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International Review

SPRING 2010

STRATEGIC PLANNING AS A CONTINUOUS PROCESS

PASSION, PEOPLE & PRINCIPLES

MEASURING PRACTICE GROUP PERFORMANCE: NOTES FROM THE LAB

VALUE FOCUSED FEES: IT'S NO LONGER WHETHER OR EVEN WHY NOT – NOW IT'S WHEN?

THE QUESTION OF WHETHER TO FOCUS ON CORE PRACTICES: NOTES FROM THE LAB

LAW FIRM LEADERSHIP REFLECTIONS: PRACTICAL ADVICE FOR THOSE WHO MANAGE

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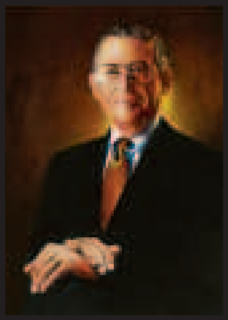

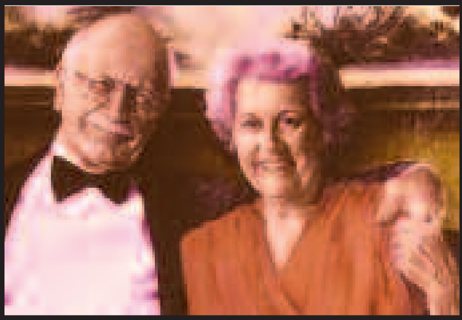
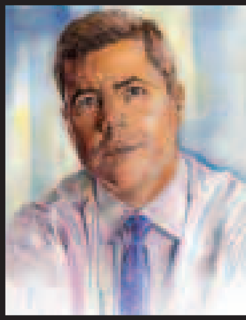

Dear Valued Clients and Friends:

Fifteen years ago, a Harvard scholar by the name of John Kotter published a book entitled *Leading Change*. At that time, studies revealed that only about 30% of change initiatives actually succeeded, so Kotter's book was welcomed as were his simple steps to implementing change. Unfortunately it proved not to be all that simple. In spite of literally thousands of texts and articles published on this same topic, a recent survey by McKinsey & Company (1546 business executives) clearly shows that today, only about (are you ready?) **30%** of change initiatives actually succeed. So, I guess, thus far, nothing much has really changed!

Even worse for us, neither Kotter's work nor most all of what has been published thus far, speaks to the task of bringing about meaningful change in a professional service firm. So, in a top-down corporate organization, where the CEO says jump and only 30% of the people bother, one can just imagine the enormous challenges faced in an environment where everyone wants to have their personal say as to whether a jump is really required, whether it should be in shoes or bare feet, on cement or grass, on what particular day, and how high.

In yet, all consulting assignments are about change. From helping law firms to develop and implement a strategic plan to assisting clients with initiating an effective client team, all of my efforts over the past three decades have involved processes that require some form of change. Now I certainly wouldn't claim to have all the answers. I have, however, researched, developed and tested a framework for how firm leaders actually manage to bring about changes in real-life applications. I was delighted to have the opportunity to talk about what I've found works at the Ark Forum in March, to an audience of over 80 participants in New York who eagerly embraced the how-to-change message. I am now currently organizing a one-day master class for August 16 at the University of Chicago, that will deal exclusively with the issue of leading change in a law firm. Please stay tuned.

Until we meet again - I continue to be flattered by the gracious feedback and comments received from managing partners and those in firm leadership positions who receive this magazine and tell me that they find it to be a valuable source of information. Thank you for your continued support and you may be assured that I will always strive to offer you the most current and progressive thinking.

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International Review

C O N T E N T S

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by Patrick J. McKenna, **INTERNATIONAL *REVIEW***

Strategic Planning as a continuous process

Of all the things that Jack Welsh was noted for saying, there is one in particular that really resonated with me; "When the rate of change on the outside exceeds the rate of change on the inside, the end is in sight."

Throughout the profession, more firm leaders are now recognizing, as they catch their breathe from months of turbulence, that conventional approaches to strategic planning – those lengthy protracted internal debates that lead to developing monumental documents detailing the firms direction over the coming three to five-years – seems to now belong to a bygone era.

So, what are leading firms doing? Today, those keen enough to perceive new trends and developments early are in a prime position to pilot their firms into a promising future.

The executive committees are beginning to engage in, what I will call an **Adaptive Strategy Review** – scheduling a couple of days to discuss and explore what new trends, developments and issues (signals) will potentially impact their firm going forward and what actions they need to take NOW! In one of my most recent review sessions our singular agenda topic was: "What will our legal profession look like in the year 2013 and what should we be starting to do now to get to the future first?"

I believe that the challenge for your firm's executive committee is to regularly engage in some very deep strategic thinking about new developments that are currently shaping the profession. Getting to the future first requires firms to be deliberately farsighted. Why is this important? By investing some serious time in examining trends, it can enable you to see what competitors may not, thereby allowing you to get a serious jump on exploiting new opportunities or preparing contingency plans for the possibility of any disruptive events unfolding.

> ***"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."***

I'm 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.

My central premise is that there is no proprietary data about the future. Whatever you need to know about tomorrow is already visible. The data is there for everybody, but there is an enormous difference in firm's abilities to construct new opportunities out of that understanding. The largest and most sophisticated of the accounting and consulting firms have long devoted serious attention to what's happening outside their doors. Many law firms, however, are populated with professionals that are so preoccupied with their particular area of specialty that they are remarkably out of touch with the wider world.

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! But by thinking of your business environment in terms of some of the major issues that are evolving, we can at least begin to make some sense out of the challenges that we are soon likely to be facing.

THE PROCESS

If we knew today, in 2010, what we will know in 2013, (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 offer, the clients we target, 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. You might consider making this a regular annual review item on the agenda of your management committee meetings.

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.

It is my contention, that either the members of your firm's management or strategic planning committee are the ones best chosen to engage in this activity. The process of identifying these trends, transforming the data into valuable insights about the future of their practices is an inseparable part of the intellectual leadership that this committee needs to provide the overall partnership. While consultants might help facilitate, they should not supplant the executive committee's work. If the members of your committee create it, they will own it. It will form a key part of their thinking process and it will guide the decisions they make.

Some firms approach this by simply having each member of the committee volunteer to take one of the predetermined categories and devote a bit of time to researching (both within the profession as well as across related professions), the internet, various publications, speaking with consultants, and so forth.

The challenge to your team is: "In your opinion, what would be the most important developments and 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 reasonable concise; otherwise reading and reviewing it becomes a chore. Drowning your colleagues in facts, figures, charts, graphs, and detailed analysis makes it 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 summary of "what's going on out there." Also, the act of distilling the information can often lead to valuable insights. Explaining something in very concise terms forces you to get to the core of the idea.

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 pet, 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 contrarians view.

• Distrust your own biases. If you are hoping to find the research to support a strategic decision you have already made, it's 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?

STRATEGIC PLANNING COMMITTEE AGENDA

MORNING: What Will The Legal Profession Look Like In 2013?

[*Two hypothetical topics among a number of important issues for in-depth review*]:

Evolving Alternative Practice Models

Today we see multiple examples of distinguished lawyers leaving their name-brand law firms to see up their own small operation so that they are no longer burdened by their former firm's high billable rate requirements – and major clients report that they are following these lawyers. We see firms of all sizes embracing alternative billing models, fixed fee arrangements, outsourcing major portions of a legal transaction, and hiring Six Sigma (traditional reserved for manufacturers) experts to help them make their client meetings more productive. Rates are dropping, the billable hour is under attack and the highest growth firm in 2008 was Axiom Legal with offices in 5 US centers and who claims to be "the first real alternative to the traditional law firm."

