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InnovaAction

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One law firm is betting everything on a whole new approach to legal service delivery.

**Would
you bet
against
them**



The firm

At the time of writing, Christopher Marston is 29 years old, and is the CEO of Exemplar Law Partners, LLC, the three-month-old, nine-person law firm he founded straight out of law school.

Marston is an entrepreneur, and always has been. He had his first song published at the age of 12, started a music services company (performing and DJ'ing) at the age of 14, and became an options trader at the age of 18. After prep school, he obtained his bachelor's degree from Northeastern University in Finance and Entrepreneurship. He was a CFO for a technology company, and competed nationally in ballroom-dancing competitions. He attended Suffolk Law and Business School in Boston, graduating in 2004 with a law degree and a master's degree in finance.

Straight out of law school, he spent six months developing a business plan for a new kind of law firm. As he tells it: "What began as intellectual curiosity became in-depth research, which turned into a business plan."

Like most of his classmates, Marston was not encouraged by what he had heard about the life of a typical lawyer in a typical law firm, and even though he had won many awards at law school, he wasn't tempted to join a traditional law firm. "Lawyers are slaves to the billable hour," he notes. "By measuring and rewarding billable hours, internally and externally, lawyers are actually punished for innovation—greater efficiency just reduces the bill to the client."

Accordingly, using every penny of savings he had accumulated from his previous activities, Marston launched Exemplar Law Partners, opening the doors to clients in January 2006.

**Among the
innovative practices
(at least for law firms)
he has adopted are:**

- Billing only on the basis of fixed prices—fees are determined for each project by a pricing committee.
- Offering clients a satisfaction guarantee.
- Hiring only lawyers with business degrees or with extensive industry experience.
- Hiring ultra-selectively, interviewing more than 300 people to get the nine people it has. Among the criteria new hires must have are: social graces, an interest in and confidence to develop new business, a team orientation, and the willingness to risk their own compensation from day one by accepting no guarantee of starting salary in exchange for profit-sharing participation.
- Making an "over-investment" in an experienced management team from non-lawyer backgrounds—the COO has 34 years of experience in banking, while the CMO has 15 years of experience in various industries, most recently in direct sales. "I sought out varied backgrounds for a new, fresh approach," Marston says.
- Instituting a "No Grinch" teamwork approach. Marston writes on his blog: "You cannot buy a position at our firm with your book of business. In fact, we have turned several of them away. We want everyone to work together to achieve success."

When it comes time to work with a client, Exemplar's five-person value pricing committee (Marston, the COO, the CMO, and two other lawyers) discuss the parameters and scope of the client problem, resulting in a fixed-fee proposal to the client. No client or job is pursued or accepted unless it uses this approach.

Initially, the firm is practicing in the areas of transactional corporate work, intellectual property, real estate and entertainment law. Exemplar plans to work with outside lawyers in other practice areas until attorneys are hired.

All attorneys, senior and junior, are required to practice law, be involved in business development, and assist with the internal activities of the firm. Each piece of client work is given to one person who manages the costing, delegation of tasks, meeting of deadlines, and quality of the legal work and service.

On guarantees, this is what the firm's Web site has to say:

“We are so confident we will deliver unmatched value in the services we provide that we encourage you to determine what the value of the service was worth to you based on your experience. If it was less than the price you paid, call us, articulate the shortcomings, and we will negotiate a fair price with you. What we ask in return is for you to define the unmet expectation, or explain how we could have better served you. In essence, you will be helping us make adjustments and improve our service.”

The firm has been actively marketing itself from its inception, with strategic media and speaking opportunities discussing the viability of the fixed-price business model. The firm has actively worked at leveraging buzz in the “blawgosphere,” working with attorneys and bloggers who are following the company’s progress. The firm’s Chief Marketing Officer says that “our personality and approach is more like that of an ad agency than a law firm. It’s progressive, fresh, and not afraid to tell it like it is.”

The firm is targeting small to mid-size clients: young, growing companies; entrepreneurs; start-ups; and fast-track companies. It also aims to attract women-owned businesses and real estate/mortgage brokers.

Regarding the non-negotiable requirement for lawyers that they must have prior business experience or training, Marston points out that “it shouldn’t matter whether the solution to a client’s problem is 70% legal and 30% business or the other way around. The key is to be in the business of solving clients’ business problems.”

On his selectivity in hiring, he says: “I really screen for entrepreneurial attitudes. I asked people during the recruiting interviews if they

were prepared to work for six months without pay in exchange for a piece of the action. I wanted to see the look in their eyes when I posed that question.”

On his blog, Marston writes: “Over the past year and a half, we have received more than 600 applicants. About half of them were just looking for jobs. We ended up speaking with about 300 of them, half of whom were risk-tolerant enough to meet for in-person interviews. Only half of those had social skills, and only half of those had ambition. About half of that group had business sense, and of the rest, only half were humble enough to roll up their sleeves and build a firm.”

At the moment, Marston is the sole shareholder in Exemplar, but he says that will change shortly—he’s only been in business three months. There is, in his words, “no class system” at Exemplar. Everyone, from someone straight out of law school to the most experienced person, is a part of the same reward scheme: a salary with profit-sharing and/or equity participation.

“I joined because there was clearly an opportunity for leadership, a chance to reshape the practice of law.”

Loren Demino

“Unlike a typical partnership, we have severed the relationship between ownership, power, and profits in our firm,” says Marsden. “In a typical firm, those with an equity stake have authority and a proportional share of the profits. In order to have a more corporate-like model, shareholders will not have decision-making authority by virtue of ownership, and profit distribution will bear no relationship to equity ownership.

“We have two major components to profit sharing,” he adds. “First is the performance-based sharing. Our new, non-lawyer Human Capital Leader will be creating the formula for that distribution. The second component of reward will be risk-based compensation, based on when you joined, function and experience.”

Loren Demino joined the firm upon graduation from Boston University Law School. “I joined because there was clearly an opportunity for leadership, a chance to reshape the practice of law,” Demino says. “My family are entrepreneurs, so I found it very appealing. I’m treated like a full member of the team. I sit in on the firm’s planning meetings, and I am expected to do my share of networking in the community.

“Yes, I’m taking a big risk, and I couldn’t do it without support from my parents. No one here has yet taken home a dime—we’re all betting that, together, we can make this work and benefit from the profit-sharing scheme.”

On his blog, Marston writes: “Most attorneys I know are not happy. The opportunity to build a firm that can be a win for the attorneys by creating a great work environment, and at the same time be a win for clients who are endlessly disappointed with law firm service and billable hours, is what drives me to get up every day and do what I do. People who think Exemplar is about a pricing model have missed the point. Exemplar is about changing lives...one by one...until we’re all done!” He plans to have 24 people in the firm by year’s end.

Marston believes that he is creating a new kind of law firm that will have great appeal to clients, “because a revolution inside the organization creates the revolution from the customer’s side. Look at Southwest Airlines,” he says. “Herb Kelliher states that he hires for character, and that organization actively seeks out ‘happy’ people.

There is a high correlation between happy people and happy customers. Miserable people cannot provide excellence in customer service—and professional satisfaction in law is at an all-time low. Therefore, the key to great client service is to get great people and treat them well.”

One client, who found Exemplar through the Boston Legal Referral Service, put it this way: “They were wonderful to work with and really helped me set up and incorporate my jewelry business. They understood that I’m an artist and didn’t really understand all the business issues.”

“They also showed concern for me as an individual, frequently asking me whether I was sure I understood and was ready to do what it takes to launch my own business. Even though the work I hired them for is over, they still call me up to touch base and find out how things are going.”

The president of a jazz record label associated with a music school commented: “On a pro bono basis, they helped us with everything we needed to know to get our label going. They were invaluable and incredibly smart, anticipating lots of issues I needed to think about.”

The Implications

So, that’s a brief introduction to Exemplar.

It’s way too soon to tell if the firm is a success. Marston freely acknowledges that he hasn’t yet made a penny from this venture, and, in typical entrepreneurial fashion, has invested his life savings in it. “We don’t want to make money fast,” he says. “We want to make money right.”

It’s important to note that virtually nothing Marston is doing is unknown in other professions and industries. Other professions routinely give fixed-price estimates, and many entrepreneurial start-up companies have made successful use of profit-sharing and stock-participation schemes even for their most junior people. Many businesses bring in veterans from other industries to run their marketing and financial operations.

What’s remarkable about Marston’s initiative—and it is remarkable—is not his creativity, but his courage. He has taken numerous topics that have been extensively discussed for decades in his profession (the weaknesses of billing by the hour, for example) and he’s doing more than dabbling—he has committed himself and his firm to living the new vision.

He's betting not just his life savings, but his career on this vision, and seems to have persuaded an increasing number of people to do the same.

In *Built to Last*, James Collins and Jerry Porras point out that "Walt Disney's greatest creation wasn't Mickey Mouse, but the Walt Disney Company." In other words, the greatest accomplishment in innovation may not be any one thing that a company tries, but the fact that it can create a culture that is capable of innovating, again and again.

If Marston succeeds in his start-up phase, he may be well on the way to doing just that. As one observer commented: "Marston is not making the usual repetitive law firm claims that he has the best lawyers around, or that his clients will always win." He's saying:

"What makes us different—even unique—is that you, the client, are our entire focus, and everything we do is tailored for your service, satisfaction and convenience."

"He's gambling that there are paying clients with interesting work for whom service is without doubt the primary consideration. And he's gambling that there are good lawyers who want to join a firm to do just that."

So, here are the questions for all of us to contemplate:

1. If you were a client, would you hire this firm?
2. If you were a young law school graduate, would you join this firm?
3. If you were an experienced partner, would you join this firm?
4. If you could buy a piece of equity in this firm, would you do so?
5. If you competed against this firm, what would you worry about?
6. If you wanted Marston to succeed, what's the one piece of advice you would give him?
7. Exemplar is currently targeting small and mid-size clients. Do you think that, once it gets established, it will be able to compete for work currently being done by the large corporate law firms? Should they be worrying now?
8. Finally, where do you think this firm is going to be in five years' time?



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Creating Business Value for Legal Organizations

INNOVATION IN LEADERSHIP

By Silvia L. Coulter



In any law firm, it's the executives, the members of the C Suite—you know, the COO, CIO, CMO, CHRO and CFO—who must work together to achieve top results. For many years, these business units operated very effectively and without criticism as silos in most firms. Today, however, is an entirely different story.

Faced with rising pressures from competitors biting at clients' legal businesses, coupled with clients' keen focus on shaping their outside counsel into lean and value-added providers, today's teams of operational business units must unite. The more offices and practices a firm has, the more critical team focus becomes. Providing resources across a three-office, 750-lawyer firm is different than providing resources to a 16-office, 750-lawyer firm.

Only the tightest of teams, with C-level executives who know how to delegate and trust one another, can set the tone for innovation and help bring the firm to its highest and most profitable peaks. This article will explore why firms must now tighten their top leadership team to achieve these results.

Innovation starts at the top, with teamwork and collaboration among a law firm's top executives. **Here's how.**

Fine-tuning the team

Leadership, at its very core, is about confidence, trust, empathy and values. If these four cornerstones are not held strongly by each member of the non-lawyer and lawyer management team, there's already trouble brewing. Behaviors expected from one another must be modeled by one another—the old adage of “do unto others.”

Members of a firm's C-level ranks often say they work closely with another member of the team. Fewer than half of these folks, however, will go on to say they work well with one another. It's time to get over it—and fast. When excellence is expected, excellence is achieved. Here are two examples of how integrated teamwork and leadership succeed.

First, consider the relationship between the CMO and the CIO. There are many opportunities for these professionals to work together—client relationship management databases, deals and case tracking systems, Web sites and client portals, to name a few. For a firm to truly innovate, the relationship between these two individuals and their teams must be strong, supportive and respectful.

I know of one firm where a tight relationship between the two individuals and their teams truly led to innovative ways in which to support the firm. The team created a way to track and manage client pursuits, sort of a “pipeline management system.” The concept came out of business development and was brought to fruition through strong communication between the two groups and the adept programming team in the Information Technology group. This firm's experience illustrates how innovation requires both communication and respect.

A second example is the relationship between the Director of Professional Development and the COO. By carefully understanding the strategic goals of the firm, the professional development person is better able to assist with educational offerings across the firm, from senior partners to support teams.

Innovative thinking will support the firm's learning at all levels and will provide the opportunity for competitive advantage.

A fabulous example of this kind of innovative thinking on a strategic level is Kirkpatrick & Lockhart Nicholson Graham's educational programming, under Chief Officer for Recruitment and Development Susan Fried. Many other great examples exist for identifying where to "tighten" the team and tune them in to orchestrating a strong and combined group.

Yet in many firms, we still see partners undermining the professional team, and managing partners succumbing to strong voices and individuals who think only of themselves. Innovation stops dead in its tracks; the rhythm goes flat and the firm takes a step backwards. Focus, strong support and accountability will drive creative and innovative thinking from the top down.

Conducting the change

The key element of the whole production, of course, stands at the front of the stage. The managing partner facilitates the breaking down of barriers across the firm's management team. Her actions set the stage for the success of the professional team, the innovative undertakings they produce, and ultimately, the firm.

Tightly managing the C-level suite requires a strong, focused, well-respected managing partner who knows that the firm and its clients come first. He or she must fulfill the responsibility to support the professional team and provide direction to them to work on common goals and across departments. The firm's success is the paramount consideration.

Profits and client share ultimately will be the final judges, of course. But the fact remains that the management teams found in the most progressive firms are finely tuned, in step with the vision, and willing to work together to create new and competitive ideas for firm growth. What a great opportunity to take the firm to the next step!

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STEP ONE:

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Where law schools fail to go, two law firms have broken new ground in educating their professionals in strategy and client service. But it's not really about education at all.

In- no- va- tion in law firm management



When invited to write about “innovation” among large law firms, one’s immediate temptation might be to ask for a different assignment—one with a real, not an imaginary, subject matter.

But as I began to think about the issue, I realized I was already familiar with two initiatives that deserve the rare encomium “groundbreaking,” and which—perhaps more shocking—promise to increase the level of excellence among lawyers, for the benefit of both their clients and their firms.

