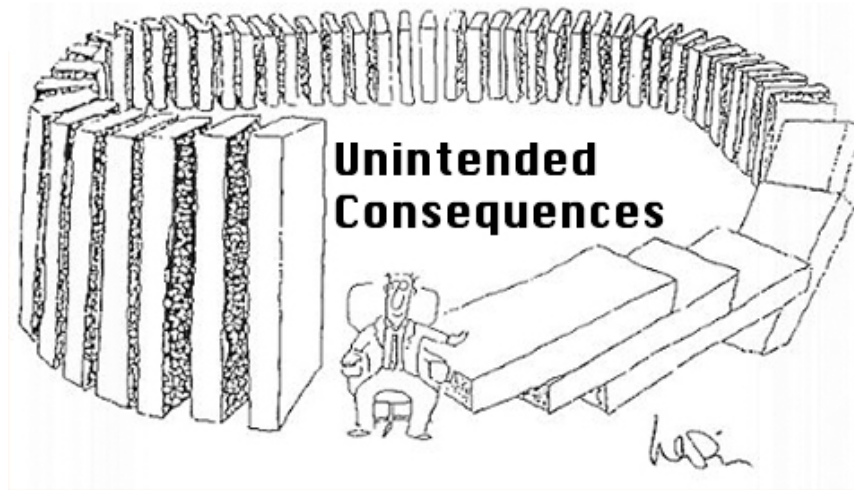


## Unintended Consequences of Being Addicted to Commodity Work



My earlier article entitled, “*Focusing on Efficiency and Commoditized Work Will Have You Seen as Just Another Vendor*” elicited numerous reactions, with a half-dozen LinkedIn members kindly reposting the article including a group known as the Managing Partner RoundTable. Most all of the written comments were highly favorable to the content and points that I was attempting to make. That said, I received the following (excerpted) comment that got me thinking:

*Law firms shouldn't have to quit helping clients who trust them to do this work; firms simply need to find ways to perform this work to maintain client relationships without taking a loss. Not all "low-value" matters comprise 100% low-level work.*

It reminded me of one HR professional’s warning that roughly 49% of your millennial and Gen Z associates are open to switching firms in the coming months and how the larger issue, if you are looking to keep this talent, may depend on whether you can make their work feel meaningful. According to this expert, a good question to start asking each of your associates is: “*What do you wish you could spend less time on?*” Now if you were to ask that question, what do you want to bet that their answer would likely be “*less routine, mundane, brain-dead boring client matters?*” And wouldn’t it then make sense to address that concern before these valuable associates get to the point of leaving to join some competitor?

I’ve encountered firms that have essentially allowed the pursuit of efficiency to become their firm’s culture. Some of these have implemented overarching process improvement and Lean Six Sigma, which was initially developed as a systematic way to improve quality, but the reason it caught fire was its effectiveness in cutting costs. Now when you shift a huge amount of your firm’s focus into standardizing everything, other areas inevitably suffer, and it would seem that “**revenue producing innovation**” is what suffers the most. One firm leader commented to me that while “most fans of efficiency are very strong on the left-brain – any innovation very much starts in the right hemisphere.” Thus, the “*define, measure, analyze, improve, control*” mind-set

doesn't entirely gel with the fuzzy front-end of invention. When some new revenue generating idea starts germinating, you don't want to overanalyze it, which can happen in an efficiency obsessed cultural framework.

That all said, this comment also prompted me to think about whether this propensity to simply accept “low value matters” and commodity work as a natural way of legal life was not indicative of some kind of addiction. So, I decided to identify the various ways in which this addiction to commodity work manifests itself and I suspect, in completely unintended ways.

Here are some examples:

- **We don't pay as much attention to our overall Brand Image**  
*(Do we care that some work we do might actually demean our public profile?)*

I happened upon a recent Financial Post study entitled “*The Changing Face of Professional Services*” wherein they claimed that “*Brand, reputation and service will be more important than ever.*” They reported that 70% of respondents say that brand and reputation are increasingly important differentiators. And amongst a handful of recommendations: Do not dilute your strengths. “*Some firms are deciding to focus on a smaller number of industries. Others are establishing new business units to meet a demand for specialization.*”

Many years ago, when firms were much smaller it was not uncommon for most firms to have a Family Law Practice; something the Brits called their Private Client Department. Eventually in many of those same firms, as they grew, a decision was made that certain practices may not compliment or enhance the Firm Brand, especially if some firm is trying to hold themselves out as professionals who do the *larger* Corporate work. So, those practices were either abandoned or when I first started working in London, I observed the UK's Magic Circle firms setting up subsidiary firms under a different name, located in smaller cities, to handle this kind of ‘lower-level’ work. They did not want to have it, in any way, diminish the perceived value of their Magic Circle brand. For them it was the equivalent of selling a Toyota within a Rolls Royce dealership.

