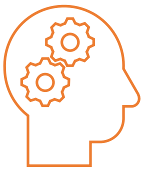
The Sales Lessons That Law Firms Still Must Learn From The Corporate World



By William J. Flannery, Jr.

Clarence Sheftall, possibly the best law book salesman of our time, once articulated the Golden Rule of sales. He said, “I never bought anything from someone I didn’t like, even if I needed it.”

As good as this advice is, I wonder how many lawyers feel instead that clients don’t need to like them; that results or the quality of the work product are what matters. The lawyers’ view of business relationships and work product is somewhat misguided. It misses the point that, in a professional engagement, the trust placed in you by the client is an essential part of the results and how the client views the work product quality.

Rapport (liking) leads to trust and trust becomes the glue that binds the parties in a business relationship. Trust and liking the seller are two inseparable components that are necessary to make up a successful sale and a business relationship. Trust in this context means more than assuming that the seller won’t pick your pocket. Trust is what will make the buyer’s interest the seller’s number one priority.

Profitable business relationships and sales have many things in common, not the least of which is this thing called trust. Indeed, trust is the foundation and prerequisite for any successful sale and, eventually, a profitable long-term relationship. To quote Buck Rogers, the renowned former VP of Sales for IBM, “Nothing happens in this world until somebody sells something to someone.”

When we look at the current state-of-the-art in the legal profession, we discover that law firms have developed more powerful and sophisticated marketing engines than would have likely been imagined possible twenty-five years ago. A very few cutting-edge law firm marketing departments have achieved significant success fostering the kind of business development environment that supports a true “sales culture.” Sales is basically finding a need and filling it. Helping clients with their needs is the major mission of all good lawyers.

But that next step has been very slow to happen. Despite the notable efforts of some firms to recruit “sales managers,” the transition to a true sales culture still mystifies many law firms. There is a reason why – actually seven reasons why. These are the missing links to sales – the strategies and tactics that the corporate world identified many decades ago and have become the guiding principles of our modern corporate sales cultures.

They are:

- Skills to Sell
- Institutionalized Sales Process
- Major Account Management
- New Prospect Marketing
- Product Marketing
- Compensation
- Measurements for Success

Let's take a closer look at these missing links and consider their specific relevance for law firms.

Skills to Sell

In the corporate world, these skills are given a very special premium. They are stand-alone assets that define a separate and highly valued professional sector. Some people have management skills, some people have technical skills, and some people have sales skills. If you've got all three, you can be Jack Welch; however, the sales force need not have any skills except sales skills to be highly valued and highly placed on the corporate hierarchy. Without an effective sales force, the products and services never leave the plant, the office or other facilities. And, to be effective, everyone on that sales force shares a common vocabulary and culture.

Lawyers instinctively recoil from sales culture and jargon. Many lawyers view salespeople as less intelligent. Lawyers feel that salespeople are superficial, especially compared to professionals like themselves with substantive (i.e., technical) knowledge of patent law, corporate finance or the rules of evidence.

Here is the first and biggest difference between marketing and sales at law firms. Marketing can be technical in the sense that a substantive newsletter about patent law accomplishes a marketing purpose. So lawyers can sign off on marketing, but stop short at sales. However it is important for lawyers to understand that marketing does not build interpersonal business relationships. It is "good selling" that creates trust, trustworthiness and "liking".

To erase this synapse between marketing and selling, we must teach lawyers that high-energy sales cultures, with their own language and values, are what distinguishes successful sales organizations from the less successful. The corporate world uses skills training to create and develop a successful sales force. All corporate sales executives start their careers in a structured sales training program ranging from one week to one year.

Typically, these highly sophisticated training programs are held in a campus learning environment. The curriculum includes structuring the sales call, analyzing customer needs, understanding and predicting buyer behavior, developing communications and presentations skills, writing proposals, product demonstrations, briefing customers on critical services, and building customer loyalty. The better programs use case studies, videotaping of sales executives and work presentations, in addition to on-site visits with experienced and successful salespeople who relate their success stories.

The objective of these sales training "universities" is to send a skilled group of sales executives into the field. Even the most experienced sales trainers that we have hired at The WJF Institute are required to go through an entire training course. The purpose is precisely to ensure what so many lawyers revile: a common sales culture.