The initiatives are “Reed Smith University,” the firm’s first-of-its-kind alliance with a globally respected business school—in this case, the Wharton School of the University of Pennsylvania—and DLA Piper’s analogous (though, as we shall see, actually quite distinct from both a strategic and operational perspective) alliance with Harvard Business School.

What makes these two alliances “innovative”? While the concept of “continuing legal education” is a familiar one, the notion of making long-term investments with world-class business schools to advance executive education and continuous learning is, for law firms, entirely novel. Corporations, of course, have been doing it for decades, and we can assume that their senior management considers these pricey educational endeavors a sound investment. But no law firms have gone there before.

Interestingly, Gregory Jordan, the Managing Partner of Reed Smith, draws the corporate analogy explicitly: “Over the years, [GE has] literally trained an army of top-flight managers and lead-

ers to run a giant business. I’m hoping, in some small way, programs like this will help us have a steady supply of people who are able to do all the things that need to be done to run a big law firm—which is on its way from being a \$500 million...to being a billion-dollar business in time.”

So what do these firms hope to accomplish? Let’s examine each in turn.

Reed Smith/Wharton

The idea for “Reed Smith University” came from the firm’s Chief Strategy Officer, Michael Pollack, in early 2004; by the end of the year, Reed Smith had inked a partnership and executive education agreement with Wharton.

Without doubt, “RSU” has the emphatic backing of the firm’s top brass. For example, the initial (2005) course catalog opens with a “message from Greg Jordan, Reed Smith Managing Partner,” which proclaims:

“At Reed Smith, our commitment to being one of the world’s leading law firms means that we never stop learning about our clients, our industry, our technology, and, yes, even our own abilities. Reed Smith University is the embodiment of our commitment to excel through education, and to give you the tools you need to reach your full potential.”

The following message, from John Smith, the RSU Chancellor, is more concrete but no less committed:

“Our determination to provide educational opportunities for all of our personnel is central to this project. Each of us plays a different role at the firm, and the courses that are available will necessarily vary from person to person. Nevertheless, there is something here for everyone, and we will continue to look for opportunities to create courses and course progressions that will enable you to continue in your personal development. When you succeed, we all succeed.”

The skeptics among you may be asking how this differs from plain old on-the-job training. As John Smith describes it, these are the key distinctions:

On-The-Job Training Model

tactical
focus on the
individual’s skill level
individual’s needs
episodic
immediate outcomes

Corporate University Model

strategic
focus on the
individual’s role
organization’s needs
continuous
long-range outcomes

“RSU” is organized along the lines of a traditional university, with a Chancellor and Executive Director, and five Schools, each led by a Dean and an Administrator. The five Schools are:

School of Law

Offering courses to attorneys and paralegals of all levels, this school takes advantage where possible of the experienced practitioners within the ranks of Reed Smith itself. Several progressive course series are designed to lead to the acquisition of increasingly sophisticated skills in selected areas such as “Intensive Trial Training” and “Deal Clinic.”

School of Leadership

Focused on the development of management skills and leadership attributes, this School draws more heavily than any other on the academic leadership of the Wharton faculty, and is essentially designed to apply managerial theory developed in the business world to the legal marketplace in general and Reed Smith’s competitive position in particular. Among the topics explored are:

Leadership—What do leaders actually do? How could I become a more effective leader?

Strategy—What is the firm’s distinctive differentiation from its competitors? What practice groups should we be investing more in? Less in? Do we have the right client mix and, if not, what are we going to do about it? Are we in the right markets geographically?

Human Capital—Essentially, do we have the right people in the right places? Are we developing the pipeline of leaders we will need in future?

Negotiation—Given that resources in terms of money, time and people are scarce, and given that in a sophisticated law firm, one must manage by consensus without becoming paralyzed, how do you deal with others in a collaborative, team fashion while still remaining true to the energetic pursuit of your managerial objective?

School of Technology

Aimed at developing mastery not just of the firm’s technological and information resources, but of the role IT plays in serving the firm’s fundamental goal of client service.

School of Business Development

If the goal of a law firm is to serve its clients, success must be premised on a deep understanding of their businesses and their needs, and how the firm’s capabilities can promote its clients’ interests in terms of both growth and enhanced quality.

School of Professional Support

Demonstrating that RSU truly offers “something for everyone,” this school “is dedicated to serving the developmental needs of our staff” in recognition of the reality that staff are an essential part of delivering high-quality service to the firm’s clients.

The firm's commitment

The seriousness of Reed Smith's commitment to RSU cannot be gainsaid. With a student body of more than 2,000 personnel in 16 cities on two continents as of late 2005, RSU has quickly become an integral part of the firm.

And the expense? Jordan estimated that the firm spent about \$300,000 designing RSU and launching the first week of the leadership school, and that running it will absorb "somewhere north of \$500,000 a year" going forward. But for perspective, that's only about one-tenth of one percent of Reed Smith's 2005 revenue—and it would be surprising indeed if the cumulative contribution of everything RSU has brought to the firm hadn't generated that much marginal revenue at a minimum.

The bottom line?

Here's how the firm characterizes RSU:

"Reed Smith University has the overall mission of helping you to become better, sooner, at each of the things that are important in your role at the firm. We are determined to:

- help you keep your skills up to date,
- give you tools that will enable you to progress more quickly,
- provide guidance as to what you need to know as you plan your career,
- and offer you a wider array of educational and training opportunities."

And as Jordan puts it on the firm's Web site: "By providing the opportunities that Reed Smith University presents, we are making a significant investment toward the success of our employees and partners. We believe that it is an excellent investment."

John Smith's view after 18 months

In early June 2006, 18 months after the official launch date (January 31, 2005) of RSU, I spoke with John Smith to see how the initiative has been received, how it has evolved, and whether the firm is beginning to see tangible results.

First of all, it has been "very well received at all levels of the firm," from senior management to clerks, he says. To an important extent, the demonstrable "buy-in" from the very top (starting with Greg Jordan) has set an example; senior firm leaders have participated not only as students, but as faculty as well. Exactly how well received? According to Smith, "over 90% of firm personnel have taken at least one course, and many have taken many."

And, increasingly, participation in RSU is not just a "nice-to-do," but an expectation. Although it is not yet part of any official evaluation process, Smith can foresee a day when it will be. Again, this comes from the imprimatur of people at the top: when a course series is recommended for (say) attorneys specializing in real estate law, or secretarial personnel, it's because the people leading those groups have designed the curriculum. This tends to get everyone else's attention.



Some of the developments have been, in retrospect, predictable:

- Firm-wide, RSU started life with a rush of courses suggested by many people with an enthusiastic profusion of ideas about what should be taught. The result, however, was something of a “disorganized potpourri,” with no necessarily clear relationship even among demonstrably desirable courses.

Now, it has been reorganized into focused, vertical curricula enabling one to pursue, for example, “professional support/supervisory skills,” “technology/litigation support,” or “transactional work/core.”

- Increasingly, RSU has recognized the need to stockpile the learning programs it has created in order to build a “back-list” of material that will be made available on demand. Hand-in-glove with the “where you want it, when you want it” capability is a trend towards migrating presentations from flat, non-dynamic Power-Point shows (for example) to e-learning courses incorporating audio and video.

Other developments have been more surprising.

For example, in the business development area one exercise was “daring”—role-playing a beauty contest in connection with a firm retreat. The scenario was for groups of Reed Smith attorneys (partners and associates both) to present the firm’s credentials and undergo a 40-minute grilling from the General Counsel, CFO, COO, and European counsel (likewise played by Reed Smith professionals) of a hypothetical company in the desalinization business confronting a variety of legal, regulatory, and environmental challenges.

The value of the exercise, says Smith, was not compiling the specific elements of the presentation, but that “everyone learned an awful lot about what people are hearing, not what you think you’re saying.”

In another innovative extension of RSU, clients and friends of the firm are now being selectively invited to participate through videoconferencing and Live Meeting—either at client locations or sitting physically at Reed Smith offices alongside Reed Smith lawyers. So far, this is only a pilot program, but Smith anticipates it will be rolled out more broadly this coming autumn.

Nevertheless, the jewel in RSU's crown is the School of Leadership, which has by far the most prominent involvement with the Wharton School. The initial plan was to run two five-day programs for people perceived to be firm leaders, and indeed, in year one, they ran 65 people through two 30-plus participant group sessions.

But this year, having taken stock, they chose not to repeat the five-day immersion, but rather to send the same people back for two two-day refresher programs. One focused on talent management (the right people in the right roles) and on what it takes to be effective as a leader; the other focused on "market sensing," or cultivating an acute and effective sense of what legal specialties will be more (or less) in demand in future. Finally, RSU is broadening the pool of participants to "grow a deeper bench" for the firm as it grows.

Is it too soon to formulate a bottom line on RSU?

Smith is skeptical that any overly mechanistic or accountancy-driven message would hold much meaning: "People who get too quantitative tend to put the rabbit in the hat before they deliver their answers."

The measures Smith is keeping his eye on are softer and more intangible:

- how many people come back for more,
- the content of evaluations automatically distributed to each participant after each course,
- informal and anecdotal feedback from practice group leaders and,
- all-importantly, feedback from clients.

Summarizing the firm's expectations for RSU, Smith puts it in the context of Reed Smith's evolving trajectory as an increasingly international organization. RSU will have lived up to its promise if it's seen as, and serves as, a way of honoring one of the firm's founding principles: creating a common experience across the firm and a common bond among its professionals and staff.

Smith has no illusions about the challenge facing Reed Smith leadership: "Without a lot of intentional activity on our part," he stresses, "it won't happen."



DLA Piper/Harvard

In mid-2005, DLA Piper reached an agreement with Harvard Business School to create a customized leadership training program. While HBS has custom executive education programs similar to about 30 corporations, this is the first one involving a law firm.

Unlike RSU, however, the DLA Piper program consists of an annual one-week training course expressly limited to about 50 partners from DLA Piper's international network (about 50% U.S.-based and 50% from abroad). The course addresses the challenges facing the relatively newly merged firm, including integration of business models across U.S. and European practices.

Quite like RSU, the program has emphatic “buy-in” from the very top. London-based DLA Piper Managing Partner Nigel Knowles and the U.S.-based Joint Chief Executive Officers Frank Burch and Lee Miller all attended the inaugural course in 2005, and at least one of the three will attend every subsequent session. DLA has not revealed the actual cost, but informed estimates put it in the region of \$200,000 a year.

What motivated the decision? At the time, Frank Burch had this to say: “We’ve got 6,500 people

who depend on us to pay the mortgage and to feed and educate the children. The approaches we used 10 years ago just aren’t going to work.”

Burch’s Views Today

DLA Piper’s alliance with Harvard has taken a fundamentally different approach from Reed Smith. Rather than RSU’s “something for everyone” setup, DLA Piper’s program is high-level “executive education” in the classic sense: an intensive, annual week-long retreat, with a curriculum designed to draw out the tensions inherent in a global professional service firm, including:

- geographic vs. practice area orientation,
- dealing with individuals who are simultaneously producers, managers, and the sales force and,
- understanding the drivers of profitability.

Burch gave me the macro perspective in early June 2006: DLA Piper is moving from being a high-quality regional firm to a leading global business law firm. To get there requires disciplined alignment between the strategy embodied in that plan and day-to-day tactics and decisions made on the ground.

To that end, the annual Harvard Business School program will not reprise material for essentially

the same group of leaders (as in the Reed Smith/Wharton partnership), but will introduce a set of “95% new people,” potential firm leaders, to the material each year. As Burch dryly observes, “We’re growing at a rate where we don’t see an end to that.”

The theme of his description is that “strategy” is not something you articulate in profound and orotund phrases, drawing on a cerebral and visionary exercise, but is, he insists, “what it means about how we run the firm. Strategy is nothing less than a series of consistent actions taken over time.”

This means it requires rigor in dealing with clients whose portfolio of legal needs might no longer match DLA Piper’s offering, “even in the face of pushback.” Critically, it is also linked to decisions about promotions to partnership. This means “breaking eggs,” and Burch is unapologetic. “Breaking some eggs is inevitable,” he declares. “The challenge is not to break so few you have no impact, and not to break so many the roof caves in.”

Why These Programs are Innovative

These two stories may all be well and good, but why now, and why should your firm care?

Essentially, both Reed Smith's and DLA Piper's initiatives stem from the lack of any such education in the traditional law school curricula. Top-tier law schools have customarily turned up their noses at "law firm management," and even at mid-tier schools that offer a course along those lines (as an elective), they are typically—and understandably—oriented towards small firms and solos, venues where the vast majority of American lawyers will in fact practice.

Why not just clone MBA courses, then? According to WilmerHale Managing Partner Bill Perlstein (whose firm also subsequently announced an alliance with Harvard Business School), the challenges of managing and leading "Type A" equity-owning partners takes far different skills than it does to operate in the hierarchical, employer-employee, command-and-control, environment of a typical large corporation populated with MBAs. Perlstein nicely sums it up this way: "You need the time and willingness to hear people out, but [you can't] fall victim to trying to please everyone all the time."

Among other distinguished observers of the profession, David Maister has discussed these daunting challenges in his recent article "Are Law Firms Manageable?" (April 2006). Here's his view in a nutshell (emphasis supplied):

"After spending 25 years saying that all professions are similar and can learn from each other, I'm now ready to make a concession: law firms are different.

"The ways of thinking and behaving that help lawyers excel in their profession may be the very things that limit what they can achieve as firms. Management challenges occur not in spite of lawyers' intelligence and training, but because of them.

"Among the ways that legal training and practice keep lawyers from effectively functioning in groups are:

- problems with trust,
- difficulties with ideology, values, and principles,
- professional detachment, and
- unusual approaches to decision making.

"If firms cannot overcome these inherent tendencies, they may not be able to deliver on the goals and strategies they say they pursue."



In other words, according to Maister, lawyers' training and acculturation poses an intrinsic—and often insuperable—challenge to “managerial” efforts.

But Reed Smith and DLA Piper aren't buying this—or at least, they're rowing vigorously against the tide. And this brings us to the core of what's “innovative” about what they're doing: neither firm's initiative is about “continuing education,” nor about “training,” nor even—fundamentally—about “executive education.”

