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Combining firms to create a new enterprise

*Jennifer Kenedy, Locke Lord Bissell & Liddell
Photos by David Durochik*



“A combination of firms provide greater depth and more offices and that may be very important to certain partners whose practices are national in scope.”

– David Matteson, *Drinker Biddle & Reath*

By Olivia Clarke

A successful merger can often be like a successful marriage.

It takes understanding, compromise, teamwork, and a belief that this new partnership will work for the betterment of everyone involved. Some firms make it look easy, and others have faced challenges along the way.

In the last 10 years a number of Chicago firms have merged with firms from outside the Midwest, and with firms in their own backyards.

Lawyers from Reed Smith, DLA Piper,

Drinker Biddle & Reath, and Locke Lord Bissell & Liddell participated in a roundtable discussion about firm growth and law firm mergers. They talked about such topics as, what type of lawyer works best in a large firm, and how firms deal with client conflicts when two firms merge.

Here is a portion of the roundtable discussion, and here is who participated in the discussion:

Jennifer Kenedy, an equity partner at Locke Lord Bissell & Liddell. She has been on the combined firm’s board of directors since Oct.

2, 2007, when Locke Liddell & Sapp, and Lord, Bissell & Brook merged. She has also co-chaired the combined firm’s integration committee since the same date.

Michael A. LoVallo, Chicago office managing partner at Reed Smith. He has been in that position for over a year, and that was preceded by five years as co-managing partner at Sachnoff & Weaver. Reed Smith and Sachnoff & Weaver’s combination date was March 1, 2007.

David Matteson, managing partner of Drinker Biddle & Reath. He was on the 2006

management committee at Gardner Carton & Douglas, and has been managing partner since Gardner Carton & Douglas and Drinker Biddle & Reath combined Jan. 1, 2007.

William A. Rudnick, managing partner of DLA Piper's Chicago office. He's been in that position since January 2008. DLA Piper's most recent merger was in 2005, and it was a three-way merger among Piper Rudnick, DLA, and Gray Cary.

What are some of the challenges in having a large firm, and the challenges involved in merging in Chicago?

Matteson: The challenge is to get everyone informed and stay informed about what a much larger group is doing. It's easier when you are smaller, fewer people to understand and get to know their practices, their clients. As the enterprise gets larger the challenge is to find ways to communicate better and get informed.

LoVallo: The challenge is also the opportunity. The upside is all in having people have access and knowledge to the information and the people in the firm. Communication is always an issue in a law firm. I think it takes more direct attention the larger the firm is and the more offices it has to really develop systems and programs and follow them, in terms of communication. But the upside is so much greater as well. Once people see the upsides they're willing to invest and participate in those practice group meetings or partner meetings, because that's now how they're accessing the good information instead of just trying to get it by osmosis in the hallways.

Kenedy: I would say firm culture — trying to have a cohesive, consistent firm culture when you've got as many as 12 offices nationwide. I would identify that as a big challenge.

Rudnick: The biggest challenge is the business case upfront. You've got to have a vision that makes sense from a business perspective on a stand-alone basis, and then makes sense for the people who are a part of the firm as well. I think the biggest failing that a lot of mergers face is that there isn't an overwhelming business case to be made at the beginning. And you have two problems that result from that. One is, if you can't make the business case to your colleagues, they don't buy into it and they don't go along. Second, if you don't make a business case, the transaction itself, if not doomed, faces serious challenges going forward.

How do you deal with the client conflicts when you are growing and merging?

Rudnick: We've dealt with that issue in three different respects. The first issue is, you've got to do your homework upfront and figure out what the conflicts are and whether or not you can even go through with the transaction. In all our mergers, we've done that and that's been at times a challenge and we've had to, on a couple occasions, say good-bye to some clients.

The second piece of it is, you've got to be very, very careful and track the information and develop systems that work, and strike a balance between missing potential conflicts or actual conflicts on one hand and gumming up the works on the other hand. You need a system that can actually identify issues and address them.

I know I said three, but I actually have four.

The third one is, the bigger you are the more important it is to make industry bets. For example, are you going to represent big pharma, or are you going to represent the generics, because you can't do both.

The last piece has been something that has been known as the international piece — where the conflict rules are entirely different. What we think of as a conflict they don't think of as conflicts there at all. It's something we have to educate our overseas colleagues on, because it's just not something they've had the sort of intuitive understanding that we've all developed in the practice in the U.S.

