

**EFFICIENCY IS
NOT THE
COMPETITIVE
ADVANTAGE**

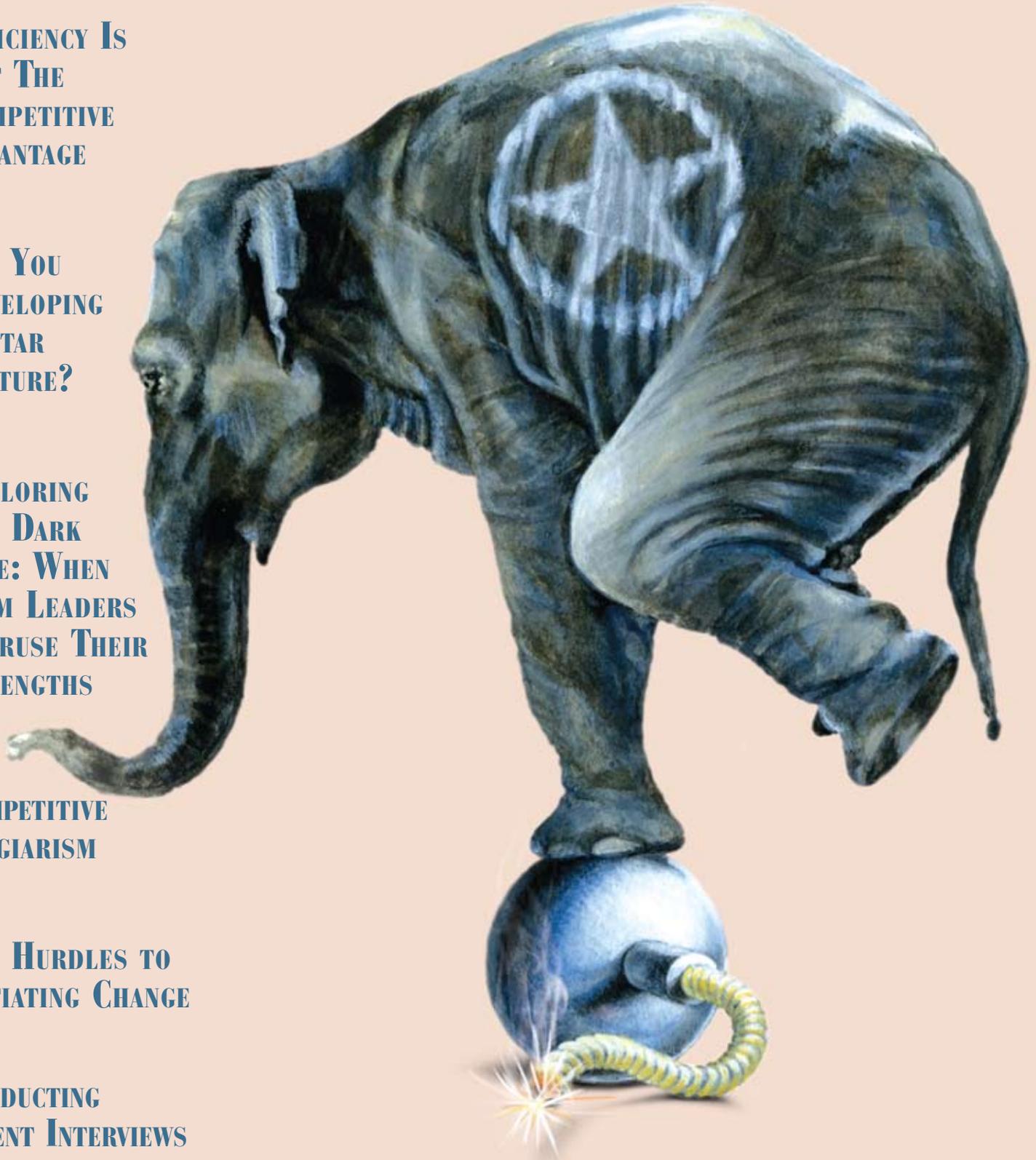
**ARE YOU
DEVELOPING
A STAR
CULTURE?**

**EXPLORING
THE DARK
SIDE: WHEN
FIRM LEADERS
OVERUSE THEIR
STRENGTHS**

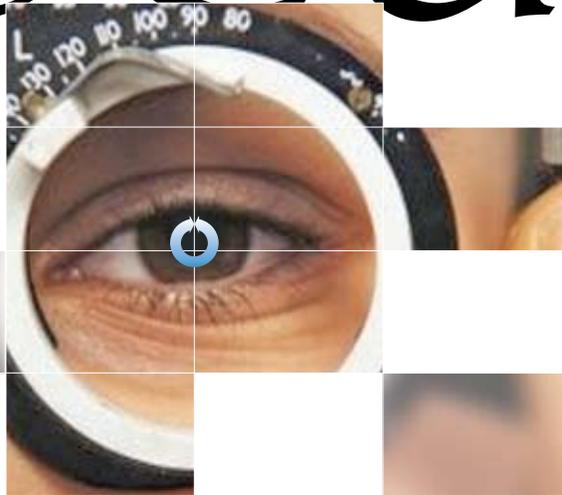
**COMPETITIVE
PLAGIARISM**

**THE HURDLES TO
INITIATING CHANGE**

**CONDUCTING
CLIENT INTERVIEWS**



BRING YOUR FIRM INTO FOCUS



BECOME THE LEADER IN YOUR FIELD

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

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

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

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

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

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

rewards performance and leadership.

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

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

PROKELLSEO

Dear Valued Clients and Friends:

I believe that my colleague Ed Reeser and I were amongst the very first to start cautioning firms about the overuse of lateral hiring, efficiency - at producing commodity work, and excessive compensation spreads. These articles have been intended to warn good firms among the AmLaw 100, 200 and below of the dangers that may lie ahead if they pursue some of these same strategies and we are gratified by the supportive responses we've received from many firm leaders. In this issue we continue on that same theme with two articles, **Efficiency Is Not The Competitive Advantage** and **Are You Developing A Star Culture?** Our piece on Star Cultures received a lot of attention throughout July and August in Texas Lawyer, the ABA, The Legal Intelligencer, Law Technology News, and American Lawyer – where it ranked among the top five “most viewed stories” on multiple web sites.

In our First 100 Days program (see back cover) we introduce new firm leaders to the same personality assessment taken by Fortune 500 CEOs and designed to identify their ‘Dark Side’ - a personalized assessment of those strengths you possess that, when under extreme pressure or stress, can turn into vulnerabilities. I am delighted to include an article, **Exploring The Dark Side: When Firm Leaders Overuse Their Strengths** that emanates from research conducted over the past five years.

Finally, **Competitive Plagiarism** warns us of what can happen if we consciously or inadvertently replicate the strategies that others may be pursuing; **The Hurdles To Initiating Change** offers a view on what might be holding back some firms from being more innovative; and **Conducting Client Interviews** draws upon the wisdom of some insightful clients as to their expectations when law firms come looking for feedback.

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

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Efficiency Is Not *the* Competitive



Efficiency in any firm, in and of itself, is not the competitive advantage. There is a big difference between being efficient and being effective. It's not that becoming more efficient lacks importance, but far too many firms only seem to be investing significant time and resources about being more efficient – at the expense of being effective.

ness. No amount of efficiency would have enabled the manufacturer of buggy whips to survive.”

Law firms are all too often focused on being efficient at doing the wrong things.

• Efficiency At Producing Commodity Work

Every firm is dealing with clients striving to get more for less. As a leader you can easily get stuck in an efficiency mind set and become totally reactive. Today it is hard to find many firm

clients – and make doing them a little bit better. It is relatively safe, measurable, and satisfying. Alternatively, effectiveness requires that we transition from an operational (internal) lens (are we doing things the right way, a managerial imperative) to the strategic (external) lens and requires that we consider the leadership imperative – are we even doing the right things in the first place? This can be a stressful question to answer. It may mean questioning the kinds of work that we are accepting and doing for clients. It may

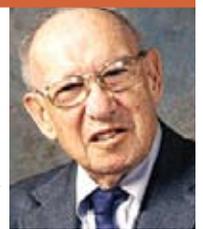
Management thinker Peter Drucker addressed this topic decades ago. Here's what Drucker wrote in his book entitled *People and Performance*:

“Efficiency means focus on costs. But the optimizing approach should focus on effectiveness. Effectiveness focuses on opportunities to produce revenue, to create markets, and to change the economic characteristics of existing products and markets. It asks not, how do we do this or that better? It asks, which of the products really produce extraordinary economic results or are capable of producing them? Even the most efficient business cannot survive, let alone succeed, if it efficient in doing the wrong things, that is, if it lacks effective-

leaders that aren't encouraging their attorneys to embrace cost-cutting, project management, process improvement and other such initiatives designed to make their individual practices and their groups more efficient. Indeed, all of these tactics are included in most firm's (supposed) formal strategic plans and can quickly evolve into being your firm's primary focus.

Thinking about efficiencies is easier than developing effectiveness. You simply focus on the way you do things now – like the kinds of matters and engagements you are already doing for

mean questioning why we are discounting our fees, only to fill our shops with more low-margin (commodity) work. Many of your partners don't want to deal with this issue. In a difficult environment where they are being called upon to improve their revenues, they simply want to put their heads down, keep moving (not necessarily forward) and continue with what they're already doing. For these partners, thinking about effectiveness is too long term.



Advantage



However, real competitive advantage is built on effectiveness, not efficiency. Consider – have you invested so much time being efficient at doing commodity legal work that you’ve missed the opportunity to invest some of that time in building your skill-set to find and do the higher-value work? In your firm, have you focused so much attention on project management and incremental gains that you’ve failed to engage your partners in seeking opportunities to be entrepreneurial or constructively disruptive?