Rather, both their initiatives cut to the very quick of how law firms have traditionally been managed, and challenge the conventional (and all-but-universal) model of Partnership Democracy. Reed Smith and DLA Piper are moving in a completely new, potentially revolutionary, direction: *towards the managerial model of corporate America*.

With the average annual revenue of the Am-Law 100 firms now north of half a billion dollars (\$509.1 million, to be precise; the median amount is \$441.5 million), who can doubt these complex, sophisticated organizations deserve—and require—a highly professional cadre of “C-level” executives?

But rather than simply grafting a foreign managerial layer onto their existing partnerships, Reed Smith and DLA Piper recognized that the independent-minded, autonomous attitude of most lawyers would instinctively reject that foreign graft—unless they were trained to understand its necessity, its purpose, its functions, and its value. If you ask me, that's what the Wharton and HBS programs are really up to: enabling the firms' partnerships to appreciate, and profit from, the corporate managerial model.

Can they pull it off? Burch, for one, is optimistic. According to him, it starts with identifying those attorneys loyal to the firm who have leadership potential. By instilling in them that the firm has a believable, valuable and articulated strategy, they can in turn train the next generation to be willing to support that vision.

And Burch is willing to push against the received wisdom: “We've made it clear that we have to be prepared to take risks—not to just accept change, but to make it our friend. We try to make everyone understand that.”



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The road to **INNOVATION**

Pick up the brochure or visit the Web site of most any professional firm, and you will see a line like this somewhere: “We are acknowledged for our ability to find new, creative, and innovative solutions to solving our client’s problems.” And in most firms, that statement is neither puffery nor a crass exaggeration.

The management challenge, therefore, becomes one of redirecting some of that innovative energy from solving clients’ problems into innovation in running their business.

One commonly held view is that innovation is about creativity. If your partners have lots of off-the-wall ideas, they may be creative—but innovation only happens when and if you can convert those ideas into something of value.

Ten implementable steps to enhancing innovation in your firm.

By Patrick J. McKenna

Your challenge is two-fold. First, there is the question of how to go about getting the good ideas out of your professionals’ heads, out of those casual and brief corridor discussions, such that they might actually see the light of day. Then there is the issue of recognizing that a great idea is just a great idea without excellence in execution.

Innovation, then, is not about business as usual.

Innovation involves getting your people to think differently, to be willing to take some small measured risks, to be willing to change, to challenge conventional modes of practice and the traditional way business is approached—and then to act. Here are 10 action initiatives and a few examples I believe worthy of emulating.



Invest a portion of your management time living in the future

Attention is your most powerful management tool. Every firm holds numerous meetings, and every meeting has an agenda, whether written or unwritten. The cumulative content of those agendas clearly signals your executive priorities and concerns.

Most meetings are status reports on the present. If you are serious about promoting innovation, make sure that each meeting devotes 25% of the time to listening to ideas for improving systems, generating new revenues or developing new services. Also, the things that get your swift and detailed follow-up will always be perceived by your people to be of the highest importance.



Take advantage of specific change events (or innovation "triggers")

Here is a list of 10 "change events":

- Merger of some significant size
- Economic contraction or recession
- Downsizing, including the loss of major practice group, death of a superstar, etc.
- Significant client loss or client merger, where the client represents more than 10% of firm revenues
- Partners' retreat, culminating with specific action plans and implementation
- New managing partner, depending on extent of this individual's authority
- Office move to new quarters
- Merger of two significant competitors, at least one of which was local
- New competitor moves into the market
- Results from a client or market survey

Each of these events presents a window of opportunity for commencing innovation initiatives.

Consider the example of one firm that initiated a deliberate program to identify and eliminate "sacred cows." As part of this firm's efforts to break from its past following a merger, the firm capitalized on that change event to establish a special task force charged with unearthing and eliminating ingrained habits that were wasting money and slowing down the firm's ability to change.

Task force members brainstormed issues, generated new ideas, viewed old problems in new ways and identified more than 100 sacred cows. Specific professionals were then assigned responsibility for eliminating them and reporting progress by specific deadline dates.

Proactive leaders will often pull the fire alarm when they spot critical changing conditions and fan trends into a looming crisis. Everyone is urged into immediate action. What change events are you experiencing that should be causing you to pull the fire alarm and issue a call for action within your firm?

3

Reach out for new voices

There are a number of areas in any firm where you can hear from new voices. There is the younger practitioner who has grown up in a different time with different skills and seemingly different values. There is the newer hire that comes to your firm with questions about “why in the world you do certain things the way you do.”

There is the partner residing in a remote or smaller office, or practicing in a fringe specialty area, who sees the entire profession somewhat differently from your typical partner. And there is the occasionally disruptive partner, who just sees the world from a different mindset. All are capable of making a valuable contribution to your firm’s quest for innovation—if you care to reach out to them.

Consider the approach taken by Deloitte Consulting, which believes that you should create an internal competition for ideas and involve the collective brain of the entire firm. Deloitte spon-

sors contests among all its professionals for the wildest innovations. Why not offer a cash incentive and allow your people to eagerly compete for a chance to have their personal vision affect the firm’s future? One of Deloitte’s recent events was reported to have stimulated over 176 ideas competing for a \$10,000 cash prize.

One law firm managing partner we know understands the importance of hearing from younger voices. In a recent discussion, he told us about his “2015-30/45 project.” In an effort to encourage foresight, he called upon all the professionals in the firm between the ages of 30 and 45 and divided them into three separate task forces, each with the same project: “to formulate a written scenario of what the profession might look like by the year 2015.” The executive committee examined the various scenarios to determine the kind of actions the firm would need to initiate, to get out ahead of the future.

Another firm has a program called “Fresh Eyes” to tap into new employees’ insight. Each new hire gives the firm a formal performance review

following the first 30 days of his or her tenure. While impressions are fresh, the professional is called into a meeting with the managing partner to provide a candid review of their initial experiences and ask the hard questions like “Why haven’t you done it this way?” Some of the best ideas can come from your newest professionals.

4

Take your cue from clients

The impetus for the development of the fastest-growing new practices at one Pennsylvania firm didn’t come from any of its accounting professionals. It was inspired by the firm’s advisory board, composed of outside business people charged with providing a fresh perspective to helping the firm target its service offerings more effectively.

The firm maintains a 12-member advisory board that meets every two months. It includes four clients, four referral sources, and four non-clients.

According to the managing director, “We want to put our resources into developing one or two new products each year that clients really want, and the advisory panel has proved ideal both as an idea generator and focus group.”

All too often, we forgo ever bothering to actually involve clients, or to even pay attention to what their evolving needs might be. There are obviously many opportunities to innovate and leapfrog competitors by simply collaborating with and being sensitive to the (often unspoken) needs of your clients.



Steal the best ideas from other professions

Innovation is often the product of someone spotting an old idea that can be used in new places, in new ways and in new combinations. Taking an idea that is commonplace in one business or profession and moving it into an entirely new context can spark new approaches—if you’re paying attention!

One professional services firm holds a brainstorming meetings with academics, clients,

government representatives and researchers to identify important industry changes and opportunities three to five years before they appear on the radar screen of most everybody else.

If a systematic emphasis on growth and innovation offers any meaningful payoff, why don’t more firms try it? The overarching challenge in most firms is that no one is clearly responsible for innovation leadership. Towers Perrin was the first international human resources powerhouse to appoint a National Director of Innovation.



Consider packaging your intellectual knowledge

Consider posing this question to your people: “Some firms have packaged their intellectual knowledge into a viable commercial product, while others have created subsidiary operations to provide and market services ancillary to their basic services. Do you have any ideas on what we could do in either of these areas?”

You will likely get a pleasant surprise. From our experience, in most cases somewhere between 14% and 22% of your professionals have a potentially viable idea that they have been pondering. Do any opportunities exist in your firm for professionals to package what they do for clients, thereby developing a different, but potentially profitable, redefinition of leverage?



Champion internal entrepreneurs

One of my most startling discoveries has been this: innovations do not usually come about because of any direction, intervention or incentive provided by your management committee. They came about largely from, as Peter Drucker first expressed, “having a mono-maniac with a mission!”

There is an incredibly valuable lesson here. If you want to have rule-breaking, wealth-creating new ideas come to the forefront in your firm, then you definitely need to identify, nurture and champion those professionals championing at the bit to try new ways of doing things. We are absolutely convinced that the maniacs exist, and that the innovative ideas exist. What’s missing are the internal champions.



Rethink assumptions about how you operate

Every partner carries around in his or her head a set of built-in assumptions, biases and presuppositions about what clients want or don’t want, who the competition is or isn’t, what services we should offer or not, and how he or she should

conduct their individual practice. We are all, to some degree or another, prisoners of our past experiences.

Now look at what Latham & Watkins did to portray themselves as the premier health care compliance group in the United States. With the launch of ComplianceNet, hospital clients had a resource to help them do more of the compliance work for themselves, even though it meant lower legal fees for Latham.

This firm recognized that hospitals didn’t relish having a pricey law firm review their contracts, and that the firm that landed compliance assignments had a better chance of doing the more lucrative work that hospitals generate. Latham also sensed that having a resource like ComplianceNet would allow them to enter other geographic markets.

While Latham’s competitors were saying, “Why would we want to invest non-billable hours developing a resource that then only serves to decrease our billable hours?” And, “Who’s going to compensate me for the lost hours that I spend developing this resource?” Daniel Settlemayer, the lawyer who spearheaded the development of ComplianceNet remarked, “This is a simple idea that anyone else could have just as easily developed. But we did it first.”

To explore innovation, we need to get on the path of asking questions that challenge the way in which we have been operating—regularly—as part of the way we run our business.



Begin with limited-risk experiments

As Linus Pauling, the Nobel-winning chemist once said, “The way to have lots of good ideas is to have lots of ideas and throw away the bad ones.” Early successes breed optimism, the enthusiasm to do more and the commitment to try again.

Set up small, relatively inexpensive, minimal-risk and short-term experiments. Anything beyond six months takes you into the realm of pipe dreaming. Too many things can go wrong. If you have an action plan pushing beyond the six-month limit, break it down into smaller tasks that fit into shorter time frames. This way, your firm is continuously knocking down fresh goals and objectives, experiencing success, staying on track, moving quickly, and raising overall motivation to continue.



Help people get comfortable with innovation

The unfamiliar often provokes a negative initial reaction. Research shows that, independent of other factors, the more often people are exposed to something, the more positive they feel about it.

Bring in a regular menu of outside speakers (predominantly representatives from other professions, academic thought leaders and business entrepreneurs) to attend a monthly partners luncheon. Focus your efforts on individuals in your community who are actually taking action to reshape their own organizations through innovative means. Have them speak to your professionals about what specifically they are doing—and equally important, why they are bothering to invest the time in initiating new directions.

Begin your efforts without great fanfare—the worst thing that you can do is announce some new program—and make it totally voluntary for professionals to attend. “I happened to be talking recently with this individual and was particularly struck by what she is doing in her firm. So I asked her to join us for lunch. I think you will find it interesting and perhaps of some value to you in your dealing with your own clients.”

What you should see, after only a couple of luncheons, is some growing interest in why these companies are pursuing innovation, a greater comfort with the concept and the methodologies, and a degree of enthusiasm coming from some of your people for perhaps trying out some new ideas in your own firm.

In a competitive marketplace where there are no timeouts and no commercial breaks, if you are content with being a follower, you will always be eating someone else’s dust. The pace of change will suck the air right out of your lungs.

The classic saying “Lead, follow, or get out of the way” is being replaced with the reality that you either lead or get blown out of the way. In these highly competitive times, there is little room for firms that simply follow.

Innovation isn’t about putting out fires or fixing yesterday’s shortcomings. It’s about blazing new trails and preparing for a new tomorrow.



© 2006. Patrick J. McKenna is a principal with Edge International (www.edge.ai) and known for his expertise in law firm strategy, with particular emphasis on creating differentiation. He works with the top management of leading firms to discuss, challenge, and escalate their thinking on how to compete. He is also one of the profession’s foremost authorities on practice group leadership and co-author of the international bestseller, *First Among Equals: How To Manage A Group of Professionals*.

Innovation Roundtable

Panelists:

Merrilyn Astin Tarlton

Simon Chester

Matt Homann

Dennis Kennedy

Dan Pinnington



Merrilyn Astin Tarlton is President of the College of Law Practice Management, Editor-in-Chief of the ABA's Law Practice magazine, a founding member and former President of the Legal Marketing Association and recognized expert on leadership, professional development, marketing and business innovation for lawyers.



Simon Chester is a partner in the Litigation and Business Law Groups at Heenan Blaikie's Toronto office. He chairs the Editorial Board for the American Bar Association's Law Practice Magazine and is a Trustee of the College of Law Practice Management. He was the first non-American to chair the ABA TECHSHOW.



Matthew Homann is the President and Chief Thinking Officer of LexThink, Inc. As a lawyer, mediator, and entrepreneur, Matt frequently writes (on his award-winning blog, the [non]billable hour) and lectures about inventive and original ways to bring meaningful change to the practice of law.



Dennis Kennedy is a well-known legal technology consultant and information technology lawyer. His blogs, DennisKennedy.Blog and Between Lawyers are among the best-known and most influential of the legal blogs. His Web site has long been considered a highly regarded resource on legal technology and technology law topics.



Dan Pinnington is Director of practicePRO, an innovative and internationally recognized risk management initiative. Dan is a prolific writer and speaker on various risk and law practice management topics and writes a monthly column for ABA Law Practice magazine.

Meet the Panelists

Headline writers have been typing out “The billable hour is dying” for more than a decade now, yet the law’s traditional billing system still rules the roost. But at least now, lawyers are openly talking about alternative systems, mostly thanks to a combination of client pressures, lifestyle demands, and generational change within the profession. Our five panelists tackle the challenges surrounding billing practice and culture in the practice of law.

Q. What fundamental economic assumptions about lawyers’ services would have to change before billing methods could evolve in earnest?

