

The trick to running a law firm is getting all the pieces to **FIT TOGETHER**

CULTURE

is what defines a law firm. In a business where all of the assets ride up and down the elevator every day, the glue that makes a law firm work is its culture. In fact, research has demonstrated an indisputable direct correlation between profitability and culture.

But, ask a law firm managing partner to describe the firm culture and you'll hear euphemisms like "collegial" or "democratic."

The fact is that most firms really don't know what their culture is and can't describe it. Yet, a recent survey of large law firms showed that one of their partners' greatest fears was "losing their culture." How can a law firm preserve what it can't describe, doesn't recognize and won't communicate?

The Edge International Cultural Inventory is based on 15 years of research by Dr. Daniel Denison of the University of Michigan School of Business, involving more than 44,000 respondents from over 1,800 businesses, including over 100 law firms. The database allows the identification of the specific traits that determine an organization's culture.

It's a simple choice. A firm can continue to grow, take in laterals, merge and hope that its culture won't change. Or it can devote a partner meeting or retreat to understanding and protecting its culture.

Of course, all firms are collegial and democratic...aren't they?

PRICING OF SERVICES: A METHODOLOGICAL APPROACH FOR INTELLECTUAL PROPERTY PRACTICES

by Michael Roch

BUILDING THE PERFECT CLIENT SERVICE FIRM— FROM SCRATCH

by Karen MacKay

HOW CAN YOU SURVIVE IN THE FUTURE?

by Friedrich Blase

AFRICA : EMERGING OPPORTUNITIES ON THE DARK CONTINENT

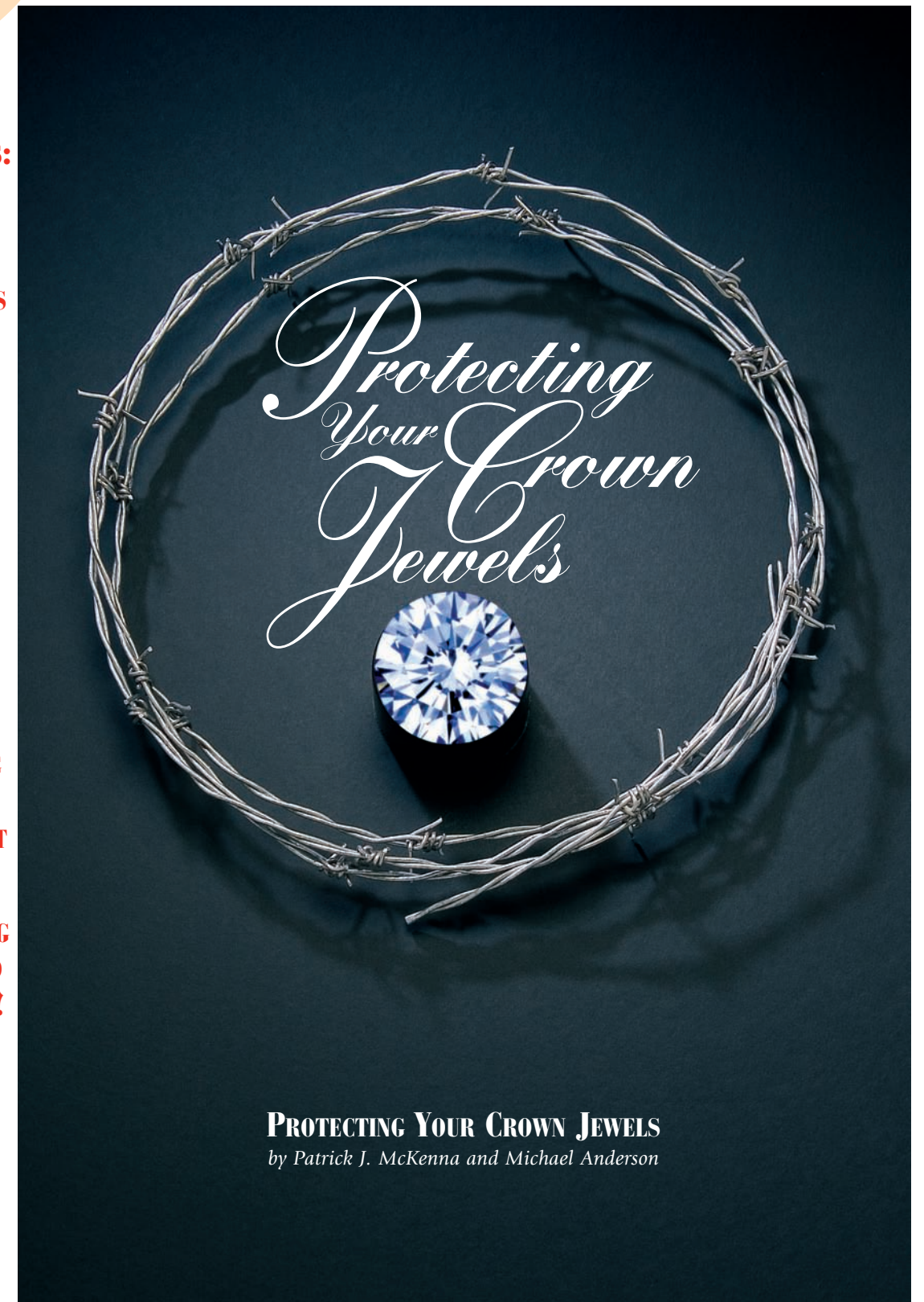
by Robert Millard

VALUING AND JUDGING PARTNERS — BEYOND THE ELEPHANT TEST!

by Nick Jarrett-Kerr

SEVEN IMMUTABLE LAWS OF CHANGE MANAGEMENT

by Gerry Riskin



*Protecting
Your Crown
Jewels*

PROTECTING YOUR CROWN JEWELS

by Patrick J. McKenna and Michael Anderson

BECAUSE
TODAY'S
COMPETITIVE
CHALLENGES
DEMAND A
HIGHER
STANDARD OF
PERFORMANCE



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Dear Friends and Associates:

You may have noticed some changes to the Edge International Review over the course of the last few issues. We at Edge International have been keen to improve our journal offerings while maintaining features that many of you value. At the same time, we have taken the EIR into cyberspace by launching an email alert that reaches you on the day the EIR is published and allows you to view all articles online in the familiar review format.

You can enjoy contributions with a sharp focus on the critical competitive issues that leading law firms face today. In this issue we include contributions on key client relationships, value pricing and partner assessment – all three no doubt areas that require top-level attention in any firm.

We have always striven to be both thought leaders and the most internationally minded law firm consultancy. We thus also serve you ideas on building the perfect firm as well as insights into legal opportunities in Africa. We established the section "In Brief : On Management" where you will find concise opinion pieces on aspects of managing law firms.

Improvement nourishes the desire to improve further. Our Edge International Review has, in its fourth year, a readership of tens of thousands and is thus probably the most widely read journal on strategic and competitive law firm issues. We seek to develop the EIR into your first choice reference when looking for a resource to get ideas for your challenges in law firm leadership.

We hope you enjoy the read and are grateful for any critical feedback on this issue and ideas for developing the EIR further.

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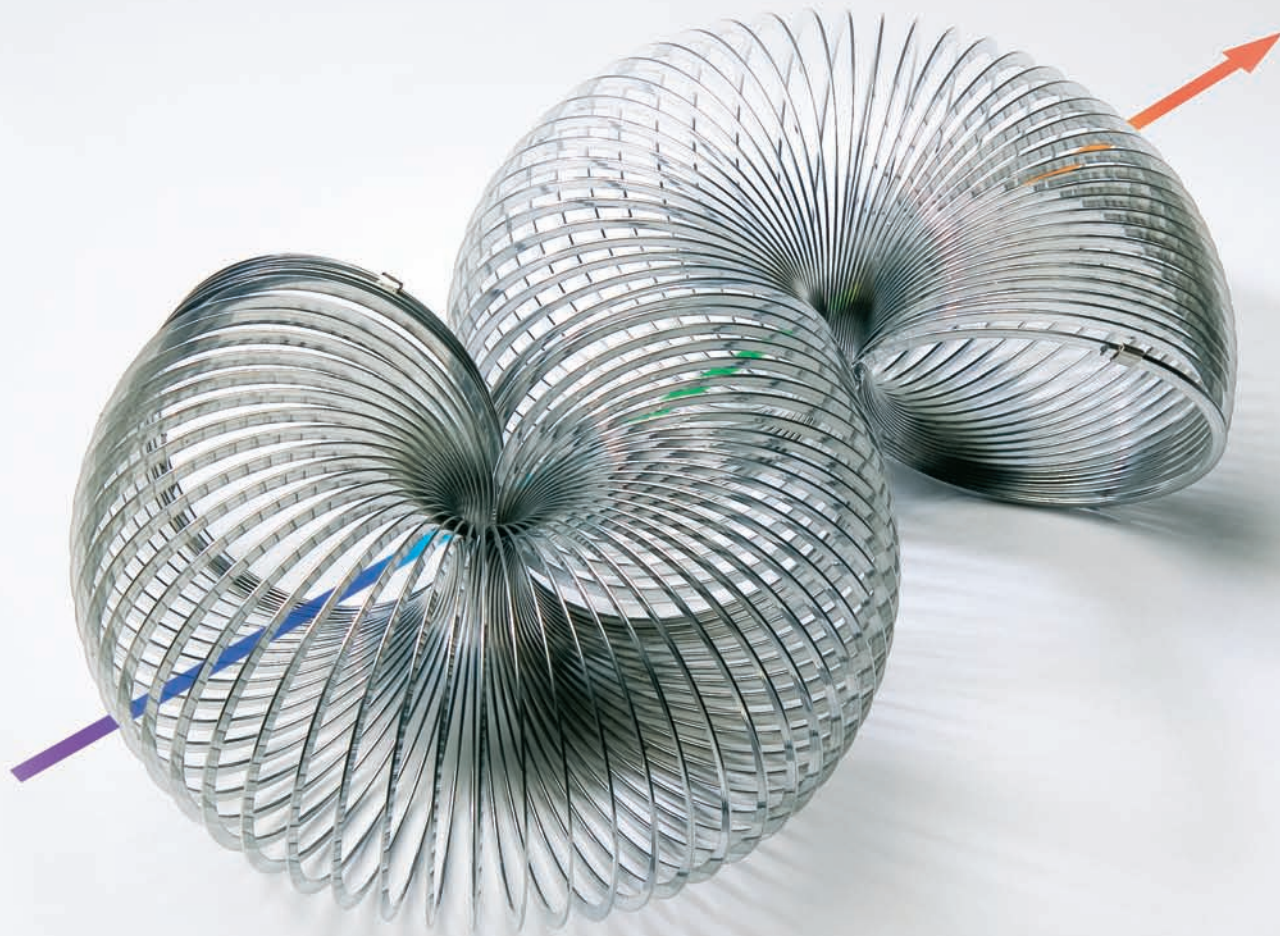
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by Michael Roch, EDGE INTERNATIONAL

PRICING OF SERVICES

A Methodological Approach for Intellectual Property Practices

“Many professional services firms put more creativity, mind power and time into a brochure or an advertisement than thinking about pricing policies. This is a serious mistake, [as] pricing is how the firm captures the value it provides to the market place.” Ronald Baker, *Professional's Guide to Value Pricing*, 2001



The price, together with the client's service experience with the firm, is one of the most important statements that an IP practice can make about its brand to its clients. It is therefore important that IP practices approach pricing from a strategic perspective. This article provides

a structured roadmap for IP practices to develop their pricing approaches.

