



LEGAL **BUSINESS** WORLD

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Lean Is The Path To The Perfect Legal Practice

by Prof. Ken Grady

Authenticity, Basic Professional Equipment by Prof. R. Moenaert
The Mystique of Understanding Industry Clients by Patrick J. McKenna
New Business models for the Legal Services Market by René Orij
A low hourly rate is not the cheapest solution by Hans Schuurman

Smart Collaboration in today's Law Firms by Heidi Gardner



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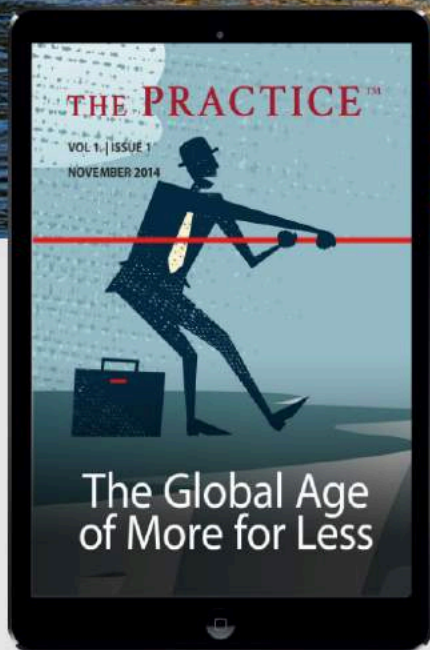
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Authenticity

basic professional equipment

By Prof.dr. Rudy Moenaert MBA, Professor Strategic Marketing and Academic Director Master of Marketing program at Tias School for Business & Society.

Authenticity means that we are faithful to ourselves. An important attribute for Legal Professionals. We are not made to play an acting part 24/7. In 2015, Eddy Redmayne won the Oscar for his superb portrayal of Stephen Hawking, the ALS scientific tortured genius. Julianne Moore was awarded the Oscar for her portrayal of a young Alzheimer's patient. But these are two performances done by very talented actors that have been preparing themselves for months.

Several shots are required in order to capture the right emotion at the right time. But who are Eddy Redmayne and Julianne Moore in real life? Look at the Oscars and their reactions. That gives us a real insight into their personality.

Fortunately for us, we behave our authentic selves most of the time. It's very hard to constantly go against our basic values and our origins. In an era where every smartphone has a HD camera, it is downright dangerous to play a role that you can not handle. This does not mean that you are fitted within a mould. Herman Van Rompuy, the first president of Europe, epitomizes the 'peaceful resistance' which he also propagated in government statements. Others then show an exhausting restlessness which is equally authentic.

Marc Coucke, the Flemish top entrepreneur who built up Omega Pharma and earned € 1.45 billion on its sale, jumps into pools and enjoys his football team Oostende. He even congratulated a cyclist who had already left his cycling team and did not think twice to hash-tag himself with #cow in a subsequent tweet. Neither Herman Van Rompuy nor Marc Coucke can act, they simply are themselves. But Van Rompuy can not act like Coucke without losing all credibility. Likewise, Marc Coucke will look like a boring cow if he would act like Van Rompuy.

Work Ethic

Authentic leadership is a new movement in the leadership literature.² Authenticity means being yourself. You act in accordance with your core values and your origin. You're not an actor on stage. Authentic acting is an oxymoron. Authentic leadership implies that you feel good about yourself. There is coherence and consistency in your words and deeds. In marketing we are constantly interacting with various stakeholders: customers, distributors, employees, managers. We sometimes forget that most relationships are not based on contracts but on trust.³ Your authenticity, not

your contracts, contribute significantly to the trust others have in you.

Authenticity is a key ingredient in marketing. Sometimes we play a role or a ritual. It's part of the job as a marketer or manager. But we are not made to constantly play a role that goes against our fundamental values. This disrupts our confidence. Every time you see an overpaid footballer running nonchalantly on the football field, you know it's someone who collects the money from the club, but who is not going to work up a sweat for the supporters.

Perhaps this is the real meaning of situational leadership. Not only the question of what kind of leadership is required in a particular situation, but what type of leadership can an individual handle, given the personality. The series of scandals in recent years in quite a few enterprises can be reduced down to this question. There are too many leaders appointed who would do better as an antagonist in a crime movie than as a protagonist on the top floor of the company.

Non profit organizations are also faced with this problem. In a short time frame, Femen has taken controversial actions. Bare-chested and with powerful slogans they have tried to impose a conscience on society. In September 2013 the Belgium Femen closed. In a documentary, Viktor Syvatski, a former top executive of Femen had labelled the women who surrounded him as 'weak spineless figures'.⁴ These women immediately proved he was wrong and they quit as well. Authenticity is your basic equipment, or better, work wear. This quality features in the new CEO of Apple, Tim Cook, who was selected by Time Magazine as Person of the Year 2014.

The CEO of IBM, Ginni Rometty, describes him as follows: "He is informal, honest and accessible. He is very authentic. This is the mark of the modern CEO. What you see is what you get." ⁵

Bandwidth

Authenticity is an important component of successful leadership. You have to, like each ingredient, dose it with care.⁶ Authenticity is, otherwise stated, never absolute.⁷ If you completely rule out your individual personality, you act like a robot. If your personality dominates your interaction, you become a loner. But you can not ignore your own personality. Why did Tony Hayward, CEO of BP, have to leave? The cameras that were focused on the hapless Tony Hayward, recorded on May 30, 2010 illustrated the real reason why he wanted to see the oil spill Deepwater Horizon being resolved as quickly as possible: "We are sorry. We are sorry that we have subverted the lives of these people in a colossal manner. You know, nobody wants to have this behind us rather than me. I want my life back." ⁸

At first sight, Tony Hayward appeared to be a self-centred jerk who found it particularly regrettable that the oil spill had disrupted his life. It cost him his job. This is no exception. But this snapshot of Tony Hayward should not tarnish him, no matter how disastrous it was for his image.⁹ After he became CEO, Hayward, training geologist, wanted to give the company a human face. That's why he immediately replaced all the expensive art in the head office with photographs of BP service stations, oil pipelines and drilling platforms. 'BP earns money because every day someone puts on his boots and overalls, helmet and goggles, going out and turning valves. Somewhere we

have lost that awareness.' ¹⁰

It is a cynical lesson that precisely those who meant well got hit hardest. Tony Hayward was too authentic in this unguarded moment. Productive authenticity spreads across a certain bandwidth. It is human naivety that makes us estimate the bandwidth error. You can be vulnerable, but never be naked.

Self image

To assess what you stand for, we are going to consult Dr. Steve Peters. As a psychiatrist, he has worked to build the success of the British cycling team at the Olympic Games. Sir Chris Hoy (six Olympic gold on the cycling track) and Sir Bradley Wiggins (Britain's first Tour winner and several times Olympic gold) praised his contribution to their success. His tour de force was to lead the erratic behaviour of snooker genius Ronnie O'Sullivan in the right direction. But he has also worked with the Team Sky ProCycling, Liverpool F.C. and the England national football team. Additionally CEOs, administrators, hospital staff, students and patients are part of his clientele.

In the Chimp Paradox¹¹ he makes out the human brain to be psycho-misfits, as we are insightful, and focused in a highly simplified representation of three basic systems of our brains¹². The Monkey (the limbic system) houses the emotion. The Human Being (the frontal system) is responsible for our rational actions. The computer, including the parietal system, stores information that the Monkey and Human Being have placed in it. Your personality is a result of these three systems. Let's, for practical reasons, focus on the Computer. The speed of the Computer is five times the speed of the Monkey and twenty times the speed of the Human Being!

The Computer takes care of automatic behaviour (riding a bike, you do not have to learn this again and again) and serves as a resource for the Human Being and the Monkey. To a large extent the Computer also determines your personality. Based on his work, Peter asks three questions that will help you formulate your self-image. A good look at your self-esteem will give you more insight into your authenticity:

What are your life truths?

These truths of life are the central assumptions that you use about how the world works. These will have important similarities between individuals ("after rain comes sunshine"), as well as huge differences ("we are only accountable to our shareholders"). These axioms are based on facts. We often build them early in our lives, through our education, stealthy indoctrination or critical events.

What are your core values?

Those values are the unwritten standards that you deem important. These core values are not based on facts, but on personal judgments. Ask yourself: Who would you like to be? This is the person you really are, with the values that you hold in life. The exceptions are created by, you guessed it, the Monkey.

What is your life spirit?

Your life spirit stands for why you are here on this earth. Steve Peters suggests a very good exercise. You're 100 years old and have one minute left to live. You will not get your rest yet. Your grandchild appears on your deathbed, with the biggest question: 'Before you die, tell me what I should do with my life. "Relax, breathe in deeply,

and answer this question in full honesty during the next minute. The answer to this question is your personal mission on the planet. -Rudy Moenaert

¹ Harter S. 'Authenticity.' In: Handbook of positive psychology. Snyder C.R. en Lopez S.J. (Eds.). Londen: Oxford University Press, p. 382-394. (2002).

² Northouse P.G. Leadership. Theory and Practice (6de ed.). LA : Sage, 2013.

³ Mayer C. Firm commitment. Why the corporation is failing us and how to restore trust in it. Oxford: Oxford University Press, 2013.

⁴ Dekeyser A. 'Femen België doekt zichzelf op.' De Standaard. 11 september 09 2013.

⁵ Bradshaw T. & Waters R. 'Person of the Year: Tim Cook of Apple.' URL: FT.com, 11 december 2014.

⁶ Goffee R. & Jones G. Why should anyone be led by you? What it takes to be an authentic leader. Boston: Harvard Business School Press, 2006.

⁷ Gardner W.L., Avolio B.J., Luthans F., May D.R. en Walumbwa F. 'Can you see the real me? A self-based model of authentic leader and follower development.' The Leadership Quarterly, jg. 16: 343-372 (2005).

