

Why Law Firm Capacity Is So Important for Business Development and What to Do About It

By [LawVision](#) on May 5, 2014

Helping lawyers bring in more clients is often an exercise in removing obstacles. Here's something I hear often: "If I get a new big client, I won't be able to service it."

In general, capacity is still up at most law firms — there are more lawyers than there is work to keep them busy. Most analysts devote much of their annual reporting to arguments against growth. (Here are two examples: [Thomson Reuters 2014 Report on the State of the Legal Market](#) and [Hildebrandt Consulting and Citibank Client Advisory from last year; see Part One Section Two "Excess Capacity Squeezes Margins."](#))

So if billable hours are down and capacity is up, how is it that lawyers complain that they are too busy and don't have enough help? The problem lies in pockets of low capacity for very specialized practices.

Let me give you an example. This week I had a coaching session with a lawyer at the top of her game. She has a very specialized practice doing complex joint ventures, property acquisitions and financings in an area that requires specific industry knowledge. She has a nice book of business from leading players in the industry. The firm values her knowledge and client base and sees an opportunity to broaden the practice to include other, similar clients and expand to related areas. As I walked her through a game plan and shared some initial ideas about how to increase her book of business, I could see she was uncomfortable. We had a conversation that went something like this:

"I sense some discomfort. What is on your mind?"

"Well this all looks great, but"

"Yes?"

"Well if I do everything you tell me to do, and I get a new client, I'm not sure I can handle the extra workload — I'm terrified that I won't be able to deliver."

"Can't you get help from others at the firm? Surely not everyone is at capacity in this market."

"No one else does this kind of work for this type of client. I am the only one. I have only one associate, and she has more than she can handle as well."

"Aren't there any other associates or partners who could help?"

"We actually have fewer associates than we did several years ago. The firm keeps staff size much leaner than they did in the past, and it would take a new associate at least a year to get up to speed on the unique nuances of this industry."

This is not a unique problem. I hear it from lawyers at many different firms. "If I bring it in, I won't be able to service it."

Bringing in a client when structure and staffing are not in place is a real administrative, managerial and ethical problem. However, the problem is even deeper than that, because just knowing that landing the next big one can create those issues causes lawyers to pull back from fully committing to business development. Those who are already disinclined to jump into business development with both feet may even use capacity issues to justify staying on the sidelines. This can be especially devastating if the lawyer, like my client this week, has developed an excellent reputation but can't engage. Potential that is not leveraged leaves money on the table. Often firms, in an effort to control costs and diminish unused capacity, exacerbate the problem by refusing to arrange assistance until work actually appears. With a year or longer ramp-up time for some specialty practices, this creates a chicken-and-egg problem. "We'll get you an associate when your work is at a level that justifies it." Is met with "I can't go out and get new work until I know we can handle the workload once I bring it in."

This is a thorny issue that requires open communication and a willingness to work together, but it's not insurmountable. Here are a few things you can do if you lie awake at night fretting that you'll land a big client you can't service:

- 1. Communicate your goals to the firm.** Let management know your plans for building your practice. Show them concrete goals and your plans for fulfilling them. Give them the roadmap you've laid out for your success and the precise place on that roadmap where you'll need to be ramping up staff size to assist you.
- 2. Start now.** In some ways worrying about whether you can handle all the work you'll bring in is like refusing to date because you don't have time to plan a wedding — the payoff is still a long way away. Bringing in new work takes a long time. Capacity problems may have worked themselves out by the time you actually bring someone in. There is plenty to keep you busy until then. Start laying the groundwork now — build relationships, become known in your target markets and stay in touch.
- 3. Communicate your progress to the firm.** As you hit milestones with prospects, make sure the firm and those in charge of hiring decisions know that you are closer to bringing a new client onboard. Thoughtful leaders realize the prospect of new clients involves both the risk of not being able to properly service them and the risk of missing the opportunity. At some point someone has to make a reasonable bet that more work in a particular area is evolving and put resources in place to cover it. They can't do that if you are not in constant communication with them about how opportunities are progressing.
- 4. Delegate non-specialized work.** What elements of your practice can be delegated to others? Even in the most specialized of practices there are some more general elements that can be handed to another capable lawyer. Think about your entire practice and matters that are more general. Can these matters be handled by someone with a more general skill set?
- 5. Maintain a good conflicts network.** As a last resort, if you really just can't find the capacity at your own firm, use the firms you depend on for conflicts to help you cover the load. Use people you trust and who you know will reciprocate. You may also be surprised when you bring up this option, how quickly you get movement from those who were previously opposed to making new hires.
- 6. Be transparent.** Be open, up-front and honest with clients and prospects about your situation regarding capacity, as you discuss plans to bring them on as clients. The last thing you want is a false expectation that a certain amount of work can be performed when it can't. Deception about capacity may get you one new matter from a prospect, but it won't get you the next one. You may also find that transparency about your capacity may create even more demand. Like an out-of-stock toy at Christmas time, perceived scarcity creates demand.

