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Good to great and beyond

By Gerry Riskin

In his best-selling business book *Good to Great*, Jim Collins admonished readers to "Get the right people on the bus." Jim would be proud of our four new Edge additions:

- Nick Jarrett-Kerr and Chris Bull of England,
- David Cruickshank, a (fellow) Canadian residing in both New York and San Diego, and
- Bithika Anand of India.

This edition of the *Edge International Review* features articles by Nick, Chris and David — check out their impressive biographies under "People" at our website *www.edge.ai*. David's contribution, about the evolving landscape for training legal project managers, is part of a special LPM section this issue, including features from Pamela Woldow and Doug Richardson.

Elsewhere in this edition, you can read about the perils of low leverage by Sean Larkan, the keys to law firm reputation by Ed Wesemann, seven business development strategies in a down economy by Jordan Furlong, and my own reflections on partner compensation systems.

As always, you can find an electronic copy of this and previous editions of the *Edge International Review* at *www.edge.ai*. You are welcome to download and share full editions or individual articles among the members of your law firm or law department.

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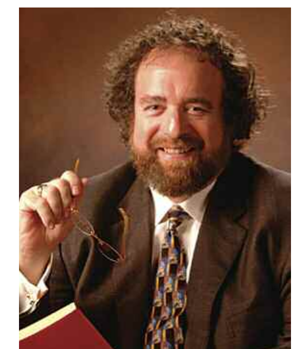
Gerry Riskin
Founder
Edge International



New York, London and Hong Kong may vie for the title of world's financial capital. But the debate isn't so straightforward in the law, with centers like Gurgaon, Belfast, and Dayton, Ohio competing for a growing share of legal work that needn't be performed in law firms' urban headquarters.
Here's a preview of what might yet turn out to be tomorrow's "capitals of law."

By Chris Bull and Jordan Furlong

The emerging new capitals of law

We often hear that the legal market, like so much of the business world, is in the process of an eastward shift. Hong Kong, Shanghai, Mumbai and Singapore will become more significant "capitals," in terms of both hosting new powerhouse law firms and wielding legislative influence, as their economies overhaul the western dominance of the past century.

However, we may need to reconsider our definition(s) of "capitals of law." New York, London, Chicago — the western world's biggest business centres — and the emerging contenders listed above will surely be the source of, and marketplace for, the majority of the legal sector's earnings. The same cities will probably dominate the legislative agenda globally.

But the work generated will often not be performed in these locations. The geographies of the legal marketplace and the legal world's productive capability are already diverging, creating a new map of legal production — and some new capitals along with it. At Edge, we are digging deeper into the new geography of legal production and delivery, examining the often surprising locations where "new capitals of law" are emerging.

PHASE 1: THE EARLY LEADERS

Over the last five years or so, a number of cities worldwide have become home to new-model lower-cost law offices or legal outsourcing facilities. In many cases, a city's claim to be a new legal capital is restricted to just one or two fast-growth businesses choosing to locate there. But in others, we can begin to discern a broader swell of law-related business, creating an embryonic legal services community in a new location.

These law firms and companies are choosing these locations not just because of lower costs, but also because of high-quality graduate and legal talent in the area. Proximity to transportation hubs often plays a part. In a number of cases, these cities have been made substantially more attractive by concerted local government support, including use of financial incentives

for inward investors. In other cases, time zone is critical — for example, South Africa is popular with many U.K. businesses that operate in the same time zone, while Indian locations such as Gurgaon and Mumbai have leveraged their ability to work while their customers sleep.

In most business sectors, the headquarters or original base of a business is not where production takes place. The law — personal, bespoke, slow to embrace technology, and bound by regulation — has produced a series of factors that bind the location of the people delivering the service to the location of their clients. Those factors are now breaking down one by one.

In many ways, what we are seeing here is the legal sector feeling the (rather delayed) effect of the ten "flatteners" (from the fall of the Berlin Wall to the rise of Google to the advent of truly mobile computing devices) that Thomas Friedmann influentially outlined in *The World is Flat*.

The sidebar below should dispel any glib assumption that performing legal work in new locations is synonymous with "outsourced" or "offshore" locations. All these "new" centers are much lower-cost than New York or London, to be certain. But most are not so far from their customers' (often law firms') headquarters — "onshore" as opposed to "offshore." Skeptical lawyers who complain they've never heard of Carrollton or Overland Park should remember that no one once knew where Bentonville or Redmond were, either.

The capital contenders

This list of "first movers" is not exhaustive, but it demonstrates that the shift of work to some new locations is well underway.

- ***Wheeling, West Virginia,*** *started the whole trend in 2005 when Orrick relocated its back-office functions to its Global Operations Center there.*
- ***Gurgaon, India*** *is now the well-established global service center for Clifford Chance and a key location for many of the leading LPOs.*
- ***Fargo, North Dakota*** *has been the US document and service hub for LPO provider Integreon for several years now (in the UK, Bristol plays a similar role).*
- ***Overland Park, Kansas*** *is currently consolidating its status as worldwide headquarters for LPO firm UnitedLex.*
- ***Cape Town, South Africa*** *hosts a number of thriving legal transcription and LPO businesses, including Exigent, Global Secretarial and Underwoods.*
- ***Carrollton, Texas*** *is a Dallas suburb recently announced for the first stateside Pangea3 office to open under Thomson Reuters management.*
- ***Dayton, Ohio*** *was chosen by WilmerHale as its onshore headquarters for middle- and back-office support.*
- ***Belfast, Northern Ireland*** *became home to "captive" centers for major U.K. firms Allen & Overy and Herbert Smith this year.*
- ***Hamilton, Ontario*** *hosts high-efficiency mortgage foreclosure and collections services for Canadian firm Gowlings.*
- ***Cardiff, Wales*** *is a proving ground for a cluster of fast-growing volume law firms operating new business models.*

A high-profile backlash against offshore voice-based services, especially prominent in the U.K., has led to a harder search for onshore alternatives.

While this approach is influenced by both political and public relations considerations, as well as by the law's inherent conservatism, there are other, deeper factors at play as well. A high-profile backlash against offshore voice-based services, especially prominent in the U.K., has led to a harder search for onshore alternatives.

At the same time, early experiments have raised some questions about LPOs' ability to handle some distinctly non-linear legal processing work offshore, just as wages rise in outsourcing hotspots and the cost gap against economically depressed U.S. and U.K. locations narrows.

So, perhaps surprisingly, most of these first-mover "new capitals" are onshore, and at least half of these innovative ventures are also owned and managed by the law firm, not "outsourced" to a third party. A range of criteria go into the "make or buy" decision to operate legal or business support functions in-house or contract them out to third parties and a number of firms have concluded that retaining control is the right route for them.

Firms such as Orrick, WilmerHale, Clifford Chance and Allen & Overy have concluded they should continue to operate their own functions, but still leverage the benefits of a lower-cost location. Others have determined that a slew of non-core functions are better managed and operated by specialist third-party outsourcing firms. The move to new centers is thus being driven by a mix of both captive and outsourced models and, sometimes (as in the case of Clifford Chance/Integreon in Gurgaon and Orrick/Williams Lea in Wheeling) a combination of models working in parallel in a single city.

PHASE 2: THE UNBUNDLING OF LEGAL SERVICES

What we are seeing here is the unbundling of law firms: the disassembly of individual law firm talent blocks, historically situated in a single large (expensive) city, into discrete groups of lawyers and paraprofessionals based in various locations better aligned with the value of the work they do. Law firms and in-house departments both are shifting towards a hub-and-spoke model.

Belfast, Northern Ireland, has attracted a great deal of interest in the last year — principally from U.K. firms, but also from the U.S. — as a potential location for exactly these types of functions.

In 2010, CitiBank announced the creation of a Belfast hub for its Legal and Compliance Department. The bank had been operating centralized support functions in Belfast for five years, but this was a major move into legal and paralegal jobs. The shift of jobs from London and elsewhere, led by Citi's Belfast GC Anna Moss, is regarded as a great success. The availability of a suitable talent pool — and a marker for future transfers of jobs from traditional legal centers to smaller cities — was underlined when local recruiters secured 35 experienced lawyers for Citi within two days. The function is likely to reach 100 people in Belfast very soon.

During 2011, two of the world's largest London-based firms have also invested in Belfast operations. Allen & Overy (A&O) has started with a major relocation of many support functions from London to Belfast, creating a 250-person "captive" center in the city that echoes the moves of Wilmer to Dayton and Clifford Chance to Gurgaon. A&O intends to follow up with a legal process team of more than 50 lawyers and paralegals. There is a strong sense that Northern Ireland's "onshore" location, with its alignment of language and legal experience, was crucial to Belfast winning out over other "offshore" competitors.

There is a strong sense that Northern Ireland's "onshore" location, with its alignment of language and legal experience, was crucial to Belfast winning out over other "offshore" competitors.

Herbert Smith is the other global firm to relocate certain functions to Northern Ireland's capital. When we visited Belfast recently, we met with Libby Jackson, the senior litigator Herbert Smith appointed to oversee the construction and operation of its Litigation Document Review Center. Libby and her team of 26 are providing the primary document review support to Herbert Smith offices in Europe and Asia, particularly London and Hong Kong. Libby is delighted with the positive response from the rest of the firm, and particularly with the quality of her Belfast team. The firm received more than 700 applications for these posts, evidence of the high proportion of

law graduates and lawyers in Northern Ireland and, more broadly, of the massive potential appetite for high-quality mid-value legal work outside the traditional centers.

PHASE 3: THE FIRST ESTABLISHED "NEW CAPITALS"

These trends are at such an early stage of evolution that predicting with certainty the first cities to establish themselves firmly as new capitals of legal work is a fool's errand. That said, we believe we can already discern a set of factors that will determine the result. In particular, we highlight five fundamentals that will mark the winners in this race.

1. *A deep and renewable talent pool.* In most cases, the talent pool must produce smart, flexible and affordable graduates capable of developing the required skills and knowledge, rather than large numbers of experienced or qualified lawyers.

2. *Home-grown innovation and leadership.* We anticipate that locations where individuals and businesses are actively engaged in the development of new models and processes (Cardiff is an excellent early example) will outpace those where legal work has merely been "lifted and shifted" in.

To create a new legal "center of excellence," government and business community assistance is required to encourage inward investment and home-grown business and to underwrite the location's stability and sustainability.

3. *Excellent IT and facilities:* Legal customers will demand exacting levels of connectivity and responsiveness and feel they should have a stake in how "their" operations function. Low-rent premises and infrastructure will not suffice.

4. *Government and community support.* To create a new legal "center of excellence," government and business community assistance is required to encourage inward investment and home-grown business and to underwrite the location's stability and sustainability.

5. *Sustainable value for money.* Emphatically not the lowest-cost location, but the location best able to deliver services required by the legal sector at a consistently attractive cost.

Over the next year, we at Edge will be taking a much closer look at many of the emerging capitals individually, assessing their development against these criteria. While the established capitals of law are certainly generating innovative change of their own and there is a discernible alternative model of truly "virtual" firms emerging, the establishment of these new capitals is underway, and we will track this exciting sea change step by step. •

Architecting the new model firm

Chris Bull *consults with a range of legal service businesses — from established law firm partnerships to large corporate legal departments and brand new entrants — exploring alternatives to the traditional legal model and the opportunities these models present. Chris draws on more than 15 years as a leading practitioner and pioneer in law firm management and developing best practices in technology, process management, and legal outsourcing.*

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control or consensus?

Every law firm starts life with a flurry of entrepreneurial growth and creativity. But as the firm enters adolescence and adulthood, the unmet demands of strategic and managerial decision-making can cause the firm to plateau or even regress. Identifying the four phases of law firm development can be the key both to avoiding premature stagnation and to progressing toward institutional status.

By
Nick Jarrett-Kerr

I have recently been involved with two mid-sized law firms, each structured and managed quite differently from the other. Both firms, however, are becoming stifled. They need to work out where they are in their growth cycles and, after mature reflections and discussion, develop some studies and make some decisions about their strategies, governance and decision-making processes for the future.

Firm A has around 60 partners of whom less than 20 are equity partners, and has just less than 200 lawyers in all. Firm B has around 40 partners, but only five (all founder partners) are equity and the firm has around 150 lawyers in all.