⁸ <https://www.youtube.com/watch?v=MTd-KageWNFw>

⁹ Marc Buelens wees ons op dit feit.

¹⁰ Lyall S. 'In BP's Record, a History of Boldness and Costly Blunders.' URL: NYTimes.com, 12 juli 2010.

¹¹ Peters S. The Chimp Paradox. The mind management programme for confidence, success and happiness. Londen: Vermillion, 2011.

¹² Theo Compennolle maakt een gelijkaardige opdeling in de reflex brain, de reflecting brain en de archiving brain. Compennolle T. Brain chains. Compennolle, 2014



The Business Case for Smart Collaboration in Today's Law Firms

By Professor Heidi K. Gardner, Distinguished Fellow in the Center on the Legal Profession at Harvard Law School, Lecturer on Law and the Faculty Chair of the school's Accelerated Leadership Program executive course.

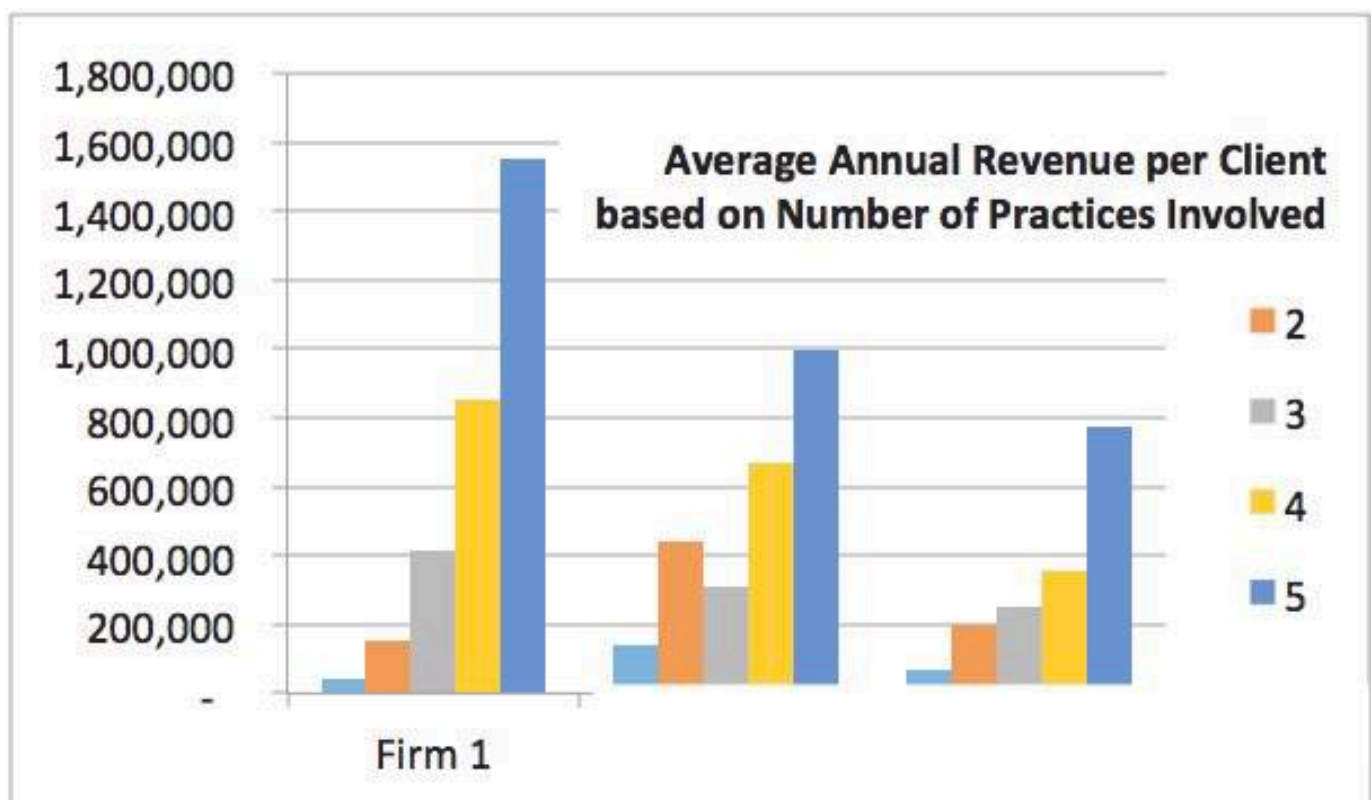
Professional service firms face a serious conundrum. Their clients increasingly need them to solve complex problems – everything from regulatory compliance to cybersecurity – that only *teams* of multidisciplinary experts can tackle. Yet, most firms have carved up their highly specialized, professional experts into narrowly defined practice areas, and collaborating across these silos is often messy, risky, and costly. Even as partners recognize the need for greater collaboration in their firm to drive revenues and growth, their intellectual buy-in doesn't translate to behavioural change. Unless you know *why* you're collaborating and *how* to do it effectively, it may not be smart at all.

The Benefits of Collaboration

More Revenue and Stickier Clients

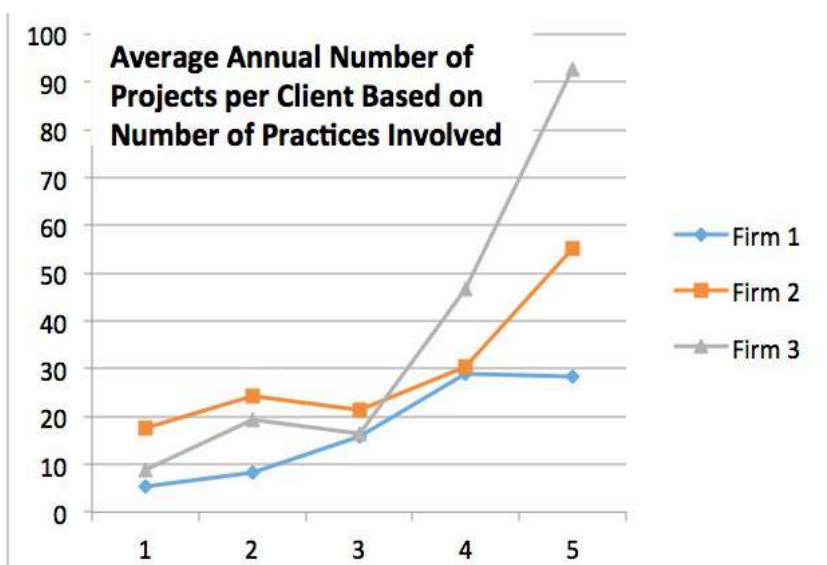
Just like Managing Partners predict, the financial benefits of multi-practice collaboration are clear: the more practices that serve a client, the more revenue the client generates for the firm each year. As the figure below shows, moving from one to two practices serving a client *triples* that client's revenues, and the addition of each subsequent practice continues to grow fees. Clearly, if $1 + 1 = 3$, then the lawyers who are involved in cross-practice service are doing more than just referring their colleagues to provide their own siloed work.

Cross-practice collaboration allows lawyers to gain access to senior executives who have broader responsibilities, larger budgets, and more sophisticated needs. This complex work commands higher margins, revenues, and hourly rates, as one partner said: "The clients are much more generous on fees because if it's so big, the deal's got to get done, and they cannot waste time negotiating or nit-picking." While single-specialty is often viewed as a commodity awarded to the lowest bidder, cross practice work is less subject to price-based competition.



Done right, cross-practice collaboration makes clients stickier in the long run by creating switching barriers.

As the general counsel of a Fortune 100 company explained, “Despite what they think, most individual lawyers are actually quite replaceable. I mean, I could find a decent tax lawyer in most firms. But when that lawyer teamed up with colleagues from IP, regulatory, and ultimately litigation, I couldn’t find a whole-team substitute in another firm.”



Rewards for Rainmakers

The far more difficult and prized task for an established rainmaker involves integrating others’ specialized expertise into one’s own client work – for example, the IP lawyer who identifies an opportunity to work with regulatory, real estate, and tax lawyers on retail client’s mobile commerce issues.

Professionals who work collaboratively benefit significantly: The more colleagues in other practices that a partner involves in his own clients, the more the rainmaker’s origination revenues grow in subsequent years from their existing clients. Once partners learn how to

sell the more complex, multi-expert work, they are better equipped to repeat and enhance their later success. Plus, as one partner said, “The more brains we have inside the client, the more we can spot opportunities to sell additional work.”

Perks for Grinders

The rewards of building “someone else’s client” might not be obvious, but working as someone else’s “grinder” allows lawyers to become a better “finder,” too. My data show that working on cross-practice matters significantly predicts a lawyer’s rainmaking in subsequent years: the average attorney grew his book of business with existing clients by tens of thousands of dollars just by working on a couple extra multi-practice matters in a year. Interviews with partners and clients suggest multidisciplinary projects help lawyers learn how to sell more sophisticated work to their own clients with the confidence that their partners will help them deliver high quality work.

Interestingly, delivering high quality work for others’ clients equates to more colleague-generated, word-of-mouth referrals. On average, one in six partners you work with for the first time will refer you more work in the next year.

For example, one lawyer’s high-quality contributions to two extra partners’ deals led to a brand new contact which produced upwards of \$40,000 in incremental billed revenue the following year. Clever partners can boost collaboration’s reputational effects by strategically choosing whom to work with because some partners’ opinions carry a lot more weight than others.



WHAT DO YOU SEE?

Venturis Consulting Group assists law firms to address their most complex strategic and organisational issues, and to develop actionable responses. We support firms to make and execute high-impact decisions directed at building powerful market positions and delivering superior business performance. An independent and objective perspective, supported by incisive research and analysis, coupled with a wealth of experience based insights, ensures higher quality strategic decision-making, more powerful execution and superior results.