Matthew Homann (MH): I think the question is premature. Before lawyers can move away from the billable hour, lawyers must understand the economics of their own practices. I submit that most of them don’t.

The billable hour has covered up the fact that most firms don’t have a good grip on their productivity, because the only metric that matters is the easiest to measure: “How much time did you work today?” Until firms are willing to devote the time to measuring productivity, efficiency, and value delivered to the firm and clients, they will have a hard time moving away from a time-based billing model—even though clients may demand it.

Dan Pinnington (DP): It comes down to the value of the services to the client, and to lawyers’ ability to provide those services in a profitable manner.

Hours worked times dollars per hours gives a rather convenient and easy way to account for time, bill clients, and measure performance—but it also encourages a whole bunch of negative behaviours and fosters the illusion that working more hours is the same as working better and harder.

Consumers of legal services want alternatives that will give them greater certainty in knowing what their legal fees will be, so they can better budget for and manage their legal expenses. Competitive pressures have caused many common consumer-type legal services to become fixed-price commodities. Several big Toronto firms have walked away from some areas of

work (collections, personal injury, residential real estate) after seeing that margins were low or negative.

Clients with clout (read: volume of work) are already pressuring lawyers to change and more will. Others have gone offshore to India and other places for similar but much cheaper services, both lawyers and legal support.

Dennis Kennedy (DK): The fundamental economic assumption is that time is the only valid measuring stick of value. Where I see change occurring in limited ways, there is a focus on results, value and other measures. With rare exceptions, lawyers will not be able to make this change on their own. The pressure will come from their clients and from non-lawyer competitors, steadily slicing away areas that will no longer be considered “practice of law” and pricing in alternative ways.

It's easier to do hourly billing than to determine whether a creative alternative will pass muster under the way the ethics rules are likely to be enforced in your jurisdiction.

Simon Chester (SC): It's not just assumptions about the services that would have to change. It's more fundamental than that. There appears to be a dirty little secret here: clients don't ask for alternative billing systems, because it's tough for them to assess value otherwise than on the traditional metric.

At the 10th Annual Loch Lomond Retreat, I asked all of the representatives of the top London, Glasgow and New York firms present to 'fess up—tell me how much of their revenue derived from anything other than the hourly rate. No one said that they had even 5% of revenue coming from such a source. Despite the rhetoric, and despite the fact that Richard Susskind, who was in the room, had been telling them all for a decade that they were doomed if they kept basing everything on time X rates X realization.

In a paper for the Pacific Legal Technology Conference (www.pacificlegaltech.com/2002sessions/EE3_Tech126D8.pdf), I sounded out a group of experts around the world on why the revolution in billing had not occurred. Three years on, nothing much seems to have happened to shake me in the analysis, even though I think we showed that the billable hour system distorts the relationship, discourages innovation and rewards the sluggard.

There are lawyers who have devised practices that leverage technology or deploy large numbers of paralegal assistants to work with great efficiency on matters that have high degrees of repetition.

Merrilyn Astin Tarlton (MAT): And, invariably, those people end up out of the big firm, because the big firms' systems can't handle them.

DP: Some firms are very uncomfortable looking at the true relative profitability of lawyers, types of matters etc., because it's a new yardstick that may put some lawyers (and often senior ones) in a very different and less profitable light. Also, because most firm compensation calculations are based largely on billable hours and billings, a firm that introduces alternative billing will also have to overhaul its compensation system.

SC: The promise of document assembly, which was anticipated to break the old model of legal production, still waits to succeed markedly.

Q. Is there an intuitive and relatively accessible way for lawyers to accurately quantify the financial value of their work?

SC: The traditional way gives you a metric, and other than Rees Morrison at Hildebrandt, I don't know of anyone who is working at developing a generally acceptable methodology for valuing legal work.

One consequence of uniform report formats for billing is that it would, at least in theory, be possible to slot the major factors into some sort of algorithm. But you would also need to allow for irritatingly vague variables like difficulty, speed and value to client—for example, on some “bet-the-farm” matters, survival may be so highly valued that the legal fees are simply friction.

DK: I believe that we are making this process too difficult. If you read Alan Weiss's book, *Million Dollar Consulting*, or Ron Baker's works on value billing, it doesn't seem too difficult to get to value-based approaches. I'm no longer convinced that what lawyers do is so unique and different from what other professional service providers do that we can't consider and adopt the same approaches that have worked elsewhere.

Part of the difficulty for lawyers may be that value billing involves a conversation with your clients about what you will do, the benefits and other factors and a meeting of minds on what the value and price should be. It's a lot easier to say, "I charge \$X an hour." I'd like for people to read Weiss and Baker and tell me if I am wrong.

MH: I don't think it is out of the realm of possibility to let the consumer of legal services help you set your fees. For centuries, consumers and vendors have haggled before setting a price each judges to be fair under the circumstances. Despite our wishes to the contrary, legal services are not so fundamentally different that we can't—with sufficient information and experience—set our fees in a similar way.

Q. What sorts of incentives and motivators could clients and managing partners use to “encourage” lawyers to bill their services differently?

MH: Let the firm's lawyers try out a variety of pricing methods, and reward those lawyers whose efforts yield an acceptable mix of profit and client satisfaction.

DP: I know one sole practitioner who, very hesitatingly and cautiously, raised with a client the option of outsourcing commercial drafting and document review work to India, given that it would be cheaper and would allow the work to be done more quickly. The client loved the idea and jumped in with both feet—no hesitation at all.

Clients will drive this change. What lawyers need to recognize—and this is where their motivation should come from—is that clients really want value, including cheaper fees where appropriate and available, and that they will go to those who can deliver these things.

DK: To me, alternative billing addresses two issues: client satisfaction and firm profitability. If you can “show me the numbers” on how alternative billing will lead to more profitability and happier clients, you'll bring lawyers right along.

The best example of an incentive system is FMC International's ACES program. Jeff Carr gets outside firms to agree on an estimate and budget for a project. Then 20% of that amount is held in a bonus pool. He and the firm agree on the business results that, if achieved, will allow the firm to earn some or all of the bonus pool. It's a fascinating approach.

In a firm, the simple approach of paying a bonus on the basis of alternative billing should work wonders. I've been at firms that wanted lawyers to convert from recording time on a weekly basis to a daily basis. Everyone said that there was no way to change lawyer behavior. A simple \$20 fine for being late resulted in almost 100% behavior change. It may not take as much effort as people think to change behavior.

SC: There needs to be a much more open discussion of incentives and rewards, for aligning more closely with the client's interests.

Q. Lawyers are notoriously risk-averse; are there incremental steps by which lawyers could gradually dip their toes into the non-billable-hour pool?

SC: For the most part, the clients are affected by the same risk aversion, and the comfort of the billable metric remains, as the justification for the cost. I've no easy answers.

DP: I agree with Simon: clients are equally or even more risk-averse than lawyers. Moving away from a billable hour mentality involves both selling it to the client (they like the predictability of flat fees) and understanding

How would you feel to find your strategy was nothing more than **BOILERPLATE**?

HOW

different is what you are doing right now – the strategies that you are employing – from the key competitors in your marketplace? If your answer is “not much” then how are you expecting to surpass their performance?

“Not much” is usually attributable to some boilerplate strategic plan created by some brand name consultants. It comes packaged as a fairly weighty tome (at a fairly hefty fee). It contains mystic thoughts unsullied by any methodology for achieving meaningful differentiation, insights on creating new revenue streams, has no means of implementation, and is ultimately destined to find its resting place on the managing partner's bookcase. Competitive advantage means getting out in front, by focusing on

those areas in which you can be unbeatable. By definition, if you are doing what everyone else is, you don't have an advantage. Do you have the courage and the foresight to see beyond what everyone else is doing?

If you're ready for someone to get results; to ask the really hard questions – the questions that lead to marketplace distinction; and someone who will not compromise in ensuring that implementation is an integral part of each step in the formulating of a truly competitive strategy . . . you may be ready for our BREAKAWAY® program.

Alternatively, if you're just interested in a boilerplate strategy, they are all pretty much the same. If you'd like one for your bookcase, we will happily tear off the cover of one we have, duplicate the contents, and forward it to you, complete with your firm's name inscribed on the front.

how much you have to bill on a flat-fee basis to still make a reasonable profit. Implementing an alternative billing strategy will require an upfront investment of your time and energy, based on solid record-keeping.

DK: The lawyers who try alternative billing approaches often start with new clients. The ACES system I mentioned gives some comfort of an estimate based on billable hours metrics and then the use of a bonus pool.

If you're announcing an increase in hourly rates, that might be a good time to have a preliminary discussion about alternatives with existing clients. Like many things, identifying some clients who are willing to experiment, and building from early and easy successes, is a great way to go.

Q. How can lawyers start to make the change?

MAT: They can stop being afraid. Take a risk. Try something new. See how it works. Learn from your mistakes. Keep records, and analyze the data. Engage a handful of clients in the experiment with you. Talk about risk versus cost. Talk about what works best for the client's systems. Talk about ways to make it better. Talk, talk, talk...

Let go of the assumption that the only endeavor that will ultimately bring profit is “billable work,” and spend some of your time working over your basic business model.



Client Relations

Many lawyers seem remarkably resistant to the fact that how legal services are delivered is at least as important to clients as the services themselves. Surveys tell us that clients, while generally satisfied with the outcome of hiring a lawyer, would sure like the relationship to improve. The panelists address the diffuse and demanding issue of client relationships.

Q. What innovative features could a lawyer introduce to the client relationship that would actually matter to clients, and impel them to return to that lawyer in the future and refer new clients his way?

Matthew Homann (MH): I know I have a bit of a bias here, but lawyers need to work with their clients to incorporate alternative billing methods. Most clients hate being billed by the hour—there is no rational relationship in their minds between the time spent on an issue and the value they receive. The billable hour also discourages efficiency and builds a wall between client and lawyer, disincentivizing regular lawyer-client communication.

Firms able to price their services in a way that clients can understand and appreciate will reap the rewards of happier clients and happier lawyers.

Dennis Kennedy (DK): Clients consistently identify two key things they want to find in their lawyers. First, they want them to understand their business and the needs of the business. Second, they want their lawyers to be available when they need them and not delay business deals or disrupt business operations.

Efforts like visiting the client's business sites and operations, learning the client's products, and attending seminars and industry trade shows with the client generate enormous goodwill, help represent the client better and can be really interesting and educational at the same time. Some lawyers who offer to do this at no charge find that clients are more than willing to pay for their time.

Making yourself more accessible in any number of ways, from extranets to scheduled weekly conference call time slots, can all pay off, because they address these key issues.

Dan Pinnington (DP): A cornerstone of professional services is clear, effective client communication. Good communication is certainly not innovative, but could be far more common than it is. It not only ensures clients are satisfied at the conclusion of a matter, but also significantly lowers the risk of a malpractice claim as, by both count and cost, almost one-half of the malpractice claims that LAWPRO handles involve lawyer/client communication issues.

How can you take client service and communications to a higher level?

1. Call or meet with the client if you have bad news.
2. Know what upsets clients, and stop doing it (not returning phone calls, not replying to e-mail messages, making clients wait in reception, permitting long periods of apparent inactivity on a matter, not delivering on

promises of performance or promised outcomes, and sending clients a very large bill without warning or explanation).

3. Give callers the option to leave a traditional message with a live person.
4. Don't decline a call after a client has been asked to identify herself—you leave the impression you're avoiding the client.
5. Give clients your direct line, not a receptionist or voice mail.
6. Update your voice mail message daily, with the option of transferring to a live person and with your policy on within what time range phone messages will be returned.

Many of these things are not hugely innovative—just not as common as they should be.

Merrilyn Astin Tarlton (MAT): I would like to point out—for the sake of innovative thinking—that many potential clients would prefer not to have a relationship with a lawyer at all. How can the needs of those people, with problems large and small that need resolution, be solved for a profit?

Q. How can a lawyer make innovative communication techniques the cornerstone of a standout client relations strategy?

DK: Here's where value billing comes in. Clients hate to call when they know that they are being billed for the time they spend on the call. They *bate* that. So, they don't call. You want to make it easy for them to call you—it helps you do better work and gets you involved in matters earlier, where you might be able to help them avoid issues that later become big problems.

Some lawyers are looking at subscription or “coaching” models that would allow a client to pay a fixed monthly amount for “unlimited” phone calls. Lots of efforts have been made along these lines in the other professional services sectors. It's worth studying what has worked elsewhere.

By the way, having clients who you really like and who are doing interesting things makes regular communication easy.

MH: Call every client every week (or month) for a quick five-minute chat. Don't charge them for the call. Ask them what's happening in their business and if you can do anything to help them. You'll be amazed the effect this will have on client satisfaction and in generating new business.

Also, leverage your client communications time. Do a monthly seminar (call it Saturday School) that addresses the kinds of issues your clients find important in their businesses. At each seminar, make sure at least one client gets up to talk about their business—make the event about them, not you. Introduce clients to one another, and do your best to facilitate business and personal relationships between them. Let them bring other people they know. You'll find that you will gain new clients and keep existing ones happy.

DP: Ultimately, one of the best things that you can do to deal with any client, and especially a potentially difficult client, is to control and manage their expectations.

One of the best ways to do this is to clearly set out in a written document, at the commencement of the retainer, detailed general and administrative information in terms of how their matters will be handled. Include such things as how they will be billed for your services, how to contact and communicate with you and other members of your firm, how they should

conduct themselves, etc. See a sample at <http://www.practicepro.ca/practice/pdf/CurtisBillingPrecedent.doc>.

Sit down once a year with the client—off the clock!—and have a discussion about the client’s longer-term strategy, goals etc. Look for opportunities by which you can help the client get there.

Q. How could a lawyer step back and take a fresh approach to the client’s role in a law practice—“re-imagining the client,” so to speak?

MH: Start talking about clients as “customers.” One way to do this is to take a picture of every client (if it’s a corporation, get a snapshot of the person you’re working with) and put that photo in an album. Ask each client the one thing they want from your representation of them and the three non-legal things they want for themselves or their businesses, and add these under their picture. At least once a week, page through the album.

