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**Solo & Small Firm
Section**

NEWSLETTER

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Inside this Issue

- Page 3 **Is Word of Mouth Getting You Exactly the Work You Want? And What if it's Not?**
By Patrice Robertie
- Page 4 **Put Your Plan in Writing: A Solution to Marketing Success**
By Stephen Seckler
- Page 5 **Utilizing the Massachusetts Brownfields Tax Credits and Federal Incentives**
By Jennifer Bernazani-Ludlum
- Page 7 **Small Firm, Big Success: Case Note on MASSPOWER v. MMWEC**
By Rob Granger
- Page 8 **Section Leadership**

Is “Word of Mouth” Getting You Exactly the Work You Want? And What if it’s Not?

By Patrice Robertie, President/Creative Director, Acorn Advertising

There are many attorneys who regard marketing as something distasteful, and so they decide to stay as far away from it as possible. Often that means they depend on “word of mouth,” which they’ve heard is supposed to be “the best” marketing anyway.

There’s an easy way to tell if word of mouth alone is getting the job done for your practice. If you are consistently and profitably busy with exactly the kind of clients you can best help and the kind of work you find most interesting and fulfilling, word of mouth is obviously enough.

But what if word of mouth isn’t keeping you busy? What if you want a different kind of business - one your current clients’ referrals simply can’t provide?

In his wonderful and wise book, *Easier Than You Think - Small Changes That Add Up To A World of Difference*, Richard Carlson insists that making “simple but effective changes can add up to a fortune of difference in our lives.”

If “marketing” has a stigma to you, why not choose to think of it another way? Call it “practice development” or “educating potential clients” or “reminding people how you can help.” Because a slight shift in the semantics can open a space for considering how you might comfortably and appropriately get the word out about what you do.

This was the case with a recent client - a metro Boston practice. They hated the idea of marketing, but they wanted good new business. For them (and after a slight mind-shift), the combination of a tasteful ad running regularly in their local paper combined with a targeted web site has been leading to a steady stream of ideal work from other local attorneys, out-of-state attorneys (who find them online) and individuals. Fighting “out of sight, out of mind” has added up to a “fortune of difference” for this firm.

Whatever you may choose to call it, active marketing is a primary practice-building tool. And it works!

Put Your Plan in Writing: A Solution to Marketing Success

By Stephen Seckler, President, Seckler Legal Coaching

There are many paths to marketing success. Regardless of the tools you use to build your reputation and strengthen your business relationships, one thing is certain: consistency matters. So how do you ensure that you are sticking with your plan over time? What can you do to prevent marketing from falling to the bottom of your to do list?

One solution is to put your plan in writing. A plan does not need to be an elaborate manuscript. In fact it isn't even necessary to write down your plan in prose. Checklists and spreadsheets are equally valid ways to document your commitment to yourself. Unless you need to share the plan with someone else, having something on paper that makes sense to you is sufficient.

So think about how you want to build your reputation and how you plan to cultivate relationships with prospective clients and referral sources. Then write your plan down and be specific (e.g. I will write three articles in the next six months; I will get active in my local chamber of commerce; I will meet 8 prospects of referral sources for lunch or coffee each month.) Putting it on paper (or actually in a Word document that you can continue to edit) will force you to think more strategically about how you can get the best return on your investment of time. It will also greatly increase the likelihood that you will actually follow through on these activities.

Utilizing the Massachusetts Brownfields Tax Credits and Federal Incentives

By Jennifer Bernazani-Ludlum, Ferriter Scobbo & Rodophele P.C.

We are finally starting to see the hallmarks of spring: warmer weather, tulips and dreaded taxes. But for those who own or lease contaminated sites, known as brownfields, the tax season may actually provide some relief. Taxpayers who have undertaken remediation activities may be eligible for state and federal tax relief for their cleanup costs. Any environmental lawyer who has heard the lament of their client's financial woes will want to be sure to pass this information along.