Venturis Consulting Group, in collaboration with **Professor Heidi Gardner of Harvard Law School's Center on the Legal Profession**, are proud to host an interactive breakfast seminar in London for leaders, managers, and partners of law firms. Professor Gardner will explain how a 'collaboration culture' can be developed and harnessed to drive superior performance in law firms. Rebecca Normand-Hochman, partner in Venturis Consulting Group, will then moderate a discussion about how the insights contained in Heidi's new book "**Smart Collaboration**" can be applied practically to support business planning and client targeting projects, post-merger integration processes and strategic sourcing/on boarding of teams.

Location: London

Date: Tuesday 14 March 2017

Time: 8 am - 10am

Confirm your participation by sending an e-mail to: info@venturisconsulting.com

London: David Temporal

Paris: Rebecca Normand-Hochman

Amsterdam: Robert van Beemen

Milan: Paola Parigi

Contact details at: www.venturisconsulting.com



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The Pushback against Collaboration

Considering the sort of value-added, sophisticated collaboration that clients want, why do rational lawyers find it so difficult to see the potential benefits? As mentioned before, one reason is that lawyers confuse cross-selling with collaboration, and clients hate that approach. Moreover, many professionals are simply not used to working in teams; most of the lawyers I meet have had far more experience working in competitive, individualistic settings.

Distrust of other partners is another root cause, including concerns that colleagues won't uphold high enough levels of quality and responsiveness. Every law firm seems to have some doomsday story like, "I spent decades building a deep client relationship, but the first time I took Joe along he screwed up and we were kicked out for good." In some firms, lack of interpersonal trust is even more pressing; some partners worry that a colleague might steal a client when switching firms, deliberately undermine the originating partner's relationship, or take undue credit for success.

Another hurdle is that collaboration takes time. The financial rewards of collaboration, such as referrals from colleagues after working together, accrue slowly over time. But most of the costs and risks, such as locating an expert and assessing whether she's trustworthy, available and conflict-free, are borne right away. Fortunately, as professionals gain more experience with collaboration, the costs tend to fall because people discover how to collaborate more efficiently and effectively as they construct a set of reliable collaborators. However, many lawyers give up before reaching the

point where the investment pays off, which creates a negative feedback loop that reinforces the perception that "collaboration wasn't worthwhile."

Action Call for Partners and Leaders

How can partners practically establish promote collaboration among colleagues in their firm?

- 1. Stop hiring jerks.* As long as you compromise on a candidate's character to get the one with the biggest book of business, you can't build a firm where people widely trust other partners enough to invite them along on client work. Even if you hire carefully, rapid growth makes it tough for partners to know, let alone count on, their colleagues.
- 2. Build relationships.* Coordinate regular face-to-face meetings and events such as partner retreats, family gatherings, and practice group off-sites to allow people to develop interpersonal connections that foster trust and collaboration. While these community-building activities are expensive, they can more than pay out if done properly.
- 3. Manage your talent at all levels.* A robust, firm-wide talent management system, particularly for firms grown through mergers and international expansion, gives partners more reliable indicators of expertise and skill, which fosters competence trust across diverse educational backgrounds, degrees, and cultural norms. Further, secondment programs between offices designed for very senior associates or junior partners are some of the best ways to build bridges and establish networks of trust. Firms need to invest in developing

their senior partners, through formal programs and informal coaching, so they can understand their clients' larger business needs and be able to offer services that go broad and deep.

4. Showcase collaboration. Distribute "latest wins" to highlight big and little cross-practice success stories via email bursts or stage 20-minute "road show" presentations to allow lawyers to highlight their expertise and potential cross-practice collaborative opportunities. One firm set up an internal "swat team" of highly experienced rainmakers to accompany other partners on client lunches to help them probe for opportunities, with the understanding that the team members wouldn't fill the openings they helped to unearth.

No Time to Waste

Smart collaboration is an investment that takes time to generate returns. The evidence is now clear that those benefits do accrue for partners, their firms and their clients when specialist lawyers collaborate across silos to tackle sophisticated issues. What clients want is for their lawyers to understand their issues deeply enough to offer sophisticated advice and to line up the right legal team to deliver it – no matter where in the firm the needed experts reside.

For now, smart collaboration is a clear differentiator between firms: those that provide joined-up advice across disciplinary boundaries to help clients on the highest-value problems are clearly ahead of competitors. But clients are increasingly demanding. As one General Counsel told me, "For now, collaboration is a point of distinction. But I see a time, not long off, when it'll be mere table stakes. Lawyers who can't collaborate simply won't be

tolerated." Now is the time to learn smart collaboration—before it's too late.

Heidi Gardner.

Learn more on 'how Professionals and their Firms succeed by breaking down Silos'

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A low hourly rate is not the cheapest solution

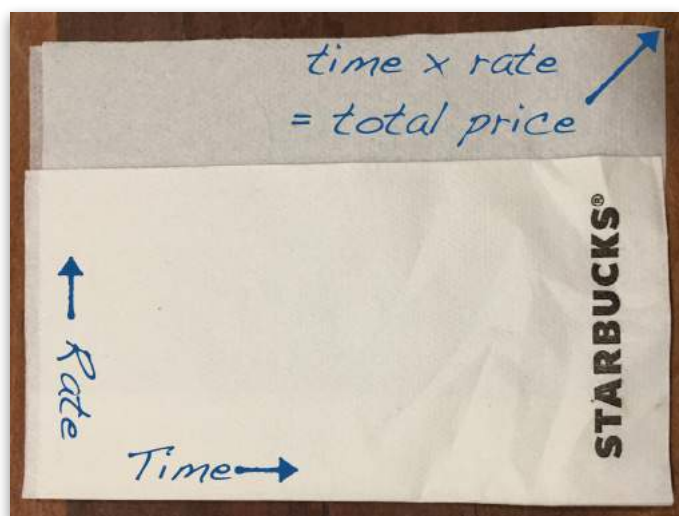
By Hans Schuurman, Consultant & CFO

We want to pay less. This is what resonates in the literature and studies on new developments in the legal market. The core theme in this discussion is based on the variable or the hourly rate. But does it help the client and the firm to reach their desired goal? In this article, Hans Schuurman explains on a napkin that this is not always the case.

Altman Weil recently published their annual survey, the 2016 Chief Legal Officer Survey. The key message of the report is: Clients are looking for cheaper solutions under pressure of declining budgets. Insourcing or doing the work themselves and working smarter (better managing of cases) is one part of the solution (saving). The other part of the solution is found in the decline of total spend at third-party legal service providers.

Especially the last part is reflected when law firm rates are negotiated. Alternative fee arrangements (AFAs) still are hardly used, and in most of the cases the hourly rate remains the subject of the negotiation. E.g. in pitches, clients ask for hourly rates "per category of lawyer".

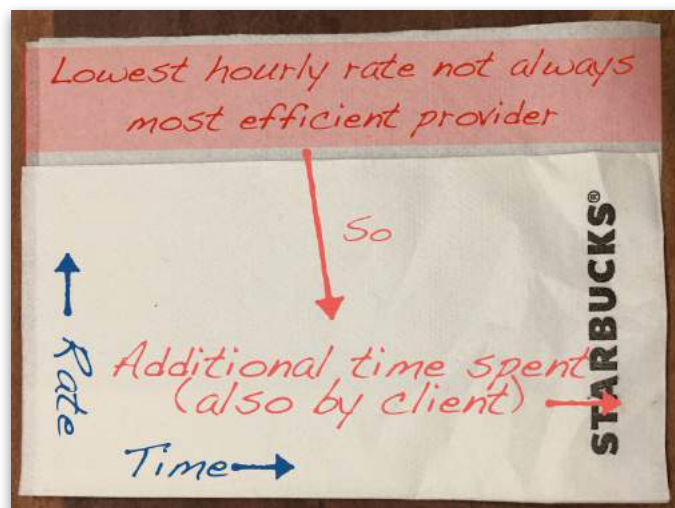
The choice for the firm with the lowest rates is not always the smartest choice. The presentation of Paul de Jonge at the congress of Reinvent Law 2015 showed that in a lot of cases a pitch is not successful due to the (lowest) hourly rate. The hourly rate is but one of the variables that determines the total price. The number of hours spend is the second variable. So, the total price depends on the hourly rate, as well as the number of billable hours.



Lowest hourly rate is bad for firm and client

When the hourly rate is the main subject of the negotiation, the outcome will have a negative effect on the service provider. In most of the cases there the final result is: Less or no impulse to reduce the number of hours in the case that is billed against a lower hourly rate. Thus, the firm will see decrease profitability. But also the client can suffer from an agree-

ment that is based on the lowest hourly rate. When in a pitch the hourly rate is the main criteria, not necessarily the party that is the most efficient service provider may win. The result may be a lower hourly rate, but an inefficient and more time consuming process to achieve



the desired results. In these cases the client will not save money with a lower hourly rate. Besides the lower hourly rate, an ineffective party will also demand more from the client itself and therefore have a negative effect on the capacity of the internal organization on the client side. In cost comparisons this component is often forgotten. A top specialist in a specific area of law may charge a higher fee, but will be less depended on the internal organization at the client side and usually is much more efficient (and faster) in finding answers. So for a good assessment we should also look at the 'surcharge' of low or less quality work and results.