DUAL BUSINESS MODEL IN IP PRACTICES

Intellectual property practices typically house two separate businesses: IP

prosecution and maintenance of IP rights

To provide true value to the client, an IP prosecution practice requires extensive technical, industry and legal expertise to effect, for instance, a valid patent application that is sufficiently specific to render an idea patentable while maintaining

sufficient breadth to cover as many potential competing ideas as possible so as to protect the client's business. The heavy intellectual lifting is done in this part of the business, and traditionally this work is charged on an hourly basis.

The IP maintenance practice is usually the opposite. Heavily leveraged and staffed primarily by paralegals (in the United States) or patent secretaries (in Europe), the maintenance practice monitors infringing uses of the client's trademark or ensures that the client's patent registrations are maintained. Traditionally, this work is charged on a per transaction or fixed fee basis. However, the IP maintenance practice tends to generate the higher profit for the IP practice, and often the prosecution work is heavily discounted to obtain the more profitable IP maintenance work. In recent years, service providers have entered the market of processing patent maintenance, trademark renewals and the like, thus squeezing IP practices out of the profitable maintenance business unless they can compete with these service providers either on value or on price.

While intellectual property lawyers have long recognized that both practices operate as distinctly separate business models, all too often opportunities for revenue maximization are lost because the pricing of each business, and how one complements the other, is not approached in a strategically structured manner or in a manner that is sufficiently flexible to maximize the value proposition to the client.

PRICING FOR IP PRACTICES IN FIVE STEPS

The following approach begins at the firm level and descends down to the level of the client and each individual engagement, as follows:

Price, together with the client's service experience with the firm, is one of the most important statements that an IP practice can make about its brand and about the value proposition to its clients.

Step 1: Determine the value proposition associated with the brand of the IP practice

Step 2: Determine a pricing objective for each client segment served

Step 3: Determine the pricing method and presentation method for each client segment

Step 4: Determine the clients' price sensitivity

Step 5: Determine service packages to deliver value for each engagement

Step 1: DETERMINE THE VALUE PROPOSITION ASSOCIATED WITH THE FIRM'S BRAND

The starting point for any discussion on price is the IP practice's value proposition for its clients. "Are you trying to compete based on (1) price, (2) quality or (3) by serving a niche?"

Price Proposition. The cheap IP practice competes on price. Its profitability lever is quantity and a low service cost, achieved

through people leverage, highly efficient systems and a high degree of standardization.

Quality Proposition. The best IP practice competes through quality. It has superb client relationships, and its superior client focus delivers a first class service. This value proposition allows only a limited degree of leverage, relying more on the experience and expertise of its senior attorneys to charge a relatively high price.

Niche Specialist. The niche IP practice has specialized in one narrow area of IP or industry. It is at the cutting edge of that area

and delivers value based on superior know-how and a high degree of fee earner specialization.

Knowing your value proposition is critical – it is very difficult, if not impossible, to be a price leader, quality leader and niche specialist at the same time to all clients. Firm management should ensure that every fee earner understands, is able to and frequently does communicate the answer to this question to existing and potential clients.

Step 2: DETERMINE A PRICING OBJECTIVE FOR EACH CLIENT SEGMENT SERVED

Once the IP practice firm understands its value proposition, it will typically follow one of three pricing objectives for any given market:

1. Maximize current profits
2. Increase market share
3. "Skim" the top end of the market

An IP practice that seeks to maximize its current profits will approach the question of pricing differently from one that seeks to increase its market share. In order to know

which pricing objective to set for a given market, the IP practice should segment its clients according to the value proposition offered to each segment and set the price objective accordingly. For any practice, pricing by client segmentation – in particular for the prosecution business – is critical to ensure that each client segment understands the firm's value-add proposition. There are several ways in which to effect segmentation. For a technology IP practice, segmentation by industry or product life-cycle appears to be the best fit.

For instance, an IP practice known in the market as a high quality electronics patent litigation practice that desires to enter the field of GPS patent litigation may set its price below the perceived value received by that market. On the other hand, an IP practice that serves only one particular market segment may want to give its attention and resources only to that work which provides the largest amount of revenue and profit, thus "skimming" the crème at the top level of the price range and refer to another firm all other work that does not bring in the most revenue.

Step 3: DETERMINE THE PRICING AND PRESENTATION METHOD FOR EACH CLIENT SEGMENT

Once the IP practice understands its pricing objective with respect to each client segment, it can begin to determine what pricing method it will pursue. It essentially has three choices:

1. **Cost plus pricing**
2. **Competition pricing**
3. **Value pricing**

Cost plus pricing. Firms that charge by the hour typically engage in cost plus pricing; even fixed fees are usually based on the cost to the firm of providing the service plus an assumed level of profit. The focus is internal, based solely on the cost structure and capacity of the firm as well as on the amount

of time and effort it takes for the firm to meet the client's objectives. IP practices in particular have long experimented with fees that are based on something other than hourly rates, but many IP practices still maintain an hourly rate structure for their prosecution work based on the cost of providing the service.

Competition pricing. To see whether their standard hourly rates or fixed fee schedules are roughly in line with what the market will pay, many practices will merely have a brief look to their peers for a reality check, ensuring that their rates are neither the most expensive nor the cheapest. While a competitive check is valuable, setting a fee below the highest rate of a competitor just because one does not want to be the most expensive potentially dilutes the image of the brand of the IP practice (and, indeed, the firm), unless this approach is consistent with the pricing objective. For instance, an IP practice that competes based on high quality in a given segment should not price its services below those of the other quality leaders in the market unless it has a well-considered penetration strategy in mind.

Value pricing. Neither cost plus nor competition pricing takes into consideration the value of the IP practice's services to the client. The basic premise behind value pricing is that the revenues for a given engagement should be based on the value that this particular work represents to the client instead of on the effort the IP practice incurs in completing the engagement. The difference between cost plus pricing and value pricing is one of focus: cost plus pricing focuses on the bottom line of the IP practice, whereas value pricing focuses the IP practice on the client's bottom line.

Ronald Baker has pointed out the various benefits of value pricing which needn't be repeated here. May it suffice to say that value pricing usually affords an increased ability of an IP practice to pursue its pricing objectives and

facilitates pricing based on segmentation. As the examples below illustrate, the client might be willing to pay a lot more than just an hourly rate times time spent on a given IP prosecution matter. The key to understanding what value the client wants from the IP lawyer – and to communicating to the clients that the IP practice will deliver that value – is to focus on the client's needs and to ask the right questions.

Irrespective of whether they charge by the hour or on a fixed fee basis, many IP practices employ only cost plus pricing. However, IP practices should consider using a combination of all three methods to achieve the highest revenue. How each method is presented to the client – hourly fees, fixed fees, caps, blended rates, etc. – merely becomes a mechanical exercise that nonetheless should be grounded in what the client values most.

Step 4: DETERMINE THE CLIENTS' PRICE SENSITIVITY WITH RESPECT TO THE ENGAGEMENT

While cost plus pricing is static, a value pricing approach can react to favorable and unfavorable market conditions as well as accommodate a client's price sensitivity in a much better way. My partner Ed Wesemann has previously published a series of questions to determine price sensitivity. Below, these are examined for an entrepreneur bringing his single idea to market, compared with the large corporation that applies for hundreds of patents per year and with an established mid-sized company that applies for only a few patents per year.

For instance, the large corporation has knowledge about the fees of the firm's competitors, likely has a panel of IP practices and probably will be more price sensitive than an entrepreneur who is using an IP practice for the first time. All other things being equal, a client who has an existing relationship typically has higher switching costs than does a new client, because usually there is value to

understanding the client's organization and key individuals. A client who cares about prestige tends to be less price sensitive – imagine Wal-Mart v Neiman Marcus and compare both with your practice's value proposition. Taking that example further, clients such as the large corporation where the cost of one patent application requires a fairly small amount of the annual legal budget tend to be more price sensitive, in particular because of the many patent applications that are filed, only a small percentage of which are likely to become cash cows. The entrepreneur, on the other hand, views the initial patent as a "must succeed" and is, therefore, less price sensitive – but may have difficulties financing a large fee up front.

Step 5: DETERMINE SERVICE PACKAGES TO DELIVER VALUE FOR EACH ENGAGEMENT

The last step puts it all together. Understanding the value proposition that an IP practice brings to each of its client segments, its pricing objective and the client's price sensitivity allows the IP practice to put together a service package with a pricing method that delivers the best value to the particular client at the highest price a particular client or client segment is willing to pay.

Following the above examples, the large corporation likely is highly price sensitive because of the small percentage of patents that turn out successfully. In this instance, one might think about a volume discount in exchange for assurance that all prosecution and/or all maintenance work is done for that client for particular types of patents, plus a success fee for those patents that go to market. If the IP practice is getting squeezed on price already because the prosecution work is a loss leader for the maintenance work, there is less to be lost in proposing such an

arrangement; if done anywhere above the break-even point, this work will contribute to the fixed costs which will not change if the work increases. Of course, if the prosecution work is done at a loss and the patent maintenance work does not follow from this client, the firm bears all the risk and has no upside. All IP practices should have systems in place to enable them to manage to their break-even point on a per engagement basis (irrespective of whether fixed fee or hourly).

An IP practice should price its services thoughtfully and conscientiously, keeping in mind its strategic objectives and focusing on the delivery of value to the client on each engagement.

For the entrepreneur, the IP practice might propose a similar risk-sharing arrangement with a higher reward if the business succeeds. The entrepreneur will be much happier to pay a kick-back to the firm that helped him make lots of money than pay, begrudgingly, some firm a high fee as a "hoop he has to jump through" to protect his work.

The IP practice's value proposition for the mid-sized client with a small legal staff could involve taking as much off the plate of the overworked in-house counsel as possible, thereby increasing the client's switching cost. For instance, once the patent is registered, the IP practice could handle the licensing work as part of the package or the trademark work around the patented product; the intellectual property boutique firm, of course, needs to be careful that doing so

does not conflict with the efforts of the full service firm that referred the client to it in the first instance.

THE BOTTOM LINE

Price is one of the most important aspects of the brand owned by an IP practice – and, indeed, of the entire firm. Pricing should be done conscientiously and thoughtfully, keeping in mind the IP practice's strategic objectives and delivering value to the client on a per engagement basis. The structured, five-step approach to an IP practice's pricing strategy as it relates to its desired brand image, careful segmentation of its client base and their product life-cycles, as well as pricing based on value, not on the cost of providing the service, will help maximize revenues.