Take general litigation, for example. While the prospects for truly exceptional trial lawyers will continue to burn bright, there is no lack of advice on how your firm can improve its efficiencies in handling litigation matters. But is that all there is to it? At a time when in-house law departments will willingly pay bonuses to avoid litigation, where is your firm’s investment in developing sophisticated tools and systematic techniques to rigorously help clients manage risk and avoid disputes? At a time when most lawyers are unfamiliar with online dispute resolution, in spite of the European Commission

having already formulated a draft regulation on ODR, have you thought of investing to build your litigators skills in this emerging and potentially important market space?

Firm leaders should be beyond agonizing over *efficiency*, and aggressively pursuing *effectiveness*. Firm leaders should be constantly questioning: What needs are emerging in our particular markets? How can we get out ahead of the curve to anticipate clients’ needs before clients even know those needs exist? Most importantly, how can we build our skills in new and emerging areas that may prove to be highly profitable market niches in the years to come and allow us to meaningfully differentiate ourselves from competitors?

Constant obsession around improving efficiency becomes contradictory to pursuing excellence, innovation, and dynamism.

• Efficiency At Pricing Services

As economic pressures increase, the debates over legal fees will intensify for many years to come.

Most firms have reacted to these pressures by attempting to adopt various alternative fee arrangements, usually in those practices where it suited the firm and where the firm could be assured of still making a good profit. But even if you were incredibly efficient at developing AFAs, it would still not provide you with much of a competitive lead, for within a short time other competitors will match or better your position. Cutting costs and reducing prices rarely provides a competitive advantage for long.

In this case, unfortunately, AFAs seem to be failing to deliver significant savings for clients. What we hear most often from in-house lawyers is that their requests for discounts are largely being driven by their not seeing much of an overall reduction in costs from

employing AFAs. Law firms have not succeeded with their efforts to make price efficiency work. Indeed they have built AFA proposals on billable hour metrics, thus making them “a rose by any other name is still a rose”.

Alternatively, those who are more focused on effectiveness have gravitated from obsessing over how to price differently to exploring how to do the client’s work differently. These firms are examining both litigation and transactional work by breaking them into their different component pieces and then determining how each of those pieces, from legal research through to legal strategy might be effectively handled – which could mean utilizing the firms lawyers to even utilizing alternative providers outside of the firm to execute certain components of the client’s matter. Indeed it is even leading to finding ways to solve the problem in the most client advantageous matter as the foremost priority.

• Efficiency in Generating Net Operating Income

This may be one of the more powerful examples of efficiency destroying effectiveness.

In the panic to maintain reported profits, law firms have become supremely efficient in de-

“**H**ave you invested so much time being efficient at doing commodity legal work that you’ve missed the opportunity to invest some of that time in building your skill-set to find and do the higher-value work?”

equitizing partners to maintain profits per partner, accounting gimmicks to overstate income,

lateral hiring and mergers/combinations to buy books of business to show 'growth' in revenues, building a production caste of income partners, installing wide compensation spread systems for equity partners, coercing partners to make higher capital contributions, using debt to fund distributions, reducing promotions to partner from within and building the partnership with newcomers from sources outside the firm. Firm cultures are sacrificed, training and mentoring of young lawyers essentially abandoned, lawyers are flogged for higher billable hours quotas, billing rates raised, and compensation systems built more on political power, and in some cases outright deception to the partners, rather than rational economics.

“Is your efficiency directed to the operation of the business and generating net revenue gains, or the consumption of your human resources for redistribution of a stagnant income pool, and thus hastening the demise of your firm?”

How much of that is *effective* at making a better law firm? More importantly, how *effective* is it at making the business a better provider of legal service to clients, which is critical to its medium to long-term survival?

• Efficiency In Satisfying Clients

Let's look at one more example. Take the case of

client satisfaction. Let's say you conduct a survey and discover that some clients are disgruntled about something your firm is or isn't doing. Perhaps some client didn't think that their lawyer is as responsive as they might wish. The lawyer in question isn't returning the client's calls fast enough. What would most leaders do? They would start investing time and resources focusing on how to make this situation better. They might explore wait times for answering the phone, returning calls and whether the firm needed to introduce some kind of formal procedures to enhance efficiencies.

An effective leader, in contrast, might want to know how this satisfaction rating correlates to importance. If a client is dissatisfied about something, how important is that to them. In other words, if you are trying to understand the value drivers, you need to know how clients rate such things as your fees, responsiveness and quality in terms of satisfaction *and importance*. It is the combination of satisfaction ratings and importance ratings that really matter – but leaders don't always think about the second part.

But for the purposes of our illustration, let's say that the client's dissatisfaction is combined with high importance. Now we do really have a red flag on the play! Again, an effective leader might look beyond this one expression of dissatisfaction to see how he or she might restructure the entire game rather than just fine tune. Remember, efficiency in any firm, in and of itself, is *not* a competitive advantage. In one firm we're familiar with, the expressed dissatisfaction caused the leadership to dig deeper into whether there were any particular kinds of calls that were not being returned quickly enough. They discovered that indeed, a good number of these calls were stimulated by clients wanting to know where their particular matters were at, having not heard from the lawyer over a period of a few weeks – even though the lawyer usually really had nothing

new to report. This insight stimulated the firm to develop a technological-based, completely transparent system that would allow clients to easily access the real-time status on any and all of their matters without necessarily even having to speak with their lawyer.

In the final analysis . . . Are you being efficient or being effective, or do you even know?

Is your efficiency directed to the operation of the business and generating net revenue gains, or the consumption of your human resources for redistribution of a stagnant income pool, and thus hastening the demise of your firm? It isn't enough to be efficient on the right things, it is critical not to be efficient at doing the wrong things.

Back to Drucker once more: "Effectiveness is the foundation of success—efficiency is a minimum condition for survival after success has been achieved."

Things don't always have to boil down to either/ or types of decisions. Balancing entirely different things is one of the critical success factors for good leadership. With the proper perspective and focus on the right things to be doing it is quite possible to be both efficient and effective. The two concepts can coexist so long as the focus remains on more than just short-term results.

This article appeared in the San Francisco Daily Journal and then subsequently in Managing For Success - a regular publication of the Law Society of England and Wales

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



Some years back, while working with the Strategic Planning Committee of a 300 lawyer, regional powerhouse, we were exploring various options for growth when one partner delightedly announced that an unsettled local merger presented the opportunity to obtain a great lateral. The candidate was a high probability capture, a former classmate who controlled a \$10 million book of business. Before anyone managed to weigh in, the managing partner said, "That would definitely not work for us!"

"Why not?" was the first question. He explained, "As tempting as it might sound, we all know that attracting a gorilla of that size would only disrupt our zoo. I fully suspect that it would simply be a matter of time before his presence and demands would serve to corrupt our firm's culture and everything we hold sacred. The risk would be just too high."

Looking back, we didn't fully appreciate what he was talking about then . . . but we do now!

When individual revenue production becomes the obsession within any firm, it seems inevitable that a "star" culture can emerge, with most of the returns from firm success allocated to a small number of individuals.

Starting in the fall of 2011, we outlined and then wrote an article (*Sliced Too Thin*) on the danger of wide compensation spreads in equity partnerships. It took awhile to get interest, but when the collapse of Dewey revealed that there were issues of this type directly relevant, the article gained traction and eventually was released in the June 2012 issue of *The American Lawyer*. Since that release, the article has generated a steady, if not spectacular, interest. Recently, with the advent of Steven Harper's book, *The Lawyer Bubble*, and the Am Law survey including partner compensation spreads as a feature in their reporting on law firm financial performance, the issue has gained even greater attention.

Are You Developing A Star Culture?

Let's cut to the core of spreads in partner compensation. A compensation system must not only be presented and perceived as fair; it must be a leadership imperative that it be as fair as may be reasonably expected to be, consistent with the firm's unique culture. And any system that is patently unfair, irrespective of the culture, is one that asks, indeed demands, people in the firm accept it. There will be examples where that is the case, either because partners and associates sign on to that expectation, or because they have no choice. But remember, the best talent with the best business in today's market does have a choice. And they don't always vote with their wallets. In many instances the best of the best go for what is 'right', because no matter what, they know they will be taken care of 'fairly'. How much of a stretch should it be for them to take a stand that is what it should be for everyone in their firm?

From the standpoint of partners and hopefully their leaders in a law firm, who wants to bring in, or for that matter retain, a "partner" whose attitude is that they don't care what is fair, they just want 'theirs'. Any managing partner worth their salt would escort that "partner" to the elevator immediately, with a promise to make arrangements for the shipment of their personal effects.

Individual power is related to dependence in most law firms. Depend on a partner for their book of business, or even for a particular skill set, especially if that partner's expertise is rare, and the power of that partner rises. When any individual acquires influence disproportionately higher than other partners, he or she can become almost indispensable to the firm and in many cases can demand special perks, preferential compensation or break rules that peers are expected to abide by. It does not mean that the firm would cease to exist were they to depart, only that it would present a palpable financial pain for some period of time.

Thus there can emerge a 'flexibility' where an expedient judgment may be that the better decision for the best interest of the firm is to provide a special accommodation, rather than risk or even initiate a departure of that partner. As a consequence if, as the firm leader, you are giving certain individuals preferential treatment or look the other way when star performers behave contrary to firm culture, you foster a double standard. Will resentment ferment among other partners, capable of undermining the performance of the entire firm? It damn well should. Trading doing 'right' for 'expediency' and convenience is not an option for leadership, yet it seems to have become standard operating procedure in too many firms.

