

EDGE International Review

Vol. 7, No. 1, Spring 2012

Navigating the perfect storm: Strategic options for law firms in challenging times 4

Tony Bash

How to guide your firm through a time of unprecedented change in the global legal market.

Current and future trends in the Indian legal services marketplace 12

Bithika Anand

India is a powerhouse to be reckoned with, and its legal market is rife with opportunities.

Defusing the bomb: Dealing with difficult partners 18

Gerry Riskin

Every firm has at least one of "those partners." This is how strong leaders deal with them.

The Edge Roundtable: What keeps you up at night? 24

Special section: Law firm strategy

Stress-testing your strategy: A road map to strategic implementation 26

Sean Larkan

Your law firm strategy needs real-world implementation to ensure its long-term success.

Business planning for practice groups and individuals 34

Nick Jarrett-Kerr

How to create solid business plans that convert high ideals into measurable actions.

Aligning capability and practice: Are your lawyers punching below their weight? 42

Ed Wesemann

Fixing the mismatches that develop between lawyers' abilities and their actual work.

Breaking out: New applications and horizons for legal project management (LPM) 48

Pamela H. Woldow

Law firms that implement LPM find its principles are applicable to surprising new areas.

Think and Do: The battle between autonomy and collaboration 56

Doug Richardson

Learn how collaboration isn't a replacement for creativity; it's a necessary complement.

The business, professional and human case for law firm diversity 62

Jordan Furlong

Diversity in large law firms is fading. Here's how and why you can help lead its revival.

Edge International: Thought leadership 68

**Essential Insights for
Legal Leaders**



1 + 1 = 3

Edge International and **Legal Resource Group**
are pleased to announce their strategic alliance.

• • •

Two of the most trusted names in the legal services marketplace are joining forces in a new strategic alliance, and law firms will be the beneficiary.

Legal Resource Group possesses the strongest national recruiting capability for senior management staff in the legal industry. LRG boasts what it believes is the best and most comprehensive market research capability for law firms available anywhere, now available for Edge clients. In turn, Edge International provides Legal Resource Group with the consulting depth to strategize and implement solutions to issues that frequently arise through an LRG research or recruitment project.

The special capability created by our affiliation, however, is the ability to strategically identify and evaluate merger partners and acquisition targets for law firms around the world. Our firms' combined knowledge and on-the-ground capability in countries with the largest and fastest-growing legal markets in the world makes our affiliated firms capable of identifying and evaluating merger opportunities specifically targeted to meet law firms' client bases and strategic objectives.

**To learn more about this extraordinary alliance and
how your firm can benefit, please contact:**

Bob Lang

Legal Resource Group
912-598-1048
Bob@LRG LLC.com

Ed Wesemann

Edge International/Legal Resource Group
912-598-2040
ed.wesemann@edge-international.com

Gerry Riskin

Edge International
202-957-6717
riskin@edge-international.com



Thinking globally

By Gerry Riskin

At Edge International, we're proud of our global reach. With partners on the ground on four different continents (North America, Europe, Asia and Australia), we help each other and our clients understand the evolving challenges and opportunities facing lawyers, law firms and legal departments. Just to name a few:

- dealing with the impact of local or regional culture on law firm behavior;
- operating a multi-office or multi-country law firm or legal department;
- managing through virtualization, where bricks and mortar are no longer required;
- using emerging tools like the iPad that are experiencing explosive growth; and
- making the most of new law firm regulations such as the *Legal Services Act* in England & Wales.

Demonstrating our ongoing determination to be a truly worldwide consultancy, we welcome to Edge and to this issue of the *Edge International Review* two new voices: Tony Bash of England and Bithika Anand of India. We remain committed to understanding the needs of the legal profession and accessing the best knowledge and resources to serve it.

As always, you can find an electronic copy of this and previous editions of the *Edge International Review* at our website, www.edge.ai.

Write to us at eir@edge-international.com or to any of our partners with your feedback or suggestions. •



Gerry Riskin
Founder
Edge International



Navigating the perfect storm

Strategic options for law firms in challenging times

An unprecedented convergence of external and internal forces is generating gale-force winds of change in the legal marketplace, testing the skills and courage of law firm leaders to their fullest. How can you drive profits in these economic conditions without abandoning long-term strategies or sacrificing collegiality? Here is a guide for navigating the stormiest seas on record.

By Tony Bash



We are clearly in the middle of extremely challenging economic times. Business stands at the forefront of the waves that are pounding the economy, and law firms are certainly not immune from the dangers. I wish to review, input and outline the strategic options available to law firms, with the express aim of generating further discussion and input into firms' responses to these serious economic pressures.

Myriad industry and business indicators point to serious problems facing the business community worldwide. Here are just some of the pressures now being exerted on both the wider economy and on law firms' specific environment. Consider the degree to which any of these will have relevance to and impact upon your firm.

Global macroeconomic factors:

- Currency fluctuations
- The price of oil and precious metals

Batten down the hatches

7 strategic steps to "recession-proofing" your firm while continuing to build and enhance profits.

1. Display strong leadership.

In both good and bad times, strong leadership is critical if hard decisions are to be taken and actually executed. This is an area where most law firms struggle, so if your firm can succeed here, you'll have established an early lead over your competitors.

2. Ramp up the frequency of financial data reporting.

Things can change fast in a recession. Clients, under financial pressure themselves, terminate engagements. Revenues may contract. Debtor payment periods and write-offs may deteriorate, putting pressure on liquidity. The firm's key financial

metrics must be monitored far more frequently than in boom times.

3. Make the hard decisions humanely and fast.

Layoffs, if required, must be quick and humane, not only to preserve capital, but also to get the firm past this trauma quickly and focused on moving forward again. Continued employment of underperformers must be carefully assessed. Where the market is no longer buying specific services, there are two choices: retool (quickly) or separate. (This is not a suggestion to rush to layoffs; this is a last-resort option for all personnel, except those who ought to have been asked to leave years ago.)

- The rise and fall of “real” jobs and where they are performed
- The political stability of job locations
- Foreign relations as they affect business
- Balance of trade between countries and regions
- Housing markets: not just prices, but also demand
- Credit levels (or perhaps more accurately, “debt levels”)
- Interest rates, which may well rise from the threat of inflation
- The largely unregulated hedge fund industry and the major pensions that invest in it

Legal marketplace factors:

- The disparity of views between general counsel and their outside law firms
- Associate starting salaries and their consequential impact on all salaries
- The continuing trend of de-equitizing partners
- The anticipated arrival of publicly owned law firms in the UK
- Partners’ obsession with short-term remuneration
- Ever-increasing expectations around revenue, PPP and PPL

4. Focus on short-term action plans.

Responses to recessions must be designed for rapid implementation. Plans must be focused, systematic and disciplined. Those personnel who will actually implement the plans must be integrally involved in crafting them and managing their execution. Feedback and accountability measures are critical to ensure that the plans are executed, especially when they relate to the hard, courageous decisions.

5. Involve your clients.

Client mobility increases in recessions, since client needs evolve more quickly as new threats and opportunities emerge. Firms need to go beyond simply expressing empathy and assuring continuing loyalty; they need to actively position themselves to meet emerging key client needs. This cannot be done without actively discussing business (not just legal) issues with clients. If you don't have client teams in place for your key clients, now is not too late to create them.

6. Manage internal expectations.

“Business as usual” could be lethal: procrastination has been the death of too many good firms. You need to explain internally what the firm's leaders are doing to weather the recession and the likely impact on people's financial positions. This knowledge will motivate your people to do what is expected of them, rather than default to “business as usual.”

7. Stay balanced.

You need to maintain a balance between your long-term strategy and decisions about whether and where to cut short-term resources. Retaining some temporarily unprofitable practice areas and individuals may be advisable if they are important to your long-term goals. On the other hand, a recession is an excellent time to re-engineer or sever areas that have become less profitable but have been tolerated to avoid conflict.

- The surreal financial expectations of new lawyers
- The emergence of legal process outsourcing as a competitive factor
- The growing client demand for fixed, flat or non-hourly fees
- New technology capable of performing lower-level legal tasks

All these factors and more add up to what many in the legal industry are calling a “perfect storm.” Every law firm faces these tough market conditions, coupled with changing competitive behaviors and the never-ending drive to increase profitability.

It is the rare firm that has a contingency plan for dramatic drops in demand for traditionally profitable practice areas.

We are not trying to make managing partners pessimistic or cast them into a pit of despair. Rather, we provide this perspective in order to emphasize the extreme importance of having contingency plans in place.

It is reasonable to assume that despite the factors outlined above, most law firms will continue to bill hourly for the most part and will plan for an extension of historic linear revenue and profit-per-

partner growth trends, perhaps fine-tuning the engine slightly by de-equitizing some partners or closing an unprofitable office or two.

It is the rare firm that will have a contingency plan for dramatic drops in demand for many traditionally profitable practice areas, widespread overstaffing at all levels and in most practice areas, and the cancer of internally competitive behavior as the revenue pie continuously shrinks. We recommend that our client firms be among that rare elite.

PREPARE FOR ROUGH SEAS

As Bill Gates once said: “Success is a lousy teacher. It seduces smart people into thinking they can’t lose.” Many law firms have enjoyed unprecedented periods of success that lasted years, if not decades; it would be very risky for them to assume that will continue.

Law firm leaders, to do their jobs properly, must ask and answer some hard questions. We would like to suggest two such questions, and to provide frameworks for answering each one.

CHALLENGE 1:

How can we improve profits in these economic conditions while maintaining a long-term outlook?

To my mind, there are three routes law firms can take towards meeting this challenge: growing revenue, reducing costs, and investing in innovation.

A. REVENUE

Growing revenue is an obvious element of increasing profitability, but many law firms often relegate it to secondary status behind cost-cutting, since it requires both a longer lead time and possibly some upfront investment. Nonetheless, we consider it the key element of meeting this challenge. Investing time and money in revenue growth is crucial to improving profits, market share and long-term viability.

For example, firms could look into accessing untapped markets. Markets should be segmented either by sector or discipline to understand whether any pockets of growth or unaddressed areas exist that offer expansion opportunities to support the revenue line (*e.g.*, expansion of employment law).

Simultaneously, consider serious investment in practice development. Given that many partners are not busy with client work, this could be an opportunity to undertake practice development, working with clients to develop future revenue opportunities. Consider McKinsey's 2/4/8 rule: every McKinsey partner is required to be working on two assignments, be in the process of proposing four more, and be in communication with eight more prospective clients.

B. COSTS

Cutting costs is an obvious short-term way to increase profits. The key is to do so strategically and quickly, so as not to damage morale within the workplace. The drive to cut costs must be balanced with the need to keep an eye on the future and ensure adequate capacity for large revenue-generating projects.

Aim for broad cost-cutting measures, reducing headcount (humanely: see #3 in the sidebar on page 6) and offering packages where possible. In particular, pay raises and bonuses likely have some scope for reduction without creating long-term problems for the firm's reputation. If temporary measures are available, take them: offer sabbaticals or secondments to clients or other offices overseas, temporarily reducing the cost base in an expensive HQ city while leaving that office well positioned to scale up as markets recover.

Also, give serious thought to outsourcing: While there has been some resistance to this option in the past, it will prove to be a necessary step if

revenues continue to slide. Try to obtain agreement in advance regarding what functions would be outsourced and how, cutting the lead time if this step proves to be necessary. India is a natural choice due to its highly qualified labor force and relative cost base, but smaller onshore locations in the US, Canada, Northern Ireland and Wales are increasingly attractive.

Many firms have already outsourced their transaction processing. Tasks that are neither key nor customer-facing should be effectively grouped, possibly reduced, and certainly offshored, potentially reducing costs by up to 75%. Quality and service levels must be high to mitigate the obvious criticisms, and key learning from others should be a necessary element in ensuring a high success rate.

C. INNOVATE

More could be said about this subject than we have space available, but it is critical that firms do more than simply increase revenue and reduce spending. An economic downturn is in many ways an ideal time to rethink many of the firm's traditional practices and processes.

Set up brainstorming opportunities across the business. Make it constructive, asking all areas of the business for their ideas for efficiencies and growth opportunities. Create small, mixed focus groups across different disciplines and levels, and ask them to come up with suggestions and ideas. These groupings should not only generate ideas, but should also identify those most likely to get buy-in and generate employee enthusiasm for implementation.