What do all of these and other evolving models suggest for how successful firms will have to operate differently in the future?

How Technology Could Reshape the Practice of Law

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. 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.

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

AFTERNOON: What Should We Do Now To Get To The Future First?

STEP 2: *Discuss and Evaluate Each Trend*

A special meeting of either the firm's management committee or strategic planning group provides the means for having group members present their findings followed by intense discussions and building some consensus about what the signals are telling us.

During the process debates or differences will emerge about various aspects of these trends. To see the future, you may need to deconstruct some old notions and ideas. It is important during this step to keep a watchful eye on a few natural tendencies that do occur:

• **Denial.** When a trend suggests a potentially negative consequence, some suffer from the ostrich syndrome. They would prefer to bury their heads, deny the validity of the trend they are observing, and ignore any danger signals.

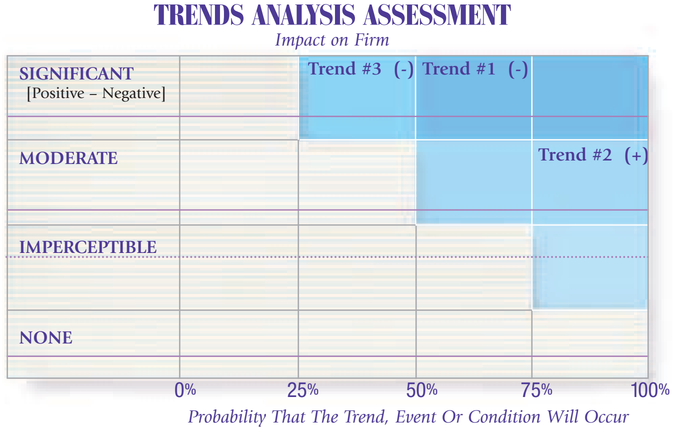
For example, in the billing arena, some firms do not (want to) see the trend for providing clients with complete "transparency" as it relates to who is working on what matter, and when. These partners often act as though they believe that the provision of a one-line invoice at the conclusion of the client's matter should still suffice. In other words, the firm's billing processes will take place in the future just as they have in the past or other partners will continue to believe that the traditional hourly rate system will continue to be the mainstay of compensation from clients, despite its well known inefficiencies, misplaced incentives and perceived unfairness relative to the value of the work produced.

• **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 tend to become. Often trends present themselves, but firm leaders 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.** 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 leaders miss trends is "success arrogance." The firm is doing so well that firm leaders fail to see the danger signals.

The key point here is to make sure that all members of your committee participate on a personal and intellectual level in forming a consensus about what's going on. Through active participation they will also be much better equipped to communicate any particular trend's meaning to other partners in the firm.

TRENDS ANALYSIS ASSESSMENT



STEP 3: *Determine The Impact Potential of Each Trend*

Each of the trends that have been identified can then be evaluated within the context of the probability of occurrence and impact on the firm of such occurrence. The Diagram presented above is designed to help with your analytical efforts. We can use this graph to assess the overall pattern of the signals 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 our top priority. Clusters of trends falling into the top right-hand corner of this diagram (the shaded area of the matrix) are the ones that are "Mission Critical" and require **urgent attention**. This Assessment Diagram may serve as a tool to help explain to other partners the need for urgency.

That said, let us not create the impression that this processes is scientific, systematic, or precise. If anything, 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 your firm to discuss, debate, interpret and assimilate the lessons the external trends have to teach. Out of 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 I have used with firms to help them make sense out of and prioritize those external issues deserving of some attention in their 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're heading for an iceberg if you don't determine how to 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. Your strategic actions 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.

An Ongoing Exercise

Strategic planning isn't an event—it's a discipline. In less volatile times, developing a strategic plan every three years was the norm. Today, you now have to learn how to evaluate, test and revise your plans and strategies continuously, in order to maintain your competitive vitality.

The American writer and humorist Mark Twain advised, "When everybody is out digging for gold, the business to be in is selling shovels!" And there is actually a grain of wisdom in his wisecrack. What foreseeable trend may represent the figurative shovel that every one of your clients will need tomorrow?

by David H. Maister

PASSION PEOPLE & PRINCIPLES

The following are excerpted from (www.davidmaister.com/blog) and I hope offer pragmatic counsel to managing partners and practice group leaders on issues of significance.

The Mysteries of Dealing With People - A Few Pointers

I am not a natural people person, so I watch out keenly for lessons on how to interact with others. Here's a few pointers I picked up along the way.

We often think of the distinct topics of dealing with superiors, colleagues, clients and subordinates as separate discussions. But the reality is that it's all one topic: how to deal with people.

You can use these different perspectives to help you think through difficult situations. If you're stuck on how to deal with a boss, ask yourself: 'How would I handle it if I were dealing with a client?' Similarly, you can get a lot of insight into dealing with your subordinates by pondering the question: 'If this person were a colleague, what would I do?'

Actually, the principle is broader than that. We all deal with people in our personal lives: parents, siblings, friends and lovers. These relationships are not always harmonious, yet we deal with issues and get on with the relationship. When you're contemplating what to do in a business relationship, draw upon your experience in your personal relationships. You won't do the identical thing, but it will help you think it through.

What do we try to be in personal relationships to build bonds? Sympathetic, supportive, nurturing, considerate and kind. Apply that everywhere in all your business relationships. They are the keys, in any relationship, to getting the other person to respond to you and treat you as you want to be treated.

When dealing with a subordinate, a reservations clerk at the airport, your boss, your spouse or anyone else, you are more likely to get cooperation if you control any emotions you are feeling. A while ago, before I had given up smoking, my wife, Kathy, turned to me and said 'David, can I get your help?' Of course, I said yes. She said 'Well, when we travel, we are usually lucky enough to stay in hotel suites, and your smoking doesn't bother me. But, occasionally, we are in small hotel rooms, and I find that, then, the smoke makes my eyes itchy. What do you think I should do about that?'

This is, of course, brilliant. She had every right to be angry, but she knew that expressing her anger would reduce the chances of my cooperation, not increase it. She had every right to criticize me, but she knew that if she was explicit in her criticism, I would become defensive and try to justify myself.

She did not approach the problem as a logical, rational one to be 'solved,' but an interpersonal, psychological, emotional one. She was less concerned about being right, and more concerned about getting what she wanted.

There's a simple rule. If you are trying to make a point and do it with emotion, you give the other person the opportunity to deflect the conversation onto your emotions and away from your point. Keep your emotions out of it.

Want to know how to deal with others? As a good first approximation, think of others as like you, not as 'them' If you want to influence someone, ask: Would it work on me? Figure out how you like to be dealt with. Draw up your own list of how you expect to be treated. Treat others that way.

Are these old, unoriginal thoughts? Of course, but still worth asking ourselves how well we actually apply them in our lives.

They Just Don't Get It!

Early on in my consulting career, I remember having a hard day with clients and coming home to my wife, saying: "Those stupid clients just didn't get it." My wife, very gently, said "You mean that today, just today, **you** weren't able to help them understand?" My first instinct was to throw something at her, but my second instinct was to realize she was right. The lack of understanding might not have been my fault, but it was certainly my responsibility to make sure I was being understood.

This isn't a moral point, but one of simple survival. If clients don't hire me because they are too ill-informed to recognize the brilliance of my insight, it's me that loses the job. If I'm trying to advise them to do something and they just won't take my advice, they are going to view me as less than completely helpful. It may be their fault, but it's my problem.