Current demand for high-end legal services is proven to be flat. Yet many firm leaders dangle huge compensation packages, higher than what is paid within their own firm for comparable performance, to attract

rainmakers. Buying revenue by acquiring partners with portable books of business has thrown the majority of the Am Law 200 firms into a lateral hiring frenzy. Ironically, recent studies demonstrate — and about 40 percent of managing partners admit — that lateral hiring usually is not profitable for the firms that do it. Yet this strategy remains pervasive.

The related notion of adopting huge compensation spreads and thereby fostering the development of a "star culture" also prevails in the face of contrary data. The highest-paid law partners used to make three times more than average performing peers. Today, the newest Am Law statistics confirm our assertion that in many firms, rainmakers sometimes pull down more than twenty times what the lowest-paid partners earn. And lots of those lowest-paid partners labor mightily for them to receive it.

If this happens, is this necessarily a bad thing?

Your final decision is a matter of weighing the value that developing a star culture brings and the costs that come with it — and the costs are more than hard dollars. In our article, *Sliced Too Thin*, we warned about how widening compensation spreads can inadvertently weaken practice groups, especially when collaboration is required; foster tension between peers alienating your near or future stars; and eventually induce mid-level partners to leave your firm, a potentially catastrophic dynamic and leading indicator of potential failure of the firm.

Whether affirmatively adopting a star culture, or just allowing it to develop, there are other considerations for you to study:

- Don't obsess over the wrong metrics.

“Star cultures particularly suffer from their oversimplified compensation formulas, exacerbated because “origination” as a criterion for compensation puts no particular value on one form of business versus another.”

Star cultures particularly suffer from their oversimplified compensation formulas, exacerbated because “origination” as a criterion for compensation puts no particular value on one form of business versus another. Where many firms err in their star evaluation systems is by being unselective, by being obsessed by gross revenue, and by letting profits per partner become the sole criteria for success.

Success goes beyond a large book of business. There is the often the unexamined issue of growth potential. For example, Jonathan is a partner with a book of \$7 million in revenue derived from clients who occupy industries with little growth potential. Meanwhile, Jennifer is a partner with a book of \$3.5 million largely derived from serving her stable of bio-

technology clients, which are estimated to grow exponentially over the coming decade. Which of these partners is more valuable to your firm? And when?

Similarly, you have your partner George consistently producing 2400 billable hours and keeping a handful of associates very busy . . . all doing largely commodity work with a low margin/contribution to the partner profit pool. Compare that to Kevin, who will only bill 1450 hours this year as he continues to invest heavily in building his skills and marketing his cutting edge P3 practice. Again, which partner is more valuable to your firm?

Finally, you have your partner Mary, with a \$20 million book of business at discounted commodity rates. The practice is industry notorious for low rates, slow pay, as well as write-downs. Carefully examine Mary and her two key supporting partners, and the actual contribution to the profit pool is significantly exceeded by the compensation allocation they are receiving based on gross revenue. Plus 'star' premium. The hard truth is that the firm would be considerably more profitable without Mary. Contrast that with Kyle, who has a lean team of partners charging and collecting close to 98% of their recorded time, with an average accounts receivable turnover of about 40 days. The contribution to profit is twice what Mary's is, yet Kyle and his support partners receive half as much in compensation. Which do you want to keep, which can you afford to lose?

We don't know that there is one right answer to these questions, but what we do know is that the only thing that seems to command power in most law firms today is the individual attorney's book of business . . . as defined by gross "revenue" and little else. That clearly is a wrong answer. That revenue may largely derive from serving clients in a declining industry. No matter. That revenue may demand exorbitant overhead to maintain. No matter. That revenue may not even be truly profitable revenue once subtracting the 'star compensation' package. No matter. This one dynamic alone renders impossible the attainment of a compensation system that is 'fair', or even arguably so.

Star performance varies over time. There are countless examples of where world-class best athletes (Tiger Woods or David Beckham), the best musicians (Burt Bacharach), the best CEOs (Carly Fiorina) may see their performance decline. Meanwhile, just about all professional sports teams have numerous star players who were not deemed as such earlier in their careers. This means that depending on when you happen to look, stars may appear to be B players or vice versa. Let us not lose sight of the fact that many 'stars' didn't have anything magical about their skill sets. Many, perhaps even most, were just lucky to get the client that set up the chain of events leading to their current status. That is not to diminish its importance to the firm. But, it is important not to make the assumption that they are somehow all intrinsically 'better' lawyers or superior as partners.

Do stars deserve to be paid more than many other partners? Probably. That

would be "fair", and a firm that didn't do so would be giving the incentive for that partner to leave. But do you pay more than what your firm delivers to existing partners for comparable performance? Better think twice.

■ Don't suppress innovative behavior.

Earlier this year, the Georgetown Law Center for the Study of the Legal Profession issued a Report on the State of the Legal Market. The Conclusion of their report stated:

"The challenge now is for firms and their partners to be willing to think outside the traditional models – to burn the ships if you will – and to be willing to try new things and creative ways to deliver the high quality and responsive legal services that their clients want, using effective business models that serve both financial objectives and professional values."

It reminded us of a meeting with a large group of partners where we posed a number of statements for the congregation to both express their views and vote upon (a secret vote by virtue of electronic voting machines). One of the more telling inquiries that was posed was:

"How many of you have thought of some idea, potential new practice, new practice niche or initiative, that has the potential to generate new revenues for the firm?"

As we explored this same question, in a number of subsequent meetings with various groups of partners. The usual answer is somewhere in the range of 69 to 83 percent to the affirmative. So, what happens to these ideas?

What we have learned is that innovation becomes much harder to stimulate when you are swimming upstream against the currents of a firm culture that doesn't affirmatively and openly encourage it. Structures and processes do make a difference. They may not make innovation happen, but they prepare the ground so that any innovative ideas that exist will have some chance of getting a receptive hearing.

It is becoming widely recognized that your firm's culture is vital to retaining talent, increasing profitability and inspiring innovation. But what kind of culture is best for enabling these three things?

Professors Zannie Voss and Glenn Voss, both from the Cox School of Business (Texas) together with professor Daniel Cable, of the Kenan-Flagler Business School (North Carolina) queried the managing directors of 146 professional theatre companies to understand how much each company embraced one of three different organizational cultures: a collaborative culture, a hierarchical one, or a so-called "star" culture, where talent is compensated according to the 'perceived' economic value of their contributions.

The researchers examined three years of data about each theatre company's revenues and royalty streams – used to gauge success at innovation, since theatre companies earn royalties by licensing their own original works to other theatres. The researchers used a seven-point scale to measure the influence of the three different types of firm culture on each theatre company. They concluded that increasing a company's "collaborative norms" rating by just one point could change a firm's talent retention, revenues, or revenues coming from innovation, by as much as 10 to 15 percent. Conversely, the star culture scored lowest in positively impacting revenues coming from innovation.

■ Don't impair partner morale.

Again, according to the 2013 Report on the State of the Legal Market:

During the past four years of the economic downturn, it has become increasingly obvious that many law firm partnerships have experienced mounting stress relating to compensation, the reductions in the ranks of equity partners, the treatment of lateral partners, and the management of partner expectations. And the combination of all of these factors – coupled with a growing sense of disenfranchisement – has resulted in partner morale problems in many firms.

In a star culture, the best people supposedly rise to the top in a Darwinian survival-of-the-fittest fashion. They rank their partners, pitting professionals against each other. More and more firms regularly eliminate, or de-equitize, the bottom performers – they "cull the herd" to boost profits. In such cultures fear dominates. Partners worry about whether their name will appear on the de-equitization list and whether they can beat out their peers for recognition. In a culture that pits one colleague against the other, would you trust some partner enough to share your ideas, your work product, or your clients with them?

The morale problems seem particularly acute among "home grown" service partners who perceive themselves as essential to the quality of the legal services delivered to clients, but who lack the origination credits to be regarded as significant stars. Such partners often complain that they feel estranged from the power partners, often treated more like employees, and rarely informed as to what is really going on within their firms.

Many in the profession have become enamored of stars and with the idea that extraordinary business origination talent accounts for an attorney's extraordinary performance. To some extent, firms cultivate a star culture and the legal media reinforces the system by celebrating individual achievement. Earlier this year

the *National Law Journal* identified yet another new ranking – the nation's 100 most influential lawyers; only to then have *Above The Law* whittle down that list to their top 12 favorites, choosing those lawyers they felt were the most impressive. The legal media tends to treat star lawyers as if they were star athletes. There is an assumption that these stars actually "own" everything they need to perform at the top level and can take their knowledge and skill anywhere; like free agents who can take their top performance to work for the highest bidder.

Meanwhile, a study by Harvard Business School's Boris Groysberg and Linda Eling Lee debunks that myth. Their research on star knowledge workers finds that stars need to recognize that despite their talent, knowledge, experience, and reputation, who they work with really matters for sustaining top performance. Specifically, top performers rely on high-quality colleagues in their organizations to improve the quality of their own work and to deliver it effectively to clients.

According to Groysberg, it is imperative for firm leaders to understand that stars are not self-contained silos. Producing top-quality work requires collaboration and flows of information among a network of top performers. That means any one decision on hiring and retention can have a real impact on the performance of top performers in an entirely different part of your firm. It also means that if, because of serious morale issues, these stars lack high-quality support and information-sharing with other colleagues, they will have a harder time maintaining their high performance.