CHALLENGE 2:

How can we survive these challenging times without sacrificing partner collegiality?

First and foremost, help out the managing partner. His or her client-facing strengths need to be maintained, so there could be some benefit in transferring HR-type responsibilities to another partner to ensure sufficient challenge and active management of collegiality. This could be done by creating a COO role for a partner, ensuring that he or she has credibility within the group.

In addition, look to change the measurement and reward of partner performance. These factors influence behavior, so there might be a way of changing rewards to encourage a focus on collegiality and teamwork. This must be an objective measure such as joint revenue, given that subjective measures are relatively easy to manipulate.

This might also be time to review your communication strategy. While

the grander gestures around team building are well covered, there might be scope to review the communication received from the managing partner and assess whether it's sufficient for employees to feel included and part of the team. This is particularly important during difficult times, where communicating problems can reassure people more than trying to hide them.

Finally, consider reallocation of roles. To encourage teamwork, it might be helpful to change working environments to encourage conversations between silos. One consideration might be to arrange people by sector rather than function, to create manageable groups within which to encourage interaction.

It might also be helpful to speak with other firms or other offices within the same firm, to understand whether these issues are common and to generate ideas for addressing them. A suggestion box or blog may be useful for gaining further ideas and enabling additional upwards communication in the office. Some incentive plan will be necessary to encourage employees to communicate in this way. •



Intelligent business

Tony Bash draws on 25 years' experience with law firm finance to provide his clients with a unique and practical perspective on financial strategic issues. He specializes in helping firms implement "killer" business intelligence to guide future decision-making. He also helps senior management monitor the law firm's performance in targeted areas through timely and accessible data.

Email: tonybash@edge-international.com

Call: +44 7901 558370 or Skype "tony.bash123"

Current & future trends in the Indian legal services marketplace

By Blthika Anand





A flourishing legal industry is growing in lockstep with one of the world's most dynamic and fastest-growing economies, creating extraordinary opportunities for lawyers and law firms. Here's everything you need to know about the remarkable growth and incredible future of the Indian legal market.

Myths and misinformation about India's legal industry continue to hold surprising sway among lawyers and clients both inside and outside the country. Therefore, it seems appropriate to begin this overview of the Indian legal market with some hard facts that establish the enormous promise of this burgeoning sector.

- India's legal profession is the world's second-largest, with more than 600,000 lawyers in more than 500 legal practices nationwide.
- In 2010, the total value of the Indian legal market was estimated to be approximately US\$1.25 billion.

- Expertise is flourishing in such practice areas as arbitration and ADR, competition law, environmental law, international trade law, outbound foreign direct investment, and restructuring and insolvency.
- Growing numbers of firms are exploring alternative pricing models, heralding a not-too-distant day when the billable hour will no longer be a viable pricing arrangement.
- Many large and mid-sized law firms are aiming to build a pan-India presence, adding more practices and expanding their reach by acquiring smaller firms.
- Increasing numbers of firms are investing in technology to strengthen their

In 2010, the total value of the Indian legal market was estimated to be approximately US\$1.25 billion.

knowledge management processes.

- To compete in an increasingly tough environment, a number of leading law firms are recruiting executives from overseas.

- Thanks to the widespread availability of

high-quality and ambitious legal professionals, the industry has seen many partners leave existing firms to start their own enterprises.

This remarkable time of growth and change marks the onset of a new age for the Indian legal industry. The new breed of midsized and boutique law firms is now seeking professional assistance to increase revenues and control costs to enhance profits. These firms are recruiting teams of experts to manage business support functions or simply outsourcing these functions altogether, as well as weaving technology into processes and functions related to HR and knowledge management.

Moreover, Indian law firms are looking beyond national borders, taking part in major international deals and working out arrangements for sustained work through referral and best-friend arrangements with international law firms. Some firms are even opening offices outside India, leading to a need for enhanced brand image. In many respects, a whole new legal profession is now emerging in India.

Government-led reforms of the legal profession have also played a part in this flourishing process. The Ministry of Law and Justice has drafted a *Legal*

Practitioners Act that will establish a Legal Services Board to regulate the Indian law industry, structured along similar lines as the Legal Services Board in the UK.

In addition, the ministry has announced its intention to restructure legal training methods, to design and implement a world-class CLE system, and to help the industry become more professionally managed. “Liberalization” of the legal industry remains an official government commitment, with the authorization of LLPs in 2008 regarded as a tentative step in that direction.

OBSTACLES REMAIN

The future is not relentlessly bright, however — at least, not for the many Indian firms for which growth and expansion remain a dream. Many firms find growth stymied by challenges in managing their talent, creating and implementing business strategies, implementing proper KM processes, and instituting business support functions.

Not only that, but the prospect of liberalization is not universally welcome in the Indian profession. Many firms worry about the impact of liberalization on the industry, fearing that it may suffer the same fate as the country’s accounting firms. The Big Four have virtually annihilated inde-

pendent accountancy professionals in India, and there is a widespread belief that the same would happen to lawyers should the market open up.

Many law firms also remain cautious about setting up “best friend” alliances with foreign counterparts, believing that they could lead to the loss of referrals. International firms, for their part, have to consider the possibility of lost opportunities to build relationships with other local firms. The role of cultural differences and their impact on each party’s expectations of these relationships is also significant.

Many firms find growth stymied by challenges in managing their talent, creating and implementing business strategies, implementing proper KM processes, and instituting business support functions.

BUT PROSPECTS ARE STRONG

India's consumption-led economy continues to make the country a highly attractive investment destination in the short- to medium-term. Its domestic demand-driven growth model has helped and will continue to help the country weather volatility in the global markets, providing significant growth opportunities to local businesses.

India and other emerging economies in Asia will continue to be attractive destinations for law firms from North America and Europe; their success in this regard will have a major impact on the potential benefit and future viability of their internationalization strategies.

Beyond the myriad concerns and challenges, according to Dun & Bradstreet, lie opportunities and a promise of growth: India's economy is expected to grow to a staggering US\$5.6 trillion by 2020 at current market prices, up from US\$1.7 trillion in 2010–11.

This continued growth should help law firms to prosper, driving a more profitable industry. India and other emerging economies in Asia will continue to be attractive destinations for law firms from North

America and Europe; their success in this regard will have a major impact on the potential benefit and future viability of their internationalization strategies.

So what can we expect from the Indian legal industry in future? Look for:

- a clear distinction between the management and ownership of firms, with management responsible for firm operations and strategic business decisions;
- firms that are more process-driven and professionally managed, with active participation by non-lawyers in management and ownership;
- firms more focused on achieving real strategic growth, as opposed to the simple maintenance of clients;
- a cleaner judiciary, with the enactment of legislation like the *Judicial Accountability Bill 2010* and the proposed Lokpal Bill;
- large and midsized law firms “percolating” down to smaller centers to cater

to the demands of litigants there;

- better-trained lawyers, with vast improvements in Indian legal education and the arrival of more national and international law schools;
- a more litigious society, as rising literacy levels result in greater awareness of individual rights and a corresponding growth in lawsuits;
- “first-generation lawyers” on the rise, eventually bringing to an end the tradition of law as a family-run profession;
- increasing use of ADR techniques such as arbitration and mediation, as they receive unprecedented levels of recognition and acceptance in the corporate world; and
- the ongoing march of liberalization, with the eventual entry of foreign law firms creating more and better lawyer job opportunities and an increase in the quality of litigation. •



Incisive insights

Bithika Anand is the founder and CEO of Legal League Consulting (LLC), the first Indian management consulting firm to offer strategic and operational solutions to India's legal industry. With more than 23 years experience in the professional services domain, Bithika helps her law firm clients with strategic planning, branding, marketing and business development, human resource management, and numerous other aspects of law firm operations.

Email: bithika@edge-international.com

Call: +91 11 9810098394

Defusing the bomb:



Dealing with difficult partners

By Gerry Riskin

Almost every firm has experienced it: the powerful partner with the toxic personality whose behavior terrorizes the rest of the firm and damages both morale and productivity. Here is a step-by-step guide for law firm leaders to address the seemingly intractable problem of the monster partner.

Perhaps surprisingly, the vast majority of managing partners as well as the leaders of industry groups, practice groups and client groups, report concerns about working with at least one partner who is extremely difficult.

These leaders are not usually complaining about people who cause isolated incidents. They are talking about dysfunctional human beings who can be absolute terrors to work with. These people take ferocious independence to an extreme. They often occupy a corner office. They often bill a lot of money — which, by the way, is one of the reasons why they are allowed to stay. But they tend to be lone rangers.

Leaders say, “How am I supposed to lead a group that contains someone like [X]? They hoard work. They are not collaborative. Sometimes their interpersonal relationships within the firm demoralize others. They don’t mentor or supervise anyone, even though we wish they would. They don’t participate in the

internal skill programs. They are just very, very difficult.”

In some of the worst cases, these people actually sabotage the operation of the group. They quietly wait without expressing their views while decisions are made, and then they act completely inconsistently with those decisions. Their approach is “counter-group” or “counter-team.”

COMMUNICATING DIRECTLY

Some leaders report that the most effective course of action is to communicate directly with the difficult individual. The leader takes the time and finds the patience to speak privately with the difficult individual, asking whether they have concerns about any of the issues or situations that the group or firm may be dealing with.

Sometimes, the difficult person will have a lot of concerns indeed. For example, they may worry that by virtue of some of the decisions the group might take, they could lose some of their autonomy — their control over their own practice. “After all,” they may wonder, “if we are supposed to work collaboratively, then does that mean I can’t do things my own way anymore?”

There is absolutely nothing wrong with a leader who makes the effort to understand the concerns of an individual in the group, even if that individual happens to be difficult, or even obnoxious. Having listened to that person’s concerns, and understood them, the effective leader is now in a position to negotiate and offer some assurances.

The leader can say something like: “Well, you’re extremely well-regarded for the practice you have in [X] area, and the last thing the group wants to do is get in your way or hamper your style. Why don’t I undertake that I will do my best to ensure that the group does not take any unnecessary or gratuitous steps that might unduly interfere with the way you do things? And if something like that occurs, then by all means, let’s talk about it. Let’s see if we can work it out in a way that will be satisfactory to you and not limiting to the group.”

EXACTING A PROMISE

The leader has now listened to the individual, gained a little bit of that person’s trust, and presented the person with some assurances. Now the leader is in a position to ask for something in return. At this point, many good leaders will talk candidly with the difficult individual about what is expected of them when it comes to group activities, including meetings. The leader may ask, for example, that the individual pause and consider the effect

and force of their views when they express them in meetings.

The leader may couch his or her expectations in words like this: “You may not realize the persuasive power you have, simply because of your seniority or by virtue of the practice you’ve built. When you state a view or an opinion, it may have more force than if someone newer or more junior were to express the same opinion.

“Therefore, I want to ask that you be careful not to express negative views or concerns in a way that might take the wind out of the sails of some of our junior people.” If the person is senior, the leader might add, “Think back to

Many good leaders will talk candidly with the difficult individual about what is expected of them when it comes to group activities, including meetings. The leader may ask, for example, that the individual pause and consider the effect and force of their views when they express them in meetings.

when you were new. Think back to when a comment from a senior partner in the firm had a huge influence over you. Be guided by that, as you think about what you say in the meeting.”

In my experience, even powerful and difficult people will listen to that statement. Indeed, it will ring true for them. Some senior, powerful members of the firm simply don’t remember or focus on the fact that especially for brand-new people or junior people, what they say has tremendous weight and influence. They might not realize that their concern or negativity about an issue can have a tremendous dampening impact on the group. Reminding them of that might, in itself, be sufficient to moderate their behavior.

In some situations, it is fair to go even further and say, “In exchange for the assurances I’ve given you, I’d like to ask that you refrain, if possible, from expressing negative views about where we’re going as a group, because I think that may demoralize some of our junior people. I need their vigor, I need their best efforts, I need their peak performance, and candidly, I don’t want anything to happen at the meeting that is going to detract from that. Is that fair?”