> **"Taking ownership and responsibility when you feel that you are not being well understood - is a huge challenge for most of us, personally and professionally."**

I get questions about this all the time. Everyone has stories of "dumb" clients or people who just won't listen or cooperate or let you do the job you were hired to do. And it's so easy (since it's so often the truth) to lay the blame on the other person and throw your hands up in despair. It's so **unfair,** we think, that we have to work at being understood when it's **their** fault.

The crucial first step - taking ownership and responsibility when you feel that you are not being well understood - is a huge challenge for most of us, personally and professionally. How often have you had a disagreement with a family member, only to give up in frustration when they "just won't listen to you" or "see your point of view?"

Yet only by taking responsibility for the effectiveness of our communications can we obtain the influence or the results that we want. We have to stop attributing blame, and start viewing the situation as a problem to be solved. We have to learn to get people to engage with us, not just take opposing sides.

We have to ask questions like "Why does this person believe what they believe now?" "Why is it in their interest to defend the point of view that they are making?" As Steven Covey says, one of the keys to effectiveness is "Striving more to understand, and less to be understood."

Note the paradox here. The better you are at understanding the other person, the clearer it will be as to how you might engage them in conversation, have a chance of being understood, and lead them to a different conclusion. Striving first to understand is not (just) a moral or social point, but good pragmatic advice.

Next, it's necessary to make the obvious point that understanding something yourself is one level of accomplishment, but being good at helping someone untrained in your field to understand it is another. This requires a whole new set of skills.

I have a client who always says to me "Explain it to me as if I were a six-year old." He doesn't mean it quite that literally, but it's a helpful reminder that what he wants from me is not just answers but understanding. The skill of helping people understand complex issues is not that common among highly trained, technically qualified people.

And as we know, a free market rewards what is scarce, not necessarily what is inherently valuable. A superior ability to help a client understand your field may be a real point of differentiation, as an individual or as a company.

Of course, this applies to all our relationships, not just those with clients. If your administrative assistant doesn't fully understand what you want, you won't get back what you want. If your boss doesn't understand what you've done, you haven't done it.

Learning to communicate so that people understand you better is a vastly neglected skill.

On February 5

David made this announcement:

Farewell and Thanks

After nearly 30 years of advising and writing about professional services, I have decided to retire. I no longer plan to consult, speak or write.

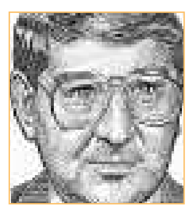
A wonderful way to mark this decision happened last month (December 2009) when the Association of Management Consulting Firms awarded me its Carl S. Sloane Award for Excellence in Management Consulting.

Previous recipients of this award include C. K. Prahalad, Tom Tierney (former CEO of Bain), Joe Forehand (former CEO of Accenture) and Henry Mintzberg - distinguished company indeed!

Together with the award I received last year from the Law School in Barcelona, Spain, in recognition of my contributions to law firm management, I am delighted to receive acknowledgement that my work has been noticed and valued.

After traveling the world almost non-stop for these past three decades, my wife, Kathy and I are delighted to begin exploring our own home town of Boston. Already we have found lots of fabulous arts events and have joined classes and discussion groups together - although I will confess that it's a little strange being the class participant rather than the instructor! Together with playing lots of bridge, I am finding myself fully occupied.

So, many thanks to those who have followed and supported my work. Good luck for 2010 and the many years beyond.



DAVID H. MAISTER

is the author of Managing the Professional Service Firm (1993), True Professionalism (1997), The Trusted Advisor (2000) (coauthor), Practice What You Preach (2001), and First Among Equals (2002) (coauthor)and Strategy and The Fat Smoker (2008). Prior to launching his (solo but global) consulting practice in 1985, he served as a professor at the Harvard Business School.

by Managing Partner LAB

MEASURING PRACTICE

NOTES: FROM

QUESTION:

As a relatively new managing shareholder I'm attempting to assess the various practice groups we currently have throughout our firm. My question to the group is: What specific metrics do you use and find to be worthwhile in assessing or measuring the performance of your practice groups? And, is there any difference in the metrics that you would use for a practice that is pretty much only in one office versus a more regional or national group?

RESPONSE:

The first question that needs to be asked is, for what purpose do you want to measure the practice groups. We think the question of why you are measuring may be more important than what metrics to use.

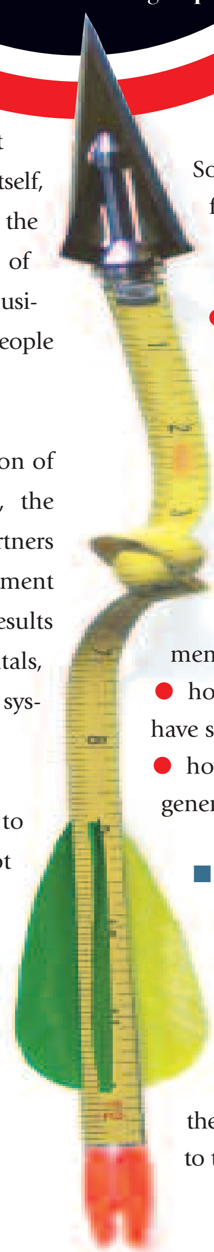
It takes a number of measures to approximate the truth of what is going on in any practice group. What you measure and how you do it depends in significant part on what use you want to make of the measurement. In most cases you will want to act on the information and in many cases the fact that you are measuring a group in a particular way, will, in and of itself, affect the group's behavior - akin to the 'observer effect' or the seeming paradox of Schrodinger's cat which is the subject of much scientific commentary. Peter Drucker, the well known business management guru, said it in another but related way - people do what you 'pay' not what you 'say.'

Most law firm measurement systems are a devilish collection of assumptions, definitions, allocations and other details, the manipulation of which is much more accessible to your partners than market success or client rate negotiations or client payment practices. Lawyers being lawyers are inclined to improve results as much by working the system as working the fundamentals, thus the risk of unintended consequences of measurement systems is reasonably high.

Another aspect of deciding what to measure and how to measure it is the fact that data that is not actionable is not useful. This means that you need to know what the levers are in your practices that can be pulled to affect performance. That said, here are some of the most common levers that we see law firms attempting to pull:

I. NON-FINANCIAL METRICS

■ Leadership Measures



In many firms, management will actively assess whether the practice group leader is providing any real leadership to the group; for example, whether the leader is investing non-billable hours in providing one-on-one coaching, whether there are regular practice group meetings, whether a robust practice group plan has been developed, and whether there is evidence that the action elements of the plan are being executed. While the amount of time and effort required may differ by the size of the group and whether it has a local or national focus, this is the most basic non-financial metric to examine.

Some firms also measure the practice group leader's performance through the use of internal and external surveys, to determine (usually on an annual basis) if the practice group has

- a healthy sense of professional morale and teamwork;
- a track record for associate retention;
- good tools, templates and knowledge management systems; and
- a high degree of client satisfaction;

Firms have been known to measure somewhat softer data such as:

- how many associations or industry groups group members actively contribute to;
- how many external seminars and programs group members have spoken at; and
- how many key reporters group members interacted with to generate media attention.

■ Market Share and Client Penetration

You may choose to measure the number of new clients originated within the practice group, and / or the number of new matters opened, and / or the average size of the matters, and / or the total penetration of key clients according to set targets. All of these are intended to assess the progress of the practice group in the current year compared to their previous years results and to goals set by the group.

GROUP PERFORMANCE

THE LAB

Where a practice group may have more of an industry focus you may want to measure their total penetration (market share) of targeted clients in particular sectors. In other words, if you have a regional health care practice targeting nursing homes, your goals and metrics might be focused on measuring how many of the top 25 nursing homes in the region are now clients.

