

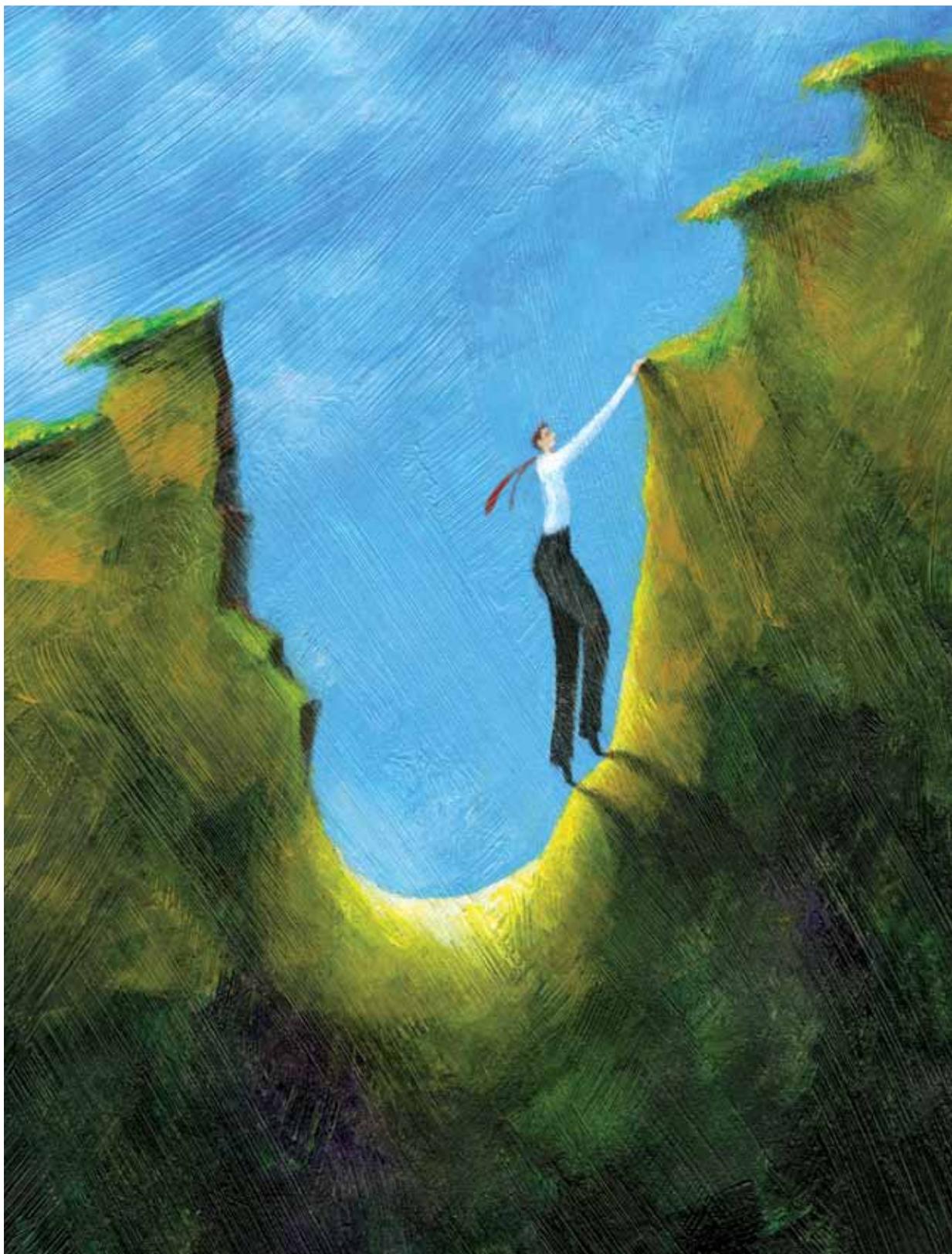
**RECOVERING  
FROM A  
LEADERSHIP  
MISSTEP**

**THE LEADERSHIP  
SUCCESSION  
PROCESS**

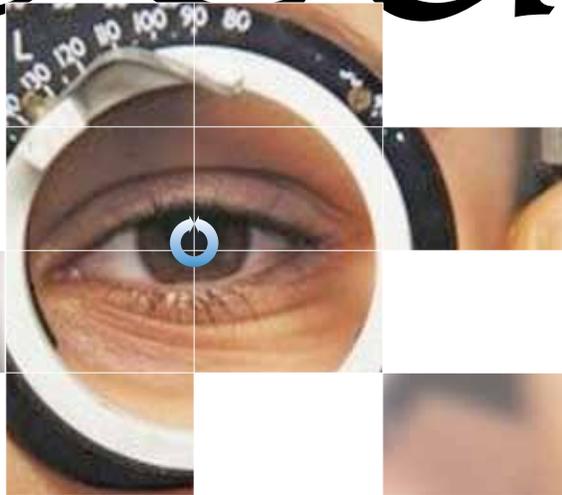
**STIMULATING  
INNOVATION IN  
YOUR FIRM**

**INQUIRING  
LEADERS WANT  
TO KNOW:  
TEN IMPORTANT  
QUESTIONS**

**WHEN JOB  
DESCRIPTIONS  
DON'T DO  
THE JOB**



# BRING YOUR FIRM INTO FOCUS



## BECOME THE LEADER IN YOUR FIELD

All law firms must have one major objective—be the leader in your field. Easy to say. Hard to do?

Achieving leadership demands superior legal performance complemented by savvy marketing—inside and outside the firm.

Begin by realizing your BRAND. Successful executives understand that clear, consistent marketing strengthens their firm's leadership position and their BRAND. However, they also know their attorney's are enrolled in the intellectual challenges of crafting successful and brilliant solutions for their clients. This, after all, is what attorneys do. But let's face it, most attorneys dislike marketing. Marketing steals billable hours. Grooming attorneys to embrace the firm's BRAND and adopt their role as

marketers requires guidance and a strong arsenal of support. Without this your BRAND becomes diluted and ineffective.

Intelligent marketing requires agility and focus in today's fast-paced, linked culture. Creating a consistent, clear BRAND connectivity is a "must" dynamic for success. If you are not proactive you will fall behind and perhaps fail.

Perpetuate your BRAND. Avoid looking stale and getting lost among your competition. Actively maintaining a current-looking web site is critical. Establish your site as a living breathing marketing tool which looks fresh and accurately portrays who you are. It should also acknowledge your attorney's accomplishments giving them a tasteful marketing BRAND. One they are proud to wear. One that

rewards performance and leadership.

However, what is most often misunderstood and neglected is making a commitment to optimize your search engine presence. This is a daily marketing process not an IT project. Paying attention to your site's details and BRAND encourages repeat connectivity and seamlessly translates that you will pay equal attention to your client's needs. This builds trust which, after all, is what legal leadership strives to achieve. Maximizing these necessary components is essential for securing your firm's leadership role.

Bring your FIRM into Focus with PROKELLSEO, an experienced search engine optimization resource, and it's talented web site designers.

PROKELLSEO

Dear Valued Clients and Friends:

After what in many parts of North America, has been one of the most brutal Winters on record, here is to Spring 2015. It seems a terribly long time coming!

What happens as a firm leader when something goes sideways, especially when it is the result of something you did . . . or even did not do, that perhaps you should have. **Recovering From A Leadership Misstep** is another collaboration between me and my good friend and colleague, Ed Reeser proposing some remedial courses of action for when the worst that could happen, happens!

In **The Leadership Succession Process**, I set out the three fundamentally different approaches to leadership succession, together with their respective advantages and disadvantages. This article is an excerpt from the Introduction to my newest work, *The Changing of The Guard: Selecting Your Next Firm Leader*. You will find more information on this NEW instructive guidebook on pages 12 and 13.

**Stimulating Innovation In Your Firm** had it's origins in a Webinar that I was privileged to participate in with Andrew Smulian, Chairman at Akerman LLP; Ken Grady, CEO of SeyfarthLean; and John Paris from Williams Mullen's Innovation Committee - while **Inquiring Leaders Want To Know** offers you ten questions to jump-start your strategic thinking. Hopefully both of these offer some pragmatic advice to those interested in either subject.

Finally, **When Job Descriptions Don't Do The Job** is an article that I hope will provoke you into taking action on job descriptions for your practice leaders.

As always, I sincerely hope that you find some practical ideas, tips and techniques here that you can put to use immediately. Please send me your observations, critiques, comments and suggestions with respect to any of these articles.

Patrick J. McKenna

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### 4 RECOVERING FROM A LEADERSHIP MISSTEP

BY PATRICK J. MCKENNA AND EDWIN B. REESER

HOW DO YOU BALANCE ENTHUSIASM FOR YOUR FIRM WITH CONFRONTING THE REALITY THAT THINGS MIGHT NOT BE PROGRESSING AS ONE MIGHT LIKE, PERHAPS BECAUSE YOU MADE A STRATEGIC ERROR?

### 8 THE LEADERSHIP SUCCESSION PROCESS

THERE ARE THREE DIFFERENT APPROACHES TO CHOOSING YOUR NEXT FIRM LEADER - HEIR SUCCESSION, PARTNER SELECTION OR CONTESTED ELECTION, AND EACH HAS VERY DISTINCTIVE ADVANTAGES AND DISADVANTAGES.

