-in team, and as a group decide what works best. The effort should be led by the person charged with leading the training initiative. By allowing the experience of your training director/leader to work closely with the “know-how, know-what” of the new additions, there is greater potential for a smooth and successful roll-in.

## Varying Training Needs

With attorneys, less is more. Do not expect them to attend all-day training sessions – it’s simply unrealistic. Instead, consider breaking attorney sessions into smaller units and possibly delivering training, system or procedural information via e-mail, PowerPoint presentations or lunch meetings. Training topics should include the basics upfront, but be sure to follow up with group sessions for large audiences or one-on-one sessions if the numbers are small.

Be sure your team has created an action plan for people with “special needs” – those individuals who have had minimal exposure to technology. And of course you’ll want to give the support staff in-depth and rigorous training. Start by addressing administrative procedures such as using the phones, copiers and fax machines. These are the “simple” details that can quickly escalate into problems if not properly explained, taught and documented. A series of short sessions may be better than several hours or even days at a time. Your training sessions should include key support personnel who can provide answers to the “How do I” and “What do I do when” questions.

## Cultural Issues

By having a good handle on training and technology, you will see that many cultural issues and barriers will fall into (or rather, out of) place. But it is also important not only to recognize but also to respect the traditions and cultures of all parties involved. In a merger or acquisition, the decision is typically based on practice needs or firm synergies; too often, cultural differences are only loosely considered, if acknowledged at all. It’s a mistake to assume that cultural

differences will create a minimum wake – or worse, to assume they won't exist. For example, employees at a small firm might be accustomed to having easy access to the managing partner, flexible work schedules or a relaxed dress code. It's during the execution of the communication plan that such cultural rules must be positively sorted out and communicated.

Tactics may include facilitating one-on-one meetings with each employee who is directly impacted or tackling large groups. If possible, host a "Welcome to the Family" event. It's a great opportunity to introduce faces to faces. During these affirmative events staff should be reminded that the merger process can be quite a challenge and that this isn't an "us against them" effort but rather a "we're in it together" journey.

### Establish a "Buddy System"

It's a tried-and-true method: pair a new employee with a current employee who will serve as a guide for the new one. Many things are accomplished this way. First, the new employee knows exactly to whom to go when they need an answer. Second, you can hope they will form a bond that will foster a team environment. And third, it will allow staff to share and shine. Find a current staff member who is willing to be a point person – one who has the time and the knowledge. Then, enlist (rather than "appoint") others for support. Look for volunteers – if they volunteer they will make the time.

Once you have identified this peer support team, invite them to a lunch and train them. Explain their duties and what is

expected of them. Reflect on the success of your initial roll-in team and consider this group an extension of that team. Communicate to them what you have learned during the integration process.

### Seize Opportunities

Does the newly acquired group have a more efficient, more streamlined process for doing something? If so, figure out how to institute that practice and capitalize on it. It will make the new group feel important and accepted, and it will make the current firm employees see the strength in a merger.

Finally, consider this an opportunity to initiate or enforce a change in behavior or policy. For example, if you've been thinking about enforcing an "enter your own time" policy, a merger or acquisition is often a great opportunity to do it. You can train the new group under a "going forward" stance and train them to perform time entry based on the new policy.

### After the Dust Settles

How do you measure the success of a merger or acquisition after it's completed? Consider a *post-mortem* satisfaction survey that seeks information from the employees' perspective about the transition. What worked – what didn't? Where did you fall short – where did you exceed expectations? Take it all to heart and be prepared to make your next merger, if it comes, a more successful one. It might be just around the corner.

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