
LANDING THE BIG FISH

SMALL FIRMS REPRESENTING BIG COMPANIES

By Kathleen Balthrop Havener

“Never count yourself out.” If you read no further in this article, hear this message from Cathy Lamboley, a lawyer with C. A. Lamboley Consulting, LLC, and former senior vice president and general counsel for Shell Oil Company, who graciously granted an interview for this article. “If you’re comfortable with the lawyers and you know they can handle your work, nothing would stop a Fortune 500—or even a Fortune 50—company from hiring a small firm.” In other words, in this as so many other things, “It’s all about the relationships.” While Lamboley was general counsel at Shell, 100 percent of Shell’s intellectual property work was handled through a firm with no more than eight or ten lawyers. If, in that small firm’s judgment, the matter required the depth of a larger

Kathleen Balthrop Havener (kbhavener@havenerlaw.com) founded the Havener Law Firm LLC in Cleveland, Ohio, in 2008, where she practices with her husband and law partner, Thomas G. Havener, focusing on complex commercial litigation as well as complex commercial and government transactions.

firm, with Shell's agreement they would bring on a larger firm, but the small firm remained in control.

Gaining Access

Diversity is one way for solos and small firms to gain access to large clients. According to Lambole, companies are becoming increasingly conscious of diversity issues and committed to having diverse teams of lawyers represent them. A minority- or woman-owned law firm should let it be known that it

is happy to partner with larger firms whose diversity profile might not be as attractive as they would like, in order to satisfy the client's "diverse team" demands in a more immediate way. How to build such partnerships? Become certified as a woman-owned or minority-owned firm. Tell everyone you know in large firms and corporate law departments you'd like to be on their list of candidates for the small-firm piece of their team.

Sometimes simple serendipity is the only doorway to representing corporate America. I left a large firm in 2008 to start my own practice. I got a telephone call one recent day from the general counsel of a large company for which I had done significant work at my former firm nearly a dozen years ago. Something had arisen in current litigation that related back to the arbitration I had worked on, and as it happened, I was the person with the institutional memory to tackle the discrete new task. That small connection earned



What can your small firm offer that a large firm cannot?

me a spot on their approved counsel list for northeast Ohio, which I certainly hope leads to further work. What's the lesson here? Nourish your relationships. You never know when someone you know who's a thousand times more prestigious and well placed than you are will need your help. And if that important person knows you as someone who can be trusted to complete the job as expected, you're a giant step ahead.

One in-house lawyer who's in charge of labor and employment at her large company of approximately 18,000 employees in multiple locations engages a solo practitioner to manage every single one of the employment discrimination lawsuits against the company. The lawyer is in the same city as the company's headquarters. As an employment defense lawyer and a Title VII expert, she is in close touch with the employment defense bar around the country. She engages co-counsel in any jurisdiction where she needs assistance. The outside lawyer is directly involved in and thus has her finger on the pulse of every one of the company's discrimination lawsuits. And the in-house lawyer has a single contact who can report to her on the status of any or all of these cases at any given time. How did this come about? After the in-house lawyer hired the same outside counsel to handle several of the local discrimination lawsuits, she realized she had the ideal resource for helping her to manage one entire "folder" from her portfolio. The outside lawyer was delighted, and the small firm/big firm partnerships began occurring—just in the opposite direction than usual.

David vs. Goliath

Those of us in small firms often wrongly assume that big law firms have an overwhelming advantage in attracting business. How can my home office compete against the monster firm with offices in 20 cities? Indeed, one in-house lawyer told me outright that he feels constrained to hire the "big name" firms so that "if something goes south," he doesn't have to explain that he failed to secure the help of the roughest, toughest hired guns. It's nonsense, as we know, but some people are more risk averse than others.

But remind yourself of the problems facing those large law firms. Their junior associates are leaving or being driven out in droves. Their senior associates or junior "income partners" make lateral moves so frequently it must make their clients' heads spin, leaving clients wondering what happened to the worker bees on their representation teams. Indeed, in their compensation struggles, the threats of the "young Turks" to leave the firm and take their clients elsewhere are so ubiquitous, I wonder if clients even realize what the environment is like in most large law firms.