Matteson: In our combination we threw a lot of resources at the conflict issue earlier on in the process, and the conflicts are not just client conflicts, but potential business conflicts. As Bill indicated, we may need to find a new home for a certain practice in order to make room for a larger practice. Knowing what those issues are early in the process is very helpful.

Kenedy: We did that as well beforehand. We actually, I think, looked at every single major matter we had between the two firms and tried to identify any conflicts ahead of time and resolve those that we could, and the ones that we couldn't, decide whether we would be able to go forward, given the conflict.

But it is also equally important after the merger that we take care of conflicts. We used to just have a conflicts system where you plug in your client and figure out if there is a conflict. Now we sort of have levels, almost like a triage, where we have the traditional conflict search; we have daily conflict memorandums

that go out, so that if people are opening a file in Houston, we know in Chicago to look and see if one of our clients is on the list. We also have people sending out e-mails for emergency matters, and that is something I think from the sheer size of a firm it's become necessary to make sure we didn't miss any business conflicts, and we didn't miss any ethical conflicts just by our sheer size.

Matteson: As those conflicts are identified, and there always are conflicts. You can't put two vibrant firms together without finding them. It's interesting to me to see how our combination partner handled it. Did they tell us that by definition their client was going to be the continuing client and ours wasn't? We learned that it was all about the dialogue in deciding through a consensus what the best result was for the combined firm, and that taught us a lot about how other conflicts or issues would be addressed.

LoVallo: It blends right into culture. One of the things lawyers are always anxious about is change and, with the bigger firm, how it's going to impact them. Clients are precious and they need to know that that's going to be dealt with fairly and on a level playing field.

It's very important how those things are handled at the beginning. Part of it is a litmus test for whether this is going to be a real combination, where the larger firm is really looking to improve itself through this combination, or just add to itself. It's a fundamental issue.

We started by looking at the top clients at both firms, from a business point of view, to see if this could withstand the initial scrutiny ... I think what happens, as a smaller and more nimble firm, we were probably able to handle high-quality matters on both sides of issues. That really isn't available anymore. You become known on the business side of the issues as having certain positions. For us, it's policy-holder insurance recovery and big pharma as opposed to insurance companies and generics. Those are two examples of where the identity becomes much more obvious and important in terms of the upsides. You can't have everything.

Would you compare today's large law firms to companies or corporations?

LoVallo: I think if the firm does it right, it takes the best of what large corporate examples have to offer. There are some very good things about efficiently managing, and using technology, not just in terms of investment, but training

people so that people can be leveraged up and do things as efficiently as possible, and in terms of structure, which I think is important.

It's very important, though, for people to have the identity as owners of the firm, as partners. I think your partners are your lifeblood and you want them to feel like partners. I think it takes more direct effort to have that result. I think it's essential. If people start feeling like they are just vice presidents of corporations you lose a lot in terms of their commitment

enough revenue going that you can justify that expense. And the other is the cultural element of trusting in those people and giving over to them responsibility and power.

Kenedy: I agree with Bill that the external stuff is just becoming more important in a law firm culture than it ever has. I think as law firms we have a tendency to be very internally focused, very focused on voting on everything, and less worried about what is going on in the world outside. I think to survive, law firms

can achieve their success. You have to provide financial success and you have to figure out how to make the place feel small even though it is large. You do that on both a formal and informal basis. On a formal basis, you have things like practice groups, and subgroups, and retreats, and things of that sort. On an informal basis, it requires the leadership of the firm to reach out and to listen and to touch people, and make sure that [members of the firm] know that what they are doing is appreciated. And if they



Michael A. LoVallo, Reed Smith



William A. Rudnik, DLA Piper

when the going gets tough and it's time to roll up their sleeves when there is no immediate impact to them.

Rudnick: I think there are two additional elements of corporate America in addition to what Mike mentioned. One is the centralizing of management. When you've got 50 lawyers or 150 lawyers or 250 lawyers, you do have a sense that everybody has a voice and vote on a lot of things. What you have to get to is a management structure where you can figure out how to take input, figure out how to build a consensus, but then you can figure out how to make a decision. You can make that decision and then you can move on. A parcel of that is an understanding that you are running a type of business, and you are not running it as only a partnership of professionals.