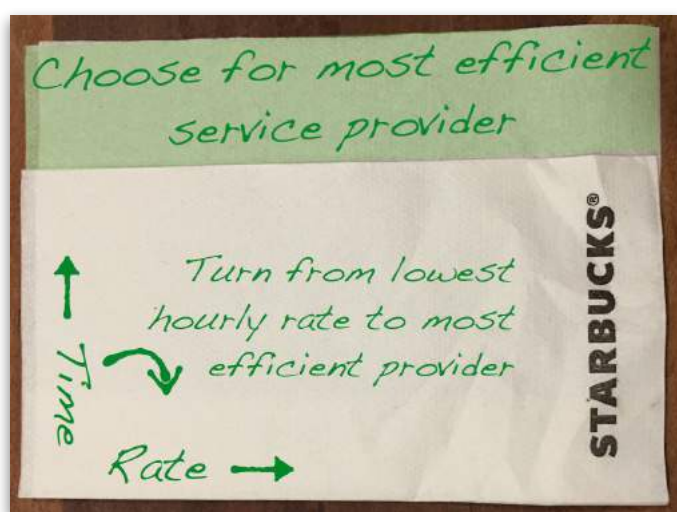
Shifting the price discussion to efficiency

If the goal is to lower the costs, then not only the hourly rate is an important variable in the assessment of the total cost of a case, but also

the number of hours spent. So let's explore the options on the side of 'hours spent' and who provides the most efficient solution?

For the solutions we have to look at:

- Experience and knowledge management
- Distribution of workload
- Efficient processes/LEAN
- Proper case management
- Legal tech
- Value



Experience

There are offices with a particular specialization. These offices have lawyers that know the tricks of the trade and thrive on the knowledge of similar cases. For example, you do not need to explain to a federal lawyer what the dynamics are within the government, an IP Lawyer who's also Professor and teaches IP law knows the ins- and outs on Intellectual Property Law. They may not work for the lowest hourly rate, but you probably pay less for preparatory work as they are experts in their practice and know a lot by heart. Also the number of billable hours will be significantly lower than that of an office that is still learning and working for a lower rate.

By far the easiest savings are made by not paying for what a lawyer no longer needs to do, as mentioned by Stephen Ledder: 'the power of doing anything is sometimes not doing nothing'

Work distribution and "unbundling"

According to the study by Altman Weil, an important saving for clients is "insourcing". In the financial sector, law departments are becoming in-house law firms. They invest in sector driven legal professionals, so the work can be done by themselves. But in relation to other services, "insourcing", from a business perspective, is rather odd. Anything that is not a core competence of a company, such as catering, maintenance, advertising campaigns, etc. is outsourced to specialized businesses. But in legal work, the trend leans more towards do-it-yourself.

Clients make an informed strategic decision.

On the topic of "unbundling", these companies make a clear split in type of legal work. Where previously the main service provider was given the workload of all of the legal services, nowadays a distinction is made between "commodity", regular work and high quality or specialist work. The high quality work naturally goes to the top lawyers or top firms. The more regular work is analyzed in a more commercial manner:

Can and should we do it ourselves? Is a third party more cost efficient? Etc. Management literature speaks about "make or buy decision". There are more parties that are able to do 'The Job', because the work does not demand unique knowledge. It will be clear that the price will be one of the most important make or buy decisions. Due to professional procurement we will see declining price levels and the need for a high degree of efficiency.

At the bottom of the spectrum, there is a tendency to look more at alternatives like automation and Legal Tech solutions (see Legal Tech).

Efficient processes

Is a highly specialized service provider like a law firm not able to perform better? In many cases, certainly!

How nice would it be that a Law Firm could demonstrate they have been working increasingly efficient or LEAN for a long time. And by LEAN I mean: delivering exactly what the client asked for and omit what the client did NOT ask for. That is the first win.

The mindset of LEAN is about avoiding waste. A good firm has all means to avoid waste, but they are not recognized as such.

A good firm - and allow me to freely translate the wastage to be avoided - can custom provide the right and experienced people, has an effective and efficient knowledge base, has dealt with certain problems a number of times and therefore is able to act as repeat player with in-depth knowledge and guards quality and prevents the client from making mistakes. It's good to see that firms increasingly look at LEAN and acquire more knowledge about organizational efficiency.

Proper case management

Efficiency, among others, is not doing what the client didn't ask for. This is assisted by the development of Legal Project Management (LPM). LPM offers the tools to achieve consensus with the client about the desired quality, money and time. Assumptions that have not been discussed may lead to misunderstandings. Previously implicit cases were made explicit by planning, pricing and order confirmation. The order confirmation clearly states

what will be done and what will not be done within the given order. For a small case, a checklist will suffice with the questions: why, what, when, who and how? The order will be executed within the agreed limits of quality, money and time. At the end, the client and contractor will evaluate and learn from the executed order.

For a big case Legal Project Management is much more complex and Firms (should) normally use a specialized Legal Project Manager. The added value of a Legal Project Manager is a guaranteed component for the client as the project is more transparent for the firm and its client.

In other cases the Legal Project Manager facilitates the practice and develops for example planning tools and reporting to support the firm to gain more insight in their business that results in a higher degree of transparency.

Legal Tech

As mentioned before more routine work is automated or processes will be supported by technology. Not only the simple, but also the more advanced contracts will migrate to 'automated' models to be used by client himself. A good example of a service provider in this field is the Dutch Legal Lloyd.

Predictions are that at least 25% of this work will be automated and offered in online suites or software. And with these Legal Tech solutions not only the firm that use these solutions wins (efficiency) but also the client (less costs). Another benefit for a firm is that the cost of a tech solution is more predictable and therefore it's easier to implement new pricing model such as a fixed price per case. And to conclude: 'Tech makes reuse of information and preprocessing of documents easier'.

Value

The previously mentioned experience, efficient processes and good case management offer besides avoiding unnecessary efforts an important advantage. A good intake followed by understanding what really matters results in added value from a client perspective. And this goes beyond just solving a legal problem.

If a client perceives lower value, price is of great importance. If the perceived value is high, price becomes less importance. A very interesting article is on Value is "Clients And Law Firms Rate "Value" Differently" by James Bliwas. (*see page 29*)

Conclusion

In a pitching process where a firm is only rated on the billable hour the firm with the best quality-price ratio is often missed out. And the additional costs due to inefficiency or less quality is often not included in the total price as calculated during the pitch.

Without further considerations and only conducting negotiations on the rate, in the worst case, leads to two very unhappy parties. A Legal Service Provider with a decreasing profit margin and a client (buyer) who does not get the best value for his money or in the end pays more than budgeted.

One should stop the debate on pricing and start discussing the required output resulting in the best solution. And don't bother to step out of your comfort zone. Talk with other professionals and read about it. A lot of information can be found online and learn from other industries. The legal market is business wise not that different from other markets. And last but not least, 'Tech makes more things possible'.

Furthermore, keep in mind that the highest hourly rate results by no means always the highest total spend. Learn to look and value the difference in the bottom line spend. Efficiency and a high degree in expertise most of the time concludes in less time spend on a case. And a high degree in efficient workflows, knowledge and expertise means an opportunity for less billable hours and therefore the first discount from a client perspective.

May the best man win (the next pitch)!

-Hans Schuurman

About the author

Hans Schuurman is consultant and CFO and is specialized in process and profit improvement of law firms. Hans is experienced in leading large improvement projects. He regularly speaks and publishes about the profit model of law firms and the new developments in the legal sector. As founder of Law4ce.com, Hans and his partners improve the commercial, administrative and management processes of law firms.



Unlocking The Mystique of Understanding Industry Clients

By Patrick J. McKenna Principal, McKenna & Associates Inc.

Let’s look at what is now happening in advanced education and specifically with the long revered MBA degree as an example of what is happening within our own profession.

Last year about 87,000 Americans wrote their Graduate Management Admission Test (or GMAT), an aptitude exam generally required as part of an application to MBA programs. That compares with 127,000 in 2010. Applications from students have been in a decline following the economic crisis and competition for a smaller pool of students has been raging among the hundreds of MBA schools across the continent.

This rampant marketing and competition for students has raised questions about what a sustainable model for MBA programs might look like. The generalist MBA, wherein students select a specific discipline, be it finance, operations or

marketing in which to specialize, is being seen to be outdated such that schools are finding that they increasingly have to differentiate themselves. And finding ways

to meaningful differentiate usually means asking the client – in this case those who hire the end product of graduate education mills, to find out from them what they need. The response? Increasingly corporations are expecting their MBA graduates to indeed specialize, but not so much in traditional

disciplines but in specific industry sectors – like mining, retail, health, real estate and so forth.

The world of management education is changing. General programs are not good enough. As one business dean expressed it, “this shift will mean an end to the conventional ‘cookie cutter’ MBA, where all students learned the same basic business skills. The two-year MBA with some



opportunity for industry-specific specialization is becoming the gold standard.”Let’s compare what is going on in management education with what is going on in the legal profession. Today many firms would assert they have embraced having a smattering of industry groups in their firms. Nevertheless, it is interesting and informative to look at what some of these groups may actually signal to clients about the firm’s industry knowledge and competence. For example:

It is not what *you* call the industry, it is what the client calls itself that is most important.

When you think about the various options available for stimulating revenue growth, one of those options is driven by the preponderance of various industries that are located in your particular market footprint. That said, I am always surprised by the lack of knowledge some professionals display in understanding which industries often have a prevailing influence in their particular locale. In fact, in a number of recent meetings (after having done the required homework myself), I’ve asked partners to tell me, “What particular industry concentration or ‘industry cluster’ is your city, region or state focusing attention and fiscal resources on developing?” A short period of stunned silence is then often punctuated with some wild guesses and sometimes a few manage to guess correctly.

When we think about industry clusters we naturally imagine the car manufacturers of Detroit, computer makers of Silicon Valley, aircraft manufacturers of Seattle, financial services in New York, and the movie makers of Hollywood; but industry clusters are more

than just a collection of companies in the same industry. Industry clusters are actually a geographical proximate group of interconnected companies with associated institutions in a particular specialization – all linked by networks.

In other words, while some locality can have an industry group, for example the Napa Valley vineyards, what would make this group a cluster would be the presence of upstream and downstream specialists. Using the example of the Napa Valley vineyards, this would include upstream manufacturers and suppliers of herbicides, pesticides, and irrigation, harvesting and processing equipment – while downstream would include manufacturers and suppliers of winemaking equipment, bottles, labels and corks. The associated institutions would then include government departments (including export), educational and research organizations, plus other related industries like tourism and hospitality.