Again, many leaders report that even the most difficult powerful and senior people can understand that kind of request, and will in many cases comply.

WORST-CASE SCENARIOS

You may feel that I am expressing some rather optimistic views here. You may be thinking, “You just don’t understand how difficult X is.” Indeed, there may be situations where the difficult people in your firm don’t even show up at meetings and there is nothing you can do to even get them there. There may also be sufficiently extreme situations when they do participate that you want to exclude them from future meetings.

I appreciate the seriousness of your dilemma here. In conducting group sessions, the absence of one of the most senior, powerful members of the group may seem rather negative. At the same time, it may be more productive to let the people who want to achieve something together get on with it, without that individual, than to have disruptive partners there for the sake of appearances. (Of course, if you do exclude someone, it is politic to tell them in advance, and to explain why you are doing it.)

Sometimes the behaviors you’re trying to deal with go beyond the normal conduct of mentally balanced people. In such cases — whether there is a mental illness or an addiction to alcohol or drugs, prescription or otherwise — more serious steps must be taken.

In these cases, you require an external resource to advise you. If the problem is moderate enough, and your partner receptive enough, this could begin with an undertaking by the partner to accept treatment from an appropriate professional. In some severe cases, the individual would be asked to take a leave of absence during at least the initial phase of that treatment.

And in some extreme cases, it may be necessary to confront the partner with an ultimatum: either they take a remedial course of action acceptable to the firm or they will be expelled from the firm.

THE COST OF EXCLUSION

I do not suggest you expel a partner without turning over every possible stone to get assistance and to bring the behavior into a functional norm. However, when that is not possible, you are doing an extreme disservice to yourself and the rest of the firm by allowing the behavior to go on. There is no more damaging factor in a firm than allowing the continuation of dysfunctional, harmful, demoralizing behavior.

Even at that, most firm leaders are horrified by what they anticipate will

be the huge cost of losing a big producer from the firm. I can report that anecdotally, the outcome is usually far, far better than was anticipated.

The reason is that members of the firm who were proximate to the expelled partner find a tremendous relief from that partner's absence, and they lift their game both in production and business development. I know of a case — hard to believe, but true — where an individual who produced approximately \$10 million in fees annually left a firm and the group actually replaced his billings within one year.

Dealing with difficult partners is not appetizing at all, which is why most leaders prefer to avoid confronting it altogether. But if you care about the future of your firm and the people within it, then you have an obligation to confront this issue. If you would like to discuss on a confidential basis the nature of outside assistance you might consider, from mediation to health professionals, please do not hesitate to contact me. •



Your preferred future

Gerry Riskin is founding partner of Edge International. He specializes in helping law firms around the world create and execute their strategic plans. This article was based on a chapter of Gerry's book, *The Successful Lawyer*, published by the ABA and available at Amazon.com.

Email: riskin@edge-international.com

Call: 202.957.6717

EDGE Roundtable

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

“What single issue is keeping your clients up at night right now?”

Here are some of our responses.



“Dealing with the uncertainty and related challenges caused by the fast pace of change in the legal environment: new pressures from clients and new competitors, coupled with the ramifications of uncertainty around international business markets, mainly in Europe. The change is coming in the form of law firm clients seriously starting to call some shots, new entrants such as outsourced suppliers and multidisciplinary practices (depending on the jurisdiction), pricing and business model reconfiguration, and the need to at least consider the possibility of some form of merger, alliance or similar arrangements. All this against the backdrop of rampant poaching and movement of partners and senior lawyers. Never has it been more important for law firms to ensure their strategies are robust and have been properly stress-tested.”

– Sean Larkan, Australia



“One area of worry which constantly seems to me to keep managing partners awake is the linked challenges of their own career plan and the firm’s succession planning for the next generation of leadership of the organization. These issues are often further linked to the managing partner’s own feelings of insecurity and, at times, their loneliness. Most managing partners can discuss some of their issues some of the time with some of their colleagues, but there is hardly ever any single person within the firm with whom they can freely talk about all such problems. The answer can be to identify an external mentor who can act as a sounding board.”

– Nick Jarrett-Kerr, UK



“For senior lawyers well along in their careers, personal career management concerns are causing sleepless nights. For lawyers whose self-image and personal identity have always been linked to their professional role and achievements, ‘What will I do next with my life and career?’ is suddenly a pressing and often unfathomable question. Even great lawyers are finding that they are rank

amateurs at career management, planning second or 'encore' careers, or figuring out how to relinquish the reins of power. The recent recession has made many senior lawyers even more reluctant to move into uncharted territory, even as successor generations press for center-stage, top billing, and a bigger piece of the pie."

– Doug Richardson, US

"Right now, my UK clients are trying to keep ahead of the fast-moving developments in the wake of the *Legal Services Act*. With a much higher number of Alternative Business Structure applications than most people had predicted and a rash of high-profile acquisitions of and investment in law firms announced, nobody is quite sure what to expect next and how it will impact their business. Beyond the LSA, mid-tier firms are anxious about consolidating competitors, new entrants and online services emerging to pitch to their clients. Many of the larger firms are struggling to identify the right pace and model for the international expansion they feel is so essential."

– Chris Bull, UK

"Many managing partners worry about balancing their firm's drive for high profits-per-partner with the costs of the escalating pace of the innovation. New approaches and technologies are expensive, but they are crucial for addressing evolving client needs. Still, it's a quadruple bind: addressing cost-cutting imperatives, keeping pace with competitors' innovations, keeping clients happy and still keeping partners satisfied and motivated. Although they understand that failure to invest now will cost their firm dearly 18 to 24 months down the road, many say their partners cut them off at the knees even as the managing partner reaches for the stars."

– Pam Woldow, US

"For my clients who are directors of talent, lateral partner integration is challenging. We know that lateral partners are vulnerable to poaching in a couple of years. We need to make them 'sticky' by investing more time in cross-practice business development and broadening their client work for others in the firm. On the cultural side of integration, new partners have to experience our way of mentoring, managing work and playing well in teams. Until our lawyers get invested, pass the Ambien."

– David Cruickshank, US

"Lawyers' clients sense the shift of power in their favor and the resulting downward pressure on fees. Many lawyers are petrified about how to respond, fearing that they are between a rock and a hard place: lose the client, or lower revenues to the point where they do not allow for a reasonable return to the firm. The good news is that lawyers can be trained to face fee pressures, enhance the client's appreciation of the value of legal services, and even gain share of wallet or market share in the process."

– Gerry Riskin, Anguilla





STRATEGY

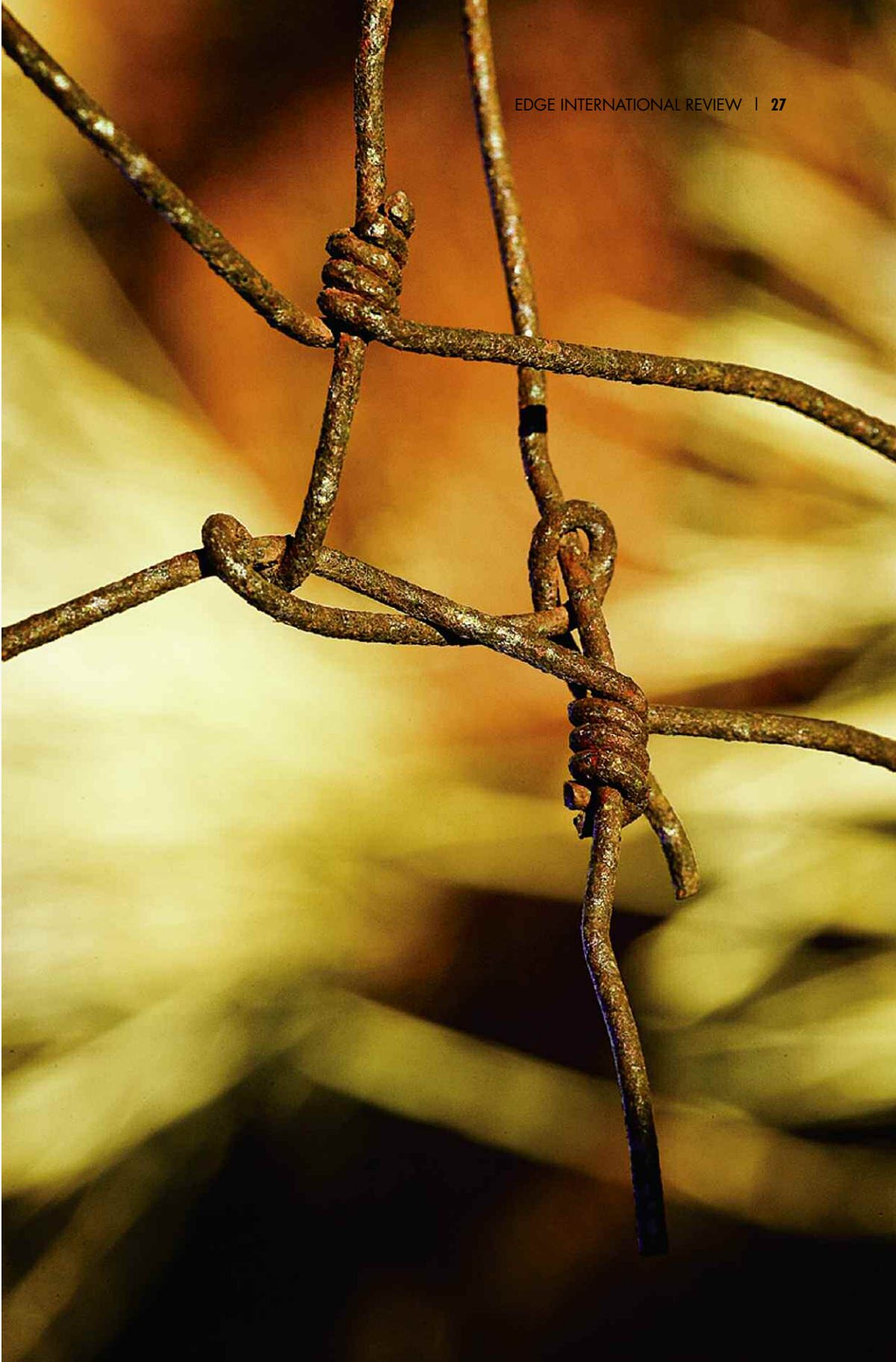
LAW FIRM

Stress-testing your strategy: A road map to strategic implementation

Many law firms seem content to let sleeping strategies lie: once drawn up, the strategies are rarely reviewed, reconsidered or properly implemented. To ensure your firm gets full value from its strategy, follow these steps to create a stress-testing system that will put your strategy through its paces and bring rigor and impact to its recommendations.

By Sean Larkan

Why would you ever want to challenge your firm's vision and strategy? After all the time, thought and effort that went into putting it together, getting everyone to agree to it, and finally, achieving sign-off — to run the risk of re-opening that can of worms seems counter-intuitive, to say the least.



If things have been going well for your firm, particularly in relation to earnings, it may seem even odder to test your strategy. It's easy and tempting to use the immediate past as a basis for future expectations and complacently assume that your past success will carry on. Some partners will certainly question why a new strategy might be necessary, seeing as how "the

How to get there

Here are some sample steps in the strategy process, along with a series of questions you can ask, stress-testers you can employ, and other things you can do to bring your strategy process alive and get results.

1. START WITH THE POSITIONING STAGE

- a. Review any existing or recent past strategy. Is it still relevant? Was it implemented? Were results achieved, and if so, did it make a massive difference? Should it be updated, revised or replaced?
- b. Review external market forces. This requires research that is not often done, such as reviewing client surveys and feedback.
- c. Carry out sufficient research. Most firms fall down here, notwithstanding that a wealth of useful information is searchable and available online.
- d. Review internal data. Examples include staff engagement surveys, industry benchmark results, financial performance trends, culture audits or diagnostics.

2. CONFIRM VISION, VALUES, AND GUIDING PRINCIPLES

- a. Be clear about where you want to go and what you want to be.
- b. Make sure your values are valid, existing values — not simply a list of aspirational wished-for behaviors.
- c. How do your core values prioritize or rank your people, clients and partners? This will provide some interesting insights into your culture.
- d. Consider simplifying matters at this stage by converting values, cultural attributes and mission into one set of guiding principles, stipulating that they will guide both internal and external matters.
- e. What are the few critical key performance indicators that you are tracking and to which you are holding everyone accountable?

