

a publication of the Minority Corporate Counsel Association

September/October 2004 Vol. 6, No. 5

DIVERSITY & the Bar®



Looking Beyond the Merger— Shared Values

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Anatomy of Law Firm Mergers: Uniting Cultures, Sharing Values

By Melanie Lasoff Levs

SHORTLY AFTER THE FIRST LAW FIRM WAS FORMED, the first law firm merger likely took place. Firms have been getting together ever since. These unions occur between firms large and small, regional and national; firms with different practice areas as well as between firms of similar size and scope.

But just as marriage is not something to be entered into lightly, neither is a law firm merger. It's a process that takes months or longer to complete, affecting attorneys and clients alike. For partners considering a merger, it's important to carefully review the pros and cons of such a grand undertaking before moving forward with the project. The first question: What are some reasons to merge and what are some reasons to stay single?

Peter Zeughauser, attorney, consultant, and managing partner of Zeughauser Group LLC, explains that many of today's clients need service around the world. "Many law firms have concluded that to serve the clients, they need more lawyers or a national or global geographic footprint," he says. "Not all law firms can build [their practice] quickly enough by hiring more associates to bring through the ranks, so they need to go out and find a merger partner," says Zeughauser.

According to Zeughauser, firms also may merge to strengthen their brand or broaden their practice areas. While law firms sometimes find each other through mutual acquaintances or a firm's reputation, they often hire a third-party consultant to find them a partner.

Factors to Consider

Before considering a merger, firm management should keep in mind a variety of issues, says Zeughauser. "We advise firms to look at a number of different factors and criteria," he explains, including:

- mix of the practice areas;
- geography;
- mix of clients;
- financial structure;
- off-balance-sheet factors such as retirement plans, which can be a significant hidden liability;
- cultural issues such as governance and management structure; and
- values similarity.

Firms should particularly note profitability. "It's a reflection of how hard the lawyers in the firm work, how successful at business the firm is," says Zeughauser. "The disparity in net income per equity partner is a telltale sign that one firm's work ethic is not as strong or successful as another. A merger of two firms with disparate work ethics would dilute the stronger firm's success, and

most firms don't want to do that in a merger," says Zeughauser.

Client conflict is another major issue when evaluating a merger opportunity. "There are rules of professional conduct that prevent you from representing clients whose interests may conflict with one



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—Ron Green

another," Zeughauser explains. "You don't want to merge with a firm that would cause you to have to stop working for a key client," Zeughauser elaborates.

Law firm mergers typically are treated as partnerships, he adds. "By nature, a partnership requires you share common values. Firms that have dissonance over values are typically not successful [in a merger situation] and can't survive. So it's very important you have common values and spend some time on that," says Zeughauser.

How can firms find out each others' values? "It requires sitting down, working together, developing plans to develop business for your combined entity, and developing a written statement of values as a combined entity," Zeughauser recommends.

The Value of Diversity

Diversity is one such value. While increasing diversity may be important to a firm, it is not usually a top issue addressed during merger discussions. "A small number of firms use diversity as a factor in deciding who to merge with. There aren't enough firms that have achieved significant diversity that it would be a factor to other firms who want to merge with them," says Zeughauser. Sometimes a merger provides an opportunity for firms to revisit their strategic plan and values, including diversity. "A merger provides a window of opportunity to go back and examine where you stand on diversity and incorporate it as a more significant priority," says Zeughauser.

Epstein, Becker & Green, a large national general practice firm based in New York City, merged with Wickliff & Hall, a small, minority- and woman-owned firm based in Houston, in June 2002 to become Epstein, Becker, Green, Wickliff & Hall. Outside Texas, the firm's name is Epstein Becker & Green. While diversity did

not drive their merger, it did play a role. Both firms had similar attitudes about diversity, agreeing that fostering a diverse culture was as much the “right thing to do” as it was good for business. “We wanted to serve the interests of the global business community before it became fashionable,” says Ron Green, a partner from the Epstein, Becker side of the firm. “Everyone had been becoming more aware of the benefits of diversity—it makes sense on so many levels,” says Green.

