Sharing Profit and Millennial Partners

By Neil Oakes

Methodologies for sharing profit among equity partners have been an interest of mine for many years. A decade or so ago I wrote a doctoral thesis on the behavioural consequences of alternative models, in particular the impact of various models on equity-partner diversity. The millennial generation are the most diverse generation of lawyers the Australasian profession has experienced, ever.

When I started monitoring and consulting law firms in the late 1980s, equal sharing was the norm in Australasia; it's still common among many larger, mid-sized and smaller firms in Australia and New Zealand. Some of our larger firms, having been performance sharers for years, are drifting back towards equality. When equal sharing (typically after a 5-year lock-step) was the dominant model, law firm partnerships were relatively homogeneous, typically male, typically Anglo and typically full time.

Changing Demographics

This morning the *Australian Financial Review* reports that a survey of 5000 staff from major Australian law firms has found that '25% of graduates and 20% of non partner lawyers are of Asian background'. The survey found that only '8% of partners are of Asian background'. Although not reported, I wonder what percentage of equity partners (as distinct from 'non-equity' or 'fixed draw partners') are of Asian decent?

Of course, we don't need a survey to reveal the long-observed disparity between women graduates, employed lawyers and equity partner numbers relative to their male contemporaries. This has existed for over a decade.

No immediate solutions to see here, just some questions to ask around sharing models and their readiness for the next, diverse generation of partners.

In the past homogeneity among partners, for better or worse, made equal sharing work. I might be wrong, but I don't think that equal sharing for perceived equal contribution is going to cut it among the next generation of partners.

While the number of performance-based sharers, seeking to reward on the basis of personal effort and results, has significantly increased, many of these firms apply performance measures 'at the margins,' with 80% of partners clustering around a new 'equality'. The top 10% are topped up and the bottom 10% bashed up. Origination credits have not been institutionalised in

Australasia to the same extent they have been in North America, although that is beginning to change. ‘Performance’ often includes an assessment of subjective contribution but, by and large, usually comes down to ‘fees controlled’; an individual partner’s billings, their team’s (direct reports) billings and work introduced to other partners.

Law firms see themselves as meritocracies. We promote people to equity partnership and compensate them accordingly. I suspect that’s why law firm partnerships seldom resemble the diverse nature of the annual graduating class of lawyers. We’ve assumed ‘merit’ as a virtue axiomatically but what does it really mean? Judging by the overwhelming majority of equity partners, it means doing what all of the existing equity partners did, ‘performing’ and ‘contributing’ in the same (typically) full time manner. The individual sinks or swims on his or her own merits.

There is a growing scholarly literature around merit and diversity. I’ll develop this discussion in a future article. I would like here to concentrate on one of the root causes of partner homogeneity, traditional equal profit sharing.

Equal Profit Sharing

The underpinnings of equal or near-equal sharing are pretty obvious – portfolio theory (I’ll be up when you’re down and visa versa, hence risk-minimisation if we share equally over time), equal effort for equal return, and the greatest incentive to share clients and cross-refer. For these elements to coalesce in favour of success, partners need to contribute equally, for a long time and in similar ways. Merit becomes a convenient verb for describing what all of our full parity or equal sharing partners do, and the way that they do it. In other words, role-modelling the successful (white, middle-aged male) partners, building and serving a client base as they built and serviced ‘theirs,’ leads to career progression and ultimately partnership.

I regularly present in new partner programmes in Australia and New Zealand and I often hear aspiring associates and new non-equity partners talk of their frustration with attaining perceived equal or near-equal contribution. They speak of the covert guilt that accompanies part-time or flexible partnership, and the overt assumption among their fellow partners that any part-time arrangement is a temporary privilege. They speak of inequity in opportunity. Who gets mentored by and wins the favour and friendship of influential senior partners? Well, not surprisingly, people like them (the next batch of pretty similar men from a pretty similar background). It’s as though many female lawyers and those from minorities perceive themselves as working in a different and separate workplace under the same roof with those who more closely conform to the traditional ‘norm’.

Contributed Profit

Achieving a greater level of minority group representation at equity-partner level is a big and complex task, a task way beyond the scope of this brief article. There is however one thought balloon I’d like to float in the interest of greater gender equity among equity partners, and a better way of achieving inclusivity with a more diverse generation: share profits on the basis of contributed profit.

