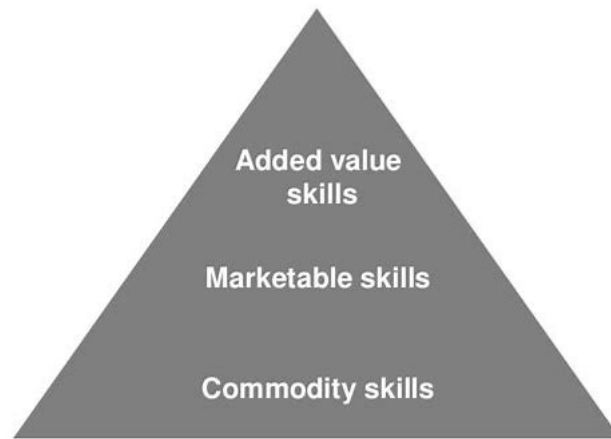


Suffering Human Capital Obsolescence: Partners Doing the Same Old Schtick!



In most firms, my observation is that we seriously over-invest in the efficiency (“let’s provide a discount” or “do more for less”) arena and under-invest in having partners working to build their skills – in order to deliver greater recognized value.

As a general rule, firm leadership needs to help partners understand that they are in competition with millions of other professionals all over the world, capable of doing the same work that they can do, and the sad news is that: “*nobody owes you a career. To continue to be successful you must continually dedicate yourself to **retraining** your individual competitive advantage.*”

In his 1982 book, *Critical Path*, futurist and inventor R. Buckminster Fuller estimated that up until 1900 human knowledge doubled approximately every century, but by 1945 it was doubling every 25 years, and by 1982 it was doubling every 12-13 months. Today, in 2020, IBM estimates that human knowledge is doubling . . . every 12 hours! How precise is IBM’s estimate? Hard to tell. But I suspect that you would agree that this trend is incontrovertible. Data and knowledge are increasing at an ever-accelerating rate.

This accelerating growth of knowledge is not all we have to contend with. Compounding the challenge is how long that knowledge remains useful – or, how long does it take for your knowledge to become outdated, inaccurate or irrelevant. One measure of this is known as the “**half-life**” of knowledge, the amount of time it takes for our knowledge to lose half its value. For those in almost any profession from medical and engineering to law and consulting, the half-life of our knowledge is shrinking such that what may have been valuable to know a few years ago, may have very limited value today.

What this obviously means is that the systematic development of legal knowledge and skills, over time, depreciates in value – especially as your competitors acquire and offer similar or equivalent expertise. And with each passing year, the fees that clients willingly pay for that expertise diminishes, such that even your most loyal clients will not value as highly, what you or I do for them the second or third time as they did the first.

Therefore, I strongly believe that firm and group leaders need to pose a few very **serious questions** to each of their colleagues in one-on-one (virtual) coaching discussions:

1. *“Do you believe you are adding real value or simply passing along legal information to our clients? In other words, my beloved partner, what is it that you can specifically do for clients today, that you could NOT do for them at this same time last year?”*
2. *“What do you need to do, in the time that you have available right now, to build your skills and reinforce your opportunities for when we come out of this pandemic so that you can have an even more successful practice?”*
3. *“As you see this pandemic continuing to unfold, are you plugged into what is happening around you and inside your client’s industry, such that you can interpret whatever is transpiring and be the source of proactive counsel – before the client has to ask?”*
4. *“Are you trying out any new ideas, new techniques, new technologies and I mean personally trying them, not just reading about them? Or, are you waiting for others to figure out how to innovate and re-engineer your practice – (and re-engineer you . . . right out of that practice)?”*

I would suggest that a negative answer to any of these four questions is indicative of a condition some astute observers label as *“Human Capital Obsolescence”* – a poorly understood phenomenon which has crept into many firms trending toward the LOSER end of the spectrum. Human capital obsolescence can be interpreted to mean that there may be some partners who are not performing in accordance with what clients would accept as high value, in other words they are merely a commodity provider; and these individual’s economic contribution to your firm is no longer in keeping with what one might expect from an equity partner. While being labelled an “underperformer” may be a symptom of the issue, I would submit that simply having more “junk” work to occupy their billable time does not solve this problem.