You’ll be reminded that your “customers” are real people, with real needs and wants. You’ll understand what they want, and be on the lookout for non-legal ways you can help them or their businesses. Finally, you’ll remember that they are placing a tremendous amount of trust and reliance in you and that they deserve your best work each day.

DP: Use your client’s goods or services (and don’t ask for discounts). Build bridges and relationships by introducing your clients to each other, and by sending referrals to them. These efforts will be returned to you in kind.

Don’t be afraid to ask your clients for referrals. You would be surprised at how often your clients won’t think of referring work to you, or may assume you don’t want referrals from them. Lawyers often hesitate to ask clients for work because it may look like they are struggling financially or need to

find more work. This concern shouldn’t prevent you from seeking referrals from clients.

Don’t wait until a matter is completed to ask clients for feedback on your services. Make it a habit of asking how you are doing throughout the course of a matter. Consider using milestones on a matter or each account as a reminder to ask these questions.

DK: The fundamental shift to consider is looking at clients not as mere “project providers,” but as business partners you might be able to help in more interesting, more useful and perhaps more lucrative ways than you do now.

It might be that you help educate them to avoid common pitfalls, help organize and manage contracts, assist with compliance programs and set up loss prevention programs. There’s almost no limit to the possibilities that may open up. Just ask them. Your best clients may surprise you with what’s on their wish list.



Management

Managing, leading, compensating, promoting, hiring and firing a wildly diverse collection of intelligent, independent and aggressive professionals: what could be easier, right? If there was a magic formula for keeping lawyers together, pointed in the same direction and at maximum effectiveness, someone would have patented it by now.

As it stands, lawyer managers have to find their own creative ways, tailored to their particular environments, to get the most out of their professionals. The panelists explore both the fundamental principles underlying this challenge and some promising methods by which to overcome it.

Q. Which bedrock assumptions about lawyer management would need to shift or evolve in order to achieve true innovation in this area?

Merrilyn Astin Tarlton (MAT): Shift (or annihilate) the following bedrock assumptions:

1. Every partner has an equal right to be involved in every management decision.
2. The only value ever brought to the table is in the form of billable work.
3. There's only one way to make money as a lawyer/law firm.
4. The older you are, the smarter/more valuable you are.

5. People in the organization who do not have law degrees cannot participate in strategic decision-making.
 6. If we just work hard enough at it, we'll be able to develop a totally objective means of determining partner compensation that will eliminate grudges and disagreements.
 7. If someone's performance is lacking, merely telling them to improve will help.
 8. Leaders are born, not made.
 9. Ultimately, the only real motivator is money.
 10. Clients don't really know what they want.
- I could go on...

Dennis Kennedy (DK): The major change would be to study and consider carefully the learning and the studies that have been done in other fields. Lawyers too often think that lawyers and law firms are "different" and that fundamental business and management principles simply do not apply because "lawyers are different."

Law firms tend to be resistant to ideas and approaches that are "not invented here" or "not the way that we do things here." In other industries and professions, managers receive a large amount of training about how to manage. In law firms, it has become very difficult to get approval to attend "non-substantive" or "non-legal" seminars. Practice group chairs are often named on the basis on status, power or rainmaking, not management ability.

Matthew Homann (MH): All too often, senior lawyers placed in management roles try to manage young lawyers the way the senior lawyers were managed decades ago. Young lawyers today demand a better balance between work and home, and many are willing to make sacrifices to achieve that balance. What worked 20 and 30 years ago doesn't always work today.

Simon Chester (SC): While that's true, the basis of partnership means that most firms have a large base of owners, who will be less amenable to top-down management direction than would be the case within the corporate pyramid.

Q. What innovative approaches should a manager consider when trying to encourage the lawyers for whom she's responsible to respond well to effective, 21st-century management?

DK: The simplest and most essential thing is to talk with people as human beings, not as if they are fungible cogs in the law firm machine or billable hour automatons. People hunger for attention and acknowledgement these days. I've known lawyers who have said that if their supervisors ever said "Thank you" or "Good job," they'd faint.

I once worked on a huge deal and at the end, the supervising partner, Jim Gunn, took everyone who worked on the deal (and their spouses) to a very nice dinner, individually acknowledged and praised each person who worked on the deal, and gave out individualized gifts. We felt appreciated in a way that is far too unusual in law firms and, believe me, we all were happy to respond to the next project Jim had.

MH: Everyone responds differently to different rewards. If the managing partner takes the time to get to know each of the lawyers for whom she's

responsible, she will learn what motivates them. As Dennis suggested, there is no "one size fits all" motivational technique. Law firms that use just one kind of motivational "carrot" (and too often, it is money) do so at their peril.

DK: It's also worth taking some time to learn about the studies on how different generations and cultures respond to various management approaches.

Q. Speaking of which, how does the newest generation of lawyers entering law firms increase the opportunity for innovation in management, particularly regarding these lawyers' non-work priorities?

DK: I find the new generation of lawyers to be bright, well-rounded and a little impatient with business as usual. They have lots of new ideas and a willingness, almost a drive, to want to try new ways to do things. However, they are also used to being tested on objective tests throughout their schooling, and "grading" and feedback are very important. It's a much more entrepreneurial generation.

This generation has an enormous potential for innovating the practice. The real trick is to balance their impatience to move forward with the need to get some real-world experience.

As for factoring in non-work priorities, let's just say that the generations of lawyers who only focused on work have put us in a position where we have to talk about the rarity of innovation and the need to find ways to innovate. I notice that the question is not talking about how we can look to that generation for innovation. Might there be a connection?

MH: We need to be realistic here. How many young lawyers have a say in law firm management? Not many. Instead of contributing with ideas, many young lawyers communicate their dissatisfaction with management's disregard for non-work priorities the only way they can—by leaving those firms in record numbers.

Until firms (and to be fair, many already do) recognize that keeping existing workers happy is far less expensive than hiring and training replacements, the associate “churn” will continue.

Q. Lawyers in smaller firms have different management challenges than do those with hundreds of lawyers; is it easier or more difficult to bring innovation to bear in small firm management?

SC: They can be nimbler, provided that they are focused.

DK: Innovation is always hard. There are different issues in each setting, but the level of difficulty is similar. Minimum billable hours requirements have made innovation efforts especially difficult in large firms. The need to practice and be involved in almost every aspect of the business makes innovation difficult in small firms.

In general, though, you can move much more quickly in a small firm. In a large firm, committees almost always delay or destroy innovation efforts.

MH: I've never worked in a really large firm, so I can only speak to small-firm life. I always found it was easy to bring innovative practices and technology into small firms, but harder to implement them. I think this is because small-firm lawyers can always find an excuse to buy something “new” or “cool” and justify the expense because it will save them time, effort or money.

However, when the time comes to truly implement the software, those same lawyers are too busy working “in” their firms that they rarely take time to work “on” them. Take a walk around any small-firm lawyer's office and ask them to show you all of the things they've purchased that they haven't had time to use. You'll be shocked.



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Marketing

Lawyer and law firm marketing would benefit from innovation in two ways: finding innovative ways to encourage lawyers to actively pursue personal and firm-wide marketing efforts, and then finding innovative ways to deliver the fresh marketing message most effectively. Marketing is the next topic discussed by members of the roundtable.

Q. Is innovation in marketing simply a matter of finding the right motivational techniques to get lawyers on board the marketing train? Or is the challenge more fundamental: modifying the legal professional's underlying incentives and preferences that affect the urge to market?

Simon Chester (SC): Motivation can't be a one-time thing. Unless they're one of the rare breed of lawyers who internalizes this naturally—or a raving egomaniac (perhaps that's pleonastic, and the or should really be and)—the press of legal business will take over and they become too busy with the care and feeding of current clients.

Dennis Kennedy (DK): It's difficult to overstate how detrimental the move to minimum billable hours, especially for partners, has been

to the legal profession. Unless time spent on marketing counts toward the minimum billables requirement, there is a strong disincentive to do any marketing.

Also, the traditional focus has been on rewarding lawyers for bringing in new clients, rather than recognizing that marketing to existing clients is a very important way to bring in new work and retain existing clients. Many lawyers do not like to do marketing and selling, and motivational techniques will make little difference. Training programs can actually help, but moving toward using marketing and sales personnel on staff is an important one to watch.

Dan Pinnington (DP): I think marketing shortcomings occur at a far more personal level. Some lawyers find rainmaking very natural and easy, most struggle with it, and some are oblivious to the need to market their services.

Today, a marketing and formal client development plan is essential. The most successful rainmakers are active in using both traditional marketing activities and new marketing opportunities available through the use of technology and the Internet. An individual marketing plan is often more about a commitment of time than a financial one. Your marketing plan should reflect your individual strengths and your unique situation.

Matt Homann (MH): I'll be a bit of a contrarian here. I believe that lawyers should be rewarded for keeping their existing clients satisfied. In fact, I'd like to see more firms spend their client development dollars on improving the experience of their current clients. It makes little sense to bring more clients into a firm that can't keep its existing clients happy.

Here's a radical proposal: designate this year the "Year of the Client." For one year, take your firm's marketing budget and spend it all on client satisfaction instead.

1. Bring in clients and ask them how to serve them better.
2. Start a client advisory committee, staffed with clients big and small, to recommend ways you could improve your firm for them. Spend non-billable time learning about those clients' businesses.
3. Host client networking events.
4. Revise your bills, retainer agreements and other standard client communications so that even a twelve-year-old could understand them.
5. Experiment with flat-fee billing.
6. Ask your clients what technologies they'd like you to implement—then do so.

In short, spend a year making your firm client-friendly. You may be so surprised with the results (and referrals from newly satisfied clients) that you'll never spend another dime on marketing again.

Merrilyn Astin Tarlton (MAT): Here's another radical proposal. Stop talking about "bringing in business," and start talking about "building your practice." For lawyers—as with any professional service providers—business development is the same as career development.

If a clear connection can be made between what a lawyer wants to spend her time doing for the next 10-15 years (say, for example, representing fathers in child custody battles) and the reasons for spending scarce time on targeted business development (via references from divorce lawyers, local seminars for grieving divorced fathers, published articles in men's publications, etc.), then motivation ceases to become an issue.

Q. Is it all about differentiation? If so, what does differentiation really mean in the eyes of clients?

DK: With a couple of exceptions—"bet the company" litigation and huge M&A deals—clients seem to be saying, with increasing frequency, that legal work appears to be commodity work. When surveyed, clients also rate "quality of legal work" much lower on the list than lawyers do, perhaps because they assume that quality legal work should be a given. Availability and knowledge of the client's business are higher up on the list.

MAT: The reason clients don't care about quality, Dennis, is because they are ill-equipped to assess quality. They don't know a good brief from an atrocious one. I can't tell a compelling courtroom argument from a so-so discussion. And, frankly, in the end it really doesn't matter anyway, if the outcome is the one I wanted.

The client who didn't go to law school can no more assess the quality of your legal work than you can tell whether your surgeon knows her way around a kidney or not. The primary unstated question, in both cases, is (and should be): "Did this professional solve my problem?" The second question is invariably: "How painful was it to get to the solution?" (cost, pain, inconvenience, frustration, embarrassment, etc.)

DK: Differentiation is important in this environment, but the differentiation should be focused on the issues that matter to clients. The innovative differentiation strategies seem to be happening when firms capture attention and business by developing and marketing industry expertise. The well-known Buglaw.com Web site is an often-cited example of how a firm identified itself as the "go-to firm" for exterminators.

Q. Is it all about branding? Is it even possible for a law firm composed of diverse talents and personalities to deliver a brand promise?

DK: Perhaps a more fundamental question is whether you can avoid having a brand. Perhaps we all have a “brand,” whether we like it or not and whether we want it or not. The trouble is that it may not be the brand we think we have or the brand we would want.

All firms have some reputation in the community. All firms have a certain Web presence, largely reflected by doing a Google search on the firm name. The big issue these days is one of “brand management.” Are the story and expectations of your firm in the community the “brand” that you would like? A story is definitely being told about you every day.

To go back to the question, it will be extremely difficult to create a brand based on something that you are not. You can create a brand for a firm of diverse personalities if everyone is on the same page, shares common goals and deliver services in similar ways. This is a difficult task.

MAT: Might I say an impossible task, short of hypnosis?

A business’s brand is important and valuable. But given the likelihood of a law firm having the necessary bucks and consensus to build a powerful brand, I believe most firms would do best to get off this brand bandwagon, and focus the time and money on getting individuals and groups turned on about creating something exciting for themselves. The rest will follow.

In many firms, branding conversations have become the most recent version of paralysis by analysis.

Q. How should an individual lawyer approach the task of re-imagining the marketing of her services? What trends in technology, communication, media and consumer demand can she use to her advantage?

MH: The lawyer must first understand what she does, and what she does well. Once she figures out her strengths, she must craft a message that can communicate those strengths to clients, in a way that resonates with them. The Yellow Pages are full of “business lawyers” and “litigators” without a coherent marketing message. Only after the message is developed, tested and revised should the lawyer look to technology to deliver it.

SC: The new technology enables the lawyer to reach potential clients without the burden of the expensive institutional infrastructure. But the outcome shouldn’t diminish the firm’s overall efforts.

MAT: Ask and answer the following questions:

1. What kind of work do I want to spend my career doing?
2. What sorts of organizations or individuals pay lawyers to do that for them?
3. Where do those people get the information that allows them to make good choices about who they pay to do it?
4. How can I get myself on that “screen?”

DK: I recommend starting by learning what your brand, image or Web presence is. Google your firm’s name. Ask people. Try some surveys. Learn what your starting point is. The most interesting trend to watch is the increasing number of people who are using search engines rather than Yellow Pages for finding local products and services.

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The whole notion of “narrowcasting” rather than broadcast-
ing has become so much more important. We increasingly
see small, alternative channels to specific audiences that can
be very useful to reach your target audience.

The big concern I have is that state bar regulators are mak-
ing it difficult to use any of these alternative channels in any
meaningful way, largely as unintended consequences of
well-intentioned, but often heavy-handed, efforts to address
perceived advertising abuses.