3. IDENTIFY A LIMITED NUMBER OF TRULY STRATEGIC KEY OBJECTIVES

- a. Only a very few objectives are truly strategic and therefore require commitment to long-term, hard-to-reverse investment.
- b. Ask of each objective: "Will achieving this key objective make a huge

current one is obviously working — that job is done. Let's get on with our real work."

However, formulating a strategy and signing off on it is just the start. The real work falls outside these categories, mainly in relation to making sure the strategy is the "right" one, achieving buy-in and commitment from key peo-

difference to our organization?"

- c. Review these objectives among senior managers, relevant partner groups and your board or management committee.
- d. Have you now decided what you will not do or will stop doing?
- e. In determining these strategic key objectives, are you being realistic?

4. DEVELOP STRATEGIES FOR EACH KEY OBJECTIVE

- a. Get senior partner and relevant partner input: involve the people who will be implementing.
- b. Test the strategy against the questions listed in the Checklist on the next page.
- c. Will the desired outcome truly differentiate the firm, or is it really just more of the same and what everyone else is doing anyway?
- d. Do the numbers (the data) make sense? Do you have the commitment and resources to undertake the strategies, or are they simply wishful thinking?

5. DO A RISK REVIEW

- a. Before final sign-off, identify the key risks that may prevent your strategy from being implemented.
- b. Identify the likelihood of their occurrence

and how they might be mitigated or countered.

- c. Sum this up in a short one- or two-page report.
- d. Ask yourself: Are there things keeping you awake at night that aren't in this report?

6. IMPLEMENT

- a. Complete an implementation action plan allocating responsibility and accountability, with due dates for reporting and/or completion for all key items.
- b. Provide progress reports on implementation, without overdoing it: keep it short and punchy, hitting the high notes.
- c. Monitor commitment levels and make necessary changes around personnel.
- d. Don't make major decisions without measuring them against the vision and strategy.
- e. Carry out a regular six-month review: reasonably formal, requiring reporting to the board, senior management and partners.
- f. Carry out a regular 12-month review, the real test of implementation: most clients get more out of these reviews than they did out of the original strategy formulation.

ple, ensuring implementation, and getting real results.

Partners intuitively don't like strategy formulation; nor do they trust it will be implemented or achieve results. They feel it reflects educated guesses, is based on questionable data relating to an uncertain future, and is up against the whole history of past failed attempts to implement strategy or get desired results. You need to work hard to break this chain of thought and turn strategy into a rewarding exercise that involves everyone and gets results.

"Agreeing on a strategy" means nothing on its own. It's all about how good your strategy is and whether you get results when you implement it. Strategy is about achieving a competitive position, ideally a dominant one. To ensure

A stress-test checklist

Challenge the foundational elements of your strategy.

1. What categories of clients will we focus on? Who are our few true priority clients?
2. What industry sectors will we concentrate on? Which are our true priority industry sectors?
3. Which geographic areas will we concentrate on?
4. What professional services (practice areas) will we offer? Which are priorities? Have we reviewed them?
5. How will we deliver service to our clients (in a unique and differentiated way)?
6. What values, cultural attributes or guiding principles will underpin the achievement of this strategy?
7. What resources are we prepared to allocate to implement this strategy (e.g., money, time, people)?
8. Do we have a strong people strategy to support this plan? Are people generally committed to helping one another succeed? Are we ensuring they take an interest in others' professional and personal well-being?
9. What is our brand strategy and level of understanding around brand to support this strategy?
10. Is there alignment among firm, people and brand strategy, or do we have a strategy gap?
11. As a firm, have we decided what we absolutely will not do or will stop doing? Few firms do this, but it is as important as deciding what you will do.

your strategy is up to scratch and will get these results, you need to challenge it — to stress-test it.

CHALLENGE YOUR STRATEGY

Test and challenge your strategy at various stages of its creation and implementation, *e.g.*, during a positioning review, during formulation, prior to finalization, regularly during the implementation phase, and finally during semi-formal and formal reviews. When you do this, strategy quickly changes from an annual “necessary evil” to an essential, dynamic process that proves to be key to your business success. And when you come to review it in six and 12 months’ time, you will already know what, if anything, needs tweaking.

One cautionary note: it’s one thing to stress-test your strategy at different stages; it’s entirely another to turn your strategy into an ongoing work in progress that nobody agrees has ever been approved and therefore is not

Stress-testing your strategy is not a complicated exercise, but it does require dedication, leadership, and an appreciation of its importance. In large measure, it involves asking and answering some simple but demanding questions.

binding on anyone. This weakens the resolve and discipline around the plan, and it’s just as bad as not implementing your agreed-upon strategy or not stress-testing it.

Stress tests, of course, are there to do just that: test. If the strategy has received sign-off but a test shows a weakness or the need for a rethink, note it down for attention and possible adjustment at the requisite upcoming formal review. As with many things in the dynamic, fast-paced world in which we all operate, you must find a balance between maintaining dynamism and flexibility on the one hand, and creating certainty and achieving dedicated buy-in and commitment to implement on the other.

Stress-testing your strategy is not a complicated exercise, but it does require dedication, leadership, and an appreciation of its importance. In large

measure, it involves asking and answering some simple but demanding questions. For instance, in the early stages of strategy formulation, when you are working through the draft strategy, be sure you have all the fundamentals covered; it's surprising how often one sees a strategic document missing some if not many of these.

OTHER RECOMMENDATIONS

GET ALL KEY PERSONNEL INVOLVED

Before your strategy is signed off, ensure every key person (including partners and support services managers) has had a proper chance to study it and provide input. When they do provide such input, make it clear that their concerns have been heard and considered. This is the only way to ensure proper buy-in and support during implementation.

CONDUCT ON-THE-GO TESTING

Approved strategies can nonetheless quickly find themselves gathering dust — an excellent time and reason for stress-testing. Every time an important decision (*e.g.*, a key hiring, a new office, a brand or total website revamp, a new practice area) is considered, test them against the vision, strategy and guiding principles you have determined. If something does not make sense, you can do something about it right away or make a careful note to critique the strategy during the next review.

ENSURE REGULAR REPORT-BACKS ON IMPLEMENTATION

Effectively test your strategy during implementation with report-backs: failure to do so will cause a rapid loss of interest in the process. This can be a challenge: nothing switches partners off quicker than long, tedious “chapter and verse” reviews and updates. Touch only on the important points. Keep it fresh.

CONDUCT FORMAL REVIEWS

Chances are that if you undertake all these steps, you will know precisely where the issues lie, what needs re-considering, and what has become defunct, by the time you come to do the more formal strategy reviews. In my experience, firms that follow this path find they get more value out of the strategy reviews than they ever did out of the original strategy development.

How to make this happen? I recommend you start by taking out your own firm's vision and strategy and re-reading it. Draw up your own list of elements that are unclear or should be tested. Use some of the pointers in this article as a starting point to develop your own questions that are relevant for your firm.

If you are not already doing this, you could find this simple step to be an invaluable exercise. It will also ensure that you are richly contributing to strategy formulation and implementation, getting the results your firm is really seeking. •



Strategy never sleeps

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

Email: sean@edge-international.com

Call: +61 2 40 8844 208 or Skype "seanlark"



STRATEGY

LAW FIRM

Business planning for practice groups and individuals

Surveys and studies show a link between planning and performance: even brief, informal and straightforward business plans help firms perform at a higher level than those that make no plans. To reap the full benefit that business plans can deliver, follow these guidelines for the preparation and implementation of law firm, practice group, and individual business plans.

By Nick Jarrett-Kerr

A solid business plan can help the law firm, its practice groups and its individuals create an operational road map that reflects the direction that has been set, the possible effect and context of the future expected world, the available resources, and measurable expectations in terms of results and non-financial performance.

Understanding these aspects will help the partners and management team make better decisions and keep the ongoing discussion of the firm's operation alive as events unfold. In this context, there is a distinction between the longer term, higher-level Strategic Plan and the shorter-term, action-oriented and highly measurable Business Plan.



The success of any strategy is determined by the effectiveness of its implementation. If the firm has made the right choices from among its strategic options, then successful implementation will involve a careful coordination and harnessing of the firm's resources and capabilities. It will require a determined focus on the competitive environment. What is more, the firm's aspirations and strategic direction need to be resolved into some consistent, straightforward, long-term goals.

This, then, is where business planning comes to the fore.

THE BUSINESS PLAN

For many firms, the process towards a Business Plan can be a rather informal one; nonetheless, it is often advisable to follow an organized and structured business planning process. Not only can a little organized planning be a fascinating learning experience for those involved, but it can also achieve:

- a framework in which longer-term or cross-departmental issues can be discussed;

- an articulation of the core strengths of the group and the areas where the group can remain or become competitive;

- an identification of the realistic choices that are open to the group;
- an operational route map that crystallizes a prioritized list of actions, a budget and measurable steps towards implementation;
- a shared view of what matters, which can motivate group members and give them a sense of belonging;
- a dynamic tool of management as greater knowledge is acquired of the performance of the firm in the market, feeding back to strategic choices; and
- a useful tool for communicating both internally and to the outside world.

Key Indicators

Critical Success Factors <i>The Major Strategic Goals</i>	<ul style="list-style-type: none">• Increases in Size and Profile• Growth in Reputation• Profitability Goals• Development of Capabilities	CSFs need to be: <ul style="list-style-type: none">• Aligned to strategy• Focused and measurable
Lagging Indicators <i>To record the past</i>	<ul style="list-style-type: none">• Debtors and receivables• Monthly management accounts• Measuring wastage	To make Indicators work well, you need: <ul style="list-style-type: none">• Real Time Accounting Systems• Good Financial Disciplines• Active Management
Leading Indicators <i>To predict the future</i>	<ul style="list-style-type: none">• Levels of utilization, generally and by grade• Client pipelines, wins and files opened• Client acceptance procedures• Client feedback• Staff feedback	

MEASUREMENT IS CRITICAL

The chart above illustrates the three main measures in businesses today. Critical Success Factors (CSFs) form an important feature that links all the elements of a Business Plan and highlights those things at which the firm must excel in order to achieve its strategy and delight clients. CSFs are also the milestones by which the group can judge in due course not only whether it has been successful, but also what are the measurable outcomes or group of outcomes, the absence of which will jeopardize success.

The Critical Success Factors lead into measurable objectives for the firm and the practice groups. The firm therefore needs to identify which measures

it will monitor, to judge whether a practice group is achieving its critical success factors. These measures can focus on *past results* or *current and future performance*.

A results indicator measures how the firm or group has done in one perspective, *e.g.*, increases in fees billed, revenue per lawyer, new clients won. It is the result of many actions across the firm and is a lagging indicator. A performance indicator, on the other hand, is predictive and focuses on what has to be done. Hence, performance indicators are helpful in driving future activity.

Team and individual financial targets, for example, focus on what needs to be done to meet acceptable performance standards. Client and business pipelines help to indicate the level of future business, while levels of utilization show how busy the firm is, which in turn might lead to improved financial performance further down the track. Performance indicators are therefore more helpful if they are measured frequently and tied to both individuals and teams.

The Business Plan for the firm should reflect the overall strategic intent, strategic objectives, Critical Success Factors, and framework for moving the firm forward.

WRITING THE BUSINESS PLAN

Depending on the size of the firm, it is useful to create Business Plans on three levels, as illustrated on page 38.

