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ESTATE, TRUST AND CAPACITY LAW BREAKFAST SERIES

The Role of Social Media in Marketing an Estates and Trusts Practice

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June 12, 2014



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Introduction

At some point or another, most lawyers will consider focusing their practices into areas of specialization. Rightly or wrongly, specialization brings with it the perception of “elitism”, with an attendant expertise and greater value being offered to the client. This, of course, leads to an expectation of higher hourly rates and better work product. Certainly the trend in the United States is to specialize a legal practice and, except for Ontario, most provinces in Canada have a much more specialized judiciary to address the unique issues arising out of a more complex practice.

The areas of estates and trusts are no different in that one needs to consider the recent obvious trend of the significant transfer of wealth from one generation to the next in combination with the realities that come with a specialized estates practice.

First of all, there are the solicitors who practice almost exclusively in the non-contentious arenas, and they deal with estate planning issues, the conventional Will-drafting and estate administration and, of course, many approach different aspects of estate planning from a tax perspective as well.

In contrast, there is the need for good counsel who are prepared to deal with contentious estate litigation matters, such as Will challenge proceedings, interpretations, capacity law disputes and other issues arising out of the *Substitute Decisions Act, 1992*.

Many solicitors think that the area of estates is a good area to create a niche market and, in most cases, they are correct. This paper will attempt to address some of the niche marketing tools that have been effective in our practice.

A. Specific marketing techniques

What worked for us

The following is a summary of the tangible steps that were taken by Hull & Hull LLP over the years to establish itself in an estates niche market. Hull & Hull LLP operates substantially in the contentious litigation arena; however, out of necessity, there are non-contentious aspects of our practice as well. Most notably, generally contentious estate matters settle or resolve themselves relatively quickly in the process. As a consequence, our firm has developed a strong estates administration and non-contentious practice over the years:

- (a) Start with the founding partner – Hull & Hull LLP is fortunate enough to have begun its practice with the mentorship, leadership and guidance of the late Rodney Hull, Q.C. Mr. Hull was central to our marketing and niche position, and he was a great source of leadership and wisdom within the firm. He is greatly missed and we do our best to honour his legacy. Of course, not every firm can have this kind of “head start”, and many niche market firms have had to build their reputation using some of the other suggestions set out below.

- (b) Learn the product – Perhaps the single most important aspect of creating a niche market is to indeed “learn the product” and to learn it better than anyone else. You really do need to start out as a technician before you can sell yourself as an expert. And one of the best ways to develop that technical expertise is to write about your topic and get published in some of the journals and books that are most authoritative in your practice area. There are many journals that would love to receive shorter articles, and

there are topical areas that can be significant enough to justify writing a whole book. For example, "*Challenging the Validity of Wills*" was written by Ian Hull, who wanted to learn the topic quickly and also develop an expertise in what is a difficult area of estate litigation.

- (c) Create a user-friendly website – At Hull & Hull LLP, we have created and maintained a user-friendly website that is intended to provide the client or colleague with a strong sense of connection to our firm. Individual lawyers have profiles so that clients and colleagues can be informed about the specific persons they are dealing with on files. We provide links that describe our practice areas and that lead to our firm blog, newsletter, publications, social networking profiles, and other sources of information about Hull & Hull LLP. It is important to have this sort of website as it attracts clients and colleagues, keeps them informed about your firm, and serves as a central "hub" wherein the client or colleague can access other sources of information provided by your practice.

- (d) Give in order to get – One of the essential themes in developing any niche market position is that the more useful information you give away for free, the more you will get back. As you begin to establish yourself as an expert in the area, practitioners and others will call you with questions and want to "run" issues by you. Always embrace these calls and always be attentive to the fact that one of these calls may well end up being a file in the future. At Hull & Hull LLP, we do not approach these calls on the basis that we expect a file from the actual call; rather, we consider the

source and we hope to either receive work in the future or to at least build a positive “reputation” with that individual.

- (e) Build your database – As you build relationships with practitioners, create a database and ensure that it is current. Every time you speak to someone or you have any contact with someone on a specific area, you have a name and a contact of someone who knows you, respects you and who would welcome receiving information from you from time to time. This process started very small, with Mr. Hull’s general contact names and, over the years, Hull & Hull LLP has generated over 1,700 excellent direct referral-related names on its database.
- (f) Commence a newsletter – In 1997, Hull & Hull LLP published its first newsletter. *The Probater* is published 4 times per year and it is still sent out in hard copy to the firm’s ever-growing database. Once you start, though, it is very important to keep the newsletter going – you do not want to start a newsletter and then fade out. You will lose tremendous credibility from your readership. Furthermore, we find it helps to ensure that the topics that you are addressing in the newsletter are both timely and interesting to all your readers. We do not write newsletters about esoteric litigation points; rather, we focus on more general solicitor-bent topics that are of interest to a cross-section of our readers, who include solicitors, financial planners and accountants.
- (g) Know your audience – Create a Breakfast Series. In June of 2000, Hull & Hull LLP moved on from its newsletter and used its database to create a Breakfast Series. Our first Breakfast Series Seminar was held for a group

