International Review

Fall/Winter 2017

Law Firm Strategic Planning: A Report On The State of The Art

Break Your Team Out Of It's Rut and Spark Some New Strategic Ideas

Becoming A Visionary Law Firm: Developing Board Foresight

Illustration by Jim Prokell

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Dear Valued Clients and Friends:

As we look toward 2018, I am hopeful that this issue of my *International Review* magazine will contribute to your personal productivity and leadership efforts.

Once again I am pleased to share the results of a collaboration with my good friend and colleague, David Parnell whose regular Forbes column is avidly read by leaders throughout the legal community. *Law Firm Strategic Planning: A Report on The State of The Art* is the product of an extensive survey we conducted this summer. We obtained firm leaders specific responses to 18 questions covering everything from who was involved in developing their current strategic plan and how long it took, to how satisfied they were and the one thing they would change with respect to their efforts in the future.

Break Your Team Out Of It's Rut & Spark Some New Strategic Ideas is a fairly lengthy but prescriptive guide for how one goes about engaging the members of your group or team in effectively brainstorming. So clear out the cobwebs at your next meeting, jump-start your creative thinking, launch your partner's minds moving in productive directions, pop some new ideas out of your intellectual toasters and get energized to take action!

Our final selection, *Becoming A Visionary Law Firm: Developing Board Foresight* was co-authored with Vincent Cino, an exceptional firm leader, Chairman of Jackson Lewis, a Global 100 firm. It describes the process that his Board has embraced for getting everyone sensitized to the accelerating pace of change enveloping the profession and helping focus the Board's attention on what specific areas to take action.

Please also have a look at the newly revised and expanded second edition of my *The Changing of The Guard: Selecting Your New Firm Leader*, published in April.

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

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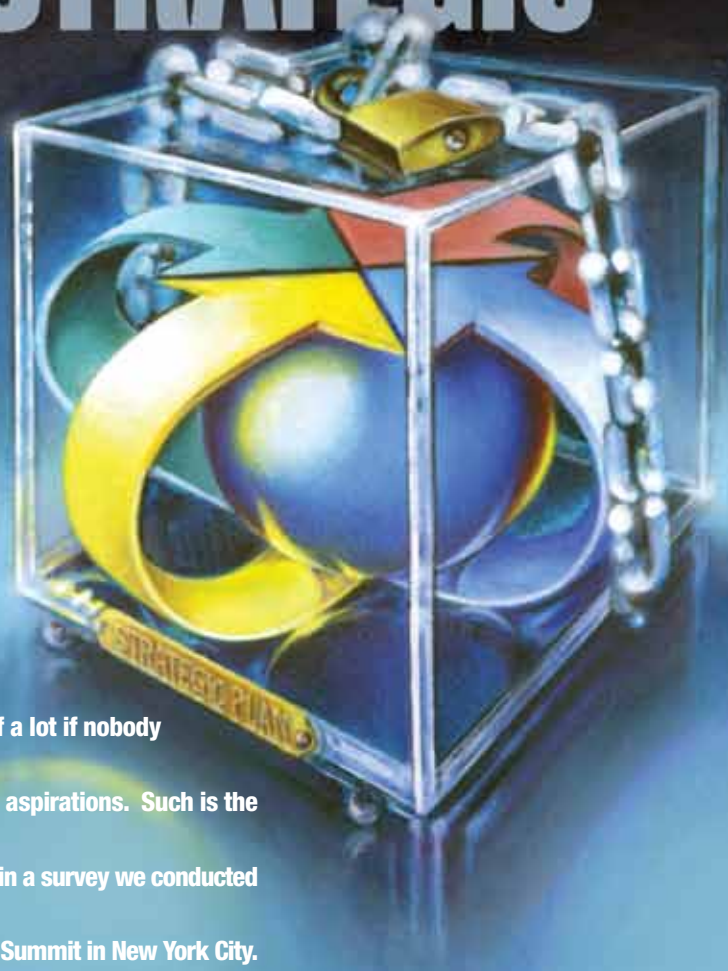
Publication designed & illustrated by Jim Prokell, Jim Prokell Studio

by Patrick J. McKenna and David J. Parnell

LAW FIRM STRATEGIC PLANNING:

A Report On The State of the Art



World-class motivational expert and author of Natural Born Winners, Robin Sieger, once said, "planning is as natural to the process of success as its absence is to the process of failure." That said he forgot to add that planning doesn't mean a heck of a lot if nobody bothers to oversee or implement those meticulously formulated aspirations. Such is the world of law firms and their strategic planning efforts as exposed in a survey we conducted in preparation for presenting at the recent Chief Strategy Officer's Summit in New York City.

We canvassed and received detailed feedback from 68 firm leaders, mostly from AmLaw ranked firms, on their approach to strategic planning and their specific responses to 18 questions covering everything from who was involved in developing their current strategic plan and how long it took, to how satisfied they were and the one thing they would change with respect to their efforts in the future.

We found that overall, there is no lack of formal strategic planning going on within today's law firms. Only 2.9% of our responding firms reported that rather than have a written plan they "preferred to remain flexible and opportunistic."

Among firms of every size we concluded based on our findings, that 70.4% of all firms invest on average, at least three months in the development of a formal written strategic plan. That investment usually involves the members of firm leadership, involvement of the executive committee or board, and often times those participating on a specially constituted planning committee – in other words, some of the most senior and expensive talent in the firm in a series of lengthy meetings over a number of months, with hours of preparation and homework in between each meeting.

When we examined this time investment we noticed that the larger firms invested the most time. Specifically, for those spending more than 6 months at developing their plans, 44% were in the 301-500 attorney category, followed by 33% in the over 500 attorney grouping. By our estimates we believe that law firms, especially these larger ones, easily invest about a quarter of a million dollars in partner time.

We asked firms how they might describe their final strategic planning document as to whether it was "brief and targeted to a few priorities" or "lengthy and comprehensive." The majority, 57.6% of all respondents told us that it was brief and targeted to a few priorities, but interestingly that percentage decreased as the size of firms increased. In the category of over 500 attorneys the few priorities response dropped to 43%. One might conclude that as firms get bigger so too does the volume contained in their final planning documents.

We then inquired as to what techniques were used in the creation of the firm's plan and amongst the options we put forth were things like surveying your partners, engaging in formal market research, having a consultant facilitate the process, gathering input from the firm's practice groups, interviewing/surveying clients and so forth. Across the board the most popular techniques were 62.5% of firms gathering input from their practice groups and 53% surveying their partners, followed by 50% employing the resources of a facilitating consultant. Here again there was a noticeable difference in the responses based on firm size. From the largest firms we saw a noticeable drop in efforts to involve the partnership – 27% among the 301 to 500 attorney grouping which dropped to 20% among the over 500 attorney firms.

Another interesting result came from those firms who involved clients in their strategic planning process. On average 45.3% reported that they interviewed and / or surveyed some clients in the development of their final plan (although we did not discover how many clients these firms might have involved). What was striking was that only 18% in the 301 to 500 attorney category did that, but 53% of the over 500 attorney grouping reported involving their clients. We did hear from one firm who told us that they had "conducted interviews with business leaders (who may or may not be clients) in the various markets we serve."

One of the more intriguing questions we posed was how these firms might categorize their plans between being "heavily internal" versus "heavily externally focused." And to help respondents differentiate between these two variations we explained that "Internal would include website, human resources, pricing, billing and collection policies, and similar activities, while External would involve differentiation efforts, emerging areas of practice, new client service practices, merger possibilities, etc." It is a strongly held view that a heavily internally focused plan is really operational in nature while being externally focused defines true strategic intent. That all said, the responses we received evidenced only 19.7% of these law firms having a heavily external focus to their final plans. That result was 18% for the 301 to 500 attorney firms, and 27% for the over 500 attorney grouping.

Developing a formal strategic plan that was over 3 months in the making, with the majority (57.6%) "brief and targeted to a few priorities," and heavily weighted toward internal issues, the obvious next question might be . . . so "how much of your last strategic plan has been implemented?"

Now in asking this kind of question we know that it is best to provide a broad range of responses such that a firm leader is not unduly embarrassed to have to provide an honest answer, as being the firm's Chief Cheerleader, there is a natural tendency to exaggerate. In this question the best response was not identified as "ALL of the plan" but rather "ALMOST all of the plan," which still allowed for some puffery in that the term "almost" might represent 80% of the plan or even 60% of the plan, depending upon how the individual respondent cares to view it. Nevertheless, the "almost all" was identified as the most accurate response by a whopping . . . 3.2% of our firms – ranging from 0% in the 301 to 500 attorney category to 7% among the over 500 attorney firms.