Today, many firms operate as though any dollar is a worthwhile dollar. Rather than being laser sharp in their competitive positioning, they continue to profess expertise in multiple areas and take on any and every remotely related opportunity that comes their way. Appearing too narrowly focused scares the hell out of them.

Our brand image standards seldom tumble all at once, but instead ratchet down gradually through a series of small, nearly innocuous compromises. That is why the deterioration is easy to miss; or dismiss. Then one day faced with the amount of commoditized work that has crept into our client files we scratch our heads and wonder, how the hell did this happen? The answer is matter by matter, bit by bit.

When we are then presented with the facts that a growing amount of commodity work seems to occupy more and more of our billable time, we are typically relieved to find that there are others

around us that have also lowered their bar. In other words, we are inclined to look for and overweigh the actions of others that then helps us to normalize our own concessions.

Meanwhile, the more admired firms in our legal world relentlessly say 'NO' in order to protect and maintain their specialist positioning, recognition and authority. Unfortunately, many lawyers don't really understand that saying 'No' is the biggest force for building their business. Generalists have a dark future. Being unfocused results in their being spread thin and disorganized, serving to confuse prospective clients. It leaves you in any Google search on page 59 – thereby seen as irrelevant, as you have unfortunately, allowed yourself to become.

- **We reward partners for doing shit work**  
(*Are we over-rewarding some who have large billable hours?*)

Talented lawyers absolutely need to exhibit specialized skills and thought leadership in order to have any hope of being able to stand out in an overcrowded, extremely competitive legal market. Prospects and clients have an unprecedented number of options today. In a way, Google is encouraging us to become more and more specialized in order to become and remain relevant as a professional. Your competition is moving forward aggressively (it's amazing what is going on right now!) So, in the absence of visible expertise, nobody will come across your profile. Therefore, you will need to compete on the basis of providing low fees trying to survive the race to the bottom.

A good number of law firm partners I speak with haven't really ended up where they had hoped. They no longer feel as though they are building a healthy, vibrant practice and are not working with the type of clients or matters they really want. I have had many occasions when speaking at Partner Retreats to have these talented professionals (anonymously with voting machines) actually rate their current client work into three categories that I give them. My three categories are: I LOVE this stuff; I guess that's why they call it WORK; and I sure wish I didn't have to deal with this SHIT.

Now you are most welcome to do this and rate your own personal practice, try it with your closest colleagues, and if you are really adventuresome give it a go as an exercise within your practice or industry group. **Spoiler Alert:** I have never seen a group of partners collectively rank their "I LOVE this stuff" total over 20% of their work.

Now if that is the case in your real world, what does that say for your job satisfaction, your mental health, or your longer-term professional career prospects? And I guess the real issue is why is this happening? I would submit that it is happening largely because we have never met a billable hour we didn't like.

In that regard I've posed this question to many a firm leader: "*You have two partners; one is logging 2100 billable hours but if we really analyze it, much of this work is fairly commoditized and only marginally profitable. Your other partner is logging about 1400 hours, which is below our expectations and she is struggling to build her client base, but she has an exciting practice in a new area that has real longer-term potential. So, which partner is **more valuable** to you?*"

And I'm not suggesting that there is a right answer. But I believe it begs the question of whether we are just rewarding the quantitative result without any regard for the qualitative, and what message that sends and what behavior it encourages. I believe passion is just as important as profits.

- **We don't force proper delegation**

*(Are we negating our promise to clients to have their work done at the proper level?)*

But let's go a step further. As I went on at length about, in my *Focusing on Efficiency and Commoditized Work* article, we obsess about being cost efficient, but let me provoke the argument that it's all smoke-and-mirrors. We don't really want to do what it takes to have our partners deliver real value to clients, or to perform in a cost-efficient manner . . . do we? Let me give you an example.

Once again, using electronic voting machines that allow for partners to be anonymous in their responses and hopefully more honest, I invite you to pose this question:

*“What percentage of your client work could you delegate to someone more junior, given that your junior was trained to do the work with quality – and ignore for the purposes of this exercise those matters where the client insists (wink-wink, nudge-nudge) that ONLY you should do the work?”*

Now again, you are invited to think about your own personal practice and try this out internally as an exercise with your team. **Spoiler Alert:** the average that I most often see is about 70%.