"Lawyers being lawyers are inclined to improve results as much by working the system as working the fundamentals, thus the risk of unintended consequences of measurement systems is reasonably high."

And of course, we all know that today, in many practice areas, there are published deal lists and league rankings that measure your firm against your competitors by number and volume of matters. There are research reports that can identify whether your firm has a presence in serving investment banks or venture funds and how many of the Fortune 1000 companies consider you a "Go-To" resource in specific practices. These rankings offer another important means of assessing performance.

II. FINANCIAL METRICS

Internal Calibration

As the current economic downturn intensified last fall, one of our LAB member firms began using a billable hours index over successive trailing four-month periods, just to give them a quick snapshot of how busy they were overall and how busy particular practice groups were. They report that it's been a helpful tool in assessing capacity utilization. It is not intended as a compensation tool or to incentivize groups to produce more hours. It simply tells the management committee where the soft spots are and, by also looking at longer periods, whether the soft spots are chronic or transitory. It serves as a good short-term management and predictive tool.

You might want to think of performance measurements in terms of ultimate measures and surrogates. Since cash is king in law firm accounting, the ultimate measures are: collections, expenses and net income. The common surrogate for revenue and expenses has been for many years, average billable hours. The logic was that you couldn't get the revenue without the hours and the more hours per fee earner you booked, the lower the average cost of each hour. Maximize both and the net income number comes out just fine, assuming rates and salaries are reasonably aligned. This is still true to a significant degree. From there we all began to look at "realization" in one or another definition as a qualifier to hours and at inventory ratios - as a measure of cash flow differences. All of these are surrogates for real performance but useful indicators.

There are so many variables among practices these days that overall it may now be better to look at

- collected revenues per fee earner and
- costs per fee earner for all fee earners and support staff in the group, including

salaries of salaried fee earners.

Costs per billable hour, average billable hours, collections, realization and inventory trends are all useful pieces of data that can point to where you need to take action but do not by themselves tell you how well the group is doing

In the current environment, one could advocate more attention to the 'cost per billable hour' measure, as we are all going to need to focus on reducing costs as revenue growth slows. Tracking net income on a monthly basis is also a good measure, but since in the short term expenses are relatively fixed, the data is not necessarily more actionable than revenues and revenues per fee earner. Periodically looking at 'per capital partner' measures such as revenue and net income will tell you what group performance trends are at that level.

Measuring Profitability

Some firms now use financial dashboards for their practice groups that they've developed in collaboration with vendors of financial analytics to track performance across multiple variables. They are then able to compare the practice group's performance to goals set for certain of these variables.

Assuming that you have not yet invested in this sophisticated software, there are a number of metrics, which in the aggregate, give a pretty true measure of the group's profitability performance. For example, you might take a look at:

- average billable, and billed hours for all partners, all associates; all attorneys (produces 6 metrics);
- the per attorney cost of each group (in many instances the actual costs can be obtained--e.g. salaries, marketing expenditures, etc.);
- overhead (can be done on an estimated basis);
- average and total partner compensation for each group;
- average revenue per attorney, and per partner; and
- average origination per partner.

With these number, you can produce the "profitability" of each group by subtracting total costs, plus total partner compensation, from total revenue. All of the numbers should factor in the extent to which activities were devoted to matters accounted for in other groups (e.g.. it would be inappropriate to attribute an associate's cost to a particular group if half the associate's work is for matters were generated in another group).

"You need to constantly be weeding and pruning, investing and growing, in good times and bad times alike. But economic metrics are just the starting point. The caveat here is that what you do with the data can affect how your firm performs."

You can then create a 'stop light chart' in which to compare all of the numbers in each group with firm wide (or office wide) numbers, with "signals" at various levels of under and over performance. This will produce a very good indication of the performance of each group, although care should be taken for anomalies in any particular short term. But in the long term, the total picture is very reliable.

You may also want to measure what is called the "export / import" numbers. This is a metric of the work originated by one practice group and done in another - and an indicator of whether there is any active cross-selling happening between your groups. You can do this for offices as well. It is not so much a matter of whether there was a "balance of trade," but whether work is moving back and forth.

III. CAUTIONS

Measuring group profitability is helpful but ignores the other value that members of the group bring to the firm. Most importantly, the data are the beginning of the assessment of performance, not the end. It is always important to understand the reasons for any extremes in the numbers and not just take them at face value. The numbers often raise more questions than they answer, and it behooves you, as the law firm leader, to rely on performance data as diagnostic tools. Whether the numbers you generate are bad or really good numbers, they should prompt you to ask questions and find answers.

It is also important not to just use a snapshot of any one metric, but to look at trends over time. By doing this it helps you take into account difference in the business models of practice groups. For example, some practices require more leverage to be profitable than others. It is more important to look at how such a practice is doing over time against a particular metric, than to compare the practice group to others with different staffing models.

And, it is important to keep in mind the long-term picture. The work required in any particular area of law can change from year to year. That is the advantage of both practice area and geographical diversification. You need to remember that the fortunes of most practice groups tend to ebb and flow over time. You have to protect your bankruptcy practice during strong economies and your transactional practices during downturns.

The information you might wish to share with partners should be the information they can act on: their own, and group revenue, productivity - in hours or revenue, realization and inventory trends. Each of these items can be affected by individual partner behavior and peer pressure at a reasonable level. You should also aggregate firm data for a variety of reasons you can easily understand.

We would not be inclined to share, across the firm, comparative group and office data. It is not actionable by individual partners and plays to the worst instincts of many - to complain about others rather than focusing on improving their own performance. It also tends to promote internal competition among groups or offices. Each practice group leader may receive the results for her / his practice group, and perhaps even the firm averages to have something to measure against, but no others. The data can then provide practice leaders with the opportunity to gauge their performance over time and to observe improvement or deterioration.

One needs to be very careful not to promote unhealthy inter-group competition. Apart from the cultural damage that can do, we all know that it is critical that work be done by the lawyers best able to do it – and if we incentivize a group to do work it should not be doing (for example, a securities lawyer doing anti-trust work), rather than making sure it ends up being done by the right person in another group, we are asking for trouble.

If you wish you can calculate net income from the group and then you can deduct actual partner compensation for group members from the net income (adjusting if you must for other factors affecting partner compensation) to see how, comparatively, the groups performed.

This approach is built on a working attorney model for calculating profitability- all worked and collected time is credited as revenue to the group that did the work. In fact, we expect practice groups to contribute to firm revenue in two ways - doing the work and bringing it in. If the group and its partners are well integrated and focused on the success of the whole firm, it will generate work for other groups as well as for itself. To provide an incentive to do just that, some firms calculate group revenue based on not only the work done but the work brought in. This calculation, which requires some arbitrary allocations, gives credit for work brought in to the firm, but done by other groups, and deducts from working attorney credits a portion of the revenue derived from work brought to the group by other groups in the firm. In simple terms, if a group brings in $100 of work and does it all itself and the firm gets paid for it, the group is credited with $100 of revenue. If it does the same amount of work, but that work was brought in by another group, a portion of the revenue is credited to the originating group. If the group brings in work but does not do any of it, some portion of the revenue is credited to it (and deducted from the working attorney credits to the group that did the work). The allocation can be thought of as an incentive for obtaining work for other groups in the firm, a kind of "commission."