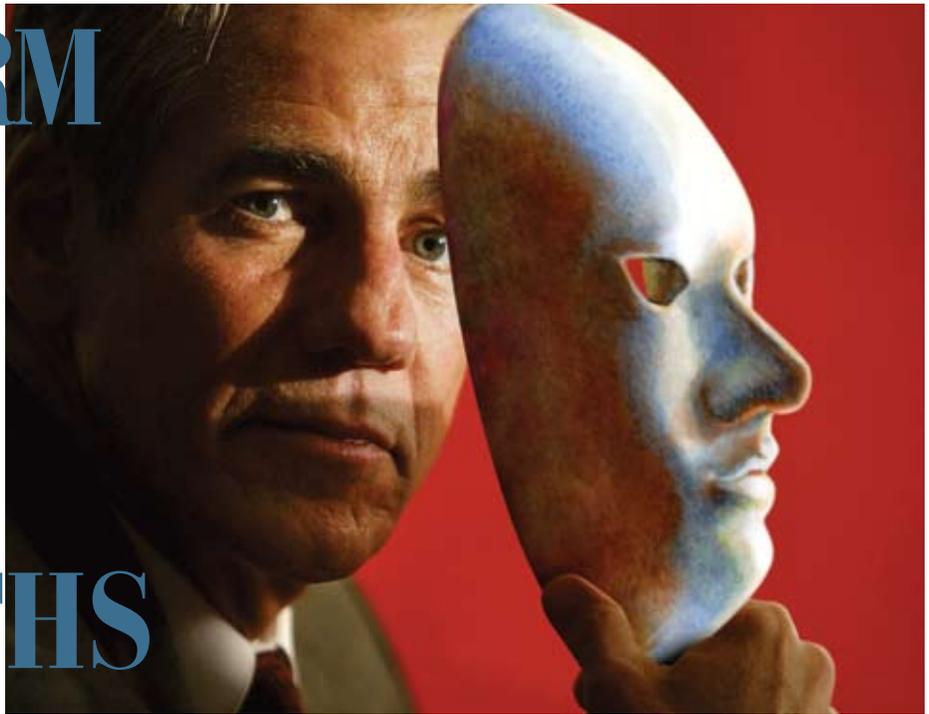
In a world where heroes are worshiped, superheroes idolized and rock stars treated as gods, somehow it gets lost upon us that the true power lies in high performance *teams* and not just embodied in one person, however good that individual might be. Lawyers are part of a firm to be part of a team, not to exploit and advantage themselves to the detriment of all who are ranked below them.

Take three years to get your firm back on track. You don't have to, nor are you likely to be able to do it overnight. Compress the wide compensation spread by letting the middle class 'float' upward. Disgorge those lawyers who would sacrifice the future of your firm on this year's distributions to themselves. You won't survive in the long run if you don't, and if you need to do it in the short run to survive, you're probably already dead and just don't know it.

“I *n a culture that pits one colleague against the other, would you trust some partner enough to share your ideas, your work product, or your clients with them?”*

An excerpt of this article appeared on AmLaw Daily, Law Technology News and on The Legal Intelligencer during the month of July, all courtesy of American Lawyer magazine

EXPLORING THE DARK SIDE: WHEN FIRM LEADERS OVERUSE THEIR STRENGTHS



In my article *Malignant Leadership*, I talked about the merits of psychological evaluations and about how “increasing stress, work overload, fatigue, high emotion, and lack of social vigilance can increase the probability of malignant leadership.” I referenced a useful psychometric instrument, developed by Hogan Assessments, that can “detect leaders who are likely to derail.” What is most intriguing, I said, was how leaders can exhibit a “Dark Side that is simply the result of them using their strengths to an extreme.”

For some time now, we have all been strongly encouraged to focus on developing our strengths rather than gravitating to working on weaknesses. Conventional wisdom in leadership and the late Peter Drucker constantly advised executives to build on their strengths. This seemingly straightforward advice is complicated by Drucker’s own observation that, “Most people *think* they know what they are good at . . . and they are usually wrong.”

Ironically, the line between a strength and weakness isn’t always clear. Consider: if, as a leader, I am a really good speaker, when I want to influence my partners,

what am I most likely to do? Attempt to speak passionately, go on at length, perhaps even turn up the volume. What might I forget to do? Listen. Since, in the moment, I cannot do both, when I lean on my speaking capability too much, especially in an unfamiliar situation, at the wrong times, or when I am particularly anxious, it may actually transform that strength into a crippling weakness.

There is now significant evidence to show all leaders, whether at a firm or practice group level, are susceptible to overusing their strengths. Your natural desire to be forceful and forthright can, under pressure, become perceived to be abusive and authoritative. Your operating preference to always seek consensus can drift into periods of protracted indecision. The desire to dramatically improve performance and the firm’s profitability can incite a preoccupation for short-term expediency.

No matter how magnetic, impactful, or authentic your leadership style, you have a dark side – a kind of shadow that follows you around, lurking in the peripheral, with the potential to emerge in times of stress, difficulty, novelty, or boredom. Self-awareness

is the best preventative medicine for maintaining strengths while avoiding the over-reliance or over-use that can turn them into a liability.

One of the most scientifically validated and reliable tools to assist firm leaders to become more self-aware, was developed by noted psychologist, Dr. Robert Hogan. The Hogan Development Survey (HDS) is a measure of 11 personality characteristics known as the “Dark Side” and is the only instrument available that assesses a leader’s preference toward derailing behaviors in times of stress and uncertainty. These 11 different characteristics, would under normal circumstances be considered strengths, but Dark Side temperament describes people when they are facing adversity, boredom or simply not paying sufficient attention to their leadership comportment.

As an integral part of our First 100 Days program for new firm leaders, we acquired firsthand exposure to the performance anxieties of over 50 new firm leaders, conducted in-depth assessments of their personalities and working styles, and helped each look into the mirror and examine how their individual strengths could potentially work against them. At

the very least, data from this survey affords new firm leaders the opportunity for deep personal insight, which provides for taking action on how to avoid self-defeating behaviors.

SELF-DEFEATING BEHAVIORS

Here is a brief peek at Hogan’s definition of the 11 most common strengths that can become weaknesses under pressure:

Strength: Excitable – Great capacity for empathy; tends to exhibit enthusiasm about ideas and people and works hard on new projects

When under stress: Leader can lack persistence, requires constant reassurance as easily becomes disappointed with initiatives, displays moodiness, is hard to please, sensitive to any criticism and prone to exhibiting volatile emotional displays

Strength: Skeptical – Bright, thoughtful, perceptive, tends to be socially insightful, and a great navigator of firm politics

When under stress: Leader seems to lack trust, acts with suspicion, is cynical, distrustful and quick to doubt others’ intentions; alert to signs of mistreatment and will retaliate when finding it.

Strength: Cautious – Meticulous at evaluating risks; tends to be prudent, careful and conscientious

When under stress: Leader avoids innovation, is unwilling to take risks or offer opinions, becomes reactive rather than proactive; seems resistant to change, sometimes paralyzed by a fear of failure.

Strength: Reserved – Tough in the face of adversity; can take criticism and tends to stay focused; independent and comfortable working alone on projects

When under stress: Leader can seem aloof, rude, uncommunicative, detached and insensitive to the needs and feelings of others.

Strength: Leisurely – Good social skills, clever at hiding their feelings; tends to be very agreeable

and pleasant to work with, confident about their own skills and abilities.

When under stress: Leader becomes cynical of others’ skills and abilities, is passive-aggressive, tends toward procrastination, becoming resistant to feedback, stubborn, and resentful of interruptions.

“No matter how magnetic, impactful, or authentic your leadership style, you have a dark side – a kind of shadow that follows you around, lurking in the peripheral, with the potential to emerge in times of stress, difficulty; novelty; or boredom.”

Strength: Bold – Liked, admired, charismatic; tends to be highly ambitious, energetically taking initiative and expecting success.

When under stress: Leader shows arrogance, acts as though he is entitled with inflated views of self-worth, is self-absorbed, and unwilling to admit any mistakes or share credit.

Strength: Mischievous – Is exceedingly charming and friendly; tends to handle heavy workloads well

When under stress: Leader becomes manipulative, impulsive, reckless, seeks excitement, and thereby prone to taking ill-advised risks; has problems maintaining commitment and learning from experience.

Strength: Colorful – Has flair, presence; tends to be expressive, engaging, lively and fun; naturally good at sales.

When under stress: Leader is overly dramatic, attention-seeking and highly disorganized; prone to making dramatic entrances, seems preoccupied with being noticed and may lack the ability to

listen and maintain a consistent focus.

Strength: Imaginative – Constantly alert to new ways of seeing things and enjoys entertaining others with new ideas; tends to be creative; an innovative thinker, and insightful about others’ motives.

When under stress: Leader act and communicate in unusual or eccentric ways, often lacking sound judgment and indifferent to the consequences; can be impractical and idiosyncratic, confusing others by constantly changing their minds.

Strength: Diligent – Hard working, concerned with doing a good job; tends to set high standards for self and others and is careful and meticulous, reliably detail oriented.

When under stress: Leader becomes a perfectionist, irritated when rules are not followed, disempowers others by micro-managing everything and is hypercritical; poor at delegating and they becomes a bottleneck to productivity because everything must pas through them.

Strength: Dutiful – Loyal, cordial and polite; tends to conform, make few enemies, and is eager to please.

When under stress: Leader is deeply concerned with being accepted, alert for signs of disapproval; becoming indecisive, reliant on others for guidance and reluctant to act independently or go against popular opinion, thus staff may feel unsupported.

As we understand more about ourselves, we gain perspective about why some environments, situations and organizational cultures are opportunities for us to thrive, feel stifled or encounter significant stress. Moreover, we can begin to understand why.