### 14 STIMULATING INNOVATION IN YOUR FIRM

THIS ARTICLE REPRESENTS AN EXCERPT FROM COMMENTS I MADE DURING A WEBINAR ENTITLED "STIMULATING INNOVATION IN LAW FIRMS", HOSTED BY THE ARK GROUP

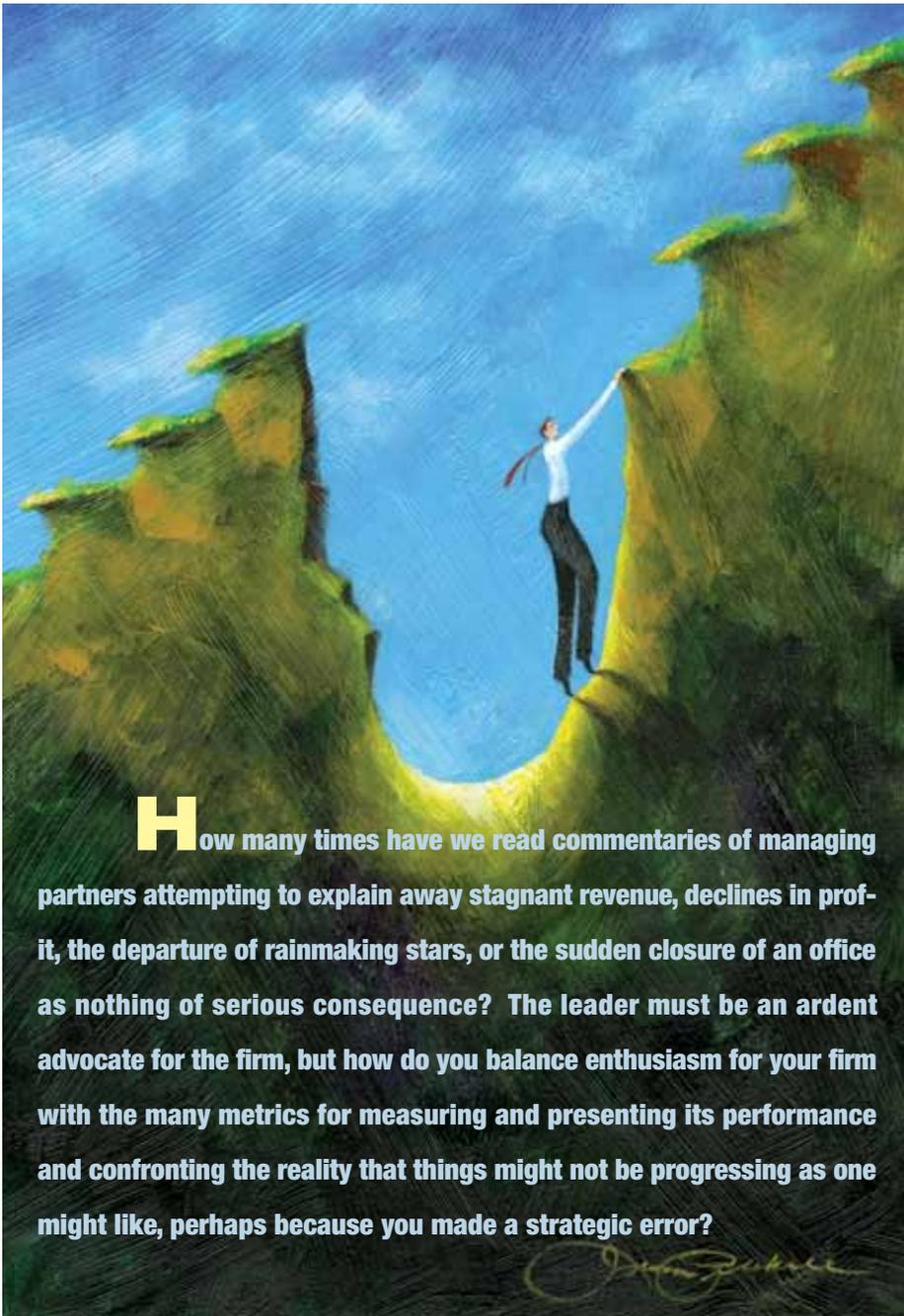
### 17 INQUIRING LEADERS WANT TO KNOW: TEN IMPORTANT QUESTIONS

TODAY, OUR PREOCCUPATION WITH FINDING ANSWERS MUST NOT OBSCURE THE IMPORTANCE OF ASKING THE RIGHT QUESTIONS.

### 20 WHEN JOB DESCRIPTIONS DON'T DO THE JOB

THE SUBJECT OF JOB DESCRIPTIONS SEEMS TRIVIAL, BUT IS AT THE HEART OF WHY SO MANY FIRMS AND THEIR FIRM LEADERS STRUGGLE WITH GETTING THEIR PRACTICE GROUPS TO PERFORM AS WELL AS INITIALLY EXPECTED.

# Recovering From A Leadership Misstep



**H**ow many times have we read commentaries of managing partners attempting to explain away stagnant revenue, declines in profit, the departure of rainmaking stars, or the sudden closure of an office as nothing of serious consequence? The leader must be an ardent advocate for the firm, but how do you balance enthusiasm for your firm with the many metrics for measuring and presenting its performance and confronting the reality that things might not be progressing as one might like, perhaps because you made a strategic error?

Given the significant challenges that most firm leaders currently face, it may seem to make sense to minimize mistakes or seek to avoid disclosure and recognition of them altogether, but leadership requires leaders to possess the integrity, skills and self-confidence to admit mistakes and not avoid dealing with them. And it requires the partners to recognize it as well.

The issue is not that some firm leaders have made mistakes. It's a long line of leaders that make mistakes, with some slipups that make the front page in the newspapers. Some years back you may remember Warren Buffett's bold and sincere apology for investment under performance ("I did some dumb things") which attracted considerable media coverage. Other leaders in his role would have been

## Misstep

reluctant to admit mistakes, seeing it as a sign of weakness. Perhaps that's why Buffett's public mea culpa attracted such widespread attention: the seeming novelty of a leader copping to mistakes. Yet if you followed this story closely, you would have also noted how his apology helped him rapidly move on to other, weightier matters.

The issue is not that some firm leaders recognized the mistake, dealt with it, made changes to correct it and are now back on what they determined to be the right track. *That is what they should be doing.* Please note that this does not include looking at the prior year's performance, then releasing a statement that where you are is where you deliberately piloted the firm, when it is obvious that no person in leadership would have started the year and proclaimed that as the intended destination!

The lesson may be to watch how law firms handle the revelation of a mistake in strategy. Something so fundamental that it seems silly to even discuss it as other than an error. From a business perspective, it is absolutely essential to recognize and learn from errors. But in law firms even the hint of potential fallibility in leadership is often brushed away as impossible. It seems that law firms are almost institutionally incapable of acknowledging that they make mistakes, while well-run businesses are known to embrace their mistakes to minimize their consequences.

Business is about making decisions, some of which will be mistakes, recognizing them, and when necessary adjusting on the fly. Not only correcting poor decisions, but improving prior good ones. No good decisions are

good forever, so all decisions should be subject to continuous review. Ratification of the continuing superiority of a prior decision is a new decision. Paul Schoemaker in his HBR article, *"The Wisdom of Deliberate Mistakes"* argues that if businesses and leaders are not making a certain number of mistakes, *"they're playing it too safe."*

In law firms a significant number of strategic failures can be fairly ascribed to poor leadership decision-making. In fact, as we've studied a series of significant firm failures, we've observed a fairly similar pattern of five stages of behavior.

It usually starts with some managing partner wondering why a number of his peer firms are pursuing a particular strategic direction and he is not. Perhaps the partners have noticed other competitors exploring merger opportunities and beginning to wonder aloud as to "what is wrong with our firm that we're not doing the same." A **fear of exclusion** becomes the underlying catalyst that then prompts some firm leader to chase a particular strategy that really doesn't fit with the firm's chosen direction . . . but we shouldn't be left out.

So the managing partner embarks upon a particular course of action and wouldn't you know it, our leader begins to enjoy a string of initial, **small successes**. Perhaps it is a series of lateral hires that in the early months seems to have been a wise investment. Now this same leader gets blinded by this apparent initial success and begins to subtly think that he is invincible.

The successes are now exacerbated by the **lure of the next exciting strategy** to be undertaken. Perhaps if a few laterals can pay off for the firm, a few groups of laterals would show even more promising revenue gains. And then comes the first hint of a strategic

mistake. The eagerness with which the leader chases a group of potentially lucrative laterals has him sacrificing the firm's strategic focus for the sake of increased revenues.

Meanwhile, our leader is now presented with evidence that some of his supposed successes are not turning out to be as lucrative as initially expected. But rather than pausing to regroup, this managing partner succumbs to an **escalation of commitment**. Our leader jumps in with both feet and starts chasing books of business without critically assessing whether the opportunities are strategically appropriate. Even worse, our leader becomes so enamored with the idea of the new oppor-

*"In law firms a significant number of strategic failures can be fairly ascribed to poor leadership decision-making. In fact, as we've studied a series of significant firm failures, we've observed a fairly similar pattern of five stages of behavior."*

tunity that he commits even more resources, throwing good money after bad and sinking costs into a bottomless black hole.

In the final stage, our leader, rather than admitting to have made a poor strategic move and conceding the battle, decides to **hide the bad news** hoping that over the course of time things will work themselves out. Thus strategic mistakes happen when firm leaders speculate, overcommit, try to be heroes, then run into real trouble and try to cover it over.

While it is very rare for a good leader to single handedly make a law firm successful, it should be clear from numerous failures of law firms over the past decade that a poor leader can single handedly, or with the assistance of only a couple of other individuals, destroy even a large law firm.

We know that lawyers (by no means all) can tend to make poor business decisions, sometimes almost incredibly bad ones. There are a couple of very solid reasons why this is the case when there are such intelligent and well-meaning folks trying to lead and manage complex multi-million dollar businesses.

Let's look at a couple of them.

#### **FIRSTLY, MOST FIRM LEADERS WERE NEVER TRAINED TO BE BUSINESS PEOPLE.**

Most lawyers do not have the skill sets and tools to be good business people. They are promoted to leadership positions usually because of their success as lawyers and rain-makers, not as business people, and *confuse holding the title or position of leadership responsibility with actually being a leader*. They ascend to the position of decision making because they have the economic and political power to do so, not because they are good managers or leaders, and often are poor at both. To divert their time and attention from what they have proven best at for the firm and themselves, which is practicing and rainmaking, to attend to the management of the firm is often a fundamental error in itself.