In a ‘contributed profit’ system, the profit of a partner includes that person’s billings, their team’s billings and fees referred to other partners, less the direct attributable cost. The partner with the highest profit contribution gets 100 points; others share proportionately. (Most firms can measure this accurately, smaller firms probably less so but it’s straightforward.) This would enable partners to enter much earlier. It would cater for part-time partners (if I can contribute more profit working three days a week than one of my full-time contemporaries, why should I earn less? Similarly, if I choose to work six days a week, why should I subsidise those on flexible arrangements?)

Profit-derived profit-sharing is educational. It encourages and rewards partners who structure their teams in the most profitable way. It also future-proofs the partnership. When the Millennial partners arrive in greater numbers they will want greater diversity and flexibility (and their Millennial clients will demand it through ‘socially responsible’ procurement processes). They will want (in some cases, perhaps expect) the prize sooner. In five years’ time, compensating partners on the basis of fees controlled and time spent in the office will seem so ‘yesterday’.

Sharing entirely on profit contributed would be pretty extreme and probably a little short-sighted. Firms need to invest in practice areas from time to time, new partners need to be encouraged and supported, there are pro bono considerations, and the list goes on. I am just suggesting that measuring profit contribution in the mix (instead of fees controlled) removes a significant block to greater gender and diversity diversity at partnership, and offers greater flexibility for all who want it.

Equity: From Goodwill to No Goodwill

By Sam Coupland

In recent years I have been engaged by a number of firms to change their equity arrangements and transition from a ‘goodwill firm’ to a ‘no goodwill firm.’

The push to make these changes usually arises from one of two managerial requirements, both of which are due to the success of the firm. The first reason is a desire to move to a differential profit share and the second is to make an equity stake in the firm more affordable for new partners.

Differential Profit Shares

I have long maintained that one of the strengths of smaller firms in Australia and New Zealand is that in most firms, all equity principals (new and existing) have an equal number of points, or are on a pathway to equality over a defined period of time. The rationale should probably be the subject of a separate article, but one benefit of equality in a smaller firm is that ‘performance’ can be measured on effort as opposed to revenue or profit, because not everyone can do the work that is profitable given the general nature of most of these practices.

I have worked with a number firms recently that have wanted to move away from equality to a differential profit share. (I should note that not all partners are keen on this idea for obvious reasons.) The snag has been that these firms sold goodwill to incoming partners on the basis that it was an equal profit-share arrangement, and in many cases the most recent entrant paid the most and is now being subject to questions over contribution.

Moving toward a differential profit share without changing the equity admission and exit mechanics of the firm will result in years of unhappy partnership before the whole thing implodes.

Admitting New Partners

There are an increasing number of first-generation firms that have become so profitable or carry so much work-in-progress that it is not affordable for an employee to buy equity at fair market value. The equity partners in these firms are faced with a decision to either significantly discount a sale / purchase price, not sell any equity and drive the firm as hard as possible until the end then walk away, or change the equity structure to make it more affordable.

A Workable Solution

From an accounting perspective, removing goodwill from a firm can be relatively simple. Resistance to making a simple accounting change understandably comes from those who have paid goodwill either directly when buying in or via ‘sweat equity’ to establish the firm.

When advising firms that need to make the change, almost all can see the rationale and benefits that arise from bringing new partners into equity via a lockstep, as opposed to the sale and purchase of goodwill, but most struggle with working out how to extract their embedded value in the process.

Doing away with goodwill and transitioning to a lockstep firm will provide firms with the flexibility required to overcome many of their equity challenges. Broadly this will require:

- The firm agreeing on the value of goodwill;
- Borrowing a portion of that value and distributing to each partner according to their equity holding;
- The balance of the goodwill being paid via a 'superannuation' fund or similar at an appropriate time.