In Firm A, the managing partner has many responsibilities but seemingly little authority; all decisions of any size are made at monthly partners' meetings. Firm B has maintained a very tight equity circle,

What is clear in both cases is that the governance and management system that worked well five years ago does not work so well now.

and one of the equity partners has combined his fee-earning with a role as managing partner. He is trusted by the other equity partners and holds a great deal of decision-making authority.

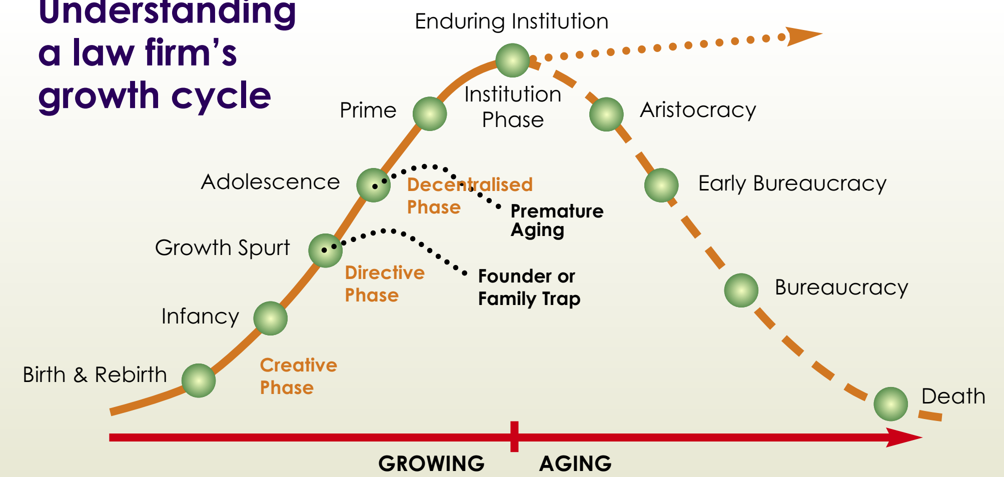
Interestingly, however, decision-making is equally slow in both firms. In Firm A, decisions are often deferred from one meeting to the next for lack of agenda time, with the result that even minor decisions can wait two to three months before being resolved. At Firm B, the managing partner has presided over a period of strong growth in which decisions used to be made nimbly and in an entrepreneurial fashion; but the size of the firm now means the managing partner is completely snowed under. Issues requiring a decision pile up on his desk to await his attention whenever he can get to them.

What is clear in both cases is that the governance and management system that worked well five years ago does not work so well now. Both firms require some degree of decentralization of power.

In Firm A, the equity partners need to recognize that they cannot be involved in all decisions and need to entrust some of the decision-making to a managing partner and management committee. In Firm B, the benevolent embrace of the founder partners has become an iron grip, and they need to consider what is needed to manage a firm which has grown considerably in size.

THE 4 PHASES OF LAW FIRM DEVELOPMENT

All law firms — all organizations, for that matter — go through a maturity cycle as they develop over time. The growth curve shown in the diagram illustrates how a firm can emerge, develop and then start to fade through its eventual lifetime. Firm A and those like it can find their development becoming stunted before they reach their prime; in some cases, premature aging sets in and the firm begins to go downhill. Firm B and its ilk can find their progress coming to a sudden halt as decision-making becomes paralyzed. Such firms may enter the "Founder Trap," in which their rapid emergence and growth turns into decline and sudden death.



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Adapted from "Corporte Lifestyles" by Ichak Adizes; "Evolution and Revolution as Organisations Grow" by Larry E Greiner

Not all firms are like Firms A and B. But it is important to understand that there are four phases of development for any firm to try to work through:

1. The creative phase
2. The directive phase
3. The decentralized phase
4. The institution phase

The last phase is the most highly prized, and the most difficult to attain.

CREATIVE PHASE

During this phase, a firm is born, emerges, or in some cases, becomes rejuvenated. Such firms are almost always very entrepreneurial at this stage of the growth cycle, generally driven by an individual or a small coalition. A strong work ethic powers the firm's momentum, and management activities tend to be *ad hoc*, flexible and uncodified. A random patchwork of decisions and processes often emerges as needed in response to the opportunities and demands that the firm faces. Policies, however, tend to focus on what not to do, rather than the enforcement of consistency and quality.

This also tends to be a phase of heavy investment, with the partners or members sacrificing immediate income in order to see the firm develop. During this phase, the baby firm heads into infancy, usually accompanied by a growth spurt. A tipping point occurs when the firm realizes that it needs a measure of discipline, coordination and systems in order to control the growing organization.

DIRECTIVE PHASE

The firm next enters a directive phase, in which its leaders (usually the founding coalition) impose some structure and order. At this stage, the founders are unwilling to relinquish control and (like Firm B) concentrate power into the central control of a managing partner or the equity group itself.

However, these leaders now have a dilemma. The firm has developed largely through their entrepreneurial and client-facing efforts, since they are the ones with the client relationships and the specialist reputations. In the larger firm, however, the leading partners steadily become obliged to spend more and more time on management rather than on fee-earning, a shift they find hard to assimilate.

For a while, hard work and long hours allow the founding partners to continue both their client-facing and management activities. Niche or boutique firms often decide, at this stage in the cycle, to remain the same size. In this case, the founder partners can continue successfully to direct operations for long periods of time; their crisis point may come later, when the founders grow old or tired and wish to retire.

Some growing firms acquire professional management staff to assist with the increasing burden of management. But generally, the founders only allow managers to make those decisions they themselves would have made, which leads to frustration, duplication of effort, and very little saving of time for the founders. This creates further issues, as the strategies first employed by the firm to get it to its current state may not be sufficient to enable it to grow further.

Not only does the firm need a grown-up governance system, it may also need a more advanced and mature strategy. It is at this stage that the firm also risks losing its good people, as profits start to plateau or slip. In essence, this directive phase can tip from a period of adolescence (in which the firm's body seems constantly to be outgrowing its clothes) to a period of stagnation and decline.

DECENTRALIZED PHASE

If a growing firm is to move out of adolescence into adulthood, some decentralization of management becomes necessary. In Firm A, for example, the tight-knit band of equity partners needs to loosen some of its iron grip on the firm and entrust management powers and authority to others. This can sometimes be an emotional period for a firm, during which there is a struggle for power and direction between the firm's old guard and the firm's "young Turks."

An executive group often emerges here, with a decentralized structure of office heads and practice group leaders, accompanied by the development of a more empowered "C-Suite" with a COO, a CFO, and directors of HR, marketing and IT. Some autonomies remain at local, practice group and individual levels, but the firm starts to develop a greater consistency of service and specialist capability. Partner responsibilities and accountabilities become more defined and focused. The founders often begin to take a back seat, but many find this hard to do.

> **The future of the decentralized firm depends greatly on the quality and competence of its executive group. In previous phases, management and leadership tasks have been driven more by people's availability rather than by their competence.**

At the same time, the firm struggles to retain its partnership ethos. Partners remain insistent on the retention of ownership rights over significant matters like mergers and the admission or expulsion of partners, but more and more of the key decisions are now made by the managing partner and the executive group. As the firm's profitability and success become more reliant on the collective effort of the firm and its groups and teams, and less reliant on the performance of key individuals, the whole issue of partner rewards becomes extremely sensitive. Partners come to terms with the notion that compensation decisions may be decided by their peers.

It is at this stage that so-called "lockstep firms" (where partners share equally after a period of progression to equality) come under challenge. Unless great care is taken, burgeoning bureaucracy can also start to stifle enterprise;

partners no longer have their previous entrepreneurial liberty to take hiring and financial decisions themselves or on the run.

The future of the decentralized firm depends greatly on the quality and competence of its executive group. In previous phases, management and leadership tasks have been driven more by people's availability than by their competence. The group of professional managers hired a few years earlier might not have the ability to take the firm to the next level. Whatever governance structure has been agreed upon, the danger is that firms in this phase can easily plateau or go into a period of decline and premature aging.

Some firms remain as mature firms in their prime for many years, without ever managing to take on a degree of permanence.

Even firms with strong and capable leadership, excellent decision-making processes, and compelling competitive strategies find it hard to ensure lasting success for the firm as an enduring institution. Hence, some firms remain as mature firms in their prime for many years, without ever managing to take on a degree of permanence that will enable the firm to outlive its current generation of partners.

INSTITUTION PHASE

The holy grail of organizational success is to become an enduring institution — a firm with a set of traditions and time-honoured structures and norms, with a distinctive way of life, a stable and reputable brand, and a long-term client base. These firms are more like clubs than commercial organizations, but a pronounced passion for excellence has become part of the firm's DNA.

These firms are often governed and managed with a light touch. The management structures have become less formal, and partner discipline is self-imposed by the firm's culture rather than driven by performance management regimes. Leadership is statesmanlike rather than authoritarian. Membership in the firm is more of a psychological contract than a commercial agreement. Roles are flexible and contextual rather than rigid and contractual. Long-term success becomes sustained rather than episodic. Very few law firms manage to achieve this status.

CONCLUSION

These issues are not confined to just Firm A and Firm B. During any firm's creative phase, there is a danger that the founding group's loving embrace becomes a stranglehold that stifles continued growth. The sudden departure of a founder, even temporarily, can cause paralysis. The firm at this stage can become ensnared in the "Founder Trap" and decline. During the firm's directive phase, delays caused by the constant need for consensus or that result from the need for a decision from a leading coalition can easily stifle the firm. During the decentralized phase, firms can become equally stifled by a burgeoning bureaucracy or by the needs of the firm advancing beyond the level of competence of its managers.

Which phase best describes your firm today? How close are you to the arrival of the next phase? Very few firms reach the final phase and become institutions — but there is no reason your firm cannot be the exception.

(This article has been updated from the original article which first appeared in Managing Partner Magazine in March 2011. Republished with permission.) •

Positioning to compete

Nick Jarrett-Kerr *is a specialist adviser to law firms worldwide on issues of strategy, governance, leadership development and all important business issues facing law firms in difficult market conditions. In the last few years, Nick has consulted to firms in 15 countries on three different continents. As Visiting Professor at Nottingham Trent University, he leads the strategy modules for the Nottingham Law School MBA strategy modules.*

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Low leverage: A low road to ruin for law firms?

A truly worrisome trend is spreading from American law firms throughout the world: institutionalized low leverage. Many partners welcome the higher profits and managerial relief this trend produces. But in the longer term, this short-sighted policy threatens serious damage to firms, clients, and partners themselves.

By Sean Larkan

Photography: Sean Larkan

Lawyers in other countries carefully monitor the U.S. legal market, sometimes regarding it as a trendsetter and even a model. In recent years, however, a U.S.-led trend towards lower average levels of leverage could have serious-long term consequences for that market and any others that follow it. This has implications for the legal profession, for firms, for partners, and importantly, for clients.

WHAT IS LEVERAGE AND WHY DOES IT MATTER?

Leverage (or gearing) means the average ratio between associates (in this context, all non-partner lawyer fee earners) and partners (total partners, including both equity and non-equity). On this basis, associate-to-partner

gearing in the top 200 U.S. firms was just below 1 to 1 in 2010. In other words, on average these firms employed less than one lawyer for every partner. So far in 2011, leverage has "improved" to slightly more than 1.4 to 1 for the top 200 firms. For the nearly 80,000 U.S. law firms outside this elite group, however, leverage drops down to even lower averages (in many cases, as low as 0.5 to 1).

Firms with higher associate-to-partner leverage invariably justify this strategy on the basis that properly managed, it translates to higher equity-partner incomes. This is usually correct, albeit only if the lawyers are high-calibre, productive, well-utilized, well-managed, and kept busy with high-quality work within a framework of good systems and procedures. However, I think this issue goes much further than simple profitability and income.

Associate-partner leverage should never be seen only in quantitative terms. It should be viewed as a qualitative issue, with many variables and components contributing to a successful outcome. Leverage is only one variable affecting financial results and, on its own, does not guarantee success or high profitability. It must be managed strategically and correctly.

A BRIEF HISTORY OF LOW LEVERAGE

The trend towards lower leverage appears to have its roots in the tough economic conditions leading up to, during, and following the global financial crisis of 2008. During these periods, the market for legal work, particularly the high-level kind, became more competitive.

Firms responded with measures designed primarily to preserve equity partner incomes, including pruning equity partners who did not generate enough work and significantly reducing non-equity lawyer numbers, all to reduce direct legal costs.