#### **SECONDLY, MOST LAW FIRM LEADERS HAVE A CAREER PATH DISTINGUISHED BY ABSENCE OF FAILURE.**

One of the consistent qualities that we believe you will find in most law firm leaders is minimal experience with any real failure. They were top students in grade school, college,

and law school. They went to a fine firm to be trained and mentored, and have had a successful career as a lawyer. A profession in which making a mistake is not tolerated by the partners or themselves, which is quite unique. They have not typically been deeply engaged in anything else for their entire life experience. Thus it is not surprising to find a firm leader being almost paralyzed at the prospect of committing some kind of “public” mistake, either revealed to the partners, or more broadly to the public at large. It is natural to want to ignore any negative situation in hopes that it will somehow correct itself. Some ignore the situation for fear of having to confront the fact that the poor performance is their responsibility, whether it had its origins on their watch or as the result of their predecessor’s decisions. So they convince themselves that things are fine or soon will be. We often hear leaders justifying their overly positive communications by claiming that if they were entirely truthful morale could suffer, partners might become distracted and current performance suffer, or rainmakers may potentially defect, all because they cannot handle the truth. We believe that uncertainty and distraction are far more likely to be caused by a lack of transparency and honest communication.

### **THIRDLY, LAWYERS DON’T TEND TO RESPECT ANYTHING THEY DO NOT UNDERSTAND WHICH CONFLICTS WITH WHAT THEY DO UNDERSTAND.**

Just like people in other vocations, lawyers don’t know what they do not know. As silly as it sounds, the default perspective for many lawyers is “If it isn’t the law, how hard could it be?”

### **FOURTHLY, LAWYERS HAVE A UNIQUE CAREER DYNAMIC, ESPECIALLY LITIGATORS.**

Your typical lawyer can become an ‘expert’ at a narrow segment of a complex area as a function of preparing and trying their cases. Thus they quickly gain confidence that they

can and do indeed become expert at anything they set their mind to. For some it is a short step from there to assuming they will be expert at everything they are given, even before they get there. This is not unlike someone professing to know a lot about China because they had an experience eating at a Chinese restaurant in Boston . . . Once!

### **FIFTHLY, LAWYERS TEND TO MAKE THEIR DECISIONS USING THEIR LAWYER SKILL SETS.**

This means that in law firms the best business decision arrived at by methods proven in business, will frequently lose out to the lawyer who makes the best argument. Because it is often the best argument (irrespective of many other factors) that wins cases and that is what many lawyers know and believe. Since the best argument is by default the one that the more successful, powerful lawyers make, because they are the leaders of the firm making the ruling of which arguments are best, contrary or dissenting points of view only serve to deliver martyrs.

Dissenting lawyers are smart enough not to go that route. The passive aggressive survival approach is “Vote to go, but then go slow.” Lawyers do argue with the silliness of leadership infallibility when engaging in constructive debate is denied. They just don’t open their mouths. That enables both bad leadership decisions, and good decisions that fail for lack of partner support. That might not happen in your firm. But it certainly has and presently is happening in others.

Are three or four partners at the top smarter than a hundred or two hundred partners ‘below’? Even if they were, would their decision-making at least be improved with the input of very bright partners? How about the effective implementation of the decision which depends on active cooperation and support of all of the partners, to avoid or significantly

reduce the ‘passive resistance’ response?

It’s difficult to pursue the right course of action when pessimists and naysayers abound. Yet the best firm leaders are those who quickly and willingly look past internal qualms about candor and accountability and instead apply mistakes toward positive gain. As Confucius is reputed to have said “To know what is the right thing to do and not to do it is the worst cowardice.”

### **WHAT TO DO**

#### **Don’t hide from bad news**

Because confronting your own error is an uncomfortable position to be in, leaders can often try to position themselves in a positive light while shifting the blame onto some unanticipated, unmanageable, external factors. Or, they point fingers and say that someone else didn’t execute as they should have and that that is the reason things went wrong. If a mistake has been made and there is bad news to be delivered, don’t wait for the perfect time; it will never come. You must share the news as soon as it’s appropriate. The longer it takes for you to acknowledge a mistake, the more likely the undecided will turn against you. You need to recognize that if, in the end, it is going to be disclosed that you have erred, it is better to own up quickly in order to have a hand in making repairs. As the firm’s leader, the firm’s problems are now yours. You must explain the issues and accept the problems as if they were of your own making.

#### **Be willing to admit your mistake**

Leaders are sometimes under the erroneous impression that to err - and to admit to it - shows weakness. Firm Leaders who admit to mistakes become more human and are more readily able to “clear the air” and move on. Stepping up and taking responsibility immediately will help restore confidence in your leadership. In fact, owning up to a mistake

can quickly turn the tide of public opinion in your favor. There are rational, valid reasons why people make mistakes. By quickly taking accountability for a mistake, by conveying candor, honesty, and responsibility, it will allow you to create more trust and loyalty among your partners. It may enable you to take on and resolve even bigger and more important issues thereafter.

### **There is a difference between “I’m sorry” and “I apologize”**

Saying “I’m sorry” describes your feelings about what happened, but it may not be enough if your partners are angry. Saying, “I’m sorry you feel that way” is worse as it implies that you feel your partners may be angry without justification. Even worse are those who say, “mistakes were made” which is interpreted to mean that you are trying to avoid any responsibility. And then there is the leader who offers a statement of regret followed by saying “but” and offering some sort of justification or explanation, or even worse a dismissal of the past and declaration to just forget it and move forward to a great future together. (“Now that we have lost sight of our strategic direction, we must double our efforts.”) Following any apology with the word “but” only serves to make the entire statement appear insincere – almost implying that you don’t really believe you should have to apologize.

An effective Firm Leader apologizes to indicate that he cares to make things better, will try harder and that he is secure enough to acknowledge that he isn’t perfect. Credibility requires that your apology be immediate, unforced, sincere and specific in terms of what exactly you did that was wrong, who specifically has been hurt, a statement of regret and an announcement of specific action that will be taken to rectify the situation.

People want to hear what you are going to do differently, not your excuses. As the leader, remain calm and don’t get defensive. Pointing to all the circumstances surrounding the error does not justify you having made a mistake. A simple explanation helps show you really do know what you’re doing. “I’m responsible, I’m sorry and here is what we’re doing to make things right.”

Indicating that you will rectify the mistake or situation is the most important component and what is often missing in most situations where an error has been committed. In deciding what you can do to rectify things consider that your solution must satisfy your partners – and not what is necessarily easiest for you. Describe what you are doing to rectify the mistake but be very careful not to raise unrealistic expectations.

### **No sugarcoating**

Leaders set the tone and giving your colleagues the straight goods are likely to receive a far better reception. As Julius P. Smith, Jr., Chairman Emeritus at Williams Mullen explained it, *“Be honest with yourself and everyone else. Usually, where I got into trouble was when I tried to sugar coat something to make it an easier message. Ultimately you will find people will appreciate it more if you tell them exactly where things stand.”*

### **Manage your emotions**

Seasoned leaders don’t yell or get overly animated when things go wrong. They can maintain their composure and still express concern but not to the point that their emotions become a distraction. It can become challenging to manage the overwhelming responsibility inherent in being a firm leader and the resulting stress when a mistake is made can cause a power surge. Simply communicate that you

are not just unhappy with your performance but that you are also disappointed by it. But you need to manage any outbursts because emotions are contagious and you can infect everyone you come into contact with.

The arrogance of success is well-known. Malignant leaders can start to believe that they are above the rules and that what applies to the other partners does not apply to them. And that is how we have seen many of them get their firms into trouble. They never have to say, “I was wrong” because everyone around them conspires to suppress criticism and hide mistakes. Meanwhile, the best firm leaders manage the risk that they could be wrong, create conversations, listen to arguments and make better informed, less self-serving decisions.

It is often said that the Firm Leader role is that of a shock absorber for the inevitable highs and lows that any firm is likely to go through. When things are going well and the firm is prosperous, that is the time to both celebrate and also challenge your partners to not become complacent. When things become more challenging, it is the firm leader’s job to manage each partner’s expectations and provide positive energy while being realistic about the situation the firm faces going forward. And it is the partners’ job to support such leaders who take on these difficult challenges with the best interests of the firm at the forefront. That support will come with demonstration that they have a leader who sees things as they really are, rather than presenting them as he or she wants them to be seen.

**EDWIN B. REESER** is a business lawyer in Pasadena specializing in structuring, negotiating and documenting complex real estate and business transactions for international and domestic corporations and individuals. He has served on the executive committees and as an office managing partner of firms ranging from 25 to over 800 lawyers in size.

# The Leadership Succe

**E**very firm eventually finds itself in need of a new leader. The Executive Committee or Board must seek to replace the current incumbent as that individual comes to the end of their term of office, announces a return to their practice or perhaps is contemplating retirement. Every year we also see firm leaders step down because of a loss of partner confidence, an unexpected disability, a

tempting career offer from a prestigious corporate client, or even, on occasion, being laterally recruited by a competing firm! And in many of these instances, a firm's knee-jerk reaction to rapidly find some replacement has them anointing some partner with little to no management experience to become the leader of a multi-million dollar business.



**M**y colleague Brian Burke (Chair Emeritus from Baker & Daniels) reminded me recently of how some firms tend to react to some leader retiring by over correcting. For example, the firm may choose to replace a single long-serving and highly regarded managing partner with a committee of three, perhaps out of some concern that no one partner could possibly do what this last firm leader was able to accomplish. So the firm heads in a completely different direction with their succession process – what Brian calls a “curb to curb orientation” often without really understanding why the course change is being made.

How should suitable candidates for firm leadership positions be identified, developed, selected or elected?

## The Different Approaches

**T**here are fundamentally, three different approaches to choosing your next firm leader. Leadership transition in firms usually takes the form of heir succession, partner selection, or the contested election. Each of these three approaches has very distinctive advantages and disadvantages, and each may be used at different times in a firm's evolution depending upon that ‘curb to curb orientation’ that a firm may succumb to.