1. The Firm

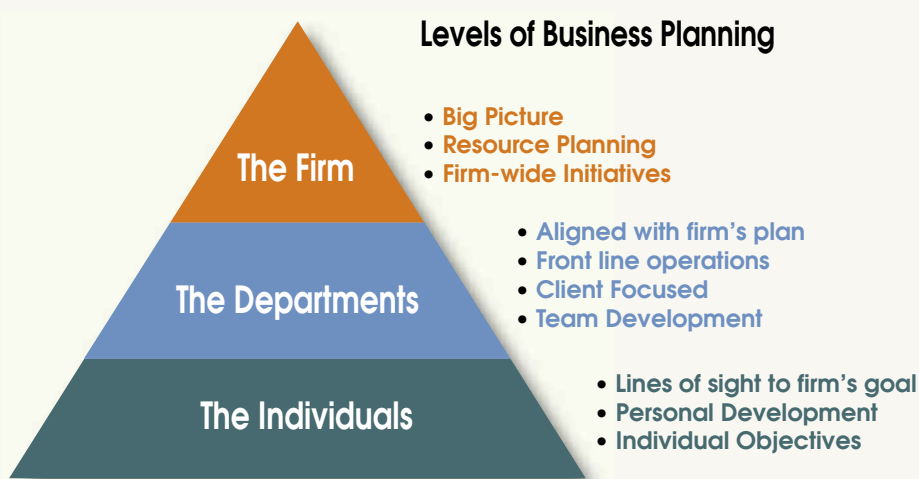
The Business Plan for the firm should reflect the overall strategic intent, strategic objectives, Critical Success Factors, and framework for moving the firm forward.

2. Each Practice Group or Business Unit

Except in the smallest of firms, each practice group should have its own business plan, which should follow the format of the firm's overall Business Plan.

3. Individual Partners

Many firms find it is easier to build practice group business plans from the plans of the individual partners within it. In addition, requiring individual partners to write their own personal business plans helps to foster ambition and a culture of high expectation.



HOW TO APPROACH BUSINESS PLANS

The first place to start in the business planning process is for offices, departments, business units and practice groups to understand how they fit into the firm's strategic intent (its agreed identity, purpose and vision), its overall strategic goals, and the firm's agreed Critical Success Factors.

One of the main purposes of a practice group's business plan is to align and harness the group's resources and capabilities — its intangible assets of intellectual capital — towards the group's strategic and financial goals. The ingredients of a successful business plan are formed by the perspectives of intellectual capital and the balanced scorecard (as shown on page 35):

- the group's economic capital (the financial perspective),
- the group's institutional and structural capital (the operational perspective),
- the group's human capital (the people perspective) and
- the group's relational capital (the client perspective).

Many business plans make the mistake of concentrating on just one of those perspectives (the financial perspective), whereupon the business plan becomes little more than a budget and a set of revenue targets.

PUTTING IT ALL TOGETHER

These ingredients need to be mixed together to form a coherent and logical plan. At least ten areas need to be covered in any business plan:

1. A realistic and honest assessment of the group's current state, in terms of services, capabilities, experience, and reputation.
2. Agreement on the group's actual and aspirational marketplace and client base: geography, client types, industry sectors and value segments, as well as the firm's market positioning.
3. Goals that are aligned to the right business recipe for the group, whether as volume providers, no-frills services, or mid-tier or high-value specialists.
4. A clear grasp of the group's economic model: what drives the group's economics in terms of rates, utilization, leverage and margin, and how this economic model can best be exploited.
5. The imperatives for growth of the group (team size and specialties, bench strength, revenue and profitability growth) and how they need to be expressed in terms of realistic and measurable objectives.
6. Objectives that are aligned to give the best chances of future success: marketing, branding and general business development goals, efficiency and business process improvement goals, and objectives for skills-building.
7. Client development targets, relating to both the development of existing clients and the attainment of new clients.
8. Staffing goals to attain the right alignment and mix of lawyer grades, the development of the group's capabilities, and tactics to deal with recruitment, retention, staff satisfaction and training.
9. Sensible but stretching financial budgets.
10. Identification of risk areas and factors and plans to mitigate or contain such risks.

PARTNER AND ASSOCIATE BUSINESS PLANS

Law firm strategies are often highly conceptual. However, if all partners are to carry out daily and weekly work to support and contribute to the firm's overall needs and objectives, then they need to know exactly what actions they must perform in order to be perceived as dynamic performers and in order to achieve all that is expected of them and more.

Plans identify where partners need assistance and support to enable them to achieve their goals, and they help partners to concentrate on areas where development is needed. Consideration of personal development needs highlights resources that will help.

Many professionals have found that their objectives can often be more personal, pragmatic and measurable if included in a career plan that they have taken time to consider and write.

There are three compelling reasons in favour of encouraging partners to complete a personal business plan or personal contribution plan.

1. Written goals improve performance

The existence of written goals and objectives has been shown to improve performance: one study demonstrated, for example, that those who send written goals, commitments and weekly progress reports

to friends accomplish significantly more than those who do not. While they can arise from appraisal discussions, rather than from a written plan, many professionals have found that their objectives can often be more personal, pragmatic and measurable if included in a career plan that they have taken time to consider and write.

2. Goals link with the firm's strategy

By requiring partners to think about how they are going to contribute to the success of the firm, it is possible to link their personal contributions and goals to the overall strategy and goals of their practice group and the firm. Great care must be taken, however, to ensure that the lawyer's personal plan complements the plans of other partners in the same practice group and fits generally with the plans of the firm as a whole.

3. Goals help drive measurable outcomes

A well-written plan should include some measurable objectives across all critical areas of performance that meet the SMARTER criteria (Specific, Measurable, Agreed, Aspirational and Advantageous, Realistic, Time-Scaled, and Evidence-Based). Writing a plan should help partners reflect on their past accomplishments and successes and how to build on them in the short and long term. Once SMARTER objectives are drafted and agreed upon, it then becomes somewhat easier to gauge success.

Lawyers are good at both concepts and drafting, but they sometimes lurch from high-level ideals to drafting without much thought in between. Business planning requires careful assessment and analysis together with an honest and pragmatic appraisal of potential and risk. The business plan must convert high-level ideals into measurable action, transforming glib and lofty phrases into an operational road map that can be monitored, measured and managed. •



Positioning to compete

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

Email: nick@edge-international.com

Call: +44 1275 331519 (Main) or +44 7768921166 (Mobile)



STRATEGY

LAW FIRM

Aligning capability and practice:

Are your lawyers punching below their weight?

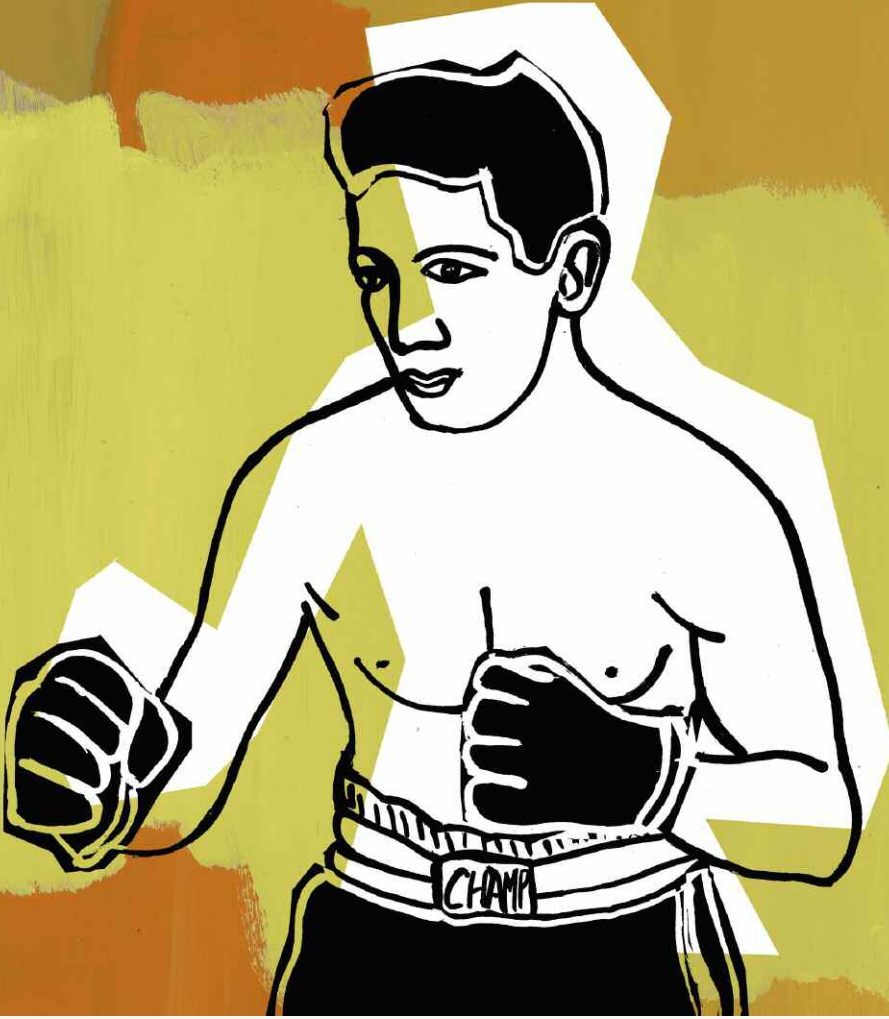
The twin recessions of the past decade have left many large law firms seriously misaligned in the quality of the work performed by their lawyers. Some firms' lawyers are in over their heads, but many others are wading around in the shallow end. Edge International has developed a Capability Alignment tool that can help firms better match the right work to the right attorney.

By Ed Wesemann

An increasing number of law firm leaders find themselves functioning as full-time managers. Unfortunately, in doing so, they may be getting themselves too far from the action to recognize changes in the capabilities their clients are expecting from their lawyers.

Worse, managing partners may have lost an accurate assessment of their own partners' actual capabilities. At one extreme, this could lead to substantial underpricing of services. At the other, the firm may not be able to deliver the quality of legal work it is promising clients.

The rapid growth of many firms has made it harder for leaders to keep track of the services their firms are providing. Even managing partners who are dealing with firm issues full-time can be so absorbed by partner personnel matters, merger talks, recruiting activities and compensation issues that they don't have the time to completely understand the nuances of their firm's diverse practices and the actual experience and skill levels of their lawyers.



For this, managing partners find they must depend on their practice group leaders. However, particularly in large multi-office firms, the group chairs have the demands of their own legal practices, along with keeping track of their group's billings, write-downs, receivables, lateral recruiting, and marketing budgets, not to mention attempts at coaching underproductive partners. And even if a practice group leader appreciates changes in the alignment of clients' needs and the capabilities of the group, ego and reputation issues sometimes get in the way of doing anything about it.

Over the past decade, we've seen two recessions — the technology bust of 2001 and the mortgage bust of 2008. The impact of these economic downturns on law firms may have caused some lawyers' capabilities to fall out of alignment with the level of sophistication their workload demands — in

some cases because they are under-qualified, but frequently, because they are overqualified for the matters they are handling.

Large and midsized law firms have felt three primary impacts that are attributable, at least in part, to these recessions.

In the AmLaw 200, 84% of law firms have non-equity partners; in the average AmLaw 200 firm, these individuals make up 44% of the partnership. Compare this to 2000, when 70% of these firms had non-equity partners and they made up 25% of the average firm's partnership.

1. GROWTH OF THE LITIGATION REVENUE STREAM

Traditionally, in most large law firms, the majority of lawyers were devoted to the transactional side of the practice. Often, firms were 60% business and 40% litigation, or at least 50/50. The immediate impact of a recession is typically on law firms' transactional practices. Because litigation matters

usually involve a longer time horizon than transactional deals, law firm layoffs are typically among corporate and real estate associates. So over time, firms became more litigation-oriented, frequently 60% or more. But as the recessions caught up with the litigation practices, firms struggled to fill partners' plates. Many increased their tort practices and became more liberal in the acceptance of plaintiff contingent-fee matters. Work-hungry lawyers took files off associates' desks; associates, pressured to reach billable-hour goals, started doing work that previously might have been handled by paralegals.

2. THE SEGMENTATION OF THE TRANSACTIONAL PRACTICE

Securities offerings and M&A transactions that were traditionally handled by local law firms have increasingly moved to capital market cities, primarily

Tips on Measuring Alignment

1. There is a halo effect on both the capability of lawyers and the sophistication of matters. Using an outside party to perform the interviews improves accuracy.
2. The process can be a valuable addition to associate evaluations and partner compensation determinations.
3. Lawyers will invariably want to see how others rate their capability. Lawyers are surprisingly modest and the rating of their partners is usually higher than how they would have rated themselves.