The benefit of doing this is:

- Compensation is no longer linked to Return on Investment;
- You have flexibility to provide additional points to the absolute standout star performers (plus the capacity to take points away from the under-performers);
- No one will be bound to stay in a poisoned relationship due to the financial handcuffs of their buy-in price and/or an onerous partnership agreement;
- Partners are not obliged to keep someone they would rather not work with;
- It is easier to admit new partners

The mindset of the incumbent equity partners is key to the success of such implementation. The above will involve some pain, and in the short term there will be some winners and losers. If you start the journey early enough, any short-term loss will be washed away by the longer-term gain. This will not work if the primary focus of any of partner is to win in the short term (or to ensure that someone else does not win).

I get a sense that we will be seeing more of these transitions occurring in the near future as the pace of succession in the law increases.

Edge Principal Sam Coupland is considered the foremost authority on law firm valuations in Australia, helping firms calculate accurate capitalization rates and assess their risk profile, cash flow and profitability. He is a frequent presenter on practice-management-related topics, delivering dynamic presentations to hundreds of lawyers every year in the areas of financial management, business development, succession planning, strategy, and people management.

Knowing the Enemy – and Setting up Battle Lines

By Nick Jarrett-Kerr

Segmentation is concerned with where a firm competes in terms of groups of clients, localities and services. A segmented market is one that can be set apart according to the characteristics of clients and their demand. *Differentiation* is concerned with a firm's positioning within a market (or market segment) in relation to the service and image characteristics that influence client choice. By locating within a niche or segment, a firm does not necessarily differentiate itself from its competitors within the same segment.

In order to seek or develop meaningful differentiation, law firms must develop a deep understanding of their competitors, and many firms fail even to attempt this, believing instead in the power of their own self-image and perceived market position. Over the years, I have looked at a multitude of strategic and business plans for both law firms and practice groups. What I have noticed is that these plans often fail either to address competitor analysis completely or have simply provided a list of firms that the group considers as its main rivals. Frankly, just naming names is not enough.

The extent to which a firm can differentiate itself from its competition is an important element in achieving competitive advantage. Key differentiation questions faced by every firm include:

- How do we stand out from the opposition?
- Why would clients choose us as opposed to other firms?
- What do we do which is different, cheaper or better than our competitors?
- How can we demonstrate more value to existing and future clients than our rivals?

Firms need to know both themselves and their competitors to answer those questions and to help gain or maintain any sort of competitive advantage.

There are three key areas of competitor research and analysis that will allow firms to understand its markets and to plan their competitive strategies.

1. **Identify how your rivals are positioned**

Positioning is always comparative. Identifying how and in which markets rivals are competing can be a powerful strategic tool, helping the firm to rate other firms relative to itself. One facet of positioning is to be found in the various directories that rank law firms by reputation and skills in key areas.

Positioning can also be seen in the sorts of clients rivals act for, their pricing strategies and what they say about themselves on their websites. It is also worthwhile profiling the business models of competitors to know where and how the firm can compete with them. Are they volume providers, mid-market players or guru-style specialists? How dominant are they? What seems to be their positioning on pricing?

2. **Analyse the resources and capabilities of rival firms**

Size is not everything, but I am frequently surprised how little firms know about each other and, in particular, about the size and make-up of their competitors' teams, the skills that they bring to bear (and their skills gaps), their profitability and even their culture. Most, but not all, of these features can be obtained readily from your own desk.

In addition, clients, referrers, former partners and past employees can also be tapped for knowledge. Client interviews can ask how clients rate competitors and why. Formal tender feedback can also help.

It can also be fruitful to analyse the strengths and weaknesses of rival support teams – you need to be very watchful of firms that are investing strongly in training, knowledge management, systems and process improvements, for example.

The key here is to maximise the benefits from the areas where your firm is stronger than its competitors and to work hard on areas where it is weaker. Equally, if your firm's business development drive can be focused on areas and offerings where rivals are weak, it makes it difficult for those rivals to respond.

3. **Assess your rivals' strategic, financial and market goals**

Particularly for practice groups, competitors' levels of activity in their chosen marketplaces can give important clues about their strategies. Growth in numbers, interesting lateral hires and team acquisitions provide evidence of a firm's confidence in its future and its markets.

Marketing, profile-raising and promotional activities can show anything from complacency (where activity is low) through to aggression and drive (where activity is high). Many firms generate a lot of self-publicity, which can be an excellent source of competitive information. Statements by firm leaders often show what is important to their firms and whether they are driven by financial results or the pursuit of market share.