The IBM or Intel sales force needs to go about its day-to-day activities the “IBM way” or the “Intel way.” Large sales organizations cannot afford to have people “off the ranch;” i.e., doing things in their own idiosyncratic way. Graduates are sent back to their respective offices equipped to compete, or they are washed out if they fail to meet the skills standards set by the company’s sales managers.

Unsophisticated law firms have failed to consider sales training as a prerequisite to a partner’s professional development. Many firms have taken the approach that it is either in a partner’s DNA to be a rainmaker or it’s not. Those rainmakers then become targets and romanced by other law firms seeking to grow by hiring laterals. Or, as permanent fixtures at their firms, they rule the roost, often with no sales or management skills to justify their institutional power. The other lawyers that are “non-naturals” or drought makers are banished to the production center, which wastes, not only human resource, but potentially significant and unanticipated revenue sources for the firm.

Along with their fearful thrall to the sales “natural,” lawyers entertain an opposing, but equally spurious notion that clients make selections based on the perceived intellect of the lawyer-seller. It’s a notion that further demeans their idea of sales skills as the client selection process is presumed to be scientific and rigid without regard to the skills of the lawyer-seller.

In fact, buying patterns and market conditions have never supported the scientific selection model. That model is flawed because, as Mr. Sheftall would agree, it has nothing to do with creating, developing, enhancing, growing relationships and trust building. So we have the worst of two false propositions at most law firms. Either only preternaturally gifted rainmaker lawyers can sell. Or, selling does not matter in any event.

If firms do identify sales skills as a need, they often use rainmakers to train and mentor, in those instances when the rainmaker is willing to share the glory. In our experience, this training is doomed to failure due to a lack of understanding of what these rainmakers actually do to be successful. The “mentoring” and training tends to be unstructured, personality-based or other irrelevant criteria.

Research shows that the effect of mentoring can be negative if the mentors are few in number and their protégés cannot adapt the mentor’s business development or presentation styles. Based on our 16 years working with law firms and 32 years of business experience, we are convinced that a structured, formal sales skills training program, developed from the ground up is the best solution. The cost of doing it right is small compared to the cost of doing it wrong continuously. The greatest risks are that business development will be banished to the “back burner” and the mentors will suffer the loss of credibility when nothing happens.

Institutionalized Sales Process

Successful global sales organizations use a clear sales process to manage their sales efforts. Without such a sales process in place, sales representatives in New York could be making recommendations to their New York customers that directly contradict with what their Hong Kong counterparts are recommending to their Hong Kong customers. Without a sales process that is followed by all, the chances of a sales rep making a pitch at the wrong time is likely. A worldwide sales process is thus especially critical with sophisticated global customers. Lastly and most importantly, a sales process is critical in moving from simple rapport with the customer to that of a trusted advisor.

Sales teams hold formal and comprehensive account management meetings annually in January to develop the sales plans for a specific account. In addition to a sales process for the account, and an overall strategy, the sales force will need a clear understandable process for each sales call. If your sales force is multi-lingual, the process needs to be simple, concise, and accessible. (It should not be complex under any circumstances.)

Typically, the sales call process has no more than six stages and usually just four: Plan the call. Identify what the customer needs. Present your capability for meeting the need. Ask the customer to define the process for moving forward to a favorable decision.

It is a process eminently adaptable for both products and services. It works for both new prospects and current customers as well. Customer Relationship Management software is an invaluable and perhaps necessary tool as it allows the sales force and individual sales representatives to identify where they are with each client/prospect and the next steps in the process.

An institutionalized process, with Customer Relationship Management software to support it, is crucial with small accounts. From a management standpoint, small accounts are often numerous and potentially unwieldy without formalized procedures. This market segment may lend itself to groupings. Industry-focused, geographic-focused or product-focused teams are often the solution to creating an opportunity to gain market share.

Major Account Management

It is a generally accepted premise in sales that most new business comes from existing customers. As part of the institutionalized sales process discussed above, corporations have, (and law firms need) formalized sales teams. Complementing these are account management teams for major customers that function by creatively dovetailing customer service with the development of new business opportunities that result from superior customer service. These teams are made up of marketers, salespeople and administrative types.