> *"It would appear from our research that far too many law firm leaders suffer an infliction that goes by the sophisticated technical term: seeing SPOTS. SPOTS being an acronym for Strategic Plan On The Shelf!"*

We regrettably had to inform the room full of attendees at the New York Summit that it would appear from our research that far too many law firm leaders suffer an infliction that goes by the sophisticated technical term: ***seeing SPOTS***. SPOTS being an acronym for Strategic Plan On The Shelf!

Digging ever so deeper we canvassed our firms on "how often had their current strategic plan been reviewed and if necessary revised?" Again we offered a broad range of responses from "several times a year" (without defining what several means or suggesting that the ideal might be monthly) to "not until the plan is no longer relevant" (which could be interpreted as code for 'Never'). Not

surprisingly, the average was 12.7% responses for the "several times a year" option while 36.4% responding "rarely" or never; with another 36.4% telling us that it was an annual activity.

One of the final but lengthier questions we posed involved listing 13 different strategic planning elements and asking these firms to assess their level of satisfaction with each – from the overall planning process to whether they achieved meaningful differentiation; from whether there was partner buy-in to their implementation efforts.

The three elements that were rated by all firms as being areas of Highest Satisfaction were: "the overall process for creating their final strategic plan", followed by "attracting lateral talent and complete practices" and "improvements to firm profitability." These responses varied slightly by firm size with "expansion of geographic footprint" rating highly among all firms over 300 attorneys in size. If one were skeptical one might add that first, it is good that these firms were satisfied with the process as it was expensive and outrageously so, given the lack of implementation success; and secondly, isn't almost every firm focused on attracting laterals or exploring merger opportunities and did you really need to invest time in putting that one into your formal plan?

The areas that invoked the strongest dissatisfaction and were consistently expressed by firms of all sizes were "implementation with designated responsibility and time lines" followed by "efforts to develop entirely new practice areas" and "practice group involvement."

The one question that invoked some interesting reflections on the part of every firm we polled was this one: "What one thing would you change with respect to your strategic planning efforts in the future?" What we heard were some common themes especially when viewed by firm size:

From Firms of Under 300 Attorneys:

- "gather more external information, make it more externally focused, especially when considering the impact of new competitors;"
- "we need more frequent reviews, routine updating, a constant assessing of the need for tweaks and resets, and adherence to the plan"
- "more partner involvement at different levels within our firm, and buy-in from key shareholders"
- "we need to focus more on clients and should conduct client interviews."

From Firms of 301 to 500 Attorneys:

- "we need far more flexibility to adapt and revise when necessary;"
- "take less time in the planning but make it an ongoing process;"
- "there needs to be greater education and awareness of market changes and new developments;"
- "we need to include more additional external perspectives in our planning process."

From Firms of Over 500 Attorneys:

- "better action / implementation items with specific timelines, deadlines and accountability;"
- "less internal and more focused external strategies;"
- "far more time invested in looking to the future and consideration of industry disruptors'"

SOME SURVEY OBSERVATIONS

- In conducting this survey we attempted to cross-correlate the various responses by firm size and results in an effort to ascertain some helpful findings and conclusions. Here are a few that jumped out at us:

- Those firms that found some way to involve a majority of their partners or the entire partnership also claimed to have actually implemented more of their formal plan.

- Only two of the firms that participated in our study employed a Chief Strategy Officer (CSO) and both of those firms also involved an outside consultant in the development of their last strategic plan.

- While 50% of the respondents reported having utilized an outside consultant as a facilitator in some manner, there was no correlation between using a consultant and successful implementation.

- Those firms who claimed to have reviewed their plan several times a year also claimed to have implemented more of their plan.

- Ironically, the majority of those firms who experienced the highest level of satisfaction with their planning process also had the most internally focused plans and implemented the least.

- Those firms, 81% reporting that they were very satisfied with "partner buy-in" were also highly dissatisfied with their implementation efforts.

SOME SURVEY CONCLUSIONS

What does it take to build a successful strategic plan that has a hope of being implemented and won't simply languish on some firm leader's shelf? Here are a few of the key suggestions that seemed to radiate from our survey findings:

1. **Too many firms are focusing too much of their attention on internal issues.**

Internal focused plans center on making improvements; things like how does the firm enhance morale and efficiencies. They do not focus on how do we win in a competitive market. Will predictive analytics, artificial intelligence, robotics and automation replace many of the things that lawyers traditionally were paid to do? To remain competitive in tomorrow's marketplace law firms may need to embrace external and disruptive innovations. From a number of the survey respondents we heard things like:

> "We need to more effectively think about the upcoming changes in the legal practice and innovation techniques to enable us to continue to hit above our weight."

Think of it as tackling opportunities rather than simply problem solving – focusing on the future versus the present.

2. **More firms need to find a method of drawing the client's voice into the development of their firm's strategy.**

We were especially pleased to see that simply by posing the question of whether your planning process involved listening to clients, we stimulated numerous firms to share comments like this one:

> "We need to go back to using client surveys. We had done this with previous strategic plans but not in the most recent, which was a mistake."

Your strategic plan is all about determining the firm's direction, making choices about where you are going to invest your limited resources, and what you are going to become in the future. We believe your clients may have some important insights to share that would assist you in developing the most relevant plan.

3. **If the planning process could involve more of the partnership there may be better implementation success.**

One firm leader told us about how he would prefer to make the strategy process less democratic with the executive committee developing the plan and obtaining buy-in by the entire partnership. While that might sound ideal and certainly at first blush appear to be less time consuming, the reality from our in-depth discussions with many firms over the years, is that it rarely works. If anything, the time is then not spent on developing the strategy but in trying to sell it to your partners.

> *"With any formal strategic plan, if your partners can't see their fingerprint somewhere on the final product, it becomes highly unlikely that you will be able to easily sell it to them".*

Think back to the last time you might have purchased a little piece of supposedly easily-assembled furniture from IKEA and the hours you spent trying to put the bloody thing together. Your final result could be the wobbliest little end table in your residence but damned if you will ever part with it. Why? Because you created it; it's your baby. And that is the natural way we all feel about something we helped create.

So too with any new idea, initiative, project or formal plan. If your partners can't see their fingerprint somewhere on the final product, it becomes highly unlikely that you will be able to easily sell it to them.

4. **The implementation of strategic plans requires far more rigorous management attention and personal accountability.**

We heard it said that once your plan is developed, implantation may not be a full-time occupation, but should be a full-time preoccupation. The lifeblood of implementation is accountability. And accountability involves clarity on "who is on the hook for doing what."

One firm we heard from told us about their monthly implementation meetings and their quarterly 'recalibration' sessions. The monthly implementation meetings were where the initial Strategic Planning Committee, now reformatted as the Strategic Implementation Committee reviewed the various actions, timelines, responsibilities and ensured that progress was continuing to be made. The quarterly recalibration session was intended to review the plan's next quarter's priorities, the external changing reality and make modifications or course corrections where and if needed. Thus their implementation process was an ongoing work in progress.

These suggestions should help any firm avoid "benign neglect" and help everyone on the firm understand where the firm is going.

A condensed version of this article originally appeared on Forbes.com

David J. Parnell is a Columnist for Forbes & American Lawyer Media and author of The Failing Law Firm: Symptoms and Remedies.

Break Your Team Out Of It's Rut and Spark Some New Strategic Ideas

There will undoubtedly be times during your tenure as an Office Managing Partner, Practice or Industry Group Leader when you will want to set a direction for your group, enter a new market, help improve your group's profitability, enhance the quality of service provided clients, or need to figure out how to solve some challenging internal problem.

As practice leader you may be tempted to just simply proceed to think through your options and take action on your own. However, any wise practice leader knows intuitively that the degree to which you involve other members of your group broadens the input, fosters even more ideas, and gains energy and buy-in to the solutions, from the people you are going to want to involve in helping you implement those ideas.

As Linus Pauling, the Nobel Prize-winning scientist was known to have once said: *"The best way to get good ideas is to get lots of ideas – and throw the bad ones away." And the best way for you to generate a lot of ideas is known as "Brainstorming;"* a method for getting a large number of ideas from your group in a relatively short time. Brainstorming follows a proven process based on generating as many ideas as possible without stopping to evaluate them.

The only problem with brainstorming . . . many professionals *think* they already know how to do it.