The current performance of rivals is difficult to assess without insider knowledge, but radical strategic change, accompanied by a change in the firm's leadership, can indicate that performance levels may be falling.

True Differentiation

A stunning year, a key new hire or a merger may well have given your firm a temporary advantage in the eyes of clients, but other firms will be progressing their strategies as well. What's more, it is extremely difficult for a law firm to achieve true differentiation; a deep understanding of the intensity, dimension and drivers of competitors is key to success.

Law firms therefore ought to have Sun Tzu's words from the *Art of War* committed to memory: "If you know the enemy and know yourself, you need not fear the result of a hundred battles. If you know yourself but not the enemy, for every victory gained you will also suffer a defeat. If you know neither the enemy nor yourself, you will succumb in every battle".

Edge Principal Nick Jarrett-Kerr is one of the leading UK and international advisers to law firms on business issues, strategy, leadership and management. In addition to matters of strategy, Nick has a particular interest in law firm governance, partner compensation, partnership performance criteria and partner development. He regularly leads or facilitates strategy days, retreats, partner conferences, practice group retreats and away days.

Online Reputation Management for Professionals and Their Organisations

By Sean Larkan

Online Reputation Management (ORM) has become one of the latest marketing and brand buzz-concepts. This is one every professional should be concerned about and should understand.

Much has already been written about ORM, as any search on the internet will show. I have found that much of what is available online does not explain where ORM fits in with other important brand concepts – thereby help readers understand why it is important, why it creates personal and organisational risk, and how to manage it. Ideally, your and your organisation's ORM should be a strong contributor to the strength of your brands.

In this short note, I will try to address this issue in the context of how I explain the concept of 'brand' to clients, as outlined in my book *Brand Strategy & Management for Law Firms*.

Your 'Brand' and Your 'Brand Offer'

Your personal and organisational 'brands' (your brands) are *what other individuals think and feel about you or your law firm*. What people think is due in part to what brand offer you make to market, and whether you deliver on that and they experience it.

Your 'brand offer' in turn is what you put out to market as your offer to the market – what you offer or promise to do or can do or deliver on.

Your brand offer can comprise a number of important attributes – your technical, leadership or management expertise, experience, reputation and style, your ethical behaviour, whether you live up to what you promise to deliver, and your accessibility, responsiveness and reliability. It also includes how you interface with those who work for or with you and for whom you work, what you have written or said, your experience, expertise and reputation, your thought leadership, level of emotional intelligence (EQ), communication skills and style, personal values, etc.

The combination of all these aspects, and how other individuals experience these attributes and feel about you and your firm as a result, contributes directly to your brands.

However, keep in mind that your brand offer is generally not your brand as such. It is what you offer to market. Your brands are *what others think and feel* about your personal brand and your organisation's brands.

Online Components of 'Brand Offer'

What is published online by you or about you also becomes part of your 'brand offer' to market in the form of your online reputation, digital footprint or 'presence'. What is online about you can be a challenge because you will have authored or published some of it, while other pieces will come from others in the form of comments, complaints, reviews of something you have written or said, and so on. It all goes into that online melting pot.

Of course, whatever is out there is searchable and 'findable' and may influence what others think about you and your firm, which means that it influences your brands. So, it becomes part of your intended or maybe unintended or even unwanted brand offer and can in turn influence your personal and organisational brands. In this way, it also becomes part of your brands as such.

So, this cause-and-effect nature of your online presence and reputation means it is both part of your brand offer to market as well as being part of *what others think or feel about you* – i.e., your brands. It is for these reasons that it is particularly important to do all you can to manage your online reputation.

Brand Fusion

This in turn impacts what I term *Brand Fusion* (BF) – that is, whether what you offer is actually delivered on by you and experienced in that way by other individuals. BF is important as it directly impacts trust in your personal brand, and trust is the foundation stone of a strong brand.

Given the weight and attention given to what is online – written or published by or about you – and that many people do online research before making purchasing decisions or commitments, it is worth taking care to ensure that your online presence is as favourable as possible. It lives there for a long time and is not easy to alter or take down, particularly if you were not the author of it and have no control over the relevant media. This can create risk for individual professionals and their organisations, and even cause damage.