I believe that going forward, the **most successful firms** will be those who rethink the concept of where they encourage and perhaps incentivize partners to invest some portion of their non-billable time. To succeed in today’s environment of rapid change requires continually building your knowledge base, your skills, and learning how to do entirely new things. If our attorneys don’t dedicate the time to building their skills, we end up solving yesterday’s (commoditized) client problems (usually at a hugely discounted fee) instead of tackling tomorrow’s burning issues, before someone else does.

In the long run, superior competitiveness derives from having an ability to build skills faster than competitors, and with the kind of knowledge and skills that germinate entirely new and lucrative practice niches. Knowledge and skills are the engine of new business development.

*Learning Faster Than Your Competition
Can Be Your Group’s Strategic Advantage*

As an example, if one looks to those firms who landed the top spots for venture capital deals in 2019, one firm stood out as the clear market leader having executed 20% of all of the deals done by the top 10 law firms. And according to Gunderson Dettmer's Managing Partner, the firm's success came "*from its laser focus on serving the legal needs of venture-backed technology and life sciences companies.*"

Perhaps an even more powerful example of a firm building their skills and specializing in high-value work is Silicon Legal Strategy, a 23-lawyer firm which focuses on advising start-up clients and managed to successfully execute more venture capital deals in 2019 than either Dentons or Latham.

What these two examples should serve to illustrate is that law firm leaders are not managing one homogenous firm but rather a portfolio of very different businesses. Let me be clear, we have got to stop thinking that law firms compete with one another. Dentons and Latham do NOT compete . . . as firms, but rather they may have some selective practices (strategic business units) that do compete. Or, looked at slightly differently, your practice and industry groups are in a race to build the kind of knowledge and skills that determines whether they are able to secure dominance in some targeted and lucrative micro-niche markets.

Unlike the battle for global brand recognition, which is visible in the print media and aims to identify global share of mind, the battle to build competitive dominance in targeted niches is invisible to those who may not be deliberately looking for it. Firm leadership may use Chambers and other ranking metrics to track who comes out as a first-tier player in the most recognized practice areas. BUT, tell me please, who is the leading U.S. law firm in serving Digital Transformation or Augmented Manufacturing clients – both billion-dollar micro niche markets? How many firm executive committees discuss the critical distinction between developing competitive strategy at the (micro) level of the practice or industry, rather than simply thinking that they are being effective by developing some (macro) strategy for their entire firm?

Earlier this year, my old friend Dr. George Beaton shared some data from his firm's research of the Australia and New Zealand markets wherein some 82% of clients will select a more expensive law firm given certain conditions. And what conditions might those be?

Of ten possible selection influencers, the most important to clients was "demonstrated expertise in their area of need"; second, "understanding of their industry" and third, "known for their leading expertise" (thought leadership) – because all of these things are perceived by the client to convey significant value. And interestingly, what Beaton Research found is that these criteria hold true across the professions (management consulting, accounting, IP, engineering) and that his firm has "*made **the same** findings every year for more than 10 years!*" And my research confirms that the same holds true in our North American marketplace.

For me, that raises a couple of strategic questions:

1. What amount of non-billable time and resources are being invested within your firm to improve your efficiency and try to proffer highly competitive (usually highly discounted) rates to do routine, commoditized legal work? and

2. What amount of non-billable time and resources are being invested within your firm to build the knowledge and skills of your partners so that they can develop a level of acknowledged expertise, sufficient to win the higher value legal work where clients are willing to pay for leading expertise?

Taking this all one step further, most law firms, if one were to observe their behaviors, do not think about competitiveness in terms of building skills. Firms seem only to judge competitiveness, their own and their competitors, primarily in terms of fee discounts and being lower priced. And I would strongly argue that those same firms are courting the erosion of their partner's skills. The knowledge and skills necessary to exploit a lucrative micor-niche opportunity requires firm encouragement and support to ensure that partners invest the time to build them.

Unless, of course, your firm is content to simply strive to increase the volume of work derived from serving commodity markets – and as I sated at the very start, focus all of your attention on billable production, regardless of where the work is coming from and what kind of work your partners are engaged in.