

## Branding Isn't Just a Logo, But a Well-Conceived Concept

First, a law firm is a business. Second, the best businesses operate with a great brand.

But what is branding? Why is it important to firms?

Some think branding is simply a firm's logo or tagline.

If you ask Ellen Freedman, *Pennsylvania Bar News* columnist and PBA law practice management coordinator, "a brand is not a logo," Freedman said. "A logo is part of the brand. Most attorneys, when somebody says 'you need a brand,' they think that means they need a logo, and they think that's all it is.

"The logo is just a tool."

### Why Brand?

For new businesses, correct branding is critical, even before the firm opens.

"Before the doors open, firm managers have to think: What kind of law firm do I want to be, and what is going to make me different?" Freedman said.

A brand, she said, is the "adjectives people associate with your company that you purposely create and present, so that instead of people making up their own adjectives to describe your firm, which you may or may not like, they will start to use the adjectives associated with your firm that you *do* want. So, it is a purposeful communication that becomes associated with your firm."

When working with clients, Freedman explains the firm's logo, the graphic representation of the firm on business cards, letterheads and other tools, is only "an easily



Ellen Freedman



Dave Taylor



Monica L. Ugliuzza

memorable visual representation of their brand. People can remember graphics a lot easier than they remember text. So, the minute that they see a logo, it triggers the recall of the brand."

"A brand doesn't necessarily have to be complicated," said Dave Taylor, Taylor Brand Group, Lancaster. "It shouldn't take long to explain what makes your law firm different from another. You should be able to do it in a sentence, at the most.

"For law firms or any branding situation, a strong brand usually starts with a core idea that's very simple, very easy to understand and very easy to communicate," Taylor said. "It continues with a consistent application of messages that we enforce."

Lawyers, Freedman said, will typically look at words such as "trusted," "comforting," "we have you covered" and "established" as part of their

brand. More modern-leaning firms, she said, will incorporate "technologically on the leading edge" and similar phrases in their branding.

"There are firms that will say 'our advantages are the depth of experience' and the 'creative ways we've handled more of these cases than anybody else' or 'we've got the people with the best, most unique credentials,'" Freedman said.

A brand communicates what your firm's strengths are, what you represent to the world outside and what drives your business.

### Your Promise

"Your brand is your promise and your differentiation," Freedman said. "It's how you purposefully want to have the world think about your firm. When somebody else describes your firm, these are the things that you want them to say about it."

*continued on page 8*





# Branding Isn't Just a Logo, But a Well-Conceived Concept

*continued from page 1*

New York-based consulting firm Clarity Group said that “having a strong brand has never been more crucial for law firms. Increased competition, consolidation and globalization, coupled with greater client sophistication and changes to the regulatory landscape, all mean it’s more important than ever to be clear about what makes your firm distinctive, relevant and authentic.”

A Minneapolis-based consulting firm, Lawyerist, explains that the brand indicates that what makes you different, your unique selling points and attributes as an attorney, all culminate to create your brand.

It’s more than a simple logo, according to the Lawyerist, which notes that you need to “invest the time and energy into proper branding to get the right results.”

“You must identify all your differentiating factors that will answer questions for clients,” Freedman said. “Why us? And that’s where you’re coming into the adjectives and the way you are going to phrase it about your firm: what makes us different? That’s essentially what it comes down to.”

## Worked with Firms

Taylor Brand Group has worked with several law firms, including a very large Harrisburg-based firm and a firm in Louisville, Ky.

“We worked on shaping the message of their brand as a large multifaceted law firm, a message that would have enough utility to apply to various different practice groups that they had, even though the practice groups themselves might be specialized,” Taylor said. “One slogan isn’t going to capture everything that they do. But overall, you’re trying to present them as a capable, multidimensional law firm.”

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Taylor positioned their brand around being a premium-choice law firm, being top quality, “when-you-want-the-best-lawyers, come-to-them-type-of-arrangement,” he said.

Taylor starts with what a firm wants to achieve. Does it believe it’s not known for things it should be known for? Do the firm’s managers think their brand is being perceived in a way that they want it to be?

“We don’t get many calls that say everything’s fine, we don’t need you,” Taylor said. “So, they are generally looking for an improvement on their brand message or on the way they’re executing it.”

## Discovery Process

Normally, prospective Taylor clients go through a discovery process.

Taylor will talk to them internally about what their goals and their current perceptions of their brand are, “and where they think it should go, what they aspire their brand to be, and then, to find more about their brand, we’ll do an external discovery as well: We’ll talk to people that know them,” Taylor said.

“If they want to be known as the top firm in the region, even though they’re not seen that way, then we must look at how can we change that perception, and that may mean they need to change some things that they’re doing. There isn’t just a magic three-word slogan that’s going to solve that.”