This article is based on my presentation to the International Federation of Intellectual Property Attorneys (FICPI) in Lisbon, Portugal, in November 2005. I appreciate and have borrowed from Paul Dunn and Ron Baker, The Firm of the Future (2003), Philip Kotler et al., Marketing Professional Services (2002) and Robert G. Docters, et al., Pricing und Branding, Strategien für mehr Profit (2005). I am also grateful to the thoughts of my partners, Ed Wesemann and Friedrich Blase, in the preparation of this article.



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BUILDING THE PERFECT CLIENT SERVICE FIRM = FROM SCRATCH



What fun! The perfect client service firm! Is it possible?

Individuals in private practice have said, "I know there is a better way to serve clients - a better way to practice. If I had the courage, I'd start my own firm and it would be different." Law firms have started *greenfield operations* - practice groups with entirely new business models with mixed success - primarily because these new business models are overlaid with old accounting models and old reward systems.

An article like this presents the writer and the reader with both the opportunity to reflect, as well as the opportunity to dream about the *art of the possible*.

Stepping up to this challenge there is "so

much to do, so little time." What sort of leader would be in place? How would future leaders be developed and retained? How could we deliver service profitably in ways valued by clients? How would we use technology to collaborate and to anticipate clients' needs? What about culture - how could we create the desired culture and then build the components toward that desired end state? How would we differentiate this perfect firm from its competitors, in the eyes of both talent and clients, for whom we all compete?

LEADERSHIP

Leadership is influence - nothing more, nothing less. People don't want to be managed, they want to be led. Leadership is about having followers -

whether you are in a firm of 3 or 300. Above all else leaders must have integrity.

Organizations with superb client service are typically led by individuals who will tolerate nothing less.

Organizations with superb client service are typically led by individuals who will tolerate nothing less. In the number one best-selling business book of all time, *Good to Great*, Jim Collins calls this Level

5 Leadership. (see Figure 1) If indeed we are building the perfect firm from scratch, why not look at the great companies to find out what kind of leader made them great so you can learn from those people? "A Level 5 Leader builds enduring greatness through a paradoxical blend of personal humility and professional will."¹

These leaders attract and retain the next generation because they provide opportunities for future leaders to be continually challenged and to *grow professionally*. These leaders attract and retain the next generation because they effectively communicate their vision and they make them feel that they are part of a *winning team*. These leaders *respect* their

colleagues, respect them as individuals and respect their time while working hard and

Figure 1

PROFESSIONAL WILL	PERSONAL HUMILITY
CREATES SUPERB RESULTS a clear catalyst in the transition from good to great.	DEMONSTRATES COMPELLING MODESTY , shunning public adulation; never boastful.
DEMONSTRATES AN UNWAVERING RESOLVE to do whatever must be done to produce the best long-term results, no matter how difficult.	Acts with QUIET, CALM DETERMINATION; RELIES PRINCIPALLY ON INSPIRED STANDARDS , not inspiring charisma, to motivate.
SETS THE STANDARD of building an enduring great company; will settle for nothing less.	Channels ambition into the company, not the self; SETS UP SUCCESSORS FOR EVEN GREATER SUCCESS IN THE NEXT GENERATION .
LOOKS IN THE MIRROR , not out the window, to APPORTION RESPONSIBILITY FOR POOR RESULTS , never blaming other people, external factors, or bad luck.	LOOKS OUT THE WINDOW , not in the mirror, to APPORTION CREDIT FOR SUCCESS of the company - to other people, external factors, and good luck.

leading by example. These leaders attract and retain the next generation by *apportioning credit for success appropriately* and by setting them up for success.

Figure 1: The Two Sides of Level 5 Leadership²

When I asked a seasoned law firm managing partner what he would like if indeed he had

¹ *Good to Great*, Jim Collins, Harper Collins, 2001

² *Good to Great*, Jim Collins, Harper Collins, 2001, Page 36

the opportunity to build a client service-focused firm from scratch, he said, "I'd build a corporate model that would enable execution without worrying about cajoling, stroking or convincing partners to go along. Building consensus is incredibly time-consuming and gets in the way of implementation with the speed necessary to anticipate client needs."

When I asked a senior associate who had worked in a number of very large firms, he said he would want to be led by partners who understand financial, marketing and people management, not just those who happened to become leaders solely because of their legal talents and billable contributions.

DELIVERY OF CLIENT SERVICE

In building the perfect client service firm from scratch everything would be designed around the client. Examples:

In building the perfect client service firm from scratch everything would be designed around the client.

Where possible, all dealings with clients would be at the client's place of business. Yes, **LAWYERS WOULD GO TO THE CLIENT RATHER THAN THE CLIENT GOING TO THE LAWYER.** The benefits of being at the client site are many.

- Strategy meetings with the client executive team would enable a full understanding of the business issues from all perspectives so legal counsel can be part of the solution.
- Records that need to be reviewed are at the client site and accessible.

- The lawyer's relationship with the organization would have multiple links rather than a single link where everything is fed to outside counsel through the general counsel or someone on the executive team charged with that responsibility.

Members of the firm would be organized around industries (client focused) rather than areas of practice (internally focused).

- Lawyers would be hired based on legal training and experience, but also based on their knowledge, experience and passion for the industry. Undergraduate degrees would be part of the consideration

rather than simply a right of passage to get to law school. Outside interests and passions would be valuable – e.g., a lawyer with a passion for the automotive industry would be valued not only for his legal skills but also for his knowledge of the industry. When work becomes fun because our passions are valued will people flourish? You bet.

The perfect firm of any size would leverage **TECHNOLOGY** in very powerful ways that would enable lawyers and clients to collaborate, leverage knowledge and

anticipate client needs. Leveraging technology enables small firms to have a much stronger "punch" than their size would normally permit.

- When the technology solutions are harnessed there is no reason why the legal team cannot work at the client site. All documents would be available through extranets or other collaborative tools. All lawyers and others on the team would have the technological tools needed and know how to use them. There are still lawyers who believe that things like notebook computers, Blackberries, Palm Pilots, cell phones, client relationship management applications and extranets are toys. Indeed they are simply tools in today's world – get them, understand them and use them.

- Technology would be used to anticipate client needs by monitoring competitive intelligence within the industries they serve so clients' needs can be anticipated. The entire client team would know things like the client's current stock price, who the clients competitors are, who is entering the industry, etc. The entire client team would have information about key contacts and everyone on the team would be up to date on the latest communication. This is available and this is in place in many firms – we just can't get lawyers to contribute and collaborate.

The perfect firm would charge **FLAT FEES** so that clients can budget and manage their costs. Hourly billing means that clients pay for law firm inefficiency – it's

that simple. However, hourly billing is the driver of virtually all internal law firm measures including, but not limited to, personal compensation – it's that difficult. Flat fees require fee-based costing: that is, you know what you are going to charge and you apply resources to the project in such a way that generates appropriate profit.

The perfect firm would have a passion for **FEEDBACK**. We would have a link available on every reporting letter, every invoice and every e-mail where any client could log on and give us real time feedback. We would devour it and we would learn from it and we would act on it. We would not apportion blame but rather we would adjust our service model to meet client needs. We have two ears and one mouth for a reason – so we can listen twice as much as we speak. This is really, really tough but in our perfect firm we would do it.

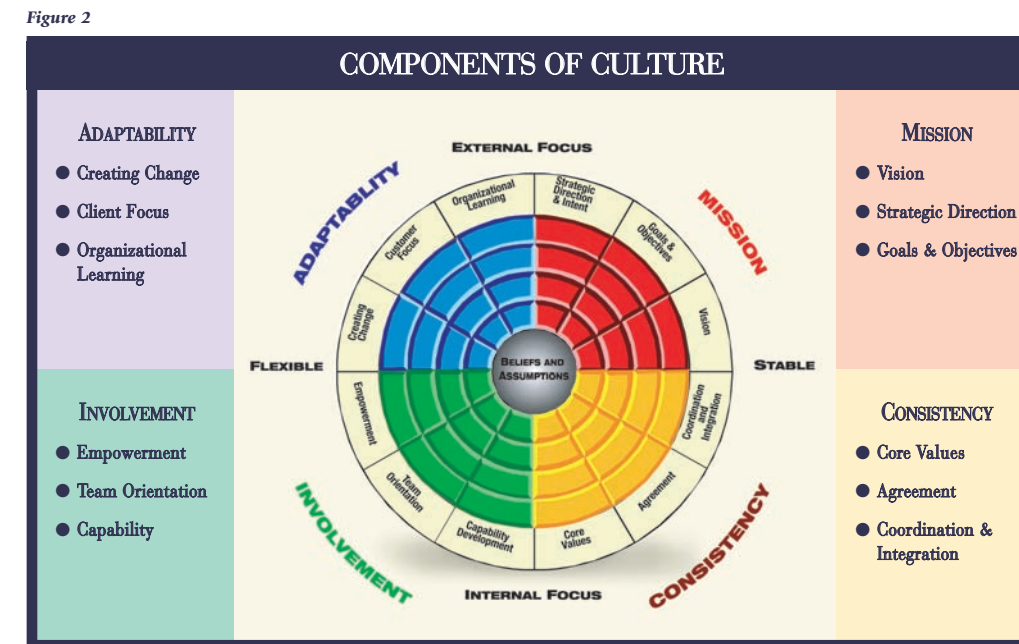
In the perfect firm we would know what we are absolutely the best at and we would, with confidence, go after only that work and refer other work to colleagues across the street. Every file is not a good file, every client is not a good client but every referral sets up a quid pro quo. Our marketing material would not say that we regularly do this or that, when we don't. We would rather be the **PREMINENT FIRM IN A FEW KEY AREAS** where we are worthy of our rates, than be mediocre and do many things where we profess proficiency. We would strive for domination in a few industries where we actually

enjoy the people we are privileged to serve, doing work that we really enjoy. Life is too short to do otherwise.

CULTURE

We have spoken with many lawyers who describe the culture in their firm as collegial, while others describe their firm as toxic. In large firms the culture differs from practice group to practice group. In building the perfect client service firm could we actually define the culture and then design the firm to reach the desired end state? I believe the answer is yes. In order to do that let's first take a look at a more meaningful definition of culture.

Figure 2 – Components of Culture³



There is no other industry where culture is more defined and more prized than in a law firm. In Figure 2 the components of culture are set out along with a "circumplex" on which a law firm's culture can be mapped.

³ Components of the Edge International Cultural Inventory[®] used in over 300 law firms world-wide.

- **INVOLVEMENT** measures how a firm deals with its people: Do they feel empowered? Is the orientation towards team or towards sole practitioners? Does the firm develop the capability of its people?
- **CONSISTENCY** measures how a firm's people deal with each other. Are core values defined, talked about and supported? Do people deal with conflict and come to agreement in a healthy way? Is there coordination and integration between individuals, groups and offices?
- **ADAPTABILITY** measures how a firm deals with the outside world? Does the firm react quickly to changes in the environment? Do clients influence the way the firm

operates – does the firm seek out feedback and act on it? Does the firm learn from its mistakes?

- **MISSION** measures the degree to which members of the firm understand and share a direction.