### 1. The Heir Succession Approach

Heir succession is a planned succession in which some partner (an heir) is appointed as a successor months or years before the incumbent firm leader steps down. Following this approach you allow your Executive Committee /

Board to defer to your current firm leader in the belief that he or she is best equipped to make the decision about who should replace them.

#### ADVANTAGES:

One firm well known for employing this approach is Jones Day, and as they describe it:

*Frank Ginn developed the Managing Partner concept that still is used at Jones Day. It was Ginn's view that lawyers function best when able to focus on practicing law, rather than engaging in debates on such matters as Firm administration or allocation of income. He saw no benefit and significant costs in a system that tried to mechanically assign credit for client origination or other responsibilities of partners, so no such system ever developed at Jones Day. Universal recognition of Ginn's dedication to the welfare of the Firm as a whole, and to the welfare of each*

# Succession Process

partner, allowed the institutionalization of the Managing Partner system, through which the Managing Partner has authority to make all management decisions, including designating a successor. Since then, this governance system has never been the subject of any disagreement within the Firm. It is one of the critical components of an institutional management approach that has been an important element of the Firm's success over the last century.

*“The incumbent may have good intentions and truly believe that they have a insider’s insight into who is the best candidate, but their judgement may also be clouded by a desire to preserve their legacy.”*

## DISADVANTAGES:

There is some evidence to show that allowing a firm leader, even and perhaps especially a very successful one, to choose their successor can bias the selection dynamic.

When the incumbent has accomplished great things for a firm or been in the position for an extended period of time (over 10 years) Executive Committees / Boards can often be tempted to anoint a clone. The incumbent will not admit that the firm needs someone with different ideas and competencies, and the Board can't imagine insulting their highly accomplished partner by not accepting his or her choice.

In these instances, powerful incumbents may assume that they know best and may even exclude elected Board members from any succession discussions and decisions. I've witnessed

this happen subtly, where over a period of a few years the incumbent nurtures one particular partner by continually giving that individual increasing responsibility such that everyone just normally assumes that this individual will eventually take over. The incumbent may have good intentions and truly believe that they have an insider's insight into who is the best candidate, but their judgement may also be clouded by a desire to preserve their legacy. There have also been those occasions where the incumbent may have selected someone who they knew they could manipulate. Meanwhile, many of these candidates naively assume that they are prepared because they have observed the Firm Leader in action; sometimes for a few years. From my years of working with new firm leaders and as these anointed candidates soon discover, observation is a poor substitute for doing.

Often times these firm leaders (perhaps unconsciously) are most attracted to that replacement that is a mirror image of themselves. Typically their choice of a successor is some partner who's leadership style, business philosophy and even personality are similar to the mentor. While in certain instances it may make sense to select a candidate who leads much as his or her predecessor did, many times it is a mistake. In our rapidly changing marketplace firms need new leaders who can evolve their firm's competitive strategies and cultures, not replicate them. They need to identify the candidate with the specific skills, knowledge and 'must-have' criteria that the firm may need going forward. The delusional incumbent believes that if he can find a partner just like himself, this new leader will help the firm enjoy the same success that he helped it achieve.

I have also seen those instances where an existing leader would appear to have anointed a "below-average" candidate. As much as the incumbent wants to select a mirror-image replacement, he

comes to the conclusion that there is no suitable clone and no one who can begin to accomplish what he has achieved and so he decides (perhaps unconsciously) to anoint a successor he instinctively knows, is *not* up to the job. Such a selection will eventually cause everyone to recognize what a great job he did as Firm Leader. It may also result in your Executive Committee / Board asking the incumbent to continue in some form as the new leader just seems to lack enough experience to go it alone. Meanwhile, our retiring leader can justify his actions to himself in all sorts of ways: after all, Jennifer will grow into the job, she's still young and eager to learn. To hope that some politically anointed but moderately acceptable candidate will eventually grow into the job can be a perilous gamble.

Finally, there are those occasions wherein the argument is put forward by the current incumbent that some partner has now earned or deserves the position and that rewarding them by making them the next firm leader would be the honorable thing to do. In one sense the notion of earning it is an admirable tradition. If some partner works hard and selflessly contributes time to firm activities, rewarding her seems the proper thing to do. Unfortunately it is not always in the best interests of your firm. Many have come to realize that rewarding performance or seniority by appointing that individual into a senior leadership position can backfire. You are assuming that if someone can produce results in one position, she can produce equal or better results in another – when the reality is that the new responsibilities may require entirely different skills.

In the corporate world, a recent study of companies where the CEO handpicked their successors found that almost 80% underperformed the stock market during their tenure. Stanford University Professor David Larcker warns 'CEOs are preoccupied with personal legacy and might pick someone just like themselves'.

## 2. The Partner Selection Approach

At some firms, a nominating committee will seek input from all partners regarding leadership needs and suggested candidates. The committee then talks indepth with the prospective candidates regarding their interest, qualifications and willingness to serve. This partner selection approach is an effort to determine the one, single “consensus” candidate that the vast majority of the firm’s partners feel would be the best person to take on the responsibility of leading the entire firm and by doing so, obviate any need for controversy or divisiveness within the firm.

Once a recommendation is made, the committee then puts the matter to the partners for approval. If the nominating process has resulted in only one candidate (as is usually the case), many firms require that in order to be elected, a candidate must receive a majority vote of the partners. This allows partners to either dispute the committee’s recommendation by withholding votes or assures the successful candidate the support of a large majority of the partners.

### ADVANTAGES:

Morrison & Foerster described how this process unfolded during their last succession process:

According to San Diego Partner Don Rushing, who led the Chair Selection Committee, “We had the privilege of speaking with every partner about who the next Chair should be. We are in an outstanding position for a transition to a new generation of leadership. Our practices are strong, with headline-grabbing matters across the globe, and financially we are having our best years ever. While a number of candidates could have served the Firm well as the Chair, we felt that Darren’s many personal attributes, combined with his singular success in building a world-class Bankruptcy and Restructuring practice from scratch in one of the world’s most competitive legal markets, made him

*an especially attractive choice to continue MoFo’s growth in today’s hyper-competitive environment.”*

### DISADVANTAGES:

At one firm, two candidates emerged, each of which had the strong backing of different sections within the firm. Pressure was exerted by

*“It could be argued that one of the benefits of a contested election is that it provides a development opportunity for those partners by battle-testing their thinking and giving each the gift of indepth feedback.”*

the members of the Executive Committee for only one name, a “consensus candidate,” to be put forward as a contested election was deemed not to be in the firm’s best interests. The pressure escalated and eventually resulted in one of the finalists withdrawing their name.

At another firm, a powerful rainmaker quietly made it clear to the Board that he would leave if not selected as the new managing partner. Although there was general agreement that he would not be a very good choice, the Board members felt obligated to vote in favor. A compromise was negotiated whereby the scope of the new firm leader’s job would be reduced.

Finally, there are firms in which the Executive Committee / Board control the selection process and select a leader from among their own membership on the theory that the Board members were elected by the partners already. This procedure can lack independence and be subject

to undue influence, since any new firm leader is neither ratified nor confirmed by the partners.

## 3. The Contested Election Approach

The contested election is an explicit succession process that takes place over a predetermined time frame in which two or more partners are put through a series of assessments / activities in order to decide who will be chosen / elected as the firm’s next leader. While this democratic approach has a philosophical appeal it can become slightly challenging as happened recently in one firm where the contested election resulted in the firm’s new leader being elected by a single vote.

### ADVANTAGES:

It could be argued that one of the benefits of a contested election is that it provides a development opportunity for those partners by battle-testing their thinking and giving each the gift of indepth feedback (increasingly rare as you become more and more senior). The contested election becomes somewhat like a presidential campaign during which the candidates become accustomed to the glare of peer scrutiny, which will obviously prepare them for the real job of being the firm leader. The contested election process can be enormously effective in helping determine the best leader for the firm.

In one 150-lawyer firm, where they had 3 candidates for the position of Firm Chair, one admitted to me: “Had I been the only candidate, it would have been a no-brainer and I would not have given preparing to assume office another thought. But because there were 3 of us, I invested a lot of time thinking about the firm, the issues and what needed to be addressed going forward. The very notion of having to compete for the position energized me beyond belief.”

Firms that are most successful with this approach promote a healthy culture in which

partners embrace competition for the top job and the notion that the best firm leader will emerge from the process.

Alan George "A.G." Lafley, author of *The Game-Changer* and CEO of Procter & Gamble counseled in the Harvard Business Review the same sentiments that I've heard from a number of managing partners that I highly respect:

*More horses are better. More candidates means you have more choices, more breadth and depth of leadership, more leaders performing at their peak and delivering better business results, and more leaders to take on more business opportunities. But you don't have to make it a horse race that becomes public. It doesn't have to divide the organization and it doesn't have to distract from the business.*

#### DISADVANTAGES:

While that may sound good, the disadvantage is that a contested election (sometimes called: a horse race) creates an acknowledged winner – and losers. Here is some excerpted commentary, as reported in the legal media, from one contested election. To most readers this would appear to be extracted from a political campaign of some sort, rather than from the activities within a respectable professional services firm.

*Heavyweights prepare to do battle . . . One partner goes so far as to say it would be "almost impossible" for him to win the vote . . . His reputation as a strong public speaker and presenter should stand him in good stead as the three candidates tour the firm's offices ahead of polling . . . Sources point to this candidate's toughness as an "effective task master" and a hard worker, even if he may need to work on staying personable to be successful in the leadership campaign . . . "At the end of the day, real estate is not a very exciting background for a managing partner to come from" . . . It seems that no candidate can yet be called the favorite.*

In these kinds of situations a highly valued partner who loses may ultimately take it very

personally and decide to leave your firm. A contested election can also become quite distracting to everyone as it is politicized through continuous hallway speculation and various camps develop. As the competition intensifies, it is not uncommon for partners to take sides for or against particular candidates. This can result in overt behavior that deters teamwork and knowledge sharing.

