



BY HEATHER SUTTIE

Of Lawyers, Lemons and Lemmings

Myths aside, it's differentiation that creates value proposition in legal markets



LAWYERS, lemons and lemmings may seem very disparate, but they have more in common than you might think.

When leading an exercise in differentiation at a law firm, I often give each lawyer a lemon and ask that they consider its characteristics: how it feels in their hand, its weight, its round or oblong shape, pointy or blunt ends, blemishes and bumps, smooth, pebbled or patchy skin. Most lawyers roll their lemon around and study it thoroughly. Litigators take notes. After a one-minute examination, the lemons are dumped in a bucket and set aside.

As for lemmings, lawyers have worn this label for decades due to misconceptions about lemmings and lawyers both. There's an urban myth that lemmings commit mass suicide by hurling themselves off cliffs into the sea, where they drown; in other words, they behave with a mindless and ultimately self-destructive herd mentality. In fact, lemmings are (like other animals in the wild) self-preservationists, as well as strong swimmers.

This derogatory label may have come from Ralph Nader's 1973 article "Lemming-Like Lawyers." In it, the American consumer advocate, lawyer and author railed against the conformity of US bar exams, which he charged were regurgitations of historical and sometimes antiquated legal rulings and did not require the judgment and creativity that is needed to address contemporary legal issues.

The point is, whether you're a lawyer,

a lemon, or even a lemming, you're different from others of your species, and those unique factors distinguish you from the rest of your kind.

NOT THE SENSE GOD GAVE A LEMON

So why don't more firms demonstrate differentiating traits that enable them to stand out from the rest?

According to Altman Weil's 2018 Law Firms in Transition Survey, 50% of lawyers from the 398 respondent US firms answered 'no' when asked if their firm had a value proposition that differentiated them from their competition. What's more, 59% said they were "not feeling enough economic pain" to spur significant change.

Complacency is part of the problem, according to The Bellwether Report 2018: The Culture Clash — Solicitor Confidence vs. Client Power, from LexisNexis UK. This study of independent law firms found that while 97% of respondents recognize the importance of a client-first culture, 69% say their firms are doing little or nothing to meet demands.

All of this is puzzling behaviour in the face of continuing reports of partner underperformance, overcapacity, and unrelenting and growing competition.

THE LEMMING FACTOR

There was a time before global full-service legal conglomerates entered the Canadian market when law firms claimed their distinctions, took a position and marketed themselves accordingly.

For example, many years ago McCarthy Tétrault LLP, once Canada's largest law firm, touted its size, among other attributes. These days Borden Ladner Gervais LLP, now the largest Canadian firm, doesn't take that approach. In fact, no firm does, because size is irrelevant. While other

major firms once had well-known value propositions in distinct areas such as M&A or banking or finance, practice or industry distinctions are today the domain of boutique and specialty firms, and even they sometimes hide their lamps under bushels.

Is there any correlation between lawyers and lemmings? While some lemming behaviour is a myth, this much is true: their population peaks roughly every four years, then dips to near extinction. When the population is high, food gets scarce and these rodents become aggressive toward each other. That lemmings exhibit similar behaviour to one another in their search for sustenance is not surprising, since each is hungry and competitive.

UNIQUE CHARACTERISTICS HELP LAW FIRMS STAND OUT

Being everything to everyone may leave you as nothing to no one. But this fate is avoidable when your unique characteristics enable you to stand out from the pack — whether you are a professional, a law firm, a rodent, or a tart citrus fruit.

At the end of the differentiation exercise, when the lemons — whether there are 10 or 100 — are dumped from the bucket and the lawyers are asked to find theirs, identification happens in mere moments.

A few years ago a sharp lawyer, anticipating the need to identify her lemon, peeled it before dropping it into the bucket. Did she cheat? No. Instead, she enabled differentiation by altering its appearance.

That's something playwright Oscar Wilde might have applauded, as he once quipped, "A grapefruit is just a lemon that saw an opportunity and took advantage of it." 🍋

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