The other element is lay management and lay leadership. It really has two pieces to it. One is having the sufficient scale that you can amortize the cost of it. Where you can bring in a chief administrative officer who is really talented and well-compensated and you've got

have adapted so that they are more centralized in their management and on focusing their lawyers' attention on developing business and expanding.

Matteson: I do believe the law firm partnership is still unique. It's not a business; it's not a family business; it's not a public company. It's unique. Many lawyers in law firms can make more money working somewhere else but they are still in a partnership where there are the intangible things that they believe they wouldn't get elsewhere. That said, we all compete for talent, to recruit it and to retain it. If you don't have certain performances financially you are not going to be as successful in recruiting the talent, so the bottom line becomes very important. I think one of the things firms struggle with is, as a priority, where is that bottom line relative to other features?

As firms get larger and larger, what's the best way to retain lawyers?

Rudnick: I think the answer is, you have to give people an environment in which they

have concerns, being open to those concerns. That's probably a third of the answer. And if we knew the other two-thirds, we'd be done.

Matteson: I would certainly agree with that. I think partners today are very tied to their clients. One of the challenges is for a law firm to furnish to its partnership those tools that the partners need to initially attract and then retain those clients. Chicago is a highly competitive legal market. Many other fine firms would be thrilled to attract some business from our firms. I think partners are looking for ways that the law firm can give them more tools. A combination of firms provide greater depth and more offices and that may be very important to certain partners whose practices are national in scope.

LoVallo: One of the reasons we did the combination was the recognition that the practice, our clients' needs and our partners' needs, are more national and international. A certain amount of extra investment has to be balanced out in terms of getting people to still feel the sense of partnership and smallness. They need

the bigness but they want the smallness in terms of feel. You have to invest in both ... If people see their clients threatening to go elsewhere, not because of their lack of service to them, but because the clients need a wider platform, that is going to cause a much bigger problem that can't be solved by intimacy. It's balancing both.

Kenedy: Intimacy or integration. I'm in charge of our firm's integration committee so that's always on my mind as a result of the merger. In terms of tools for your lawyers to help them build their practice, but also feel part of the other offices that have just joined together, we strongly encourage, for example, cross-selling amongst the offices, within practice groups, so that lawyers get to know one another better.

And I know for a fact that our chairperson is in a different office literally every day of every week visiting every lawyer and learning about their practices, and learning about what they need to be successful. And there is really no substitute for that in terms of making the firm seem smaller.

What type of lawyer works best in a large law firm?

Rudnick: Somebody who in kindergarten on his or her report card it said, "plays well with others." Somebody who has demonstrated some leadership. One of the things that is a particular opportunity in a large firm, but also a responsibility, is, you've got to be a self-starter. You've got to look for those opportunities. You've got to look to develop relationships, and somebody who can do that is more likely to succeed.

Kenedy: I'm going to add entrepreneurial — self-starter and entrepreneurial — since you are expected to develop and maintain existing clients, but also expand and bring in new clients to the firm.

LoVallo: It's the extroverted team player. Team playing is very important in a large organization. People who are too full of themselves, first of all, they don't take full advantage of the opportunities within the organization, but they can also really detract from the spirit and the trust that's essential for a partnership to do well.

Being an extrovert makes it easier. I think in a bigger organization the firm does everything it can to bring the opportunities out there, but you need somebody to meet you at

least halfway in spotting them and going after them, and maybe putting teams together and thinking about how they can use these things and get excited about it. I think for people who are more introverted, I do think the bigger organization is harder. It's not to say they can't succeed, but I don't think it is as natural for them.

Kenedy: The same sort of people who do well at big universities, that went to top 10 universities or Big Ten universities instead of small private colleges because they miss their parents. People that do well at the University of Illinois will probably work well at a big corporation or in a big law firm. Perhaps a shyer, more introverted person at a smaller private college will not do so well. It's a generalization, but I think it tends to be true.

Matteson: I actually think large law firms are more diverse than one would assume. There is a place for all kinds of personality types as long as you have those fundamentals of being a good team player, being pretty ambitious, enjoying working hard, and enjoying the challenges. Since the combination I've just been sort of bowled over by the variation in the type of partners and associates that I've met. They don't fit a single pattern, but just enough so the stereotype fits, but there are just as many exceptions, and it's neat to get to know those people.