In a number of surveys I have conducted over the past 10 years, when asking firms "how often are contested elections the process used to determine who the next firm leader will be" the typical results that I get back may seem surprising but they clearly show that:

- 12% respond "Always"
- 3% respond "Usually"
- 43% respond "Sometimes"
- 34% respond "Rarely"
- 10% respond "Never"

These results would lead me to conclude that the majority (58%) of firms find themselves at some point having to contend with effectively managing a contested election. At our most recent First 100 Days masterclass for new firm leaders (held in January 2015), all but one of the participants confirmed that there was at least one other contender for the position.

## Some of the Challenges Involved

Whichever methodology you favor, you may expect that the election/selection of a new firm leader will **always** be disruptive and be an emotionally charged endeavor. It is rarely a polite ceremonial undertaking. Some of the more common shortcomings that I've observed (and had to work around) in the firm leadership selection process include the following:

- The selection/election process becomes such a complicated endeavor that it causes your firm to lose valuable momentum as individual

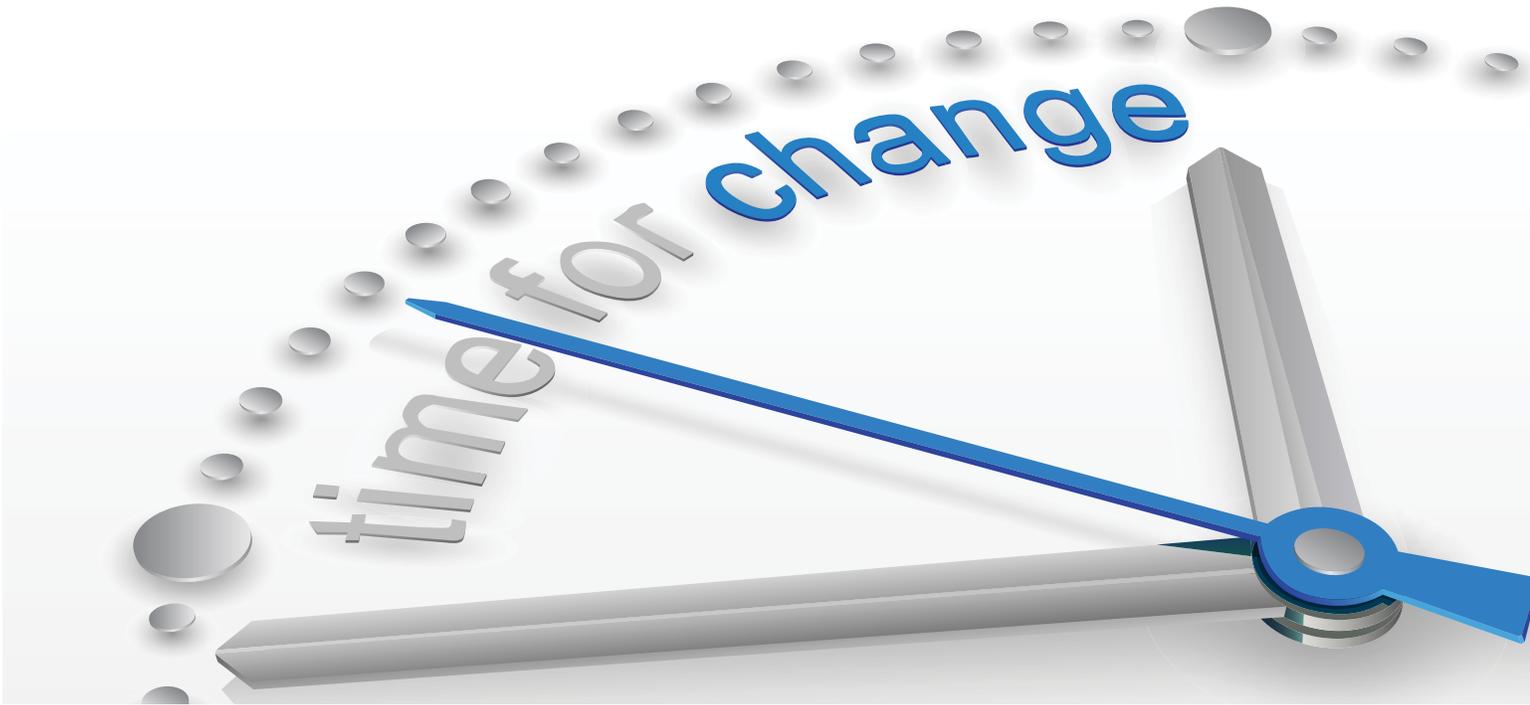
partners and practice leaders shift to a 'stand-by' mode, waiting to see what changes await their firm's future directions. As any effective leadership transition process can take about four to six months in determining the best choice and then another three months in the proper orientation of the new incumbent, your firm's momentum has the potential to be stalled for close to a year.

- The issues that most firm face have grown ever more complex over the past few years and as a result often need a new leader with competencies and experience very different from those evidenced in your last firm leader. A new firm leader often faces a number of unique and paradoxical challenges – to honor the past while creating the future; to orchestrate both an institutional and symbolic role as head of the firm; and to deal with the issues inherent in leading highly intelligent, autonomous professionals would never, ever consider themselves as followers.

Unfortunately rather than doing their homework and pinning down the specific traits and skills necessary, Board members may look for celebrities amongst their ranks – those professionals who are leading luminaries or exalted rainmakers in some misguided belief that the attributes required to be an extraordinary rainmaker are the same as those required to be an effective firm leader. In other words, too many Executive Committees / Boards begin to discuss *who* might be the next firm leader without even knowing *what* they should be looking for. In too many instances the default position is that someone who *feeds* the firm most likely also has the capabilities to be someone who *leads* the firm.

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*This is an excerpt from the Introduction of my newest Book: **The Changing Of The Guard: Selecting Your Next Firm Leader**, due to be released by Ark Publishing in early May of this year.*

# THE CHANGING OF THE GUARD: SELECTING YOUR NEXT FIRM LEADER



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# FEATURES

## This report outlines prescriptive guidelines and includes:

- 15 pragmatic “how-to” chapters;
- 7 appendices covering topics as diverse as understanding what it takes to become a firm leader, to the delicate dynamics involved if you select co-managing partners; and
- 20 exhibits covering nominating committee terms of reference, various sample internal memorandum, examples of firm leader evaluation criteria, and sample candidate interview questions.

## The report also includes interviews with:

- **Stephen J. Immelt** – Hogan Lovells;
- **Vincent A. Cino** – Jackson Lewis;
- **Carter G. Phillips** – Sidley Austin;
- **Timothy E. Powers** – Haynes and Boone; and
- **Kim Koopersmith** – Akin Gump Strauss Hauer & Feld.



### The Changing of the Guard: Selecting Your Next Firm Leader

ISBN: 9781783581856

By: Patrick J. McKenna

Published in 2015 by ARK Group

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## About the author

**Patrick J. McKenna** is an internationally recognized author, lecturer, strategist, and seasoned advisor to the leaders of premier law firms. He is the author of seven other books, most notably his international best seller, *First Among Equals*, currently in its sixth printing and translated into nine languages. His consulting expertise was acknowledged in 2008 when he was identified through independent research compiled and published by Lawdragon as “one of the most trusted names in legal consulting”, and his three decades of experience led to his being the subject of a Harvard Law School case study entitled “Innovations In Legal Consulting” (2011). An example of that innovation was launching the first instructional program designed to specifically address the issues that new firm leaders face in their First 100 Days, which has thus far graduated over 70 new leaders, many from AmLaw 100 and 200 sized firms. In addition, McKenna has consulted with at least one of the largest law firms in over a dozen different countries.

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# Stimulating Innovations In Your Firm



*The following represents an excerpt from comments I made during a Webinar entitled **Stimulating Innovation In Law Firms**, hosted by the Ark Group and featuring: Andrew Smulian, Chairman & CEO at Akerman LLP; Ken Grady, CEO of SeyfarthLean Consulting; and John Paris, Partner and Chair of the Williams Mullen Innovation Committee.*

## QUESTION :

*“From your experience, what one key thing is central to stimulating innovation in law firms?”*

If I had to choose only one thing, and at first blush it may seem simplistic, it would have to be shaping your firm’s culture to embrace innovation. And obviously, it has to start at the top – with the firm’s leadership.

The way I think about culture is that it’s all wrapped up in our habits (meaning, what behaviors are we prepared to tolerate) and our language (specifically, how do we use language to shape our collective thinking).

For example, in an earlier life, I was a Vice-President and Director of a Canadian-based, public company in the telecommunications industry. I had the good fortune of working with a rather progressive, very successful CEO who held some very strong beliefs. One of those beliefs, that he preached to all of us on his senior team, repeatedly, was that upon first being presented with any new idea or proposed course of action – he would say, “You have ‘no intellectual integrity’ voicing a personal opinion that suggests that you know whether it will work or not – because the reality is that you do NOT know for certain – and even if that same idea has been tried before – say, only last year – in this firm or some other firm and failed. That still is not determinative of whether the idea will fail here and now”

He taught us that you only display intellectual integrity by asking and answering three sequential questions:

**#1 NOT:** Will this work? **BUT: How do we make this work?** (which you will notice provokes a whole different mindset). He believed you start with a focus on “possibility” before “profitability”

**#2 What’s the worst that could happen?** (let’s be realistic, where might the crap hit the fan); and finally,

**#3 Where is my backdoor if the worst that could happen, happens?**

Unfortunately, winning the debate, arguing well, finding the slightest little flaw in the ideas of others is often the behavior that seems to be held in great esteem within our firms. And allowing that behavior rarely builds trust or inspires innovation. So to shape a culture that embraces innovation, I believe starts with the firm leader making it socially unacceptable to EVER offer an immediate opinion on whether any new idea will work.

And I have also seen this in action at the Practice Group level. Some may know that I’ve been involved, over the years, in helping practice leaders learn how to better manage their groups. And one of the things I’ve learned is that the very best performing practice groups set for themselves some written, formal guidelines on how they will operate as a team.