Managing Online Brand Risk

What can you do to manage this risk? For a start I suggest the following:

- Create awareness amongst professionals in your firm by having someone with expertise come in and explain the importance of ORM, where it fits into brand, the risks involved and how it can impact your or your organisation's brand;
- Research this topic thoroughly and have a clear policy for your firm around online publishing and even speaking engagements undertaken by any of your professionals, to ensure they are qualified to do this and will not mis-state or mis-speak;
- Consider using one of the many online tools which can virtually search the internet and then vet and report on anything it finds about the firm or its professionals. This becomes an ongoing due diligence of what is 'out there';
- If you don't take the latter step, at least do a manual search from time to time or have a qualified person do it for you; and
- Take active steps to manage what is online and try to have damaging material removed, corrected or responded to as soon as possible after it is published.

Do this and you will be better managing two important elements of your brands – your brand offers to market as well as what others think of you or your organisation – i.e. your actual brands.

A final word of caution *on a subject beyond the scope of this short article: Where firms do create a formal or informal policy* *prescribing what staff can or cannot publish online, one enters a complex area in that a lot of the online activities of your staff members will be through private channels they belong to. How far can one realistically regulate that and dictate to staff what they should and should not be doing? This will also differ from jurisdiction to jurisdiction.*

Edge Principal Sean Larkan is a former corporate/tax lawyer with extensive experience in conference and retreat presentation and facilitation. As an Accredited Practitioner of [Human Synergistics International] ***and a certified Master Coach, he offers Edge clients knowledge and experience in such areas as leader, group and organisational behavioural and cultural diagnostics and coaching, and serves as a critical adjunct to firms' strategy implementation. He is the author of*** [Brand Strategy & Management for Law Firms]***.***

Legal Project Management: If your Client Is Interested, Shouldn't You Be Too?

By Aileen Leventon

CLOC LPM Framework

General Counsel have been expected to manage the legal function (both inside and outside counsel) for over 25 years. Pressure to control legal spending and staffing has accelerated since 2008. Cost management of external legal services is here to stay.

Two organizations have developed approaches to help in-house lawyers and legal operations managers address accelerating costs that impact the corporate bottom line:

- In 2009, the Association of Corporate Counsel (ACC) launched its [Value Challenge], which sought to promote conversations between buyers and sellers of legal services to reconnect the skyrocketing costs to the perceived value of the work.
- By 2015, a critical mass of operations professionals serving legal departments came together to form a new organization, [Corporate Legal Operations Consortium, or CLOC]. ACC has followed suit with a legal operations interest group.

Legal Project Management (LPM) has been touted as a means of more tightly and thoughtfully managing matters. It is the adaptation of the well-established project management discipline to legal work and the unique personalities of lawyers and the culture and standards of the legal profession. Over the past ten years, leading law firms have begun to improve their budgeting and matter-management skills through LPM and process-improvement techniques.

With some exceptions, corporate legal departments have lagged in their adoption of project management practices. When presented with LPM concepts by law firms, many legal operations professionals and in-house lawyers have not been able to maximize the benefits of LPM for work that is handled exclusively in-house, nor for better collaboration with law firms. And even when a company's RFPs for legal work have solicited information about LPM, and in some cases even prescribed its use, there is still a great deal of opportunity for improvement.

ACC has provided resources and training programs relating to LPM for many years. A CLOC Initiative that focuses on LPM as a practical way to further augment the value of a legal department was launched in 2017, and is now a significant area of interest for CLOC members.

The CLOC Initiative focuses on the following situations:

- managing business clients' expectations regarding the work lawyers should and do perform;
- handling projects relating to legal operations;
- participating in corporate projects in which the legal department plays a supporting role (such as new product development); and
- managing external service providers, ranging from law firms to e-discovery vendors.

The initiative created a practical Legal Project Management (LPM) Guide, based on a framework that breaks projects into four stages:

- Intake,
- Planning,
- Execution; and
- Review

Each stage has activities, results, and success criteria, as well as roles and responsibilities. An LPM program or pilot can be developed from the Initiative's business case and action plan that outlines the why, what, how, and who of LPM.