of approximately 20 attendees and, again, the topics were solicitor-based so as to interest a variety of individuals. The Breakfast Series is offered 3 times per year and has grown in numbers. Recently, we have had over 100 attendees plus almost 100 attendees by webcast and phone-in. Any kind of ongoing continuing legal education is of great service to your referral source and certainly welcome if it is priced properly and it is held on a time and date that makes sense to your attendees.

- (h) Keep your database current and accurate – At Hull & Hull LLP, we spend a great deal of time and effort ensuring that our database is current and accurate, so that it is both useful to ourselves and that we are sending our materials to people who are actually receiving them. This is an ongoing project that needs to be monitored regularly and continuously in order to be effective.
- (i) E-mail – The use of e-mail can be something that is both sophisticated and effective. Currently, we simply use the e-mail system as a “last minute” reminder – to alert those who may be interested in attending our Breakfast Series with one final notice to ensure that they do not miss the event. E-mail marketing is a whole separate topic in and of itself.
- (j) Podcasting and blogging – In March of 2006, Hull & Hull LLP began a daily blog and two weekly podcasts. Currently, we take turns writing the blog daily, for one week at a time, so that the time commitment is not overly intense for each lawyer. We also do two different podcasts. The first is called *Hull on Estates*, which is geared toward practitioners who may wish to hear about specific related developments in the area of

estates; the second is called *Hull on Estate and Succession Planning*, which is a more general, topical estate podcast. Both provide an excellent opportunity for the lawyers internally to “learn the product”, so to speak, and to also ensure that our audience understands that we know the product as well as anyone on the street. Most recently, we have started to videotape our podcasts, and these can now be viewed on YouTube as well as on iTunes.

- (k) Monetizing podcasting – We have begun to monetize the podcasting, in a sense, by offering copies of our earlier podcasts on CD, and we have also added in the element of a comprehensive web page, which has an extensive media centre offering much of our written and video work free, on-line. As an interesting twist, when we first started podcasting, we also sent out a free iPod to a group of our very respected referring solicitors, and that was a great success.

- (l) Social networking – Hull & Hull LLP has a company profile on social networking sites such as LinkedIn and Facebook, and many lawyers have individual profiles. These profiles allow us to be in regular communication with clients and colleagues by posting updates. In particular, certain Partners at Hull & Hull LLP have Twitter profiles, and “tweet” informative practice tips pertaining to the practice of the law of estates and trusts. These tweets are also posted on LinkedIn, a social networking site geared to networking with professionals.

B. Marketing – More generally

“The Fat Smoker”¹

To a lawyer, investing in marketing is similar to the concept of the “fat smoker”. In other words, we know that we should not smoke and we know that we should lose weight. Nonetheless, we do neither. The reason why we remain the “fat smoker” when it comes to marketing is that the rewards are not immediate – they are, in fact, in the future.

As a result, the first thing we need to do is to adjust our lifestyles. We also need the courage to keep up the new habits. We cannot create a competitive differentiation if we only do this “half way”. In other words, we cannot meaningfully reduce the risk of cancer if we only cut back to half a pack of cigarettes a day.

The same is true with short-term strategies. After all, the basic rule of strategic planning is to set a goal and to then maintain resolve.

Which lifestyle changes are we really prepared to make?

The question then is, “Which “diet”, if integrated into our company, would actually allow us to achieve our goals?” Next, “Which “diet” would we be prepared to accept as part of our regular lifestyle?” Even with answers to these questions, however, we have to keep in mind that no one “diet” idea is the last word – substitutes are allowed.

The key is just to create the “diet” and to stick to it – to maintain the resolve. Remember, declaring your commitment to strategies which you ultimately do not follow is a death nail.

¹ David Maister, *Strategy and the Fat Smoker; Doing What's Obvious But Not Easy* (Boston: The Spangle Press, 2008)

What is strategy?

In the context of marketing, “strategy” is the search for ways to build a competitive environment. We need to develop a set of actions that make our company’s services more valuable to the customer or client. In other words, we need to be able to do something that our competitors cannot match – at least not too easily.