LEADING WITH A BLIND SPOT

It is important to understand that Dark Side personality characteristics are not automatically problematic. Most people have some combination of vulnerabilities, and some are remarkably self-aware and able to moderate their behavior under stress; which is key. In a 2006 study of successful Australian CEOs,

Hogan found that every CEO had a dark side factor that needed to be managed. Thus the Dark Side is a double-edged sword, motivating exceptional levels of capability but also potentially leading to counterproductive behavior in the unprepared leader.

What becomes interesting from our research is that we have thus far had over 50 new firm leaders complete a Hogan HDS Survey – 42% hailing from AmLaw 100 and 200 firms and the remainder from firms of, almost always, over 100 attorneys in size. Our subsequent analysis of these completed surveys shows that 77.5% of all new firm leaders tested, rated “High Risk” on at least one of these 11 different scales; and 22.5% (or nearly one in four) rated “High Risk” on three or more of these 11 scales.

Digging deeper, we found that one particular Dark Side dimension was more pronounced than any other, by twice the scores amongst this group of firm leaders. That dimension is known as **Excitability** – which accounted for 25% of the firm leaders testing “High Risk” (90 Percentile) and another 37.5% testing “Moderate Risk” (70 to 90 Percentile) for a total of 62.5% or nearly two out of three leaders displaying this attribute as a strength, that is prone to overuse.

Now, an argument can be proffered that Excitability is one of the qualifications for being a capable firm leader. Most of the time these leaders use this strength to purposefully direct enthusiasm and draw attention to issues of importance and also to demonstrate their support for a particular undertaking. Excitable firm leaders vibrate with energy, command attention and respect, motivating and inspiring those around them in ways that can be contagious throughout the firm. We tend to discount their occasional bad-tempered outbursts as a natural reaction to a high-stress job filled with complex challenges.

Excitable leaders aren’t at risk because they may fly off the handle now and then. The problem begins

where one week you are incredibly optimistic about an undertaking and speak eloquently and convincingly about how all of your partners should be supportive, only the next week to find you gloomy and disheartened that the project still isn’t off the ground or progressing as quickly as hoped – very often because as the leader you have “launched” a

“Whether it’s boredom or too much work; failure of an initiative for which you are accountable to having to confront an underperforming partner – you need to determine what kinds of environments, events, problems and decisions ratchet up your personal stress levels.”

new initiative and then delegated it to others to follow through on, causing many of your partners to wonder whether it was really important or simply the latest fad. Excitable leaders are prone to becoming easily disappointed and when disappointed their first instinct is to withdraw and to leave.

This scale concerns the tendency to develop strong enthusiasms about new projects or relationships, perhaps even to idealize them, then to discover flaws or shortcomings in the idealized object and to become disillusioned, discouraged, and upset. Leaders with high-risk scores tend to let little things bother them, become annoyed easily, and change their focus and their priorities more frequently. Highly Excitable leaders don’t always see how their volatility can seriously impact their effectiveness; thus it becomes a destructive blind spot for them. Imagine working with a leader who:

- moves back and forth between optimistic and

pessimistic stances, between encouraging a project and then acting agitated that it’s not progressing quickly enough;

- through his messages and actions generates enthusiasm one day and intimidation the next, such that people start holding back news about missed commitments or unexpected events;

- explodes over minor missteps or for reasons he can’t fully articulate, resulting in people avoiding certain topics, cutting off his information flow and returning phone calls with well-rehearsed answers; and

- has colleagues whispering about how they are never quite sure who precisely is going to show up in his office from one day to the next, and consulting with the secretary for a weather report before entering his office.

Although the most obvious symptom to others of Excitability overused is the leader’s frequent mood swings, it probably isn’t the

most obvious to those inflicted. What may look like a dramatic change of mind or mood swing to others, feels to you like simply a normal reaction to the stress of leadership. This is what Hogan refers to as leadership derailment, wherein our personality characteristics betray us, degrade our success, and generally send us on a fast train to nowhere. Our shadow is particularly dangerous because it tends to lie beyond the reach of our awareness, but is highly apparent to those around us.

Are you aware of your strengths and how to use them to your advantage without overusing them?

WHAT YOU CAN DO TO MITIGATE YOUR DARK SIDE

Firm leaders who become aware of their ‘Dark Side’ tendencies can initiate actions to minimize their disruptive influences. Here are a few examples:

1. Be attuned to your blind spots.

Examine (in quiet reflection) specifically where you pride yourself on being better than other leaders (past or present) in any way. You have now identified the one single attribute that you are usually at greatest risk of overusing.

2. Have a system for gathering truthful feedback.

Most of us, as human beings, have defensive egos that do a phenomenal job of protecting us from the truth, as do the people around us who shield us from the painful reality that we are not perfect. We receive feedback from peers in the form of sugar-coated rubber bullets that contain a shred of truth, but do little to help us become truly self-aware.

Create a real-time feedback process. For example, at the conclusion of one of the meetings you chair, ask "what issues may we yet need to explore more adequately?" At the end of a one-on-one meeting with one of your partners, ask "in which areas would you like to see more support from me?" At the conclusion of one of your meetings with a practice group leader, ask "Have I fully understood and appreciated the issues that your team is grappling with and what else would it be important for me to understand?"

Work with your colleagues to assess where your strengths get in the way. Ask your closest advisors to help you by answering a few questions:

- When you sense that I'm in stress, what do you see me do that you think is counter-productive?
- When you get together with other partners and someone complains about me, what do they complain about?
- How do I force you to work around me rather than with me?
- What do I do that makes you crazy?
- Do you have any suggestions for me on how I might better align my intent with my impact?
- What alternative leadership styles should/could I explore to achieve what I want to achieve?

3. Identify the circumstances that cause you to over-react.

Whether it's boredom or too much work; failure of an initiative for which you are accountable to having to confront an underperforming partner – you need to determine what kinds of environments, events, problems and decisions ratchet up your personal stress levels. Are there certain types of situations or people that bring out your dark side?

For example, George, a charismatic and very confident managing partner, had earned the (hallway whispered) nickname "chief black cloud." This was largely due to his automatic tendency to frequently reject some new idea that was presented, before even hearing it out. To help control this derailing behavior, George decided to anticipate, on his calendar, the kinds of meetings where this was likely to happen and to resist the impulse to revert to form. Instead of categorically rejecting a new idea, George asked people to clarify their reasoning or data. This led to a healthy form of dialogue and more of a shared understanding about which new ideas could work and which might not.

Knowing when you are more likely to act up or act out allows you to be aware of your triggers. Being aware of those triggers allows you to monitor what kinds of circumstances can lead you to becoming most vulnerable.

4. Learn to take a step back

When under stress, taking a moment for reflection can cool you down before you over-react. You must force yourself to consciously step away from your stress-induced interpersonal reaction to people or events.

The most successful leaders often explore how their strengths might be perceived by reflecting upon and asking of others- what should I stop doing? Peter Drucker once said, *"We spend a lot of time teaching leaders what to do. We don't spend*

enough time teaching leaders what to stop. Half of the leaders I have met don't need to learn what to do as much as they need to learn what to stop."

Here is an exercise worth considering. Get out your note pad and instead of the usual 'To Do' list, not a few items for your 'To Stop' list. For example, when some colleague offers a less-than-brilliant idea in a meeting, don't criticize it – say: nothing! When someone offers you a helpful suggestion, don't remind them that you already knew that – say, "Thank You!" When some partner challenges one of your decisions, don't argue with them or make excuses – Say: "I will certainly consider it!"

5. Find your personal 'Sanctuary.'

Leaders can often benefit from finding a 'sanctuary.' That is not necessarily a physical place, but more a mental retreat. Firm leaders have often spoken about the benefit of continuing their routine luncheon with a close friend, the merits of reading some inspirational materials; purposely going to the gym for an intense workout; or even meditating – some activity that provides a much needed interruption from the daily pressures.

6. Empower a trusted advisor to give you an alert.

You need to pay attention to your impact on others. And for a confident to be effective in helping you, you need to reveal some of your vulnerabilities. You need to establish an implicit contract with a close colleague who can give you honest feedback and even intervene when you're getting yourself in trouble, without worrying about repercussions.

Alexandre Dumas once wrote, "Any virtue carried to an extreme can become a crime." And so it is with our strengths. Take the time to assess your strengths and make sure that they are helping, not hindering your success through overuse. Self-awareness, and feedback can help you manage your strengths in a way that allows you to develop a balanced approach in how you deploy those strengths in a manner that delivers maximum results.

Competitive Plagiarism

Ask most firm leaders to identify those business CEOs that they most admire and they would probably list a small group of highly entrepreneurial names that would include Jack Welch, Steve Jobs, Richard Branson or Warren Buffet. Ask why they admired these particular individuals and you would probably hear about the individual's self-confidence, decisive boldness, the originality of their strategic direction, and contrarian beliefs. However, if you now inquire into what strategies these leaders were themselves advocating in their own firms, the answers you would receive would be depressingly unlike those of the leaders they admire.

“How many of you are using some written document, template or procedure brought to your firm by some recruit from a competitive firm?”

To make this point even stronger, imagine the following scenario. All of your peer competitors are invited to share and read each other's strategic plans. As firm leaders mull over and examine each competitor's future strategies they put a check mark next to the actions that their firm is also following and an x next to those that are drastically different. What is the likelihood that there will be exceedingly more check marks than crosses on all plans? (And if my thesis is valid, the implication is that confidentiality of strategic plans is a waste of effort)

Many firm leaders view other competitors, their strategies, performance and experience as the benchmark from which to set standards for their own firm. That kind of competitive comparison makes sense, especially as your firm's performance is often defined by what your peer firms are doing. Where this approach becomes an obstruction is when the logic behind what works for some other firm, why it works and what might work for you is not assiduously examined and thereby results in firms engaging in mindless imitation.