Epstein Becker/Wickliff & Hall: Equal Partners

The two firms began talking about merging in the fall of 2001. “Our pattern of growth has been that we try to find offices that work in tandem in particular regions of the country,” Green explains. After Epstein Becker heard about a strong firm in Texas (Wickliff & Hall), a consultant later told partners that Wickliff & Hall had begun thinking of aligning itself with a national firm. The partners jumped at the opportunity to negotiate, Green recalls.

For Wickliff & Hall founder Marty Wickliff, the most immediate concern as the two firms began discussions was comfort. Considered a unique firm in Texas—as it was both minority- and woman-owned—the 31-attorney practice “had a lot to offer to whomever we merged with,” says Wickliff. It was imperative that the eight partners of Wickliff & Hall get to know the New York firm. At the end of 2001, Epstein Becker’s labor and litigation team invited Wickliff & Hall attorneys to its retreat, which resulted in both groups becoming comfortable with each other.

“We needed to feel that the values at Epstein Becker mirrored our values, that they practiced the way we did, they put the client first,” says Wickliff. “Those were the values we had, and the more we talked [with Epstein Becker attorneys], we realized that we felt comfortable. We would not become lost in a larger firm, but become partners with them.”

As soon as the merger went through on June 1, 2002, Epstein Becker invited Wickliff to join its board of directors. “That made me feel good and gave the Wickliff partners an immediate presence,” remembers Wickliff, who, along with Green, represents exclusively management in labor and employment litigation and trials. “We could offer a lot of value to the firm because we would increase the number of minority and women lawyers, but we didn’t want to become part of an organization that would just pay us lip service, but one that would bring us into the fold,” Wickliff stresses.

Diversity was important to both firms: Wickliff with its status and Epstein Becker with its many attorneys who had worked in the civil rights movement, and had held leadership positions with the Equal Employment Opportunity Commission (EEOC) and the federal government. But it was the quality of the firm that drew Epstein Becker to Wickliff & Hall, Green explains. “A lot of us were committed to diversity as a philosophy and practice anyway, and were delighted when we found out about Wickliff’s minority status. But we were unaware of that initially. We knew these folks to be terrific people and lawyers, and that’s what drew us to them,” says Green.

Wickliff is proud of that. “We’d established ourselves as

performing the same top-quality work as our counterparts. Then they learned we were minority-owned,” he says. “I felt really good that we had established that reputation to the point that it got the attention of a national firm,” says Wickliff.

As indicated by Wickliff, when the merger went through, Wickliff & Hall attorneys stayed in Houston and Dallas, though its San Antonio and Austin offices decided not to join the merger. While Wickliff & Hall lost its minority status when it joined the larger law firm, Epstein Becker’s Dallas office had been separately incorporated, so when Wickliff & Hall attorneys joined that practice, that portion of the firm was able to retain its minority- and woman-owned status under the firm name of Epstein, Becker, Green, Wickliff & Hall.

Epstein Becker, a first-generation firm of more than 300 attorneys, did not have a formal diversity policy, but a policy of equality, says Green. “We share here—we are all equal partners, all 90-plus of us, in this business,” he adds. “We were looking for people who would take an interest in the entire firm and work to build something we could create a legacy with. The principal focus was on people with wonderful reputations as people and as lawyers,” says Green.

After the merger, Wickliff made a point of speaking with other minority attorneys and partners about increasing diversity and retaining women and lawyers of color. “I felt, from talking with other partners, the firm was going in the right direction,” he says, citing the joint firm’s new diversity committee’s mentoring programs, law firm recruitment, and other initiatives. “Based on



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early discussions with minority lawyers [at Epstein Becker] and with Ron, who was very open and sincere with what the firm was doing in that arena, I felt that merging these cultures and having the same views about diversity was not going to be an issue,” says Wickliff.

Green calls the merger virtually seamless. “We were very fortunate from our side. Our instincts were correct—these were really good people. That’s what this business is really about.”

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