The question then becomes: what percentage of revenue should be credited for bringing in the work? Firms that use this method of calculating group revenues generally allocate 10-15% of revenue to the originating group. A few go higher. Remember that firm profit margins on revenue - what is left to pay partners after everyone else is paid - is usually in the 30-40% range (less for highly leveraged firms) so a 10% sales charge is actually 25-30% of net income. Also remember that the allocation percentage is purely arbitrary. There is no purely rational way to determine what it should be - and therefore it is grist-for-the-mill of partner opinion and argument. This approach does, however, emphasize two important points - generating revenue has real value and generating revenue for others in the firm is important to the firm's success.

This profitability approach is most useful annually as timing factors during an operating year can significantly affect results. Some models even take into account changes in inventory from year to year as a way of measure results more from "current operations." In any event the comparisons are more meaningful on a multi-year basis.

You need to constantly be weeding and pruning, investing and growing, in good times and bad times alike. But economic metrics are just the starting point. The caveat here is that what you do with the data can affect how your firm performs. In our view, while this may be an essential measurement for management, if distributed and commented on too widely, it can promote unhealthy internal competition and strife. Used too forcefully in managing group performance, it can promote silo behaviors and cut against teamwork.

New firm leaders may submit their questions to the LAB, which will be held in absolute confidence, to Patrick McKenna (patrick@patrickmckenna.com)

***The LAB** was formed as a resource to provide pragmatic advice to assist new managing partners with their critical burning issues and help them succeed. **The LAB** is comprised of the following distinguished current and former law firm leaders: Angelo Arcadipane (Dickstein Shapiro LLP); John Bouma (Snell & Wilmer LLP); Brian K. Burke (Baker & Daniels LLP); Ben F. Johnson, III (Alston & Bird LLP); Keith B. Simmons (Bass Berry & Sims PLC); William J. Strickland (McGuire Woods LLP); Harry P. Trueheart, III (Nixon Peabody LLP); R. Thomas Stanton (Squire Sanders); Robert M. Granatstein (Blake Cassels and Graydon) together with Patrick J. McKenna.*

By Jeffrey Carr, Patrick Lamb, Patrick J. McKenna and Edwin B. Reeser

Value Focused Fees: It's No Longer Whether or Even Why Not – Now It's When?

THE CRITICAL ELEMENT IN ALTERNATIVE FEE STRUCTURES IS HAVING AN ELEMENT OF SHARED RISK AND PERFORMANCE. WE CALL THESE "VALUE-FOCUSED" FEE STRUCTURES, AND WHILE SOME DEBATE THE INTERSTICES OF THE DEFINITION OF "VALUE," IT REALLY COMES DOWN TO EFFICIENCY, EFFECTIVENESS AND CUSTOMER SATISFACTION. THE DEBATE IS NO LONGER ABOUT WHY OR WHETHER WE SHOULD MOVE TO VALUE BASED LEGAL SERVICE DELIVERY MODELS – IT'S ABOUT HOW AND WHEN.

The "stickiness" of the billable hour reflects four basic realities. First, billing by the hour is in the interest of the firm because the enterprise is built on increasing revenue, realization, and leverage.. Second, lawyers, while analytical and calculating, are known neither for creativity nor risk appetite. We tend to be conservative, focused on precedent, identifying legal barriers for our clients by amplifying the negative, and seeking ways to eliminate, avoid or mitigate actual, potential or imagined risk. Third, lawyers are generally better at arguing and debating than doing. We've had more than a decade of discussion about alternative fees and the demise of the billable hour, but little actual movement. Sure, there are pockets of enlightenment and the environment for change has ripened. Perhaps even a tipping point has been reached. But complacency and vested interests in perpetuation of the status quo, traits shared by both outside and inside counsel, remain as formidable hurdles to change. These barriers are due to the failure of the in house counsel to foster and demand change. Fourth, while law now is "big business," most lawyers lack the training, instinct and interest in understanding how business really operates. Most are unprepared to perform the managerial functions essential to running an efficient and effective economic enterprise.

Let's examine how to get where we all agree we are going.

We have to stop the "it's all about me" mentality.

It should be about the firm and the company, not the individual. Reducing net legal costs and increasing net recoveries contribute directly to the bottom line. In house and firm lawyers should recognize their interest and responsibility for each and be rewarded and penalized accordingly.

"The client's most basic fears about alternative fees are that they will ultimately pay more, that the firms are simply locking in profits and avoiding risk."

We have to recognize that while the system may be broken, we're in this together.

While "in-sourcing" is always less expensive, we can not afford to have the capacity and capability inside for all types of legal service, let alone peak demand. While in-house lawyers need to reduce costs, they also need outside providers. This means the outside providers must be financially sound and profitable. The goals of providers' profitability and reduction of in-house costs are not mutually exclusive if both parties shift away from top line revenue growth for the firm to increasing profitability through cost reduction and efficiency.

We have to make value the focal point of all relationships.

If you pay by the hour you buy hours – not results or satisfaction. If we shift the engagement to value, we'll focus naturally on efficiency and effectiveness.

We have to build systems that are not zero sum games.

The client's most basic fears about alternative fees are that they will ultimately pay more, that the firms are simply locking in profits and avoiding risk. Firms fear that clients will not treat them fairly and want to reduce firm profits. Individuals on both sides of the aisle fear performance criteria threatens their job and economic security and diminishes their "professional" independence and stature. Effective value focused structures recognize and reconcile these conflicting fears and interests.

We have to move towards the highest and best use of lawyers.

Law firms are economically inefficient at providing process and content – partly because of high labor rates but primarily because both inefficiencies bolster revenue generating hours, which is consistent with the current structural model. Lawyers are good at (and get more job satisfaction from) advocacy and counseling – but those activities generally yield lower aggregate hours. Value focused systems should encourage efficiency in the former and reward effectiveness in the latter.

We have to stop mutually destructive practices.

Every time we say "we hire the lawyer, not the firm," we empower the individual attorney to act as a free agent. Every time a firm "buys a book," we encourage the view of clients as chattel. Once we find a firm that walks the value talk, we should see the relationship as B2B not B2A, and stay with the firm so long as it continues to walk that talk. Firms, on the other hand, should hire and keep only those attorneys that get the importance of value focused engagements.

We have to make this important for those that work for us.

It is the responsibility of leadership to replace law firm remuneration systems that encourage inefficiency and in house engagement models that ignore value-focused disciplines. Without the right tone at the top, the mood in the middle and the focus on the floor cannot move to value.

We have to understand that with change sometimes comes dislocation.

For the good of the enterprise, it can neither hire nor afford to keep those that do not embrace the particular flavor of value focus that's appropriate for the enterprise. Those that won't or can't share those values may be perfectly good lawyers – indeed they may be great lawyers – they just are not going to be good lawyers in the enterprise and they should move on.

"The only questions now are what particular type of value focused fee structure works for you and how will you get your stakeholders to change?"

We have to rally around those that are doing it right.

There are many paths to enlightenment in this area and one size does not fit all. We need to celebrate and promote the success stories, learn from what has and has not worked, and offer to be mentors to the increasing number of fellow travelers that want to start but somehow just can not find their way. The brighter we make the light of those who have taken the road less traveled, the easier it becomes for others to see their way.

Finally, we have to have the courage to lead, the creativity to experiment, the fortitude to perseveres and, yes, even the character to learn from failure.

There will be failures. It happens whenever something new is tried. So the fact of failure is not significant. What is significant is how we learn from those failures.