The leaders of these teams have many titles. The most widely used is Global Account Manager (GAM). The equivalent in a law firm might be called a Client Relationship Manager (CRM). The CRM is the team linchpin. Especially in the flat environment of a law firm, the CRM does not own the client but he or she must be someone the client will trust and, indeed, like. For these CRMs, the theme returns emphatically to the advice from Clarence Sheftall that began this discussion. Sales is all about trust, and the CRM should have as their mission to engender trust. The CRM's greatest asset is their ability to build trust.

The CRM's time to manage the account should be non-billable. Corporations have developed immense new revenues because the GAM's time is used effectively overseeing key relationships. In a law firm, it can be difficult indeed to persuade partners to look beyond billable hours. Yet the ones that can do so will institutionalize the sales process – and, by definition, that will amply reward the short-term utilization sacrifice. A CRM who cannot increase profitability with existing clients is the wrong CRM.

At the same time, the CRM should be practicing law to maintain his or her credibility with both the lawyer team and the client. Their role provides an in-the-trenches perspective on how and where legal services to the client can improve or expand. The legal work is billable; the team management time is not. Make it clear to the client that the service oversight is not a cost add-on.

The CRM grows the account by assisting the client in the preparation of annual legal budget projections. To achieve these projections, the CRM must understand the client's business well enough to forecast services across the whole spectrum of client needs. From a sales perspective, the CRM is thus directly engaged – simply by virtue of his or her role as forecaster – in two of the WJF Institute's four sales stages: identifying client needs and presenting the firm's capacity to meet them.

For an expanded discussion of these client relationship teams, and how they can operate in the context of a law firm, see our article, It's The Client, Stupid: How to Avoid Marketing Malpractice with Large Key Clients, at www.wjfinstitute.com.

New Prospect Marketing

We have examined the marketing/sales synapse, observing how sophisticated law firms have become in their marketing efforts and their lack of sophistication in their sales efforts. But just as client service in the form of CRM dovetails with sales, so too is there an element of marketing that is inextricably bound up with the sales sensibility and with sales technique.

When corporations go after new market segments – when they're targeting new demographic segments, or when they are introducing new products or services to established consumer blocs – they research those segments. The corporate marketing departments look to uncover customer buying patterns. They define ongoing needs. Maybe a retail chain sets up an on-premise ATM because they've done enough homework to know that the people who buy their goods will welcome the easy availability of cash. Casinos are clearly way ahead of the learning curve with this kind of research.

As we cannot repeat too often, defining the needs of the buyer is part of the sales process. Those definitions must emerge as a result of combined marketing and sales efforts. Corporations, though, go further in combining marketing and sales activity. Many companies now have their top sales people do the marketing themselves, or at least participate intimately with the marketing departments. The salespeople themselves uncover who the new prospects are and, because they are part of the marketing process (i.e., prospect identification process), there is no need for a handoff from marketing to sales. The salespeople can segue at once to the sales phase, often by cold-calling the prospects that have been identified, or by turning up at the business shows where these or similar prospects are likely to be found.

Often, too, salespeople directly participate in marketing because the strategy at hand is to achieve further and better industry penetration. "Better" penetration in the sense that the goal is to upgrade the customer lists within the particular industry, from lower- to higher-profit margin potential.

For law firms, such new prospect marketing, with the implicit dovetailing of marketing and sales, is a daunting but exciting prospect. Those few firms that have brought on sales managers are taking positive steps in this direction. These sales managers need to have direct contact with clients to be successful.

Law firm new client efforts or prospecting is, for the most part, serendipitous and unorganized. Targeting the most profitable clients and work must be segmented, just as current client efforts are profitably segmented. The top-of-the-list targets should be those businesses and organizations that the firms can move up the industry ladder to the best-of-breed clients. Reputation in the industry plays a big part; however, contact needs to be made with the decision makers in these new prospects. Referrals from current clients are the easiest path but often clients are reluctant to go public with their law firm affiliations, especially with competitors.