Firms responded with measures designed primarily to preserve equity partner incomes, including pruning equity partners who did not generate enough work and significantly reducing non-equity lawyer numbers, all to reduce direct legal costs. Given the high rates established for associate starting salaries in recent years ($160,000 in some cases), measures like these can obviously result in significant short-term savings.

It is often said that lawyers are like cats, and therefore impossible to herd. Law firms are also like sheep; they tend to follow one another.

Firms that reduced headcount and leverage also justified it on the basis of clients' complaints about over-lawyered matters. Leverage became a short-term financial tool to regulate profit levels, rather than a strategic structural asset to be carefully managed for the long-term benefit and strength of the firm. It is fair to say that some highly specialized types of practice do not easily lend themselves to high leverage.

It is often said that lawyers are like cats, and therefore impossible to herd. Law firms are also like sheep; they tend to follow one another. If notable firms start doing things that have positive outcomes (especially financial ones), other firms quickly follow suit. Unfortunately, this can happen equally for developments with negative long-term consequences that might not have been obvious at the time. I believe this is what has happened with leverage.

WHAT DOES LOW LEVERAGE MEAN FOR PARTNERS?

1. There are fewer people to whom work can be delegated and with whom workload can be shared, forcing partners to work longer hours on billable matters and spend less time building long-term business.

2. Fewer prospects come through the system to ensure future partner succession, obliging firms to rely increasingly on lateral hires and creating cultural grooming and fabric issues over time.

3. Partners lose the benefit of having senior associates on the team to train and support more junior lawyers.

4. Partners are forced to do work that would normally be delegated down to the lowest competency level. This may mean higher write-offs, where certain types of work do not justify high rates, and unhappy clients.

CHALLENGES FOR LAWYERS

1. New graduates, having invested heavily to qualify for the profession, have trouble finding placements within law firms. No doubt this has contributed to many graduates nowadays ending up as contractors or in careers outside the profession.

2. Graduates and associates face the prospect of a volatile employer: hiring one day, firing the next, depending on ever-changing market forces and the need to adjust short-term profit figures. Will this type of employer generate trust, respect and engagement?

3. Young lawyers lose the benefit of geared professional teams where they can work on matters with colleagues, discuss solutions to matters, and so on. The missing dynamic of learning to work within the social and stimulating dynamic of a team environment cannot be underestimated.

4. Senior associates miss the opportunity to manage and lead more junior teams and develop these vital skills.

On the positive side, those few lawyers who do find a position in law firms can reap significant potential benefits, quickly finding themselves fast-tracked into salaried partner positions.

Graduates and associates face the prospect of a volatile employer: hiring one day, firing the next, depending on ever-changing market forces and the need to adjust short-term profit figures. Will this type of employer generate trust, respect and engagement?

HOW DO CLIENTS FARE?

1. They pay higher rates for work that used to be delegated to the lowest competent level but that is now performed by partners or more senior lawyers, presumably at higher rates.

2. They have fewer choices (and sometime none at all) about the lawyers working on their files.

3. They become rightly concerned that the firm is not providing for future continuity and succession for partners and their work.

Clients do, of course, have the cold comfort of knowing there is little likelihood their matters will be over-lawyered.

11 Steps to Better Leverage

To build a qualitatively leveraged partner-associate team for the long-term health and well-being of your firm involves a wide range of factors:

1. Such a program must be recognized as a challenge and long-term strategic issue for the firm. There are no quick fixes (e.g., hire today, fire tomorrow, re-hire the next day when things change).
2. A strong and positive people-oriented cultural environment is essential.
3. Senior firm leadership and the entire partnership must fully understand the benefits, challenges and implications.
4. The firm must ensure that building a leveraged team is a key performance indicator for partners and give it sufficient weighting. This skill should be a prerequisite for admission to partnership; for existing partners, something critical to progression on a lockstep or towards increased profit share.
5. It is essential to meticulously recruit the right people from the outset.
6. The firm must carefully think through and establish the partners' roles, responsibilities and accountabilities. The author's Responsible Partner® program or similar structures could be utilized.
7. Every lawyer must have someone responsible and accountable for his or her development, progression, and personal and professional well-being.
8. Partners should be encouraged to delegate to the lowest competent level in order to free themselves up to build business, and should receive billable-target relief and financial recognition for doing so.
9. The firm should recognize that adapting to these new paradigms does not come naturally to most partners.
10. To encourage the building of such teams, partners should be recognized not only for production by themselves and by their team, but also for fee work referred to other teams (referred fees) and work done within their team for other teams (managed fees).
11. The firm should recognize that establishing such teams is critical to high levels of engagement and a key measure of the firm's long-term business success and cultural strength.

IS THERE ANY HOPE FOR CHANGE?

If this trend continues, a fairly dim picture of the profession emerges, particularly given the negative implications for the various stakeholders.

I suspect many partners have silently welcomed these lower leverage trends. Few of them enjoy the extra burden of managing other lawyers and feeding demanding associate mouths with high-quality work from high-quality clients. Lower leverage was an easy trend to latch onto and justify. It reduces short-term expenses and it saves partners from their natural dislike of showing an interest in and managing others.

Certainly, there are counter-arguments to the concerns expressed here. One would be based on the fact that low leverage is producing high income levels for equity partners: why change what appears to be working well? This reasoning is superficially appealing, but I believe it is based on classic short-term thinking.

Realistically, however, this situation is only going to change when influential firms decide to do it differently and achieve profitable results that are published in reputable media.

Realistically, however, this situation is only going to change when influential firms decide to do it differently and achieve profitable results that are published in reputable media. A geared practice requires outstanding people management skills, hard work, and a willingness to pay more attention to the interests of colleagues and clients than to oneself. This does not describe the average equity partner.

There is also the practical issue of expenses. In the past, firms set unrealistically high salary levels for associates, such that gearing up with lawyers may simply not make financial sense (particularly when there is little prospect of achieving short- to medium-term financial returns on these investments). Law firms may consequently find themselves in a vicious circle.

The trend towards lower leverage is widespread and now well-entrenched. I believe it has serious implications for the long-term health of the legal profession in the U.S., and possibly worldwide if this trend is followed in other jurisdictions. I'm not certain the profession can get itself out of this situation.

It is to be hoped that both partners and firms will reconsider, take a longer-term and broader view (even at the cost of short-term adjustments in equity profit levels), and thereby start a counter-trend. I believe that law firms, their clients, partners and lawyers will all benefit if this happens.

But it will require the legal profession to see leverage differently: not as a short-term switch to be turned off and on to adjust profits, but rather as an essential strategic asset of the firm, benefiting all stakeholders equally and providing for long-term stability, proper planning, and a happier culture and work environment for all. •

Strategy never sleeps

Sean Larkan *uses his 25 years of direct leadership and consulting experience and a number of unique methodologies to help law firms internationally to develop new or revitalize existing strategy. Sean has a track record of helping firms realize their potential and achieve actual implementation and growth. In whatever he does, his underlying philosophy is always to build a firm's confidence, strength and well-being.*

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EDGE Roundtable

In each issue of the Edge International Review, we pose a "big picture" question of significance to our clients and the legal marketplace generally, and ask our partners to supply answers. This edition's question is:

Thanks to factors such as client financial pressure, non-lawyer competition, and technology-driven commoditization, the traditional law firm business model looks shakier than ever. Will we see law firm structures and practices change fundamentally over the next several years? Or will this all blow over, producing a "new normal" that's essentially the same as the "old normal"?

Here are some of our responses.

"Which do you want first, the good news or the bad news? The bad news is that the legal profession is the most fragmented industry in the world. Therefore, there are few large-scale leaders or role models doing anything imaginative and innovative that the rest of the profession can emulate.

"The good news, however, is also that the legal profession is the most fragmented industry in the world. This means there can be outliers that can experiment and try new approaches; some will have phenomenal success. Soon, other smaller, flexible or new firms will emulate and effective trends will emerge. The inevitable result is that we will see mind-boggling change over the next five years."

– Gerry Riskin, Anguilla

"Changes in the business world don't happen overnight, and the 'old normal' has been shifting around us for quite a few years now. What we are seeing — and what will be the trend that dominates this decade in the legal sector — is the culmination of years of external pressure on law firms and of innovation and evolution inside some firms.

"The result, now beginning to emerge, is a wide spectrum of different models for legal service businesses: corporations, franchises, multi-disciplinary businesses, unbundled legal process and technology services, online and virtual law firms. Most will be owned by lawyers, an increasing number will have some external ownership, and some will be owned entirely by non-lawyers.

"The traditional partnership model will certainly continue to exist and, in some hands, prosper. However, it will be only one model for legal businesses and by the end of the decade, although this is by no means the only gauge of success we should use, probably the least profitable for the individual shareholders."

– Chris Bull, Bristol

"I am not sure one can still talk about a 'traditional model.' In my experience, many firms have adopted new and different business models not because they are responding to client pressure, non-lawyers or commoditization, but simply because they wish to practice proactive businesslike innovation and to differentiate and re-position themselves competitively.

"If one could ever call it 'normal,' I would describe it as businesslike and innovative, flexible and capable of changing and adapting more quickly than ever. These have been exciting, fast-evolving and interesting times for the legal profession and I foresee more of that in future."

– Sean Larkan, Sydney

"Large law firms will be most threatened by the double whammy of rate pressures and the leverage challenge of LPOs. Its response is likely to include a further focus on globalized brand-building in order to provide augmented quality assurance across the world. Midsize and regional firms will continue to stress their competitive pricing structures and may find that slimmer pricing differentials between their firms and LPO providers do not threaten their leverage structures in the same way as their Biglaw rivals. Forward-looking firms of all sizes will benefit from innovative pricing structures based on the principles of value billing so long resisted by law firms.

"However, some things will hold true for all firms. Clients will continue to pay premium prices for unique high-level skills (when they are needed) or for 'bet the farm' solutions. Emerging and tricky areas of law will continue to need bespoke answers. Cutting-edge industry sector knowledge will always remain extremely valuable. And clients will continue to value lawyers who use the considerable weight of their experience to provide insight and practical wisdom if it gets the client better results."

– Nick Jarrett-Kerr, Bristol

LEGAL PROJECT MANAGEMENT

Staying power:

A Legal Project Management (LPM) update

Legal project management has been an unqualified success for many major law firms that have adopted it — but only because they have supported it from the top, built programs from the ground up, and stayed relentlessly focused on practical, real-world, lawyer-first training. Here are LPM success stories from across the United States.

By Pamela H. Woldow

Yes, but will it last? Yes, but will it work in the long run? These are the questions swirling over the head of the Legal Project Management (LPM) revolution.

LPM has emerged from its infancy and begun to both mature and move in new directions. Originally driven by the efforts of large law firms to satisfy major clients' demands for greater predictability, efficiency, and budgetary control, LPM now is evolving into new forms appropriate for smaller firms and a broader variety of clients, while continuing as a powerful tool in high-ticket U.S. and E.U. legal arenas.

Equally significant, LPM has become the focus of broadened interest from global firms and legal departments. For example, Australia's largest law firm, **Mallesons**, recently committed to firm-wide LPM implementation, the first Australian firm to do so.

LPM has become the focus of broadened interest from global firms and legal departments. For example, Australia's largest law firm, Mallesons, recently committed to firm-wide LPM implementation, the first Australian firm to do so.

Some skeptics still question whether law firms can translate initial LPM rollout into the long-term fabric of firm operation and culture. "I hope we can do it," said one large-firm administrator, "but we are very big and well-established. Changing to firm-wide LPM will be like pulling the foundation from underneath a skyscraper and trying to insert another. Unless LPM produces significant benefits for us quickly, I'm afraid inertia will take over, and we will have spent a lot of time and money for nothing."

Questions remain at the individual partner level, as well. After one global firm provided — mandated, actually — LPM training for its partners, one of them got a call from an interested client. "Don't worry about all this LPM stuff," the partner reportedly said. "It's just the latest fad. You and I will do things as we always have, and this whole LPM thing will shrivel and die." Firm management was not pleased when the client reported this conversation.

TAKING IT TO THE NEXT LEVEL

We at Edge have watched closely as firms we've worked with and other first-adopters continue to build out their LPM programs. Some high-profile players deserve attention and, perhaps, emulation.

Nixon Peabody, for example, now is well along in firm-wide implementation of a streamlined, user-friendly LPM approach, called Nixon Peabody Project Management (NPPM). Rather than going with a full-immersion rollout, Nixon Peabody created a multi-office task force that participated in a pilot training program and used it to design a wider general awareness initiative. Following considerable design collaboration with its outside consultants and a second pilot training program, Nixon Peabody eventually took internal control of LPM implementation, including developing bespoke program materials, work flow processes and templates.

