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Evaluating Unanticipated Growth Opportunities

Mergers among law firms are continuing to occur at a high rate. And more firms than those completing mergers are engaged in exploratory discussions to determine if a merger makes strategic and business sense. While many firms have a clear strategy around growth and are proactively pursuing expansion, others may not have prioritized growth in their strategy, or may not have a strategy at all. Yet firms in these latter categories are regularly approached about merger opportunities. Given the consolidation in the legal industry more of them find that they need to give these opportunities at least some consideration. Even firms with a clear strategy around growth may find themselves considering unanticipated opportunities.

If your firm finds itself in this position do you owe it to the firm and to your partners to consider and evaluate the opportunity? What are the questions you should be asking or the factors you should be considering? Based on our work with firm leadership we suggest the following:

Alignment with Strategy

If you have a defined strategy, the first step is to test the potential merger against the firm’s strategy. Does the strategy call for growth in key practices or new or existing markets? If so, you can assess whether the potential merger partner brings real strengths in the target areas or markets. In addition, consider how the firm has done against those growth goals. Some firms find that executing a growth strategy via laterals or organic growth is more challenging than expected, and that progress is very slow. Perhaps a merger can accelerate progress or even exceed targets.

If the firm’s strategy does not anticipate growth, you may want to consider whether that position continues to be realistic given market forces. Is the firm’s disinclination to growth a result of the firm’s practice focus or client concentration, or is it because partners are concerned about losing autonomy? If the latter, you can assess whether a merger would in fact result in a loss of autonomy or justify other concerns that partners may have expressed.

Occasionally, strategies don’t articulate certain kinds of growth because the firm did not see the execution of that growth strategy as achievable in the near or medium term. International growth, for example, may not have been seen to be a top strategic priority, but given a real opportunity to achieve a strong international position the firm may find that the strategic rationale is in fact there.

Competitive Market

One of the factors that prompts firms to rethink their stance on growth is a change in the competitive market. If a peer firm or two has recently done a merger, or if the local market has been disrupted by out-of-state firms, it can quickly change the competitive landscape. The disruption caused by out-of-state firms can be particularly acute if the firms entering the market are leading firms who provide a new and credible option for local clients. In addition, these entrants can have an impact on the market for talent, not only making it more difficult for the existing firms to attract lawyers locally, but also putting the firm itself at risk of losing top talent. We have recently seen this dynamic in several U.S. cities when some of the most profitable firms in the country have entered a new market and made significant investments to attract top partners from local firms and offices.

When this kind of disruption occurs, we have seen a shift in lawyers from the local firms to offices of out-of-state firms. Over time this erodes the competitive position of some of the local firms. In this instance merger may be a defensive strategy to protect the firm’s position in its primary market.

Client Trends

Client trends and usage of the firm can have a major impact on a firm’s appetite for growth. Some firms find that clients experiencing rapid expansion can outgrow the firm and begin to send more work to larger or more geographically diverse firms. While the legacy firm may still be considered for a meaningful amount of work, it may not be at the same level of complexity of work historically performed by the firm. Would a merger help the firm protect or regain its position with those clients?

Clients may also look to their law firms for deeper or different services as their business grows or shifts. Some clients are concerned about the bench strength in specific practices or need new expertise. Merger may offer the opportunity to create greater depth or breadth of expertise which allows the firm to better serve client needs.

Finally, some firms seeking a merger in a new market have client relationships in the market that could be expanded with a local presence. If your firm is on the receiving end of an inquiry from one of these firms, are these clients you would like to have? Do you have the right practices, and lawyers with capacity, to take advantage of potential opportunities? While you need to be realistic in this assessment, we have certainly seen these connections result in new work for the combined firm.

Partner Views

There is no question that knowing how partners will react to a merger is an important consideration. But it is also important to consider what is behind those reactions. As noted, some partners are very focused on retaining autonomy, which may still be possible in a combination either in whole or in part. Mergers of law firms usually include leadership roles for the leaders of both legacy firms. And sometimes the reasons for wanting to retain autonomy are more personal or self-interested rather than in the firm's best interest so it is important to understand the underpinnings of stated concerns.

Partners may also be concerned about preserving important aspects of the firm's culture. Culture is indeed critical, but culture can and does change even when firms remain independent. And often partners find that the culture of potential merger partners is more compatible than they expected.

Finally, you need to consider the views of the partners most responsible for the firm's current and future success. Often this group sees more need for change or growth because they see more opportunity to expand client relationships, or to compete for work that the firm is otherwise not as well positioned to go after. This is also the group most likely to be a target of lateral inquiries and if they feel the firm is not moving in the direction they feel it needs to go to support their practice and clients they may entertain those inquiries.

In the end, a particular merger opportunity may not make sense for your firm, but instead of spurning all inquiries you need to periodically evaluate whether some of those opportunities are worth considering. Periodically assessing the firm's competitive position and strategic priorities can help to assess those inquiries from the perspective of what is best for the firm.

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