So, for example:

- Is it acceptable in our group to come wandering into a practice team meeting 20 minutes late?
- Is it acceptable to make a promise to your fellow partners about some task you will work on for the group’s benefit, and then not follow through?

These written guidelines that I’m referring to are

intended to address the fundamental question of – what do we, as members of this group, have a right to expect of each other?

And one of the brilliant guidelines, that I’ve seen work and have encouraged every practice group that I’ve ever interacted with, to adopt, states simply that: “In our practice group, one of our operating guidelines and cherished beliefs is that we will love every new idea . . . for five minutes.”

And think about that one for a moment.

We forget about the tremendous ‘influencing effect’ that respected or senior practitioners have in our firms. I remember fondly a story at one firm wherein the Senior Litigator, a very respected statesman in the firm, made it a habit, as he was working at his desk, to throw his tie over his left shoulder – I guess to get it out of his way. Well, he could often be seen wandering the hallways, in search of coffee, with his tie still thrown over his shoulder. Guess with me how many associates in the Litigation Department of that office, walked the halls with their ties thrown over their shoulders? A good number of them and I’m not exaggerating.

Now take that same behavior to a practice group meeting where a junior offers up an idea – only to observe some senior partner rolling their eyes or giving everyone the familiar lecture on the thirteen reasons why that isn’t going to work. I think I can guarantee . . . You won’t hear another idea coming out of the mouth of that junior for some time to come.

**SO CONSIDER:** In your practice group, is it acceptable behavior to allow someone to display their intellectual superiority by crapping on a fellow attorney’s idea?

**AND one last point** on this culture thing and one other lesson that this CEO taught me was that it you are really serious about innovation

you make a point to:

- Reward efforts – not just successes
- Attempts - not just outcomes; and
- Behaviors - not just results

In that company we actually gave sincere and serious acknowledgement each year, to the one best idea, as selected by our senior team . . . that didn’t work.

It’s all pretty basic - but Mission Critical Objective #1 for me is that WE NEED to work on shaping our firm’s culture to embrace innovation.

**QUESTION:** *What is the proper framework and support for innovation in law firms today?*

One of my most startling revelations was that, the innovations I see, do not usually come about because of any direction provided by your firm’s management committee or your written strategic plan. They came about largely from, as Peter Drucker (the late father of modern management) first expressed it, “they come about most often from having a mono-maniac with a mission!” In other words, the harsh reality is that the overwhelming number of innovations evolve from the efforts of **mono-maniacs** within law firms who pursue ideas that may even initially be regarded as irrelevant or even illogical.

For my part, I’m reminded of at least a dozen different partner retreats wherein I’ve had the opportunity of posing a question to the entire group to respond to, via those little electronic voting machines (that look like TV channel changers and allow everyone to cast votes anonymously)

The question I posed was this one: “How many of you have thought of some new idea, potential new practice niche or some new initiative, that conceivably could generate entirely new revenues for this firm?”

Now Press 1 if YES and 2 if NO.

The usual affirmative answer that I've received from all of these different partner retreats is somewhere in the range of a low of: 69% to high of: 83%.

So, Terrific News – I've discovered that you have a good number of potential mono-maniacs in your firm – and the good kind of mono maniac in that at least 2 out of every 3 of your partners have ideas to generate new revenues!

Ahh, but there is a follow-up question that I always ask . . . and it goes like this: *"For those of you that answered yes to that question, how many of you have shared your revenue generating idea with someone in the management of our firm?"*

Once again Press 1 if YES and 2 If NO.

And anytime I relate this experience, everybody laughs, because you all know the punch line. The answer, unfortunately, is always NO.

And the question has to be asked – why is it always NO.

I've often joked with firm leaders . . . "Why is it that interesting, seriously "cool" ideas - about new services, new approaches, new methods, new niches, new ways to collaborate DO NOT bubble up with great regularity from every nook and cranny of your firm?"

The sad reality is that most firms do not have any formal system to nurture their new ideas and potential new innovations.

Now, please notice that I did say "most." Today, I'm aware of a handful of firms – from a Baltimore-based firm of about 120 lawyers to an international 1200+ lawyer firm who have

instituted internal Venture Funds – investment monies in excess of \$100,000 made available for lawyers to put forth their ideas and have them encouraged and financed.

So, I believe we need a call to action. A call to set aside a modest, special R&D budget to fund new experiments. Then assign a couple of partners

*"How many of you have thought of some new idea, potential new practice niche or some new initiative, that conceivably could generate entirely new revenues for this firm?"*

to help their fellow colleagues put forth good submissions, and get the word out, that our firm welcomes new and innovative ideas.

FINALLY, my observation is that many firms seem to assume that doing more of the same – only perhaps doing it better, cheaper, faster is all there is to being innovative. I want to seriously challenge that notion. Even if you manage to figure out how to project manage and process improve better than other firms – or utilize big data, pattern recognition systems, cloud computing and predictive intelligence, it is only a matter of time (and usually not much time given our propensity to mimic each other) before competitive firms catch up; before seemingly innovative approaches become commoditized; and you eventually get forced into a pricing war. If the future of this profession rests ONLY on seeking ways to be more efficient at doing commodity work – in other words, "making better buggy whips" I have grave concerns for what this pro-

fession is going to look like in another ten years.

In my little mind, Innovation is not merely the generation of new ideas; it's the actual creation of new services that your existing or prospective clients are eager to pay for. What gets me really excited and I see that same excitement in the eyes of the lawyers I have the privilege of working with, is when you see them investing some portion of their time into developing entirely new niche areas. I'm seeing exciting and potentially lucrative new practices in areas like:

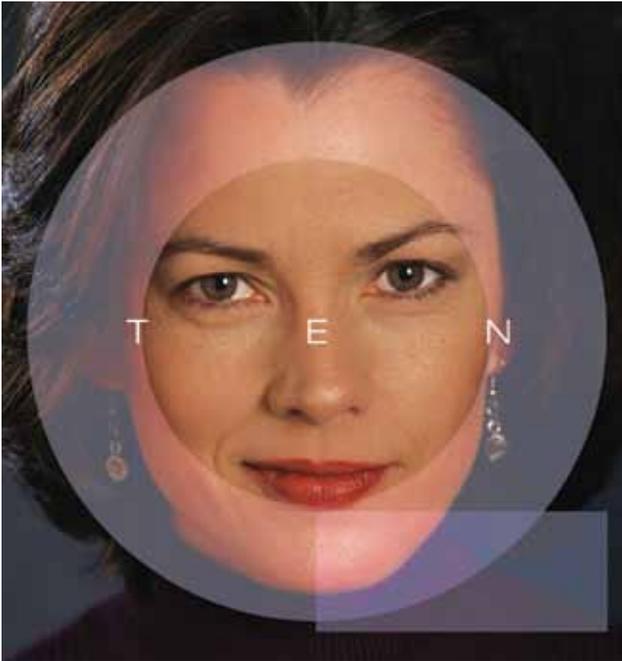
- Personalized DNA-based medicine
- Unmanned vehicle systems / Drone law
- Social media defamation
- Additive manufacturing / 3D printing
- Shale play restructurings
- Genetically altered agricultural products
- Brand and digital governance
- M-health Apps and monitoring appliances
- Biometric recognition technology

The list goes on and on . . .

AND just look at what's happening with CyberSecurity and Data Protection. New regulations expected this year and law firms working to attain their ISO 27001 international security certification. The issues of security, data breach and risk assessment is on every corporate board member's agenda.

I believe the strategic innovation imperative in every law firm is to **"Have each practice group identify 2 to 3 new and emerging areas where they can develop a niche dominance and become the go-to service provider"**

I'll advance a contrary view to some, in stating that I firmly believe that true Innovators side-step the price-value discussion, by recognizing that the best way to meaningfully differentiate your firm is by creating new markets, new services, dominating lucrative niches and seeking to make your competition irrelevant.



# INQUIRING LEADERS WANT TO KNOW: TEN IMPORTANT QUESTIONS

**As the story goes, it was a warm spring day in Princeton, New Jersey. One Albert Einstein, who was then working at the Center For Advanced Studies, was found hands clasped behind his back, pacing back and forth, mumbling to himself incoherently. A bystander, curious to discover what it was that Dr. Einstein was so obsessed with, moved discreetly to within hearing range.**

**Lost in thought, Einstein continued to repeat, "If I only had the right question . . . If I only had the right question . . ." To this great thinker, the journey to understanding began not with solutions, but with questions.**

**T**oday, our preoccupation with finding answers must not obscure the importance of asking the right questions. In fact, average answers to good questions, more often than not, yield better insights than astounding answers to lousy questions.

Here are ten questions to clear out the cobwebs, jump-start your creative thinking, tickle the brain, and hopefully, get you energized to take action.

## **1. What would my leadership epitaph be if I was not around tomorrow?**

Epitaphs are serious business so you might want to contemplate this one seriously. The impact of this question is to get you to take a good hard look at what your colleagues are likely to say when you're no longer in your position of leadership. What do you want to have remain as your signature, your mark, your memorable contribution?

## **2. What are the THREE most important priorities that I am trying to communicate to my colleagues?**

Okay, you may possess an encyclopedic list of things that need your attention, but there

better be only three that have your unwavering commitment. It is only when you are communicating many times more than you think is necessary that your people are getting the message you want to convey about these priorities.

When you think you've said the same thing for the 20th time, many people are only hearing it for the first time. Phrase your messages in vivid, memorable words. Examples, stories, and anecdotes make the point better than abstract talk. Keep it simple. You've got to connect to hearts and heads at the same time. Keep repeating it over and over. Find different media (breakfast meetings, e-mail, video briefings) to get your message out. You will get sick of saying it long before your colleagues get sick of hearing it.

## **3. Did I observe anything worthy of recognition this past week?**

We are either net takers (energy vampires) or net contributors (spark plugs) vis-à-vis the energy of others. We need to ask those we are trying to lead or influence about our energy leadership. All too often the only way many leaders can energize others is by leaving the room.