Indeed, a survey conducted by one of the top accounting firms disclosed that 70% of businesspeople claimed to use brainstorming within their organizations. However, that same survey then went on to reveal that 76% of those who used brainstorming, admitted that they engage in brainstorming rather infre-

quently – less than once a month. From my experience in a wide variety of professional firms, I would be willing to bet that the frequency of brainstorming, in firms like yours, is radically lower.

I am constantly amazed at how few firms actively engage in continual brainstorming with their people and how many of those that do, think it a fairly trivial, low-level exercise. I'm convinced that those who think brainstorming rather mundane, have come to that conclusion largely because they either fail to generate many ideas during their brainstorming sessions (forgetting that quantity trumps quality), or they have a tendency to stop the process once having heard, what they believe to be, the first good ideas.

What many practice leaders fail to take into account is that brainstorming is an art that improves over time with constant usage. You are always learning. At IDEO, the world's leading design consultancy, general manager Tom Kelley claims that brainstorming is practically a religion, one their firm practices every day. Kelley says, *"Most people are familiar with the fundamentals – like sticking to one conversation at a time and building on the ideas of others – but it takes extra effort if you want a great brainstorm with valuable results."*

I. PLANNING YOUR SESSION

One of the first things you want to determine is whether indeed you need to conduct a brainstorming session at all. As mentioned, brainstorming should be used when you need to generate lots of new ideas and solutions. It need not be used for analysis or for decision making. You may need to analyze and judge your group's ideas but this is done afterwards.

If you decide to proceed with brainstorming, one of your firm's meeting rooms may work for most sessions. However, if you are having the group focus on some important strategic topic, you may want to get out of the office altogether, in order to avoid having professionals being constantly subjected to unwanted interruptions. Everyone should be given a notepad so that they can write down those thoughts that occur to them while in the thick of hearing ideas shouted out by other colleagues. (Notice that I suggest using an old-school notepad as I believe anything electronic will only serve as a distraction to the group's best intentions).

Again, if your topic is strategic in nature, or would benefit from having a creative flow or broader range of ideas then might be available from just the members of your practice team, you may want to consider also including people from different backgrounds. You could invite colleagues from other areas of your firm, clients who could offer some interesting insights, or those from other professions or academics who have relevant but different experiences with the topic under consideration. You may have to accept it on faith but I promise you that you will be pleasantly shocked by the **"cognitive diversity"** that having these kinds of people involved will produce.

Finally, you need to decide who will facilitate your brainstorming session. This individual should introduce the session, keep an eye on time, and ensure the brainstorming guidelines are observed. Their job is to facilitate the session, see that it runs smoothly, and insure that the participants feel comfortable and join in the process. They will also be responsible for restarting the creative process if it slows down. The facilitator doesn't have to be you as the practice leader, but whoever it is should be well versed in running your group's brainstorming session.

II. LEADING YOUR BRAINSTORMING SESSION

A brainstorming process can go a long way to tapping the imagination and creativity of the members of your group. Those who may be concerned that such a creative activity will lack substance can be assured that the process merely creates a more imaginative menu and that the subsequent ordering from that menu will be executed with wisdom and discernment.

If all agree to be highly disciplined about getting to potential action ideas and refraining from engaging in lengthy discussions and debates, you can devote about forty minutes to each topic you choose to have the group focus on. In some professions, such as accounting, management consulting and public relations, the brainstorming process is quite comfortable. Many of these practitioners employ the process in their work with their own clients. In other professions such as law, some have experienced the brainstorming process, but it is not a common activity.

Here are the sequential steps that you need to follow:

STEP 1: INTRODUCTION:

You should commence your brainstorming exercise by addressing a few basic questions that are likely preoccupying the minds of your team members. You need only spend about 10 minutes on this, but it is important that you give the members of your group a context within which to support your asking them to participate. Here are the questions you need to address:

Why is this an important opportunity or problem for us to work on?

Start by composing a well-honed statement

that describes the opportunity or problem that you want your group to concentrate on, and what you are trying to achieve. This statement should never suggest what a likely solution might be, as that would only serve to hinder your group's ideas. Define the problem or opportunity clearly before you start to brainstorm.

In some instances you may want to get your group's input on *"what is the real problem here?"* You may well discover that the issue you've identified is really part of a bigger problem and, subsequently, deserves to be broken into smaller pieces, so that each piece can be tackled incrementally.

You need to let your group know what will happen if "we" are able to take advantage of this opportunity or solve this problem. For example: *"We want as many ideas as possible from everyone on how we could develop an even stronger relationship with this client. We need to solidify our relationships now as a number of our competitors are making some aggressive moves to nurture getting this client's work. And the loss of this client would adversely impact our group significantly."*

Frame the task and make sure everyone understands the goal of your brainstorming exercise. Then, briefly provide only the truly critical information. *"I need to let all of you know that this client has already received a written proposal from one of our competitors and invitations to lunch from another. And unfortunately, you will remember that they were not over-the-top on the last project we did for them. We need some immediate remedial action."*

Your group members should also be told in advance, if the ideas generated from their brainstorming are simply for your consideration as practice leader, or are the ideas going to undergo review and selection by the group itself. You need to manage their expectations for the outcome of their efforts. And, you need to define your hopes for the group's exercise.

"I'm looking for you to generate a minimum of 40 ideas from which I'm hopeful that we will have a few great ideas to further review and refine."

> ***"Fostering a "No Zingers Allowed" atmosphere requires that professionals learn to recognize the subtle (and sometimes not-so-subtle) behaviors that impede effective brainstorming."***

The intent of this introduction is to provide just enough information to stimulate the brainstorming, without overloading or constraining your team.

STEP 2: REVIEW THE BRAINSTORMING GROUND RULES

Before you even commence generating ideas, it helps to have some ground rules. With groups of highly educated professionals, our natural propensity is to enjoy engaging in lengthy intellectual discussions, while exercising our natural gift for being highly critical and analytical. This critical and analytical propensity is most often manifested within professional environments through some participant shooting a "zinger" at some other member's idea.

Fostering a "No Zingers Allowed" atmosphere requires that professionals learn to recognize the subtle (and sometimes not-so-subtle) behaviors that impede effective brainstorming. In most situations, building this awareness is all that may be needed to significantly reduce zinger type behavior.

The spirit of any brainstorming session can make it or break it. Here are a few of the more common zinger-type behaviors:

• **Verbal Put-Downs.** It is a common occurrence within professional firms to experience a meeting where shooting-down ideas is the routine behavior. The put-down can vary from a lighthearted jest that provokes group laughter to the deadly serious comment that embarrasses. The action may be completely unintentional, but even the zinger accidentally fired does significant damage. Few ideas survive in a take-no prisoners approach to brainstorming. Meanwhile, defending oneself against some so called harmless remark only serves to get you labeled as being overly sensitive (Wimp!) The consequence then becomes a "revenge ploy", where at the first opportunity, we blast others' ideas in retaliation. Everyone plays the zingers game, and the ability to generate any meaningful ideas is now lost.

• **The Unintended Idea Killer.** One important objective for any practice leader is to instill enthusiasm. It becomes difficult to accomplish when we unthinkingly fall into the habit of liberally using the term "but" within our normal conversations. It may not be unusual to hear someone say to one of their colleagues; *"That's a good idea, but what I think we should do is . . ."* Now how enthusiastic would you feel being on the other end of

that statement? You need to have your team avoid this "*great . . . but*" mode of communication. It takes a conscious effort to remove the buts, but an effort that pays dividends.

• **Non Verbal Put-Downs.** We all know that words are not the only way we communicate. As one experienced facilitator expressed it, *"A new idea is delicate; it can be killed by a sneer or a yawn, or worried to death by a frown on the right person's brow."* Negative inflections and facial expressions can easily communicate criticism of any new idea. Between the victims who retreat into their shells and the ones who refocus on retaliating, it takes but minutes to move a brainstorming exercise completely off track.

One other consequence of either verbal or nonverbal zingers is for wounded individuals to shut down and stop contributing ideas. (At this moment, as you read these words, somewhere in a professional firm, there is a practice group meeting happening where the most astonishing idea has occurred to someone. It started as a crazy thought but as the meeting progressed, it got more and more brilliant. But that professional chose to remain silent and the idea is lost forever.)

