



THE NEW ELLIS GROUP

Monday Monday

Connecting the Dots with Karen Kaplowitz



Helping you create and reinforce the habits of successful career building, gleaned from my work as a business development strategist, trainer and coach.

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Anticipating Conflicts of Interest. Have you ever courted a prospective client only to be stymied by a conflict of interest with a firm client? Have you been discouraged when other lawyers would not try to obtain conflicts waivers? Conflicts of interest are the landmines of business development. To have new business blow up because of conflicts or uncooperative colleagues is frustrating and costly. Recognition for a “good try” is not as rewarding as landing a new client. Before pursuing a new client, consider these protective steps to determine if the opportunity justifies your time:

1. Do a conflicts check to see if there are conflicts or if your firm already represents your target. Also search the firm’s CRM database for other lawyers who are interested in the same company. Then consider teamwork or deference, depending on the circumstances.
2. Share your interest in the company at a practice group meeting to uncover potential business conflicts like representation of competitors. Notice to a partner who represents a competitor may put you on higher moral ground if that partner later questions the representation.
3. Model the behavior you expect from others. Respond quickly about potential conflicts, ask your clients for reasonable conflict waivers, and be sensitive to colleagues who protect their client relationships.
4. Understand your firm’s policies and major clients’ attitudes on conflict waivers. Going after GE business would be futile in a firm which refuses to represent GE because its size produces too many conflicts.
5. Know what counts for origination credit. Are subsidiaries or divisions which the firm has not represented treated as new clients?

Example: You are preparing for a practice group business development planning session at the annual partners’ retreat. You think you have a promising client target to contribute: a venture-funded start up where your new neighbor is a lawyer. You have been laying the groundwork about your firm as you build a relationship with your neighbor. Before the retreat, do your due diligence. Run a conflicts check and search the CRM data base not only on the company itself, but also its officers and financiers. You don’t want to discover at the retreat that another lawyer already opened a new matter to evaluate claims that the CEO of the company stole trade secrets from his prior employer. You also want to learn in advance whether other partners know or represent the start-up’s investors or bankers. Then you will be in a position to scratch the company as a target if there is an irreconcilable conflict, to propose a team marketing effort if justified, to start negotiating conflicts waivers in advance and finally, to use the meeting to resolve the issues.

Are you acting on a timely basis to assess potential conflicts of interest to avoid investing in unattainable marketing goals and to confront conflicts issues effectively?