FMC Technologies, a Fortune 500 company, spends less today on total legal services than it did eight years ago. That's pretty astonishing in a world where law firms have raised their rates approximately 8 to 10 percent per year, internal costs (driven primarily by personnel expenses) increased approximately 4 percent annually, and there is increasing demand due to regulation, globalization and growing complexity. We have reduced actual legal spend while more than doubling the size of the company. One of the most important reasons for that performance is that we have for years used performance based, value focused fee structures. For several years, 100 percent of our U.S. work, and most of our international work, is done on an alternative fee basis.. Our most common model is a variant of the hold-back model. We call our version the Alliance Counsel Engagement Model or ACES©. In our simplest iteration, we hold back 20 percent of the fees and expenses paid and then pay 0 to 200 percent of that hold back based on the firm's report card. That report card has six factors - -which, are the same six factors used in the Serengeti Tracker attorney evaluation tool and the ACC Value Index. Those factors all relate to effectiveness, efficiency and customer satisfaction – in other words, value.

By having skin in the game, paying bonuses for truly outstanding performance (not just good quality work), we have constructed a system that requires up front establishment of expectations, encourages constant communication of progress and variations, provides meaningful feedback on performance, and fosters continuous improvement. Though our total legal expenses have declined over time, last year we paid on average 107 percent of invoice – in other words, we bought fewer hours, paid more for them, but received value in the form of efficiency and effectiveness. The firms realized a higher profit margin on those hours and had more inventory or capacity to sell to others. In my world, that's a win-win!

It can be done – but it requires discipline, introspection, creativity, dislocation and perseverance, The question for you is not should you move to value focused fees or even why haven't you? The environment and even your fiduciary responsibility to your company have answered those questions for you. The tools are there. The help and mentoring is available. The time is ripe. The only questions now are what particular type of value focused fee structure works for you and how will you get your stakeholders to change?

This is one in a series of eight (8) articles on Alternative Fee Arrangements that were written by Carr, Lamb, McKenna and Reeser and were first published in the Los Angeles Daily over a three-month period. You may download all eight at: www.patrickmckenna.com

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by Managing Partner LAB

THE QUESTION OF WHETHER TO FOCUS ON CORE PRACTICES

NOTES: FROM THE LAB

QUESTION:

As managing partner I believe that this is an important time for our firm to assess our strengths and strategically choose those practices for which we want to be known. There are three practice groups that I've identified as our best prospects for the future – for our competitive market position and for the firm's profitable growth. These would be the core practices in which I would envision that we invest the majority of our time and resources to build in 2010. The question (that I would sincerely appreciate the LAB's advice on) then becomes how do I sell this internally without causing certain partners (and staff) to feel that they are second-class citizens or incite a palace revolt?

RESPONSE:

It seems to us that there are two issues represented in your question. One is the issue of whether a strategy of emphasizing one or more practices over others is wise. The second is how you maintain unity and teamwork within your firm if one or more practices are identified as core and others are not.

A CAUTION IN IDENTIFYING CORE PRACTICES

One of the mistakes to be avoided as a managing partner, is responding to the regular calls of various consultants to engage in the latest fad. We all remember those various flavor-of-the-month initiatives where numerous firms wasted huge resources. Today, there are those who would advocate that you should ***only*** focus on a few core areas.

Thus our first caution is that any action which has the effect of emphasizing one practice area at the expense of another or which eliminates a practice area can be very destructive to the morale and collegiality of your firm and must be approached with a great deal of factual research and sensitivity.

Before you proceed too far, it is important to recognize the 'pendulum effect' – that practice areas can have their good years and their bad years. In times like these, we often find that some of our practices that weren't particularly high flyers a couple of years back are now functioning quite nicely, and may even be serving as a draw to attract new clients to the firm. Many of us have had the occasion to watch one particular group struggle for a couple of years only to then become the group that carried the firm for a while after that. We need to always realize that there is a cost to carrying a strong bankruptcy practice through the good times that is handsomely repaid in the lean times. And similarly, having a strong M&A practice may be a financial drag through a recessionary period, but promises to offer a tremendous upside in good times.

That said, over time some practices do **become less profitable.** Over the years we have all seen whole lines of business / practices shrivel to a shadow of their former selves: anti-trust, nuclear power and environmental being three that come to mind; and while some of those may be coming back, in some cases there has been at least a 20-year hiatus. For many firms, the labor and employment practice is another good example. It may be less profitable than it once was and less profitable than some other practices within the firm today, but we still need those lawyers.

There are also times when it becomes clear that a practice area **may no longer be compatible** with your firm's business model. This may be because of the economics of the practice or because the practice area is incompatible with other key practices or the majority of the firm's client base. Some years ago many large firms decided to get out of the insurance defense business because the economic model of that practice had evolved to a point where it was incompatible with the firm's cost structure. In situations such as this, it makes no sense to continue to invest resources in the practice. It is not fair to the lawyers in the affected practice area to simply allow the practice to wither and die. It is better to address the issue head-on while the practice may still be strong enough to have a chance to be successful in another situation.

> ***"Any action which has the effect of emphasizing one practice area at the expense of another or which eliminates a practice area can be very destructive to the morale and collegiality of your firm and must be approached with a great deal of factual research and sensitivity."***

Our second caution then is to avoid anything that announces to your firm in effect, that we no longer care about the X practice. It is better to develop a plan and deal with it- and communicate with the group involved directly. Some examples: we are getting out of the practice, let us work with you to get you settled elsewhere; we have too many resources for the work - we need to adjust; if you want more people or marketing dollars you need a plan we can all believe in; we think you should change your product line; combine with another group, and so forth.

Understand that we are not advocating that you try to be all things to all people, it just means that to the extent you have good people who are contributing to the top and bottom line, those people need to feel that they are an important part of the team. You have to focus on what is essential and what is excellent. You've got to insure that what is essential -- litigation, tax, IP, transactional -- is sustained and nurtured. And you have to build and sustain what you have that is truly excellent and unique.

PROCEEDING TO IDENTIFY CORE PRACTICES

If we read your question to be about how to responsibly manage the optimal allocation of your firm's scarce resources, we would all agree that strategic decisions are constantly needed concerning where to put scarce resources.

For example, if you are a mid-sized firm in a mid-sized market with limited resources and you want to continue to grow and create opportunities, you almost have to identify the practices where you are going to direct more of your resources. As we look around at successful firms, many are becoming more focused, which is to say - have fewer small, weak practices - those that do not add to the whole, except perhaps marginally positive cash flows. And if they do not do even that over mid to longer term, then why are they there?

Here are some suggestions for your consideration in moving forward:

1. ***Collect and get all the facts to support any decisions.***

Practices within law firms are not created equal; some invariably will be stronger than others as a consequence of many different factors, including, among others, effectiveness of the professionals, leadership of the practice, cyclical (our countercyclical) demand for the practice's services.

All law firms today can and must prioritize their strategic investments and make judgments about their optimum deployment of scarce resources. That necessitates an ongoing and dynamic business analysis of market positions, strengths and weakness, competitive pressures, client demands and other market place realities. Although that effort will often prompt shifts in practice focus, as well as differentiating levels of investment, in our experience, that seldom results in dramatic or immediate practice dislocations that could cause great alarm or prompt involuntary partner revolts or departures. Indeed, partners should be concerned if there isn't some amount of business analysis guiding the firm's strategic decisions and should also realize that building a stronger firm benefits all. Does that mean that a few positioning elbows don't get thrown in the process or that small beads of petty jealousy sweat don't form momentarily on a few foreheads? Of course not, but if the business analysis is sound and the process of arriving at prioritization decisions is thorough and fair, the outcomes tend to be fairly readily accepted.

One approach is to think about your practices at three levels - those with opportunity for significant growth, including growth in profitability, relative to other practices; those that are sustaining practices that are part of the core revenue and profit base of the firm; and those that are struggling and perhaps in addition, may not add much to the whole. You need to take a long-term view in making these judgments. Based on those judgments you will add resources to the first, provide sustenance to the second and restrict resources to the third. if you do not think there is much hope for a change.