New York. This has been driven partly by venture capital firms demanding the use of selected Wall Street law firms, and partly by major corporate firms looking for mid-market transactions to replace the work going to London in response to concerns about Sarbanes-Oxley. As a result, the corporate work available to local and regional firms has become less sophisticated, involving more governance issues and smaller transactions.

3. THE RISE OF THE NON-EQUITY PARTNER CLASSIFICATION

In the AmLaw 200, 84% of law firms have non-equity partners; in the average AmLaw 200 firm, these individuals make up 44% of the partnership. Compare this to 2000 ,when 70% of these firms had non-equity partners and they made up 25% of the average firm’s partnership. This trend has increased the proportion of partner-level lawyers who are looking for sophisticated work capable of supporting a partner billing rate. At the same time, it limited the training opportunities available to senior associates.

What brought all this to our attention was our practice of performing interviews in connection with strategic planning or merger projects. When we

Figure 1

Matter Sophistication Scale

Rating	Level of Complexity	Typical Buyer	Price Sensitivity	Skill Level Required
10	Bet the company	Board of Directors	High premium expected	Highest possible capability
9				
8	Important matter	General Counsel	Full rates plus	Among the most well-respected
7				
6	Normal matter	Assistant General Counsel	Negotiated standard rates	Journeyman Partner
5				
4	Routine	Procurement Director/Operating Manager	Heavily discounted rates	Senior to mid-level associate
3				
2	Cut rate	Claims Adjuster	Selection based only on price	Newly admitted/Senior Paralegal
1				

Figure 2

Fee Earner Capability Rating

1. Capable of performing routine paraprofessional work of an advanced clerical nature with normal supervision.
2. Capable of performing routine paraprofessional work with minimum supervision or advanced paraprofessional work with normal supervision.
3. Capable of performing high level paraprofessional work with minimum supervision or low-level legal work with significant supervision.
4. Able to work independently on routine, low-level legal work; extremely senior paralegal or minimum lawyer capability.
5. Average legal capability for a second-chair support lawyer.
6. Above-average capability for a second-chair support lawyer or minimum capability for a first-chair lawyer.
7. Average capability for a first-chair lawyer.
8. Above-average capability; "well thought of."
9. Particularly recognized for expertise and reputation as an outstanding lawyer.
10. One of just a handful of lawyers in the market capable of providing specific legal services at the highest level.

When we speak to firm leaders, we typically hear one story about the kind of work the firm does and the sophistication level of the firm's lawyers. But when we talk to the lawyers, we often hear quite a different story.

We decided to create a means of measuring the perceived sophistication level of a firm's lawyers in comparison to the sophistication required for the work the firm finds itself doing. The scale is completely subjective, but when the measurement is performed by speaking to several knowledgeable parties about a lawyer or a matter, it is surprisingly accurate. The result presents quite a clear picture of a firm's practice and capability.

ANALYZING CAPABILITY ALIGNMENT

We typically start by asking the firm's Chief Financial Officer for some basic data. The first is a report showing all matters completed over the past year. The second is a list of all matters on which each lawyer billed time during the

past year, their hours billed to those matters, and their effective hourly rate. Next, we create a scale similar to the example shown in Figure 1. Typically, the table is customized to the specific practice area.

We then ask the practice group chair and the billing partners to rate the sophistication of each of the matters on the sophistication scale. If the ratings differ significantly, we ask other partners familiar with the matters and attempt to derive a median.

Then we ask each partner in the practice group to rate the capability of all lawyers in the group other than themselves, using the scale shown in Figure 2. Sometimes we will create unique definitions for lawyer capability for a practice group, but then follow the general guidelines shown in Figure 2.

By comparing the sophistication of projects on which lawyers have worked to their capability, a firm can draw an amazingly accurate estimate of the alignment of their capability and practice. It is also an excellent tool for setting billing rates and evaluating the profitability of alternative fee matters. •



Global strategic expertise

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

Email: ed.wesemann@edge-international.com


Call: 877.922.2040



BREAKING OUT

New applications and horizons for legal project management

By Pamela H. Woldow



As the LPM wave continues to rise upward through the legal profession, a small group of visionary firms have realized that LPM is far more than simply a mere pricing or matter management tool. From business awareness and client integration to a groundbreaking China-Australia merger, find out how LPM is growing in new directions and dimensions every day.

Primarily as a consequence of the global financial crisis, growing numbers of general counsel and chief legal officers have been pressing their outside counsel, delivering a single, powerful message:

*“Listen up!
You simply must do a better job
of understanding our businesses
and responding to our financial pressures!”*

Recently, we have seen a surge in “convergence programs” that reduce the number of outside law firms providing services to the client. RFPs have developed a more aggressive tone: rather than asking firms what they would charge for certain services, clients instead are setting limits on what they are

willing to pay. Most clients are asking for rate discounts, with many pushing for fixed-fee or flat-fee arrangements that must be managed efficiently to preserve law firm profitability.

The process of scoping engagements and negotiating fees has become tougher and more sophisticated. Clients that once accepted “wet finger estimates” now engage in protracted haggling over project parameters, staffing, timeframes, risks, and particularly budgets. In many cases, the client is bringing the procurement department into the outside counsel selection process,

This confluence of forces has fueled a huge boom in legal project management (LPM), a viral trend that has now moved well beyond early first-adopter law firms, burgeoning into a galloping global movement.



pencils sharpened. These are jarring times for firms accustomed to a financial free rein.

While they exert more pressure on pricing, however, clients also are pushing for other changes in legal service delivery, including:

- More efficiency;
- Greater predictability of legal spend;
- Better performance metrics, particularly that all-important actual-to-budget figure; and
- Improved communication and collaboration with the client at all stages of legal projects.

At this point, law firms ought to have received the message loud and clear: *Be more attuned and responsive to our needs, or we'll take our business elsewhere.*

A GROWING STANDARD

This confluence of forces has fueled a huge boom in legal project management (LPM), a viral trend that has now moved well beyond early first-adopter law firms, burgeoning into a galloping global movement. Law firms, obviously, are not thrilled about abandoning the status quo of charging clients what they want and raising rates at will; nonetheless, law firm leaders are biting the bullet, promising clients they will implement LPM initiatives to

bring greater discipline to their work.

The challenge, of course, is how to deliver on promises of greater efficiency while somehow maintaining acceptable levels of profitability. The traditional drivers of law firm profit — inefficient staffing, hourly-bill maximizing, and new-lawyer training on the client's dime — no longer fly with cost-conscious clients.

LPM is emerging as a solution to address this tension between law firm profitability and efficient client service. Today, as LPM enjoys a healthy adolescence, many law firm leaders are driving firm efforts to develop sophisticated LPM toolboxes to rationalize and streamline legal service delivery, to adopt efficient processes, procedures and technologies, and to train their troops.

MORE THAN JUST PRICING

However, even though law firm leadership has embraced LPM, a vast number of rank-and-file partners, practice group leaders and client team leaders have not gotten religion. To the extent they buy into LPM, it is solely to bring more rigor to scoping, pricing and budgeting legal engagements. The GC of a global financial services institution that works with hundreds of firms puts it succinctly: “As far as we can tell, the only thing firms are using LPM for is pricing.”

For these lawyers, the focus of LPM begins and ends with pricing; there

The GC of a global financial services institution that works with hundreds of firms puts it succinctly: “As far as we can tell, the only thing firms are using LPM for is pricing.”

is far less interest in collaborating with their clients to assess and address their needs. These lawyers' strongest incentive is short-term single-matter profitability, rather than long-term win-win law firm-client relationships. The rest of the LPM toolbox often goes largely ignored.

This is a massive, ongoing, lost opportunity for law firms. Client satisfaction surveys consistently sound the same note: clients' loudest gripes center on poor law firm-client communication, law firm unresponsiveness, and, above all, law firms' failure to understand clients' businesses.

Clients want lawyers to do more than address their legal needs; they want them fully attuned to their long-term business strategies, bringing a client-centric industry focus to analyze their competitive environment, pressures and priorities. A 2011 CLO survey once again highlighted what chief legal officers have been saying for years: “By far the most effective way for law firms to market to us is to understand our business.”

CLIENT GAME-CHANGERS

Clients were constantly telling us at Edge how important it was for outside counsel to fully understand their businesses, priorities and challenges. Accordingly, in 2010, we began recommending the inclusion of a client representative in law firm LPM training workshops.

Almost uniformly, law firms resisted this idea. They worried that joint training would reveal their LPM efforts to be relatively immature works-in-progress. But the clients we surveyed dismissed this concern: they under-

Clients understand that LPM is still in its formative stage and did not expect fully-realized LPM processes and tools. They simply wanted to play a part in developing and implementing LPM best practices within their outside firms.

stand that LPM is still in its formative stage and did not expect fully-realized LPM processes and tools. They simply wanted to play a part in developing and implementing LPM best practices within their outside firms.

Pilot client-law firm workshops were real eye-openers. By embedding a client representative in LPM training, remarkable changes occurred in the behaviors and attitudes of law firm lawyers. Not only did the presence of client participants keep law firm participants on their toes, it also resulted in the collaborative creation of real-life “best practices” that broke down traditional communication and collaboration barriers between the client service team and the client.

THE AUSTRALIAN EXPERIENCE

For a perfect example of the power of client integration into the LPM process, we need to go to Australia. In 2011, one of Australia’s premier law

Mallesons asked four major clients if they might like to send a representative or two to participate in Mallesons' client-team LPM training sessions. They were floored by the response: the clients asked to send as many as 20 to 30 of their internal lawyers to the workshops.

firms, Mallesons Stephen Jaques (now King & Wood Mallesons) committed to an intensive LPM initiative, the country's first, to address competitors' challenges to its market share.

Unlike many law firms, which were primarily concerned with the purely internal application of LPM principles, Mallesons focused its initial LPM implementation efforts squarely on its clients. Instead of seeing LPM merely as a pricing and matter management tool, the firm took the larger view of its potential and asked: "How can we use LPM to better understand and serve our clients?"

By asking that question, Mallesons opened the door to a unique approach to its LPM workshops, working side by side with its clients to build solutions that fit the clients' needs and priorities. Instead of settling for an inward-looking session occupied mainly with pricing and the management of legal work, Mallesons' LPM training workshops focused on the most important part of the picture: the client.

Mallesons asked four major clients if they might like to send a representative or two to participate in Mallesons' client-team LPM training sessions. They were floored by the response: the clients asked to send as many as 20 to 30 of their internal lawyers to the workshops. In the end, nearly half of each two-day workshop's 25 to 30 participants came from the client side.

THE CLIENT OPPORTUNITY

Mallesons knew that this client relations opportunity required bespoke content keyed to the issues, strains and opportunities posed by current client business issues and the Australian legal and financial climate. Accordingly, workshop preparation included in-depth interviews of both Mallesons and client lawyers, which led to workshop activities and materials keyed to the types of work the client teams were performing.



The actual workshops proved both challenging and rewarding, because they were essentially hybrids: workshop facilitators had to strike a balance between leading training in practical LPM principles and making time for intense “free swim” discussions about a broad spectrum of client relations and service delivery topics. The degree of candor was astonishing, as the gulf between “we” and “they” was bridged and the participants worked to identify common ground and practical solutions.

Perhaps the greatest challenge was getting the workshop participants to translate insights into outputs. Because workshop discussions frequently marched into new territory or suggested changes in the status quo, participants were challenged to agree on concrete action priorities and joint firmclient follow-up steps.



Perhaps the greatest challenge was getting the workshop participants to translate insights into outputs. Because workshop discussions frequently marched into new territory or suggested changes in the status quo, participants were challenged to agree on concrete action priorities and joint firmclient follow-up steps.

In our post-workshop debriefs with the Mallesons lawyers, they agreed that while it was invaluable to get to know the clients and their issues better, the real challenge was to figure out how to leverage those insights into more business, better service and more effective communication going forward. Several months after training, reports from the front lines remain positive: eyes that were opened remain open, doors that were opened continue to usher in new agendas.

WHAT COMES NEXT?

With the recent approval by partners at Mallesons and King & Wood, a 1,000-lawyer Chinese firm, to create a new legal entity, King & Wood Mallesons will be far more than a unique global brand. It must also both develop a coordinated and collaborative culture and create a unified

approach to quality service delivery to a vastly expanded and highly-diverse set of clients.