The challenge that arises from all of this can often manifest itself in really understanding what specific industry you are really working in and how you are communicating your expertise to the market.

For example, in one particular firm I was recently engaged in working with, as I examined the various clusters in their market, I noticed that one of the top three industry clusters was “Photonics” which included data transmission technologies, laser processing and spectroscopy analysis. When one examined the firm’s website you could not find a single mention of anyone having done work in the “Photonics” industry. When I raised this point later in our strategy sessions, I was informed that the firm

had a long history of serving a number of major companies in the . . . “Optics” industry. Now, you’re welcome to call it the Optics industry, but if I, as the client, call it the Photonics industry and am proud of being an active member of the New York Photonics Industry Association – you might see how you and your firm could be perceived to be irrelevant! Meanwhile, by not focusing your attention on the right industry “label” you may have just missed opportunities for marketing your competence into other states like Michigan, Colorado, Arizona, Florida and the Carolinas where there are other active Photonics industry clusters. But then I suppose you could explore prospects in New Mexico, the only state that I could identify that had an active “Optics” Industry cluster.

MAKE NO MISTAKE: what label you attach to your industry group matters.

As all industries eventually mature they naturally fracture into multiple sub-industries.

Some years back I had the opportunity of working with a Technology Practice Group to help the partners develop a strategic plan and direction for growth. Not too far into what had been scheduled to be a four-hour working session, I discerned that five of the partners served software developers; three others focused much of their attention on cable television companies; four were developing expertise with companies in the digital publishing space; and the remaining five spent their professional time working with telecommunications operations. Each of these were operating under the same marketing umbrella (Technol-

ogy) but were actually sub-groups in entirely different industries.

News Flash: You cannot develop a strategic plan for an industry group if you don’t all serve the same kind of clients.

Today, this same situation is true with numerous industry groups. To be provocative – I would strongly advocate that there is no such thing as a Health Care lawyer!

A blog post that got a fair bit of attention recently announced: “*Want to Expand? 5 Hot Legal Practice Areas to Consider.*” It advised lawyers that: “*Changing technology, government policies, and legal environments mean that there are more opportunities than ever to expand your practice into new areas. Here are just a few ideas to get you started.*” And number one amongst it’s hot areas to consider was . . . Health Care.

The way some firms define and describe their industry groups is really quite interesting. If you look at Health Care by way of example, and examine various law firm websites, you are likely see a description that reads something like this:

We offer clients the advantages of both a concentrated practice in health care law and a business firm with broad and varied areas of experience. Our Health Care practice enjoys an outstanding reputation for its knowledge in health law and its leadership in the health law community. Our strength lies in the ability to understand and keep pace with the numerous changes in the health care industry and to work creatively with clients to achieve workable solutions. —→

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* Ron Friedmann is available for meetings in The Netherlands & Belgium on May 10 & 11

We offer a comprehensive approach with many inherent advantages.

Because we are familiar with how health care is delivered and financed, we can respond quickly to the business and financial needs of our health care clients and to the practical realities they face. Our experience encompasses a wide range of matters of concern to the health care industry, including:

- *Business Transactions*
- *Integrated Delivery Systems*
- *Contracts*
- *Managed Care Relationships*
- *Health Care Provider Financing*
- *Restructuring and Reorganization*
- *Tax Advice for Tax-Exempt and For-Profit Entities*
- *Antitrust*
- *Fraud and Abuse*
- *Medicare, Medicaid, and Third Party Reimbursement*
- *Employment Issues*
- *Credentialing and Accreditation*
- *Certificate of Need*
- *Patient Care and Operational Issues*
- *Medical Malpractice*

It sounds both comprehensive and convincing. The only small problem is that Health Care, as an industry, has fractured into at least 40 distinct sub-industries (witness my earlier example with technology) as it has grown and matured, each of which is comprised of companies who believe they are unique.

Take for example the industry of professional services and the sub-industry known as the legal profession. If some service provider held themselves out to be the renowned expert in

professional service firms, your first question would be, “Yes, that’s fine, but what do you specifically know about law firms?” Then if that same renowned expert began to tell you about how they employed their smarts in marketing to the advantage of some major accounting firm, even though you might admit that the tactics were equally applicable, you would still inquire as to what experience they have had serving a law firm like yours.

You reject any notion that being an expert in an industry as broad as professional services, or even marketing leadership in the accounting sector, is sufficient.

Isn’t it fascinating how the mindset we bring to the table as purchasers of professional services is so completely different from the mindset we exhibit as sellers of professional services?

As sellers, we appear to be quite content with telling the marketplace that we are Health Care lawyers with little regard for what our clients are looking to buy.

And in this instance the Health Care industry is fragmented into dozens of sub-industries. Therefore those lawyers who develop a specific expertise in areas like personalized DNA-based medicine, mobile health appliances, stem-cell bio ethics, e-health information systems, or lithotripsy services and then effectively market that specific expertise will become the go-to providers and achieve a significant strategic advantage over those attorneys who simply claim to be health care lawyers.

MAKE NO MISTAKE: in most industries you need to be very specific about the sub-industry that you are targeting to serve.

There are some areas of opportunity that initially defy simple industry categorization

One particular area of emerging opportunity is in what is being categorized as the “Internet of Things” or IoT.

Most often, we hear about IoT in the context of wearable devices: things like the Fitbit that promise to improve health and wellness, or more fully featured devices like the Apple Watch and Google Glass that also extend such smartphone functions as messaging or Web searching. But while consumer technology is a hot area, IoT will likely have a far greater impact in: manufacturing, resources and energy, utilities and civic services.

Simply defined, IoT is about connecting objects, from trucks to refrigerators and hydro meters, to the Internet. Data gleaned from the sensors and systems applied to these objects can then be used to monitor, control or re-design business processes.

Meanwhile, a number of IoT focused venture funds have been launched and one analyst claims that knowing how many IoT companies there are at any given moment is tracking a moving target. Globally, every three weeks there's either an acquisition or a new company starting up. And according to Accenture, roughly three quarters of large companies are investing 20% of their research and development spending on big data and analytics, which IoT is driving.

My research into this area of opportunity indicates that there are four expanding segments: makers and installers of physical sensors; connection providers (landline, wireless, telecoms, etc.); storage and security hardware and software (server farms, the cloud) to hold on

to and encrypt all the collected data; and finally the data analysis software. Some companies do all that in one solution; others focus on one piece of the spectrum.

The projections for growth are huge: Networking equipment titan Cisco Systems Inc. believes IoT represents a \$19-trillion (U.S.) global market and predicts that 50 billion devices will be connected to the Internet by 2020.

MAKE NO MISTAKE: in spite of what some pundits might suggest – growth is not dead; it is merely hiding amongst area of opportunity not easily categorized within traditional legal departmental structures.

Industry sector expertise is THE differentiator.

For those who missed one particular development that emerged over two year back, 600-attorney Husch Blackwell, a St. Louis based firm, completely dispensed with its traditional practice group structure in favor of organizing itself into a configuration of six industry groups.

In a recent interview with firm chairman, Maurice Watson, he explained, “We were aware that the competition, especially in our segment of the market, was intensifying, that there were too many talented lawyers and talented firms and too little great work to be had. As a consequence, there's much greater pressure and focus on the need for law firms to be able to differentiate themselves as well as establish, for clients, that they can offer some kind of additional value that other comparable firms could not provide.” Back in 1989 I authored one of the first books on the marketing of legal services (for Butterworths) wherein

I confidently predicted that within ten years every significant law firm would be structured based on industry groups – so much for the folly of making predictions.

Fast forward twenty-five years and it is still staggering for me to understand why, in spite of decades of witnessing other professions, like our brethren in the accounting and management consulting fields, focus on seeing client need through an industry lens, that so many law firms still miss this opportunity.

It gets even crazier when we consider that one of the primary reasons for corporate counsel to either select (or deselect) any firm is increasingly based on the degree to which that firm clearly “demonstrates” an understanding of the client’s business, their industry, and what issues are of paramount importance.

What makes industry sector expertise a meaningful differentiator?

First, where you enter into serving a specific industry segment and are eventually perceived by the sub-industry members as having specialized knowledge in their unique business and legal matters (“you talk their lingo”), you can develop a name recognition that becomes hard for others to match.

Second, in any market with a steep learning curve, being first to target and develop a presence in some specific industry segment (think: personalized DNA-based medicine) can confer the advantage of having a head start. That head start allows you to position yourself as a primary source for media commentary, for seminar presentations, for having articles published and other such positioning tactics.

Finally, by being early and effective in targeting some lucrative sub-industry, you have the opportunity to draw clients into your web, creating “switching costs” that curtail those clients from any notion of later, moving their work to other copy-cat firms.

MAKE NO MISTAKE: To take advantage of the opportunity professionals must participate actively within their chosen industry segment and work to establish a significant presence.- Patrick J. McKenna

Patrick J. McKenna is an internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms. He is widely credited with being one of the profession's foremost authorities on practice group leadership and the author or co-author of seven books including international business bestseller *First Among Equals: How To Manage A Group of Professionals* with David Maister (Free Press) and most recently, *The Changing of The Guard: Selecting Your Next Firm Leader* (Ark Publishing). He co-leads *First 100 Days: MasterClass For The New Firm Leader*, an annual program normally held at the University of Chicago. Patrick is the subject of a Harvard Law case study entitled: *Innovations in Legal Consulting* (2011) and recently became the recipient of an honorary fellowship from Leaders Excellence of Harvard Square. He has worked with at least one of the top ten largest law firms in each of over a dozen different countries.