It is therefore imperative that you have your group agree upon some sensible Ground Rules before they begin. Now fortunately, you need not come across as an ogre or concern yourself with devising those rules, as there are already some commonly accepted guidelines for brainstorming. You task then, as the facilitator, is merely to review these guidelines and ask for everyone's agreement to either modify or behave in accordance with the rules (I will often posted these Guidelines on a flipchart that everyone can easily see). You might explain that the ideas your group members are being asked for are both to serve as possible solutions, but also to stimulate the ideas of others. Therefore, you need to tell them that you will be expecting to hear some bizarre, weird, strange and impossible ideas, that may not in the final analysis be so strange. And are highly likely to spark more workable solutions.

The accepted rules for this brainstorming activity are usually some variation on the following:

Say everything that comes to mind.
Yes, I know that you were schooled to think before you open your mouth. This is going to take a bit of an adjustment. Ideas should be advanced both as solutions and also as a basis to spark others. Even seemingly absurd ideas can spark off better ones. It is important to emphasize to your group that the 'wilder' the idea the better. Shout out bizarre and unworkable ideas to see what they spark off. No idea is too ridiculous.
Remember that your objective is to go for quantity of ideas; and narrow down the list later. All activities should be geared towards extracting as many ideas as possible in a given period of time. Tom Kelley at IDEO finds that *"a hundred ideas per hour usually indicates a good, fluid brainstorming session."*

No discussion.
Many professionals have this tendency to put everything they say into a discussion sandwich – first they present the general concept, then they give you the idea, then they rationalize why that was a good idea. You need to have your group members avoid their stories, discussions, and elaboration on how the idea could be done or how great it might be. You also want to ask the team to refrain from side whispers. It is crucial that everyone stay focused on the ideas that are being tossed out. Allowing side conversations to develop simply distracts and disrupts the process. A further area of caution is in dealing with the "verbose energy killer." You group is gathered for a brainstorm. Everyone is being encouraged to offer up ideas. One of your members begins to offer their idea and we have all experienced the endless rambler. This professional goes on and on in presenting their idea until eventually they have sucked the energy right out of the room. Some people just seem genetically incapable of keeping it short. As the facilitator, you need to encourage and enforce everyone keeping it succinct!

Make no value-judgment comments, either positive or negative.
It is often helpful to remind your people of the three questions that successful entrepreneurs adopt when confronting a new idea: how do I make this work?, what's the worst that could happen?, and where is my back door (exit) if the worst that could happen actually happens? Then remind them of the usual response among professionals to any new idea: Not a nanosecond passes before we hear thirteen reasons why that is not going to work. And if we allow ourselves to engage in making value judgments this is NOT going to be a useful or productive exercise – *"so reach up with me right now and turn off that critical-analytical switch in your brain."*

Record all comments so that they can be seen and get down lots of ideas.
Keep in mind that your objective here is quantity not quality. And if Janice gives you an idea and you write it down, and then Chuck gives you an idea and you don't record it, Chuck is probably thinking either I guess my idea wasn't good enough or what kind of idiot facilitator is this! It is also critical to capture peoples' words using exactly the phraseology that was just spoken. Changing the phrasing can change the meaning. (It can also annoy the person who offered the idea.) To assist in the accurate recording of ideas, ask participants to start

with a headline that encapsulates their key thought in a single crisp sentence. They can then go on to elaborate, while the recorder writes down their idea. (This also allows others to hear the central thought, make connections of their own during the elaboration, and come up with the next headlined idea.) If the headline goes on too long and you lose your colleagues exact words, try to paraphrase what he or she said, but be sure to go back and make sure that you've got the idea recorded correctly. Finally, I have noticed that professionals love to be given a goal and so suggest to your group that you are *"looking to get a minimum of 30 ideas in the next 30 minutes – Go!"*

Encourage participation and build on each other's ideas.

Build and expand on the ideas of others. **Think and link.** Use other people's ideas as inspiration. Combine several suggested ideas to explore new possibilities. One of the great myths associated with brainstorming is . . . people think that they will recognize a good idea when they see it. The truth is that it is extremely rare that a breakthrough new idea is recognized for its brilliance when first uttered. New ideas almost always are flawed in some way when they first appear. Or as Albert Einstein once put it, "If at first a new idea doesn't seem totally absurd, there is no hope for it."

STEP 3: IDENTIFY THE PERSON WHO WILL ACT AS NOTE-TAKER.

Prepare to record ideas and appoint a recorder to do so. The facilitator and the note-taker should not be the same person. As the facilitator, you may choose to help the note-taker if the ideas are coming fast and furious, but you do not want to hold up the idea flow by trying to concentrate on what has just been said while also writing on the flipchart.

The recorder is responsible to write ideas rapidly on (paper) flipchart pages; **number each idea** to provide for easily jumping back and forth from idea to idea without losing track of where you are; and number your flipcharts. Then tape completed pages to the wall keeping them in order. The recorder must also record *every* idea or comment; even seemingly outrageous points should be noted. The recorder must never act as editor!

Now for something completely school-marmish: legibility. Though it may seem of little importance, scribing good notes is a critical part of your brainstorming process. Not only are they the only collective record of what happened, but the clarity of the note-taking contributes to the development of the thinking that takes place during the session.

STEP 4: WARM-UP.

If necessary familiarize your group with the procedures by engaging them in a practice exercise. This may be advisable if your group has not worked together before or the group has not brainstormed on a frequent basis.

As a warm up activity, you might start off with a brief artificial exercise. Ask them to: *"suggest thirty new ideas for an entertaining television program."* Any topic that is fun and stimulating (but not work related) will get people into the right "mood" for creatively participating. After warming up for about 5 minutes, you should reintroduce your main topic for brainstorming.

STEP 5: BEGIN TO GENERATE IDEAS.

You might initially start by allowing your team members two minutes to think about and write down their ideas. Some may think fast, while others more slowly. Some may be overly influenced by the position, seniority or perceived expertise of other participants. Giving the group a few minutes to think individually can greatly enhance the number and quality of ideas generated.

Formally begin your session by asking for as many ideas and suggestions as possible. If the group seems hesitant, call on someone you know who is likely to respond positively, to offer the first idea or tell your group you are going to start by going around the table and asking each individual for one idea.

Monitor adherence to the agreed-upon brainstorming rules.

In spite of agreeing to abide by the brainstorming rules, you must be watchful to quell anyone's natural tendency to want to comment, criticize or evaluate any of the ideas being presented. I have personally seen facilitators who choose to use some "noise-maker" like a coaches whistle or a hand bell to remind participants when they get overzealous. One small shortcoming . . . I think that technique leaves all of the responsibility with the practice leader or facilitator. Personally, I would recommend that you give the group the tools, authority and encouragement to police each other.

At one particular firm where sarcasm was a cultural norm they adopted a football analogy to deal with partners that trampled on one another or on someone's new idea. During a football match, players who commit a foul are shown different color cards by the referee to indicate the seriousness of the offence. In this group they gave each of the participants two colored cards and encouraged them to adopted a similar football language in their brainstorming session. The first foul is a yellow card to indicate a "warning." A further offence gets a second "warning." Thereafter, any subsequent offences or a particularly negative comment gets a red card signifying a "penalty", which is usually

of a monetary nature. It was done playfully, but there was a real serious intent behind it.

Encourage people to write their ideas down
Something interesting occurs as we listen to our colleagues giving out their ideas. While we are listening, we are generating ideas of our own. If we don't write those ideas down, they are many times more likely to disappear than ever get shared with the group. Psychologists have concluded that people can only remember a few thoughts at a time before the memory starts erasing the old data and replacing it with new input. Consequently without a place to store more ideas (like on a pad of paper) we either shut down in order to hold onto what's in our heads, or we lose one stored idea for every new one we add.

Be encouraging.
Keep telling them how well they are doing when they come up with new ideas, especially when the idea is rather novel. Thank them for contributing their idea.

GENERATING IDEAS – VARIATION ONE: FOR SENSITIVE TOPICS OR FOR WORKING WITH THE VIRTUAL TEAM

There are likely to be those times when you want your group to brainstorm and contribute their candid ideas to resolving a particularly sensitive issue where you expect that people may be reluctant to speak freely. As a slight variation, give everyone a pad of twenty 8 x 14 cm cards. Ask your group to write down as many ideas as they can within five to ten minutes – each one on a separate card. Have the group turn-in their cards to you. Shuffle the pack and give the cards out again. Ask each person to build at least two more ideas on the ones written on the cards they received. Have the group turn-in their cards to you again. Shuffle the pack and give the cards out once more. Now have the people who received the cards read out the ideas contained on each card.