For example, I’m trying to figure out how to interpret a new
Missouri rule that on its face seems to require that I put the
word “ADVERTISEMENT” on the outside of the “envelope”
of an e-mail. New efforts at regulating lawyer advertising
may make innovation in marketing a moot point.

Talent Recruitment & Retention

“Clients hire lawyers, not firms,” says the conventional wisdom, underlining the importance of acquiring and keeping lawyers who can consistently deliver what clients want.

The new wisdom says that it takes more than money to bring and keep that kind of talent on board: the best lawyers respond to a range of motivators, from challenging projects to community service to family adjustments to plain old social status. The roundtable wraps up with a look at talent recruitment and retention.

Q. What innovative strategies can firms adopt to keep them ahead in the increasingly demanding race for talent?

Dennis Kennedy (DK): After having been involved in hiring for many years, I decided that there were two basic principles for hiring. First, identify clearly who you want. Second, go out and get them. It is rare to find a firm that does a good job in either category.

I suggest that firms look internally first and audit what they’ve done. Look at the traits that lawyers who became partners have in common. What makes a lawyer successful in your firm? Most firms cannot answer that question. Instead,

they’ll focus on class rank and other factors and then suffer staggering attrition rates for years. If you know who you are looking for, you can almost automatically do a better job of getting that talent.

One quick tip: develop good relationships with the career people at the law schools you target, and communicate with them what types of candidates you are looking for.

Dan Pinnington (DP): It’s short-sighted to just focus on lawyers. Look at the whole team, including staff, who are an essential and critical part of the team, especially if you’re delegating work to them.

Introduce your staff to your clients at the initial interview. As well as having additional people they can contact in your firm, clients will know who else is working on their matter and who they are dealing with if they get a phone call or e-mail from a staff person when you are out of the office or otherwise unavailable.

Foster a culture at your firm that encourages a strong work ethic and excellence in client service amongst lawyers and staff. Engaged and empowered lawyers and staff will be more action-oriented and willing to put extraordinary effort into their work.

Matthew Homann (MH): Much like a marathon runner must prepare for months before her first race, firms must recognize that the “race for talent” can never be won unless they focus on firm culture first. It’s one thing to add lawyers because the firm’s business demands it, but quite another to add lawyers to replace dozens who leave each year because they hated working in the firm.

DK: Even firms that do a great job of recruiting may do a horrible job of retention. I’ve always felt that what happens on the first day on the job sets the tone for the whole relationship. The running joke that a summer program gives law students wildly unrealistic expectations about what work life in a firm is like is symptomatic of the problem.

The focus these days on generational attitudes is very important. You want to understand the different outlook this generation has on work and life. At a minimum, new lawyers want to feel that they are included, that they are part of the team, that they have the tools they need to do the job and that their contributions are valued.

Too often, they feel that they are fungible commodities, told only the minimum they need to know, are not given the big picture of the project they are working on, given yesterday’s technology, and resented by partners who complain endlessly about how much associates are paid. Who in the world would want to spend a career in that environment?

People today want to be paid attention to and valued. It doesn’t take much to do that.

Q. How could firms more innovatively investigate the talent they’re bringing on board, from new graduates to high-profile acquisitions?

Simon Chester (SC): Everyone now has an Internet presence. Check it out. I worry these days about people who don’t even show up in Google.

More importantly, I think that you need to ask for references and, here’s the key point, talk to the references. Many people list me as a reference. I can count on one hand the number of times an employer has called me as a reference. There are ways to ask questions of references and others that will elicit useful information, even if you think that references will only say positive things.

I also think that firms need to be more willing to assess a potential hiree’s work product.

Q. What innovative approaches can we recommend to law firms intent on internally developing their next generation of rainmakers, client-service champions and leaders?

DK: Training, training, training. I worked at a firm where every attorney (at the same time) went through a rainmaking course developed by The Edge Group. It was some of the most valuable training I ever received. In the corporate world and in other professional services industries, people routinely get training in marketing, sales, management and other skills.

The trend today is for firms only to send lawyers to seminars on substantive law. A firm would do well to at least make available audiotapes, CDs, DVDs and the like of the many excellent training materials now available on these business skills.

And, of course, they must lead by example. Young lawyers see and understand how people are rewarded and what behaviors are recognized.

DP: I agree with Dennis—law firms do a poor job of identifying, growing, mentoring, training and empowering future leaders. Bring them in as a full and equal part of the team; listen to, respect and value their judgment.

MH: It is important to get young lawyers to appreciate the business of law practice and importance of client service from the very beginning. Give young lawyers access to the firm's books. Teach them to read a balance sheet. Send them out to interview former clients to learn why those clients left the firm.

Merrilyn Astin Tarlton (MAT): It's way past time for law firm leadership to deal with the personnel who provide product and service to clients as more than mere fungible units—far more.

Speak with any law firm recruiting partner about the type of person they seek to hire, and you are likely to hear an all-too-familiar litany of typical characteristics:

"A tax lawyer two to four years out of law school."

"A 10-plus years real estate lawyer with a book of business."

"A litigator with more than seven years experience."

Surely there is more to these (very expensive) people than age, exposure and book of business.

Take a good hard look at the group within which the lawyer will work. What characteristics are needed to ensure success? Extroverted? Collaborative? Detail-oriented? How about discussing the necessary skills set? People management? Large project management? Delegation? Client relationship building? Networking? Maybe someone should work up a description of

the type of interests that a successful candidate will bring: large multi-lawyer projects? Commodity practice leveraged with technology?

For the smart law firm interested in getting more sophisticated—and, therefore, more successful—about their hiring and keeping practices, there is a ton of information available from the corporate world. You wouldn't catch a CEO basing a search for his organization's new CFO with the succinct description: "A CPA 5+ years out of b-school." He'd be smarter than that.

SUCCESS STORIES

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BLANK ROME: GAME THEORY

by Sheldon Gordon

InnovAction
Winner 2004

Blank Rome, an 11-city, 450-lawyer firm based in Philadelphia, takes its professional development and training program very seriously—so much so that the firm turns it into child's play. But maybe that's not surprising for a firm whose mission statement declares: "Fun and games can be serious business in a law firm." Its innovative initiatives include Connections, a formal mentoring program, and Blank Rome University, a business-oriented educational curriculum.

In the two years since it was introduced, Connections' "fun and games" approach to training and mentoring has resulted in improved recruitment and retention. As awareness of the program has grown, including the 2004 Innovaction Knowledge Stars Award, other firms have sought to replicate it.

In the Connections program, every new and laterally hired lawyer is assigned both a partner mentor and an associate mentor for a one-year period. The team interacts weekly and provides enriching experiences for attorneys. The pro-

gram also offers several formal mentoring events throughout the year.

The most novel mentoring, though, occurs when partners and associates play a board game called "Anatomy of a Matter." Players meet potential clients, win business, work on files, calculate profit, and determine how their efforts affect the growth of the firm. The Connections program also includes activities presented in game-show formats, music videos, and a book offering professional development advice from seasoned partners.

Meanwhile, Blank Rome University offers a 40-hour curriculum to first- and second-year associates over a two-year period. It has developed interactive learning aids such as "Find It," a hand-held research tool that helps the firm's young lawyers locate what they need in the library. It was developed after the firm's librarians noticed that new associates often seemed lost when they came into the library.

Furthermore, lawyers who need technology advice can find the instructions printed on the wrappers of Tip-Bits candy bars. In addition to devouring the computer-savvy confections, they can also choose from a variety of training videos.

These interactive learning tools were pioneered at Blank Rome by Director of Professional Development & Training Joyce Keene, who drew upon her background as an organizational psychologist. Her team includes IT professionals, administrative coordinators and a full-time video producer.

All team members worked closely with the attorney relations/recruitment department, the marketing department and the lawyers who tested the prototypes.

Sheldon Gordon is a freelance business and legal affairs writer based in Toronto. He writes frequently for numerous publications, including the Canadian Bar Association's National magazine.

BOWMAN AND BROOKE: TECHNOLOGY TRAILBLAZERS

by Larry Smith

Bowman and Brooke, with 160 lawyers in six offices across the United States, is regarded as one of the top bet-the-company litigation firms in the country—not just because it adapts the most innovative technology currently available, but because it pioneers that technology.

Bowman and Brooke defends some of the thorniest cases in some of the most remote areas of the US. Its lawyers face trials that require megabytes of e-discovery and judges who need

exhibits at a moment's notice. Many of the small towns where the firm spends days and often weeks defending a client have only one hotel and one restaurant. Relying on a hotel “business center” is not an option.

Such adversity inspired the firm to create its Mobile Technology Trial Kits (MTTKs). MTTKs provide lawyers with easy access during litigation to e-discovery data, printers, faxes, servers, scanners, and satellite e-mail, so they can have access to vital information and technology in small towns all over the U.S.

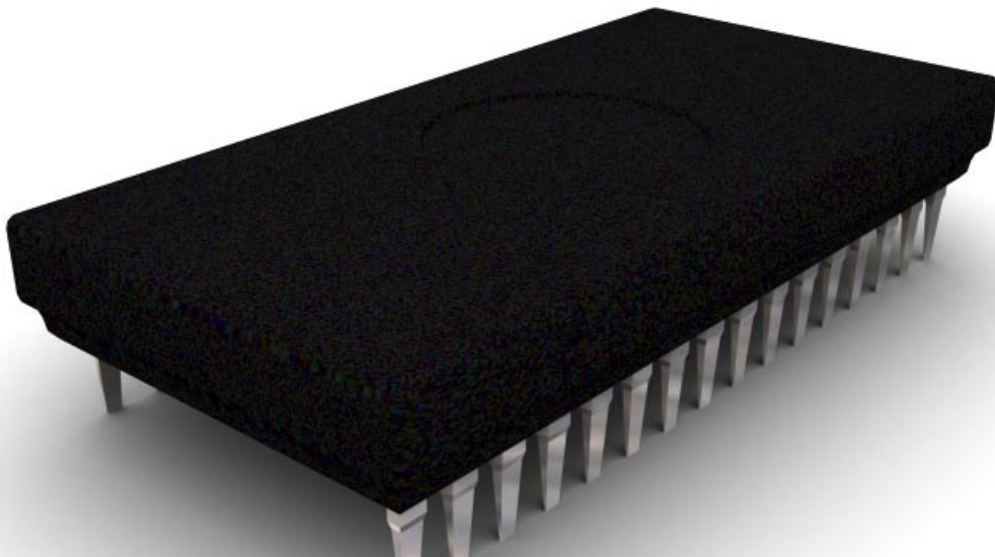
The firm's technology managers have created several “kits”—the sort of thing vendors roll out at their booths at trade shows—that can immediately produce user-friendly documents. The kits were created so that each item is molded into the case and protected. Adapters, cords,

power search software and battery backups are all included. The custom-made kits open easily so that everything is exposed, avoiding problems with airport security.

Once the contents are removed, the MTTKs create an instant war room. The equipment is so seamless that a paralegal occupies the room during trial and can copy, fax, e-mail, search, deliver, find an electronic photo or file, PDF it, or call about potential issues within seconds. The onsite war room is supported by a team of technology professionals back at the firm's office in Minneapolis. They remain on standby should any glitches arise.

Bowman and Brooke's long history of using technology to win big cases is continuing with constant searches for the next tool to add to the arsenal. They know that the best trial lawyers are backed by highly trained people armed with cutting-edge technology.

Larry Smith is the Vice President of Levick Strategic Communications, (<http://www.levick.com>), which has just been named the Crisis Communications Agency of the Year by the Holmes Report. The firm has managed media strategies for many of the world's highest-profile litigation matters, from the Catholic Church scandals to numerous issues arising out of the Middle East.



BRYAN CAVE: INTELLIGENT BUSINESS

by Ron Friedmann

Business Intelligence (BI) software is an emerging tool that analyzes a company's operations to find ways to improve efficiency and profitability. St. Louis-based law firm Bryan Cave is one of the first law offices to adopt BI to manage the firm's practices and matters.

By systematically analyzing its business, Bryan Cave has made better decisions and improved profits. Far from engaging in an ivory-tower exercise, firm management works closely with the firm's practice groups and individual lawyers to understand the analysis and to take concrete steps.

For example, one practice group initially thought it should turn away a large matter because of cost pressure. Using BI tools to simulate alternative approaches to staffing, the practice found a staffing mix that satisfied the client's cost constraints while maintaining the firm's target profitability.

BI also helps the firm improve lawyer utilization. Technology partner John Alber, the firm's proponent of BI, reported on the subject late in 2005 at the Strategic Legal Technology blog (www.prismlegal.com/wordpress).

"At Bryan Cave, we've developed an 'availability' application that helps lawyers who are staffing a

new matter find available associates and counsel," he wrote. "Every Monday, an automated form goes out to associates and counsel, who use it to declare their availability as none, limited, or general. They can also add comments to qualify their declarations."

"Lawyers who need to staff engagements use a Google-like advanced search feature to find available lawyers," Alber explained. "They can sort results by various criteria and view individual comments about availability."

"After more than a year of use, our leverage is up markedly," he reported. "Certainly, the business climate contributes to that, but our increase outstrips anything we've seen during prior upturns. I think the availability application and our new Financial Dashboard (which reveals the benefits of leverage to responsible lawyers) have contributed. We are now doing regression analyses [a statistical method for confirming relationships] to confirm this finding."

John Alber has written extensively on business intelligence. Here is a sampling of articles for those who would like to learn more about BI:

- ERPs or Data Warehouses for Law Firms? (<http://www.llrx.com/features/erp.htm>)

- Mining for Gold: Stay on Plan with Business Intelligence (http://www.peertopeer.org/files/tbl_s6Publications/PDF33/103/supporting%20the%20technology.pdf)
- Delivering Actionable Information To Front-Line Lawyers (<http://www.llrx.com/features/actionableinfo.htm>)
- Rethinking ROI: Managing Risk and Rewards in KM Initiatives (<http://www.llrx.com/features/rethinkingroi.htm#b6>)

Ron Friedmann is the president of Prism Legal Consulting, which advises law firms on technology strategy and legal software companies on marketing and strategy. A lawyer, Friedmann has held senior management positions at two large law firms and two legal software companies: ron@prismlegal.com.