LoVallo: One of the advantages of going to a bigger firm is somebody doesn't have to think, "Well, am I the type of person for that organization?" In a firm of 30 people you can sense that there's a certain type of person and you can start to feel like an outsider. Sort of like the big university, there is always some group or several groups that you fit into and so I think they're naturally more diverse. It creates a level playing field socially and, I think, professionally.

What will be the trend in law firm growth — specific to Chicago?

Matteson: I'm not sure whether the number of lawyers in Chicago has increased that much. What we've seen is a lot of new players in the Chicago market, and then a reshuffling of the deck laterally. I think you have to look at the economy of Chicago. It's not a single-industry town, not a single-company town. I think the Chicago legal market is less vulnerable to economic downturns than other regions of the country, but it can, no doubt, be affected adversely by a recession...

LoVallo: I think there is consolidation going on and reasonable growth. But I think it's more a process of consolidation, and with that there may be some segmentation ... I know of very large firms trying to get more focus and not feel compelled to practice in every area ... I think that is a difference. The large firms 30 years ago really felt they had to practice in almost every area to be a full-service firm. I think things are getting reorganized.

Rudnick: You phrase the question in terms of within the Chicago market, but I think what is going to be increasingly important is: what is the Chicago office a part of? What other services, what other jurisdictions can the firm deliver to clients starting in Chicago that will actually have national and international legal needs? I think that we will continue to see some consolidation and some growth and some segmentation within the Chicago market. But I think what will drive a lot of that will be what each of those firms have that's beyond Chicago.

If you think about the mergers that are just at this table, these are transactions that occurred without local combinations. These are transactions that created geographic platforms. These are not transactions that have to do with bulking up interests within Chicago.

Matteson: Bigger isn't always better, but it sometimes is. If your strategies match up and both sides of a combination achieve what they were separately looking for, that certainly will evolve really well in the end.

Kenedy: I think a lot of times these combinations are the first step, as part of many steps toward a sort of vision at the end of the day that involves many combinations. The Chicago step isn't necessarily the only step. It's one step toward the ultimate goal.

What is firm competition like today?

Matteson: I've practiced here for 30 years and I think it is much more competitive today ... I remember at my former firm, at a partner meeting, they put up a slide with 10 names and the question was: "Where did this list come from?" No one got it. It was the list of largest clients of the law firm five years earlier. There were so many changes that it was not a list that anyone recognized. We've always been competitive.

I think in-house counsel changes more frequently now, and corporate leadership changes. I think that, and I'm glad for this, law firms

don't get business at the luncheon club anymore. They get it because they've demonstrated their expertise, they've been noticed, and the work is getting done very well. That is what makes it more competitive.

LoVallo: I think we challenge each other to do better, and our clients challenge us. The competition, in a sense, is intimidating, but it can be invigorating if you respond proactively. I do think what's happening is change is happening, it seems, faster and faster.

I think if there's been, I've been practicing almost 28 years, a point in time when things seemed to change fundamentally, it's when information about law firms became public in *The American Lawyer*, probably around the early '80s, and the growth of the legal recruiting field at the same time and maybe related to that. I think at that point the law firm partner had the ability to be a free agent.

And once that started happening, it became acceptable to some extent to do that. Things have changed fundamentally since then. Now what we are seeing is that, on top of that, there is a cycle of much more rapid change, change in corporations. We see consolidation and convergence in our clients, which has been happening much more. All of that turns things upside down or turns them over much more quickly than things used to change.

How do you balance your leadership roles with your practice?

Rudnick: The challenge is tricky. It requires a level of self-discipline. It involves figuring out, particularly on the firm leadership side, what am I really going to work on? What am I really going to be able to focus on?

With our clients, they are pretty good at serving as a governor for the work that we do for them, because we know how much they are willing to pay for things and we can organize our work lives and our client service roughly around those expectations.

The work that we do in firm leadership is, on one hand, more of a volunteer position, and, on the other hand, if we chose to, we could work exclusively on that and still never do all that we could. The challenge there is to figure out what are the two or three or four things that we are going to focus on. Who can I get involved with in those things? How can I get done what it is I like to get done, and involve people in the enterprise and the process? And, if you can do that, I think you have got

a much higher likelihood of (a) succeeding in your leadership role, but (b) also maintaining that balance.

Kenedy: It requires a very high level of commitment to your firm. If you're a leader in your firm, you have to have an appreciation that you are doing this for the overall good of the institution, and sort of giving back to your firm. Obviously, service to our clients is first and foremost, and takes top priority. That extra hour you may have a day, if you are committed to your firm, should go toward donating your time to helping the firm, whether that's on committees, whether it's on your management committee, whether it's taking on extra responsibilities to make sure the business is running successfully.