Clients And Law Firms Rate "Value" Differently

By James Bliwas, Managing Director Leaner Law Marketing & Management Strategies

Growing evidence reveals that firms define 'giving value' very differently from the way clients assess whether they receive it. There are three simple things a firm can do to get – and stay – on the same page as the executives paying their bills.

A recent review of nearly 100 law firm websites from BigLaw whales to SmallLaw guppies reveals that "delivers value" is the fourth most-overused cliché in legal marketing, following only "experienced,"

"client-focused" and "high quality."

Of course all firms are going to say they deliver value to their clients; if they weren't doing so, chances are the clients would be moving on to new lawyers in short order. The problem is that value is being defined by the law firm, not the clients. This is likely why, when I do clients interviews and ask executives and general counsel to rate the value they re-

ceive from their law firm on a one-to-ten scale, a frequent answer is merely a six. And because I ask separately about pricing and the quality of the work product,

the replies are specific to how they are perceiving value untainted by other possible problems.

Clients may not be completely unhappy but they aren't turning joyous cartwheels, either. For a law firm, scoring only six out of 10 is like its attorneys all getting a 'C+' in law school. They probably won't get un-

ceremoniously booted out the door but it's no cause for celebration – unless they expected something much worse. In effect, many clients are saying that the value they receive from their outside law firm is OK but not all that terrific. In practical terms what this really means is the relationship is vulnerable to a competing firm roaring in and scooping up the business' files – and fees.



Clients aren't unhappy but they aren't turning cartwheels, either. When the score isn't at least eight, I probe to find out why. Absent specific quality, service or delivery issues, a typical reply often goes something like this: "I've never been asked how I defined value so how can they deliver it?"

Risky Business

As Frederick F. Reichheld, who wrote *The Loyalty Effect and Loyalty Rules!*, put it, a merely satisfied clients is ripe picking for other law firms. And when a clients cannot easily perceive the value they receive, or are indifferent about the firm they use, not only are they a plum target for other firms, they default to price – where many law firms can't build a solid rebuttal argument in their favor, either.

"In the past 10 years, costs to U.S. companies went up 20-percent, except legal costs, which went up 75-percent," observes Mike Roster, a former chair of the American Corporate Counsel Assn. "They represent a bubble within a bubble." This isn't to say fees are not a vital factor when a clients assesses value; they are, and clients are increasingly sensitive to – and vocal about – the fees they are being charged and the size of their bills.

But value perception is a more complex issue and goes well beyond hourly rates. Moreover, competing on price alone is a risky, often losing, proposition. Given the over-abundance of business law firms in the U.S., Canada and many other jurisdictions, there'll always be a firm willing to charge less per hour just to get the work in a race to the bottom. When clients cannot easily perceive value, they default to price. And in any event, I don't think many managing partners of traditional firms want to be known as the Costco of corporate law.

Beyond AFA

When Alternative Fee Arrangements (AFA) began taking hold during the Great Recession, they were viewed by some in the profession with dismay and even scorn. But many lawyers and firms believed that implementing an AFA approach was a critical way to address and resolve clients concerns about value. As a result, the business saw the rise of discounted fees on some types of matters, flat or flexible fees, bonus-based fees, negotiated rates and other, sometimes very creative and clever, options to straight hourly billing.

Yet while larger firms are hiring "pricing directors" and creating a clients service function in the marketing department as well as keeping closer track of actual costs to more precisely offer profitable AFA bids, for the most part the billable hour remains a zombie that just cannot be killed off.

In any event, AFA only deals with issues concerning fees and the size of a bill, not whether clients feel they are receiving genuine value beyond the size of the check they write to pay an invoice. To climb up the perceived value ladder, firms must do more than modify their pricing strategy. Every time a complex new file is opened, the firm needs to ask how the clients defines value – and pay attention to the response. The era is long past when an attorney can simply assume – or believe – that producing quality documents on time for a fee proportionate to the importance of a file will address the mounting frustration.

Three Steps

So how are clients defining value? If they're not satisfied with what they are getting, what do they want? In fairness, it is something of a moving target. What was considered adding

value to the clients relationship only a few years ago is now taken as a given: Useful and readable blog they're receiving, all on a 1-to-10 scale, If any reply falls below an eight, follow-up questions should be asked to learn why the score was given – especially with the value question.

This is critical: No lawyer who worked on a file should do interviews; it's not a good idea for the head of a firm or practice group to conduct it, either. Few people enjoy breaking bad news and a clients may say what they think the lawyer wants to hear. It's better for interviews to be handled by the marketing, clients service or executive director, or an outside advisor.

The on-line survey and in-person interview should occur about six months apart.

Law's DEW Line

Clients are firing warning shots across the bow of the law firms them use.

According to The Age of the Client from Lexis-Nexus (registration required) found that eight-in-10 lawyers think they deliver above-average service and value but only 40% of clients say that's what they get. As a result, an amazingly high 60% of clients using more than a single firm fired one of them during the previous year. The key reason is unnerving: The firm provided the clients with mediocre service and value. Not horrid or bad, just ordinary.

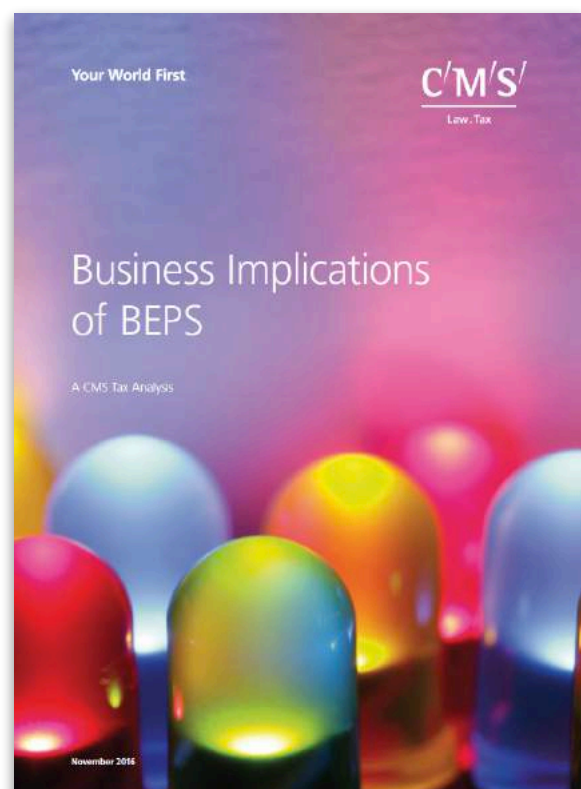
It like the Distant Early Warning line that used to stretch across Northern Canada to warn of incoming Soviet bombers during the cold war. With the business of law is increasingly competitive, only a wilfully short-sighted or foolish firm believes that its relationships are immune from poaching. Why do you think the law business has been so slow to understand that clients

don't feel they receive sufficient value? How is your firm trying to move up the value ladder? Or are you racing to catch up with your clients? - *James Bliwas*

James spent [most of his career](#) working in and with law firms on a wide range of marketing and business development issues. Other articles you may find useful include: General Counsel Lose Patience With Law Firms – Law Firm Leaders Still Aren't Listening – Bloomberg OpEd Criticizes Law Marketing's Boring Sameness – Why Law Firm Blogs Aren't Read – Stop Writing Blogs, Start Telling Stories.

Join James on Twitter [@LeanerLaw](#).

Interesting Report from CMS





Lean Is The Path To The Perfect Legal Practice

An Essay in Three Parts

By Kenneth A. Grady, Lean Law Evangelist at Seyfarth Shaw LLP, Professor at Michigan State University College of Law

Part 1&2 are also published on the website. This is the complete article incl. part 3.

Lean is a philosophy that every lawyer says they understand, yet few really do understand. In this essay, I will give the longer explanation of what Lean really means and why it is critical for lawyers to learn. But, I also recognize that lawyers like the short, pithy version before they dig in to the details. So, this is the way one lean thinker [explained](#) what lean coaches do when his seven year-old daughter asked what teaching lean meant, “Daddy tries to teach people how to work faster and make less mistakes. And, most importantly, we also try to teach people to be nice and respect each other... that way everyone can do their very best.”

I have divided this essay into three parts. In the first part, I give a brief overview of the history and five basic principles of Lean. In the second part, I will explain how Lean can help legal services providers. In the final part, I will explain how to incorporate Lean ideas into your legal

services and turn your organization into a continuous improvement enterprise.

Lean Unites Many Streams of Thought

In the 1940s, a startup in the automotive industry called Toyota Motor Company began uniting many streams of thought into what became the Toyota Production System (TPS). Five major streams form the core of TPS.

- First, three philosophers in the United States—Charles Sanders Pierce, followed by C.I. Lewis and John Dewey—founded the pragmatism tradition of philosophy. Pragmatists focused on practicality, [claiming](#) “that an ideology or proposition is true if it works satisfactorily, [and] that the meaning of a proposition is to be found in the practical consequences of accepting it.” Walter Shewhart, who was followed by W. Edwards Deming and Joseph Juran, created the quality movement in the manufacturing world. Shewhart built his statistical quality control ideas partly on the pragmatist tradition. Deming and Juran, who learned statistical quality control from Shewhart, introduced quality concepts to Japanese businesses after World War II.
- Second, Henry Ford developed the moving assembly line. The moving assembly line revolutionized manufacturing. Instead of a team of craftsman working in one spot to put together a car, the car chassis started a journey through the factory. Periodically, a group of workmen would perform a specialized task, such as put in the engine or the wheels. The change from one-spot production to the moving assembly line, essential for something as complicated as a car, became a core competency of manufacturing that still exists today.
- Third, the United States corner dry goods

- grocers, butchers, bakers, and fresh vegetable markets were brought under one roof by the supermarket. One stop for all your grocery needs. Supermarkets used shelving systems customers served themselves from instead of using clerks to serve customers. The customer would pull a can of corn or peas off an inclined shelf that had many more cans ready to slide into place. This system was the origin of Kanban.
- Fourth, Frederick W. Taylor, a young engineer working at a steel company, developed the ideas of scientific management. Using his ideas, companies standardized work, used metrics to measure the time spent on tasks, and brought discipline to the unruly factory floor.
- Finally, the United States government contributed by creating the Training Within Industry (TWI) system at the beginning of World War II. As trained workers left factories to join the armed forces, the U.S. had two problems. Factories needed to scale up production to meet the demands of the military. At the same time, the ranks of skilled workers were depleted. In one case, lens grinding, it took five years to train a replacement. Using TWI, the lens grinding companies were able to bring the time to train a replacement down to six months and by the end of the war it was down to six weeks.