GENERATING IDEAS – VARIATION TWO: FOR WORKING WITH THE VIRTUAL TEAM

With many groups you are likely to have members participating across a variety of different geographic locals. In this situation you can distribute the brainstorming topic in advance of your meeting and have each member contribute one idea. Publish the complete list of ideas without citing their source and distribute to all members in advance of the meeting. At the meeting itself pre-prepare some flip charts with the ideas noted on the charts and begin your meeting with a brief review of the list. Then go office to office asking for just a couple of ideas to build on this initial list. This process ensures that everyone has participated and provokes a greater interest in the listed ideas.

GENERATING IDEAS – VARIATION THREE: TRASHY BRAINSTORMING

Even with ultra -serious, button-down professionals there may be a particular opportunity or problem that requires some innovative thinking and that you would just like to see your colleagues get a bit crazy with. Ask each of your colleagues to come up with their most absurd idea that addresses the opportunity or problem. (It helps if you can model what you are looking for with a wild idea of your own.) Encourage your group to come up with ideas that are novel and disruptive of tradition. Give them a couple of minutes to legible write their ONE idea on a clean sheet of paper. Ask people to take turns reading out their crazy idea to the group. Agree that it is perfectly outrageous and ask the professional to crunch it up and throw it into your waste paper basket. After you have heard from everyone, now recycle that waste!

Pass the basket around and ask each participant to remove one trashy idea (obviously not their own). Now ask the group: *"How can you turn this into a good idea? Is there something of value in it? Can you find a reverse or opposite of this idea that might work?"*

Allow each of your colleagues to read out their trashy idea and then the idea that might be worthwhile, sparked by the trashy idea. The benefit of this variation is that it allows the members of your group to stretch, have fun and be creative, with little fear of ridicule.

STEP 6: MANAGE THE SILENCE

You will find that the brainstorming session will go through phases of very rapid idea generation, and then through slow awkward times when no ideas are being created. Try to highlight this as a natural part of the process. In brainstorming, great ideas rarely come from a single flash of inspiration. The raw ideas need to be built and developed. This slow time is when you should return to the ideas listed on your flipchart pads. Pick an interesting one and put that to the group asking them to expand, modify or remodel it.

• Play the "What If" Game.
Have your group *build upon* their earlier ideas. This is a worthwhile exercise following the first burst of your group's brainstorming. What If is a series of provocative statements designed to challenge the group's current perspectives. For example:

- What if some parameter were increased fourfold?
- What if some factor was decreased in half?
- What if this same situation was being approached in a different profession, industry, or country?
- What if this same situation were being faced by a particular famous person?

- What if we could eliminate a portion of the problem?
- What if we could find a new way to deliver our service?
- What if we could substitute automation for labor-intensive effort?
- What if we could have clients do certain steps for themselves?
- What if we could eliminate the paper?
- What if we could deliver with greater speed?
- What if we could combine two related services?
- What if we could make dealing with us more enjoyable?
- What if we did nothing?

These questions are intended as deliberate acts of provocation. If your group again falls silent, allow the silence to continue for a full two minutes. This maintains time pressure as well as giving an opportunity for the individual's mind to work.

• Take a break.

After a period your group will have exhausted their ideas for a while and will need a break. Depending on the time you have allocated to the session and depending on the number of ideas generated, you should ask them to break. If you are taking a mid-session break, get people to move about, chat with others and relax. Encourage them to look through the flipcharts of ideas. When the break is over ask people to sit in a different place, then ask for their further ideas.

• Change the process if you find things drying up.

Divide the professionals into small groups around different flipchart pads and have them just brainstorm as a breakout team around the ideas on that pad. Then they can move on to the next grouping of flipcharts.

• Introduce random words or pictures.

Sometimes all it takes is an unusual image or headline to get your brain working. If you're in the middle of a brainstorming session and hit a point where no one has anything to say, rip out some pages from a variety of magazines and hand them around your working group. By forcing a connection (any connection) between the content on the page and the task that people are working on, you can generate a few ideas that will get others, making more connections. There are few people who have participated in brainstorming sessions who have not experienced "brain-chain reaction" – when minds are really warmed up, and a spark from one mind will light up a lot of others. Association of ideas comes in to play, so that an idea put into words stirs your imagination towards another idea, while at the same time it stimulates associative connections in other people's minds – often at a subconscious level.

• The overnight effect.

It has been demonstrated that not more than 40 minutes should be allocated to having participants brainstorm any one particular topic. But we also know that sometimes great ideas occur to us after the formal session has ended. You could have people simply send in any ideas that occur to them. One important reason for not trying to do all your brainstorming in a prolonged session is that you will miss out on the benefit of one critical success factors – the "Overnight Effect." This is a simple yet powerful, psychological phenomenon that dramatically improves the quality of the output from any brainstorming process. The ability of your group to generate great ideas will grow exponentially if you build at least one unstructured overnight into your session – so that your afternoon meeting flows over to the next morning. During that overnight period, people's minds always operate in a relaxed concentration mode. Bits of information come together and new connections are formed. All of us have experienced the overnight effect usually without realizing it. We have gone to bed thinking about a situation and presto, in the morning shower a great idea dawns on us. Thus you should always start the session on the following morning by asking group members for their overnight thoughts. I've seen some of the best ideas come forth from those morning debriefings.

STEP 7: HELP PEOPLE MAKE THEIR IDEAS ACTIONABLE

You must be vigilant in ensuring that the ideas expressed are specific, doable, and can be implemented. Sounds easy, but it's not. In my experience, this is the most difficult step in the brainstorming process. As professionals, we are naturally prone to expressing concepts or goals, and often find it difficult to transform those concepts into specific actions.

For example, a couple of common concepts you might here are things like: "*I think that we should always make a point of visiting our clients at their place of business.*" Or; *"we should improve communications."* As concepts, these are good. The only small hurdle then becomes "**how**?" How will we ensure that everyone does this? How will we know that it is happening?

As the facilitator, you must always ask yourself, as these ideas surface: *"Is this proposed idea specific, tangible and quantitative enough* (or is it merely a goal, concept, or objective)?" For example, could some member of our group delegate this idea to a junior for implementation such that the junior would know exactly what initial action should be taken?

It also helps to think in terms of the tangible outcome (or "deliverable") that will be presented at the next meeting to evidence the

implementation of this idea. Will this involve doing some research (a report); developing a policy, procedure, checklist or template; or taking some specific action that can be shown to have occurred? Where ideas do not measure up to these criteria, you might want to gently encourage more specifics.

Ask a question to **elicit more detail, without discussion**. For example, you might say to the individual: *"Janice, that idea would no doubt be very helpful to you and the group. Could you expand upon it to help us determine how we could ensure that everyone in our group was doing this consistently and how we would know that it was happening?"*

Take a moment to explore with Janice (asking other group members to contribute) how you could do this. By gently probing for more specifics, you may likely elicit something like: *"Well, we could develop a wall-chart that would display a list of our top twenty clients down the vertical column and the members of our group along the horizontal. We could then initiate a system whereby each of us took responsibility to visit one client over the next quarter and note on the chart the date that client was visited and submit a one-paragraph report to the group on our findings."*

Or; *"I guess one of the tangible things we could do to improve our communications, is start a weekly internal newsletter."* Now you have something specific. The group will be able to assess for itself, at any point, how far along with this action plan they have progressed. Have the top twenty clients been identified? Has the wall-chart been developed? Has a visitation plan been drafted? Have client visits been made and reports submitted? The facilitator's job is to ensure that he or she has helped the group generate a good list of very specific, tangible, quantitative and implementable ideas for moving toward their objectives. Is this basic? Yes! Does it work? Yes! Do all groups do it? No! (Does yours?)

STEP 8: ANALYZE YOUR IDEAS

You should now have a large number of ideas scattered about on sequentially numbered flipchart pages. Technically, your brainstorming session is over and the analysis process must begin. The analysis, selection and implementation of your ideas is an important step.

If you should intend to end your group's session at this point, you will want to transcribe the notes on these flip charts for distribution to your team. Upon transcribing these notes, you should do so in exactly the same page format as they were originally recorded. When you distribute your group's work back to the individual members for further brainstorming, analysis, or implementation, you will find it very helpful to have the notes in a format that reminds them of how your brainstorming session progressed. If you are going to proceed to the analysis stage, the very first thing that you should do as a group is to remove any duplicative ideas and also combine any ideas that are really saying the same thing.