Clients need to start with a clear brand identity that doesn’t change.

“You really want to say, what do I need people to know about me first, that would be a reason for them to want to call,” he said. “Is it going to be my specialty, is it going to be the quality of what we do, is it going to be the area that we serve? What’s it going to be?”

Taylor said that the message is



going to depend on the type of law that they’re looking to practice, and will vary quite a bit, as will the environment in which they are going to be communicating.

## Without a Website

Like many business consultants for law offices, Freedman is flabbergasted by the number of firms that start out without a website.

“It’s hard to believe but there are still firms with no website or whose website is no more than just a business-card holder,” Freedman said.

It’s like ante in a poker game, Freedman said. You can’t get dealt the cards without a website.

Freedman said a tagline and a logo can be added to the website anytime.

“The most important thing when you’re starting is to ask yourself, what is your differentiation?” Freedman said. A new firm can be up against 50 new firms out there, “waving their hands, shouting, ‘over here, over here.’ How do I define very quickly so that the potential client knows what kind of law firm

or lawyer I am, and what makes me different?”

When Freedman is consulting with clients, she often clicks on their website and shows “it doesn’t say anything,” she said. “Like your competitors, you’re letting people guess. So, you must wait until they’re in front of you to tell them why you? They are going to go to your website first, and that’s probably going to determine if they even pick up the phone.”

Potential clients check out the website first before calling.

“But if you don’t clearly show your brand on the website, they will make up their own adjectives, just based on how your website looks and feels, and what other people said to them or what they’ve heard about you,” Freedman said.

The website can be anything from an elaborate digital business card/brochure to one that incorporates intake forms. It may have a client portal. Freedman said the website can range from a static business card with biographical information to something

*continued on page 10*

# Branding Isn't Just a Logo, But a Well-Conceived Concept

*continued from page 8*

very elaborate and client-useful.

The website should include links to social media. A LinkedIn profile comes in handy for business-related clients and referral sources. For practices involving individuals, such as family, criminal and bankruptcy law, then a Facebook business page is the best bet.

However, Twitter is a “wild card,” Freedman said. It’s good to use the platform, because clients can see your message on a variety of sites.

## Branding Strength

In one example, the branding strength focused on the quality of the firm’s attorneys.

“We focused on the capabilities they had within practice groups and the leadership roles that they had in the industries that they served,” Taylor said. “They often served on boards within those industries. So, it was more about creating a brand based on the quality of their attorneys: which is what most law firms are going to have to do to at least some extent. Who the attorneys are matters a lot.”

Sometimes the best branding is not even applied to promotional material.

Taylor mentioned that a construction firm he knew, not a client of his, was asked: What sets you apart from other construction companies?

“They didn’t say we have a great project management system, or we have a bunch of guys that know what they’re doing, and we worked on buildings like you want to do, and all that type of stuff,” he said. “What they said was, ‘We run toward adversity.’ That was a statement, very short, that sets them apart. We take on problems and we solve them. It really set them apart in terms of attitude.”

Taylor helps firms discover their strengths in branding.

“It would be things like experience, certainly education: they may have had specialty education within a particular industry,” he said. “Take an intellectual property practice: One firm has the experience of working for a large international company in trademark work and intellectual property work versus someone that just knew how to file for a trademark. So, what’s important is experience, quality of education, the role within their industries that they might be specialized in, where they might serve on association boards and things like that.”

But branding is not sales and marketing.

“It’s typically hard to draw a straight line between anything you do in a brand environment and, say, sales, for any industry,” Taylor said. “There’s a lot of subjectivity. But when messages are clear, and are focused on the same message over and over, and it’s a good message, then generally you will see a correlation in improved performance.”

In the end, companies must live their brand.

You can’t just talk the talk, Freedman said. You must walk the walk.

“You must make sure that the brand that you’re putting out there passes muster internally, so that all your people consistently fly that brand flag without even thinking about it, that they’re living it and breathing it,” she said. “And then, everything that goes outside of the firm, your website, your social media, the kind of posts you put on a blog, all your brochures for the firm, it all lives and breathes that brand.”

She uses the comparison to a well-known soda brand to prove a point.

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— Dave Taylor, Taylor Brand Group

“If you open a can of Coca-Cola and it’s flat, they’re not delivering on that promise,” Freedman said. The brand promises a beverage that, if refrigerated, is consistently bubbly and refreshing, she said.

Taylor noted it is important to avoid cliches in establishing brand identity.