In building the perfect client service firm we could actually define our desired culture and monitor how we are doing and identify what we need to adjust. We would define our core values, publish them and live them. We would reward the things that are important and we would have the courage to deal with people who might need to find their success elsewhere because they simply don't fit our perfect firm. We would be truly client-focused and we would adjust our firm to meet our clients' needs, rather than adjust our client service to fit ours.

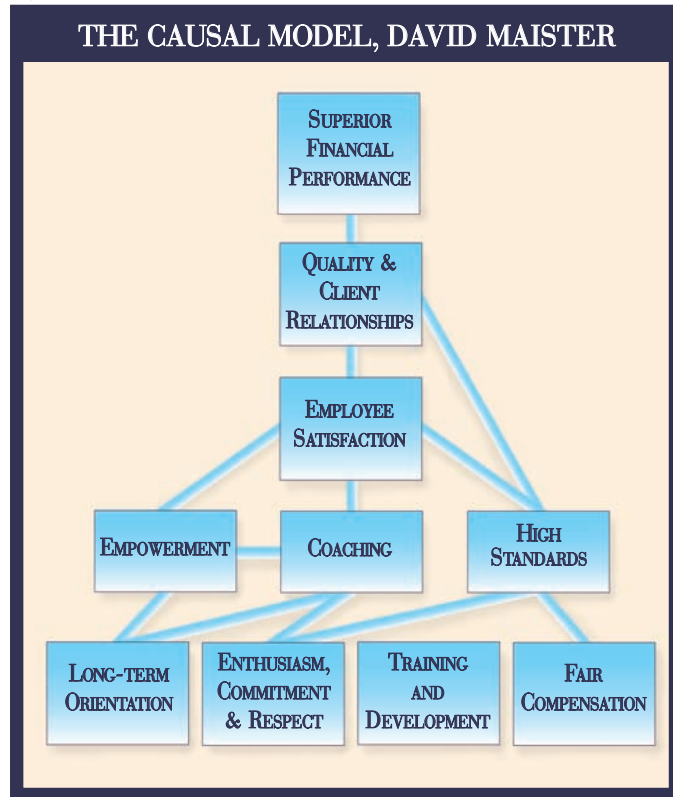
PEOPLE

In researching this article, several conversations ensued with several lawyers, and also some of my colleagues, including Gerry Riskin, Rob Millard, Michael Roch, Nick Jarrett-Kerr and Ed Wesemann. The lawyers currently in practice shall remain nameless so as to protect their innocence. I asked everyone to provide me with their three wishes for the perfect firm if indeed they had an opportunity to build a firm from scratch.

OVERWHELMINGLY THE WISHES WERE ABOUT HOW PEOPLE WOULD BE TREATED in this perfect firm. *People* include the lawyers, the staff and the clients. As one lawyer said, "My first wish is that people would come first and that profits will follow." Another wished for a coaching culture. It occurred to me that this had indeed been proven through the research of our friend and colleague David Maister in his book *Practice What You Preach* and as outlined in Figure 3 above.

Figure 3: The Causal Model, David Maister

Figure 3



younger lawyers to produce 2000, 2200, 2400 billable hours. Well, that produces an unlivable kind of life."

US Supreme Court Justice Stephen Breyer in an interview with The Washington Lawyer

We would differentiate this perfect firm from its competitors by how people in all levels of the firm are treated, how they treat each other and by how they treat our clients.

CONCLUSION

How many times have you thought about building the perfect firm from scratch? How many times have you talked with a colleague about how things could be different? We've all done it, though changing a law firm, particularly a large law firm, is a bit like turning an air craft carrier - it takes time.

Sometimes lawyers make lateral moves in search of a better environment when indeed they could be part of the solution in their current firm. The thought, however, is simply too overwhelming. What can you do to turn your own practice, your own practice group or indeed your firm into an example of the perfect firm? What is the art of the possible in your firm?



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"I cannot think about a more important problem facing the profession than how to maintain the life of a young lawyer that will produce time for a family, and that will produce time for some form of community service It's like drinking from a fire hose. There is tremendous pressure on

IN BRIEF: ON MANAGEMENT

HOW CAN YOU SURVIVE IN THE FUTURE?
THE PURPOSE OF LAW FIRM MANAGEMENT

Anyone involved in law firm management should be able to answer the ultimate question: "What's the purpose of your job?" During the last ten years, finding the right answer grew more complex as law firms became incredibly busy, mushroomed in size and turned into what some perceived as "factories" or "sweatshops." Sometime in that hectic age, firms may have lost their answer for what management's job actually is. Many firms declared their sole ambition to be maximum partner profits and told management to figure out how to get there.

Isn't it time we stepped back for a moment and remind ourselves of the purpose of management?

The fundamental function of any organism or organization is to increase its ability to survive in the future. If we are hungry, injured or in danger, our biological autopilot kicks in to ensure that we maximize our chances of survival. An organization does not have a biological autopilot; it has management.

A firm's chances of survival in the future are entirely dependent on its ability to satisfy clients. If, one year from now, a firm is able to make more clients more satisfied, it increases its chances of survival. It is management's sole purpose to put the firm in a position to accomplish just that.

Profits give little indication of whether the firm's ability to survive in the future changed. The indicators are different ones and most don't show up in the financial systems. They are:

- **Market Position** - Have we improved our position relative to the competition with respect to those clients that we want to serve? If we were closest to a client, but now our competitors are closer, our chances of survival decrease.
- **Attractiveness for Professionals** - Have we improved our attractiveness for partners, associates and the newly-qualified that we need to satisfy our clients? Of course, we need money to be attractive. In fact, we might need a lot more money than we are currently making.

- **Level of Innovation** - Have we improved our level of creating new solutions that our clients want? The question is whether we are getting more sophisticated at our innovation process to ensure that - in the future - we can offer what clients will pay money for.

- **Productivity** - Have we improved our productivity? In a world of time-based billings, this equates to an increase in utilization, in rates or both. When working on a fixed fee, we have to do the same matter in less time with lower paid professionals.

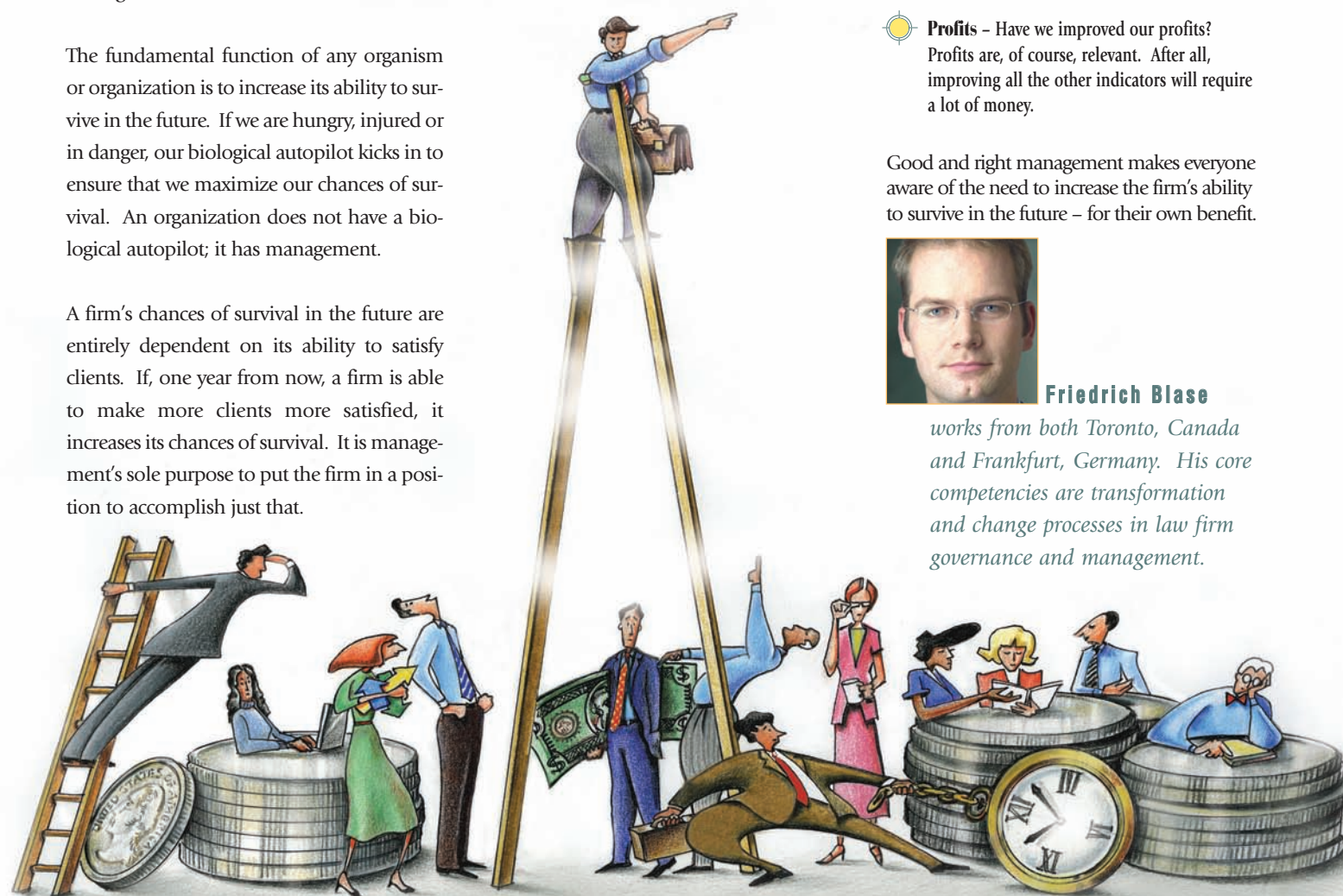
- **Liquidity** - Have we improved our liquidity? Revisit the demise of Coudert Brothers, if you are unsure about this one. One of the reasons the firm did not survive was its inability to finance exiting partners' pay-outs of capital contributions. And finally, yes:

- **Profits** - Have we improved our profits? Profits are, of course, relevant. After all, improving all the other indicators will require a lot of money.

Good and right management makes everyone aware of the need to increase the firm's ability to survive in the future - for their own benefit.



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by Robert Millard, **EDGE** INTERNATIONAL

AFRICA

What will Africa be like in the twenty-first century?

Less than a decade into the new century, it is silly to try to predict too much. Who could have predicted the rest of the twentieth century accurately, in 1906? Given vectors at play, though, there is little doubt that the next decade (never mind the next century) is going to move Africa to a very different place than the dismal picture associated with the continent in the twentieth century.

With this move will come increased opportunities for selling sophisticated legal services.

It is more than a decade since the end of apartheid and Africa's most brutal civil wars. Governance structures like the Pan-African Parliament, the New Partnership for African Development (NEPAD) and the African Peer Review Mechanism

(APRM) are in place and having an impact. It is true that some regional conflicts persist and certain African countries continue to occupy the bottom of global corruption perception surveys. It is equally true, though, that significant potential exists. The past five years have been a bonanza for suppliers of telecommunications equipment in Africa (especially mobile phone technology), and for finan-

EMERGING OPPORTUNITIES ON THE DARK CONTINENT

cers and service providers. Most of the investment in this area has not come from Europe and America, though, but the Middle East. There are more mobile than fixed line phones in Africa, with growth still far exceeding developed markets.