You might then begin your analysis, by having your group brainstorm your criteria for evaluating your various ideas. Label a new flipchart with: "A good idea would have to have the following characteristics ...." Your criteria might include characteristics like greatest potential for positively impacting the practice group's profitability; most attractive to our existing clients; most novel and likely to differentiate; and other such factors.

You may have already determined your criteria before beginning your brainstorming session, and if so, you should disclose the criteria to the group. Ask them if your criteria makes sense or if they can see anything you have missed. One of your challenges at this stage is to discern whether you are more attracted to selecting ideas for their ***feasibility*** - thus taking advantage of achieving some quick successes; or selecting ideas for their ***newness*** -thus enhancing your chances for a possible innovation breakthrough. (This is where your initial statement describing what you were trying to achieve with your brainstorming efforts, should guide you.)

My experience with this feasibility / newness conundrum is that the newer and more innovative the idea, the more difficult it will be to realize. It creates for many groups a feasibility / newness schizophrenia where our natural tendency is to gravitate to those ideas that are highly feasible. Now if your brainstorming efforts were inwardly focused, intent on solving some existing problem, then feasibility and quick successes makes perfect sense. However, if your brainstorming efforts were externally focused and intended to generate new ideas for differentiating your group, surpassing the competition, or developing a new service, then newness may be of higher priority.

By way of example, I once had a gathering of 42 professionals, brainstorming in groups of 7, in various break-out rooms. One of the criteria we decided on was that if more than one of the 6 groups generated the same idea, it was to be discarded. We often think that the duplication of an idea validates its brilliance. How often have you heard the old notion, "great minds think alike?" But if you are really intent on stimulating innovation, differentiation, and wealth-creating initiatives as we were in this session, then we must accept the fact that great minds have different ideas. It is only lemmings who think alike. After all, if this group of 42 professionals were largely thinking of the same ideas,

aren't the chances high that their competitors were already working on those ideas?

Once having developed your list of criteria, you will want to prioritize them. Ideally you may want to determine the two most important factors. Depending on the number of ideas that have been generated, you have a couple of optional ways of approaching the analysis stage.

• If you have 50 ideas or less:
On an easel pad, draw a 2 x 2 matrix. The vertical axis could be labeled "Feasibility" with "easy" at the bottom and "difficult" at the top. The horizontal axis could then be labeled with something like "ROI" showing "low" at the left and "high" at the right. You can experiment with whatever other terms suit your most important factors for the axis. "Feasibility" might be changed to "speed" or "effort" or "cost." "ROI" might be changed to "excitement" or "value" or "potential." (You might even construct two different matrices and include one that measures "Newness". Then compare and contrast the ideas after you have placed them on each matrix.)

Have your group agree that you're going to use this matrix just to conduct a rough evaluation of each idea. This is not the time for lengthy debate on every idea; so as rapidly as possible, place your ideas into the matrix in a way that reflects the general agreement of the group. If there are too many ideas to put on the chart, have everyone pick their one personal favorite and place that one in. Identify only those ideas that generate the highest rating and take those ideas forward for implementation.

• If you have more than 50 ideas:
If you have a particularly lengthy list of ideas, have your group work through them and quickly arrange them into three color-coded categories. Your three *feasibility* categories could be:

- Green: Definitely will work and can be implemented immediately.
- Yellow: Will possibly work but may require further analysis.
- Red: Needs much more investigating. May work in the future. Park for now.

> *"You must be vigilant in ensuring that the ideas expressed are specific, doable, and can be implemented. Sounds easy, but it's not."*

Or you may choose to have categories like:

- Green: Just-do-it's because they contain elements of newness and feasibility.
- Yellow: Very exciting incremental improvements.
- Red: Breakthrough ideas, but representing some risk in time and resources.

When you have the lists you should plan to implement the best of the Green ideas and to investigate the Yellow ones. Don't discard the Red ideas. Just let them percolate with the group for some further thinking.

Finally, once you have your short list selected of the best ideas for your group to focus on implementing, you can even take it one further step. I worked with one team who, after a rather productive brainstorming and analysis session, then devoted time to "reverse brainstorming" their best ideas. That is, they spent time thinking through together "in how many ways can this idea fail?" Sound like overkill? This group didn't think so and their results reinforced taking the extra step.

Double-Barreled Brainstorming
This is a brainstorming variation that is particularly useful when you want to involve your team members in working through their ideas with respect to a new strategy or change that may impact your group's practice.

The positive barrel - First participants are given the opportunity to state their ideal improvements to how a strategy might be implemented in their area. Then they are asked to draft feasible, cost-effective versions of the ideas.

The negative barrel – Participants are asked to list why the strategy won't work – their concerns, resistances, and so forth. Then they are asked to recommend their preventative ideas.

Not only does this process improve your plan; it gives your colleagues a chance to vent in a receptive environment. This more often than not turns pessimists into supporters of the strategy. The best improvements and most important preventatives should then be included in the action plan.

CONCLUSION

This White Paper is intended to serve as an *aide-memoire* for you on some of the substantive concepts inherent in learning how to lead a great brainstorming session with your group, as well as provide some variations and useful supplementary techniques. So book your favorite conference room, order up some donuts, get your team together, and brainstorm up some possible ideas and solutions to that important issue that has been nagging at you.

THE CHANGING OF THE GUARD:

SELECTING YOUR NEXT FIRM LEADER

Revised & expanded second edition

When the time comes, how is your firm going to navigate the intricate process of selecting your next leader?

Every 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 firm leaders also 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!

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- 12 useful 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 advice from new firm leaders; and
- 20 key exhibits that can be tailored to your own firm, including nominating committee terms of reference, various sample internal memoranda, examples of firm leader evaluation criteria, and sample candidate interview questions.

New material includes:

- Self-evident truths about relinquishing leadership
- What a successful firm leader is not – advice from Dom Esposito, CPA, CEO of ESPOSITO CEO2CEO, LLC
- Why nice leaders are not necessarily effective leaders
- Why "visionary leadership" is a myth (and a shared vision is the way forward)
- Lessons learned from new firm leaders
- How new firm leaders can avoid being blindsided

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ARK GROUP

Patrick J. McKenna & Vincent A. Cino

Becoming a Visionary Law Firm:

Developing Board Foresight

According to the most recent report from Citi Private Bank's Law Firm Group, law firm leaders "struggle to see the market,' are not very good at making predictions about what is likely to transpire in the near future and are often victims of a "positive bias" which doesn't then translate into reality.

Meanwhile if we were to examine what happens in many law firms' Board meetings, the vast majority, if not most all, of the Board's time is spent on internal versus external, and operational versus strategic discussions. With the accelerated pace of change currently going on within the legal profession we believe that law firm Board meetings need to find the means of engaging Board members in more external and strategic discussions. Many will likely remember Jack Welch, the former CEO of General Electric, saying, "If the rate of change on the outside exceeds the rate of change on the inside, the end is near."

The role of your board should be directed to help guide the firm successfully into the future while also governing for the present. Boards move toward the visionary when they excel at not only providing oversight and insight, but, even more importantly—foresight. This is a challenge, and future focus and expansive thinking can and will make all the difference. Building and maintaining a visionary board is a journey and every board starts in a different place; some are highly effective and looking to become more future-focused in their perspective, while others have a long way to go.

Nearly every law firm of any significant size will have a Board of Directors or Executive Committee comprised of partners elected by their peers, for some predefined term. Some Boards are primarily concerned with providing oversight on the activities and actions of their management team (managing partner, management committee and administrative professionals) and some are actually charged with developing the firm's formal strategic plan or direction such that the management team can then focus primarily on implementation. In either scenario, your elected Board is a valuable resource . . . if used properly.

Leading firms know their future will not be an echo of the present. In fact, we believe any firm's elected Board members need to regularly engage in deep strategic thinking about trends currently shaping the profession. Have your partners thought about how the advent of online legal services, artificial intelligence, big data or predictive analytics will impact their personal practices?

Getting to the future first requires firms to be deliberately farsighted. Why is this important? By investing serious time in examining trends, it will enable you to see what competitors may not, thereby allowing you to be a leader in exploiting new opportunities or preparing contingency plans for the possibility of any disruptive events.

We are not talking about navel gazing or trying to predict the future. Rather, tomorrow's potential threats and explosive opportunities are already being hinted-at today. If one looks closely enough, one can see the beginning of trends, often years before they become common knowledge. Seeing the future requires that you understand the potential of what is already happening. The essence of winning in a competitive marketplace is to be at the right place *before* the right time.