McGuireWoods took a slightly different approach following a period of extensive expansion that included four major acquisitions, eight new offices in the U.S. and abroad, and a 30% increase in lawyer headcount. To maximize buy-in and "buzz," they first employed a tiered LPM general awareness initiative with firm management and office heads (and then with the practice group leaders) before training rank-and-file lawyers. In workshops in the U.S. and E.U., the firm trained partners and associates together to improve practical collaboration skills. In addition, at McGuireWoods, LPM has proved a powerful tool for building a cohesive culture as well as improving efficiency.

Similarly, **Sutherland**, a 425-lawyer Atlanta-based firm, first used general awareness presentations to senior lawyers to position LPM implementation. Training in the firm's five offices then emphasized pilot projects with a variety of client teams, rather than broad-scale general immersion. The firm reports solid success with implementing LPM using this bottom-up, rather than a top-down, approach.

Elsewhere, global law firm **Eversheds**, which for years has been a thought leader in large firm management and operation, is said to have invested $20 million in an integrated set of LPM and account management practices that already have realized up to 35% in client savings over the last two years.

Several large firms initially delegated development of their new tools entirely to their internal IT experts or to external software vendors, with decidedly mixed results. After encountering initial lawyer resistance and pushback, they now have developed simpler, more user-friendly tools and systems.

DEVELOPING TECHNICAL TOOLS

Although LPM is not a software-driven discipline, it certainly benefits from support technology that helps integrate information and populate "dashboards" that help lawyers scope, plan, budget, monitor progress, monitor time and billing, communicate, and generate reports about project progress.

Several large firms initially delegated development of their new tools entirely to their internal IT experts or to external software vendors, with decidedly mixed results. After encountering initial lawyer resistance and pushback, they now have developed simpler, more user-friendly tools and systems.

Among the best is **Baker Donelson**'s BakerManage system, a model of singular clarity, simplicity and utility. BakerManage serves as a one-stop information shop, neatly integrating project information, budgeting, team selection and communication in a format that echoes the classic project management activity sequence.

Development of new and improved LPM software continues at a feverish rate, both internally and by a spectrum of external developers and vendors. Expect to see more tools that build templates, create budgets, monitor billing and budgets, and keep all stakeholders in the loop, to evolve at an exponential rate as LPM matures.

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A NOTABLE CASE STUDY: THE DECHERT EXPERIENCE

In 2009, global law firm **Dechert LLP** made a huge splash by offering basic LPM training to every partner in its U.S. and European offices, a major undertaking. I was retained to design and facilitate LPM training that included scores of workshops for hundreds of partners over an intense nine-month period. This full-immersion initiative started before Dechert had fully developed its LPM support infrastructure, process templates and budgeting software. Recently, I spoke with Dechert's two primary LPM champions to see how the firm's move into LPM adolescence and maturity was progressing.

Conversations with Ben Barnett, head of Dechert's Products Liability practice, and Colleen Nihill, Director of Legal Project Management, make it clear that the firm's LPM efforts are continuing to gain traction, both internally and with clients.

"Clients are giving our LPM initiative a warm reception, and many are surprised and pleased at the extent of our commitment to LPM," Barnett said. "This is both because we showed that we understood the need to improve service delivery and because — unlike many other firms — we have continued to build an effective infrastructure to implement and deliver LPM."

Nihill said the firm is keenly aware that LPM is not just a matter of teaching LPM principles or terminology. Barnett added that this means producing tangible and objectively measurable outcomes: "We are showing that we can deliver realistic budgets, track where we are against budget, and provide reports that are meaningful to clients."

LPM ADOPTION AT DECHERT

Interestingly, while LPM has been adopted widely by such Dechert practice groups as antitrust, products liability and certain transactional areas, generally the firm is finding that LPM implementation is progressing more on a lawyer-by-lawyer basis than practice group by practice group.

"The good news is that we're seeing strong lawyer buy-in at all levels," said Nihill. "Our culture has shifted from understanding LPM principles to active use by an increasing number of our lawyers. Individual lawyers want to use LPM tools for better matter management. Partners want the methods that will let them communicate better with clients. Associates, to my surprise, are coming to me and asking how to create Gantt charts."

BUILDING UP AND BUILDING OUT

Since the 2009 rollout, Dechert has developed a sophisticated internal project management department, headed by Nihill, a former practicing lawyer. "It's clear that our lawyers respond better when trained and supported by LPM experts who have practiced law," she noted. "They want to know that our LPM processes and tools are being developed by people who've 'been there and done that.'"

The LPM section is positioned as a sub-department of Dechert's Finance Department. "Because LPM requires lots of financial information and analysis, it was most logical to house it there," said Barnett, "and we have assigned a dedicated analyst to LPM head financial analysis. This way, we're building an infrastructure that permits greater access to LPM-related information by our lawyers and practice groups."

AN EXPANDING TOOLKIT

Dechert also has progressed in developing new tools and templates to support LPM. It created what it calls the "Smart System," which allows timekeepers to enter time using a single set of codes. Behind the scenes, the firm's LPM software reclassifies time into the proper slots for particular clients and for the firm. "We found that resistance diminished when lawyers learned they can get contemporaneous time and billing reporting that helps them manage matters and provide current information to clients," said Nihill.

The LPM department also has helped build task codes across the practice groups that reflect the type of work Dechert lawyers actually perform. The coding process started using ABA codes, but these have now been adapted to fit the work done and the type of information needed for budget forecasting.

LESSONS LEARNED

In many regards, Dechert's experience with long-term LPM implementation mirrors what Edge has been advising other firms. In short:

1. LPM requires powerful champions and a highly visible commitment from firm leadership, both short-term and for the long run.

2. LPM should be defined in terms of the firm's culture and strategy and designed with its clients and their priorities firmly in mind.

3. Implementation should be keyed to lawyers' "right-now" needs – it must deliver immediate practical utility, or else it will not be adopted.

4. Training should go short on theory and long on hands-on practice; to accept LPM, lawyers need to see it in action.

5. Training must run in parallel with all other aspects of developing tools and infrastructure. One-and-done training, or LPM without adequate technical and staff support, are roads to failure.

6. LPM can and should be scaled to the group, team or project in which it will be used (for example, a short-cycle M&A transaction may require few task codes; a long-cycle litigation matter will need more planning, more granular information and more monitoring). One size does not fit all.

No matter how ambitious a firm's vision for long-term LPM institutionalization, implementation should be approached incrementally. "You should not try to build a perfect system right off the bat," said Barnett. "You can't do everything and anticipate everything at the outset. Don't bite off more than the firm — and its lawyers — can chew. Build something that works now, recognizing that you will probably be changing and redesigning almost everything as your LPM function matures."

Asked, in light of its experience, whether Dechert should have done anything differently, Barnett responded instantly: "Yes. We should have started sooner." •

Transformative innovation

Pamela Woldow *has earned global recognition for her pioneering approaches to transforming today's law firm-client relationships. Drawing on her deep expertise in Legal Project Management, Convergence Programs, Alternative Fee Arrangements, RFPs and law firm selection, Pam helps law firm lawyers work more profitably while also providing better value to clients, and she counsels corporate legal departments in containing costs and creating stronger alliances with outside counsel.*

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MANAGEMENT

LEGAL PROJECT

The next generation of Legal Project Managers

By David Cruickshank

The apprenticeship model for training new lawyers simply isn't adequate for legal project management skills, with potential competitive losses for law firms that retain the old model. Here's a better blueprint for LPM training within your firm.

Law firms are waking up to client demands for more efficiency and value for money in managing matters. True, some of those demands are clumsy and blunt: "No first-year associates on our matters," or "We cap each deposition on this case at XX hours."

Nevertheless, firms can now respond in a constructive manner with a counter-proposal that demonstrates strong capacities in legal project management (LPM) and fee management. Instead of "ticking boxes" and offering itemized responses to itemized cost controls, firms could show clients they're "on their side" by providing more management efficiency to achieve the overall client goal of value.

Looking down the road, however, many law firms face a challenge: How will we develop the next generation of legal project managers?

Most firms' individual apprenticeship system can't develop more than a few top legal project managers, not enough to meet sophisticated clients' demands in the "new normal" of legal services. Even those who do rise to a level of expertise now get there by way of accident, outside learning, or sheer force of labour rather than systematic development.

When it comes to legal project management, the apprenticeship model is broken. Other professional service firms and corporate clients demonstrated years ago that more "systems thinking" is needed in law firms. And more technology-supported project management skills are required of rising professionals. When will law firms follow?

In an apprenticeship system for project management, a few juniors receive lengthy one-on-one observation and mentoring and rise to the status of master craftsperson. Long after it has been abandoned in other professional service firms, this system survives in law firms because:

- there are a few smart, hard-working associates who can learn to project manage, to a basic standard, almost on their own;
- those "in the club" (*i.e.*, partners) tend to prize the individual survival skills

of those aspiring to join the club;

- firms are reluctant to bill clients hourly for items like planning time, team meetings and team conference calls, so teamwork is less prized in the contest for billable, collectible hours;
- firms have been slow to reach across professional or corporate boundaries to adopt proven project management tools; and
- there are not enough fixed-fee matters in a firm's business mix to drive changes.

Legal project manager training encounters similar difficulties inside law departments, whose members are mostly law firm alumni, not managers from other branches of the client's company who might be highly conversant with project management and systems thinking. They were trained in the law firm apprenticeship system and accept its results.

Do we have the means to develop a larger cadre of legal project managers? I believe that we do, but it's not as easy or inexpensive as many think.

Do we have the means and motivation to break from the apprenticeship model and develop the next generation of project managers? As to motivation, anyone listening to the Association for Corporate Counsel or their own clients in the past few years has heard the requests for new fee structures, more predictability and appropriate staffing. We are now seeing "legal project management capacity" show up in RFP's for legal services. Who wants to be knocked out of the running in future beauty contests like this?

Be aware that your competition may have LPM training capacity and may be already promoting it to clients. Firms like Dechert LLP have done a bottom-to-top overhaul of their systems, conducted intensive training, and created not a few, but many "next generation" project managers.

Do we have the means to develop a larger cadre of legal project managers? I believe that we do, but it's not as easy or inexpensive as many think. These are typical commitments that a firm will have to demonstrate:

- Firms with internal competency models expand their competency models to include legal project management.
- Firm leaders know how to get buy-in for change (or get outside help to achieve it).
- There is a project management model that can be easily communicated across practice groups, even though implementation will differ in those groups.

- Practice groups commit to the hard work of developing protocols and standard practices.
- Firms invest in intensive skills training with measurable results, especially for senior associates.
- Leaders reach outside the firm to find assistance and best practices from other professional service firms.
- Firms invite clients to measure the difference in services after developing project management capacity.

In summary, there is a strong business case for adopting legal project management capacity. The traditional apprenticeship model can't produce enough talented managers, and the lateral market is even harder to plumb for such talent. Competitors are already telling your clients they can do this better, with better cost results. The motivation is apparent, but firms need to invest in new means to develop the next generation of legal project managers. •

Talent leadership

__David Cruickshank__ helps firms build top talent functions through strategic reviews, competency models and training. He has worked with Am Law 200, Canadian and U.K. firms on talent and management skills for more than 20 years, including in-house with a top New York law firm. He helps leaders create consensus for changes sought by clients, speeding up business results for both.

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LEGAL PROJECT MANAGEMENT

Creating a "Communication Engine" through Legal Project Management

By Douglas B. Richardson

& Pamela H. Woldow

Communication lapses are far more than simple misunderstandings or irritations: in the highly complex world of the modern legal transaction, they can derail a major project and fatally damage the lawyer-client relationship. Legal project management practices and principles can revolutionize the way lawyers and clients talk to each other and among themselves.

"What we've got here… is a failure to communicate."

— Prison boss Strother Martin to inmate Paul Newman in *Cool Hand Luke* (1967)

As communicators, most lawyers — especially those in law firms — tend to think they stand at the apex of the human communication food chain and that they are far superior to non-lawyers in their communications skills. If you're not sure, just ask them.

Ask their clients, however, and a far different picture emerges. In every survey of client dissatisfaction we've seen for decades, the first and loudest client complaint is about their lawyers' communication — or the lack of it. What's the gripe? Over and again, three themes emerge: "My lawyers are unresponsive." "I never know where things stand." "My lawyer tells me what he wants to tell me, not what I need to know."