LPM offers the potential to do for the merged entity what it did in Mallesons' four client-intensive Australian workshops: provide a rational platform and a set of coherent best practices that can bridge the perceptions and operations of diverse stakeholders.

Accordingly, beyond its value for helping the combined entity to increase operational efficiency and service quality, LPM can also act as a lever for cultural integration. If effectively implemented over the long term, LPM will serve as a "communication engine" of almost unimaginable impact, to both the firm's and its clients' benefit.

LPM as a merger integration tool? It's just one more example of how this remarkable management approach can be so much more than a mere "pricing facilitator." LPM's biggest rewards will go to those firms who envision its use on the widest horizons. •



Transformative innovation

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

Email: pwoldow@edge-international.com
Call: 610.660.9550

Think and Do

The battle between autonomy and collaboration

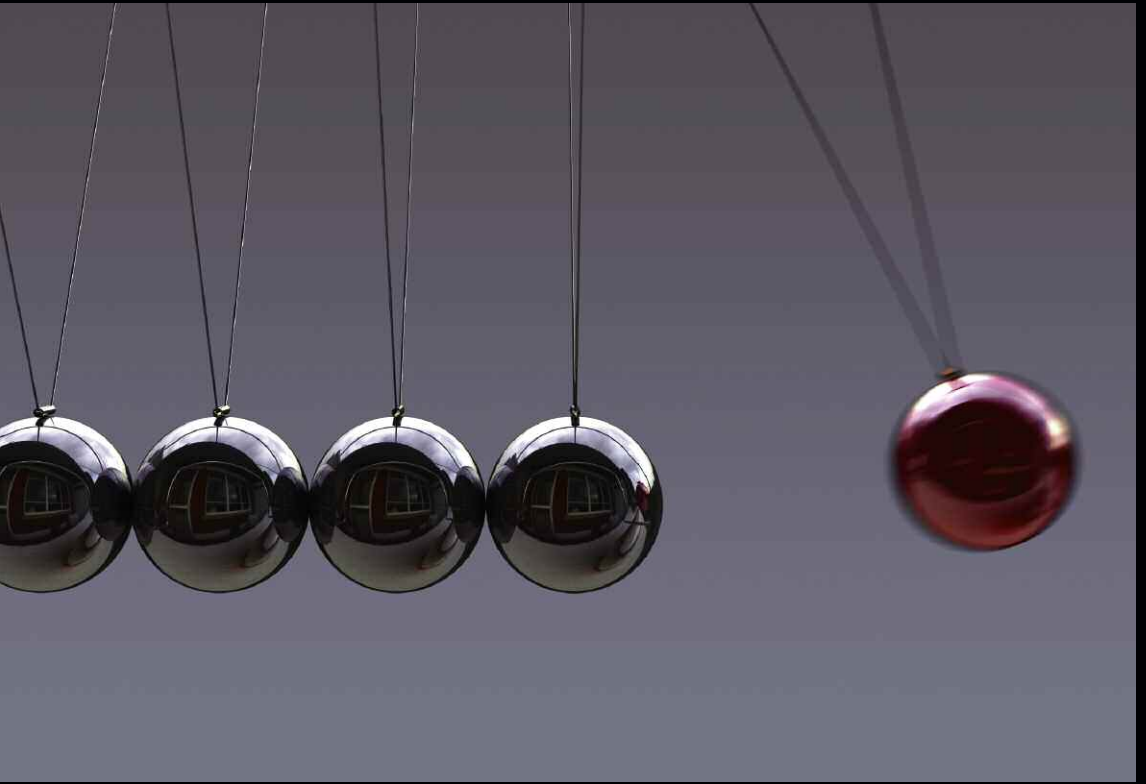
The complex interdependencies of today's legal world reward team collaboration as much as individual legal skills. Yet some experts claim that collaboration stifles creative problem solving and that originality is hindered by "Groupthink." Read on for a spirited analysis of the crucial interface between independent "thinking" and collective "doing," particularly in managing complex legal projects.

By Douglas B. Richardson, Certified Master Coach

The legal profession's headlong rush to embrace legal project management (LPM) correlates directly with the intensity of client demand for greater efficiency, predictability and cost-effectiveness in the delivery of legal services. And at its heart, LPM is really all about collaboration — collaboration among team members, among stakeholders, and between client and law firm.

At Edge, we have long asserted that to produce consistently high levels of productivity and efficiency, all team members must sing from the same play-book and be committed to singing in harmony.

However handsomely the legal profession once rewarded individual contributors, fiefdom princes, and lone wolves, today's complex global legal environment places a premium on shared knowledge, interdependent action, and mastery of a common procedural *lingua franca*. Such is the heart of LPM.



There are, however, significant barriers to improving collaboration and communication among lawyers. First, most lawyers are highly autonomous by nature, driven strongly by individual achievement, not collective effort. Autonomous introverts have long self-selected into the legal profession because it rewarded individual expertise and independent action. The legal profession historically was the province of the individual contributor.

Therefore, trying to improve lawyers' productivity simply by lecturing them about how collaboration will produce better synergy, efficiency and results (not to mention profits per partner) is like singing *Kumbaya* to them: it does not result in lasting behavior change. To be frank, many lawyers and law firms are testing LPM's unfamiliar waters not because they've gotten Collaboration Religion, but because their competitors are using LPM to powerful competitive advantage in wooing and pleasing clients.

DERIDING “GROUPTHINK”

A second significant issue is the active debate about when collaboration produces better results and when it doesn't. For example, in a recent *New York Times* article titled “The Rise of the New Groupthink,” author Susan Cain writes sarcastically that “Solitude is out of fashion...collaboration is in.”

Ms. Cain goes on to say that there's a “problem with this view,” citing persuasive research that “most people are more creative when they enjoy privacy and freedom from interruption.” She reminds us of Picasso's admonition that “without great solitude, no serious work is possible.”

Ms. Cain then trots out her heavy artillery: “The New Groupthink has overtaken our workplace.... Virtually all American workers now spend time on teams ... in which no one has a ‘room of one's own.’” She rails against “endless meetings and conference calls conducted in offices that offer no respite from the noise and gaze of co-workers. ... Privacy can make us productive; solitude can help us learn.”

Those cheers you hear are the relieved voices of all those lawyers who want only to be left alone to do their own thing.

Ms. Cain then trots out her heavy artillery: “The New Groupthink has overtaken our workplace.... Virtually all American workers now spend time on teams ... in which no one has a ‘room of one's own.’”

BUT WAIT, THERE'S MORE

As something of a loner myself, I can't dispute the negative impact of forced interaction and coerced collegiality on creativity, especially for us introverts. (On the other hand, extroverted people, the approximately 70% of the U.S. population who charge their batteries by interacting with others, often delight in collective brainstorming). That's where Ms. Cain focuses her distaste for collaborative activity: on its effect on “creativity and transcendence.”

However, productivity does not end with creative thinking. Somehow, all that intellectual power has to find traction on the road; if not applied to some practical purpose, it remains floating in the abstract realm of imagination and conceptualization. Great strategists need great tacticians to translate abstract goals into action priorities. Great tacticians, in turn, rely on pragmatic implementers to translate those priorities into action

and tangible results. It's a *continuum of productivity*.

Ms. Cain says that “group performance gets worse as group size increases.” However true this may be when applied to creative endeavor, it is manifestly untrue when applied to productivity. Is there any question that Fortune 50 companies contribute more to the GDP than seed-stage entrepreneurial enterprises? If smaller is better, what explains the inexorable trend toward increased law firm size, consolidation and global diversification?

Ms. Cain herself notes that the central narrative of many religions is the *seeker* (e.g., Moses, Jesus, Buddha) “who goes off *by himself* and brings profound insights back to the community.” (emphasis added). But after it has welcomed the seeker home, what does the community do with those insights? It incorporates them into collective activity, into implementing, performing and achieving on a repeatable basis.

In other words, successful organizations must both innovate *and* implement — both think and do. In order to produce all those widgets, Chevrolets, motions for summary judgment and complex financial transactions, most organizations spend more time and effort on *operation* than on *ideation*. And this is just fine with about 60% of their team members, the approximate percentage of Americans who are left-brain thinkers — naturally more oriented toward here-and-now action than the abstract conceptualization that marks right-brain thinkers.

Ms. Cain says that “group performance gets worse as group size increases.” However true this may be when applied to creative endeavor, it is manifestly untrue when applied to productivity. Is there any question that Fortune 50 companies contribute more to the GDP than seed-stage entrepreneurial enterprises?

WHERE DOES THIS LEAVE LPM?

There's no question that LPM speaks to the implementation end of the “Think and Do” spectrum. LPM is all about how lawyers *do* things — especially highly repetitive or rule-bound kinds of things, that is, the sorts of things lawyers often do. Here at Edge, we have been deeply involved with the evolution of LPM best practices over the last several years, and our experience demonstrates that most firms' LPM implementation efforts have

been more triumphs of perseverance than of sparkling originality.

True, LPM's "first adopters" qualify as courageous visionaries, bucking the longstanding forces of tradition and the inertia spawned by their partners' comfort with the status quo (although it must be said that the spark driving LPM was struck more by the global financial crisis than by the spirit of pure innovation).

At the end of the day, therefore, creative autonomy and collaborative action are not at war; they are just at different ends of the change management spectrum.

After notable early LPM initiatives by major firms, LPM moved rapidly from "first adopters" to "first followers" and "instant imitators," whose efforts to reshape the way lawyers practice have been marked largely by cut-and-try and trial-and-error. Yes, there has been a lot of creative thinking as alternative fee arrangements, increased use of RFPs, convergence programs and legal process outsourcing have shaped the form and substance of LPM. But it also must be said that the most successful LPM implementation efforts to "get outside the box" were undertaken from ... inside the box.

ADAPT AND ADOPT

If anything, the emerging role of LPM has been molded as much by adaptability as by pure invention. And adaptability is positively affected by collaborative action, inasmuch as the power of a collective, collaborative team does much to leverage diverse viewpoints, reduce feelings of risk, and increase feelings of commitment and security during this period of sweeping change.

When it comes to LPM, nobody has it entirely right yet: figuring out how to implement and institutionalize LPM across the face of an entire law firm or legal department remains a work in progress, and a daunting one at that. Over the next several years, the face of LPM will continue to morph, as leading-edge creative developments become conventional wisdom.

As more and more clients press for LPM (or at least for the efficiencies LPM provides), more and more firms — big, little, and in-between — will adopt increasingly “conventional” processes, procedures, tools and metrics. As this happens, collaboration will be the fundamental lever for implementation. Group process requires groups.

At the end of the day, therefore, creative autonomy and collaborative action are not at war; they are just at different ends of the change management spectrum. Just as the proof of the pudding is in the eating, the proof of the thinking is in the doing. •



Legal leadership and communications

Over 30 years of coaching and consulting, **Doug Richardson** has helped hundreds of lawyers develop into skilled organizational leaders, powerful collaborators and uncommonly convincing communicators. Doug's experience as a trial lawyer and nationally-recognized architect of innovative leadership programs lends a practical perspective to translating effective communication into superior team performance.

Email: richardson@edge-international.com

Call: 610.660.9555



All together, now

The business, professional
and human case
for law firm diversity

By Jordan Furlong

In the wake of the recession, law firm diversity numbers that had begun to inch upwards have stalled or even begun to drop again. Instead of complaining about their diversity obligations, law firms ought to understand and act on the business, professional and human reasons why they should improve diversity. Here is where they can start.



“Law firms may be getting ‘diversity fatigue,’” began an article in a legal periodical last summer. Some firms reported growing resentful that they’ve gone to great lengths to increase diversity within their ranks at in-house counsel’s request and don’t feel they’ve received enough appreciation from their clients — specifically, the kind of appreciation that can be measured in

billable hours. “What more do you want from us?” is a common way of expressing this feeling.

Contrast this sentiment with statistics recently generated by organizations like the National Association of Legal Placement (NALP), the Minority Corporate Counsel Association, and Vault.com. Surveys of more than 100,000 lawyers at more than 1,300 law offices found that women have yet to exceed more than one-third of all law firm lawyers (and their numbers are dropping), while ethnic minorities continue to hover around 12 percent.