SCANNING THE FUTURE

Our central premise is that there is no proprietary data about the future. Whatever you need to know about tomorrow is to some extent, already visible. The data is there for everybody to see, but there is an enormous difference in firm's abilities to construct new opportunities out of that understanding.

Interestingly, the sophistication of professional service firms varies considerably in the discipline with which they direct consideration to their external environment. The largest and most sophisticated of the accounting and consulting firms have long devoted serious attention to what is happening outside their doors. Many even have special Advisory Boards comprised of various industry leaders, who meet regularly with the firm's leadership to help them see what is evolving in their different client industries. Most law firms, however, are populated with professionals who are so preoccupied with their particular area of specialty, that they are remarkably out of touch with the wider world.

Not all partners are equally up to date on what is happening. Many will be fully aware of issues that affect their particular practice area, but it is not at all uncommon for an entire practice group to lack a coherent concept of those macro-trends affecting some of the client industries they serve.

By way of illustration, here are examples of "what is going on out there":

- Every minute we send 204 million emails and send 278 thousand tweets.
- Google alone processes an average of 40,000 search queries per second – 3.5 billion per day.
- The total amount of data being captured and stored by industry DOUBLES very 1.2 years.
- The BigData industry is expected to grow from $10.2 Billion (2013) to $54.3 Billion this year.
- There are some 7000 peer-reviewed medical journal articles published every day.
- The first 3D printed drug is expected to be approved by the FDA in . . . 2015 (it has already happened) and 3D human tissue is now being implanted.
- There are currently over 1400 LegalTech start-ups on AngelList with an average $3.9 million valuation - - and many of them are looking to eat your lunch!

Realistically, can anyone who devotes time to exploring "What's going on out there," ever fully understand all of the dimensions and interpret all of the signals? Not likely! With that pace of change and a business environment that becomes ever more complex and fluid, it becomes critical that members of your elected Board maintain a running dialogue on the meaning of significant events and trends – and that they use their understanding of those trends to develop consensus on refining the direction and strategy of the firm.

THE PROCESS OF ANALYZING TRENDS

Consider this: if we knew in 2017 what we will know in 2020, (only three foreseeable years into the future) how would we change our attitudes, actions and the way in which we practice law — the services we offered, the clients we targeted, and the ways in which we chose to deliver our services? That is what this process is really all about – observing the present trends to determine how we might intercept the future.

There are a number of different steps involved in going through a process of identifying and interpreting external trends. At Jackson Lewis this has become a regular review item on the agenda of every Board meeting.

STEP 1: Identify The Relevant Trends

Your first step is simply to scan the external environment for early warning signs and for areas of new opportunity. At Jackson Lewis we started by identifying a number of different environmental components. The importance of each may be quite different depending upon the practice composition of your firm. We then had the individual members of the Board voluntarily select one specific component they would be willing to invest time into monitoring between meetings. By studying the goings-on in these areas and connecting the trends in all of them, you can begin to build a reasonable basis of fact (and speculation) about what will happen over the foreseeable future.

The process of identifying these trends, transforming the data into valuable insights about the future of your markets / practices is an inseparable part of the intellectual leadership that your Board can provide the overall partnership. While consultants might help, they should not supplant the Board's work. If the members of your Board create it, they will own it. It will form a key part of their thinking process and will guide the decisions they make.

What the Jackson Lewis Board has done is have each member voluntarily devote time to doing research, through various publications (both within the profession as well as across related professions), the internet, speaking with consultants, clients and so forth. The challenge for each Board member is: "In your opinion, what would be the most important trends capable of impacting both positively and negatively, the overall profession and our firm's operations over the next few years?"

In general, it helps to keep each identified trend reasonably concise; otherwise reading and reviewing it becomes a chore. Drowning your colleagues in facts, figures, charts, graphs, and detailed analysis makes it

SOME EXTERNAL STRATEGIC COMPONENTS

HOW TECHNOLOGY IS RESHAPING THE PRACTICE OF LAW

STUDY GROUP: _____

As the natural evolution in legal services pushes more of what lawyers do from being highly specialized to being highly commoditized, it opens the door for innovators to creatively package and offer clients internet-based legal services that allow the client to do for themselves that which previously they had to hire a lawyer to do for them. The implications are profound (see LegalZoom.com). Many of the tasks currently undertaken by lawyers, often in costly buildings, in downtown financial centers, may soon be more cost efficiently done elsewhere or differently. Concurrently, we see firms sharing their most cherished templates on common web sites that competitors or any prospective client can access, while other firms market themselves to prospective clients on Twitter, and still others are beginning to explore how BigData, artificial intelligence and predictive analytics might be utilized in litigation matters.

What does this all mean for how we should embrace or utilize technology going into the future?

EXAMPLE: The Legal Technology Core Competencies Certification Coalition, or LTC4, has created a certification program around lawyers' use of technology. The organization argues that rapid technological changes, alternative fee models and increasing scrutiny from clients are putting pressure on attorneys to prove their worth.

NEW AND EMERGING AREAS OF PRACTICE

STUDY GROUP: _____

Entire industries from automotives and financial services to the newspaper business are being swept by fundamental, 'transformational' change. Meanwhile numerous State governments have identified selective industry clusters for long-term strategic job creation. New advances in the science behind energy, infrastructure, connectivity and health care drive fascinating new areas of growth. Success going into the future may very well depend upon identifying where the best opportunities are to gain a "first mover advantage" and develop knowledge in specialized areas of the law in advance of our competition.

Where are the best opportunities going to be in the coming years and what opportunities should we be proactively investing in?

EXAMPLE: There may be a bright future for Micro Colleges. The systems used to create colleges centuries ago seem justifiably primitive by today's standards. Learning formulas for nearly every degree are based on hours, one of the least important considerations when it comes to assessing talent. Colleges today cost far too much, and they take far too long. For this reason, a new wave of full-immersion skill training centers, or Micro Colleges, have begun to emerge. Look for Micro Colleges to crop up around every hot new industry including VR, 3d printing, Internet of Things, flying drones, crowd funding, cybersecurity, cryptocurrency, and many more.

COMPETITIVE THREATS AND OUR EVOLVING MARKETPLACE

STUDY GROUP: _____

Law firms are continuing to expand across a broader geography than ever before and with aggressive geographic growth and merger plans. Many of these competitive firms are leveraging their strengths in specific practices or industries as the catalyst for either setting up offices in new locations or acquiring selected firms. Meanwhile, corporate legal departments are bringing increasing amounts of legal work in-house rather than sending it to their outside law firms.

How will our marketplaces likely evolve over the coming years and what do we need to do to capture a greater share of the better business?

EXAMPLE: The Corporate Legal Operations Consortium (CLOC) is gaining traction as a go-to organization that can help legal entities optimized their service delivery models. CLOC has worked to establish standard measurements and metrics for law firms and corporate legal departments to get a better sense of the value of the services they are charging for… and paying for.

While this list of three components is not meant to be comprehensive it should serve as a starting point for us to examine some of the myriad different trends and developments now emerging.

difficult for busy practitioners to find the critical insights that can help them shape their direction. Therefore, document and distill each trend in a carefully prepared, thoughtfully written, one-page statement of "what's going on out there." Also, the act of distilling the information can often lead to valuable insights. Explaining something in concise terms forces you to focus on the core concept.

BEWARE OF INCOMPLETE OR DEFECTIVE DATA.

In one of those classic "Pink Panther" films, Peter Sellers, is seen checking into a quaint hotel. In a corner of the lobby, he notices a small dog. Thinking he might go over and pet this cute little animal, he inquires of the innkeeper, "Does your dog bite?" Hearing the elderly gentleman say no, Sellers reaches down only to have the dog snap ferociously at him. Sellers turns to the innkeeper and says, "You said your dog didn't bite!" To which the gentleman calmly responds, "That's not my dog."

In identifying relevant trends you must remain keenly aware of the problem of incomplete or defective data. What you ask, whom you ask, and how you ask can be critical to getting valid and useful information. Here are a few guidelines to consider:

- **Censor incoming bits of information at their source.**
  Be constantly vigilant to the impartiality and agendas of reporters, journalists, commentators and anyone supposedly in-the-know, reporting their take on some new development.
- **Get as many different perspectives as possible.**
  If you are hearing the very same predictions from a number of sources, try to find a contrarian view.
- **Distrust your own biases.**
  If you are hoping to find the research to support a strategic decision you have already made, it is very likely that you will find the support you are looking for.
- **Be willing to contradict prevailing beliefs.**
  The majority is not always right, the conventional wisdom not always wise, and the accepted doctrine could very well be flawed. Breakthrough thinking depends on it.
- **Be careful of jumping to conclusions.**
  Are you betting your future on the assumption that a particular market will materialize, grow or disappear? Do you have enough real evidence to support your conclusions?