Few of clients' frustrated gripes allege analytical deficits or shortcomings in legal judgment or quality of expression. In general, clients believe their lawyers know their stuff and can articulate it adequately, if perhaps too verbosely.

RECIPE FOR COMMUNICATIONS FAILURE: NO CONTEXT

For such smart people, lawyers — both in law firms and in-house — tend to be pretty simplistic when asked to describe the "communications context." The law firm talks to the client, and vice versa, right?

This over-generalized model tends to foster the misconception that communication pathways are elementary: "What did the client say about the bill?" "Give the law firm a call and tell 'em we need that contract draft today." See? Simple. Linear. Us and Them. Just a matter of the people on one side of the wall lobbing messages over to the people on the other side.

We interview a lot of associates, and they tell us that most of the time, their comprehension of all the moving parts, as well as the role they play as cogs in the machine, is spotty and incomplete.

During Legal Project Management (LPM) training, we teach that to avoid dropped balls, disconnects or unhappy surprises, one of the crucial rules for success is: "Keep all of the stakeholders in the loop, all of the time." Why? Because too often, as Jim Benson writes in *Personal Kanban*, "We are told to do work, but don't understand why. We crave and deserve context. *Without context, just being told what to do is a communication failure.*" (Emphasis added)

This truism comes as a big surprise to many experienced lawyers who tend to keep their plans, strategies and tactics locked up in their heads. They manage projects using a hub-and-spokes approach, where they are at the hub and all the other players are arrayed around the perimeter of the wheel (often, they don't know what those other players are actually doing or how their work interrelates). "Why does everybody need to know everything?" these overcontrollers say. "All that communication just takes up a lot of my time. I'm in control; I know what's going on. That's all that matters."

We interview a lot of associates, and they tell us that most of the time, their comprehension of all the moving parts, as well as the role they play as cogs in the machine, is spotty and incomplete. They are rarely let in on overall strategy or the critical phases of a legal project. They don't know what steps are upstream and downstream of their positions, and they can't flag the ground-level inefficiencies or goof-ups they see because they don't appreciate the cumulative impact on the whole project.

As Benson puts it: "Lack of context creates waste, resulting in long work days, poor planning and the inability to keep commitments." Sound like any law offices you know?

UNBUILDING WALLS

This context problem is no less true when one approaches the law firm-client barrier. And let's be frank, it's a barrier. On both sides of the wall, most players perceive a communications wall — or even a minefield — between law firms and clients.

Things aren't much simpler on the law firm side. Here, the dramatis personae may include the relationship partner, the client team leader, various expert partners (e.g., tax, ERISA), counsel, senior associates, junior associates, and various paralegals.

Let's desconstruct that context. Just who or what are we referring to when we speak of "the client"? This bucket phrase can include a whole raft of players, including the company ("We represent Allied Widget"), the general counsel, the assistant general counsel, the associate general counsel, staff attorneys, paralegals and legal assistants.

And that's just the lawyers. What about other vitally interested stakeholders, such as the CFO, the business unit head, the financial chief for the business unit, the procurement department, and the chief compliance officer (not to mention the administrative assistants for all these players)?

Things aren't much simpler on the law firm side. Here, the *dramatis personae* may include the relationship partner, the client team leader, various expert partners (*e.g.*, tax, ERISA), counsel, senior associates, junior associates, and various paralegals.

Here too, we may see lots of non-lawyer participants, like financial analysts, the CMO, or the IT experts. The firm also may have numerous lawyer and non-lawyer players outside its walls: local and correspondent counsel, e-discovery vendors, legal process outsourcing vendors, software vendors, the firm's PR company, and various consultants.

Ah, but we're still not done. Think of all the other stakeholders who touch the communications context in myriad ways. Opposing counsel. The court.

Local, state and federal regulators. The media. When you tally up all the potential communication pathways among all these stakeholders, you see that communication is not simply a matter of "The law firm talks to the client." True, some of these connections are more important and more frequent that others, but a communication failure in any one of them can wreck the entire train.

JUMPING THE TRACKS

Take this true-life example: A seriously overstretched associate general counsel calls up a junior associate at the firm: "Look, you've done a terrific job in your work for us, and I'm really in a jam. Can you take over handling X, Y and Z for me?" The associate, flattered by the praise and client trust, eager to further develop the client relationship, and glad for a few more billable hours, steps up readily. The pattern escalates: good work begets more panicky can-you-save-me phone calls. The additional work is done timely and well, and all is sweetness and light between "the law firm and the client."

> **Legal project management is "a communication engine." That is, it can fundamentally alter the law firm-client communication context, making it less adversarial, more collaborative, better aligned, and less vulnerable to unhappy surprises.**

The relationship partner looks at the pre-bill, sees $120,000 of unexpected billable time falling outside the project plan, and is told by the associate, "The client asked for it and is happy with the work." The partner sends the general counsel a bill with the additional amount. The GC goes ballistic, flatly refusing to pay "this outrageous overcharge." When the relationship partner cites the AGC's apparent authority to authorize the additional work, the GC says, "I'll take care of my #%&@! AGC, but your associate never should have taken on this work without checking with you. You failed to manage your troops, and we won't pay this." The firm ended up writing off over $100,000.

THE PLAN, BOSS, THE PLAN

Legal project management is "a communication engine." That is, it can fundamentally alter the law firm-client communication context, making it less adversarial, more collaborative, better aligned, and less vulnerable to unhappy surprises. Where once there was a wall, LPM creates a bridge.

For this to happen, communication, both within a law firm team and with the client team, can never be taken for granted. In important matters (and which matters, in the client's eyes, are not important?), communication must be planned.

In our LPM workshops, we invariably ask: "How many of you have ever even seen a written communications plan?" At most, we'll see two or three hands from lawyers, usually those whose clients employ or demand communication planning processes.

When we ask, "How many of you have actually written a communications plan?", we generally see fewer hands go up. In other words, even in bet-the-company litigation or major transactions, communication is done by default. And the default position is, "We're all smart lawyers here, and we know how to communicate. Why belabor the obvious?"

> **When we ask, "How many of you have actually written a communication plan?" we generally see fewer hands go up. In other words, even in bet-the-company litigation or major transactions, communication is done by default.**

A communications plan is not just make-work or overkill; done well, it does not belabor the obvious as much as it identifies the ways to share vital information.

THE COMMUNICATIONS PLAN

A good communications plan spells out and anticipates roles, modes, content and timing. That is, before a project or engagement starts, everyone involved should be able to consult some kind of information source somewhere that contains the following fields of current information:

- names, titles, roles and contact information of all stakeholders, both on the client side and law firm side;
- project objectives and deliverables;
- project phases, tasks and timeframes;
- the type and form of information each stakeholder requires;
- the frequency with which each stakeholder needs to receive information essential to his or her roles and responsibilities;
- the mode or method by which communication will take place; and
- warning signals and alarm bells defining what kinds of events will trigger emergency or extraordinary responses from the project team.

Even the best communication plans are not self-executing. The existence of a written planning document or set of software entries will not ensure that real people actually do real communicating.

When describing real-life communication pathways, good plans therefore must accommodate the different levels of formality, familiarity, friendship and history that may mark communications among different stakeholders. Put differently, an effective plan is a living document that serves to guide the actual people involved; it is not an impersonal blueprint or a follow-the-dots protocol.

But which members of the firm create the plan? The obvious candidate is the project manager for a particular engagement, but that title is used very differently in different situations.

WHO CREATES THE PLAN?

Who should prepare the communication plan? As the party receiving money for the delivery of legal service, this responsibility customarily falls on the law firm, although the firm may use templates or forms the client uses or approves.

But which members of the firm create the plan? The obvious candidate is the project manager for a particular engagement, but that title is used very differently in different situations. Sometimes the project manager is the relationship partner or client team leader. Sometimes it's a younger partner, the implementer of the grand strategies that the relationship partner and client negotiate. Sometimes the project manager is an associate, in which case the role is primarily a matter of implementing others' orders or tracking progress. And sometimes a non-lawyer is designated project manager, the title denoting nothing more than an "administriviator" of details and schedules.

The ideal answer is that the plan is formulated by someone with big-picture knowledge and experience, aided and abetted by all the team members. A communication plan should be a collaborative process to get all players in the loop.

CREATING BETTER TOOLS

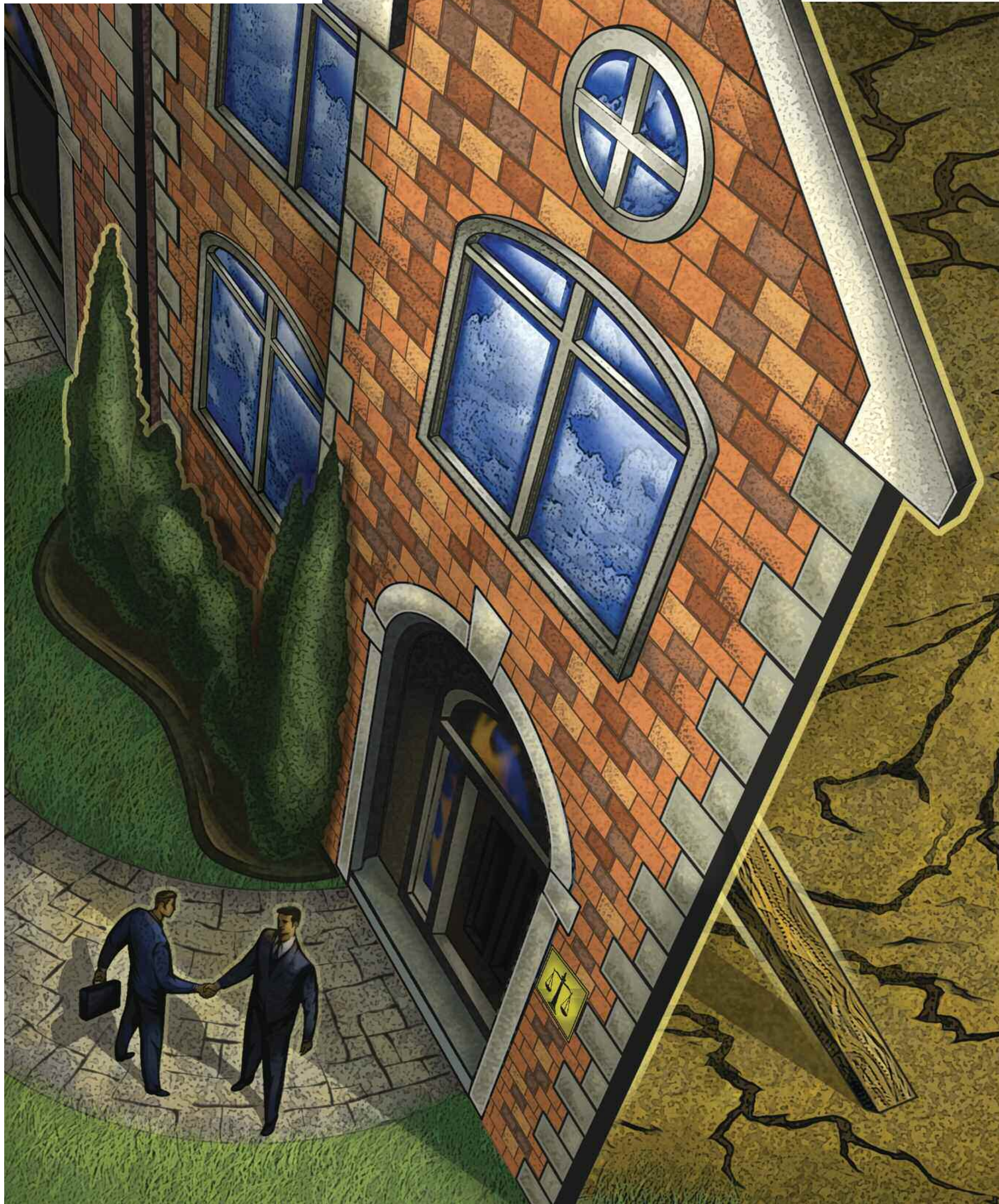
Generally, complex legal projects can be managed better when all stakeholders can access the same information (and update information) as their individual needs and schedules dictate. Although numerous face-to-face meetings are wonderful for *esprit de corps* and consensus-building, generally they represent an inefficient way to communicate, and therefore should be reserved for project points when human interaction either is absolutely indispensable or is clearly the fastest and most efficient way to swap information.