“It’s easy to fall into cliches, such as, ‘in our law firm, our people make the difference,’” Taylor said. “And it’s hard to just say: ‘All our people are better than all their people.’ It’s hard to say that. Or ‘we provide solutions.’ Every business provides solutions, whether it’s a law firm or anything else. That’s what businesses do. But if you are looking at how we can say that ‘we’re high quality,’ as an example, or ‘we’re deeply experienced in a particular category,’ things that would help people focus in their minds,; therefore, we want to choose this law firm over all the choices that I have.”

Freedman describes the process of differentiation.

“I take attorneys through an exercise and ask them to identify all their major competitors and tell me what the things are they do better, what are the things they do worse and what are the adjectives they use to describe the firm,” Freedman said. “Then I say, now, let’s talk about *this* firm, compared to others in the marketplace. When somebody has interviewed you and you are the fifth lawyer in line, how are you going to explain to them why *you* should be

their selection? What are the promises? What are the representations? What are the adjectives and the descriptors that you’re going to use that say why *you* are worth *more*.”

## Successful Examples

Branding is not complicated. Freedman recalled a Philadelphia-based family law firm that emphasized a culture of family-oriented calmness and peace.

Freedman called it the “the family-friendly family law” firm. It has a playroom for children with videos, toys, child-size furniture and a window to the conference rooms so parents can watch their children and know they’re safe, but remain confident their children can’t hear what’s being discussed.

Some clients clearly know what they want. Freedman said that Bull Blockchain Law founder Andrew Bull, Philadelphia, wanted to become known as a bitcoin and cryptocurrency expert. The domain name he chose says it all.

Freedman said another firm, Trinity Law of York, was founded by Chris Menges, now a York County common pleas judge, with the brand description, “your law firm for life.”

“All the things they communicate on their website is how their practice areas cover you from the issues associated with birth to the issues associated with death and estate, and everything in between,” Freedman said.



## Other Options

Once a brand is established and a firm is confident enough they want to protect their branding tools, law firms have options.

Firms present some unique and interesting trademark issues, said Monica L. Ugliuzza, secretary, PBA Intellectual Property Section.

Ugliuzza is the founder and owner of Creative Law Studio, Harrisburg, an intellectual property law boutique.

Her focus is working in federal trademark registration. And because of the requirements needed to get a federal trademark registration, she “also ends up working in state trademarks oftentimes for clients who don’t necessarily meet the requirements to obtain a federal trademark registration, but wish to protect their business names, logos and whatever forms they have available,” she said.

Obtaining registration can take more than a year.

“I work with clients in all stages of branding,” Ugliuzza said. “The first and definitely the best kind of client is in the beginning phases of creating their business, and they have not launched their brand yet. Clients who begin the trademark process before launching a brand provide me with the chance to run trademark clearance searches and make sure that their name, logo and brand identity are something that they have the right to protect. It’s vital to ensure that they’re not actually infringing on someone else’s prior intellectual property rights.”

Ugliuzza’s search tool software is called Trademark TKO.

“Oftentimes clients come to me after using a business name for 10 years or more, and they’re just deciding to obtain trademark protection,” Ugliuzza said. “Other clients begin the process after recently launching a brand months ago and are now starting to think about trademark protection. In those situations, if we order a clearance search, and we find

that their name will not be able to be protected, then we need to think about rebranding. This is where my close relationship with graphic designers and branding professionals is very helpful.”

Some prospective clients Google the name, and don’t see anything else with the same name, so they think it is OK to use it.

“When you apply for a trademark, the U.S. Trademark Office examining attorney evaluates the application through their own clearance search, and they’re not just looking to find out: is there someone else with this exact trademark already registered with a similar good or service?” Ugliuzza said. “They are looking to determine: is there a likelihood of confusion? So, there doesn’t have to be an exact name match to have your trademark application be refused. Rather, the examining attorney is evaluating whether there is a likelihood of confusion between the application and a trademark that has already been registered or applied for. The examining attorney will compare spelling, sound, commercial impression and similarities in goods and services sold under the similar marks.”

## Not Trademarkable

Last names are not actually trademarkable on their face.

“Nothing in trademark law is black and white,” she said. “There are a lot of different avenues that can be taken to obtain federal trademark protection over law firm names comprised of a surname. If a law firm name is a single last name, it’s not initially trademarkable, but there are a couple of ways around the refusal. Sometimes combining multiple last names, like law firms often do, can be enough to overturn an initial refusal for trademark. But then there are also additional ways to register otherwise non-trademarkable names. If the name(s) can be combined with

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— Monica L. Ugliuzza, Creative Law Studio

what is referred to as ‘other matter,’ which are non-generic elements that add additional words or design, something that would otherwise not be trademarkable, now is.”

Ugliuzza’s own Creative Law Studio is a pending a federal trademark.

Today most law firms have not just a website, but also a social media presence, Ugliuzza said.

“I see several attorneys with TikTok and YouTube pages who are very consistent about creating content and making entertaining videos,” she said.