Some actions can render your casual imitation not only ineffective, but in some cases, downright dangerous. Consider these three common examples of competitive plagiarism:

- **You adopt the forms or practices some new recruit brings along from their prior firm.**

At its most innocent . . . How many of you are using some written job description, practice group business planning template or some other form or procedure brought to your firm by some recruit from a competitive firm?



There is nothing wrong with learning from experience, as long as we're learning from our own unique experience. Blindly copying some other firm's tools, templates, practices, perspectives and procedures assumes that those documents and precedents were developed with precision and can be easily applied in your firm's unique culture. After all, your culture is unique, isn't it? Then why would you be perverting it with some other firm's hand-me-downs!

Numerous firms have gotten into trouble by importing, without sufficient examination and thought, another firm's rancid practices.

- **You duplicate the most visible action you see competitors initiating.**

Current demand for high-end legal services is proven to be flat. Many firm leaders dangle huge compensation packages to attract rainmakers. Buying revenue by acquiring partners with portable books of business has thrown the majority of the Am Law 200 firms into a lateral hiring frenzy. In fact, nearly every law firm of any significant size, has selected "lateral hiring" as one of their top three strategic projects. How is it working for them?

The research results from Mark Brandon at Motive Legal in the United Kingdom, shows that nearly a third of lateral hires into London law offices had failed within five years. That attrition rate represents only the out-and-out

failures; behind the figures lurk a raft of other hires who have failed to meet expectations, but that have not performed poorly enough to warrant dismissal.

Meanwhile, the research of Harvard Business School's Boris Groysberg (*Chasing Stars: The*



Myth of Talent and the Portability of Performance) shows that too many top performers quickly fade when they change firms and often underestimate the degree to which their past success depended upon such firm-specific factors as long-term working relationships, quality of resources and support, and informal systems through which professionals obtain information and get work accomplished.

Ironically — and about 40 percent of managing partners admit — lateral hiring usually is not profitable for the firms that do it. Yet this strategy remains pervasive.

Why do more and more firms persist in this unprofitable strategy? Because they do see clearly how it has worked for *some* of their competitors. Why has it worked for those select firms? My experience suggests, it is NOT the strategy you see that works (in this example, lateral recruitment) but the strategy that you don't see (exceptional efforts in methodical integration) that makes the difference.

• You believe and subsequently copy things you read and hear other firm leaders doing.

It's not what you don't know that will kill you—it's what you know that ain't really so, quipped Will Rogers. Many years back I attended a meeting of managing partners that all

belonged to the same network. These leaders came from different regions, did not compete with each other, gathering twice yearly to openly share experiences and challenges. I was slated to speak to the group, but before proceeding to the podium, I had the opportunity to listen to one managing partner tell the group about his firm's experience with initiating and operating ancillary businesses. He told his colleagues how he launched three different enterprises, how they served to get the legal practice closer to clients;

how they even acted as a conduit to getting new clients into the door; and how profitable these subsidiaries were performing. By the sheerest of coincidences, fast forward eight months and I'm called in to work with this same firm on some internal conflicts. After a couple of brief meetings with partners around the firm I quickly discern that the level of dissatisfaction couldn't be more extreme and that the substance of partner discontent was in the huge amount of money being squandered on three disastrously unprofitable ancillary business operations.

Did this managing partner knowingly lie and deceive his fellow leaders? Did he feel an overwhelming need to be admired and make himself look good to his colleagues? Or was he in some state of sociopathic denial? I'm frankly not certain as I've now seen this same situation unfold numerous times.

Perhaps most notorious is the legal press where firm leaders are interviewed and asked specific questions about what they are doing in their firms. From thirty years of working in the profession, I can attest, hand-on-heart, that far too much of what is conveyed and then published is fictional! From leadership development efforts to the results achieved from a particular marketing initiative, to some firm's actions to encourage innovation, the precise representations made are way too frequently

aspirational, at best. There, frequently, is no factual basis to what is being reported; and yet I will subsequently hear from other firms who are using some firm's anecdotal evidence as the justification for following in the same footsteps

“*I can attest, hand-on-heart, that far too much of what is conveyed and then published is fictional!***”**

as their competitor.

CONCLUSION

The fundamental shortcoming to imitating some competitor's "perceived" action or strategy is that in your urge to copy, an urge often stimulated by consultants who take concepts from one firm to the next, you don't conduct the necessary due diligence to determine whether a specific course of action would really work in your firm. "I'll have what she's having," as a diner in the movie *Sleepless in Seattle* said to her waitress while watching Meg Ryan fake an orgasm to prove a different point.

You are not going to get ahead by imitating what your competitors are doing; at best you are just going to maintain parity, and it may be parity of decline rather than advance. When every firm chases the same strategies, they all slide inexorably into sameness and mediocrity. The essence of developing an effective competitive strategy is daring to think for yourself, instead of following the herd . . . quite possibly over a cliff.

This article appeared as one of my regular practice management columns on www.slw.com in July 2013

The Hurdles To Initiating CHANGE

Firms are navigating a tough financial climate, suppressed growth rates, and declining demand. Previous downturns have been transitory, as the industry has been able to recover within a few years. However this time the landscape has changed and the legal sector is not expected to return to previous levels of growth for a long time. Whatever kind of economist-speak you prefer, there's no getting around the fact that now is a scary time to be a firm leader. Whether you choose to call it the digital age, the knowledge economy, or even "the New Normal," it seems clear that we are in the throws of an economic revolution as profound as that which gave birth to our modern times.

find the experience-based rule that will control the adjudication of the situation at hand. The need for change is not welcomed and the more dramatic the change required, the more acute the resistance from nostalgic past-worshippers. In order to take decisive action, most firms have some acute change hurdles to overcome – hurdles I have come to label: denial, perfectionism, precedent, competence, and agility.

• The debilitating effects of denial.

Many firms are in denial and the few that aren't, move very slowly.

If your firm gets caught behind the change curve, it wasn't because critical trends weren't visible; it was because they were ignored. The huge challenge remains, that for too many firms, unless there is acute "pain" there is little incentive to change. History proves that laggards only grab for the new once they are totally convinced the old doesn't work anymore.

And the old doesn't work anymore!

When does a firm's strategy change: usually only in response to a crisis or because of the initiative of a new managing partner. In many firms we have a generation of stewards rather than entrepreneurs. The power of denial is most prevalent in what you do, when you don't know how to profitably grow. So a firm's typical response becomes let's do more of what we have been doing, or let's cut costs, or let's just merge.

• The handicap of perfection.

not to take action. From their early days in school, professionals were rewarded for success and still are today, based on their ability to look backward in history – to find precedent, to

Wherever you look within the profession, you will see two kinds of firms: laggards who have fallen behind the change curve, and challengers who are in front of the curve or at least at the leading edge of it. The laggards fail to see the future coming. They fall out of the driver's seat. They cede the role to somebody else and then fight to catch up.

There are reasons, if not excuses, for many firms

“One of the biggest drawbacks to embracing change or innovation is the professional mindset and desire to get things just right, the first time.”

One of the biggest drawbacks to embracing change or innovation is the professional mind set and desire to get things just right, the first time. This may be a highly desirable trait in your work on behalf of clients. If you are a lawyer preparing pleadings in litigation or an accountant preparing an audit report, it is essential to have a watertight document – that is what your client is paying for.

Unfortunately, many professionals approach many performance and management issues in exactly the same way, striving for perfection from the outset and unwilling to go public until they are entirely happy. The downside of this approach is that opportunities are lost as other firms steal the advantage and the limelight with their own initiatives.

Today, we operate in a rapidly evolving market, where firms are going to have to reinvent themselves and their business models. So rather than striving for perfection, it is better to launch a limited risk field trial, a pilot project, and as soon as possible – then modify, adjust, revamp and fine-tune . . . on the fly. In other words, better to take action, throw the competition into disarray – then worry about ironing out every wrinkle. The shape of any new initiative can change dramatically, over time, as your efforts begin to generate valuable feedback.

• The threat of precedent.

"If the medical profession was based on precedent, we would still be using leeches."

Many great firms began with the initial vision of one of their founding partners. That vision was most often, the creation of a single individual and became the essence of "how we practice and how we do business" in this firm. Anyone who has ever spent time in a number of different firms has come to recognize that "how we do business around here" is rarely codified but often deeply rooted within the subtleties of the firm's culture, operating style, and campfire stories. This vision, over time, can become an intellectual straightjacket as the firm misses out on

exploiting opportunities due to blind spots caused by its reliance on history and precedent. The last seven words of a dying firm are often, "we've never done it that way before."

For those who built the firm's past successes, the temptation to preserve the status quo can be overwhelming. The battle is not globalism versus regionalism, it is innovation versus precedent.

Strategy requires choices. But it's not good enough just to be different. You've got to be different in ways that involve trade-offs with other ways of being different. The trouble is that professional firms hate making choices, because doing so always looks dangerous and limiting. They always want the best of all worlds. It is psychologically risky to narrow your range of services, to narrow the range of prospects you are targeting. But we all instinctively know that a firm simply cannot be all things to all people and do a very good job of it. Gone are the days of trying to be all things to all clients. Here are the days of having a few signature practice areas with corollary supporting specialties.

• The danger of competence.