TWI was developed by the U.S. government and implemented by industry to address the worker problem and industry used it in offices and for services, not just on the factory floor. It performed far better than expected and was used from 1940 to 1945. According to many, TWI was key in the U.S. producing the products needed to win the war. While TWI was terminated in the U.S. when the war ended,

General MacArthur, leader of the allied forces in Japan, introduced it to Japanese businesses to help them re-build. TWI was a major part of what became TPS. While TWI brought many elements to TPS, the most notable came to be known as “respect for humanity.”

At Toyota Motor Company, Taiichi Ohno was tasked with helping the company build its automotive manufacturing business under the harsh post-war conditions. Raw material, workers, and money were in limited supply. Everything had to be used wisely and wasting anything was the new enemy. Ohno, with a group of engineers working together as the Toyota Autonomous Study Group, pulled together these streams and developed many other pieces that they used to build the Toyota Production System.

In the early 1990s, John D. Krafcik, was doing research for James Womack, who was writing the book *The Machine That Changed the World*, which kicked off interest in TPS in the United States. Krafcik, a graduate student at MIT at the time who has since held many senior roles in the automotive industry including CEO of Hyundai Motor America Inc. and today is Alphabet’s CEO of Self-Driving Cars, coined the term “Lean” for Toyota’s system. Womack and one of his co-authors then published the primary work on Lean, *Lean Thinking: Banish Waste and Create Wealth In Your Corporation* (Womack and Jones, 1996). They used the term “Lean Thinking,” because they recognized that U.S. manufacturers, especially automobile manufacturers, would be reluctant to adopt a system called the “Toyota Production System.”

Today, Lean is used in industries of all types throughout the world. According to the [4th Biennial PEX Network Survey \(PEX, 2015\)](#),

Lean is the most widely used form of operational excellence in corporations (53.27%). Reflecting the general trend of services moving to adopt operational excellence methodologies, corporate departments, such as finance, HR, legal, and customer service, are steadily increasing their use of Lean.

Despite the overwhelming success of Lean, the legal services industry has been one of the last to adopt its philosophy and methods. Lawyers believe that Lean will force them to give up their autonomy, pride in quality, and their professionalism, all of which lawyers cherish. It is time to debunk that myth.

Not Strange Bedfellows

Lawyers look skeptical when they hear “Lean” and “law.” Their visceral response is that something born and raised in the manufacturing world has no place in the professional services world. Lawyers don’t make toasters, they solve the world’s problems. This type of work should not be measured by a stopwatch and humans should not be treated as robots, asked to perform the same task again and again without variation.

Of course, there is some merit in what lawyers say. Delivering legal services is not the mass production of goods. But Lean also is not what they have been taught or imagine and so the comparison is inapt. What lawyers fear is not what Lean brings.

Ironically, what lawyers do today is much closer to the dreaded production line and Lean is key to taking lawyers to the types of practices they would like to have.

Lean sits well with anything people do, legal services included. The Lean philosophy is built on five principles that form a virtuous circle.

Womack and Jones enunciated those principles in *Lean Thinking*:

1. Specify what creates value from the client's perspective.
2. Identify all the steps across the entire value stream.
3. Create flow among those steps that create value.
4. Only make what is pulled by the customer just-in-time.
5. Strive for perfection by continually removing waste.

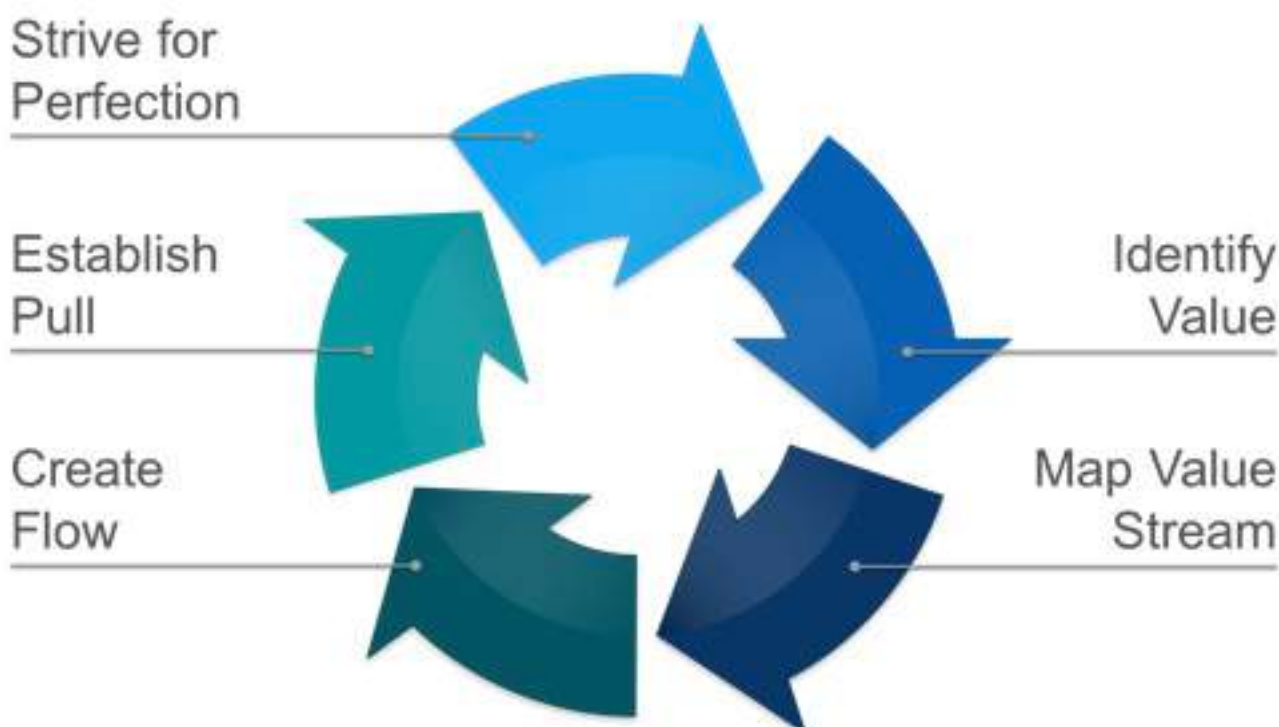
Principle 1: What Creates Value

Lawyers provide services to clients. They help clients solve problems. Thus, whatever the lawyer does should create value for the client. While this seems self-evident, for lawyers there are some interesting twists. Lawyers work under a regulatory scheme that does not permit them to do whatever a client wants, even though doing so would create value

for the client. A lawyer may be creating value for his client by helping the client move funds to evade paying taxes, but the lawyer is not free to help his client commit a crime. While a lawyer should create value for his client, there are limits on such value creating efforts. But, it also is hard to justify a system where a lawyer spends a lot of time on things that don't add value for the client and then charges the client for the non-value added services.

Principle 2: Identify the Value Stream

This principle is foreign to most lawyers. They simply do what they do to finish the task set before them by the client. They do not classify the things they do into those that provide value and those that do not. Within Lean, we do that classification. We want to know which steps are the ones adding value and which ones don't, or in Lean terms, which ones are waste. When we identify the value stream, we pull together those groups and processes that stand between the client request and the delivered solution,



and include only those that add value. This gives us a story book of how to get from beginning to end with minimal waste (I'll show you an example of a value stream map in a bit). The things that add waste are the things which make the lawyer's job stressful, boring, and more like the assembly line than a creative opportunity to bring innovative solutions to client problems.

Principle 3: Create Flow

Flow occurs when each value step connects to the next value step without waste. While this sounds simple, it is extremely difficult to achieve. The service provided must move from client to lawyer, and within a firm or other organization from lawyer to lawyer, and then from lawyer to client, without any drag or interruption. The entire process must be free of waste. To get flow, we must change processes so that instead of each person pushing work to the next, each person pulls work. Flow is something we all want to get to, but no one has yet to achieve in its ideal form.

Principle 4: Just-in-Time

The just-in-time principle comes from the supermarket. Ideally, when you go to the shelf and remove a can, another one drops into place for the next customer (who is right behind you). In its highest form, just-in-time (JIT) means that each thing done in the value stream happens immediately before the next activity in the stream, not too early or too late. On a production line, the parts to attach the engine arrive at the work station just when the worker needs to use them. They are the parts needed for that particular chassis and engine, no others. JIT in legal services happens when each person in the value stream does just the work the client

needs, when the client needs it, and no more or less.

Principle 5: Strive for Perfection

In Lean, your value stream would achieve perfection if you could remove all of the waste in it. This does not happen in real life, and so the virtuous circle of Lean continues as we cycle through the principles over and over again, always trying to move a bit closer to perfection. This is where the term "continuous improvement" comes in. Lean is not episodic improvement events, it is a drive that means every day, every employee looks at what she does and questions how she can do it better.

'In the second part of this essay, I will explain how Lean can help legal services providers'

Lean Is The Path to the Perfect Legal Practice

In the first part of this three-part essay, I gave a brief overview of the history and five basic principles of Lean. In this part, I explain how Lean can help legal services providers.