At rollouts of cutting-edge templates and integrated dashboards at several firms, the response is similar: "Wow. That is awesome. I can do that."

Quantum advances in planning and communication software — whether developed internally or sourced from a proliferating list of vendors — now permit seamless integration of task scoping and planning, critical path definition, budgeting, monitoring progress, and all communications interactions.

Happily, the days of separate strategic plans, tactical plans, team selection plans, budgets and communication plans are behind us. The LPM trend has spurred development of some terrific integrated templates and dashboards. The best of these are easy to use, elegantly formatted, fully integrated, and totally self-populating: information added in one template field automatically updates relevant related fields in other parts of the project plan.

While it would be inappropriate for us to name the players at the head of the user-friendly planning and communications software class, we can vouch for the impact these marvelous new communications tools have when introduced to previously skeptical software users: the lawyers who kept reminding us that law is practiced by people, not by software. At rollouts of cutting-edge templates and integrated dashboards at several firms, the response is similar: "Wow. That is awesome. *I can do that*." •



Robert Johannsen

What reputation really means (Hint: It's not Brand)

Law firms rise and fall on their reputation, both among clients and competitors. But what do we really mean by "reputation," and how is it measured? Edge International's exclusive Reputational Index points the way towards the answers, and warns that the world's leading law firms are raising the reputational stakes for everyone.

By Ed Wesemann

It seems that increasingly large portions of law firm marketing resources are devoted toward branding. In fact, it often appears that the first priority for every newly appointed Chief Marketing Officer is a "rebranding" project. When pressed, the reason given invariably is that a firm's brand reflects the way the firm is seen by the marketplace.

But when we ask general counsel what they consider the most important factor in selecting a law firm, the first answer is usually reputation. It is mentioned well ahead of any other attribute, including price. By the same token, the number-one criterion for a law firm considering a merger partner is also invariably reputation.

One could easily presume that a law firm's brand and its reputation are essentially the same thing. Yet when you talk to law firm marketing staff about branding, somehow you always end up discussing letterhead designs, logos and website color schemes. Indeed, the American Marketing Association defines a brand as a "name, term, design, symbol, or any other feature that identifies one seller's good or service as distinct from those of other sellers." That sounds suspiciously like a trademark.

A little research tells us that the textbook differentiation between brand and reputation is that brand is "client-centric," in that it focuses on what a business promises its customers about its goods or services. Reputation, on the other hand, is "firm-centric," because it focuses on the credibility and respect that an organization generates among a broad set of constituencies, including employees, investors, regulators, the media, and its customers and potential customers.

In short, brand is what a law firm says about itself and reputation is what others say about the firm. But regardless of how one defines reputation and brand, both are intangibles that are based on perceptions.

In short, brand is what a law firm says about itself and reputation is what others say about the firm. But regardless of how one defines reputation and brand, both are intangibles that are based on perceptions. And both, therefore, can be created, changed and damaged.

THE EDGE INTERNATIONAL REPUTATIONAL INDEX

Several years ago, at the request of a client, we created a proprietary index of law firm reputations. The Index is based on a range of sources, but it is largely driven by research performed by Edge consultants on behalf of our clients.

Often, the research involves surveys wherein we ask law firm clients and referral sources to identify which firms have the best reputation for overall capability. We combine these surveys with publicly available rankings and ratings, including league tables for transactional activity, federal litigation activity, rankings in directories such as Chambers and Legal 500, and a variety of other sources.

The result, the **Edge International Reputational Index**, is a percentage ranking of law firms in the AmLaw 200 compared to the specific firm that ranked the highest in our study. That firm is ranked as 100 percent — not because the firm is perfect, but because all other firms will be ranked in comparison. So a firm with a ranking of 20 has a reputation that we estimate to be 80 percent lower than the highest-rated firm. It's not perfect, but it serves our clients' purposes.

We recently recalculated the Index to provide a specialized report for a client. The client wanted to look at its reputation in comparison to a number of firms it identified as peers. Specifically, it wanted a comparison of reputational change among those firms over a period of several years.

In the process of this engagement we noted a vast — and, we believe, growing — differentiation between the firms with the highest reputations and those with lesser reputations. Indeed, over the past five years, the number of firms with a reputation index of 50 or higher grew by 10 percent, while the overall average rating decreased from 28 to 17.

In our estimation, this change does not mean that law firms' reputations are declining. To the contrary, the reputations of global firms are becoming so strong and prevalent that the standard by which the entire legal industry is judged has shifted upward and the bar has risen for all firms. As a result, firms that do not pay attention to reputation suffer through comparison.

BASIC TRUTHS ABOUT REPUTATION

The widening of the reputational scale results from some basic truths about reputation. For example, reputations do not have to be based on actual experience. Over and over again, we hear clients describe law firms as extraordinarily good at certain areas of practice, even though they have never actually used those firms themselves. If one hears a comment from someone whose opinion one respects, it will begin to build a reputation in one's mind. Generally, it takes three or four comments to confirm the reputation.

Once the reputation is confirmed, people will communicate that reputation as if they had personally experienced the event that formed the reputation. I am told that the same is true with restaurant reputations.

Once the reputation is confirmed, people will communicate that reputation as if they had personally experienced the event that formed the reputation. I am told that the same is true with restaurant reputations. For example, a substantial portion of people who give a restaurant high marks in Zagat's surveys have never actually eaten there.

Of course, for an individual to form a reputation, he or she has to have some knowledge or concern about the business. For this reason, geographic dispersion and name recognition play significant roles in reputation. However, there are certain "truisms" about reputation that we have observed:

1. Advertising and public relations cannot on their own create a reputation, but they can accelerate the formation of a reputation. If a certain movie has

a strong advertising campaign, with the stars promoting its quality on talk shows, it will not necessarily create a reputation as a good movie (as demonstrated by much of what has come out of Hollywood recently). However, the promotion does somewhat enhance the likelihood that an individual moviegoer who has seen the ads will come away from the theater believing he or she saw a good movie.

This power of suggestion is the whole theory behind public relations and celebrity endorsements. Further, when the moviegoer tells a friend that he liked a movie, the friend will accept the positive recommendation of the movie more rapidly if she has also seen its advertising. She will then willingly communicate the positive recommendation of the movie to others, even if she never goes to see the movie.

Reputations have a strong geographic component. A business that is a household name with a strong reputation in one market may never have been heard of in any other.

2. It is not necessarily true that reputations are fragile and can easily be damaged. In fact, once a reputation is formed, it is very difficult to change. We see this most often when law firms have a reputation for doing certain types of work, such as insurance defense litigation. Even if the firm has not done that type of work for 20 years, large segments of the marketplace will still identify that work as part of its reputation.

3. Reputations have a strong geographic component. A business that is a household name with a strong reputation in one market may never have been heard of in any other. Logically, however, the broader a reputation geographically, the likelier it is to have spread to locations where the business does not have active relationships. For example, Coors beer started out with a very limited but highly positive reputation in a single state. Then, as it spread to a larger region, its reputation spread nationally, even to locations where it was not sold.

4. Negative reputations spread more rapidly than positive ones. In fact, researchers tell us that if someone has a positive experience with a business, he will tell two or three people. But if he has a negative experience, he will tell seven to nine people. However, advertising and promotion can counterbalance a reputation. This explains why consumers continue to patronize businesses (and plaintiffs' lawyers) that have an awful reputation but do a lot of promotion.

5. The most powerful reputation-building promotion is one that specifically and pointedly tells the targeted audience what the reputational message should be. As a result, creative brand slogans may not have as much impact on positive reputation as a simple declarative sentence, such as the small-business law firm that built a positive reputation with the tag line: "We are good lawyers who get successful results for reasonable fees."

When it comes to branding versus reputation, the law firm with the highest reputation in the U.S. in our Index is consistently Skadden Arps. Can you tell me what Skadden's logo looks like? •

Global strategic expertise

Ed Wesemann *specializes in assisting law firms with strategic issues involving market dominance, governance, merger & acquisition, and all activities necessary for strategy implementation. He has worked with law firms on six continents and is the author of four books on law firm management.*

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Don't touch that compensation system... yet!

Law firms struggling with partner compensation — which is to say, almost all firms — often blame the compensation system. But more often than not, the problem lies with the ways in which the compensation process plays out, including expectations of partner behavior and the communication of the process by which a figure is reached.

By Gerry Riskin

Law firms frequently call me to say they need help with their compensation system. Sometimes, they'll indicate that it's simply part of the strategic review. After peeling back the layers and determining what they really want, however, it is often apparent that the compensation system is just fine "as is." It is the deployment of the compensation process that can create unnecessary challenges.

In this article, I will explore why so many partners may be griping about a compensation system that, in fact, is just fine.

WHAT THE HECK IS THE COMPENSATION SYSTEM?

Unless the system is entirely formulaic and quantitative, requiring no human intervention (a rarity, to say the least), all too often there is a sense of mystery about what the compensation system is and how it is applied. Subjective factors are often listed somewhere, and in fairness, are usually properly considered. However, this is a well-kept secret from those affected by the system.

The result is that if you ask any individual partner to describe the compensation system, you will get a unique interpretation that will differ in some way from that of any other partner in the firm. This diversity of perception creates the fodder for unresolvable circuitous discussions (debates, really) about the compensation system.

HOW ARE COMPENSATION DECISIONS COMMUNICATED?

Typically, the compensation committee will spend countless hours poring through mountains of data and then engage in debate and discussion about what is fair, what behaviors the firm is trying to encourage or discourage, and how everyone else affected would feel about any particular decision.

After the committee completes this onerous (and typically thankless) task, the numbers are communicated to those affected without any detailed explanation. As a result, a partner receiving his or her "number" is left to speculate how the number was determined, usually attributing more to billable hours and receipts than the compensation committee did. This in turn leads to the conclusion that nothing really matters except numbers — or worse, even the numbers are not assessed uniformly or equitably, but rather are covered in a cloak of bias.

All this could have been avoided if the number had come with an explanation of the factors that affected that partner's compensation and how. The explanation need not be extremely specific, but it must at least touch on the factors that were considered most relevant in assessing that partner's number.

THE HIDDEN PROBLEM: WHAT'S THE PLOT?

Giving high-quality feedback to a partner regarding compensation requires that the partner know what the firm expects of her or him and the firm's assessment of how performance relates to those expectations. In most firms, those expectations are not clear in the first place, but that does not stop the compensation committee from considering what they ought to be in the compensation process.

If a partner is unaware of what the firm expects, communicating the dissonance between the expectations of the firm and the performance of the partner will fall on deaf ears. Perhaps instinctively knowing that, most compensation committees are reluctant to have the dissonance discussion at all.

So if we find the plot — that is, ensure the partners know what is expected of them, not just at compensation time but throughout the year — then the compensation committee can apply subjective factors with more confidence and communicate better to those affected. Communicating the outcome requires the following steps:

1. Preparation

At least two individuals from the compensation committee must agree upon the precise message that is to be delivered to each partner and create a bullet-point outline. The points must connect the deliberations of the compensation committee to the individual partner's plan and performance. This requires at least a consultation with the partner's practice group leader (if this is not already integrated into the compensation process).

2. The Meeting

Those two individuals and the partner should block off at least 30 minutes, even if the meeting takes only 10. The objective of this meeting is to deliver a clear message that contains encouragement and appreciation for the contributions of that partner and, if applicable, precise areas for improvement with a process to help the partner achieve it. That process might involve an internal or external coach, a course or program, or some other customized solution. The options should be discussed with the partner, who should participate in selecting what he or she believes to be the most effective potential path.

3. Follow-Up

The compensation process is endless. The process whereby partners receive feedback on their performance in the normal course of events must be integrated with the compensation committee's future deliberations.

WHAT IF THE COMPENSATION SYSTEM IS FLAWED?

There are cases where the firm's compensation system is not consistent with behaviors that the firm expects from its lawyers. There are many firms in which the lawyers will nevertheless tend toward the desired behaviors out of loyalty and respect for good leadership.

If, however, the dissonance between the compensation system and the desired behaviors is great enough, then it will be necessary to at least fine-tune the system, and significant changes might well be necessary. It is my hope that this article will discourage many firms from prematurely reaching the conclusion that the compensation system must be changed.