Delegation is also very important. Surrounding yourself with lawyers who are willing also to commit to the firm and to help in that enterprise is also very important.

LoVallo: I think it's always about balance. Before I was involved in a management role, to be successful, it was still about balance. I think it's a little more complicated when you have two major roles.

But, I think if you balance it right, one sort of gives energy to the other. I think sometimes you can be a more effective practitioner drawing on what you've learned from actually taking a role in running the business, and be more effective for your clients. Your clients see you sometimes as more of a trusted adviser because they know you have that vantage point as well. I think trying to focus on the high-impact points is what you have to do, because you can't do everything that you could be doing in either role. So you certainly can't do it in both roles. Really sort of taking a step back, rather than periodically, almost daily, and looking at what things really make a difference ...

Matteson: I made a decision mid-career about what I wanted out of being a lawyer. It was balance — family, my own life, my professional life. Now, splitting my time between firm management and my practice, I just keep that same set of principles.

I'm always going to carve out just what I need in terms of human interaction. I know what my strengths are. They are not the budget. I don't spend as many hours poring over the proposed budget as I might over some personnel matters, or some things that affect the general environment of the firm. I love getting involved in associate issues, staff issues. That's

me making sure that I fill my day with things incredibly rewarding to me ...

What characteristics made your firms' mergers work?

LoVallo: After you get over the threshold issues of, are you financially compatible and structurally compatible and avoidance-of-conflict compatible, then you have to look at the culture. Are people going to like each other? We spent a lot of time getting a lot of people to know a lot of other people. We maybe hit the right time, when we were sort of in the mid-to-late stages of discussions, when Reed Smith would have these retreats for business and litigation. A lot of our partners went to those retreats and got to see how this could work ...

There are a lot of firms, which on paper in Chicago history, a lot of mergers that should have worked based on the lack of conflicts and financial compatibility, which didn't work at all. You can't underestimate the importance of culture. If a firm is used to having an open system of financial communication, for example, and you are asking partners to move into a closed system, it's going to be very, very difficult when the new firm starts with really no trust level ...

Rudnick: One of the most important elements of it is getting people to imagine the move. I think one of the things we did particularly well in our original merger was, we started from the premise that we were creating that which had never existed before.

And as we went through and talked about things like finances, associate recruiting, pro bono, professional development, etc. etc., we kept asking ourselves the question: You do it this way and we do it that way, what's the best way to do it and not between those two, necessarily? If we are really going to do this, this is a moment of fluidity that we need to take advantage of. That tone, I think, really created a lot of excitement on the part of our colleagues.

Kenedy: I agree. I think culture and buy-in are probably the two biggest keys to success. A lot of the culture you don't really realize until after the fact, and hopefully you get lucky. I think in our case we definitely did. Buy-in, you can develop that any number of ways. You want to create a management structure that engenders trust in your partnership. You want to demonstrate the success of your

merger early and often.

For example, we send out a weekly newsletter of cross-selling successes, and it focuses on lawyers from different offices teaming together and bringing in business that perhaps we otherwise would not have brought in, but for the merger. That's something sent out to the partnership on a weekly basis and we just sell, sell, sell success, success, success. I think if you demonstrate the results, that's where you are going to get the buy-in, because they are going to see this was a good idea.

Matteson: If you have the basic elements of buy-in, then the intangible is the people. Are

the people going to step up and make this work, or are they going to be passive? If they are passive, it probably won't work — even if everything else lined up. Giving people within the firm — staff, associates, and partners — a real stake in the game and creating excitement about how it really works for them. That's no easy task because we have many offices and people in many different situations. It can't be a single message ...

It is about building trust. We encourage people to get on planes and visit their counterparts in other offices in the same practice group, in a different practice group. Get on a

plane and introduce yourself and tell what you do. And all of a sudden you find you are coming away with a resource that you did not have ...

I think the objective or definition of success are things like, are people sticking around? Are you losing staff? Are you retaining existing clients? Are you growing clients because of the combination, as Jennifer was describing? I think it's important to keep track of those sorts of things. Overall, do you have the spirit? Does the combined enterprise have the spirit that you had when you were smaller? It's kind of neat when you do. ■