

## The Virtual Law Firm

Project partnering can turn the small practitioner into a full-service firm.

BY JOEL CHINESON

**W**hat do you do if you're a solo or small-firm practitioner, and a client comes to you with an issue that may be beyond your expertise or that in some other way exceeds the capability of your practice?

Let's say you're a corporate lawyer, and a client company plans to acquire a business in another city. After initial study, you realize that before the deal can be completed, a real estate lawyer and an employment lawyer will need to be consulted.

Or say you receive the opportunity to handle a class action that spans many states. You possess the legal know-how, but you don't have enough lawyers at your disposal to manage the case successfully—not in your office nor in the other widespread jurisdictions.

In such circumstances, what are your options?

Traditionally, you would most likely refer the matter to a so-called full-service firm with greater resources, says Jeffrey Berger of D.C.'s Berger Law Firm and of counsel at D.C.'s Jackson & Campbell. "Big firms often sell the one-stop shopping concept."

But Berger favors another approach, one he dubs project partnering. Perhaps the best explanation of project partnering comes from his article on the subject that appears in *Going Solo*, a book published in 2001 by the American Bar Association:

"The project partnering concept is based upon the premise that experienced lawyers in small firms can provide equal or superior client services on most complex matters as compared to lawyers in large, full-service firms. The key is that these small-firm and solo practitioners must spend the time and effort to create reliable networks prior to the need or project arising, and

thereafter establish well-thought-out operating plans to handle particular projects."

Last Thursday, Berger was joined at D.C. Bar headquarters by Lawrence Koltun of D.C.'s three-lawyer Koltun & King and of counsel to the Kentucky-based firm Greenebaum Doll & McDonald to spread the gospel of project partnering. The duo led a brown-bag luncheon seminar sponsored by the bar's Law Practice Management and Litigation sections and the Women's Bar Association of the District of Columbia. The program, entitled "Project Partnering: A Tool to Enhance and Expand Your Practice," outlined the benefits of what Koltun calls the virtual law firm as well as the potential pitfalls facing a lawyer who enters into such an arrangement.

Berger says project partnering becomes a viable alternative when a lawyer recognizes that he or she has a matter that requires help outside the scope of his or her firm, but still has value to add to the matter, whether through know-how, litigation skills, or knowledge of the client or the facts involved.

In illustration, Berger, whose practice is largely management-side employment, suggests this hypothetical: A lawyer in a small firm is representing a growing high-tech company that has just received a new round of financing with the proviso that its founder and president be replaced. While seeking to negotiate the forced separation of the president, who is being offered deferred compensation, the lawyer may conclude that he doesn't have the tax knowledge to handle the negotiations over the deferred compensation package. He may want to consult a tax lawyer. And if allegations are being made that environmental laws were violated at the plant because of the president's inattention, this lawyer may feel the need to consult an environmental lawyer or an Environmental Protection Agency specialist.

In addition, a lawyer handling a multijurisdictional matter who needs to find local counsel may find a partnering arrangement beneficial. So might a lawyer working on a contingent-fee basis, as a way to share the risk of loss.

There are some matters in which partnering is impractical

and a referral to a larger firm is probably the best way to go—for example, large closings, public offerings, and really complex tax matters.

“It really depends,” says Berger. “One size does not fit all.”

A partnering arrangement differs from a referral by the continued involvement of the original lawyer.

“In a referral, you’re saying, ‘I’m not going to be involved.’ You’re sending the matter to someone else, and you have nothing to add,” says Berger.

The partnering arrangement offers significant advantages.

For the original lawyer, it means a continuing relationship with his or her client. “Clients don’t want to go to five different lawyers,” says Koltun. In essence, you assemble a team of lawyers for them.

“It’s like free agency in sports,” says Berger. “You can put together the best team.”

For the lawyers turned to by the original attorney because of their expertise, there’s the obvious benefit of extra work and the possibility of additional work down the road.

For the clients, the biggest boon is that their matters are receiving immediate expert attention. “What you’re marketing to your client, besides expertise, is efficiency,” says Berger.

Many clients prefer dealing with solo or small-firm practitioners because of the more personalized service they feel they receive. Partnering, particularly if a network of experts is composed of other solos and small-firm lawyers, can continue to offer this more-personalized approach, even on complex matters. Berger and Koltun believe that, occasionally, matters referred to larger firms can get lost in the shuffle, especially if the work isn’t likely to generate a large fee. Says Koltun: “A \$5,000 referral means more to a smaller firm than to a larger firm—that’s an economic fact of life.”

Project partnering “is not to knock large law firms,” says Berger, “but to offer an alternative.”

Yet a lawyer should not make partnering choices lightly. “If you’re bringing someone into a matter, you must make sure he or she is competent,” says Berger. “You can be held liable for bringing in an incompetent.”

Solo or small-firm practitioners who have previously worked



**PARTNERING UP:** As the leaders of a D.C. Bar brown-bag luncheon seminar last week, Lawrence Koltun (pictured) and Jeffrey Berger joined forces to explain the concept of project partnering.

ROBERTO WESTBROOK

in large firms can often rely on their former colleagues, especially if they too have moved on to smaller practices. Berger says his network of experts is laden with lawyers he worked with at the now-defunct Finley, Kumble, Wagner, Heine, Underberg, Manley & Casey. “I’m looking for somebody who will do a good job, who I know is reliable,” says Berger.

Another good source of identifying project partners is professional organizations, like bar associations. “You are meeting people who are active and involved,” says Berger. “You can see for yourself if they’re intelligent and trustworthy.”

With the original lawyer acting as the point man, which is typical in a partnering arrangement, the client knows who is keeping tabs on the case and who can be consulted if questions arise. “If you’re the main lawyer on the case,” says Koltun, “your clients are likely to want everything to come through you.”

Of course, the lawyers in the partnering arrangement must decide beforehand the logistics of their representation. As Berger writes in his aforementioned article, “[I]t is critical to discuss the ground rules for representing the client, i.e., who is responsible for what, and the business and financial relationship. Obviously, the first step is for all lawyers under consideration to conduct a conflict check.”

Each lawyer involved should send representation agreements to the client, and the client should be consulted about billing. The client might want to receive a bill from each of the lawyers involved or just one bill from the original lawyer including all the fees. Most jurisdictions have rules governing the division of fees that require disclosure to and consent by the client. Ernest Lindberg, director of legal ethics at the District of Columbia Bar, points to D.C. Rule of Professional Responsibility 1.5(e), which allows the division of fees if “[t]he division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation.” Maryland’s pertinent rule is similar to the District’s; Virginia’s rule permits fee sharing without the sharing of responsibility.

Berger says that the rules of professional conduct aid the structuring of partnering arrangements. “Lawyers who err on the side of compliance,” he says, “will likely have the most clear understandings with the client and themselves.” ■