One last thought: Some of the finest firms in the world have secret systems in which no partner knows what any other partner earns. This process all but eliminates the jealousy and aggravation that comparisons can cause. I appreciate the challenge of getting the horses back in the barn; nevertheless, I think that senior management ought to consider the possibility of going to such a process if at all practical. •

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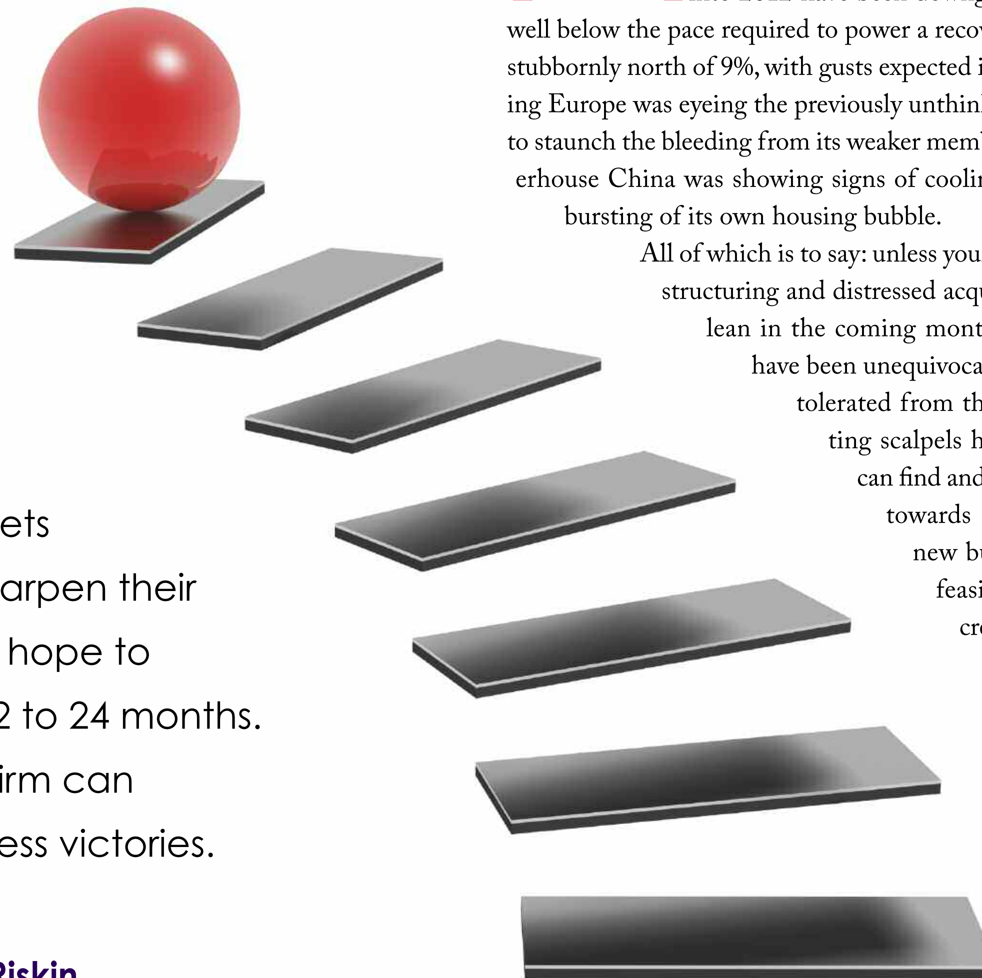
7 business development tactics in a down economy

The global economy is in rough shape and will get worse before it gets better. That means law firms must sharpen their business development efforts if they hope to improve profitability over the next 12 to 24 months. Here are seven ways in which your firm can increase its chances for major business victories.

By Jordan Furlong and Gerry Riskin



At the time of writing, the American economy was lurching towards what looked increasingly like a double-dip recession. GDP growth estimates for the balance of 2011 and into 2012 have been downgraded to between 1% and 2%, well below the pace required to power a recovery. Unemployment remained stubbornly north of 9%, with gusts expected into the double digits. Staggering Europe was eyeing the previously unthinkable prospect of a fiscal union to staunch the bleeding from its weaker members' economies, and even powerhouse China was showing signs of cooling off and perhaps suffering a bursting of its own housing bubble.

All of which is to say: unless your firm is especially strong in restructuring and distressed acquisitions, business figures to be lean in the coming months and perhaps years. Clients have been unequivocal that rate increases will not be tolerated from their law firms. Firms' cost-cutting scalpels have carved off all the fat they can find and have started to make their way towards muscle and bone. That leaves new business generation as the only feasible way for most firms to increase profitability.

What are your competitors doing to bring in more work? For the most part, they're doing what they've always done: schmoozing clients, buying advertisements, and no doubt "re-branding" themselves for the umpteenth time. This is not to criticize these efforts, which often are effective to at least

some degree. But when you do what everyone else is doing, you can expect everyone else's results.

For law firm leaders who are ready and willing to try fresh approaches, we offer seven tactics by which your business development efforts can generate new energy and better results.

1

1. CLIENT INTELLIGENCE: KNOW YOUR TARGETS

It all starts here. Among clients' most frequent complaints about law firms is an utter lack of knowledge of the clients' businesses and the issues facing their industries. Rectify that through the collection of two types of client intelligence: covert and overt.

Covert intelligence is gathered without the client's involvement. Create Google Alerts to track news and developments for your five best clients and five clients you wish you had. Have associates or assistants compile information about these clients, either for immediate use (*e.g.*, congratulations to an existing client on an appointment, pitching new clients on a developing area that matches your specialties) or for weekly status reports. Use this information to shape interactions with current clients and overtures to future ones.

Overt intelligence is gathered with the client's input, and comes with the obvious benefit that taking an explicit interest in a client's circumstances has numerous relationship benefits apart from the knowledge acquired. At the very least, book regular informal meetings with a current client representative to talk about nothing but their business: no law firm chatter, no pitching, just asking questions and listening to responses.

Far better, gather two or three client representatives (including one senior executive) to carry out a Needs Assessment: identify the client's current and future requirements or prepare a market forecast for the client's industry. Compile and present a written report assessing the client's current and future business landscape and its legal implications and suggesting risk-managing steps the client could take. This will be a powerful tool for both reinforcing loyalty and building a case for new business, "bulletproofing" your clients from competitors' overtures.

At the very least, book regular informal meetings with a current client representative to talk about nothing but their business: no law firm chatter, no pitching, just asking questions and listening to responses.

But there has to be more than just prodding the client to spend more money on you; self-serving business development efforts do more to alienate a client during a difficult economy than most firms imagine.

And while you're at it, build relationships with the market's foot soldiers: legal journalists, legal recruiters, CLE providers, consultants and other third parties who see and hear more than even the most active firm can detect.

2

2. LEVERAGE YOUR CLIENTS: MORE WATER FROM THE WELL

A recent survey indicated that 86% of law firms planned to generate new business from their current clients. This is eminently sensible, considering the rule that it's much easier to produce more business from clients than to create new client relationships. But there has to be more than just prodding the client to spend more money on you; self-serving business development efforts do more to alienate a client during a difficult economy than most firms imagine. You have to think like your client and consider its objectives.

This is why the Needs Assessment mentioned earlier is so effective: when you and your client jointly identify the client's marketplace challenges, the client has skin in the game and is motivated to pursue opportunities that it has helped identify. Ensure that your report to the client forecasts emerging needs, including the future of the client's industry. If you're still looking for a reason why your firm's practice groups should create "client teams," here's a very good one.

And remember to widen the circle within your own firm. Once you've determined what the client needs, start cross-selling other practices and incentivizing referrals within the firm. Cross-selling can be both substantive (other practice groups) and geographic (same practice group but different jurisdiction). Gear the entire process towards fulfilling those needs that the client itself has helped determine.

3

3. CONTENT MARKETING: BUILD BUSINESS THROUGH EXPERTISE

If you've ever published a newsletter or had your lawyers write for a legal periodical, your firm has engaged in content marketing. These days, of course, that content is as likely to be provided through blogs, Facebook pages,

If you have multiple practice groups, create a blog for each one, recruit multiple contributors, and appoint a high-profile editor within the department to manage the publication.

Twitter accounts or Google Plus. Corporate counsel don't usually read law firm newsletters because the subject matter is rarely timely or geared towards their needs; lawyers tend to write about what interests lawyers, not clients.

So the first step is to think like a publisher (which is, after all, what you are). Understand who your target audiences are, find out what matters to them (through client intelligence efforts), and identify a content marketing strategy. Remember that clients read content that is brief, precise, and extremely relevant to their needs, so make sure you meet those criteria.

What format should you use? Publish in paper newsletters if you must, but recognize that in the age of ubiquitous wi-fi and the iPad, real-time publishing is the norm. Blogs allow lawyers to make their knowledge and insights available immediately, not within the weeks required for print publishing. If you have multiple practice groups, create a blog for each one, recruit multiple contributors, and appoint a high-profile editor within the department to manage the publication.

Just as important as your content and format is your distribution network; this is where social media really delivers. Twitter circulates your own content far beyond your firm's snail-mail and e-mail address database (and can point subscribers to other relevant content too). LinkedIn has become a powerful content distribution channel, in addition to being the world's online Rolodex. Specialty legal online distribution networks like JD Supra have an astonishing reach. And if you do prefer print to online, make sure to publish in client publications like *ACC Docket* and industry periodicals.

4

4. SKILL UPGRADES: GIVE YOUR LAWYERS TOOLS AND TRAINING

Law firms tend to think that only rainmakers have any business development role, but the reality is more complex. Every lawyer who has any contact with a client is a potential "rainbreaker" rather than rainmaker. Every interaction with the firm, from a corner partner down to a junior associate, either moves the client closer to or farther away from the firm. Leaders who accept this fact understand that investing in lawyers' ability to greatly satisfy clients is a business development effort.

So enhance your lawyers' business skills. Training them in business development, emotional intelligence, and basic networking know-how will upgrade their capacity to positively reinforce the client relationship. Maximize their client exposure in supervised settings. New lawyers are just as capable of initiating profitable new client relationships, but if left to their own devices, they likely will not maximize the opportunities. Face facts: we're all rainmakers now, including your most junior lawyers. The new client satisfaction imperative means you can't afford to have even one potential rainbreaker on the loose.

5

5. THE CLIENT EXPERIENCE: SHOW ME THE DIFFERENCE

Most law firms are indistinguishable from the client's perspective, something few firms seem to grasp. Clients will notice a firm that does things differently and will stay with that firm if it does things better. So make the client experience a competitive asset.

Legal project management improves the client experience (see the LPM articles in this issue of the *Edge International Review* for proof). So do online compliance training, downloadable legal apps, and a host of other client-facing solutions that require modest investment.

The most recent InnovAction Awards by the College of Law Practice Management (*www.innovactionaward.com*) drew groundbreaking entries from Goodwin Procter, Morrison & Foerster, Littler Mendelson, Fenwick & West, and Sidley Austin, among others. If your firm is not on that list, it could be.

6

6. OTHER PROFESSIONS: WHAT WE CAN LEARN

The legal profession needs an infusion of fresh thinking to see past its own precedents and prejudices. Importing attitudes and strategies from other professions that have adapted more successfully to 21st-century markets is highly advisable.

Take a look at the accounting profession, for example, long touted as a model for law firms to emulate. Accountants have solidified their position as clients' preferred business advisors by making it their mission to understand

New lawyers are just as capable of initiating profitable new client relationships, but if left to their own devices, they likely will not maximize the opportunities.

the industries and markets in which their clients operate. They give clients informed, reliable, long-term counsel based on original market research and a determination to anticipate their clients' challenges before they crystallize, not after the crisis has occurred, as lawyers prefer. Become experts in your best clients' industries, so that you can give nuanced, informed counsel about the client's business decisions and prospects.

> Many law firms, by contrast, still maintain a cultural gap between "lawyers" and "non-lawyers" and fail to give the latter the respect, power and salary required to lead change within the organization.

Accounting firms also give senior leadership positions (with attendant salary and respect) to business-savvy experts in technology, marketing, culture and so forth. They also designate specific professionals to act as responsible client relationship managers and compensate them accordingly. They invest money and power with "non-accountants," though they themselves would never use the term.

Many law firms, by contrast, still maintain a cultural gap between "lawyers" and "non-lawyers" and fail to give the latter the respect, power and salary required to lead change within the organization. Accountants don't make the mistake of thinking they're always the smartest people in the room. Trust the professionals you've hired to act responsibly and knowledgeably.