An even starker picture emerges when you look solely at partners in these large firms. Women account for 19% of all partners, minority men 4.5%, and minority women less than 2%. Picture it this way: if you lined up 100 typical law firm partners, the first 81 would be male (and the first 76 would be white). The last 19 would be women, and barely the final two would be members of a minority. Diversity fatigue, indeed.

These numbers are pretty much exactly what you would expect from the structure and culture of the modern law firm. If you had set out to design a compensation and promotion system specifically to reduce the number of women in law firms, you could scarcely have done better than the billable-hour regime. And male or female, law firm partners who are almost universally white habitually hire, mentor, associate with and promote people who look, sound and act like them.

I don’t want to dismiss the efforts of firms that really have tried to improve diversity, and those numbers do show slight but genuine progress in the last

five years. What I want to focus on is this sense I sometimes get from law firms that they've done their duty here: they've put forth the effort on diversity, made the appropriate gestures, and can now get back to more important things. It's an attitude that diminishes everyone involved, not least the firms themselves.

It seems to me there are three elements involved in dealing with diversity in the practice of law. The first is to establish that it doesn't really exist, and I don't think there's a strong argument against that. The second is to establish that its absence is a problem, one that the profession should care about enough to address. And the third is to actually address it and solve it.

(For present purposes, I'll define diversity efforts in law firms as those that seek to increase the percentage of lawyers and partners who are women, are physically disabled, self-identify as GLBT, or belong to racial or ethnic minorities, and to ensure these lawyers proportionally occupy senior positions within the firm.)

WHY THE "BUSINESS CASE" IS FLAWED

When attempting to show that the lack of diversity is a problem, some people argue that clients are themselves diverse or are making diversity a corporate priority, and that therefore lawyers and law firms should become more diverse in order to keep these clients' business. This is sometimes referred to as "the business case for diversity."

The "business case for diversity" reduces the issue to a simple matter of money, removing any consideration of social or moral responsibility. It's like paying your kids to clean their room and do their chores.

I understand the reasoning, but I don't agree with it. For one thing, it assumes that firms that do innovate in diversity will have a competitive advantage over those that don't. But innovation to gain a business edge has even less traction in law practice culture than diversity does, and most law firms have long rested easy in the knowledge that no one's going to try something different that will just make things more complicated for everyone else.

But my primary reason for disliking this "business case" is that it reduces the diversity rationale to a simple matter of money, removing any consideration of social or moral responsibility. It's like paying your kids to clean their



room and do their chores: sure, the tasks will get done, but the kids won't have learned anything about responsibility, discipline, or contributing their small part to the family unit. They'll have learned to do only what they get paid for, and when the money dries up, so does their work ethic.

Look at it this way: if clients stop paying lawyers for diversity, does that mean diversity doesn't matter anymore, and it's okay to go back to ignoring it?

DIVERSITY STRENGTHENS PERFORMANCE

If you absolutely must have a good "business case" reason for a more diverse workplace, here's one: businesses without diversity are at an inherent disadvantage. When most or all of your people look the same and come from the same backgrounds, it's a safe bet that they'll all think the same and act the same, too.

They'll adopt the same analytic approaches, make the same sorts of assumptions, and reach the same kinds of conclusions; when they meet to compare notes, the groupthink atmosphere will reinforce the built-in strategic biases, and each member of the team will congratulate the other on their brilliant ideas.

It's the opposite of diversity: it's *commonality*. And a law firm with a surfeit of commonality lacks any number of essential ingredients to be a top-notch solutions provider:

- a wealth of perspectives,
- a broad pool of knowledge,
- creative dissent,
- constructive self-doubt,
- an eye for unanticipated outcomes, and most importantly,
- an ability to see every angle of the multi-faceted challenges clients bring to lawyers every day.

A law firm afflicted with commonality fails to see what its members aren't looking for, and sooner or later, that will be fatal.

BECAUSE IT'S RIGHT

But even that argument, which I think has a lot of value, is still fundamentally self-interested: it promotes diversity as a means to the firm's ends, rather than as an end in itself. The only really valid argument in favour of diversity

Businesses without diversity are at an inherent strategic disadvantage.

When most or all of your people look the same and come from the same backgrounds, it's a safe bet that they'll all think the same and act the same, too.



is that it matters on its own merits.

Nature is diverse: the natural order of things is to spawn as many variations on a theme as possible and to set them all to work together, collaboratively and competitively. People are diverse, too: not one of us is exactly like anyone else, and when given the opportunity, we invariably mix and match and swirl together to produce vibrant, cosmopolitan and fulfilling communities. The essential rightness of diversity in everything around us is so obvious that if anything, the burden should lie on making a powerful case *against* it.

Diverse workplaces are better. They look better; they *feel* better; they *are* better. There is something refreshing, uplifting, and constantly sharpening about a diverse environment: you feel a deeper connection to the real world around you when you're no longer surrounded by the artificiality of sameness.

You are never more yourself than when those around you look and think differently from you, because you're challenged to bring your unique background and characteristics into play at all times. Diversity is good, and its absence in the practice of law is bad for us and bad for the system and society we serve.

HOW CAN WE IMPROVE DIVERSITY?

It remains to decide whether the legal industry's commonality should and can be addressed. On the former point, all I can say is that if diversity is a good thing, then the legal profession should be a leader, not a laggard, in encouraging it.

We talk a great game, as a profession, about our commitment to higher standards and the respect we deserve for our valued contributions to society. If so, then we need to be out there driving diversity in our ranks, leading by exhortation and example, demonstrating that diversity is inherently right and lawyers are equally right to be aligned with its promotion. Other professions have done it, and there's no excuse for us to be so far behind.

So how do we achieve diversity in the law? I'm not a great proponent of either incentive programs or mandates from governing bodies: if you use a carrot or a stick to motivate or force change, then attitudes towards diversity remain unmoved or even become soured. And I do think attitude matters, because resistance to diversity is grounded in biases, conscious or unconscious, against people who don't look like we do.

Too many people within law firms look at a woman or a member of a minority in a senior position and automatically make negative assumptions about the position they hold and the route they took to get there. Ridding human nature of these biases is certainly too tall an order, but there's no

reason we can't actively question those assumptions.

White, male, straight lawyers who see a colleague or potential colleague who differs from them in one or more of these characteristics (among others) need to be aware of the inferences they're drawing and the conclusions they're jumping to, and they need to actively shake their minds loose from those biases every time. It's an excellent habit to acquire, especially since as lawyers, we're supposed to be good at seeing an issue from any angle and adopting new positions from which to understand and analyze a situation.

Accepting and promoting diversity starts with a conscious effort by those of us in the profession's majority to see difference not as an obstacle to be surmounted or minimized, but as an opportunity to think fresh, see clearly, learn something valuable — and appreciate the barriers that our conveniences and assumptions create for others.

A diverse legal profession lies just the other side of a willingness to constantly challenge our own assumptions about others. That's not even close to too high a price to pay. •



Presenting: the future

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

Email: jordan@edge-international.com

Call: 613.729.7171



- "CPD and the presumption of competence," *Slaw.ca*, December 20, 2011
- "Lawyers and social media: Can legal advice be crowdsourced?" *ABA Law Practice*, January/February 2012
- Blog: <http://law21.ca>

Nick Jarrett-Kerr

- "Tackling partner underperformance in law firms," *Ark Special Report*, October 2011
- "Mind over matter," *New Law Journal*, October 28, 2011
- "Scandalous risks," *Law Business Review*, December 2011
- "Crunching numbers," *Solicitors Journal*, February 7, 2012
- Blog: <http://www.jarrett-kerr.com/blog>

Sean Larkan

- "Food for thought on your most valuable marketing ally," *Australian Law Management Journal* (& *Law Asia* edition), Vol. 16, January 2012
- "Leadership Frame #5: Soft power leadership for professional services firms," *Legal Leaders Blog*, February 2012
- "Leadership Frame #7: The next challenge — Align your various strategies," *Legal Leaders Blog*, February 2012
- Blog: <http://www.legalleadersblog.com>

Gerry Riskin

- "2012 law firm strategy lessons from the Apollo 13 moon mission," *Amazing Firms, Amazing Practices*, December 22, 2011

- "Angry Birds help with best practices in one of India's most sophisticated law firms," *Amazing Firms, Amazing Practices*, July 4, 2011
- Blog: <http://www.gerryriskin.com/>

Ed Wesemann

- "2011 banner year for mergers," *edwesemann.com*, January 24, 2012
- "Ugly golf swings and other merger metaphors," *edwesemann.com*, March 5, 2012
- "Going global: A 10-point checklist for considering a foreign office," *edwesemann.com*, March 5, 2012
- Blog: <http://edwesemann.com/articles/>

Pamela H. Woldow

- "Sizing up the legal project management revolution," *Budgeting and Negotiating Fees with Clients: A Lawyer's Guide*, The Ark Group, 2011 (with Douglas Richardson)
- "Legal project management enters adolescence," *Practice Innovations*, January 2012 (with Douglas Richardson)
- "Putting some pepper into legal project management," *At the Intersection*, January 12, 2012
- "You can't make lawyers into techies: 3 lessons about LPM," *At the Intersection*, February 14, 2012
- Blog: <http://www.pamwoldow.com>

Receive Edge's thought leadership every month!

Sign up today to receive Edge International's monthly *Communiqué*, a collection of exclusive brief articles by Edge partners available only to subscribers. **And it's free!**

Email subscriptions@edge-international.com to be added to the Edge International *Communiqué* mailing list.



What do these have in common?

The largest executive search firm specializing in administrative management for law firms.

The most cost effective means of seeking law firm merger partners.

The authoritative source of legal market analysis and competitive information.

They all describe **Legal Resource Group.**

Legal Resource Group is known as the premier legal executive search firm specializing in law firm administrative positions such as COO's, CFO's, CIO's, CMO's, CHRO's, Office Administrators and other senior staff members.

Legal Resource Group is also known for helping law firms quickly find all available acquisition targets and merger partners with precise practice capabilities in a specific geographic area.

Legal Resource Group, teaming with Management Consultant Ed Wesemann, produces detailed regional economic and legal market competitive intelligence reports for the U.S. and foreign countries.


Legal Resource Group, provides the professional services and information that supports your firm's growth in size and profitability.

**LEGAL
RESOURCE
GROUP** LLC

Address:
14 Morning Marsh Rd.
Savannah, GA 31411

E-Mail: inquiries@lrgllc.com
Website: www.LRGLLC.com

Phone:
1-800-688-4147 (Toll Free)
1-912-598-1048
1-912-598-4967 (Fax)



"We have had an ongoing and value-added strategic relationship with Edge for the past decade. Indeed, we seek Edge's input before every major strategic move we make, whether it's an internal matter such as compensating our lawyer-leaders for their leadership efforts or external matters such as entering the New York City market. Edge's 'been there-done that' experience and its 'ear-to-the-ground' pulse on where our industry is headed have been invaluable for us. Edge has without a doubt given us the 'edge' to not only continue growing through the economic crisis, but also to triple in size and double in profits over the past five years."

Managing partner, US law firm with more than 300 lawyers

EDGE INTERNATIONAL REVIEW is published as a courtesy to clients and friends to help to improve the profitability and competitiveness of their businesses and to achieve a higher level of satisfaction in their practices. The views and opinions expressed should not be viewed as advice being rendered professionally by either EDGE INTERNATIONAL or the individual authors. EDGE INTERNATIONAL refers to Edge International Inc., (Anguilla, BWI) and its international operating entities. To contact any author whose work is published in this edition of EDGE INTERNATIONAL REVIEW, please refer to the mini-bio at the end of their article for their email address. To contact EDGE INTERNATIONAL directly, the firm's global telephonic system may be accessed at the following numbers:

North America: 1 800 944 3343

International: 1 503 430 0460

Email: inquiries@edge-international.com

For any other inquiries regarding EDGE INTERNATIONAL REVIEW specifically, please contact Jordan Furlong at jordan@edge-international.com. Graphic design is by Delitala Design Inc. All images except photographs of authors and where indicated otherwise are sourced from i-stockphoto.com or dreamstime.com. Feedback and constructive criticism is most gratefully received.