Participants in the CLOC Initiative involved over 30 volunteers from law firm, CLOC member companies and volunteers like me. A five-part webinar series has had hundreds of participants, and LPM will be well-represented at the CLOC Institute in the US in May.

If your client is interested in Legal Project Management, shouldn't you be too?

Edge Principal Aileen Leventon is a graduate of Columbia Business School and Cornell Law School. Prior to joining Edge International, she led QLex Consulting Inc., was a partner in the legal management consulting practices at PricewaterhouseCoopers LLP and Blaqwell Inc., and practiced law in New York City. She advises on value creation, beneficial economic results, efficiency, client satisfaction and risk management with a focus on effecting change organically and successfully.

Cultivating Connectors from a "Standing Start"

By Mike White

Force multipliers or “connectors” are often easier to cultivate than are prospects. It can be easier to build a history and therefore trust because the relationship is not weighed down by the “heaviness” of a retention goal. At the same time, it can be hard to build trust if you are viewed to be merely a “transactor” who cobbles together as many conversations as possible to create as many introductions as possible. At a process level, of course, that is exactly what you want to accomplish – you just don’t want your business colleagues to feel they are party to that process.

The secret here lies in the concept of “incrementalism” – sequencing together a series of “yeses” to give the relationship necessary momentum. Most people are very open to helping you get smarter about certain issues, particularly when they are viewed as a domain expert. “You’re smart ([about a particular issue or area of content]. I’m dumb. I’d like you to help me be less dumb [about the particular subject] . . . ” This approach appeals to their ego, and unless they are crazy busy, they will let you pick their brain over a cup of coffee. On the strength of a warm introduction from another connector, you have a great chance of getting this meeting. Let’s call this the “**thought partner step**.”

You are now at the meeting and your business guest has addressed your knowledge deficit and enlightened you about an area of interesting content; she/he has been a true thought partner! Your next step is to enlist your business guest as a “mentor” – someone who will help you make your own commercial agenda or business development agenda even better: “Because you know so much about the virtual payments industry and why it’s interesting to me commercially, you have a sense for how I’m trying to find new virtual payments industry clients. If you don’t mind, I’d like to share with you my plans to use my emerging knowledge of the virtual payments industry to acquire more clients. You’ll no doubt be able to poke some holes in those plans and make them better . . . ” Let’s call this the “**mentor step**.”

Once your business colleague helps you author and craft your own plan, it’s not a big leap for her/him to serve as a connector. “Thank you for helping me bullet proof my go-to-market plan as it is a much-improved product. As you think about some of the types of people I should be meeting, do you know anyone who might be a good information source, connector or perhaps prospect in the ecosystem of virtual payments industry businesses?”

Voila! You now have cultivated a “**connector**“!

Edge Principal Mike White, an expert in the field of law firm growth, works with firms and practice groups in two primary areas: client experience innovation & differentiation, and strategic planning for growth. He also advises firms on business-development skills training/planning/coaching, law-firm succession planning, lateral-partner integration, and partner-compensation restructuring.

QNBT: Extracting Real Value from Non-Billable Time

By Gerry Riskin

QNBT

"Your billable time is your income; your non-billable time is your future." – David Maister

Non-billable time gets little respect

Many perceive non-billable time as something that can be conjured at will. Taking someone to dinner who may or may not be a qualified client prospect can be recorded as business development. Furthermore, that two-hour dinner can turn into three or four and, with travel time, five hours. Those who have spent many hours on gruelling and challenging legal work can easily resent the generation of these hours with so little effort.

The consequence: Non-billable time is often not tracked accurately

In fact, in many firms, it is seen as a sign of prestige *not* to record non-billable time.

Some firms have learned to break this cycle by making non-billable time less discretionary and harmonizing it with the objectives of the team or firm.

The nature of the "qualified non-billable hour" is pre-negotiated and pre-authorized.

Suppose a senior associate wants to join the ABA section relevant to her practice area. Furthermore, she'd like to attend the meetings of her subsection locally, regionally, and nationally. Her practice group leader wants to know why this will be a worthwhile investment for the firm and indeed what the return on investment might be. She argues that over the next several years, gaining prominence in the section will yield referrals from other parts of the country and thereby enhance the practice for her, her group and the firm.