There can be no doubt that relationships are the heart of the practice of law. Most outside counsel will admit that the success of their firm depends on the relationships they have with their clients (along with their colleagues, their support staff, and others), and most in-house counsel acknowledge that they engage their lawyers based in large part on their confidence in the outside counsel's honesty and trustworthiness, along with their ability to handle the matter. And what can my small firm offer—in terms of a relationship—that a large law firm cannot? What can my law firm do better?

In my view, we can offer a lot. We can assure large clients that we are grateful for their trust and confidence and genuinely appreciate their work. Indeed, for a small firm, the work of a large (and solvent) client may very well mean the difference between success and failure, while in a large firm, this work is just another case. For my partner and me, work from a big client allows us to get back into the work that inspires and energizes us (between us we spent 38 years in large law firms). It's work we love that provides us a better incentive to do it creatively and well.

We can also assure the client that my partner and I will actually staff the matter—there are no associates or paralegals here to whom we might pass off individual portions of difficult cases. We—and only we—are directly responsible for every piece of work product that goes out the door. That makes us more attentive to the quality (even perfection) of everything we do. Our extraordinary technology allows us to collect and integrate every

kernel of knowledge that we gather during the investigation and development of a case and have it at our fingertips at any given moment. And our solid collection of self-prepared documents from other cases prevents us ever from having to spend time reinventing the wheel.

In fact, in this economy, I believe that small firms are ideally placed to start getting more work from large clients than ever before. There is no doubt that Big Law brings with it huge overhead, which—in the end—is paid for by the fees these firms collect. Why would any client, much less in-house corporate lawyers who are being pressured on a daily basis to reduce the legal budget, spend more than necessary on competent, responsible, and responsive representation—especially when they don't have to?

Small firms, on the other hand, have what large clients want. They have low overhead, their charge-out rates are significantly lower than large firms', and they have lots of experience with fixed fee billing for commodity work. They're also hungry to get their hands on large firms' institutional client work. Large clients should be interested in what small firms have to offer, as large firms are generally unresponsive to their oft-repeated requests for alternative billing. It's time for small firms to turn their better value offering to their advantage and lure better work away from large firms. Large clients are—or should be—looking for options. The economy hasn't turned around yet, and smaller enterprises are in the best position right now to convince large clients to look to them for some of their outside counsel needs.

A Manifesto for the Little Guys

What does a small firm need to do to be considered for larger clients' work? Create an alternative billing strategy. Get it in front of in-house counsel. And convince them you can handle the work. How? In many cases, because you've done their work before. I am a refugee from Big Law and did nothing but large, complex matters for the first 17 years of my career. My departure from my former firm did not diminish my legal skills. Neither should it have cut off my access to work from larger

clients, but—for a while—it did.

I intend to change that. I intend to develop a new strategic plan with a unique value proposition. I intend to offer value pricing and try to make potential clients very happy. I intend to market myself as every bit the same quality lawyer I ever was, but now I can make pricing arrangements on my own terms, and without jumping through the hoops of a management committee to do it. I can use social media as I see fit and take advantage of this effective and inexpensive marketing technique that large firms just don't seem to handle as well as small firms. If I want to offer a flat fee for service, I will. If I want to charge a monthly retainer to handle a litigation matter, regardless of the number of hours I and my colleagues have to spend to achieve it, I will. What I won't do is sacrifice the quality of the representation my clients are paying for because they don't want to pay for a larger number of hours.

Large clients need to understand the level of commitment I have to my own venture. I'm not merely trying to build a client base. I'm trying to do work I love and that I can be proud of with the people I choose to work with, and at a price that seems fair and decent to me. I'm trying to build a new business model. I'm not trying to amass a fortune or fund an expensive enterprise. Instead, I'm trying to make my everyday life more fulfilling and my financial life a little less harrowing.

I don't want larger matters from larger clients because they will make my life easier. Indeed, these matters may make my life more complicated—in the same way solving complex medical enigmas may be more complicated than treating childhood ear infections. Not more important. Just different. I want to work on more complex matters because they will make my life more interesting and because they can help magnify the amount of positive impact I can have on the world. To every in-house lawyer who's reading this article, give me the chance. You will never regret it.

And as for me? I'll be knocking on your door. For I will never count myself out. **GPSOLO**

Large clients need to understand your level of commitment to your venture.