The bottom line may be a cold call on the CEO or General Counsel as the only way to get access. Cold calling has its own set of challenges. Lawyers don't like to get cold calls and see them as unprofessional. Cold calls from stockbrokers or financial planners are different than cold calls on businesses. Unlike broker cold calls, the focus of the lawyers' efforts are to help companies and their executives achieve business goals, not personal investment strategies. We have seen that cold calling efforts in accounting, consulting and sales organizations actually have a high degree of success. The following are part of the successful implementation:

Effective targeting. Research on the prospective client's needs is critical.

Building the story. Using the research, the caller should earn the buyer's interest within the first several minutes of the call.

Always seek a face-to-face meeting. Or virtual.

Have a clear process to move the non-buyer to a buyer.

Earn the trust of the potential client by focusing on their unmet needs if possible. Unmet needs are the seller's greatest opportunity.

If you fail to get the business on the first visit, **leave the door open for follow-up** face-to-face visits.

Persistence and empathy with the potential buyer are two qualities that have high payoff.

The new sales manager or business development manager can be of great value to the firm if they manage this process rather than leave it to individual lawyers to follow-up.

Another real payoff for most law firms is the closer working relationship that develops between their marketing departments and their top rainmakers, and the willingness of those rainmakers to be more directly involved in market research and marketing plan development, just as their counterparts among the top salespeople at corporations have crossed the line and taken on marketing roles as well.

Product Marketing

Here we have a strategic complement to sales. Product marketing's mission as a corporate department is to better identify what you are selling and what you should be selling. The opportunity to gain greater market share comes when the customer's latent needs can be identified and met. This is a form of niche marketing applicable to both products and services. As Proctor Houston, my first IBM Branch Manager, used to say, "Find a need and fill it."

It is often forgotten that niche marketing applies as much to what is being sold as who is being sold. In the technology business, it's calling "marketing the box," with that "box" being a particular product niche: servers, PCs, or whatever. Product marketing further complements new prospect marketing because, by exploiting the sales potential of your newest and best product, you can more effectively target the new prospects and penetrate their industries.

For law firms, and for other professional service organizations, simply replace "newest and best product" with "core competence." You achieve client growth, and entrée to their industries, by leading with your best. It is an exceptionally important point, and not nearly as obvious as it sounds. Consider how many law firms try to penetrate, for example, the pharmaceutical industry by leading with their competent but undistinguished (and indistinguishable) employment practitioners or with their equally undifferentiated tax lawyers. The thinking is we'll sneak in with those lawyers, who will then be able to forge relationships with the client that will create space for our truly distinguished FDA regulatory experts to march into later, like triumphant centurions.

It only happens that way, to the best of my knowledge, in rare circumstances and frequently by chance. I would venture to say that to build your sales efforts in the corporate world using that approach would be financial suicide.

$ Compensation

Money drives sales, and corporations use it to encourage more sales. If they did not, they would go out of business. But where some corporations, and many law firms, err in their sales reward programs is by being unselective, by being wholly driven by volume, and by letting volume define the criteria for success.

Success goes beyond these surface returns. Let us say that sales rep Smith brings home $1 million in new sales in an industry where you are competing with 1,000 other companies, 500 of which are 50 times your size. That $1 million is going to stay flat. You do not have market share. You never will.

Meanwhile, sales rep Jones brings home $500,000 in new sales in a growth industry where you are competing with 10 other companies, none of which is as big as you. You have market share. And, because you have market share, you will grow with that industry. Depending on the industry, the near- and long-term returns could be incalculable.

So, are you going to reward sales rep Jones 50 percent less than sales rep Smith?

Similarly, the right approach to compensation recognizes profits, not just revenue. Let's say there is a 3% margin on sales rep Smith's $1 million in sales. But there is a 70% margin on sales rep Jones's $500,000 in sales. Again, are you going to reward sales rep Jones 50% less than sales rep Smith?

In fact, that's what law firms do every day. What commands power at a law firm? Books of business. What defines those books? Revenue. Revenue and nothing else. The revenue may derive from a dying client industry. No matter. The revenue may demand exorbitant overhead to maintain. No matter.

"Eat-what-you-kill" cultures particularly suffer from their oversimplified compensation formulas, exacerbated because "origination" as a criterion for compensation puts no particular value on one form of business versus another. The rules of compensation may not be practiced well by all corporations, but corporate cultures are still leagues beyond law firms and most other professional organizations.