Her practice group leader might wisely ask something like: "Do you think you can get on the ladder such that you will occupy a position of prominence in the section, perhaps leading to becoming a chair of the section within five years?" The senior associate may respond that she was successful in attaining elected offices in school and then university and is confident that she can do so in the section. The deal might be struck such that the approval to spend the non-billable time (and the travel expenses) will be conditionally approved based upon a monitoring of her progress over the course of the next two years. If that progress is promising, the firm will continue to support the effort.

In this instance, the non-billable time expended by the associate becomes qualified non-billable time (QNBT). It is not merely discretionary time, nor is it perceived to be something that can be conjured at will, but rather it is something that has been vetted and will be measured against a set of objectives.

Imagine a situation where most, if not all, of the lawyers create a plan – for approval – that will constitute QNBT. Aside from an improved perception and respect for the non-billable time that is being invested, there is also a much higher probability of a good return on that investment for the firm.

A heretical principle: The non-billable hour is worth more than the billable hour

A Chicago firm I know which has had a meteoric rise in prosperity decided that a non-billable hour was worth more than a billable hour. Before you faint, this did not mean that spending eight non-billable hours and no billable hours in a day was considered more valuable for the firm. Not at all. Rather, the firm decided that those who spend ten billable hours and no non-billable hours are depriving the firm of the strong return that it would obtain on having at least one quality non-billable hour from that individual in a day.

Desirable non-billable minimums and billable maximums

For those firms that still bill exclusively by the hour, it is tough to persuade leadership that excessive billable hours are counterproductive. The truth is that the more senior people with the relationships should be spending at least a portion of their time attracting more work from existing clients and attracting new clients. Those who do exclusively billable work deprive the firm of that new work generation. Therefore, some enlightened firms actually place a maximum on the billable hours that a partner can spend, especially if that partner is a part of senior leadership or practice group leadership or industry group leadership or have a proven rainmaking capability.

I strongly recommend that the managing partner and executive team give some serious consideration to becoming QNBT-oriented.

Founding principal and chairman of Edge International, Gerry Riskin has a global reputation as an author, management consultant and pioneer in the field of professional firm economics and marketing.

Risk Insurance for Laterals

By David Cruickshank

Suppose your firm's longtime insurance advisor came to you and said:

"You have a substantial investment that we know will have a one-in-four failure rate over three years and about one-in-two failure rate over five years.* Would you like to insure against the risk of that happening?"

We have all kinds of insurance for our legal businesses – beyond professional liability. We have business interruption insurance. We insure and back up our IT investment. Some firms hold life insurance on key revenue generators. But precious few insure against the loss of a recently hired lateral.

The risk is real. Look at this recent table of partners who were in the market to move or have moved in the period 2010-2017. If you're a firm leader in Atlanta or Chicago, look over your shoulder – over half the partners are looking to move!

Market	Number of Moves	% of Total Partners in Market
New York	4,445	35%
Washington	3,759	43
Chicago	1,926	53
Los Angeles	1,400	45
San Francisco	1,110	42
Boston	904	44
Houston	704	46
Dallas	760	48
Atlanta	629	52

Source: ALM Intelligence

And that insurance policy? You can't buy it from a broker. You have to build the insurance from within.

We advise firms regularly on lateral integration programs – to create the glue that will keep them keep their laterals. Here are some of the things we've learned (Note: Here I am only addressing keeping your acquired laterals, not the risk of other partners leaving):

- At the point of recruitment, make sure that the lateral's clients will be joining a practice and industry that you have established. (Moving in with a new self-contained practice also means they can depart easily.)
- At recruitment, have the lateral meet partners who will collaborate on business development.
- Check to see if this is the lateral's second or third lateral move.
- Consider client teams for the new clients, so that you can offer seamless legal services across your practices.
- Identify an "integration advocate," a partner who will shadow the lateral for at least six months and make sure that internal and external contacts are always growing.
- Don't stop integrating the lateral and the new clients after a month of orientation. Orientation is administrative care; integration is cultural care.
- Evaluate the lateral's success and areas for improvement every quarter for a year – on measures that go beyond the financial.

