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Q&A: Rod Genders – “The antiquated business model of traditional legal services has fundamentally changed and it’s not coming back.”

In this Q&A, Genders and Partners’ managing director Rod Genders discusses a major award win, the dramatic origins of his firm and why being a sole practitioner is still a very viable business model.

Congratulations on winning the Sole Practitioner of the Year award at the 2015 Australian Law Awards.

“It was quite an unexpected achievement. I had a friend at the awards ceremony in Sydney and he sent me a tweet to say congratulations. My response was ‘Are you serious?’ It was a lovely surprise.”

Why do you think your firm has been recognised?

“If I had to hazard a guess I’d suggest it might be the different approach to the future of law that I have been fairly public about. I see a future very different to the previous 30 years of my career. We often talk about digital disruption, but I prefer to say ‘disruption in the digital age’ because it isn’t just about digital – it’s about a whole range of moving parts. For example, I have commented on how physical law firm libraries are a thing of the past. I’ve also noticed a decentralisation of CBD firms, particularly here in Adelaide where there’s been a dramatic reduction in the volumes of civil litigation. That has led to a decreased reliance on the legal precinct model for firms to specifically be located in close proximity to the courts.

“The last half dozen interlocutory applications I have made at court were via email. It’s just more efficient. Then you look at technology improvements relating to the digital delivery of legal services, virtualisation of law firms, remote working, hot-desking, telecommuting and online client portals. All of these things are driven by a need to create a new business model for law firms: one which is more efficient, cost-effective and predictable for clients, more flexible for lawyers and offers greater transparency and accountability of firms’ activities and a greater sense of control for clients. With more informed consumers, there is greater demand for law firms to provide their services in a different way.”

How have you done that?

“One thing is that we’ve gone back to the past and we offer home visits to the majority of our clients, which sounds like such a small thing and yet it has proven extremely attractive to our clients. It fosters and improves the trust relationship when clients are comfortable and secure in their own environment. We’ve also moved to alternative fee agreements, in particular fixed fees for certain types of work. We do a lot of wills and estates and estate planning and administration – and these lend themselves fairly well for the majority of unsophisticated clients to the fixed-fee model.

“Of course, you have to have your internal systems and controls in place, but if you put the effort in it is definitely worthwhile because clients, particularly non-commercial clients, don’t like the open-ended risk of the billable hour. It’s harder for them to judge value.”

Your firm was established in 1848, making it the oldest in the state. So why have you opted to be so progressive when you could perhaps have relied on your history?

“We’ve now gotten to a place where looking forward with confidence requires a different approach. Being a smaller firm and now a solo, but having worked on large litigation cases, I’ve typically been doing battle against some of the largest firms in the state. Their business model has been very different to mine because they have the resources to throw a large number of lawyers at a problem, whereas we didn’t have that option.

“So from a very long time ago we have learnt to adopt technology to level the playing field. I can remember more than 15 years ago trying to move towards the so-called paperless office. I still haven’t achieved it, I might add. But it was 15 years ago that I made the decision that I wanted all documents to be scanned as searchable PDFs and was surprised to discover I couldn’t do it with the technology available back then, though now it is commonplace. And over 20 years ago I travelled to Massachusetts in the US to investigate Dragon Systems’ speech-recognition technology, which was in its infancy then. I’ve been using it for a long time.”

Do firms that are scared of technology need a mindset change?

“Yes, because you can’t hold back the tide. The antiquated business model of traditional legal services has fundamentally changed and it’s not coming back. Law firms that don’t adapt will die; it’s inevitable. The internet has been such a fundamental game-changer, but I don’t think many lawyers understand why. When you get right down to it, it’s simply the changing balance of power in terms of the relationship between clients and the solicitor. Now clients are more informed than ever before because it’s so easy for them to research their problems and identify who can help them with a solution. This provides risks and opportunities for lawyers to market themselves.

“The risk, of course, is that it undermines the existing authority model where the lawyer is on a pedestal and just pronounces from on high. The opportunity is that by carefully using content management as your principal marketing tool, you can empower and inform a prospective client and let them know that you do understand the nature of their problem, and thus position yourself as the logical provider of the solution. So the internet provides an opportunity that must be seized.”