There are numerous factors that mobilize and

energize. Some of the most important include appreciation, recognition, thanks, and celebration. We all need to feel like winners. The validity of providing recognition is accepted and ostensibly sanctified in internal memos, e-mails and on secret decoder rings. The problem is that nobody really provides any.

A key aspect of rewarding the pursuit of excellence is in acknowledging behavior. But if we only recognize the victories (e.g., the new client brought in), our professionals will tend to be quite conservative in their actions. After all, if only a “win” can gain recognition, then people will wait until conditions are most assured for victory. But if you recognize the behavior or the achievement that was needed just to take a crucial first step, even if the victory is not imminent, you demonstrate that efforts are worthy.

**4. What things that made us successful in the past do we need to forget, unlearn, or discard to be successful now and into the future?**

Many of the things that made us successful in the past may now prove to be nothing more than time-worn assumptions about what clients really value, or what services remain worth offering, or what constitutes profitability, or what ensures quality performance. This question should encourage us to examine our various personal assumptions to see if they are still viable. It addresses one of the most important yet overlooked elements of organizational learning: “unlearning.”

One of the keys to learning is to know when to erase old tapes. Children are fast learners largely because they do not have to unlearn all of the rubbish that has accumulated in the brain of an average adult.

**5. If our most demanding clients ran this firm, what experiments or pilot projects that involve doing something totally new would they have underway?**

“*What new innovation have you failed with over the last six months and what has it taught you? And if you can’t think of anything that you have failed at, what does that tell you?*”

Are there seriously “cool” ideas – about new services, new approaches, new methods, new niches, new ways to collaborate – bubbling up with great regularity from every nook and cranny of your firm? Good enough is never good enough these days; it is only a sure-fire recipe for becoming yesterday’s news.

With what new innovation have you failed over the last six months and what did you learn as a result? (And if you can’t think of anything that you have failed at, what does that tell you?) Many firms assume that doing “more of the same” is innovating. It is NOT. It’s simply doing more of the same.

Turn your firm into a churning cauldron of interesting but small and therefore limited-risk projects. Set aside a modest, special budget to fund new experiments, assign one partner to oversee submissions, and get the word out now that the firm welcomes new project ideas.

**6. What portion of our business are we abandoning on a regular basis?**

All business is not good business. Make hard decisions about those clients that are beneath your growing fee structure and no longer profitable; no longer provide a professional challenge

or are too difficult to satisfy; are unable to provide the kind of references you want; or have become a problem by virtue of their payment habits or continual demands for discounts.

The concentrated provision of outstanding service to clients that are inferior, difficult, and unprofitable is not exactly the recipe for generating excitement or loyalty among your existing professionals or the way to attract new talent to your firm. Fire your worst clients . . . or your best talent may eventually fire you.

**7. What top three business issues are consuming the attention of our best clients?**

It sounds so painfully trite but this question can go a long way toward helping your colleagues understand how unaware they are of the concerns of their clients and what they might need to do to become more relevant and more valuable.

Have each partner take a blank sheet of paper and list his or her largest and most important clients. Include as well: those (smaller) clients that are fast-growing companies or companies in emerging industries; that currently have or might soon present some form of significant business transactions. Have each partner note next to each company on their lists, “the top three issues that are preoccupying the attention of the executives in that company” as best they can identify and articulate them.

If your partners have trouble with this . . . and far too many will . . . is it any wonder that we hear clients actually say, “I don’t think they realize how their advice is disconnected from our business.”

Now have each partner identify the various available sources of information that can be accessed to either obtain the required information or verify their identified assumptions.

- Read the client’s annual reports and publications

- Peruse industry magazines and literature
- Review conference or trade meeting agendas
- Meet with and ask the client directly for input and insights

### **8. What ideas might partners offer for how we could improve our efficiency in handling client transactions and get client matters accomplished at a lower cost?**

Encourage everyone to ask “why” questions. Why are we doing things this way on a client’s transaction? Why are we doing this at all? Would the client gladly pay us to be doing what we are doing? Would our clients prefer that we automate it, delegate it, outsource it, or eliminate it entirely?

Set an extraordinary goal to find the means to reduce the costs of conducting a specific project by twenty percent. See what your colleagues can deliver. What we deliver today will not be enough for clients tomorrow, and what we charge today will be too much tomorrow. Guaranteed!

### **9. How loyal are our existing clients?**

Find out what it would take – what a competitor would have to do – to lure away your important clients. Most clients are brutally honest about telling you what it is that would pull them away. Ask them the really tough questions. Not the questions that are tough for them, but the questions that will produce tough-to-hear answers for you.

Such questions include, “Tell us how our work and our relationship could be structured in the future so that we might be of the greatest value and help to your company?” Being satisfied is important, but what follows from that is determining the extent to which your existing clients are planning to use your services over the coming year.

*“There is a vast difference in the value of hearing a partners talk (in general terms) about a matter that they have been working on, versus hearing about what that partner specifically learned, that might be of use to others in the group.”*

Ask: “What would we have to do to be your preferred provider for all your transactions?” Then actually do what they say. Don’t accept “You’re ok” as an answer. Keep asking.

Now get slightly devious. Get someone to pose as a potential client, as someone who’s considering using your firm’s services. Have them call actual clients that have just had some important matter completed by your professionals, and check out their candid reaction as to whether they would “enthusiastically” recommend your firm’s services.

Scary?

### **10. How do we develop the kinds of skills that will make us indispensable to clients?**

What you now know and are now able to do – what the success of your current practice is built on – will unavoidably depreciate in value unless you actively work on learning new things and building new skills. Continual “know-how” development is a lifelong requirement, not an option.

Unfortunately, the systematic development of skills will not happen by itself. Thus, this question is intended to provoke real thinking about how we might best make ourselves “indispensable.”

Some professionals behave as though they believe that the true purpose of every meeting is to provide a forum for their own long-winded presentation on what they’ve been up to lately. The very best use of the group’s time is to review specific learnings and new developments acquired while serving clients, dealing with client problems, or gleaned by researching new and emerging issues that may impact the group’s practice.

There is a vast difference in the value of hearing partners talk (in general terms) about a matter that they’ve been working on, versus hearing about what they specifically learned, and what they unselfishly believe might be of use to others in the group, from the way in which particular situations or transactions were handled.

So, rather than “tell us what you are working on,” the question should be: “tell us please, what have you learned during these past few month that may be of value to the other members of our group?”

Finally . . .

There are a few additional and critical questions that successful leaders need ask of themselves, and ask of all of their partners:

- What are we best at?
- What are we world-class great at?
- What makes us unique?
- How are we going to serve our clients in a way that nobody else can?
- What “wow” new services can we offer?
- What are we going to do that will truly lead the market?

Successful firm leaders don’t stop asking these questions and they certainly don’t stop after getting politic answers. The effective leader’s motto will always be, “We can always do better.” Amen.

# When Job Descriptions Don't Do The Job



**“I** don't think it is any exaggeration to assert that most of the Job Descriptions I've seen given to practice leaders of major law firms, have been compiled with little thought as to whether they reflect the scope of that specific practice leader's job – or indeed, the real job of being a practice leader.”

**T**he other day I received a note for the Director of Professional Development at a 600-attorney firm that I had worked with on a number of occasions some years back. The note read: **“I have been working with our Managing Partner to develop initial job descriptions and a training plan for our practice group leaders. We may wish to engage your services to review the job descriptions when developed, refine the training plan, and deliver the training.”**

Looking back into my client records from six years previously when I had worked with this firm on a strategic planning undertaking, I replied: *“I still have in my files the original Job Descriptions for your practice group leaders, so I take it that these descriptions are now being significantly revised.”*

The Director's response: *“Could you forward the job descriptions you have to me? I'm not sure I've seen your version.”*

The subject of Job Descriptions seems so trivial, but this situation is at the heart of why I see so many firms and their firm leaders struggle with getting their practice groups to perform as well as initially expected.

**Too many job descriptions are written and then simply filed away**

In one of my public sessions on practice leadership, that I conduct on behalf of Ark Conferences, I asked of a group of about 20 registrants for a show of hands as to how many of them had written, formal job descriptions. Of the 20, only two hands went up (which is pretty typical of the responses that I've continued to elicit during the past five years!) As I looked to those practice leaders who had raised their hands I realized that one of them was from a firm who had sent *two* registrants. So I naturally followed up with asking the two for more detail. They then engaged in a debate amongst themselves about whether there really was a job description, who in their firm had actually received copies, and whether it was still current.

The life of a job description doesn't end

once the document has been finalized; rather it grows along with the individual assigned to it. In theory, job descriptions should provide structure, setting clearly defined roles and helping to establish the parameters of the desired performance outcomes. But in a dynamic environment, a standard job description can become outdated within a few months on the job.

No job can remain static especially where competitive conditions are changing. For that reason, every practice leader's job descriptions should be reviewed at least once a year. You should go through the job description and indicate what may no longer be relevant; what responsibilities or outcomes may be changing, however slightly; and what new responsibilities and outcomes have been added to the job.

What should absolutely not be acceptable behavior in any law firm, is to simply draft a written job description and then file it away, never to be referenced again until some crisis erupts or new management team is selected.

### **Too many job descriptions are simply copied from some other firm**

The new Director of Talent Management (how we love our titles) at a 950-attorney firm is dealing with a management team that is transitioning the firm from largely being a geographic-centric organization to one that is attempting to develop integrated practice groups across their 15-office, international platform. (And yes, I was rather taken back too, as I thought most firms of that size had been through the transition years ago). His e-mail request to me: *"I wondered if you could refer me to a good description of the role and responsibilities of a Practice Group Chair in*

*a law firm. Also, if you've put some thought into this, how does this role impact the local Office Chair role description?"*

To interpret this request – "Can you please send me a standardized Job Description that I can then tweak, modify and put in front of all of my practice leaders so that . . . Presto! We too, now have Job Descriptions in place."

I don't believe it is any exaggeration to assert that most of the Job Descriptions that I've seen given to practice leaders of major law firms, have been compiled with little thought as to whether they really reflect the scope of that specific practice leader's job – or indeed, the real job of being a practice leader.