So, when I talk to partners about all the various potentially lucrative, higher-value work that is out there, that may simply require them to invest some personal time in enhancing their knowledge, building their skills and they respond, “*sounds good but you know I'm so busy*” – I have come to impolitely confront them and say, “*Busy doing WHAT? Busy doing work that you could easily delegate and work that you consider beneath you, but you are continuing to do just to keep your numbers up?*”

Now you may not know this but there are some firms that enforce proper delegation in that they espouse a cultural value that states:

*“No group member will work on matters that could be delegated to a more junior professional. If any client matter can be delegated, it MUST be.”*

As a consequence in these firms, if you are found to be doing work that should have been delegated and was NOT, than that billable time that you logged is stripped out of your personal column. Imagine that?

In other words their view is that while, occasionally, we may have to do some work in this firm that we really feel is of low value, we will not have our partners doing that work or billing the client for their time. We will absolutely ensure that the work is done at the lowest level in our firm.

• **We don't focus on longer-term market innovation opportunities**  
(*Are we demoralizing those who have some ambition?*)

As I stated earlier, I believe that accepting too much commoditized work produces strategic sclerosis, inhibiting wealth creating innovation.

The year was 2013 and I was working with a large Chicago-based firm helping their various practice groups develop real strategic plans, involving the group leader and all the members of the group. We were out to identify at least three micro-niches, within each group where we could, with the investment of some coordinated time, potentially develop a lucrative and dominant market position. After one of those meetings, I had a partner and associate approach me to ask for my help. Apparently, they had approached firm leadership with an idea to develop a Privacy and Cybersecurity initiative – only to be told that there was little evidence that such an effort could be properly commercialized. Now I don't know for sure but I fully suspect that those two have since transferred their ambitions to a more entrepreneurial firm.

In a recent Law.com article authored by Dan Packell, we learn how a few firms are encouraging young lawyers' creative thinking and developing promising new practice offerings in the process. In one instance, one lawyer's work doing capital market transactions involved tasks requiring a level of drudgery that led him to ask himself '*How is it that I'm doing all this work when there can be technology to automate it?*' That question led to the development of a **product** to automate the process of turning raw financial data into a narrative that can be included in a prospectus or periodic report. This innovation came from associates who, like most, would prefer to be doing work that actually required more specialized knowledge.

Ropes & Gray recently pitted groups of summer associates against each other in a hackathon endeavor competing to build innovative solutions to some age-old legal problems which resulted in a new compliance training product that Zach Coseglia, managing principal of their Insights Lab, will be rolling out later this year. The product is a **new service and revenue stream** for the law firm and part of a broader mandate described as "intentional innovation."

Meanwhile, Bird & Bird [UK] has launched OXYGY, which provides clients with access to its lawyers but also works with management consultants to give tailored strategic advice. "*We're simply saying that we're going to offer advice on how to rearrange your business and there will be the most skilled advisers from multiple disciplines working on it.*"

So, I guess one could choose to either engage in simply doing commodity work or invest time in exploring higher value opportunities. The overriding problem, when we become consumed with too much commodity work, is that we over-invest in "what is" at the expense of "what could be." In other words, compared to the proliferation of efficiency processes, in far too many firms there is a dearth of pro innovation processes like the ones I just noted.

Here's an ACID TEST: in your firm ask yourself whether one might find . . .  
- any people who have specifically been trained in the art of business innovation  
(like they have in process improvement or project management);

- that people have access to client and technology insights that can help stimulate innovation;
- the necessary support and encouragement needed to develop innovative ideas;
- group leaders being held accountable for mentoring new service and revenue initiatives;
- compensation rewards that provide some visible recognition for innovation;
- specific metrics for tracking innovative ideas, inputs and outputs;
- methods for comparing innovation performance across practice/industry groups and offices.

The lesson in all of this is that to sustain success you have to be willing to abandon things that are no longer successful, and in every practice area there are swatches of services that have become commoditized. To escape this curse of commoditization requires internal discipline.

In the final analysis, what pain can you uniquely treat or what client business problem can you solve that others cannot? Job one of any aspiring attorney is to ensure you are top of mind - the first specialist clients call when they need help. Ambitious attorneys understand they will not stand out and build trust by being a generalist 'something'.

Being addicted to commoditized work is the result of strategy decay – and strategy decay is like cancer – it happens little by little and the longer you take to deal with it, the more deadly it becomes. Too many say, “I’ll worry about tomorrow, tomorrow.” Don’t just think outside the box - build your OWN box and keep out of that big generic box your competitors are all in.

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