At Hull & Hull LLP, we believe that people who work at our firm must be more than just excellent technicians – they must also be excellent client sources.

Strategy is fundamentally all about getting better at what you do, not necessarily getting bigger – in other words, doing things differently than you have done them in the past. A good strategy should improve your competitiveness in your core business. Over time, it will pay off.

It is not a strategy to simply add new people. Using existing people to work with existing customers or clients to strengthen your existing business is the key. Therefore, it is up to the leadership to create a plan and then sell the plan. The senior people must own the recommendations if they are to be implemented.

In developing a strategy, we need to consider things such as:

- what are the main significant things your competitors do that will affect your position in the market place?
- what do you plan to do in response?
- how do you know that clients will like what you have planned?

- who specifically in the organization is going to do this, and which of their other activities are they going to give up in order to find the time?
- what are the staffing implications of your plan?
- what are the main assumptions which your plan is based on and how risky are they?
- who is involved in the development of the plan?
- who is not consulted?
- on whom will you depend on for the execution of this plan? and
- what early warning signals will there be if the plan is not working?

In order to implement a strategy, you need to make a list of actions and commitments – who will do what and by when?

The Rules

When considering the “rules” of marketing, we need to look at both the old rules and the new ones.

- **Old Rules**

According to the “old rules”, you could either buy expensive advertising or work your way into the media through articles about you.

- **New Rules**

According to the “new rules”, you are what you publish.

These days, we see more and more attempts to reach buyers or clients with web content that buyers or clients want to read about or listen to. The first rule on the web is that you are what you publish, and you are only as good as the stuff that has been published on the web about you, or by you, actually is.

It is no longer about shelf space and mass market appeal. For instance, Amazon has hundreds of thousands of titles on line, and Barnes and Nobles has 30 or 40 thousand. On the web, you can reach the niche market directly.

Getting to the Client

The first question in the mind of the client is, “Why are you trying to sell me something?” If the client believes that the lawyer is trying to help him or her, then the odds are higher of convincing that individual that you indeed care.

On the other hand, it could be that the client does not really believe that you care – he or she could simply view you as being in a business and only looking for the client’s cash. If this is what the client believes, then the buyer/client is going to put you, as a professional, through a more difficult process.

Simply put, the secret to getting hired is to convince the client you actually care. In this sense, it is all about motives, not skills. As a result, it often comes down to how good we are at earning

our client's trust and what it takes to do so. This, in turn, requires that we spend time talking about the client's needs and not talking about ourselves. We want to create a client who is aware of the need for our services.

Part of this, of course, requires that we mine our existing clients. We should not worry about new people; rather, we should focus our efforts on our existing client base.

When it comes to new clients, though, the first thing most of them do is speak to their family lawyer, "to check you out". Word of mouth, therefore, is very important. Things like blogs, podcasts, web pages, tweets, *etc.*, are all secondary levels of review of your market position. The truth is that most new clients will have talked to others before they come to see you.

Another thing to keep in mind is that you earn relationships by giving.

Remember, there is always the thrill of the chase of the new business and you need to be focussed in your efforts. Do not market in low probability places with people you have no special interest in or relationship with. Direct your marketing efforts to the places where it is most likely to work.

Ensure that your blog is user-friendly. It should not take a long time to download blog entries. A blog should not contain any unnecessary items. Also, list topic categories so that the reader can more quickly access the materials in which they are interested. Along the same lines, it is also helpful to make your blog searchable. Ensure you have a real live person behind the blog whose name is published in order to give readers a genuine connection to your practice. Have an editorial calendar with deadlines to ensure your goals are met. Do not write from the

perspective of someone promoting their practice; try to write from the standpoint of an objective and expert observer of current events in your niche area. Pay careful attention to developments in your practice area so your blog can stay on top of “hot button” events and issues. Make sure to include links in your blogs to make it easier for the reader to learn more about your blog topic. Invite and respond to blog comments to create a dialogue with the reader and thereby strengthen the connection between the reader and your practice. Titles should entice the reader to learn more. A subscription mechanism should be provided to allow the reader to access the entries *via* e-mail. It is particularly important, where you make blogs available on subscription, that the title and first line be particularly enticing so as to induce the reader to click on the feed to read the entire blog.

Social networking is a valuable tool for connecting with clients and colleagues and must not be overlooked. It was deemed the most valuable business tool of 2010 by Harvard Business School. By making use of tweets, status updates, and connections provided by social networking websites, you provide your business with a means to stay in constant contact with the client or colleague, which helps establish your business as a brand leader, attract new clients, and maintain existing ones. Social networking is also helpful in that it provides a means for you to keep aware of the goings on in your colleagues’ practices, and facilitates communication with other professionals. You can also make use of it to quickly and easily invite colleagues and clients to firm events.