Overly pessimistic European and US perceptions may be costing them dearly in terms of lost opportunities. Africa hardly registers in terms of foreign direct investment (FDI) from the western hemisphere, except in petrochemicals, although Barclays' recent purchase of ABSA, a major South African bank, certainly did not go unnoticed in global markets. The same is true of legal services. In a recent Legal Week survey of London firms, only 5% of firms rated the Middle East and Africa collectively as an area that had high potential for growth (with the bias clearly in favor of the former). Firms reported that only 4% of referred work came from those regions.

China, on the other hand, is becoming a very serious player in Africa. It has diplomatic relations with 47 of

Africa's 53 nations and, in 2000, established the Forum on China-Africa Cooperation (FOCAC) to expand Sino-African economic, trade and political links. Much to the annoyance of the United States, it is a major investor in the oil industry in Sudan, Nigeria, Algeria, Angola and Gabon. Being the second largest importer of oil in the world after the United States (its energy demand grew 12% last year), it is driven more by energy security than bottom-line profit. So, it can and does sometimes pay higher prices than what western petrochemical corporations can afford.

There is little doubt that the next decade (never mind the next century) is going to move Africa to a very different place than the dismal picture associated with the continent in the 20th century.

In 2003, Sino-African trade stood at \$19 billion. In 2004, it was at \$30 billion and by the end of the decade it is expected to reach \$100 billion. This where the entire continent's GDP last year was only \$700 billion on a straight exchange rate basis (somewhat more if one incorporated purchasing power parity adjustments). By comparison, Australia's was \$612 billion. The Brenthurst Foundation, a strategy and policy development think tank founded by the

Oppenheimer family (of the De Beers diamond empire) recently published a discussion paper on Chinese economic interests in Africa that is worth reading. It can be downloaded from www.thebrenthurstfoundation.org.

What is the up side? If one tallies up the collective oil reserves of the west coast oil fields, at \$65 a barrel, it is not difficult to reach a figure between \$4 - 5 trillion. Estimates for investment in development of the petrochemical infrastructure over the next decade range from \$30 - 40 billion and this may be end up far higher.

Furthermore, African governments are increasingly insisting that as much as possible of that be spent locally.

It is easy to get dreamy eyed, thinking about what a couple of trillion dollars could fund. Improved infrastructure, for a start, and Africa is developing a healthy

appetite for public private partnerships (PPPs). Financial reform is critical to manage the increased revenue flows and along with that, telecommunication and IT infrastructures need to be expanded - and quickly. Social programs to alleviate poverty and education would feature highly. Increased stability will encourage investment in other sectors, too; for instance, agriculture, mining, tourism and certain aspects of manufacturing.

It is not sensible to talk of Africa as a single market, though. There are huge differences in risk profile, levels of governance, economic potential and investor-friendliness between countries. Oil, in particular, is not evenly distributed with the west coast, the Mediterranean states and Sudan being the richest endowed in this area.

Most countries with any potential are working to modernize their economies and boost appeal for foreign investors. Currently, the continent enjoys preferential trading status with the United States under the African Growth and Opportunity Act (AGOA), but it is unlikely that this will persist under the positive scenario sketched above. Also, competition with the eastern giants will certainly prove difficult in many areas of manufacturing.

Who will reap the harvest in terms of future legal fees? This is a very interesting question indeed. Certainly, the larger South African firms are beginning to make inroads into the pan-African market. Their local knowledge and presence is an advantage, as might be the number of black lawyers in those firms. (Africans can be xenophobic, too). On the other hand, their lack of access to the world's major capital markets, lack of presence in China and predation of their top young talent by the global players are major challenges. Also, there is so much work in South Africa at present, given black economic empowered (BEE) -driven deals and the country's buoyant economy generally, that most good firms are fully extended and have little capacity to devote to developing a pan-African practice.

The London firms have traditionally taken the bulk of the top-tier pie in Africa, and most of the Magic Circle and the layer below boast impressive Africa portfolios. Clifford Chance, Linklaters, Lovells and several others crop up regularly to skim the cream off the very top of the legal services associated with the best

African deals. This is likely to remain so for some time, given the sheer depth of their deal sheets. There is some US /Global firm involvement as well, primarily in the petrochemical industry but also more broadly. Hunton and Williams have been advising the World Bank on its African projects for decades. Hogan and Hartson, Sullivan and Cromwell, Shearman and Sterling and Baker & MacKenzie are a few of the names that crop up fairly regularly. White and Case, Le Boeuf, Lamb, Greene and MacRae, and Canadian mining boutique Fasken Martineau Du Moulin all have offices in Johannesburg.

DLA Piper Rudnick, through its presence in Cairo (through Matouk Bassioung), South Africa (through Cliffe Dekker), and seven Lusophone jurisdictions (through Miranda Correia Amendoeira & Associados) has perhaps the most substantial truly pan-African practice. This is no coincidence. They are about half-way through a boldly stated three year strategy to bulk up their pan-African offerings in banking, technology and infrastructure.

Firms that invest in establishing a presence and understanding the continent's idiosyncrasies now will be well placed later, when the real revenue generation opportunities arise.

Denton Wilde Sapte's association spans Egypt, Ghana, Uganda, Tanzania and Botswana and has done well over the years. In North Africa, Paris-based Gide Loyette Nouel has fifty lawyers spread across Tunis, Algiers and Casablanca, with plans to double that and add an office in Cairo. Werksmans and Deneys Reitz have established Lex Africa and Africa Legal respectively, specifically to grow their African practices. Given the strong links that some Australian firms have into China, some may have opportunities that, while not front and center on their radars, are worth investigating anyway.

Firms looking to develop African practices need to come well-equipped to operate with little or no sophisticated local assistance. Except in South Africa, and with a few notable exceptions elsewhere, there is very little legal capacity in Africa. Expect, therefore, to be able to rely on local firms for little more than checking that advice conforms to local law, and to provide detailed instructions, checklists and other quality control tools. The good news is that English law is the norm in both Anglophone and Lusophone Africa. And, while it is easy to get good transactional

advice up to a certain level in many jurisdictions, the sheer lack of depth of firms in those jurisdictions means that conflicts are commonplace. This obviously makes it easier for foreign firms to sustain local practices. Bar admission requirements are also quite difficult in many parts of Africa.

Another obvious challenge is administration and enforcement of the law. The poor record of countries like Zimbabwe has done nothing to allay fears that Africa remains a continent where the rule of law is absent.

Africa will remain a complex and challenging environment for at least a few more years, but it is worth taking a longer term view. Firms that invest in establishing a presence and understanding the continent's idiosyncrasies now will be well placed later, when the real revenue generation opportunities arise.

This article is adapted from the original appearing in the Australian Law Journal in April 2006.



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by Patrick J. McKenna and Michael Anderson, **EDGE INTERNATIONAL**



THE STRENGTH OF YOUR CORPORATE CLIENT BASE

WILL ULTIMATELY DETERMINE HOW WELL YOU RETAIN YOUR
STRONGEST PLAYERS.

Reading about the carnage that occurred earlier this year (see: This Might Hurt a Bit, Corporate Counsel, December 2005) as Pfizer Inc. reduced its list of 103 outside product liability counsel to about 20 firms reminded us of an incident that occurred some months back. In the process of providing strategic counsel to the Planning Committee of a national firm with over a dozen offices, we found ourselves in a discussion on how providing exceptional client service was a meaningful way of differentiating any law firm. Curiously, it was not too difficult to observe more than a few eyes roll.

Imagine this scenario. You are in a room with twelve of what one might label power partners, as each of these individuals controls a book of business that is easily in excess of \$6 million. The body language is screaming out to please not engage us all in one more protracted discussion on the merits of providing good client service, as we've heard it all, too many times already. Meanwhile, the actual discussion is quietly attempting to console all involved that the firm is already doing everything possible to ensure that clients get the best service of any law firm, anywhere.

Now, I don't know where the motivation came from, but as we were listening to this unfold, we were quickly scrambling to construct a number of quick questions to test a hypothesis.

We said to the group (and dare you to try this at home, with your own partners, at your very next meeting), "Humor us for a moment please. Think about a client that you serve that is among your most prestigious; the client that gives you a degree of notoriety within the firm and then, obviously because of their importance to you and to the firm, a client who you likely have the very best relationship with. We're going to pose a series of questions, and on a piece of paper which you may keep secret, please give yourself one point for each of

the questions that you can answer in the affirmative. Here are your questions:"

DURING THE PAST 6 MONTHS HAVE YOU...

- 1 Personally visited this key client at their place of business (OFF the current matter), just to see how things were going with the business?
- 2 Voluntarily devoted non-billable time to attending one of this client's management meetings?
- 3 Specifically invited this client to attend and participate in a practice, industry, or client team meeting in order to brief the group on new developments in their company or their industry?
- 4 Introduced your key client contact to some individual of strategic importance to them or some individual that represents for them a potential future customer?
- 5 Attended any industry event (meeting, trade show or conference) with this key client?
- 6 Proactively interviewed this key client and subsequently drafted and circulated a written report on what this client has told you about their specific needs?
- 7 Obtained a copy of - and personally read - the strategic plan of this company?
- 8 Engaged in an active internal effort to subscribe to, read, and circulate pertinent clippings from this client's trade publications?
- 9 Established a direct technology link or extranet to better serve this key client?
- 10 Developed written Client Service Standards, unique to this client, which identifies how you are working to address their needs?

We looked at the group and said, "Now we're going to ask you, hand on your heart in front of your peers, to declare how many of these questions you could answer in the affirmative." And we thought to ourselves, let us start at a low number and build. So we continued with, "How many of you can answer yes to 3 or more of the ten questions we just posed?"

Now remember, this was a gathering of twelve power partners, from a national law firm with over a dozen offices. Each of these partners had the care and feeding of a book of business well in excess of \$6 million. So, how many hands do you think went up? (How many hands would go up with your partners?) We can tell you that in this boardroom, only three hands went up - and we were shocked!

But we can honestly report that it made the point . . . that client service is something that we pay a great deal of lip service to, but are still far removed from making it a daily and behavioral discipline.

Oh, and can you guess what the other nine partners proceeded to discuss (for the next ten minutes) following the disclosure that only three of their colleagues answered in the affirmative? . . . Why these questions don't really apply to my kind of clients!

THE RELEVANCE OF OUR EXERCISE

If you are at all like most law firms, as few as five percent of your clients contribute about 52% or more of your firm's revenues. That fact has led more and more firms throughout the country to examine constituting Client Teams — relatively small groups of lawyers formed and linked by a common interest in serving the same client. The motivation for this seems logical and unassailable but, unfortunately, many of these noble efforts at forming effective Client Teams are failing miserably to achieve initial expectations.