To belabor this point even further, I've asked countless practice leaders this question: *"Please reflect back on your personal experience, either in the practice of law or while engaged in some other meaningful activity be it civic, community, voluntary or political in nature. Think back to some individual who stands out in your mind as the very best mentor, teacher, leader that you have had the experience of working with. Now tell me please, what specifically did that individual DO that caused you to perform better than you might otherwise have performed?"*

The responses that I will consistently elicit from practice leaders include behaviors like:

- the individual I'm thinking of set high expectations for excellence;
- they showed an interest in me and challenged me to take on particular projects before I even thought I was ready;
- they were always accessible and actually took the time to listen to my ideas;
- they gave me feedback, both positive and constructive, and weren't shy about

telling me when and where I went off track;

- they always took time out to celebrate our accomplishments;
- and so forth.

Now here's the punch-line (in case anyone missed it): Where in your existing practice leader's job descriptions (if you have them) is there any reference to the job actually involving any of the above activities? In other words, where in the job description, does it address the issues of managing, leading, motivating, inspiring, dealing with . . . *people?*

### **Too many job descriptions are task focused and not outcome focused**

The Director of Professional Development at one mid-sized regional firm asked me if I might have a look at their firm's Practice Leader's Job Description to see if there "were missing anything." The subsequent document I received was 8 pages in length, 116 paragraphs and over 2000 words. Not only was there nothing missing (except anything to do with leading people – my earlier point) but this was a comprehensive laundry list of every conceivable leadership and management task that you could ever imagine! If some lawyer from that firm were to ask me if they should take this job, I would respond "only if it was to be a full-time position."

In *First, Break All the Rules: What the World's Best Managers Do Differently* (Simon and Schuster, 1999), Marcus Buckingham shows how the number one criteria for satisfaction is clear expectations. In essence, this means telling your practice leaders exactly what they are required to accomplish. However, most every practice leader's job description that I've seen, fails on this count.

My contention is that we have made a strategic mistake by drafting and using job descriptions too narrowly. Most practice leader's job descriptions focus on tasks and responsibilities rather than on the effect of their performance on the firm.

For example, here are a few excerpts from the typical practice leader's job description:

- Communicate regularly with the members of the practice group.
- Establish annual practice group goals, budgets, and objectives to meet the Firm's goals.
- Monitor work allocation on a practice group-wide basis.
- Understand business trends likely to affect practice group growth.
- Recommend marketing strategies for meeting practice group goals and objectives, seeking input from practice group members.
- Develop strategies for educating clients about the Firm's expertise.
- Make recommendations to the managing partner concerning future lawyer and paralegal needs.

Because these job descriptions focus attention by defining the job and its "boundaries" and because we have used them as operational tools, job descriptions have not lived up to their potential as a strategic tool.

What if we write job descriptions in terms that are outcome-centered instead of those that are task-focused? Here is an example:

*The Practice Leader is to invest time in getting to really know the individual members of the team; getting conversant with their strengths and career aspirations; and coaching and helping (one-on-one) each individual member become even more successful than she/he would have been, had the individual not been the practice group leader.*

*The Practice Leader is to work with the group, as a team, to identify and implement specific joint action projects intended to increase the group's overall morale; enhance the visibility of the group in their competitive arena; improve the service and value delivered to clients; secure better business; and work towards developing a dominant position in some niche areas in the marketplace.*

**"A** job description that focuses on a practice leader's contribution to the firm's success becomes an important and powerful strategic tool because it directs behaviors and decisions to outcomes rather than to tasks."

By changing the framework within which we describe how people are expected to work, the document should clearly identify what the professional taking the job must do to be considered successful. Read your practice leader's job descriptions (if you have them) and see whether the document focuses on tasks or outcomes.

A job description that focuses on a practice leader's contribution to the firm's success becomes an important and powerful strategic tool because it directs behaviors and decisions to outcomes rather than to tasks. It sets expectations and put everyone on

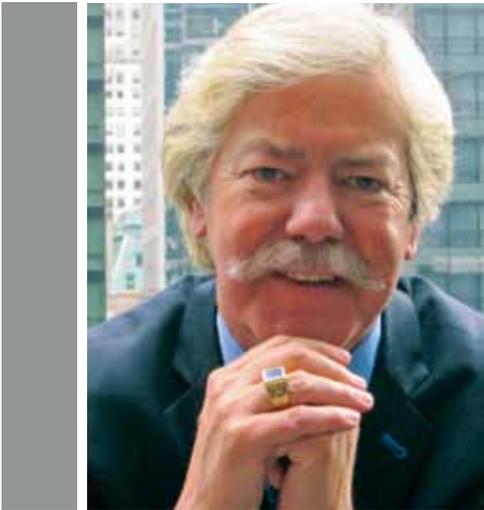
notice that performing tasks is not enough: to be successful, those tasks must result in a positive impact on the firm. In fact, a job that has no impact on the firm is one that you probably don't need.

### **Too many job descriptions exist in isolation of a complete performance management system**

We must remember that the job description is but one component in a complete performance management system. Your performance management system includes other components (the competency assessment and development plan, coaching and feedback, monitoring and tracking of performance, formal appraisal, etc) and serves to remind a practice leader that perhaps some elements of the job are not being done as well or as often as needed. Conversely, it gives the practice leader an opportunity to suggest better ways of doing things (more cost effective, more efficient, more easily accomplished), and to point out some tasks that are redundant, unnecessary or negative to the goals of the group or the firm.

Using the job description makes it much easier to identify training needs for the future. By reviewing actual performance against the outcomes set out in the job description, you can create a development plan that is specific and relevant to each practice leader.

Finally, having the job description in place removes uncertainty and makes the appraisal process more productive. For those practice leaders who are not keen on having their performance analyzed, they cannot say that they didn't know what was expected of them when there's an actual, written job description in place.



## PATRICK J. MCKENNA

### P R O F E S S I O N A L P R O F I L E

An internationally recognized authority on practice management, McKenna has, since 1983, worked with leaders of premier firms globally to discuss, challenge and escalate their thinking on how to manage and compete effectively.

He is author of a pioneering text on law firm marketing, *Practice Development: Creating a Marketing Mindset* (Butterworths, 1989), recognized by an international journal as being “among the top ten books that any professional services marketer should have.” His subsequent work includes *Herd-ing Cats: A Handbook for Managing Partners and Practice Leaders* (IBMP, 1995); and *Beyond Knowing: 16 Cage-Rattling Questions To Jump-Start Your Practice Team* (IBMP, 2000).

A prolific writer on the challenges of firm leadership, his book (co-authored with David Maister), *First Among Equals: How to Manage a Group of Professionals*, (The Free Press, 2002) topped business bestseller lists in the United States, Canada and Australia; was translated into nine languages; is currently in its sixth printing; and received an award for being one of the best business books of 2002; while the book *Management Skills* (John Wiley, 2005) named McKenna among the “leading thinkers in the field” together with Peter Drucker and Warren Bennis.

In 2006, McKenna’s e-book *First 100 Days: Transitioning A New Managing Partner* (NXT-Book) earned glowing reviews and has been read by leaders in 63 countries. This publication culminated in Patrick being asked to conduct a one-day master class for new managing partners, currently held at

the University of Chicago. Thus far over 60 new firm leaders from legal, accounting and consulting firms have graduated from the program.

His published articles have appeared in over 50 leading professional journals, newsletters, and online sources; and his work has been featured in *Fast Company*, *Business Week*, *The Globe and Mail*, *The Economist*, *Investor’s Business Daily* and *The Financial Times*.

Always obsessed with innovation, he was instrumental in introducing the first global (InnovAction) awards initiative in 2003 in conjunction with the College of Law Practice Management to identify and celebrate law firm innovation.

McKenna did his MBA graduate work at the Canadian School of Management, is among the first alumni at Harvard’s Leadership in Professional Service Firms program, and holds professional certifications in management. He has served at least one of the top ten largest law firms in each of over a dozen different countries and his work with North American law firms has evidenced him serving 62 of the largest NLJ 250 firms.

His expertise was acknowledged in 2008 when he was identified through independent research compiled and published by Lawdragon as “one of the most trusted names in legal consulting” and his three decades of experience in consulting led to his being the subject of a Harvard Law School Case Study entitled: *Innovations In Legal Consulting* (2011).



## FIRST 100 DAYS

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*Hugh Verrier, Chairman*  
**WHITE & CASE**

**T**he First 100 Days Masterclass was concise and insightful. I quickly learned the difference between being a practitioner and a Firm Leader. I was thoroughly impressed with the scope of the topics discussed.

ONE YEAR LATER: *I continually refer to that one day class as the best thing I did to prepare for my new role."*

*Vincent A. Cino, Chairman*  
**JACKSON LEWIS**

**T**his Seminar was precisely tailored to the new managing partner and I left with specific strategies to help my transition into my new role. You can expect to get a call or two over the next 100 days . . . I made notes of 15 items I want to act on sooner rather than later. And I expect to borrow heavily from your slides in assigning tasks to a half-dozen people.

*Michael P. McGee, CEO*  
**MILLER CANFIELD**

For more details, a copy of the day's agenda or to register, please visit:  
[www.first100daysmasterclass.com](http://www.first100daysmasterclass.com)

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It may not be fair, but it's true: Your first few months as Managing Partner or Firm Chair — the time when you are just starting to grasp the dimensions of your new job — may well turn out to be the most crucial in setting the stage for a tenure that hopefully should last for years.

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This one-day intensive masterclass is designed to help you hone critical skills and develop a plan for a successful transition as you move into your role as your firm's new leader.

**WHEN:** Thursday  
August 13, 2015  
**TIME:** 8:30 am - 4:30 pm  
**WHERE:** Gleacher Center  
University of Chicago

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#### YOUR MASTERCLASS FACULTY:

**Patrick J. McKenna** is an internationally recognized authority on law practice management; and

**Brian K. Burke** is the former Chair Emeritus at Baker & Daniels with over 20 years in law firm leadership positions.