With respect to Twitter, it is important to develop a plan of action covering what tweets you will post, who will post, and when you will post them. Further, use your tweets to acknowledge and thank individuals who have made positive comments about your practice or recommended you to clients. Remember that your followers can spread your content even further by “re-tweeting”

your tweets. Social networking content should always be made easy for readers to share with others by using forwarding links or “re-post” or “share” buttons provided by the various websites. Tweets should always be professional and not personal. Social networking is not solely a means of marketing the firm; it can be used to create a community based on common interests. Its importance should not be overlooked for niche markets such as estates and trusts law.

When using social networking tools, it is crucial to demonstrate knowledge of your practice area. You want to represent yourself as knowledgeable in your niche without appearing arrogant or insincere. Ultimately, you want to be the person people want to go to in order to learn about estates and trusts law. Share knowledge with your followers freely and without condition, so that your followers will respond in kind with referrals and retainers. Be aware of the social network pages of the competition. Comment on other blogs to demonstrate your expertise and inspire viewers to click on your social network page. It is very important to respond to comments on your social networking pages, in order to foster genuine interaction with your audience. You can keep current on other blogs by subscribing to RSS feeds using, for example, Google Reader (you can also use these programs to share content). Also, add and accept connections and follow profiles of interest on Twitter to build a community around your practice which will receive valuable information from you and respond with referrals and retainers. Ensure that you provide the sort of content your readers want to see, such as problem-solving strategies, identification of current issues in your practice area, newsletter and blog content, notice of upcoming events, and legal writing.

In everything that you do, you will want to be transparent, authentic and true to yourself. This is the best way to gain the trust, confidence and, hopefully, loyalty of your audience.

Online video has been described as one of the most persuasive technologies for achieving changes in behaviour. YouTube and other video streaming sites have become a mainstay of popular culture. By videotaping and streaming podcasts, you can help to forge a stronger connection with the client or colleague and provide them with an impetus to come to you as a source of knowledge, expertise and advice.

Thus, in using social media, it is important to make your presence as interactive as possible so as to foster interaction with clients and colleagues and thereby earn their loyalty. Use photos and videos as often as possible to bring your practice to life and verify your identity. Ensure that your profile describes your practice or individual lawyers in your firm accurately. Write in your true voice, and not as if you are attempting to sell a product or service. Write about important issues, and issues that will set you apart from other practitioners as an expert in the niche area. It is crucially important to encourage client and colleague communication by allowing for comments on blog posts, tweets, and Facebook “walls” and engaging in a dialogue with posters. Ensure that all your social media pages are easily accessible from your main web page, so as to create a “hub” to anchor your community of friends, connections, and followers. Consider putting buttons on your page to allow readers to link to your social networking profiles quickly and easily. Try to provide regular content updates to keep your community knowledgeable about the current state of your practice. A “News” section is helpful for this purpose.

Summary

From time to time, sit back and look at where your non-billable efforts are going and consider what the right balance or return on investment of that time is. Be honest with yourself, and ask “Do I really think that I am placing my marketing time in the most appropriate places?” Our

guess is that you will need to rebalance your efforts from time to time in an attempt to “stay ahead of the curve”.

C. Systems Management

The key to establishing good client management is to understand what your client is going through when he or she comes to see you. As an analogy, think about how you wish your doctor would treat you when you go to see him or her. No one likes to be rushed, for example. Even though, as a lawyer, you think you have pegged the nature of the case and no longer need to listen to the client’s story, you do not want to come across with this behaviour.

The key to listening is actually remembering. It is not just about getting through the conversation. You need to know what the client is actually worried about, and how you can help him or her. As long as you treat your clients in the manner you wish other professionals would deal with you, you will guarantee greater client satisfaction and more future business.

Conclusion

In marketing our estate and trusts practices, we need to build organizations and systems around common principles. The marketing and file management systems, of course, are only half of the story. We also have to augment good internal dynamics with a good external environment. Building trusts within the “team” and internally is important. Having said that, the external circumstances are equally vital.

At Hull & Hull LLP, we continue to make use of traditional marketing mechanisms, such as legal writing and information sessions; however, we work to impart this knowledge to clients and

colleagues using modern techniques and new and exciting media. We use social media to build trust and credibility in the estates and trusts law community, and to position our firm as a trusted source of information and expertise.

In the end, so much of what we do to market ourselves as lawyers will really depend on our ideal target audience, and how they can best be reached. With a little bit of trial and error, and a whole lot of perseverance, it can be done.