> ***"One approach is to think about your practices at three levels - those with opportunity for significant growth, including growth in profitability, relative to other practices; those that are sustaining practices that are part of the core revenue and profit base of the firm; and those that are struggling and perhaps in addition, may not add much to the whole."***

We should add that in thinking about how to decide which are your higher priority practices you might also look at two factors which we think are sound on a pure business basis but which also help generate firm support:

- Is the market target - practice/ sector - likely to provide spin off work - e.g. Private Equity does to many groups; as does energy project finance; etc. and
- does the practice have the potential for providing some form of "halo" effect for the firm - i.e. improve the firms overall market profile.

Yet another approach might be to put a little less emphasis on practice groups internally and place more emphasis on multi-specialty client teams or industry groups. Emphasizing teams in dealing with the client and in compensation is pretty important. Even if you emphasize practices to gain strategic advantage, everyone is still part of the same team and are servicing clients as a team together.

2. ***Don't go it alone.***

If the allocation decisions reflect material change, they should be made by the leadership of the firm. It is important, that a broad base of firm and practice leadership be involved in these strategic review and prioritization efforts under the framework and guidance provided by the Managing Partner. As Managing Partner, you cannot and should not try to go it alone.

3. ***Take a long-term view.***

As leaders, we must remember that developing a consensus among the partners (owners) on practice area strategies is critical. Your strategies should be based on well-established long-term trends and not just short-term market fluctuations. It can be a mistake to lose talent now, only to pay a premium later to replace it.

4. ***Communicate to ensure that everyone is on the same page.***

The more your action is based upon sound, collective and communicated business analysis, the more successful it is likely to be, and/or the less damage it might otherwise avoidably create. It is reasonable to devote resources to those practices that have demonstrated success and the potential for success and to emphasize those practices in deciding how to allocate resources. Doing so reinforces the successful practices, but this approach can also serve as an incentive to other practices to emulate those in which the firm is investing.

The issue of practice area differentiation, whether it arises by evolving practices or strategic decisions, is very difficult. As with most difficulties within the firm, honest, candid communication can avoid a lot of problems. If a strategic decision is made to emphasize a few practices over others, it helps a lot to go through a process of arriving at that strategy that gives people the opportunity to come to the conclusion that the strategy is going to strengthen the firm and be better for everyone. If the differentiation comes about as a result of natural market evolution, honest conversation that brings the lawyers in that group out of denial is important.

We have all talked to potential laterals who took a message from their firm, that was clearly not what was intended by their firm's management. Thus there needs to be bit of "all children are above average" in "Your Firm LLP" communications, while you manage the underlying reality.

5. ***Ensure that the core practices understand the need to share.***

Good communication is second only to fair compensation in keeping law firms healthy. If some practices are going to be emphasized, other practices may move into more supporting roles. The core practice partners have to be willing to share the bounty if they want to continue to have the other practices in the firm and in supporting roles. If resources are to be directed at two or three practices and the strategy is working, the compensation metrics for lawyers in those groups are just going to look better. If the firm does not want to become a three-specialty boutique, the people getting the most resources need to not be greedy. One of the things you are likely to hear is, "We cannot attract young people to our group because there is no future." Of course, there is a future, but the money may not be as good. Most people do what they enjoy, not what maximizes the last dollar. But, if there are wide disparities in compensation, people may not go into those groups or people may leave those groups. You might even need to make a partner in one of those groups on marginal numbers if the group is to continue to be viable.

Lawyers from your less-emphasized practices also need to be included in the leadership of the firm. Having people from those groups in leadership roles lends stature to the group and helps them understand the strategy and become a part of it.

6. ***Make decisions based on the quality of the plan.***

You should make your resource allocation decision in part on the basis of the quality of the plans developed by groups and their track record for sustained implementation. Why fund a great idea if you know you do not have the team that will successfully implement it?

You should try to work with both your core and troubled practices to develop plans for improvement and where appropriate, provide some support funding. As a pure hypothetical, think of the labor and employment area where volume is predicted to go up but pricing is under stress. Helping that group to develop a plan to deal with both sides of that challenge - how to do more and make money at it - could be as advantageous to your firm as chasing an emerging practice area.

We think it prudent that firms make some investments in emerging areas and recognized both that some will not pan out and that some will, but will take longer than anticipated. Firms need to understand and have the courage to accept that sometimes they will be wrong.

IN CONCLUSION

These are difficult and politically sensitive decisions. Ultimately, partners and employees need to feel comfortable that the decisions are informed, thoughtful, fair and in the firm's best interest. We all recognize that there are some sea changes occurring out there, which make "steady as she goes" a difficult and probably unwise policy; but, ramming the lighthouse is not necessarily an effective course correction either.

At the end of the day, we all recognize that every one of our lawyers think they should be the drum major and spin the baton. That's where your leadership comes in. You have to foster the kind of culture, through leadership, where, even if other practices are emphasized, everyone feels included and no one feels like a stepchild. You can do it every day in little ways by showing respect, communicating, and publicizing the successes of non-core groups with the same vigor as you cheerlead the successes of the more emphasized practices.

A portion of this Q&A was excerpted and published in the February 2010 issue of American Lawyer magazine.

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by Patrick J. McKenna, INTERNATIONAL REVIEW

Law Firm LEADERSHIP REFLECTIONS:

Practical Advice For Those Who Manage

Getting Your Partners To Follow-Through

How do you ensure task completion when important projects need to get implemented, when partners seem to agree to participate, but when you are not really certain that you are going to get committed follow through?

Whether it is in a practice group setting, around the table with the members of your Strategic Planning Committee or wherever you happened to be working with your fellow partners, this seems to be one of the most common challenges. That said, there are seven important steps you can take to ensure results (in most cases):

1. ***Ensure that the undertaking is voluntary.***
Far too often the group leader (in their wisdom) thinks that George is the best person to do a given task and publicly arm-twists (or subtly embarrasses) George into taking on that task. Now ask yourself: just how motivated is George really going to be with an assignment that was delegated to him under those circumstances? Even worse, I often see those instances where one particular committee member was absent from a meeting and the others debated about what project "to stick Jennifer with responsibility for." Now, once again, should we really be surprised when people don't follow through? Keep in mind that when someone voluntarily takes on a task they are far more committed to ensure the completion of that project. Your role as the leader is to seek out voluntary undertakings from each of your fellow partners, even though you might strongly feel that someone else is better equipped to do a specific project.

2. ***Where possible, break the endeavor into smaller steps.***
Some of the tasks that need to get done may be fairly huge in that to complete the total undertaking will take more than two or three hours of some partner's time. When that happens get the partners to break the task down into its logical and sequential phases and estimate a time-frame for doing each phase. Even if you think you know how long each step should take, you want buy-in from the individual doing the work. Then when someone is taking on this task we can examine which steps of the task to start with and ensure that they are not setting themselves up to fail.

3. ***Ask each partner, specifically, what he or she will deliver back to your next meeting.***
It is quite conceivable that even an enthusiastic partner might go off and tackle some project only to ultimately deliver a result that was not anywhere near what everyone in the group was anticipating. Therefore, it is helpful for everyone to think about any particular task in terms of the desired outcome or deliverable - what they expect to bring back to the next meeting – whether it is simply a written report or evidence of what action was undertaken. Ideally it is something tangible to show that progress has been made. As the leader, you need to ask each partner to briefly summarize (for the group) what they understand the work is that needs to be done, how they might approach the task, and whether they forsee needing help from anyone else in the group. Doing this will put them in the right mindset to owning the task and ensure that both they and you understand exactly what the outcome or deliverable will be. You might say something like, "I wan to ensure you and I both understand how this will unfold. Could you describe to me what you will do and when?"

