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Business of Law

By Frank Michael D'Amore¹

If I Had Known Then What I Know Now...Part II

A watershed birthday inspired this series of articles concerning some lessons learned during a 25+ year career in the law. Some of this education was based on personal experiences, but much resulted from observations shared by other lawyers. In Part I, four lessons were cited: 1) the value of building networks early, 2) not holding happiness hostage, 3) having the courage to overcome inertia, and 4) understanding that it's not all about you. Two more principles are shared this month.

Lesson Five: Your Adversaries are Not Your Enemies

One partner related that his early days as a litigation associate (in the late '70s) were spent defending product liability matters. Perhaps it was the era, or the inherent nature of litigation, but he explained that opposing counsel, and even co-defense counsel, were often painted as antagonists who must be slain. He laughingly remarked that a simple motion to compel discovery was akin to a morality play in which good and evil were pitted against each other in a winner-take-all match.

In retrospect, this may have been an ingenious motivational strategy by the partners in his firm, as he stated that the associates were hungry and routinely prevailed. This makes eminent sense, as lawyers, by nature, are competitive, and would not have advanced through sometimes twisting educational and professional paths without thirsting for victories at various points. Consequently, appealing to those instincts (which are only magnified if one has a sports background, which this partner did) was astute.

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As this partner learned (and as others have seconded) it becomes apparent as you progress in your career that zealously representing clients is not mutually exclusive from cultivating relationships with lawyers on the other side of deals or cases and even their clients. In part, this may stem from a belief in karma, the “golden rule” or similar precepts that support treating others fairly. Quite a few lawyers have told me about situations in their careers where they regretted treating someone dismissively, scornfully, or without respect simply because that person was positioned as an adversary. Their lament may have manifested itself later in their careers when that slighted lawyer turned out to be the judge assigned to a key case, an in house lawyer who controlled their fate in deciding whether they would get a new piece of business, or a pivotal, unidentified character reference whose view may sway whether a job offer would be extended.

It should also be noted that lawyers and executives on the other side of the table may become an important business source and link to career opportunities and thus merit being treated well. Many successful partners have built their careers on referrals from other lawyers. As the world is teeming with top flight lawyers, those referrals do not simply occur because you are talented. Rather, since the referral also reflects on the lawyer’s judgment, he wants to ensure that his client will be treated well—if you haven’t evinced that type of behavior, the referral will not happen.

Similarly, many lawyers have subsequently been retained directly by a CEO or other executive who was deposed by them or on the opposite side of a negotiation. Once again, that decision was likely driven in part by respect for one’s skill, but it also is fueled by how you comported yourself throughout the matter. You can, and should, be a vigorous advocate, but if you project professionalism, treat others with respect, and build relationships, those attributes will take you much farther than someone who is always steeled for battle and views adversaries as combatants.

Lesson Six: Set Specific Goals

Two interrelated characteristics of the most successful lawyers with whom I have worked are a penchant for taking action and guiding those efforts toward clearly defined goals. For these lawyers, it was not good enough to aspire to become a ‘better writer,’ or a ‘more complete lawyer,’ or even a partner (or general counsel). They uniformly were concerned that these

objectives were too amorphous; as such, they set specific targets and worked hard to achieve them.

In a tale that has been repeated so often that it is unlikely to be apocryphal, Jim Carrey was a struggling actor in 1990, who was down on his luck and had yet to really make his mark. While contemplating his future and looking down on the Hollywood Hills from his parked car, he wrote himself a check for \$10 million, marked it “for professional services rendered,” dated it Thanksgiving, 1995, stuck it in his wallet, and looked at it daily to remind himself of what he wanted to achieve. In 1995, following the runaway success of three films, Carrey’s asking price for films had risen to \$20 million and that check had effectively become good.

Carrey’s tale is more complicated as that short story suggests, as hard work, some breaks, and a huge reservoir of talent helped him blow by his goal. Nevertheless, goal setting is as equally important to lawyers. The following are a few principles to keep in mind in creating your goals²:

- Set Concrete Goals With a Target Date
 - Suppose you are a partner who realizes the importance of bringing in more business (is there any other kind these days?). You may think that it is a good goal to aspire to ‘become a rainmaker.’ In actuality, that is a nice idea—however, a *goal* that you can strive to achieve would be to bring in X dollars of business by December 31, 2010. With that specific type of objective in place, you can focus your efforts, determine how you can make that happen, and specifically track your progress;

- Set Goals that Are a Stretch
 - If you generated \$1.5 million in business last year, and your book has generally been rising the past few years, it is not much of a stretch to set a goal of \$1.7 million in fees for 2010. It is advisable to set a number that is outside your comfort zone, but is achievable if you work hard and remain committed;

² There are countless books that discuss the benefits of goal setting. One that I highly recommend is Jack Canfield’s, *The Success Principles, How to Get from Where You Are to Where Want to Be*, HarperCollins Publishers.

- Set One Goal that Would be a Grand Slam
 - As noted, your core goals should motivate you to push beyond your normal level of performance. There also is value in setting one goal, which, to achieve, may be akin to cranking a ninth inning grand slam off Mariano Rivera, writing a book that zooms to the top of *The New York Times Bestseller List*, or some similar achievement that is well beyond even superb performance. Although it is possible that your “big goal,” may happen by serendipity, the admittedly long odds will be narrowed if you target this as an objective and work to make it happen. Some, if not most of the major accomplishments of our time would never have occurred without targeting them as goals;

- Define the Tasks You Will Perform
 - Setting goals, visualizing that they will happen, and adopting a positive mindset are important. Nevertheless, you still have to take action and, if you are going to track your progress, need to lay out the activities you will undertake as you march toward your goal. If writing articles, for example, is part of your plan to generate \$3 million in fees, it is not good enough to project that you will write three articles this year. Rather, identify the three publications in which your articles will appear and the dates by which you will send your pieces to the respective editors;

- Commit Your Goals to Writing and Review Them Often
 - Your goals will be immeasurably reinforced if you write them down, as that triggers an important commitment on your part. You also will benefit by daily reviewing these goals, as that will keep your objectives front and center, which can be a challenge as the grind of daily life may divert your attention elsewhere. For some, writing those goals on the back of your business card and sticking them in your wallet (a la Jim Carrey) is best, for others, placing a Post-it® on your computer monitor or bathroom mirror may do the trick.

Is goal setting absolutely necessary? Even I would have to acknowledge that you can have a very successful career by simply striving to improve yourself each year. My experience,

though, along with insights gained from quite a few others, has shown that goal setting can be instrumental in your career. This becomes more pronounced as one year turns into two, two becomes five, and, without seemingly even blinking, you look up and realize a whole decade has passed, as you have been consumed with the matters du jour that fully occupied you. Without establishing some guideposts, it is quite easy to have that inexorable tide of time wash you ashore at some undesirable locations.

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