Mergers continue to be a topic of major interest to law firms small and large. Recently several very large mergers were consummated or called off. All over North America merger negotiations continue, but few mergers are actually successful. Why? Primarily because the parties do not come to the table with an understanding of their goals and long term direction. Secondly, they often do not follow a jointly accepted checklist once the merger is decided upon and meander about without following a common path and finally give up.

What follows is a broad outline of merger overview considerations that highlight the areas you should be thinking about in considering a merger. Mergers, no matter what your size, should "go by the book", be facilitated by expert outside assistance and be carried out by those in a position of authority and respect within the firm.

Merger Overview Considerations

Considerations that the firm should discuss and resolve before moving to a more detailed analysis:

1. **Determine if merger or acquisition is an appropriate part of the firm's goals and in its best long-term interest.**

   Is there consensus on merging as a concept with a common adherence to a plan?

   What are the reasons for merging?

   - Joint client service and development
   - Geographic (regional and national)
   - Increasing representation of current clients
   - Competitive response to perceived threats by other firms

   Is a merger economically viable, or, if not, can a merger salvage all or a portion of the firms?
2. **Are we to acquire or be acquired and how do we posture ourselves accordingly?**
   
   Profitability assessment

   Practice strengths

   Practice weaknesses

   Management issues

3. **Make decisions as to utilization of consultants and search firms.**
   
   Specify purpose and define roles

   Determine costs and fee arrangements

4. **Analyze potential targets against strategy and determine:**
   
   Practice areas

   Practice mix

   Geographic factors

5. **Report initial findings to management committee and partnership.**

6. **Initiate search through:**
   
   Friends and business acquaintances


   Review of *Martindale-Hubbell* for firms with desired expertise

   Third party consultants and search firms
Beyond Initial Consideration

The merger overview phase is critical in that it sets the stage for forging the merger. Once a candidate is identified, the next steps involve:

1. **Detailed assessment and resolution of major issues** - provides a common information base to assess the two entities and resolve remaining issues

2. **Client Management/Mix** - focuses on the clients of the two firms and how a strategy can be developed for joint service and development of those clients

3. **Practice Area Management and Delivery of Services** - deals with the internal structuring of accountabilities to effectively manage the merger process and resultant new entity

4. **Practice Support/Administration** - deals with all logistical considerations

5. **Tax/Benefits/Insurance** - focuses on integration of the two firms' benefit programs and tax implications

6. **Documentation** - deals with pulling together documentation and preparing merger agreements

7. **Implementation** - outlines the actual joining of the firms based on a pre- and post-merger schedule. In some cases, these specific tasks will be performed by a Merger Committee; in other cases, the assignments will be performed by subcommittees.