These practices, and many more, are the pieces of a "policy" that you need to insure against the significant risk of lateral departure. When we look at your integration practices, we may find ways to reduce risk – or we may advise you that the best lateral decision may be not to proceed.

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* "It's Time to Overhaul the Lateral Hiring Process" *The American Lawyer*, January 29, 2019

Storytelling Is an Effective Communication Strategy

By Bithika Anand

However, the increasing competition faced at home and abroad demands that lawyers make efforts to guide their teams to surpass expectations and discover new approaches, in order to stand out from the crowd.

Lawyers may think of themselves as legal scholars, as professionals, as persons having a gravitas of sorts; hence, they may prefer presenting facts and figures as opposed to telling stories. However, “thought leadership” is a unique differentiator. Lawyers need to create compelling content to engage their stakeholders. Storytelling is an excellent way to achieve this.

Of course, a story is not merely made up of character, nor is it a recitation of facts: there has to be a storyline. Facts and figures are more amenable to being absorbed and recorded by computers. People hardly remember them unless they are effectively emotionalized and embedded in a story.

Decision-making involves persuasion, and persuasion requires emotions. Emotions require less effort than logic… hence decisions based on emotion are made more quickly than those based on logic. In court rooms, lawyers often build narratives naturally, weaving the chronology of events and acts in the form of a story to generate emotional responses and create a ground for empathy. This is true even in corporate practices. Clients are more interested to know how our solutions have impacted other clients than how we did it. The impact is very emotional, and can be best described in the form of a story.

Storytelling is an important strategy for growth. Through the use of storytelling, lawyers can foster the emotional connections that create a sense of meaning for the contributions made by them and their stakeholders.

Lawyers Have Stories to Tell

Newsletters are an important tool for client engagement and expressing thought leadership. Generally most newsletters sent out by lawyers and firms share articles on a topical issue, and report developments at the firm level. To capitalize on the strength of storytelling, they may also share case studies that relate how legal issues were impacting clients, how the problems were resolved, and how the solutions improved the client’s situation.

While creating client collaterals, marketing content or blogs, lawyers can focus on the issue while also making their points more relevant, easier to understand and more interesting by creating dialogues, scenes, and characters as are found in movies / ads. This way audience re-call value becomes much higher.

Firms /lawyers can also talk about their pro-bono/CSR initiatives using success stories of real social heroes… and how it moved them to be part of these initiatives. Even failure stories generate emotions for the firm and enhance the image of the firm as a socially responsible entity.

In today's age of "word-of-mouth" marketing, client testimonials are also stories and, when effectively weaved and shared, can be of great value to firms and lawyers.

Creating the Story

For a story to be liked it has to be real and people should somehow relate to the values the story imparts.

Organisations – such as law firms – can also use stories to help their employees and clients understand the vision and purpose they want to create for themselves. Today, clients are more inclined to want to know what an organization does and why it matters, and how this will make a difference. The best way to communicate this message is not through flow charts or diagrams, but through the use of stories that evoke imagery of where the organisations have been, and where they want to go next.

There are numerous examples of how organisations have benefited by sharing stories about their contributions and how they have impacted not only the economy but society at large. In this way, they have been perceived as trusted and responsible organisations and have thereby been able to attract more commitment and respect from their stakeholders.

What Makes a Good Story?

The best structure, elements, techniques and characters completely depends on your audience. The same story can be presented in different ways to persuade different people to do a particular thing, or not do something, or to make a certain decision.

In order to be a good storyteller, one needs to listen to stories. There are many stories out there. Every individual has a story and, therefore, lawyers must ask for their stories – of course, within the limitations of professional conduct and related to issues they are facing. For instance, instead of asking "What happened?" one can ask why it went wrong, how matters got to this point.

As a strategy this could be the biggest differentiator, as every story can have a unique perspective and therefore can relay messages in a desired manner to the target audience. A strategically aligned story can not only help stakeholders visualize the change the lawyer, firm or organization intends to bring, but also can also solidify support and can make stakeholders comfortable about future outcomes and results.

To conclude, storytelling is a powerful tool, and a story with a well-crafted narrative does amplify whatever one wants to communicate.

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By Gerry Riskin

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