STEP 2: Discuss and Evaluate Each Trend

Having this as a consistent agenda item at every Board meeting should provide the means for focusing attention on the business environment, sharing observations and building consensus about what the signals are telling us.

An effective way to tackle this is for your Board to divide into small working groups. These participants share their thinking about the issues and thereby can uncover important differences in the ways each might perceive the impact of any given trend. Each group selects one of the trend categories (i.e., technological changes, etc.) and prepares its interpretation of the data.

During the process debates or differences will emerge about various aspects of these trends. Although these discussions can become rather animated, they are useful. To see the future first, you may need to deconstruct old notions and ideas. It is important, during this step, to keep a watchful eye on a few natural tendencies that may occur:

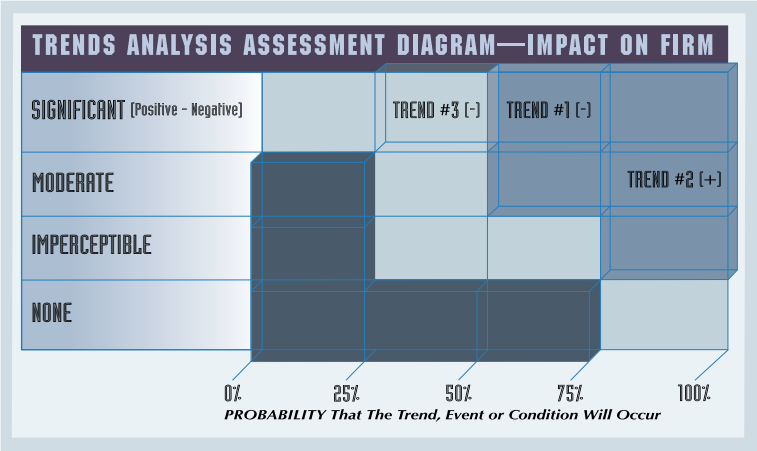
- **Denial.** When a trend suggests a potentially negative consequence, some suffer from the ostrich syndrome. They prefer to bury their heads, deny the validity of the trend, and ignore danger signals. For example, in the billing arena, some firms do not (want to) see the trend for providing clients with complete "transparency" as it relates to whom is working on what matter, when, and at what internal billing rate.
- **Blindness.** What we know (or think we know) determines what we see. Unfortunately, the more experienced and the smarter we are in our particular area, the more myopic we may become. Often trends present themselves, but busy professionals don't see them. Not knowing how to look for them, or simply missing them is the primary factor. What we see determines our destination.
- **Arrogance.** The late management theorist, Peter Drucker, once commented dryly, "Whom the gods would destroy, they first grant forty years of business success." Drucker believed that sooner or later, time will turn your most precious assets into liabilities and that the most powerful competitive advantage may eventually be neutralized by the shifting sands of the external environment. Intel's past-Chairman, Andy Grove agreed, with his now famous remark, "Only the paranoid survive." Ironically, one of the reasons why we may tend to miss trends is from what we call, "success arrogance." The firm is doing so well that we fail to see the danger signals.

The key point is to make sure that all members of your Board engage in a personal and intellectual level in forming a consensus about what's going on. One of the critically important by-products of this process is, that through active participation they will also be much better equipped to communicate any particular trend's meaning to other partners in the firm. This is an ongoing educational process within the larger firms and takes time.

STEP 3: Determine The Impact Potential of Each Trend

Each of the trends that have been identified can be evaluated within the context of the PROBABILITY of occurrence and IMPACT (negative and positive) on your firm of such occurrence. The Diagram presented above is designed to help with your analytical efforts. You can use this graph (below) to assess the overall pattern of the trends identified.

Obviously, those trends judged to have a very high probability of occurrence and a very harmful impact or portend huge opportunities should they occur, become your top priority. Clusters of trends falling into the top right-hand corner of this diagram are the ones we tend to label "Mission Critical" and are the ones that require your **urgent attention**. In those instances this Assessment Diagram can serve as a tool to help explain to partners the need for urgency.



The secondary band, running diagonally through the graph, represents those trends that are not imminent time wise, but nevertheless should be considered **important** and needing attention through ongoing monitoring.

Finally, the cluster of trends that will tend to occupy the bottom left-hand corner of the graph fall into the area best labeled as **postponable**. These trends should also be periodically monitored for changes which could cause them to shift to a higher priority.

In spite of the graph presented here to help with your analysis, let us not create the impression that this processes is scientific, systematic, or precise. If anything, seeing the future is guesswork at best. The events, trends, issues and opportunities in the external environment are ultimately whatever we interpret them to be. Intelligent professionals may disagree completely about what a particular trends impact may suggest.

The most valuable aspect of this process is how it can enable members of your Board to discuss, debate, interpret and assimilate the lessons the external trends have to teach us. From this understanding, which must be continually updated and refreshed, they can commit energy, attention, talent and resources for the greatest strategic value. This Assessment Diagram is merely intended as a practical tool that can be used to help make sense out of and prioritize those eternal issues deserving of some attention, in your efforts to determine the best strategic direction.

STEP 4: Develop Your Action Plans

Finally, it is necessary to transform the discoveries that come from your discussions into actions. There is little point in knowing that you are heading for an iceberg if you don't determine how to course-correct and steer around it. In order to be effective, some portion of your firm's strategy must concern itself with what we must be doing right now in order to be well positioned to capitalize on our future. Among other considerations, your strategic plan therefore should identify:

- what skills your firm should be developing (or hiring) *right now*;
- what you must do to anticipate and better serve unmet client needs *right now*;
- what new practices you should be pursuing *right now*; and
- what new experiments and field tests your firm should be engaging in *right now* in order to intercept the future.

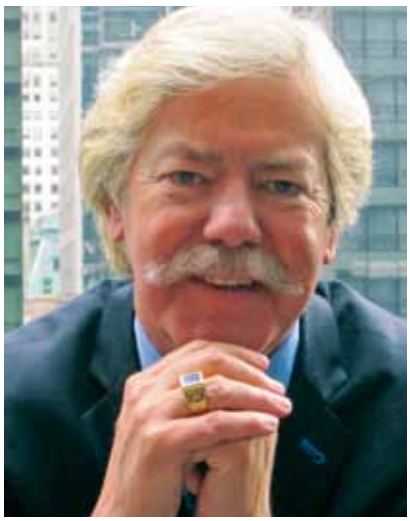
A Necessary Part Of Your Strategy Process – And An Ongoing Exercise.

It is said that in far northern regions there is an old tradition whereby hunters construct blankets made of animal skins. These blankets are not for shelter, but intended as a crudely improvised form of trampoline. The blanket is spread across the ground and one of the hunters steps into the middle. The remaining members of the group grab the edges, heave the blanket upward, and eject the hunter high into the air. The purpose of physically hurtling the hunter into the sky is to have him see if any caribou are in the area.

While we have evolved from those humble techniques there remains a need to look to the horizon to see how the future will unfold. Behind every new trend and its ensuing ramifications is either a potential marketplace threat or a window of opportunity. Those keen enough to perceive the trends early are in a prime position to pilot their firms into a more promising future. The obvious challenge therefore, is to be the first to see the future and then devise appropriate action plans to take full advantage.

This article was originally featured in Legal Business World

Vincent A. Cino is the Chairman of Jackson Lewis P.C. and is responsible for the entire firm's day-to-day administration and management.



PATRICK J. McKENNA

PROFESSIONAL PROFILE

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 *Herding 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 his most recent work, *The Changing of the Guard* (Ark Group, 2015), provides in-depth guidance on the leadership selection process in professional firms.

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, usually held at the University of Chicago. Thus far over 70 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, Forbes,* and *The Financial Times*.

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).

He was the first "expert" in professional service firms admitted to the Association of Corporate Executive Coaches, the #1 US group for senior-level CEO coaches; and was the recipient of an honorary fellowship from Leaders Excellence of Harvard Square (2015).

2018

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WHEN: Thursday
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TIME: ***8:30 am - 4:30 pm***
WHERE: Georgia Tech
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- Copy of 220+ slides PowerPoint presentation
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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.