There are ten rules of compensation law firm managers should memorize.

1. It must be fairly applied. For law firms, fairness often means rewarding a collective sales effort, not just crediting the so-called "originator" of the client contact.

2. It needs to be clearly understood. The backstage intrigues of executive committees and compensation committees often undermine honest disclosure of how the compensation system actually works in practice.

3. It should produce a desired behavior or strategy. That behavior should always include cooperativeness and teamwork, not just initiative and aggressiveness.

4. It must be flexible enough to allow for exceptions. Perhaps a deal falls through at the last moment because of an unforeseeable crisis or tragedy affecting the buyer. Rewarding the sales rep anyway is not only fair, it is smart.

5. It must be clearly measurable. You can deviate from the numbers if there is a good reason to, and if you can articulate that reason, but the numbers have to be there as the coherent starting point.

6. It should drive profit, not hours. Hours, of course, equate with sales revenue in the example of Messrs. Smith and Jones above.

7. It should be adjusted frequently to be responsive to the market. Market changes include both changes on the demand side, and changes in the growth and scope of your competition.

8. It should be used as an incentive by the partners. Partners may, in some cultures, want to extend sales incentives to their associates. (At many law firms, hell will freeze over first.)

9. It should include recognition, not just monetary rewards. Recognition is especially necessary if, in our example above, sales rep Jones' higher-margin, lower-revenue sale does not gain him the institutional profile that sales rep Smith may gain with his high-revenue sale. Recognize sales rep Jones with some conspicuous institutional entitlement.

10. It should send a message to your clients. Rewarding sales based on quality rather than quantity means rewarding higher-quality work. Clients prefer Tiffany to K-Mart. They like to see lawyers rewarded for realization rather than utilization.

Measurements for Success

Corporations, to a far greater extent than most law and other professional firms, take the process full-circle. They measure the effects of their marketing and sales activity and they let the measurement criteria shape and define the next cycle of marketing and sales activity. In other words, they learn from experience and change what needs to be changed.

There are at least four fundamental measures of success. To an extent, they are all implicit in the marketing and sales dynamics we have discussed so far:

1. **Market share.** As we've seen, it is a profound index of success. In a mature industry, it means you are a dominant "safety buy." In a growth industry, it could mean potentially unlimited future growth if the industry grows.

2. **Profitability index.** Take a look at the profit margins on last year's new business. Now take a look at the profit margins on this year's new business. The differential will tell the tale. If you're selling more and making less, you need to redefine your sales strategy.

3. **Account penetration.** Client relations is a sales performance index, not just a quality-of-service index. How many more services are you providing to you core accounts on December 31 of this year than you were on December 31 of last year? Static relationships are vulnerable as

clients are more likely to jettison a supplier on whom they are dependent for one service (irrespective of dollar volume or work volume) than for ten services.

4. **Year-end profitability.** This, of course, is the highest tribunal. Remember, law firms as businesses are more revenue- and profit-driven than cost-sensitive. Unless a bad leasehold or retirement plan problem has eroded the bottom line, think income first and outgo second. Marketing and sales should be the highest-priority assessments as you read the year-end return and make plans to improve it.

In Summary

We have to be sure, indulged in some healthy generalizations in this discussion. Not all corporations offer exemplary sales cultures. Not all law firms are clueless. As we have noted, the progress law firms have made in marketing would not have been anticipated by the profession's marketing pioneers in the 1980s and early 1990s.

There is mind set in the corporate world that law firms do not have. The corporate world sees their sales force as heroes. In most law firms, sales is considered to be as close to a four letter word as one could imagine. It seems to me that law firms should view business development or "sales" as part of being a good lawyer. Great business developers see their client relationships in terms of mutual trust, not exploitation. When a client makes a buying decision, it is because of the trusted advice from outside counsel, not because of some "pitch" they were given by a "silver-tongued devil."

This article is the "tip of the iceberg." The skills, tactics, infrastructures and strategies that law firms will need are still under water. I see the competitive heat from clients and prospective clients in the marketplace as the catalyst to melting the iceberg and exposing the opportunity.