Professionals are understandably discomfited when faced with the fact that the intellectual capital accumulated over a lifetime may be of little value in a radically changing environment. Competence is the enemy of change. Many professionals get locked into a successful mode of behavior and in some cases, arrogant manner. They are the ones who will do everything in their power to fight change because they are in love with the status-quo.

Competent professionals resist change because change threatens to make them less competent. Competent professionals like being competent – that is who they are and sometimes that is all they've got. Just think of the risks that come with embracing anything new. A fresh approach to serving clients – one that would prevent me from maximizing my billable hours and force me to be more productive

and practice differently. No wonder they're in no hurry to rock the boat.

Many firms have atrophied in their ability to think and act strategically. I consistently evidence short-term thinking. It's all about immediate results. Too many firms seem to have lost the habit of investing for their future. Increasingly, the firms that will be the true leaders will be those who reshape and redefine their profession.

• The over-reliance on agility.

"The world changes," says the managing partner of a prominent professional services firm. "And an institution like this, which has been around for over a hundred years, survives and thrives because it is able to adapt to the changes that take place."

I say, "Good luck."

Most believe that they can quickly adapt if anything dramatic finally manifests itself. And agility is great, but if you become nothing more than agile you will remain a perpetual follower – and even fast followers find few spoils. The goal is not to speculate on what might happen, but to imagine what you could make happen.

Dare To Be First. "The first one to the future has the best view. There is no limit to what can be accomplished when you keep looking beyond the horizon. Not just to see what's coming next, but to create it." Those are the headlines from an advertisement sponsored by Hughes Electronics Corporation. And never has a message been so appropriate for the professions.

In summary, it's time for all of us to take responsibility for our destiny, time to stop whining about the challenges of a zero-growth economy; time to focus energy on applying the skills and knowledge required to enhance our odds of winning in this hyper competitive world of professional services.

This article forms 'The Introduction' to a new book, How To Engage Partners in the Firm's Future authored by August Aquila and Robert Iles.

CONDUCTING CLIENT INTERVIEWS

I WAS RECENTLY CONFRONTED BY A MANAGING PARTNER WHO HELD SOME STRONG VIEWS ON WHO SHOULD BE INVOLVED IN INTERVIEWING HIS FIRM'S CLIENTS. AS HE PUT IT:

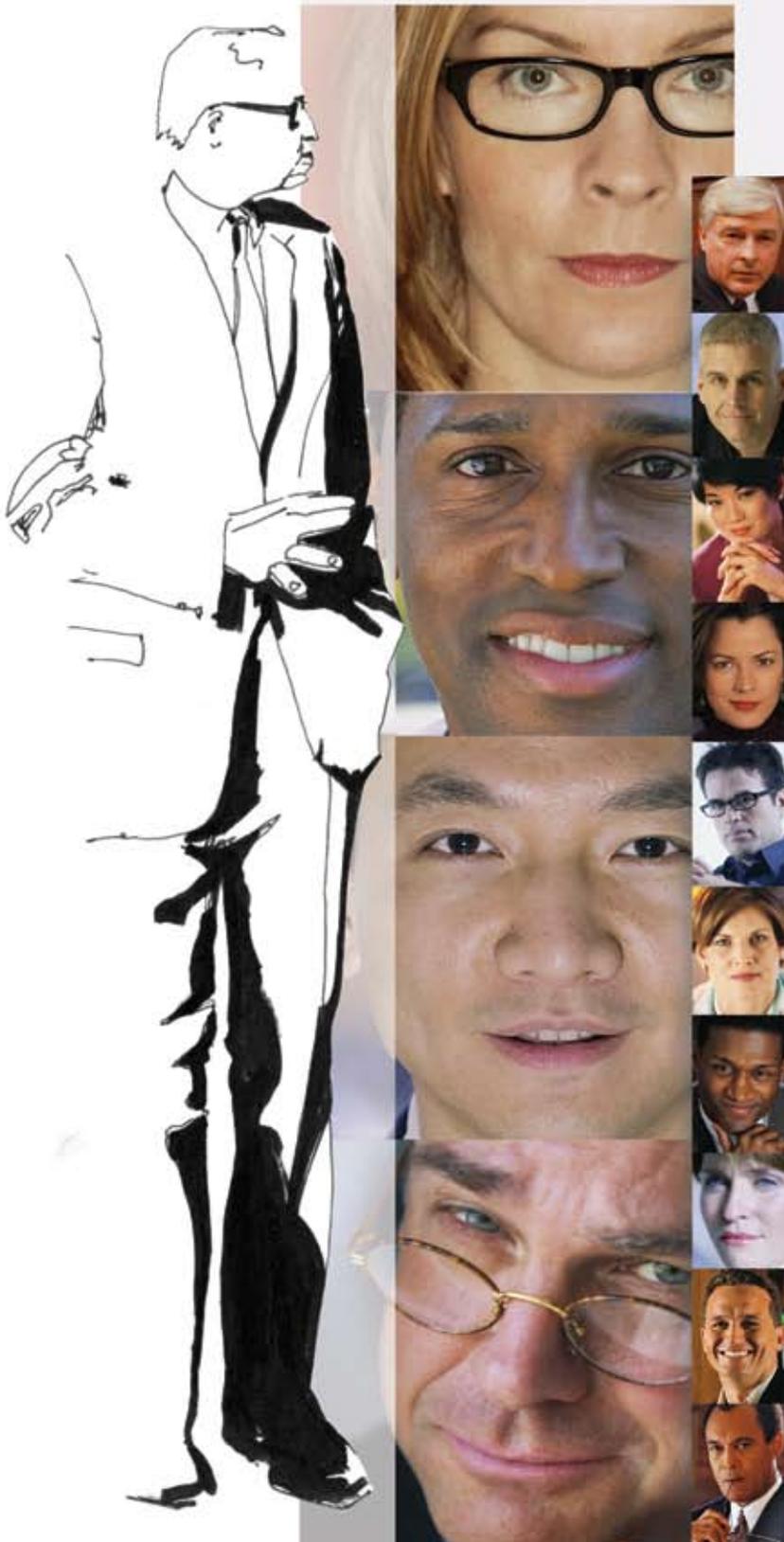
My contention would be that if your outside law firm is really serious about soliciting your candid views of the service, quality and value they provide, and the particular business issues that you may be facing - then they should send their managing partner, practice leader or a couple of senior partners to visit with you - but not some outside consultant. And if the lawyers in a firm aren't prepared to invest the time to come in and speak with you, then what signal does that send the client?

Being absolutely neutral on this subject, I thought the very best source to access would be those closest to the voice of the client. So I reached out to a few close friends in the in-house community to get their candid views.

CONFERRING WITH SUSAN HACKETT

First up is **Susan Hackett**. Susan spent 22 years at the Association of Corporate Counsel, most recently as Senior Vice President until setting up her own consultancy (Legal Executive Leadership) a couple of years ago to "help law departments, law firms, and other legal service organizations work smarter." Here is what Susan told me:

"I'm now one of those self serving consultants who is now being retained to help firms evaluate their service to clients. But personally, I think the role of the consultant is to help prepare the law firm lawyers to get the info themselves, and to help them think about what the heck they'll do with the feedback when/if they get it. It's not to become their surrogate."



A note or caveat on this: Many law firm leaders who agree that they should go off on the client tour are doing so for the right reasons, but they are not really engaged in evaluation, but rather in re-enforcing the personal relationships they enjoy with client leaders. While there's nothing wrong with the managing partner coming to visit a major client and taking the GC out for dinner, the result of that dinner is not likely to include any critical evaluation or meaningful review of the work – it's a feel-good event: the firm leader will say, "How we doing? We value your work!", and the GC will say, "You have a great team and we value our relationship with you." But the managing partner and the GC alike don't usually know enough about the work to talk about more than general outcomes - they aren't engaged in evaluation in any meaningful way. At best, they'll discuss the larger tensions in the client organization to cut expenses and to assure more consistent results – but the conversation is rarely "actionable."

What I'm seeing is that it's a huge hurdle to get a group of firm clients to agree to provide meaningful feedback on a regular basis, and most firms have not worked to find ways they can do so. Shame on them both. Some success stories include those that Jeff Carr originally suggested to ACC, which led to the ACC Value Index. Jeff can speak for himself, but as I understand it, he deployed a mechanism in his matter management system (Serengeti) that prevented a matter from being closed by his lawyers until the matter had been simply evaluated. Jeff chose to share those evaluation results with his firms (but most of the Serengeti clients I ran across who used that mechanism did not share results or do anything meaningful with the data: go figure). It is worth noting that the vast majority of clients using

Serengeti turn that function off, or simply enter a zero in the space in order to force the system to move to closure – they refuse to engage at all in the simple evaluative process the system offers.

As a result, most of the information captured on client satisfaction tend to be one-off collections: a vendor runs a survey of what clients think of their firms and include one-time answers on overall satisfaction without detail, attribution or means by which the firms can re-evaluate their services to improve if there's any kind of negative report.

The real question I see in the larger issue is why are lawyers so averse to evaluation processes: both those that evaluate how they did, and those they are asked to provide evaluations to others. By and large, the vast majority of lawyers avoid evaluation processes like the plague. Do we really think it's too difficult to squeeze into our busy schedules? Is it somehow unprofessional or uncomfortable from a professional standpoint to evaluate legal services like you would the performance of your new coffee grinder? Are we unclear what benefits can flow from evaluation processes? Do we just not want to be graded or hear that we're not living up to expectations?