Massachusetts Brownfields Tax Credit

The Massachusetts Brownfields Tax Credit is available to taxpayers who owned or leased contaminated property in an economically distressed area for business purposes. The taxpayer must have commenced and diligently pursued remedial activities on or before August 5, 2013 and incurred remedial costs between August 1, 1998 and January 1, 2014. The costs must be greater than 15% of the property's assessed value prior to remediation. The cleanup must be in compliance with the state superfund statute, G.L. c. 21E, and its remediation regulations known as the Massachusetts Contingency Plan (MCP). Before claiming the credit, the taxpayer must achieve a permanent or temporary solution for the site, demonstrated by the submission of a Response Action Outcome Statement (RAO) or a Remedy Operation Status document (ROS) to MassDEP.

Sites that maintain a RAO or ROS without any restrictions are allowed a credit of 50% of the cleanup costs. If the RAO or ROS limits actions at the site with an activity and use limitation (AUL), a 25% credit is allowed. Applied to the taxpayer's personal income tax or to the corporate excise liability, the credit can be carried over for up to five years.

The credit is not available to taxpayers subject to outstanding enforcement action from MassDEP. Additionally, the credit cannot be applied to funding that the taxpayer received from the Brownfields Redevelopment Fund (BRF) or the Brownfields Redevelopment Access to Capital (BRAC) Program. Lastly, in the event that the taxpayer fails to maintain the RAO or ROS during their lease or ownership period, they must pay back the credit allowed for the lapsed timeframe.

Federal Brownfield Tax Incentive

Unlike the state scheme, the federal Brownfields Tax Incentive program is not a tax credit, but rather reduces the taxpayer's burden by lowering taxable income. The Brownfield Tax Incentive allows taxpayers to deduct expenses associated with abating or otherwise controlling hazardous substances. Eligible expenses may include: site assessment and investigation; site monitoring; cleanup costs; operation and maintenance costs and state mandated compliance fees.

To qualify, the property must be used for business or income generation. The site must be impacted by a release, threat of release or disposal of a hazardous substance as defined by the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). Costs incurred for remediation of properties impacted only by petroleum products qualify for the incentive as of December 2006. Hazardous substances impacting the interior of a building only, such as asbestos or interior lead-based paint are excluded. Properties listed or proposed for listing on EPA's Superfund National Priorities List are also ineligible.

Taxpayers looking to deduct cleanup costs must obtain written certification of eligibility from the appropriate state environmental agency. MassDEP is the appropriate agency to contact for properties located in Massachusetts.

Though not eliminating the general dismay a client experiences over the often costly but necessary response to environmental contamination, these incentives may help to alleviate the sting. Because every client's tax situation is different, those who have incurred remediation costs should be encouraged to discuss the benefits of these programs with their legal and tax professionals.

Small Firm, Big Success:

Case Note on MASSPOWER v. MMWEC

By Rob Granger, Partner, Ferriter Scobbo & Rodophele P.C.

Ferriter Scobbo & Rodophele, PC's client, MMWEC, entered a power purchase agreement (PPA) with MASSPOWER's Springfield, MA facility. In the agreement, MMWEC requested that MASSPOWER change some of their operating methods.

When MASSPOWER refused to change these particular operations, MMWEC terminated the PPA. MASSPOWER sued MMWEC, accusing them of not only breaking their contract, but as a result of the contract termination, causing \$52 million in damages. Additionally, they asserted that MMWEC broke the covenant of good faith and fair dealing as well as violating Massachusetts Business Protection Act.

Last year, the case was tried before a judge, where Ferriter Scobbo & Rodophele attorneys Rob Granger and Sherry Vaughn represented MMWEC. At the end of January, nearly a year after the 18 day trial, the judge issued a 62 page ruling that MASSPOWER, not MMWEC, had broken the PPA by refusing to cooperate with MMWEC's original request. The major determination in the judge's decision was that MMWEC was within its rights to terminate the PPA. The judge pointed out that MMWEC was not in breach of contract nor had they broken the covenant of good faith and dismissed MASSPOWER's accusation of violating The Business Protection Act.

In a case that took several years to develop, execute and litigate, the judge found that MASSPOWER failed to prove that this agreement termination brought any damages upon the company: saving MMWEC from having to pay out anything more than MASSPOWER's attorney fees.

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