

## Definitely Mabey

### Building an entrance strategy

*An idea, like a ghost . . . must be spoken to a little before it will explain itself.*  
— Charles Dickens



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Three dominant themes that appear to be surfacing in much of what I have read lately about the legal industry are:

- the demographics of legal practitioners;
- the lack of alternative exit strategies for many small firms; and
- the narrowing of the “funnel” to partnership in many larger firms driven in part by the uncertainty over the long-term impact on the economic shift the industry is experiencing.

So I thought I would do a little research (I know not always a good thing to be confused by the facts) and while easier said than done, I eventually got pointed towards some reasonably current statistics from the 2009 Law Society of Upper Canada annual report. I have reasoned that in this one aspect of the legal profession, these statistics are representative of the entire Canadian profession, if not at the low end:

Statistic	2009 (%)	2008 (%)	2007 (%)
Percentage of lawyers age 50 and above	41.4	40.5	39.7
Percentage of law firms that are solo practitioners	77.8	N/A	N/A
Percentage of law firms that are 2 to 10 lawyers	19.9	N/A	N/A
Average number of lawyers/paralegals in those law firms of 2 to 10 lawyers	3.3	N/A	N/A

While touching on alternative strategies, a lot of what is being written about exit strategies is “how to wind up your practice,” which is obviously important to understand and critical to get right but may be the same as a ready, fire, aim strategy. While more about an entrance strategy, [Rachel Rodgers in her blog](#) has started down a path that, well-trodden in the past, has seemed to be overgrown with mental weeds and bramble of late and that is the need to rekindle entrepreneurship.

But I digress, so onto the point of the narrowing of the “funnel.” On this theme I fall back on research done by the two pillars of general law firm consulting — Hildebrandt Baker Robbins and Altman Weil Inc. The former in its [2011 Client Advisory](#) advised that a recent Citi Leaders Council survey of 48 large firms canvassed “only 17 per cent of respondents expected to increase the size of their first year associate classes in 2011” (it is U.S. data but don’t fall into the trap of thinking that it is not relevant to the Canadian profession).

Altman Weil in its recent webinar on “Post-Recession Strategies for Law Firms” had a bullet that put it even more bluntly: “Strong demand for new associates will not soon return.”

Both firms have repeatedly commented on the next wave of “de-equitizing” of partners because of, in part, the real drop in productivity levels and, in part, the need to maintain artificial benchmarks likes profits per partner. This, combined with the longer road to partnership for those young lawyers interested in such a journey, can cause one to initially see only the negative aspects about entering the legal profession.

The final word on the “funnel” goes to **Jordan Furlong** who, in an adaptation of his blog, points out “it will probably be harder for you to find a job than it was for people who graduated even two years ago. It’s unfortunate and unfair, but it’s also life, and the sooner you adjust, the better your chances of success will be.”

While someone could do a whole column on law schools and their lack of synchronicity with the legal industry, I would simply point out that while the funnel has been narrowing for a couple of years, there seems to be little or no decrease in the number of debt-ridden law school degrees being granted by these institutes of higher learning.

There is a growing awareness and acknowledgment that income from your RRSP combined with whatever government pensions are around won’t provide the 70-per-cent income-replacement rate often recommended by retirement planners. Pick your rationale why just an RRSP won’t provide for the retirement you worked so hard to earn:

- stock market fluctuations/poor corporate management;
- started making contributions too late in life;
- inadequate contributions;
- lifestyle while working;
- helping family; and
- cost of after-practice life is higher than ever anticipated (including medical coverage).

One last comment before getting to the “idea” but is it just me, or is there real irony in working your entire professional career to build up an asset called goodwill and then simply walking away from it by winding up your practice.

So the needs of old and young professionals alike have converged to create an opportunity that, with a little rekindling of entrepreneurial spirit, may provide for reasonable economic returns for both groups of lawyers. This opportunity will not be everyone’s cup of tea, as beginning a firm is not easy but then again neither is keeping hold of its success.

Two of the greatest challenges to the idea are likely to be that the opportunities are not located in the perceived “glamour centres” in the country and, secondly, it will not be the “change the world” legal work students sometimes see themselves doing when they graduate.

Nonetheless, if decent incomes, balanced family lives, and real opportunity to be involved in the community and earn its respect are appealing, then it’s an idea whose time has come.

So simply put, sole practitioners and small firms of aging lawyers should recruit lawyers and even law students, if their timelines allow, with a deal sheet that addresses at least the following issues (listed in no particular order):

- full financial disclosure of the practices’ financial results for past three years and any existing financial commitments (leases for both premise and equipment);
- name of partnership;
- accelerated timeline to full partnership (i.e. one to three years);
- staggered payment of capital (two to five years) and corresponding withdrawal of capital;
- agreeable payment of counsel fees, both while senior practitioner(s) in active practice and afterwards;
- continuation of participation in medical coverage after retirement;
- proposed compensation arrangements in the interim;
- proposed governance/decision-making arrangements in the interim; and
- set timetable for transitioning of clients and files.

Such a proposal should also be considered for small firms with existing associates.

It is reasonable that the question of how to access such a talent pool may be running through the minds of some senior practitioners reading this column and two answers that come to mind are:

1. Contact the managing partner and/or professional resources personnel of larger law firms and explain the type of person you are looking for and see if you can be put in touch (in advance) with any lawyers that they might be encouraging to pursue a career outside their firm.
2. Go to the law schools and advertise that you are looking for bright young lawyers looking to explore an interesting alternative to the pressures and tribulations of big law firm practice.

While for the young lawyer it will require embracing or re-engaging an entrepreneurial spirit, there are two important advantages that currently mitigate the risk associated with such an undertaking (perhaps even more so than days gone by):

Firstly, there is technology. Existing and eminent applications are and will continue to cause a re-segmentation in the legal work that is being done by smaller (and yes potentially nimbler) firms.

And secondly, overheads: lower-costing infrastructures will make these firms able to make a good return on work for very rate-sensitive clients but who pay their bills in a timely fashion ("lights and rent" clients) like banks, insurance carriers, school boards, municipalities, etc.

In keeping with the premise that firms will opt to look to contract lawyers to supplement their needs in the future rather than creating permanent positions, young lawyers moving into the smaller firms should market such services to these larger firms. This can set up a great potential win-win-win scenario with lower costs for the client and the larger law firm and an immediate revenue stream for the small firm.

One note of caution to the young lawyer embarking on such a journey — heed the proverb that advises "those who try to rule the present with the conduct of the past commit the same foolishness." Start building your exit strategy as early as possible.

And remember until next month

"Authority without wisdom is like a heavy axe without an edge, fitter to bruise than polish."

**Comments or Questions?**

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