Another point: let's say we find the magic wand that makes all lawyers love the idea of evaluation – both evaluating others and being evaluated: then the larger problem replaces this one Namely, how do we get folks who receive constructive and critical evaluation to think about how to change their behaviors to improve their performance going forward, and how do we get leadership in firms and departments to reward lawyers who "partake" of evaluation and suggest changes to address the evaluation's sugges-

“T*he real question I see in the larger issue is why are lawyers so averse to evaluation processes: both those that evaluate how they did, and those they are asked to provide evaluations to others.”*

tions, rather than punishing them for not having been perfectly scored.

CONFERRING WITH JEFF CARR

Susan insights led me to speak with Jeff Carr. **Jeffrey W. Carr** serves as Senior Vice President, General Counsel & Secretary at FMC Technologies Inc. and is responsible for the design of the company's ACES law firm engagement model. Jeff has been extremely active with the ACC over the years and never shy to share his views on effective inside-outside working relations. Jeff was quick to contribute to this discussion:

I remain mystified by the failure of other Serengeti clients to use the incredibly powerful tool that they've embedded in their system. I've said before that the real reason lawyers avoid these things is that they tend to be introverts, and introverts are inherently bad at having that kind of very intimate discussion involved in giving and receiving criticism – even if constructive.

Third party feedback is OK – but not really. Effective counseling requires effective

communication. Effective communication requires that the client sets the expectations as to objectives and service clearly, that the service provider understands and accepts those expectations, that there is an assessment – by the client – as to whether those expectations were met (if so how well, if not, why not), and then finally (and most importantly) the provider and buyer have a meaningful discussion in an after action/lessons learned (what do we keep doing, what do we change).

In my view, a third party simply cannot do this effectively. Arguments about “honesty” and “openness” being more likely with a third party are nonsensical. If your relationship is not good enough to withstand a fair, open and meaningful conversation about performance, then you don’t have a very good relationship. If as the reviewer you are “uncomfortable” in having that conversation – then you deserve what you get as a client. If as the service provider you are uncomfortable getting feedback, then you probably should be looking for another line of work.

Any feedback is valuable. To make it powerful, however, requires discipline and consistency. I’m such an advocate of the AVI and similar types of evaluation tools because then these things are comparable – service provider to service provider; evaluator to evaluator. In the selection of service provider, a standardized system provides some consistency in evaluation (think wine – just how good is a 90 score? Well that depends on whether it’s from the Wine Spectator, the Wine Enthusiast or somebody else). The same is true in the use of such scores as the evaluator of services performed. In the former one wants to make the right selection. In the latter, one wants to either validate that selection, foster improvement, or justify a change.

In my particular world, one needs to take one additional step. Evaluations also need to be connected to compensation. This is so for two reasons: from the service provider’s point of view the linkage to compensation forces them to pay attention; from the evaluator’s point of view, it forces them to be honest (great evaluations should merit greater compensation, poor evaluations lesser – good, as expected performance should merit neither more or less compensation -- and all of those factors go into budgeting).

Finally, in order to overcome that inherently introvert resistance one has two techniques: force them to do it; and make it easy – the Serengeti model makes both of those things happen. Incredibly elegant, powerful, simple and forceful – and you know me – while I may not be all that elegant, I do tend to favor power, simplicity and forcefulness.

CONFERRING WITH ELISA GARCIA

I also had the opportunity to hear from another director of the Association for Corporate Counsel, **Elisa D. Garcia**. Elisa serves as the Executive Vice President & General Counsel and Secretary for Office Depot, Inc. in West Palm Beach. Elisa was quite succinct in her views:

I have never received a request to talk with a third party consultant about how a firm is doing, and I would have mixed reactions with such a request. I am not sure I want to spend the time. I would much rather be providing direct feedback to the lawyers working on my matters. The firms we work most closely with get that feedback, formally and informally, but I understand that there may be some firms we are not doing as good a job communicating with. That is usually the perceived case where the dollar billings

have gone down substantially or if a senior relationship partner is being circumvented (I hate senior relationship partners).

I do not have much patience for “interviews” but am always happy to talk with the partner leading a matter and asking for feedback. I am very skillful at avoiding the lunches / dinners, by doing it over sandwiches at my office and I require my in house team that has worked with the firm to attend and provide honest feedback.

CONFERRING WITH MIKE ROSTER

Michael Roster has been a vocal advocate for re-thinking the management and philosophy of running a legal department. He began developing his innovative strategies while serving as managing partner of Morrison & Foerster’s Los Angeles office and was able to put his ideas into practice as General Counsel both at Stanford University and at Golden West Financial Corporation. For the past few years, Mike has co-chaired the ACC Value Challenge Steering Committee. Here’s is what he had to say:

I have somewhat more mixed sentiments on the subject of using third party consultants or others, to talk with clients to measure client satisfaction.

As a general counsel, I used to hate requests from law firm chairmen and others who wanted to meet with me and discuss how the firm is doing. Frankly, my day at both Stanford and Golden West was far too busy to set aside an hour or more (not that that much time was needed, but since the interviewer was making a special trip, it’s what they would typically asked for and anything less would have been considered rude; worse, most wanted to have lunch on top

“I *t takes a certain skill to get the in-house lawyers to stop talking solely about their own likes and dislikes and start thinking more in terms of the business client, who is the true end user and on which all of this really*

of it all). Interestingly, most of my deputies adamantly refused to sit in on these sessions, and for all of the right reasons.

Where our relationship with outside counsel was structured in the full partnership arrangement, as we had at Stanford and in selected areas at Golden West, the relevant communication was ongoing and quite precise, just as it was with my own in-house lawyers via our monthly priority planners and quarterly assessment sessions, on top of the daily interactions which automatically included informal corrective action. So the need for someone from the law firm to ask “how are we doing” was non-existent.

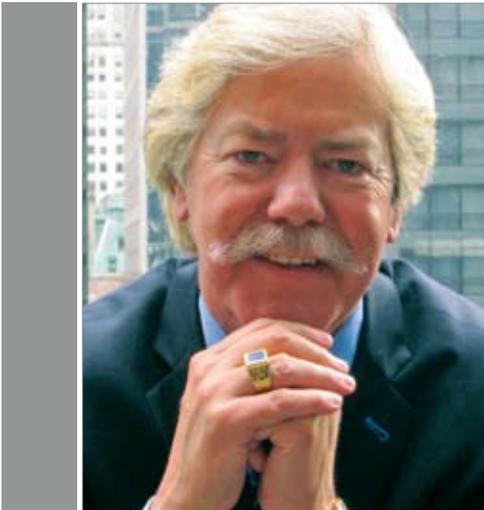
Also, while I have no doubt that Patrick is very good at training the firms he works with, most lawyers are terrible at doing this sort of thing. It takes a certain skill and diligence to get the client interviewee to stop saying everything is fine, or to harp on a single narrow irritant. Also, it takes a certain skill to get the in-house lawyers to stop talking solely about their own likes and dislikes and start thinking more in terms of the business client, who is the true end user and on which all of this really should be focused.

Having spent over 20 years as a partner and senior manager at two law firms, I also have a healthy distrust of the law firm people doing the interviews. If it's the regular team, they should already have ongoing interactions that accomplish all of this, although a periodic assessment meeting is extremely useful as well. But if it's the firm chairman or someone especially designated, these people often have no idea whatsoever what a specific practice group actually does. Worse, some have pre-conceived notions of which practice groups and lawyers in the firm are especially worthy and which aren't (management tends to favor the lawyers who bill high amounts or who are easy to manage, even though easy-to-manage internally is not always the best skill for what the client wants), so their notions may or may not even match up with mine as the client (or more importantly as I've said, the actual business clients). As a result, I often found I was having to spend time overriding their own notions of client service because of their preconceptions and misconceptions of practice groups and individual lawyers, as well as what they think is good client service versus what I and my business people thought was important.

Regarding the use of outside consultants, I have the same concerns the others have raised. On the other hand, I've actually been surprised at how good the outside consultants often have been. First, they are usually much better in how they make the inquiry. But far more important, often the third party consultant was interviewing not just me, but also a large number of other clients and thus I knew the aggregate reviews (whether of the firm as a whole, specific practice groups or whatever) were probably going to have far more usefulness in confirming what is going well and what needs to be changed than my comments standing on their own.

That instinct has been strongly re-enforced when I've met with various law firms as part of the Value Challenge and the firm's management has shared with me highly confidential (and usually quite expansive and expensive) third party reports. Those reports have huge credibility coming from a third party and also because (a) the reports represent an aggregate evaluation from a lot of key clients, (b) the reports both verbally and visually show how the firm (or practice group, or whatever) compares on very specific criteria with competitors, and (c) the reports often provide very specific road maps for improvements in areas where improvements clearly are needed, especially when you properly focus on the outliers, both good and bad.

In the past few months, I've also been involved in some joint sessions involving both a firm and a major client of the firm, and where the firm has had its head of client services interview a fairly large number of in-house lawyers at the client ahead of time. Usually this head of client services is not a lawyer but understands the firm inside out, is highly trusted by people at all levels within the firm, and typically has high trust from the clients as well. The written reports I've seen from these client service people have been extraordinary in identifying what is working well and what needs improvement and why there may be a disconnect between what the firm is doing and what the client is actually thinking. The client service personnel also typically have a very good working relationship with firm's and practice group leaders, so when they propose some major changes, those changes are usually taken very seriously. Obviously, this also turns on the quality of the people functioning as client service managers, but the recent crop is proving to be very capable and professional in what they are doing.



PATRICK J. MCKENNA

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

An internationally recognized authority on 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 program, 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 and his work with North American law firms has evidenced him serving at least 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 has led to his being the subject of a Harvard Law School Case Study entitled: *Innovations In Legal Consulting* (2011).



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