To protect your brand name, first make sure you’re not infringing on someone else’s name, and create a name you can protect. By collecting client reviews on Google and different websites, you can clearly identify yourself from firms using a similar name, she said.

Why did Ugliuzza brand Creative Law Studio?

“I thought it was kind of unique,” she said. “Typically, in reference to law firms, you don’t hear the word, ‘studio.’ When I created my firm name, I was really recognizing how a

trademark practice seemed to be the intersection of law and art.

“I work very closely with graphic designers and color selection, so studio seemed like the right word for me, rather than firm or office.”

What would make a successful law firm brand?

“Something that is unique and stands out from others in the field,” Ugliuzza said. “Most law firms are still using last names as firm identities, but there does seem to be a little bit of a move away from that, with attorneys using more created law firm names and branding as opposed to just last names. I think a successful law firm branding would maybe move away from just using last names as the identity. Firms that do choose to use last names as a brand can more uniquely identify their brand with a color theme and a unique logo or design in how the name is written.

“There is also the option of choosing slogans (a tagline). They can be trademarked as well. If a law firm is using a name that is other-

*continued on page 12*



# Branding

*continued from page 11*

wise generic or not trademarkable, they may be able to start using a slogan as a trademark.”

In the end, choosing a brand identity must make sense altogether.

“The essential last branding step before rolling it out,” Freedman said, “is communicating your brand internally so that every person within the firm — not just the partners, but

every associate, every paralegal, every secretary, every administrative assistant, even the file clerk and the court runner — everybody knows what your brand is, everybody understands what makes your firm different, and believes it.

“If we can’t get our people internally to believe it with all their heart, then we must make some changes first so that we live and breathe our brand, and prove it’s authentic.” ⚖️

# Contest Winners In Pa. Lawyer

The top three winning entries in the magazine’s 2021 short story fiction contest head up the next issue of *The Pennsylvania Lawyer*.

In a related vein, aspiring writers will find 10 tips for writing and publishing fiction books. Another installment in our “Making it Work” series is a profile of Pittsburgh lawyer Laura Ellsworth.

Also in the issue are our readers’ favorite columns, including “The Effective Lawyer” and “Ethics Digest,” plus the inserted annual guide to PBA member benefits and services.

Watch for the November/December issue of the magazine, in the mail and online for members-only access at [www.pabar.org](http://www.pabar.org). ⚖️

# Court Summaries

*continued from page 6*

trust administration when benefit consists of fixed annuity and trust corpus is sufficient to provide benefit for many years, since violation by trustee of duty constitutes breach of trust, which affects beneficiary’s equitable interest in trust res and makes relief available that is equitable in nature even if beneficiary cannot demonstrate she suffered or will suffer monetary loss.

## Superior Court

**TRUSTEE COMPENSATION — interim principal fees — AGREEMENT ESTABLISHING FEES — definite unequivocal terms — Section 7786(b) — Uniform Trust Act — 20 Pa.C.S. 7786(b) — burden of proof — reasonableness — order overruling in part preliminary objections to account of trust affirmed**

*Trust Under Deed of Ott*, 2021 PA Super 203 (Oct. 12, 2021) — When terms of trust instrument unequivocally state amount, source and timing of compensation, it constitutes an agreement establishing commission for administration of trust. ⚖️

## Committee/Section Day Nov. 18

The PBA Committee/Section Day is scheduled for Thursday, Nov. 18, via Zoom. To determine if your committee and/or section will meet, visit <https://www.pabar.org/members/csd/2021/nov/csagenda.pdf> to see the full list.

A Virtual Awards Luncheon is 12:45 to 1:45 p.m. PBA President Kathleen Wilkinson will honor members who have done an exemplary job over the past year.

Register for the meetings and luncheon by Nov. 17 at <https://www.pabar.org/site/Events-and-Education/Event-Info/sessionaltcd/CSD1121>. ⚖️



## Upcoming Events

Unless otherwise noted, find more information in the PBA Events Calendar at [www.pabar.org](http://www.pabar.org) or call the PBA Member Services Center at 800-932-0311.

Nov. 9	PBA Civil Litigation Section Harrisburg Regional Dinner
Nov. 9-10	Business Law Institute (webcast)
Nov. 18	PBA Committee/Section Day (virtual)
Nov. 19	PBA House of Delegates Meeting (virtual)
Dec. 8	Pennsylvania Bar Foundation NightIN Holiday Event (virtual)
Jan. 14	PBA 2022 Family Law Section Winter Meeting
Feb. 2	PBA Midyear Meeting

Please check the PBA website ([www.pabar.org](http://www.pabar.org)) and PBI website ([www.pbi.org](http://www.pbi.org)) frequently for updates.