When The Law Chambers of Nicholas Critelli, p.c., (Critelli Law Chambers) moved into a new office building in Des Moines, Iowa in 2001, more than just the firm's address changed. So did its entire office layout. Breaking with its previous use of individual lawyer offices, the litigation boutique designed seven studios, each representing one of seven general tasks common to litigation practice.



CRITELLI LAW CHAMBERS: STUDIO AWED-IENCE

The firm's two lawyers, Nick Critelli and his son, Tré Critelli, work inside whichever studio has the tools needed for the task at hand. If one of them is preparing a PowerPoint presentation for court, for example, he will work in Studio A, which has computers, a digital printer and video equipment.

If the other needs to enter documents into Case-Map, a software program that organizes cases, he will head for Studio B, which is equipped with four computer monitors and a bookshelf full of reference materials. Studio C, meanwhile, is the space outfitted for preparing pleadings and briefs. In Studio D, the firm's War Room, one wall has shelves full of TV sets and other electronic equipment, while two walls are made of whiteboard material on which lawyers can plot their strategy, erase and rewrite.

In addition to the four studios, the firm also has a dedicated legal research room stocked with law books and a large conference room. No space is set aside for introductory meetings with clients, because it's not needed—it's other lawyers, rather than walk-in clients, who retain the Critellis. This reflects another remarkable aspect of their practice. They are both accredited British barristers and American trial lawyers, the

only such team based in the U.S.

Acting frequently for large law firms, the Critellis help these lawyers prepare cases for trial, mediation or arbitration. They can easily bring an outside lawyer into the appropriate studio, where they will both have the tools for whichever piece of the litigation puzzle they are tackling.

The set-up allows these outside lawyers to spend extended periods of time at the boutique, and enables the firm to accommodate additional lawyers without having to earmark extra rooms for them. In fact, the firm hosts a barrister from the U.K. for up to eight weeks each summer, providing the lawyer with an opportunity to learn about the U.S. legal system. To avoid a line-up for the use of a particular studio, a sign-up sheet allows the lawyers to reserve blocks of time.

Technology is a key aspect of this office arrangement. Each room is wired with an internal video cable network. All documents are scanned, creating a paperless environment, and through the Internet, remote access is available. It's all a testament to what one law firm can achieve with the judicious use of technology and a willingness to be innovative in its service delivery.

InnovAction
Winner 2004

Usually, the most pressing challenge facing start-up companies is finding financing for their project. They're more likely to ask their CPA for help in this regard than their lawyer—unless, of course, their lawyer happens to practice at DLA Piper Rudnick Gray Cary (DLA Piper), a Chicago-based global firm with offices in 22 countries.

In 2002, undeterred by the recent collapse of the high-tech sector, DLA Piper established a separate business unit called DLA Venture Pipeline to help promising technology start-ups access

The payback comes in the form of business development for the parent firm. "We're the only law firm in the country that has anything like this," says Mike Krenn, Managing Director of Venture Pipeline. "When we're competing against other law firms [for a potential client], we win 80% of the pitches we're in. It's a real differentiator and helps us get quality clients that are going to be with us long-term." At the end of 2004, when DLA Piper examined its billing for the 20 start-ups it had helped raise capital that

Moreover, these early-stage companies often lead indirectly to other new clients for DLA Piper. "If the start-up company is acquired," says Krenn, "we've made friends with the founders. So when they go out and start their next company, they come straight back to us. If the start-ups are successful, the board members of these companies think highly of us because we helped the company raise funds."

Referrals to DLA Piper also come from venture capital firms wishing to reciprocate. "As a way of saying 'thank you' for all the deal flow," Krenn says, "the venture capital firm will say to their other clients, 'You should go talk to DLA Piper'" for incorporation and other legal services. "It's not guaranteed that we will get the business, but they're at least giving us a shot at it."

DLA Piper is so pleased with its Venture Pipeline initiative that it is eager to spread its financial-intermediary role to overseas locations where it has law practices, especially in Europe and China. Meanwhile, Krenn is aware that other firms have considered adopting the Venture Pipeline idea, "but no one has done it yet. That's fine. It's worked for us."

DLA PIPER: VENTURE ADVENTURERS

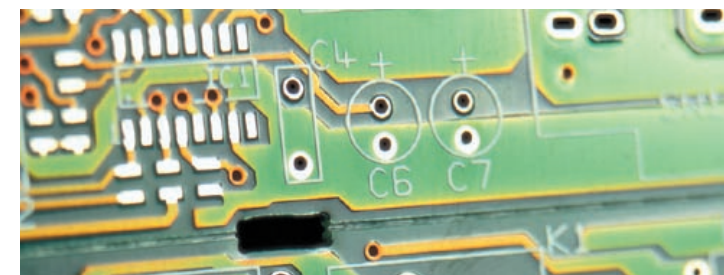
capital. The unit, operated by four experienced technology businesspeople, has offices on both U.S. coasts and is plugged in to a network of some 200 U.S. venture capital firms. In 2004, it was named co-winner of the Innovaction Market Disruptors Award.

Venture Pipeline reviews more than 1,000 business plans a year, providing feedback to budding entrepreneurs on how their plans can be improved. It has also referred more than 50 of those plans to venture capitalists, leading to \$200 million in funding for those companies. Yet Venture Pipeline charges neither the venture capital firm nor the startup company a fee for this service.

InnovAction
Winner 2004

year, it found those clients had generated over \$2 million in legal fees.

When DLA Piper was created—through a merger—the firm examined its total client base and found that seven of its ten most lucrative clients were companies that it had incorporated. "It's always harder for a law firm to get involved with a company once they've already gotten legal counsel," says Krenn. "So if you get them early on the front end and incorporate them, they grow up to become the Qualcomms and the Hewlett-Packards of the world."



“Innovation comes from within.” This simple statement sums up non-conformist Hallelend Lewis Nilan & Johnson (Hallelend), a Minneapolis-based firm that provides legal and business counsel in labor and employment, business law, IP litigation, product liability and mass tort litigation, commercial litigation, and health care. The firm has developed a fresh new take on the importance of positive law firm culture, an issue it feels that law firms have disregarded to everyone’s detriment.

The signs of a negative culture? To name a few: firms paying more attention to top attorneys than clients, associates burning out on the soul-wrenching hours necessary to make partner, and partners making a business of feeding their inflated egos. Hallelend calls this “system failure,” something it knows all too well after breaking away from what it describes as a culture-less workplace ten years ago and starting a “new breed of law firm” based on such things as equality, opportunity—and profits.

At Hallelend’s inception, its founders concluded that the ego-driven hierarchical law firm structure was not to be their way of business. The firm threw out the traditional trappings of law firms—no lavish offices, no passing the buck, and most of all, no big egos. Instead, it adopted a management structure rare in legal firms.

Under Hallelend’s “diamond-shaped” structure, associates are developed quickly in order to al-

lot clients an ideal service picture—one that cuts out much of the expensive billing rates at the top and inexperience at the bottom. The egalitarian model sets the stage for a truly team-oriented approach to business, where lawyers are incentivized to staff and serve client work as best fits the client.

For instance, under the Hallelend model, the otherwise common practice of origination credits are tossed out, in the belief that they are too contentious and entice lawyers to jockey for position instead of encouraging teamwork. In essence, the firm would rather empower and reward lawyers for soaring to new client heights than for feathering their nests.

By standing the traditional firm model completely on its head, Hallelend has attracted top talent and top clients and posts strong growth. Its turnover rate is exceedingly low—in fact, attorneys have left firms exponentially larger to join the Hallelend ranks.

In many cases, it has been female attorneys who’ve embraced the structure, and women now constitute more than half of all firm lawyers. Mission, however, has not sacrificed margin. The firm’s client volume has grown to 450 companies, including the likes of McDonald’s, Target and United Health Group, while the office goodwill has helped double revenues since the firm’s 1996 inception.

HALLELAND LEWIS:

CULTURE REVOLUTION



HOLLAND & HART: STRONG FOUNDATION

On a chilly Saturday morning in October, families parked their cars and minivans along a dirt road near a windswept field in northern Colorado. The occasion was the Holland & Hart Foundation's annual Gleaning Project, in which lawyers, staff, alumni, and their families glean the fields for food to give to local food banks.

"Gleaning has been around since biblical times," explains the Foundation's president, Bob Connery. "Farmers left ten percent of their crops in the fields unpicked, and allowed those needing the food to come in and pick it. It's where the notion of the tithe came from."

These days, however, harvesters have become very selective in the crops they send to market, with the result that a lot of good food is left to rot in the fields. "Gleaning salvages that food and gets it into food banks and ministries where it's needed," says Connery. "It is a very worthwhile activity, and a chance to get to know the wonderful people of Holland & Hart and their families."

"And we have fun doing it," he adds. "We've picked pumpkins, apples, and chili peppers. The truckfuls we've picked have been awesome."

The Gleaning Project is one of many undertaken by this innovative foundation, whose motto is: "Weaving the fabric of the firm and our communities more closely together." Just last year, more than 1,000 individuals and families were touched through activities that donated time, food, clothing and other items or services. Each of the firm's 12 offices has a foundation committee that coordinates projects locally.

The Foundation was the 1999 brainchild of Sam Guyton, a retired tax lawyer from the Denver office of Holland & Hart, and his wife Jean, who saw a need for building community among current and former lawyers and staff of the firm and their families.

"The Holland & Hart Foundation is important to the firm," says Sam Guyton, "because it reinforces the time-honored commitment in recognizing the duty owed by the firm to foster the public good of our communities." Jean Guyton adds: "If the leadership had not been 100 percent behind the idea, it simply would not have worked."

The Foundation's projects range from adopting needy families during the holiday season to holding clothing drives to benefit families in

Afghanistan. Money was also raised for victims of Hurricane Katrina, as well as dozens of local charities. "The projects I am most proud of are the ones where the volunteers respond by saying, 'I feel that I made a difference to others,'" says Sam Guyton. "When I hear, 'Working with people in my office on this project helped me know them better,' I know that we are succeeding as a foundation."

Jean Guyton points out the many ways in which Holland & Hart, which boasts 350 lawyers in 12 offices and six states in the Rocky Mountain West, has benefited directly from the Foundation's work. New recruits have cited the Foundation as one reason they came to the firm, clients have been impressed with how the firm wants to give back to the community, and many of the participating lawyers and staff have been grateful for the chance to serve the community. "The beauty of the Foundation is that everyone in the Holland & Hart community is proud that it is part of their work life," she says.

To read the Foundation's annual report, and to learn more about its current projects, visit its Web site at www.hollandhartfoundation.org.

Mark Beese is the Director of Marketing at Holland & Hart's headquarters in Denver. He operates the Leadership for Lawyers blog at <http://www.leadershipforlawyers.typepad.com>. He can be reached at mark@beese.org.

by Mark Beese



MORRISON & FOERSTER: INNOVATIVE ANSWERS

by Oz Benamram and Ron Friedmann

Some law firms look far afield for inspiration. Morrison & Foerster, a global firm with more than 1,000 lawyers in 19 offices worldwide, decided instead to stay closer to home. The firm interviewed many of its own attorneys to determine what tools they needed to practice more effectively. Then, once the firm heard what its lawyers wanted, it had to get creative to find a solution.

Lawyers kept saying, “I want one place to go to find all the answers I need—and make it as simple as Google.” The mandate was clear: provide easy and fast access to prior work and to experienced lawyers within the firm. But existing search and knowledge management tools just didn’t work well enough—they were either too hard to use or just produced bad results.

So the firm looked to e-commerce Web sites for insight on searching for information. It turns out that the way retailers handle searches—letting shoppers quickly zero in on products they want—holds lessons for how lawyers search for information.

Armed with this insight, careful planning, and extensive software evaluation, Morrison & Foerster developed Answer Base: an easy-to-use system that finds both documents and experienced lawyers within the firm. Most of the system’s

features are being rolled out now, while a few will roll out in the near future.

On the process side, Morrison & Foerster realized that having good matter descriptions was the key to finding information. So the firm revisited the firm’s matter intake process, to ensure information accuracy.

On the software side, they needed a system that could “grab” information from multiple databases, make sense of it, and present consistent results. Ultimately, however, search alone won’t be enough. To improve search results and, more importantly, let users quickly evaluate hit lists, the firm wanted a way to know more about each document—profile fields in document management systems are notoriously unreliable. So the firm will use “entity extraction” software to automatically identify meaningful document titles, jurisdictions, deal types, judges’ names, and other important “meta data.”

What does this all mean for how lawyers work? Users can type in simple or complex search queries. The system quickly returns a list of attorneys with related experience and a list of documents, reliably ranked by relevance. And like retailers that present easy ways to find brands, price ranges, or features, Answer Base lets lawyers “slice” their results by jurisdiction, industry, motion type, party names, governing law, effective date, or law firm on the other side

of the deal, so they can quickly zero in on what they need.

Now the system can answer complicated questions such as “who in the firm has patent infringement experience in the biotech industry” by relating the matters the person worked on with the documents they wrote. The beauty of this approach is total automation—lawyers don’t need to change how they work. As of mid-2006, the firm had completed its testing and evaluation and was in the process of rolling out Answer Base firm-wide.

To learn more about Answer Base and its impact on Morrison & Foerster, see www.mofo.com/docs/PDF/0512LawTechNews.pdf, a reprint from an article in Law Technology News.



Oz Benamram is the Practice Resources Attorney for Morrison & Foerster. He provides the firm with strategic direction in the use of technology and knowledge management to support the substantive practice of law: obenamram@mofo.com.

Ron Friedmann is the president of Prism Legal Consulting, which advises law firms on technology strategy and legal software companies on marketing and strategy. A lawyer, Friedmann has held senior management positions at two large law firms and two legal software companies: ron@prismlegal.com.

PINSENT MASONS: OUT-LAW INNOVATORS

by Sheldon Gordon

InnovAction
Winner 2004

OUT-LAW.COM isn't just another law firm Web site. It's a client resource, explaining information technology, e-commerce, privacy, software, tax, employment and other legal issues that businesses need to understand. Users can find sample contracts, checklists and other business planning and operation documents, and the site is updated with new articles every day.