7. MONEYBALL MARKETING: GO AGAINST THE GRAIN

Michael Lewis's best-seller **Moneyball** tells the story of the Oakland A's, one of baseball's best teams for several years despite having one of the league's lowest payrolls. Forced into frugality, they instead spent smartly, identifying those players' skills with the highest contribution towards winning that also (because of the industry's blinkered approach to metrics) were the most undervalued. They identified the most undervalued, highest-ranking contributors and exploited the resulting market inefficiency.

What does this mean for your firm? Identify those business development opportunities that combine high rates of success with low rates of marketplace implementation; these are the inefficiencies you can exploit. Measure the productivity of various business development efforts and assess them against the frequency with which they're applied. As we said at the outset, doing what everyone else is doing will get you everyone else's results. Find the things that other firms aren't doing but should be, and have the courage to embrace them as essential elements of your business development strategy.

If you're looking for a place to start, allows us this modest suggestion: get out of your office and go see your clients. Ninety percent of your competitors are at their desks right now, piling on more hours of the same old billable work because they're afraid to try anything else. Take advantage of their timidity and get in front of your clients. America, after all, wasn't discovered in Spain. •

Presenting: the future

Jordan Furlong *delivers dynamic presentations to law firm retreats and legal organization conferences throughout North America. He explains the unprecedented changes in the legal marketplace and how lawyers can respond.*

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Managing the self-limiting lawyer

New perspectives on professional development

Perfectionist lawyers who crave unblemished success and endless positive reinforcement are likely never to reach their full potential and are at serious risk of burnout and loss. Law firm and law department leaders owe these lawyers and their organizations solutions to their self-limiting behavior.

Productivity is on the minds of legal leaders and managers these days, whether they reside in-house, are law firm captains, or serve as practice group leaders charged with getting optimal output from the troops. Firms and legal departments are going to extraordinary lengths to maximize lawyer efficiency, including implementing Legal Project Management, shelling out for the latest software tools, or retooling leverage ratios and client service teams.

But there remains a largely overlooked source of inefficiency — overlooked primarily because it falls into the "soft" realm of human psychology and motivation, a domain that is anathema to most lawyers. It's created by lawyers who have enormous potential and evident expertise, but whose self-limiting attitudes lead to persistent achievement deficits.

By Douglas B. Richardson, JD, MA, CMC

Self-limiting attitudes manifest themselves in self-limiting behaviors that translate into significant and costly organizational friction losses, whether through attrition, low morale, health problems, sub-par work quality, missed deadlines, or uneven productivity.

Lawyers are widely regarded as hyper-achievers. But ironically, the traits and characteristics that lead certain people to select a legal career also predispose them to anxiety, self-doubt, perfectionism, feelings of inadequacy, and fears that they are impostors on the verge of being found out and publicly humiliated.

These self-limiting perspectives compromise their personal satisfaction and threaten their careers. From their employers' point of view, these hobbled lawyers represent an underperforming asset and a management challenge that cannot be ignored, as it often was in decades past.

Self-limiting attitudes manifest themselves in self-limiting behaviors that translate into significant and costly organizational friction losses, whether through attrition, low morale, health problems, sub-par work quality, missed deadlines, or uneven productivity. Given the costs of hiring, developing, and compensating legal talent, it is therefore worthwhile for managers and leaders to dig down and figure out what's really going on here.

HEART OF THE PROBLEM: THE "MASTERY PROFILE"

Most lawyers come wired with what we could call a "Mastery Profile." Their fundamental motivational drive is a desire — or is it a need? — to display personal mastery over a variety of challenges. They tend to be "challenge junkies" who define their self-image and their self-esteem largely in terms of individual achievement.

This Mastery Profile's performance-driven mindset has some clear and notable upsides. It makes for ambitious, achievement-oriented lawyers who thrive on variety, respond well to new challenges, work well independently, are highly responsible, and get a lot of stuff done.

THE DARK SIDE OF THE MOON

What's so self-limiting about that? Well, many "mastery profile" lawyers also tend to be perfectionists, which can make them prone to burnout and people-pleasing behavior as they strive to get as much positive feedback as possible. "Challenge junkies" require the reinforcement of a constant stream of success experiences. Not only that, they feel that they're only as good as their most recent achievement, and they worry that a single failure will cancel out all the "life credit" they've built up through their prior accomplishments.

In the long run, challenge junkies can run out of stamina or become disengaged because they receive neither adequate internal nourishment nor constant applause from their external judges and juries. Law firm and legal department leaders often are baffled by these "flame-out" cases — lawyers who initially show great promise, but who struggle instead of maturing and who eventually succumb, if we may borrow a phrase from the medical profession, to a "failure to thrive."

These lawyers may leave, resign themselves to dead-end roles, or force their organizations to "make them available to the marketplace." In each case, to the regret of those who have high hopes for them, they end up costing the organization more than they deliver.

HIGH POTENTIAL ... OR DESTINED TO FALL SHORT?

Back in 2008, renowned executive coach Karol Wasylyshyn, Ph.D., identified several distinct mindsets in a sample of more than 300 executives, managers and lawyers she had coached since 1982. She first described what she calls "Unusual" executives: fully-realized achievers who seem naturally gifted as leaders, highly self-actualized, and hitting on all cylinders. Career-wise, most of these people "made it." In her sample, nearly 75% of this group had advanced in their careers, while the remaining quarter were in a "temporary plateau, soon to receive increased responsibility."

These otherwise intelligent, skilled and committed people "fell short, in that they were overburdened by their own feelings of frustration, disappointment and discontentment."

Wasylyshyn also identified a less happy group, which she labeled the "Unrequited." This group's members were no less talented than those in the Unusual category. "However," she says, "despite their successes and indications of further potential, they diminished their accomplishments, questioned their capabilities, were preoccupied with hypervigilant concerns about the future, obsessed about less than perfect performance, and remained locked in self-limiting thoughts."

These otherwise intelligent, skilled and committed people "fell short, in

that they were overburdened by their own feelings of frustration, disappointment and discontentment. When they felt scrutinized or unfairly treated, especially relative to peers, they often regressed to petulant behavior or otherwise overreacted so much that questions were raised about their maturity as leaders."

Predictably, these self-limiting attitudes and resulting behaviors damaged the careers of this group. "Fifty percent of them were in a longstanding plateau and the remaining 50% had been fired," Wasylyshyn says. Their happiness also suffered: "People in this category were too self-absorbed and fundamentally dissatisfied to appreciate the world around them. Expressions of gratitude, hope or humor were not a consistent part of their behavioral repertoires."

THE MINDSET MODEL

In *Mindset, the New Psychology of Success* (Ballantine, 2008), Carol Dweck, Ph.D., distinguished "fixed mindsets" from "growth mindsets." The former believe their abilities — and therefore their prospects — are carved in stone and cannot be enhanced. The latter believe that "the hand you're dealt is just the starting point for development," and that "your basic qualities are things you can cultivate through your efforts."

Fixed mindset lawyers tend to express a strong need for things to be under control. They tend to be risk-averse and alarmed by change, looking for snares or quicksand behind every bush, because they fear that the one fact or factor they don't anticipate may be the one that produces catastrophe.

Fixed mindset lawyers tend to express a strong need for things to be under control. They tend to be risk-averse and alarmed by change, looking for snares or quicksand behind every bush, because they fear that the one fact or factor they don't anticipate may be the one that produces catastrophe. For them, novelty equals uncertainty, which equals anxiety. Frequently, when confronted with unexpected events or potential crises, they can become nearly immobilized or suffer major confidence meltdowns.

Therefore, when the time comes to implement major changes or explore new directions, it's often hard to get fixed-mindset lawyers to buy in. They prefer the devil they know to the devil they don't, and so may appear inflexible, unimaginative and resistant to change. This is a particularly undesirable trait at a time when the whole legal profession is morphing in new directions and unseen forces appear to be rewriting the rules of success.

WHAT THIS MEANS FOR LEGAL LEADERS

While legal leaders certainly can recognize the symptoms of self-limiting attitudes, it is neither appropriate nor effective for them to attempt to address another lawyer's internal mental functions. Leaders and managers will not realign the thinking of a perfectionistic or self-defeating lawyer by saying, "You shouldn't feel that way," or "You got great performance reviews. Why aren't you satisfied?"

Instead, legal leaders and managers should provide rational and objective feedback on the quality of their followers' behaviors — their performance. That's a major part of their job. Playing shrink, even if one's intentions are compassionate and laudable, is risky business. However, identifying true high-potential talents and distinguishing them from "promising lawyers who seem to be carrying some baggage" is an important part of any leader's role, as is making advancement opportunities available to those who can best take advantage of them.

This is not to suggest that firms should turn an unsympathetic or blind eye to anyone who seems excessively anxious, pessimistic or perfectionistic, particularly among younger lawyers prone to extreme performance anxiety. Many lawyers do mature, achieve their potential, and consolidate their accomplishments into a solid sense of self-confidence. Personalized support, from whatever source, can make a big difference.

A POUND OF CURE

Put simply, the best cure for self-limiting on-the-job lawyer attitudes and behaviors is good feedback, preferably from a variety of sources. The messages lawyers get from their firm or department should reflect an accurate and objective perception of their strengths, potential, developmental needs and outright liabilities. That is one of the cardinal virtues of competency-based performance evaluation, a performance measurement approach that keys career prospects to progression through a series of objectively defined performance criteria.

Similarly, coaching opportunities can be very beneficial, as long as the coach appreciates the crucial distinction between behavior-modification/skill-building issues and prying into underlying psychological adjustment issues. Coaches should not be expected to engage in psychotherapy or try to help cure dysfunctions stemming from deep-rooted psychological causes. But they can play an instrumental role in helping self-limiting lawyers to develop more accurate self-perception and better reality-testing capability.

Skilled coaches can help their clients to plan, pre-brief and debrief high-stakes tasks and interactions, to better understand and navigate political waters the lawyer struggles to understand, and to generally enhance the lawyer's "emotional intelligence."

By serving as a supportive yet objective sounding board, coaches can help lawyers learn to "reframe" their attitudes and assumptions, and thereby to adjust their behaviors. Skilled coaches can help their clients to plan, pre-brief and debrief high-stakes tasks and interactions, to better understand and navigate political waters the lawyer struggles to understand, and to generally enhance the lawyer's "emotional intelligence." They can push back at negativity in a constructive manner, spot examples of denial and self-defeating assumptions, and provide instruction about developing more professional or appropriate behaviors.

CAN LAWYERS FIX THEIR OWN SELF-LIMITING ATTITUDES?

With practice, lawyers (like anyone else) can learn to examine and reframe their internal assumptions and beliefs, first by recognizing recurring patterns of unproductive thought and then by learning to challenge those patterns objectively and systematically. This does not have to be done with a psychologist or therapist using cognitive therapy; it can be developed as a self-help skill.

The responsibilities of good legal managers therefore include helping self-limiters to help themselves by providing the objective information on which accurate reality-testing is predicated.

For many managers, however, providing candid feedback is very difficult. They often prefer to avoid confrontation and withdraw from providing potentially painful feedback, rather than lay the truth on the line. Such avoidance represents an abdication of their leadership or management responsibilities. It is itself a self-limiting behavior, one that diminishes their effectiveness as a manager, at a cost to those to whom they owe the duty of candid and honest feedback.

At all levels and in all settings, self-limiting behaviors cannot be simply written off as an inevitable byproduct of human nature or as an unavoidable cost of doing business. The prescription for the self-limiting lawyer disease is active intervention; the remedy is candid, constant and supportive feedback. •

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Published Articles

Bithika Anand

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- "Trends: Winds of change" in Developing a Profitable Practice in Asia, Ark Group, 2011
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- "United we stand," Managing for success, August 2011
- "Alternative Business Structures: The long pregnancy," Legal Information Management (11) 2011

Sean Larkan

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Gerry Riskin, Anguilla

- "A low-paid corner: Stripping pay and prestige from the practice of law," Amazing Firms, Amazing Practices, May 24, 2011
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Pamela H. Woldow

- "Legal Project Management Tools: Let Rube Goldberg Rest in Peace," At The Intersection, June 29, 2011

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- "LPM Momentum: The Dechert Experience," At the Intersection, August 3, 2011
- "Adopting Legal Project Management: Why LPM is Here to Stay," and "The Law Firm Manager's Role in its Evolution," Legal Management Magazine, August 2011

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