According to our own research into those law firms who state that they have active Client Teams or some manner of formal client care program, only 12% claim that their efforts are “very successful,” while 29% view them as “moderately successful” (a somewhat suspicious answer that we take to mean “feels okay, but hard to see any measurable return”). For the remaining respondents, 36% were “neutral,” 16% “moderately unsuccessful,” and the final 7% admitting a “very unsuccessful” effort. Something is clearly wrong here!

It is alarming to see how such a fundamentally important asset is being mismanaged. What continues to mystify us is that, with so many Fortune 500 and sophisticated companies seriously consolidating the number of outside law firms on their approved panels, so few law firms have managed to get their act together to solidify their relationships with their most important clients.

There is no escaping the fact that firms face some serious challenges retaining their top talent in a rapidly stratifying market. At the end of the day, what really drives the bus everywhere is the strength of your corporate client base. If you are not able to keep your corporate client base strong (your crown jewel clients) it makes it hard to retain your strongest players (your crown jewel talent).

So, what’s going wrong?

First, too many law firms have launched far too many teams, far too quickly. A Texas-based firm that bragged of launching 50 client teams in their first year was soon eclipsed by a California firm launching 120 client teams

– sounds simple. We now know it isn’t.

Our experience confirms that the best way of protecting your crown jewels is to start with a handful of major accounts, perhaps as few as two or three to get going. Best practices, in all but the very largest firms, is to have no more than about 20 crown jewel accounts. Less is more with these kinds of initiatives. And your group, by definition, should be a very select club to which only a chosen few are invited to join. Further, it makes sense to do a great job with a few because the resources required to make client teams work are not inconsiderable.

Second, too many of these Client Teams

client’s situation through the lens of our own offerings and our desire for another sale. Little wonder increasing numbers of General Counsel sense that when your firm talks about “building relationships” it becomes nothing more than a euphemism for “give us more work,” while “providing added value” becomes interpreted to mean, “at higher rates!”

Our recommendation, from having worked hands-on with numerous Fortune 500 corporate clients, is to commit the resources of any client team to five steps or meetings that you should consider critical:

Step One: Gather Intelligence

One General Counsel confided, “Most of these efforts are defined and managed to serve the law firm’s interests. To us they are nothing more than thinly veiled sales campaigns. Someone comes in, asks how their firm is doing and if we dare say okay, they then want to immediately introduce us to a number of their other attorneys.”

We subscribe to the view that you really can’t understand how to solidify your relationship, enhance your service offering or even get more and better business from any client, until you truly understand that client. Thus, client knowledge is critical to the effective building of relationships and to learning

how you might differentiate yourself from competitive firms.

This sounds like a rather obvious and even trite observation, but it is a self-evident fact that many attorneys today have at best a superficial understanding of the dynamics of their client, and its industry. To our astonishment, a number of the client teams that we have come across do little to no in-depth research on the client company. It’s almost as if the attorneys share a view that if you have to resort to doing research, it is a tacit admission that

you don’t know your client.

In discussions with attorneys, we have found a great deal of variability in the levels of client knowledge. Some have a very deep knowledge and understanding of their client, what we would refer to as client insight. Other attorneys think they know their client, but the client does not. Still others know about their clients, without truly knowing the intricacies of this particular company.

For example, does anyone know where the company is having problems realizing their corporate goals? Do we know what the legal department’s top three objectives are? Do we have any sense as to how the legal fees are accounted for by the corporation – expensed or capitalized; centrally accounted for or charged back to departments and subsidiaries (yes, it has some significance)?

Most telling were the comments of Terri McClure, the VP of Legal for UPS, when she recently spoke about her companies vehicles: “If you call them ‘trucks,’ you don’t understand the nature of our business. I recently fired a firm that had worked for UPS for over 40 years. The firm didn’t understand what we were trying to accomplish.”

The goal in gathering intelligence is not to simply compile a great deal of data. One of the key messages that attorneys need to hear is that data does not represent knowledge. Data at best represents information. Your first meeting with your client team should be intended to progress the team’s collective understanding of its key client, one that moves through four stages – from client data, through information and knowledge to insight.

The key to building deeper relationships is to learn more about your clients, their strategies, their organizations, their industry – than any of your competitors. This depth of knowledge will then ensure that you are the first to learn about the clients emerging needs, determine their potential problems, and be in the best position to offer new ideas and suggestions.

Step Two: Interview Your Client

Following from your data gathering efforts you will find that there are a number of questions about any client that the team just does not have adequate information to answer. And what better source to obtain the answer – than by asking your client directly?

The caution here for any client team is that we are not talking about a client satisfaction interview. If your team doesn’t have a sense of this client’s satisfaction already, then we’re far beyond where you need to be.

What we are talking about is an interview designed to address three broad themes: what are this client’s needs and where is this client having problems; is there evidence that this client wants to partner with you (sorry, but all clients may not want to have a

relationship); and what specifically can you do to better serve this client company?

What is important here is the questions that you ask. Asking the same dull questions is guaranteed to elicit the same worthless answers. Thus, when you ask a client a simple question like, “How have we been performing?” you elicit a rational response based on a forced answer of what the client might expect that you want to hear. However, if you were to ask, “What could an innovative law firm be doing, that a company like yours may not yet have asked for?” you

The key to obtaining client insight lies not in asking the predictable questions, but in proposing questions that the client would not have expected you to raise. A lot of the problems with understanding clients results from the questions we ask.

now engage your client’s emotions and feelings.

The key to obtaining client insight lies not in asking the predictable questions, but in proposing questions that the client would not have expected you to raise. A lot of the problems with understanding clients results from the questions we ask and what perspective we bring to the definition of what we can do to improve or deliver our services more innovatively. Interviews can reveal problems and needs that the client has, to which your client team can develop solutions.

From what you learn interviewing your client, your team will now develop its client strategy. Your client strategy is comprised of three elements and will require a separate meeting to work through each of these action plans:

1 YOUR 'VALUE-ADDED' ACTION PLAN.

This plan has one or more of the following intentions:

- a) to improve your position with the client;
- b) to strengthen the value you add and thus increase your differentiation;
- c) to satisfy the client's unmet and emerging needs.

2 YOUR 'RELATIONSHIP ENHANCEMENT' ACTION PLAN.

This plan specifies your goals for building and deepening key relationships between your team members and the client's organization. Your action plans will usually focus on specific client executives and indicate what actions need to be taken to enhance the existing relationships. This action plan can also explore whether there are any actions that the team can take to "lock-in" this particular client to your firm, such that there is a perceived cost associated to switching.

3 YOUR 'BUSINESS DEVELOPMENT' ACTION PLAN.

This plan identifies the perceived client opportunities as presented by this client in your interviews. Your plan is to anticipate the client's future problems by identifying the most likely issues that will block the success of this client achieving their stated objectives; and then identifying a course of remedial action that the client team can propose.

Step Three: Value-Added Action Plans

The creation of increased value for the client must lie at the heart of any effective client strategy. We encounter Client Teams who talk about creating value, but what they are really doing is trying to make the client more valuable to the firm by cross-selling them more services and increasing their wallet share. While there is nothing inherently wrong with creating more valu-

able clients, it can only be accomplished once your team has established a solid relationship with the client. And you can only establish a solid relationship after you have delivered more value than that client has been accustomed to receiving from any of your competitors.

We believe that this is the most critical step in the process. The focus of your work at this stage is not simply doing better than what you are already doing. Your focus -

and true lasting competitive advantage - comes in both having listened to the client's expectations, problems and needs (from your interviews), and in doing for this client what the competitors haven't yet thought of doing. The objective is to explore ways in which the client team can mean more to the client than just being another provider of legal services - to rise above the role of a legal provider to become a strategic partner in the creation of value.

Once a client has experienced the art of the possible, it is difficult for them to settle for less.

He who creates the most value has the competitive advantage of contributing the most lasting form of client satisfaction. If you can get these things right, we are convinced that your Client Team can become that client's preferred firm and steal business away from nearly any competitor. And, to the degree that we can create more value for this client, we may be able to take their eye completely off fees to the point where they are quite prepared to pay more.

Step Four: Relationship Enhancement Action Plans

Many attorneys believe that they already have relationships, but the client (if asked) may disagree. A relationship is more than the retention of the client or the client's propensity to keep using your firm. It is the client who ultimately decides when a relationship has been formed, not your firm. This is a disconcerting revelation to many attorneys who persist in the view that they can decide with whom to have a relationship, and on what terms.

We have learned that different contacts within a client organization want quite different types of relationships. And there are many different types of client contacts to be considered; from those that occupy the Legal Department, to those in middle or senior management, to even those who might be considered the organization's "rising stars" (an influential group that is often overlooked by most law firms).

You need to help attorneys realize that they cannot build relationships simply on the strength of their personal expertise and functional performance. You need to develop a specific action plan that identifies key decision-makers in the client organization, the current status of existing relationships, and what specifically needs to happen in order to develop new key contacts and deepen personal relationships with existing contacts.

Step Five: Business Development Action Plans

All of the preceding meetings lead up and contribute to the final session wherein the Client Team will now develop your action plans for how you can address this client's higher level needs and come to occupy a special place in the client's minds.

In many client teams, the emphasis is limited to how you can cross-sell this client to other areas of the firm and increase your share of the client's total spending on outside legal services. What is often missing is a thorough identification of the client's key issues (either known or anticipated) and which are of

the highest priority; and how you might be able to address those issues and what benefits any proposed course of action will provide the client.

Therefore, your goal at this stage is to conduct a thorough team assessment to anticipate the client's future problems by identifying the most likely issues that will block the success of this client achieving their stated objectives; and / or identify potential problems (that the client has not considered) based on experience with similar clients.

IN SUMMARY

To highlight our prescription for a successful client team program, here are some key principals that we consider critical.

- Commit an enthusiastic team (3 to 5 lawyers) to an appropriate amount of non-billable time (at least 30 extra hours each) and a sensible process focused only on enhancing this client's service. The increased revenue will follow.
- Form an exclusive club. Don't just call it exclusive or your key client program and then open it to any client just based on their fee expenditure with your firm.
- Less is more. Less clients in the club, less activities committed to (but make them good), makes for an initiative you can deliver on.

If you follow these few steps, we can easily imagine that you will avoid the problems

experienced by so many of your competitors with realizing a return from their client team efforts. The strength of your client relationship is the extent to which your firm is viewed by the client as a strategic partner. The payback to your firm is repeat business, higher share of wallet, more longevity in the relationship, and a willingness to refer others.



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(www.patrickmckenna.com) is a Principal with Edge International, and since 1983 has worked exclusively serving law firms in matters of strategy and practice management. His hands-on work with Client Teams has included over twenty Fortune 500 companies, from Pfizer and Unilever to Lehman Brothers and ING.



Michael J. Anderson

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WE TEND TO MAKE INFORMAL VALUE JUDGMENTS ALL THE TIME ABOUT OUR PARTNERS AND POTENTIAL PARTNERS. QUESTIONS LIKE, “DO I LIKE HIM?,” OR “DO I RESPECT HER?,” AND “WHAT IS SHE GOOD AT?” ALL REQUIRE EMOTIONAL OR, AT LEAST, UNSTRUCTURED RESPONSES.

Valuing — and Judging Partners

BEYOND THE ELEPHANT TEST!