The site, which garnered the 2004 Innovation Market Disruptors' Award, is operated by Pinsent Masons, an international law firm based in Glasgow, Scotland. Pinsent's Web site makes no bones about OUT-LAW.COM's purpose: "The site exists because we want you to choose our law firm when you need more help."

OUT-LAW.COM was launched in 2000 to inform start-ups, e-businesses and new media companies about the laws and legal issues affecting them. Its hallmark is plain speak: businesspeople want answers to legal problems, but as the site says, they "don't necessarily want to know that a particular answer is based on the precedent of half a dozen court cases or Section 234(b)(iii) of an esoteric piece of legislation.



OUT-LAW.COM's approach is to keep everything informative but readable."

In its six years of operation, OUT-LAW.COM has accumulated more than 6,000 plain-English articles, covering every development in technology law from intellectual property and privacy laws to outsourcing, e-commerce and employment. While high-tech firms were the early users, the site's reach has spread to multinationals, government agencies, universities and in-house lawyers

globally. It now has over 28,000 registered users and nearly 100,000 unique visitors every month.

Struan Robertson, editor of OUT-LAW.COM and a senior associate with Pinsent Masons, says OUT-LAW has been a huge commercial success for the law firm. "OUT-LAW has helped position Pinsent Masons as one of the U.K.'s leading IT legal advisors."

In fact, what began as a Web site has turned into a brand. In 2001, the firm launched *OUT-LAW Magazine*, publishing 16 pages three times a year, IT and telecom issues. It is distributed free to OUT-LAW users (by mail to readers in the U.K. and Ireland, electronically to readers elsewhere) and has a global circulation of 27,000.

Then there's OUT-LAW In-House, an extranet-supported retainer arrangement for businesses too small to have in-house legal counsel, and OUT-LAW Compliance, a service that reviews company Web sites to make sure they comply with U.K. laws on e-commerce. The sheriff's badge that serves as OUT-LAW's logo is a fitting symbol of how it helps users stay in the right.

SIMPSON GRIERSON: FOLLOW THE LEADER

by Sheldon Gordon

InnovAction
Winner 2005

Going from a market follower to a market leader doesn't happen quickly or easily, especially for a century-old law firm. But Simpson Grierson of Auckland, New Zealand, has shown that it can be done with firm-wide commitment.

Independent research commissioned by the firm in 2003 revealed that its clients, and corporate customers in general, wanted a more progressive law firm that could demonstrate strong leadership in the contemporary environment. Simpson Grierson saw that it needed to maintain the positive perceptions of the firm in the marketplace (a solid, established firm with integrity, depth of knowledge and experience) while countering the negative perceptions (too conservative, old school, slow-moving).

So Simpson Grierson adopted a bold marketing campaign. It developed innovative sponsorships, including support for an SMS text-message service for a youth helpline and guide-dog training for the Royal New Zealand Foundation of the Blind. But the biggest splash resulted from the firm's sponsorship of an avant-garde exhibition at the Auckland Art Gallery called "Public/Private," which examined what privacy means in a world of daily boundary crossing between the public and the private spheres.

The firm won the Creative New Zealand Award for Bravery for supporting this provocative exhibition. It then won the same award in 2005 for supporting "Mixed-Up Childhood" at the New Gallery. This exhibition featured works from more than 20 artists who revisited the theme of childhood. The law firm was the first business to capture the award two years in a row.

Simpson Grierson also launched a billboard and print advertising campaign (featuring its lawyers and demonstrating individual achievement, high profile and complex work). The print ad campaign included 14 different advertisements over 18 months in national newspapers and the Australasian legal press.

Further, the firm issued *Source*, a twice-yearly publication with a distribution of 11,000 copies locally and internationally to clients and contacts. Significantly, the magazine focuses on clients' successes, highlighting Simpson Grierson's key role in their projects.

When a second independent study was done in 2005 to measure client satisfaction and Simpson Grierson's position in the marketplace, the results were impressive. The firm ranked first as "a very modern and innovative law firm." It had the strongest "brand health" (i.e., the highest loyalty and preference) of law firms, ranked first as the law firm that respondents "most prefer to use" and scored the highest in "client loyalty" (overall satisfaction with main law firm).

Further confirmation of the campaign's success emerged when Simpson Grierson was ranked the "number one" law firm in New Zealand by the influential international legal directory Global Counsel 3000. Little surprise, then, that the firm was also named co-winner of the 2005 Innovaction Market Disruptors' Award.

The challenges that Simpson Grierson overcame should not be underestimated—the campaign required nothing less than an organization-wide cultural change. The firm had to get buy-in from the board and the partners for the marketing campaign, which meant shaking off a traditional reluctance to advertise.

Simpson Grierson is delighted with its makeover. Says Chairman Rob Fisher: "Through engaging a smart and creative combination of communication tools, we have moved the firm's market positioning from 'traditional' to 'contemporary' and from 'follower' to 'leader.'"



Sughrue Mion is an 80-lawyer intellectual property firm that has taken both its litigation strategy and its Asian practice to a new level.

With an office in Tokyo, in addition to locations in Washington, D.C., San Diego and Mountain View, California, Sughrue recently conducted mock jury trials in Asia—one in Japan in December 2005, the other in South Korea early in 2006—that effectively branded the firm in those countries as a specialized practice with demonstrable litigation depth.

More specifically, Sughrue was introducing U.S.-style litigation skills training into a cultural and professional context where such litigation continues to be an alien, threatening, but nonetheless increasingly unavoidable fact of life. The host country audiences of patent attorneys and in-house counsel saw directly the crucial differences between U.S. courts and their own, and eavesdropped on mock jury deliberations as they happened.

Sughrue, working in tandem with local bar groups, spared no effort to make the experience of litigating in front of U.S. federal judges and the International Trade Commission as authentic as possible. An American judge was recruited to preside over the mock patent cases, which involved an alleged infringement of a patent

for golf club grips. The audience (around 250 lawyers for each event) was exposed to the U.S. litigation practice in its entirety, including discovery and deliberation phases that don't exist in many Asian countries.

For Sughrue, the mock trials provided a powerful marketing opportunity in Asia, if only because it was such a unique event for local lawyers. The firm also got extra mileage by promoting the trials in the media before and after the events, both in the U.S. (where there are also significant Asia-related litigation buyers) as well as Asia.

The mock trials also represented the best kind of professional services marketing from a client service standpoint. While the trials and attendant publicity sent a strong message about Sughrue to legal buyers, they also provided concrete value for audience members who, as they penetrate critical American markets, face an inexorable build-up of lawsuits.

Larry Smith is the Vice President of Levick Strategic Communications, (<http://www.levick.com>), which has just been named the Crisis Communications Agency of the Year by the Holmes Report. The firm has managed media strategies for many of the world's highest-profile litigation matters, from the Catholic Church scandals to numerous issues arising out of the Middle East.

SUGHRUE MION: MOCK-TRIAL MARKETING

by Larry Smith



WRAGGE & CO: SCIENTIFIC PRICING

by Sheldon Gordon

InnovAction
Winner 2004

Law firms are very much aware that clients resent being quoted one fee at the outset of an engagement, only to be billed a much larger fee at the conclusion. But most lawyers shrug off such incompatibilities as inevitable, arguing that lawyers' work is just not estimable with any degree of accuracy. But a law firm based in Birmingham, U.K., is proving this old chestnut wrong.

Wragge & Co has developed and is patenting Project X, an innovative fee prediction and transaction management system. It pinpoints the likely costs of a legal transaction scientifically, calculates staffing needs, predicts the number of hours and the seniority of lawyers required, and helps keep the process on-track to meet the original estimate. Its success led to Wragge & Co being named co-winner of the 2004 Innovaction Leader Ships Award.

Project X, whose development began in 2000, contains three modules: quoting, scoping and transaction management. These modules draw upon the firm's database of past engagements, tapping the vast history of resources used, hours worked, and fees billed.

The first module, Quoting, answers the client's bottom-line query: how much is the legal work going to cost? The lawyer handling the file identifies past engagements that are similar to the new one. The software searches the database and produces relevant information, answering such key questions as:

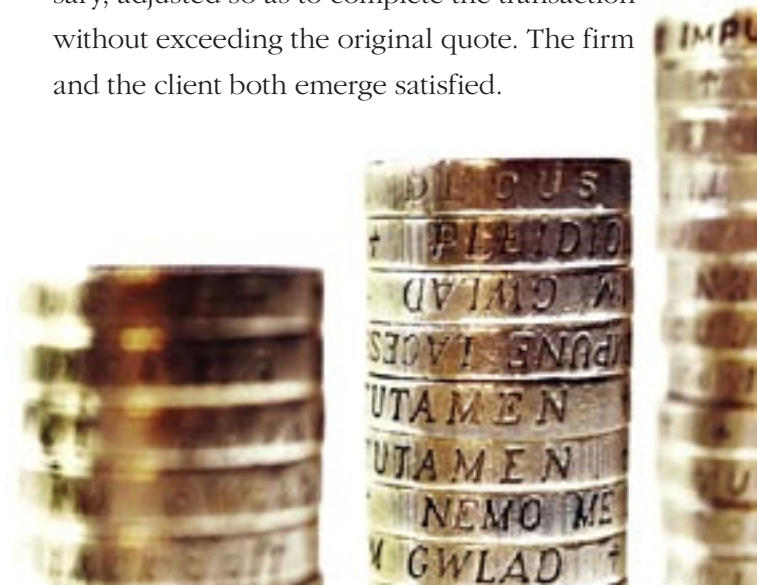
- What are the high and low amounts for each work category?
- What are the time frames involved?
- What is the average requirement for photocopying, time to complete the legal work, render the bill, etc.?

In 15 minutes, the program can produce a reliable pricing structure that the lawyer can offer the client. On big-ticket files, that kind of efficiency can save a day or more that the lawyer would have otherwise had to devote to preparing such an estimate, and gives the client a reliable figure on which to rely when deciding whether to commission the work or not.

The second module, Scoping, provides data on what percentages of previous similar engagements have been performed by partners, associates and

support staff. It even analyzes the work performance of individual lawyers and departments by category of engagement. The results provide an effective tool for planning resource allocation for the new project.

The third module, Transaction Management, creates graphs by plotting work on one axis against time on the other. First, the software graphs these factors for similar previous files to serve as a benchmark for the new file. Then it creates a comparable graph when the new project begins. The firm can add or subtract personnel from the file if the performance on the new project starts to deviate from the benchmark graph. In this way, the process can be tracked and, if necessary, adjusted so as to complete the transaction without exceeding the original quote. The firm and the client both emerge satisfied.



Death to perfectionism: find the courage to innovate!

The birth of innovation must follow the death of perfection. The legal profession is all about perfection—perfection is a legal deity, and to speak against it is heresy! Legal agreements are never completed, after all—they just reach the stage where clients are allowed to sign them.

by Gerry Riskin

Innovation: *n* 1: a creation (a new device or process) resulting from study and experimentation 2: the creation of something in the mind 3: the act of starting something for the first time; introducing something new.

(Source: WordNet ® 2.0, © 2003 Princeton University)

Innovation's definition should warn us against complacency. After all, in a profession of precedent, creation may not come naturally.

Perfection is a hindsight assessment. We find something imaginative and truly useful and then conclude that it's "perfect." After Edison's first thousand unsuccessful attempts to make a light bulb, he was accused of being a failure. He retorted that, on the contrary, he had learned a thousand ways not to make a light bulb.

And of course, not even the perfection of the light bulb is permanent. Ubiquitous LEDs, we are told—cheaper, more economical and more flexible—are in our future. You will need Edison's courage on your journey to innovation.

In order to innovate, we need to let go of perfectionism long enough to embrace the art of trying, failing, improving and succeeding. That phrase does not do justice to the actual ratios

of these ingredients, which would be expressed this way: "Try, fail, improve, try again, fail, improve, try again, fail, improve, try again, fail improve, try again..." You get the idea. Then, occasionally, success! Perfection—something turns out just right.

Perfection cannot be summoned or conjured. It must be created in the laboratory of trial and error. To achieve perfection, you will require courage: the courage to innovate.

It follows that in order to innovate to perfection, errors are essential. Every element of this publication is fraught with perils—some have already been overcome, others still need to be discovered and conquered.

David Maister cheated in his introduction by giving us content as rich as any other contribution in this piece. He told us about the courage of Exemplar. Did it inspire you to have the cour-

age to act? If you are a managing partner, were you chosen to protect the status quo or make a difference? If the former, is it time to rebel by summoning the courage to innovate?

Bruce MacEwen took us on a virtual tour of the Reed Smith University (in partnership with the Wharton Business School) and the DLA Piper Program (with the Harvard Business School) to show us role models of how education is transcending law school offerings. These internal schools are helping their law firms move in their desired strategic directions. Have you found a way to help your firm transcend its behavioral propensities and enable the breakthrough actions that will leave the competition wondering how you did it?

Patrick McKenna provided a menu of ten actions. My favorite was the Fresh Eyes idea that has new recruits review the firm after 30 days. Will you order from Patrick's menu and implement your choice? (You're allowed to choose more than one.)

Silvia Coulter showed us the need for collaboration and teamwork to realize the benefits available from the synergies among those who serve in a variety of portfolios within your firm.

Simon Chester, Matthew Homann, Dennis Kennedy, Dan Pinnington and Marilyn Astin Tarlton roundtabled their way through five stimulating topics: billing, client relations, management, marketing and talent recruitment. Which roundtable comments were catalysts that stimulated your thinking, relevant to your context?

Each of the success stories has its own catalytic gem—if you did not note them, glance back and create your own inventory. Then consider what options they suggest for your firm.

The pity would be to leave this publication unable to benefit from its inspiration. I suggest that you appoint a Catalyst of Innovation and get this article distributed within your firm. Invite ideas and offer prizes for the most imaginative ones that have a chance of success. Then embrace some of those ideas with Edison's resolve.

I wish you the courage to innovate and to embrace failure on your path to perfection.



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We believe the best ideas come from relationships that cherish innovation, from passion that seeks to understand where we are going and not just where we are, from notes scribbled on napkins and not just strategic plans.

The College of Law Practice Management

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