Your firm has a fascinating history. To recap, it began in 1848 when South Australia was still a colony. A few years earlier, solicitor Samuel Smart, the first Sheriff of South Australia, was shot and wounded by a convict named Magee. Following his arrest and trial, Magee became the first person to be hanged in the colony, but the botched, drawn-out public execution in what is now the car park of Adelaide Oval horrified onlookers, led indirectly to the sacking of the Chief Justice of the day and so unnerved Smart that he quit the public service and ultimately set up the firm Smart & Wilson, the forerunner to Genders and Partners. As the third generation of Genders in the law, it must be great to be part of a firm with such a colourful history.

“Absolutely! I regard it as a privilege to be part of South Australian legal history and, yes, it’s a great story that I frequently tell to clients. They are always spellbound by this true story of my firm. And it shows that if you are going to carry out important legal acts then you want good advice to do get it executed properly!”

Many critics have been predicting the demise of smaller firms such as yours which are based in the suburbs. What’s your view?

“I strongly disagree. I see a rise of boutique specialisation. The pressure is far more on generalists and to a certain extent full-service firms. It’s difficult to market a broad range of services and even more difficult to maintain your skill-set in a divergent jurisdictional genre. You can’t be all things to all people. So what I expect is an increase in highly specialised, ‘inch-wide, mile-deep’ firms that really know their areas of expertise and therefore can compete in their niche. They can market to it very effectively if they keep their skill-sets up.

“With that comes the corollary that there’s not necessarily the same need to be in the CBD as was previously the case. Unless you need to be in court all day, every day, the economics are probably more in favour of moving out of city rent and getting to a point where you manage your overheads more carefully in a city fringe or suburban environment. And if you can get your marketing right with good, high-quality content then the clients should follow you. There are very good economic cases to be made for decentralisation.”

What sort of marketing works for you?

“I almost exclusively market to end users – that is, I don’t do a great deal of business-to-business marketing. The overwhelming majority of my marketing is under the umbrella of content marketing. That is the provision of high-quality information that is then syndicated on the internet in a variety of formats so clients can find the information and read up on a potential solution to a problem in their head. That naturally starts to establish a trust relationship with me. If they perceive me as an authority in my field and if I’m geographically convenient to their location, then they will seek me out. As a system of marketing it seems to be working well.”

So you engage in a knowledge pitch, not a sales pitch. Is that right?

“Yes. I haven’t found a lawyer yet who is comfortable in sales, but one of the interesting strings to my bow is that for 30 years I’ve been a cost consultant to other firms. One of the things I’ve observed is that the finances of legal services is very poorly taught, if at all, in law schools and it’s even more poorly taught to young practitioners in firms. It can therefore lead to a very awkward and difficult range of issues – what I like to call expectation management.

“So I see it as a form of marketing to be very transparent and upfront with discussions about legal pricing. Clients know that legal services can be expensive and they’re fearful of that, and the profession generally needs to do a much better job of marketing its services in a way where pricing is transparent and linked to value in terms of outcomes for the client. You can use that as a point of distinction because, sadly, very few lawyers are doing it. You can actually market that.”

What other changes are you witnessing in the legal profession?

“One thing that’s already happening is the rise of client portals that integrate with lawyers’ practice management software so the client can have direct access in a secure fashion to the solicitors on his file to post comments and mark up documents and receive and deliver documents securely. These sorts of exciting initiatives could be threatening for many firms, but they also provide an opportunity. Those who adapt and adopt new technologies and business methods have a chance to stand out from the pack. And these are things I am looking at, as I expect many people are.”

One key change you have made in the past decade is a switch in focus from civil litigation and personal injury claims to legal matters involving will trusts and estates. How important is it to be agile in a competitive legal services environment?

“The doom-and-gloomers in the profession tend to be ones who are unwilling or unable to adapt to change. They talk about difficult times – and I can understand that – but my point



is that it's not likely to be just a temporary change that will revert back to the way things were. The rise of the informed consumer and threats to the old models of providing legal services aren't going away. Better times may come. New and interesting and even exciting fields of opportunities and genres of law will arise, but you've got to be willing to adapt and change, otherwise you'll be left behind."

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