In recent times, these somewhat informal judgments have become more formalized as they often establish the basis for partner recruitment, promotion and reward. After all, there ought to be a better way of identifying the ideal partner beyond the “ELEPHANT TEST” – a creature which is hard to describe, but instantly recognizable when spotted.

But, in their efforts to make such assessments more open, transparent and clear, law firms are finding that instead of offering comfort and clarity, formalized assessment processes can fuel fear, uncertainty and even paranoia. In addition, the introduction of defined performance criteria and methodologies can be laborious and tedious to introduce and administer.

After all, nobody likes being judged or assessed and lawyers – despite (or maybe because of) their familiarity with the judicial process – are no exception to this. I frequently found in my days as a Managing Partner that any attempt to point to a shortcoming or area for improvement in a partner was frequently met by a request for hard evidence to support my view of the partner concerned. Nevertheless, in all discussions about partner value and performance, at various stages views have to be taken as to how each partner is doing in relation to other partners. This imperative is not confined to discussions about promotion, profit sharing, remuneration and compensation, but has become an essential part of law firms’ internal risk and quality management; it is vital to know whether all lawyers are meeting standards.

In this context, law firm leaders have at last moved their focus beyond financial and technical performance; they have realized the importance of developing (and recognizing the value of) management and leadership skills in their partners. This recognition is somewhat patchy and inconsistent and there is often a mismatch between what law firms say they value in their Partners (in terms of behaviors, skills and competencies) and what they reward (often by recognizing and rewarding billing efforts mainly or exclusively). The problem (of how partners are valued) is compounded by the difficulty of judging soft areas of performance (such as people management and holistic client care) as compared with the relative ease of measuring the billable hour and its conversion into cash.

ASSESSMENT PRINCIPLES

There are, however, three main principles which need to be taken into account.

FIRST, it is vital to recognize exactly what and why law firms should take into account in the area of performance management. Law firms tend to look at the different areas of management in their firm and define their expectations in terms of the behaviors, indicators, goals and outcomes which they would expect to see in those critically important areas of performance. Thus, firms may talk about People Management Skills, or Business Development Skills. In truth, “People Development” or “Business Development” are not specific skills in themselves, but situations or contexts within which certain skills or competen-

cies are needed and employed.

Those underlying skills and characteristics – some of which are shown in the box opposite - which are needed to meet the firm’s outcomes and goals in the principal areas of performance tend to become (for the law firm at least) part of the sub-text. This makes it all the more important for the individual partner to gain a deep understanding of those attributes which he or she needs to develop in order to attain the firm’s objectives.

SKILLS AND COMPETENCIES TO LEARN AND DEVELOP
<ul style="list-style-type: none"> ● Social/interactive skills ● Communication/listening skills ● Emotional intelligence & resilience ● Analytical skills ● Mental agility ● Creativity ● Coaching skills
CHARACTERISTICS TO DRAW OUT AND HONE
<ul style="list-style-type: none"> ● Humanity, humility, sensitivity ● Drive, purpose and proactivity ● Integrity and consistency ● Discipline and rigour ● Gravitas/respect ● Continuous and balanced learning ● Intellectual horsepower

The SECOND point or principle forms more of a common focus for both the firm and the

individual partners. That is, that there is no “one size fits all” set of management skills and competencies which applies to partners at all levels. A recently promoted partner often has little experience of managing teams and major clients and is usually promoted because of technical achievements

rather than management acumen.

Partnership should be seen as an ongoing virtual academy within which skills and competencies can be developed across the management and leadership spectrum, from a base level through an intermediate level to an advanced state of leadership and management ability. The dual objective is achieved when the firm's goals for development are matched by the individual's aspiration to progress and improve.

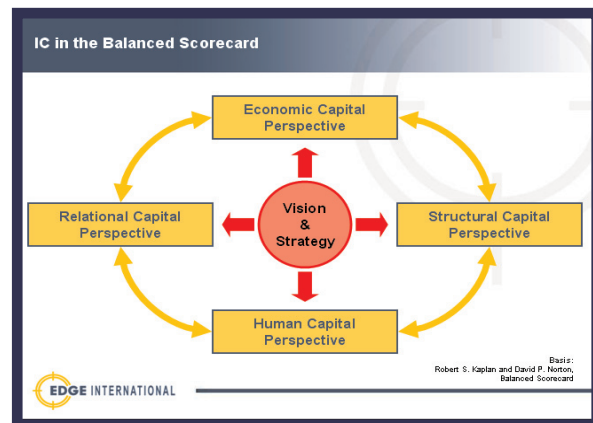
The **THIRD** point or principle is that if partners are going to be judged or scored, the areas of performance to be assessed should be aligned with the firm's strategy, structure and context. In other words, what is appropriate in a large firm with huge leveraged teams will almost certainly not hold good in a medium-sized partner-intensive outfit. Furthermore, the indicators of success (or otherwise) should be as precise and measurable as possible. These areas of performance should be sufficiently detailed and clear to enable as great a degree of fact and objectivity as is possible in an arena littered with emotion, history and personalities. By way of example, the use of terms such as "satisfactory" or "exceptional" is

unhelpful as it begs a whole heap of essentially subjective questions of opinion, definition, and quality. Consider, for instance, the requirement that a partner should be good at networking. Anybody considering such a requirement will have their own idea of what that might mean and will form a view which will largely depend on their own experience and view of others both inside and outside their own firm. To provide greater clarity and flavor, it is better to drill down to a deeper level. The next level down might very well say, "She evidences a wide network of useful contacts which is regularly maintained and consistently exploited." Conversations can then take place about the detailed extent of the network and how that might result in the development of further clients. This can then also lead to a positive discussion about how

the partner can develop and improve.

THE BALANCED SCORECARD

The Balanced Scorecard is a methodology to align an organization's everyday operations to its long-term strategy. Its purpose is to translate vision and strategy into all the actions that the organization undertakes. This is done by looking at desired results from certain perspectives. For law firms, we suggest changing the basic model (suggested by Balanced Scorecard authors Kaplan and Norton) in two ways. First, we have aligned the model to reflect the concept that the main constituent assets of law firms are elements of Intellectual Capital, rather than tan-



gible assets. Second, we have developed the Balanced Scorecard methodology to fit the environment in which lawyers develop their careers by serving their clients, processing their work, and making profits.

Hence the perspectives are:

☉ **Relational Capital (Clients):** how well we develop our relationships with the outside world

☉ **Human Capital (People):** how well we develop the capabilities of our lawyers

☉ **Structural Capital (The firm as an ongoing institution):** how well we develop the "way things are done

around here" - workflows, processes, and knowledge management

☉ **Economic Capital (Financial contribution):** how well we combine our intellectual capital to achieve financial and commercial success

Strategy can only be implemented by a law firm's partners and its employed lawyers if they perform not just financially but in all four areas. This is best promoted by formulating personal scorecards - made up of personal targets and initiatives that contribute to the success of the firm and its practice areas.

The personal scorecard also aligns the ambitions of the individual lawyer with those of the firm, by including targets for role requirements and competency development.

The methodology behind the Partner Development Grid is:

☉ **To set a baseline level of performance which every partner should be expected to achieve**

☉ **To recognize that a partner's overall contribution to the firm is not just what he/she contributes by way of financial performance**

☉ **To align the way partners are assessed (and valued) with the BSC, by developing a Career Development and Performance Grid in all four areas of Performance**

☉ **To recognize that all partners should develop over time from junior partners with a basic level of skills, competencies and accomplishments to the extreme level of excellence associated with the perfect role model of the truly awesome partner**

THE PARTNER DEVELOPMENT GRID

We have recently been working with a number of firms on a Balanced Scorecard approach. Our methodology requires in the first place a comprehensive study of the behaviors and accomplishments that are expected and valued of partners at every level in the firm. We have found that this then results in the establishment of criteria which are aligned not only to the firm's assessment processes for promotion and rewards criteria, but also to the firm's overall strategy and objectives. The creation of a Partner Development Grid will normally then identify

up to four tiers of partner - new partners, intermediate partners and experienced partners (with a fourth aspirational level to describe the truly exceptional role model).

In developing their plans to advance their careers and contribute to the firm, partners would be expected to show two things. First, they would be expected to show how

they have performed and what they have accomplished for their level of seniority. At entry level, for example, the indicators might suggest that a partner should show evidence of

training and education both undertaken and planned in order to achieve deeper specialization and industry knowledge. The second, and perhaps more important, point to be shown by partners is that they

are striving to improve and are working towards higher levels or grades. The levels become more demanding, as partners gain experience and seniority. Ultimately, a partner might be expected over the course of time, for example, to be able to show evidence of exceptional fame - perhaps to be recognized nationally and internation-

The win-win from what can otherwise become a laborious process can only be obtained if the methodology of a personal Balanced Scorecard is used for both assessment and development.

ally, or named in one or more Directories as a leading expert. This developmental dimension to the scorecard therefore stresses the external elements of the criteria; this should not only be an internal performance assessment methodology, but an important tool to help focus partner development and ambition.

What we are seeing in some cases is that firms may be using a balanced scorecard methodology for performance assessment, but are failing to align it to their objectives and overall development needs. The win-win from what can otherwise become a laborious process can only be obtained if the methodology of a personal Balanced Scorecard is used for both assessment and

development, backed up by focused training and coaching.

CONCLUSION

We are suggesting that firms should be seeking to move from informal, unfocused, subjective and opaque methods of judgment to a methodology which is clearer, more transparent and objective. Some subjective judgments will still be inevitable; qualities such as integrity, openness, drive and dependability are all difficult to rate. To work effectively, a Balanced Scorecard methodology must be aligned to the firm's long-term structure and intellectual capital and sufficiently detailed to provide a clear framework for assessment

and improvement. If it achieves such alignment, then most partners will be closer to answering a critical question on the minds of most partners: "What do I have to do to succeed around here?"

LEVEL OF PARTNERSHIP			
Entry Level Partner In experienced in many management skills but with a baseline ability and both the potential and desire to improve. Performing well particularly in financial terms.	Intermediate Level Partner Has gained overall experience and skills across the Balanced Scorecard: fulfilling early promise and contributing well to management of the firm in a number of areas. Still eager to learn.	Experienced Partner Partners who consistently contribute to the management and leadership of the firm and perform strongly in most areas on the BSC—partners who are core to the firm.	Exceptional Role Model Reserved for the "Best in Class" Partners who are achieving fame and recognition in key areas on the BSC—partners who have moved from good to great.



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The Seven Immutable Laws of Change Management

A CATALYST FOR MANAGING PARTNERS WHO ASPIRE TO MOVE THEIR FIRMS FORWARD

by Gerry Riskin, **EDGE INTERNATIONAL**

Managing Partners: Why is it that your intelligent (no, make that “super intelligent”) lawyers seem to react to your change initiatives like you were asking them to drink a tankard of poison, even when they know full well that the brilliant changes you are proposing would be beneficial to them individually and collectively? When we get Managing Partners from various firms together, many of them want to commiserate with each other about the impossible task they have in managing the unmanageable – I suppose my Edge International co-founder, Patrick McKenna, and I did not cure that perception when we named one of our books *Herding Cats*. Some Managing Partners with whom I have had the pleasure of working are exceptions to that rule and what follows is what I think I have learned from them over these many years.