4. ***Ask for a personal commitment*.**
When you have finally determined the parameters or scope of the undertaking, you then need to look your partner in the eye and say, "Now George, you understand that what is required here should take about three hours to accomplish. Given your current and anticipated client obligations, are you comfortable that you can invest three hours and deliver your report for our next meeting?" When people give their word, especially in front of their peers, that generates an even deeper level of personal commitment.

5. ***Determine an acceptable completion deadline.***
Ideally you want to have tasks accomplished before your next meeting such that any status reports might be circulated to everyone to review ahead of time and not waste the time of everyone at the meeting. For some strange reason, I've noticed that we often will pick a Friday as our deadline. Where possible, a Monday may make for a better deadline as most people don't really jump on their individual project until the last minute anyway; and a Monday often allows the weekend for more reflective thought.

6. ***Produce a written summary of the commitment.***
When working through the various tasks that need to be undertaken during a meeting, it is advisable to written them all down – on either a whiteboard or paper flip chart – for all to see who is going to do what and by when. To help people remember their individual commitment, you can then transcribe those flip chart sheets into meeting minutes and circulate (within 24 hours) to all attendees. Most organized people agree that there is something about the physical act of writing down a commitment that makes it easier to remember and more likely to be acted on.

7. ***Follow-up with each partner one-on-one.***
One of the most valuable ways in which you can spend your leadership time is following up with your partners, between meetings – to *offer your help* in ensuring that they complete their task. You know that your star performers don't need to be managed. They absolutely do what they say they will do, which means being really careful about what they say they will do. Others in your group may well need someone with the patience to prod them a bit and offer their assistance, so that best intentions actually do get implemented.

Finally, carefully manage your (leadership) time.
If you accept the proposition that your work is infinite and time is finite, you realize you have to manage your time and not your work. You need a laserlike focus on doing first things first. And that means having a ferocious understanding of what you are not going to do. The question used to be which phone call you wouldn't take. Now, it's the discipline not to have your e-mail on. The skill is in knowing how to sift through the blizzard of information that hits you all the time. That's a different skill from what you may have needed 10 years ago, but the fundamental principles don't change.

How To Stay Focused

Determine what is most important to you or your team accomplishing. Ask yourself:

- What can we be the very best at?
- What are we absolutely passionate about achieving?

The place where those two answers intersect should help you focus on your compelling purpose. Keep it very simple. Complexity is the enemy of focus.

When we try to focus on too many things we often end up accomplishing nothing. The vast majority of us (even really smart people) can hold only three goals, or three issues, or three ideas in their heads at any one time. That seems to be the maximum. So when you have a rule that holds up, don't violate it. Limit your firm's primary goals, critical issues, and top tasks to three -- no more. If you can live by this rule, you will see that life becomes much easier. The Rule of Three is also a maxim of good communication - - limit your message to three main points and your power of persuasion will go up dramatically.

Write down your three goals and keep them visible at all times . . . literally. Keep your goals out on your desk for you to constantly see. This will help you start focusing your thoughts and actions toward achieving those goals.

Your non-billable time and energy are precious resources. Saying yes to one compelling pursuit means saying no to something else. Say no to anything that prevents you from focusing on what is most important. As I counsel new managing partners: **Create a stop doing list.** Identify those activities, tasks, meetings or reports that do not directly support what is most important to be accomplished.

Start every week with a list of what you need to do to achieve getting one step close to realizing your goals. Conclude each week with an assessment of your list. Cross some off, reassess some, rollover others.

Celebrate some small and positive step that has been made toward accomplishing your goals. Look back to appreciate how far you have come. It helps refuel your passion.

The above was excerpted from www.patrickmckenna.com/blog

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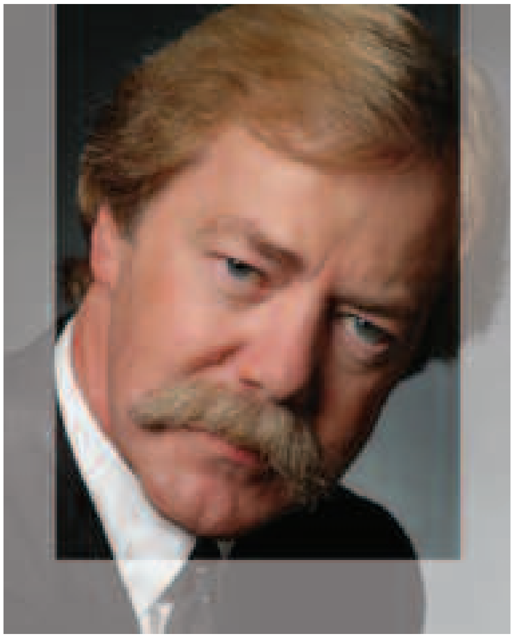

PROFESSIONAL PROFILE

An internationally recognized authority on law practice management, Patrick McKenna serves as co-Chairman of the Managing Partner Leadership Advisory Board, a forum for new firm leaders to pose questions about their burning issues. Since 1983 he has worked with the top management of premier law firms around the globe 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 works include *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), both of which were Top 10 Management bestsellers.

One of the profession's foremost experts on 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; has been 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 in 2006, his e-book *First 100 Days: Transitioning A New Managing Partner* (NXTBook) earned glowing reviews and has been read by leaders in 63 countries. The book *Management Skills* (John Wiley, 2005) named McKenna among the "leading thinkers in the field" together with Peter Drucker and Warren Bennis; and in 2008, the book *In The Company of Leaders* included his work amongst other notable luminaries like Dr. Marshall Goldsmith and Brian Tracy.

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

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, and holds professional certifications in both accounting and management. He has served at least one of the top ten largest law firms in each of over a dozen different countries on issues associated with strategic differentiation, improving profitability, client service excellence, and effective firm management.

2010

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FIRST 100 DAYS:

MASTER CLASS FOR THE NEW MANAGING PARTNER

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

Frankly, your master class really made me think about how to manage this transition. Not an easy thing in light of the circumstances. By the way, if you have graduate courses that continues on from this master class, please let me know.

Ira C. Kaplan
BENESCH FRIEDLANDER COPLAN & ARONOFF

WHEN: Tuesday August 17, 2010

E-mail: patrick@patrickmckenna.com *for a copy of the agenda*

WHERE: Glecher Center, University of Chicago

HIT THE GROUND RUNNING:

MASTER CLASS FOR THE NEW PRACTICE GROUP LEADER

Congratulations! You have just been appointed as one of your firm's newest practice group leaders and you now have the care and custody of a group of your peers. This may be your first experiencing in managing or leading (or whatever you call it) a group. To be effective you must now forge a team out of a group of autonomous individuals. Only one small problem . . . you were never trained or given any guidance on how to go about organizing and managing a group of your fellow professionals. So, now where do you turn?

For what it is worth I thought the training was excellent across the board. The interaction with the others was great as far as getting ideas and we even ended up continuing it a bit at O'Hare when we were delayed and I ran into some of the others. I have a lot to learn in this role but you certainly gave me a running start. I have already utilized some of the concepts at a team meeting last week and really got a pretty enthusiastic reception. Thanks again.

Jay M. Rector
FOULSTON SIEFKIN LLP

WHEN: Wednesday August 18, 2010

E-mail: patrick@patrickmckenna.com *for a copy of the agenda*

WHERE: Glecher Center, University of Chicago

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