Here are the seven immutable laws of creating change in your firm. I guarantee that if you respect these rules, you will get the cooperation you need to effect the changes that will catapult your firm forward.

1 AS MANAGING PARTNER, PROPOSE IMPERFECT CHANGE INITIATIVES

YES, I said IMPERFECT and when you saw that word a feeling of anxiety overcame you and you were tempted to react as a lawyer and not as a change-agent for your firm. Let me be clear. As a lawyer, your job is to do “the right things, perfectly.” That calls for unflawed effectiveness and efficiency. You probably hope your surgeon, if you ever need one, practices to the same standard. But face reality — as the manager of your firm, you do not have the luxury of doing only “the right things” because nobody, including you, knows what the “the right things” are except in hindsight — and hindsight is too late.

As a result, most good firms are paralyzed by the tedious, never-ending and totally ineffectual process of divining the perfect strategy accompanied by the perfect tactics. These firms are ships tied so firmly to the pier that no matter how well steered, they go absolutely nowhere. In fact, their biggest claim to fame is that they hit no icebergs — few ships do from the pier. Such firms may do “industry-average” well, but they are not going to consistently break out of the pack. Temporary successes come from individual initiatives that the firm is likely unaware of and therefore does not impede with excessive policies and standardization.

In strategy, you must make the best decisions you can with what you know and what you can speculate about. I am not against a little market research – in fact, I advocate it – but I am against the notion that you can know enough to comfortably make strategic decisions with the confidence that you are most certainly right.

Most good, collegial firms make the mistake of trying to convince the whole firm (at least the partners) that a decision is “right” before proceeding. There is no collection of competent lawyers exceeding one in number that can or will agree to any single course of action mainly because their training is not to find the wisdom and potential in an idea but, rather, to reveal the concealed risks within it. No idea will ever be good enough, so looking for unanimous approval is antithetical to creating change.

You as Managing Partner and your close team (executive committee, board if necessary) must make a decision. You must choose what you think your best option is from among the available alternatives.

The punch line here is “abandon perfection in favor of action.” Force the decision-making process within a reasonable time frame and then get moving. Release your ship from the pier. This will give you immediate competitive advantage. It will also contribute to the esprit de corps of your firm and that will literally add fuel to your change initiative. If you are going in the wrong direction, you can alter your course.

Please note that this is your initiative as Managing Partner — not your approval of the initiative of a support professional (like the marketing director in your firm). You can work together with such support professional side by side, you can even give them most of the credit if the initiative is successful but it must be your initiative, at least in part, or you have no hope of succeeding.

2 CREATE A VIVID PICTURE (VISION) OF WHERE THIS INITIATIVE LEADS

It is tempting to be vague because then you are not committing to anything. Not committing avoids scrutiny and criticism. But without certainty, your troops cannot get excited about your change initiative.

Y*ou do not have the luxury of doing only “the right things” because nobody, including you, knows what the “the right things” are except in hindsight.*

Be specific: “If we dominate the provision of X legal services to the Y industry, we will not only increase our revenues in both the A and B practice groups by at least 25% in the next two years, but we can also expect increases in the C and D practice groups of at least 10% attributable to cross-selling initiatives from the A and B practice groups.” Obviously the particulars are customized to the situation, but the point here is to be specific. While quantifiable measures are essential to your firm’s success, qualitative ones may be equally motivating to your people. For example, many of your people will work hard for the prize of having more work of a preferred nature or to do more work for preferred clients.

You will rarely be exactly right when it comes to strategy and tactics — and that is OK. You will almost always do better or worse than your forecast. Get comfortable with being wrong because that is what management is all about. If you meet your objectives all the time, you are way too conservative. You will learn from your performance and continually correct and fine-tune. This is not the practice of law — it is the management of the business. In a real estate transaction, we expect to get good title for the purchaser on closing. This is not a guess or a hope or speculation. It is precise and we had better get it right — it’s what we’re being paid for. But a percentage increase in revenues from a particular kind of work is a crap shoot. No matter how smart you are, there are some variables beyond your control and many that are beyond your capacity to predict accurately. Worse, even if serendipitously your strategy is perfect, your tactics may be quite imperfect, at least initially. Business winners constantly monitor outcomes and frequently change or at least fine-tune tactics in an effort to continuously improve results.

The punch line here is to create a vivid quantitative and qualitative description of a desirable outcome that everyone in your organization can relate to, knowing and accepting that it is not perfect.

3 PAINT “THE FIRST STEP” IN VIVID COLORS

“Take the first step, and your mind will mobilize all its forces to your aid. But the first essential is that you begin. Once the battle is started, all that is within and without you will

come to your assistance." Robert Collier (1885-1950)

As leader, you are going to have to foster the taking of the first step by every individual whose participation is essential to your change initiative. This means that the first step must be crystal clear and painted by you in vivid colors so that no individual hesitates because of a lack of clarity. The simplest way to do this is to facilitate a discussion that results in "to do" lists that include actual initial steps and time lines, and if necessary, methodologies. For example, the first step might be compiling a list of prospective clients in a particular industry that would have need of a particular service. The action may involve delegating internally (or even outside the firm) the task of creating the initial list, and might include identifying precisely the parameters within the list, like numbers of employees, locations, etc.

The punch line is to have a first step that is clear enough that you can ask if a specific thing has been done. For example, "Is the initial list ready?" is only a sensible question if it is clear that the first step was to create such a list and precisely what that list would be comprised of.

4 CREATE CULT-LIKE INTERNAL PROMOTIONAL COMMUNICATIONS

This is where your capable support professionals can shine. They can help you create imaginative ways to keep the initiative in front of your people. The internal trainer in a major firm showed me high gloss promotional announcements that were sent internally to remind audiences about various internal workshops. I asked about the "commercial nature" of the alerts and he responded that, "I have to break through the noise" to get their attention. He's right, of course. It's like paying attention to your spouse. If you take your

spouse for granted, you may not end up alone but you will not reap the rewards that would have been yours had you been more attentive.

Some firms use Monday Morning Memos to catalogue progress on the action checklist, person by person. Others celebrate to congratulate for achievements (complete with cake and silly hats — perhaps tee-shirts adorned by appropriate slogans).

5 ASK FOR COMMITMENT – NOT AGREEMENT

One of my most successful friends (and clients from my law practice days) has a One Sentence Journal and he posted the following wisdom one day:

"Commitment and Doubt": Commitment does not require the absence of doubt; often commitment means acting despite your doubt. (From Larry Anderson's *One Sentence Journal June 17 entry*.) (Larry's success is not only financial — it transcends to a long-term happy marriage and philanthropy.)

Think about it. You do not need your entire firm to agree with you and should not even ask for that. What you must demand, and accept nothing less than, is that your people commit to help you achieve your objectives even if they have doubts. At worst, someone who is not pivotal to the initiative may remain neutral and that means not sabotaging the effort in any way. But for that exception, those who offer passive or active interference must be confronted. If you don't have the support to pull that off, step aside. You are allowed to lobby for that support but it must be forthcoming or else your resignation should be tendered. This is not hypothetical — this is how the well-managed firms are run. Choose your initiatives carefully because you must suc-

ceed in attempting them. They don't all have to work but you have to be allowed to try them and give them the firm's best efforts. If not, call the election.

6 TELL THE WORLD

Do you know why betrothed people say their vows in front of friends and family — to cement their commitment. It is the same reason a banker friend told me the bank does television commercials: "Not just for our customers but for our own staff so that they can see the service promise we make to our customers and as a result they are more likely to live up to that promise."

Tell the world what you are shooting for, whatever that may be — in fact, you can say it before it is so: "Striving to be the firm of choice for the wholesale industry." I am not advocating misleading or untrue advertising but I am saying it's OK to declare what you are striving for. Your current and prospective clients will hold you accountable, but that's OK because it helps define the standard for your people and gives clarity to their target and therefore their everyday performance.

7 TURN A SPOTLIGHT ON YOUR INITIATIVE AND LEAVE IT ON

Many firms have fabulous meetings, sometimes in retreat venues where everyone participates in the creation of the master plan that will make the firm the "be all and end all." All participants leave the process feeling a sense of pride and excitement that is palpable. It is only after the passage of a few months and the absence of any visible accomplishments that the disillusionment sets in. The cynics and skeptics have a field day — they might as well all buy red tee-shirts with yellow words emblazoned across their

chests, "I told you so." Well, Managing Partner, you must not allow this outcome. It is lethal and you cannot recover from it. Instead you need the lights that were on at the retreat to remain on. This is accomplished by not allowing the insects to crawl back under the rocks (out of sight, out of mind). Instead, you need to design processes that keep your people (not insects at all) in plain view. You can decide for yourself what might work best for you, but here are some of the techniques I have observed or recommended:

MONDAY MORNING MEMOS (as referenced earlier) giving weekly status reports to show everyone's progress on the distinct steps (actions) that have been agreed upon. This creates healthy peer pressure and allows no one to hide.

MBWA (MANAGING BY WALKING AROUND) coined by Tom Peters and Bob Waterman in their business classic *In Search of Excellence* — this means frequently dropping in, unannounced, to ask the right questions and to offer help — "How is that list coming... I see you are struggling to get this done in light of your particularly heavy case load at the moment... let's explore some options... to whom could you delegate some aspects of this... I need you to make progress because others know you have an exceptionally heavy work load and if they see

you getting your tasks done you will have effectively removed their excuses — I need you to do that... I will do anything to help, short of doing your task for you..."

Convene follow-up meetings that exchange "learnings" that individuals have gleaned from their respective tasks; for example, how they worked with difficult people internally or how they overcame client resistance. This should not be a meeting where everyone reports progress — progress meetings become meaningless exercises in seeing who can offer the most creative excuses for failing to deliver. This is a peer level training meeting where the objective is to become ever more effective at accomplishing quality non-billable tasks.

CONCLUSION: Fostering change in a law firm seems impossible because most Managing Partners treat the activities associated with such change as if they were component pieces of a legal transaction. Partners are so reliable when it comes to their substantive legal work that it seems unthinkable that they could not complete mundane simple tasks associated with management initiatives. Well, the real world is that the non-billable activities are

not even on the same psychological map as the billable ones. Billable work means everything to a lawyer, from income to professional satisfaction to garnering the respect of peers (internally and externally) to being respected in social circles. Non-billable work, no matter how important, and regardless of the value to our futures, will always take second place to billable work unless you, Managing Partner, manage for a different outcome. The score in many firms is billable work "100" and quality non-billable work "0." By following these seven immutable laws of managing change, you will change the latter score from

zero and even if you only change the score to "99 to 1," you and your firm will be the beneficiaries of the infinite improvement from "0" to "1." Furthermore, in the legal profession, those who make continuous slight progress win the race, because most competitors are still tied to that pier.

Special thanks to Cameron Cooper, Editor of the *Australian Law Journal*, for publishing this article.



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