As James P. Womack and Daniel T. Jones explained in their book, *Lean Thinking*, there are five principles at the core of the Lean philosophy:

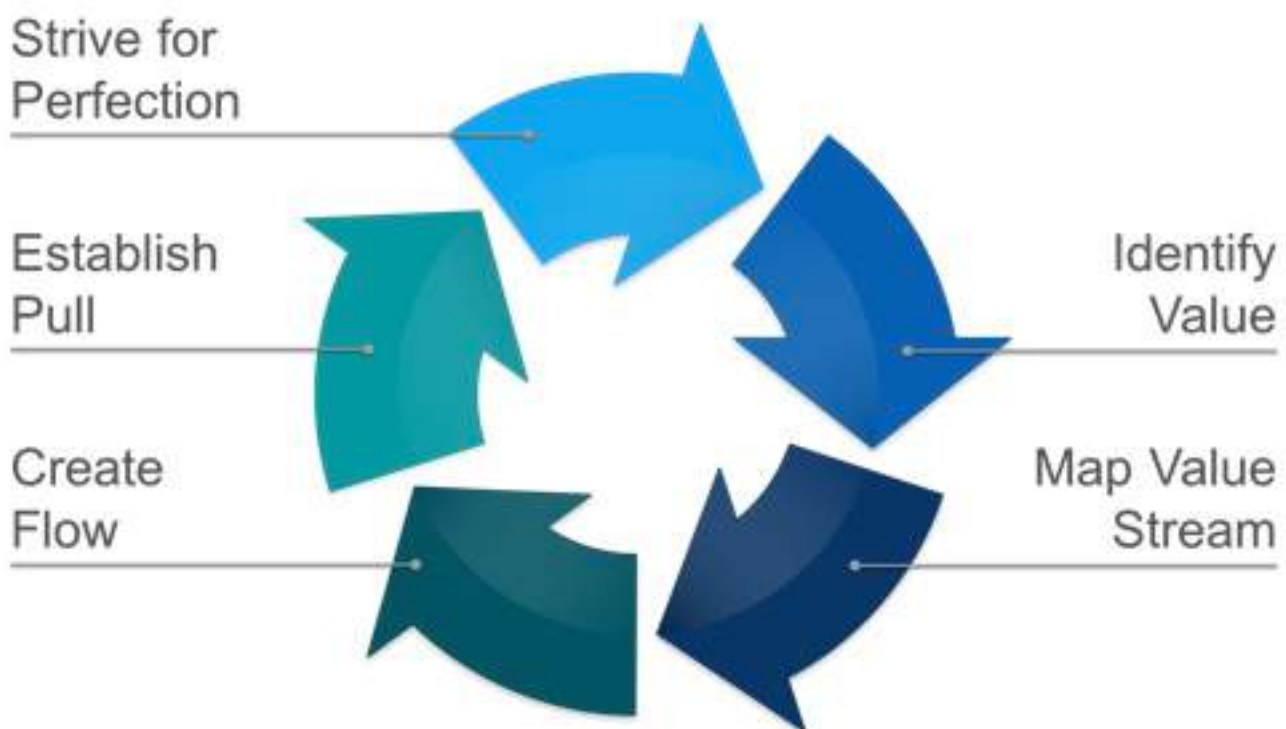
1. Specify what creates value from the client's perspective.
2. Identify all the steps across the entire value stream.
3. Create flow among those steps that create value.
4. Only make what is pulled by the customer just-in-time.
5. Strive for perfection by continually removing waste.

To see how these principles work in law, let's look at a simple legal service. The client calls a law firm asking the lawyer to draft a contract. This is the "pull" that triggers the value stream. Ideally, the lawyer to whom the matter is routed is the lawyer who will draft the contract (and if the contract can be assembled by a paralegal using document assembly software, then the paralegal would receive the call).

In our ideal value stream, the lawyer receiving the call is ready to work on the contract immediately. The client was routed to this lawyer because she had time to work on the contract and the necessary expertise (some consulting firms use software to help them achieve this). She opens a contract template (no searching) and fills in the necessary information. The software checks what she is typing so that errors are corrected on the fly. She finishes the drafting step, reads the document on the screen (this is the

quality check step), and sends it to the client. The value stream is tight (there are ways to tighten it, but this isn't bad) and the client receives what she requested—a contract that is fit for her purpose (not too complicated, but not missing critical elements).

Even though many lawyers would protest that this describes how they draft a contract today, some quick observation and value stream mapping reveals that this is rarely if ever the case. Even if this idealized version of contract drafting were accurate, there are still many things we could do to improve the process. Using various Lean improvement techniques, we could bring the process closer to perfection, and then cycle again to get even closer. Each cycle would accomplish many things, including cost reduction. But it is this idea that *all* Lean has to offer is cost cutting that got Lean got off on the wrong foot in the legal industry.



Lean Reduces Costs, But It Is Not Cost Cutting

None of the five principles mentions cost cutting. And yet, within the legal industry, Lean has become known as simply a cost cutting tool. In part, this is because Lean was introduced to the legal industry at a time when corporations were focusing on what became the “more for less” dilemma. Corporate counsel faced increasing compliance and regulatory requirements in the United States and globally. Business models were evolving quickly and adding new areas, such as social media and digital tools. The combination of these factors meant in-house counsel needed to provide more to their clients.

At the same time, in-house lawyers were being asked to focus more on their budgets. They were told to spend less, or at least not spend more. They also were told that budgets were real, not just estimates that could be missed. The increased financial discipline combined with increased service quantities created a problem. The solution seemed to be reducing the cost of each unit of legal service and Lean became one way to cut costs.

Unfortunately, this got Lean off to a bad start. Rather than asking the broader question of how to improve legal services delivery in a way that would reduce cost, the industry focused on cost itself. In medical terms, this is treating the symptom without looking for the underlying cause of the disease.

Lawyers began taking one day seminars intended to teach them how to do short improvement events, which they thought would get costs down. The legal industry’s approach to Lean became: process map, remove some waste, and hope the cost dropped. Not surprisingly, this 1-2-3 approach to Lean has not been

satisfying to many. While paying attention to a process will cause some improvement, without a more robust Lean approach built on a deeper understanding, the fast food fix to legal services delivery leaves one craving something more.

Re-Directing Lean In Legal Services

Starting fresh with Lean in the legal industry, we can see how it has the potential to help us do much more than cut costs. In their first book, *The Machine that Changed the World*, Womack and Jones set the goals for Lean much higher: “[T]he adoption of lean production, as it inevitably spreads beyond the auto industry, will change everything in almost every industry—choices for consumers, the nature of work, the fortune of companies, and ultimately, the fate of nations.”

One way to appreciate the benefits Lean can bring to legal services delivery is to start at the end of the value stream. Under the labor-intensive, craft system of legal services delivery every lawyer employs today, the time and cost of achieving what the client wants reaches a point where the client will pay no more even though the lawyer can imagine ways to reduce risk or improve the quality and value of the service. The lawyer must stop and deliver the service to the client.

Lean provides a way to get past the barriers created by the increasing cost of labor without resorting to the high cost of technology. The goal of Lean is perfection. To achieve that goal, we trim away everything that isn’t value. Again, looking at legal services value streams, Lean allows us to reduce what we spend on what does not add value and re-direct our energies on providing value. Doing so, we can do more to improve quality, enhance value, and generally improve services.

If a client will spend \$10,000 for a service, Lean gives us two basic options (with many variations). First, we can reduce the cost of providing today's service, while maintaining (usually improving) quality, timeliness, and fitness for purpose. This allows us to drop the price so the client pays less, while at the same time the cost to produce the service has dropped so the value (profit) to the lawyer remains the same (in a decent Lean program, profit would go up even though the price came down). For certain services, this helps the client and the firm.

Second, because the cost of providing the service has dropped, we can add value to the service while keeping the price to the customer the same. We can increase service levels (quality) or expand service levels (e.g., cover those ideas we couldn't cover at a higher service level cost). In other words, the Lean lawyer can provide more and better quality service than the non-Lean lawyer at the same price.

Quality comes up a few times in these examples. Obviously, quality is important to lawyers. But in the labor-intensive processes we use today, we can only do so much before the cost of the service becomes too high given the price the client will pay (some clients are not price sensitive on some matters, but those form the minority). We don't have the time or the money in the budget to read the brief again, check the citations again, or do other work (or re-work) to improve quality.

Lean's goal, however, is perfection. Perfection means zero defects in the services delivered to the client. To achieve zero defects, we must redesign processes so that defects are removed as soon as they are created. We can't wait to the end and look for defects (read the brief one

more time), because the cost is too high to find and remove them. Lean's goal, then, is consistent with and a better way of achieving what lawyers want to provide their clients—the highest possible quality in legal services.

'In the final part of this essay, I will explain how to incorporate Lean ideas into your legal services and turn your organization into a continuous improvement enterprise'

Lean Is The Path to the Perfect Legal Practice

In the first part of this three-part essay, I gave a brief overview of the history and five basic principles of Lean. In the second part, I explained how Lean can help legal services providers. In this final part, I explain how to incorporate Lean ideas into your legal services and turn your organization into a continuous improvement enterprise.

Once we accept that Lean is consistent with the goals we want to achieve as lawyers, the question is how we can go about those goals using Lean. This is where we re-start our Lean journey by going back to the five principles and looking at them from the viewpoint of a legal services provider.

Principle 1: What Creates Value

We must first understand what our clients mean by value. Lawyers stumble over this principle, because for a long time lawyers have defined for their clients what value means, or at least assumed that was part of their job as professionals. The client came to the lawyer with a problem and the lawyer decided how to solve the problem, which presumably was the value the client wanted.

Law was mysterious, an opaque way of transforming inputs (problems) into outputs (solutions). Lay people were not trained in the mystical arts and could not be expected to discern what was valuable to them. That was the job of the lawyer.

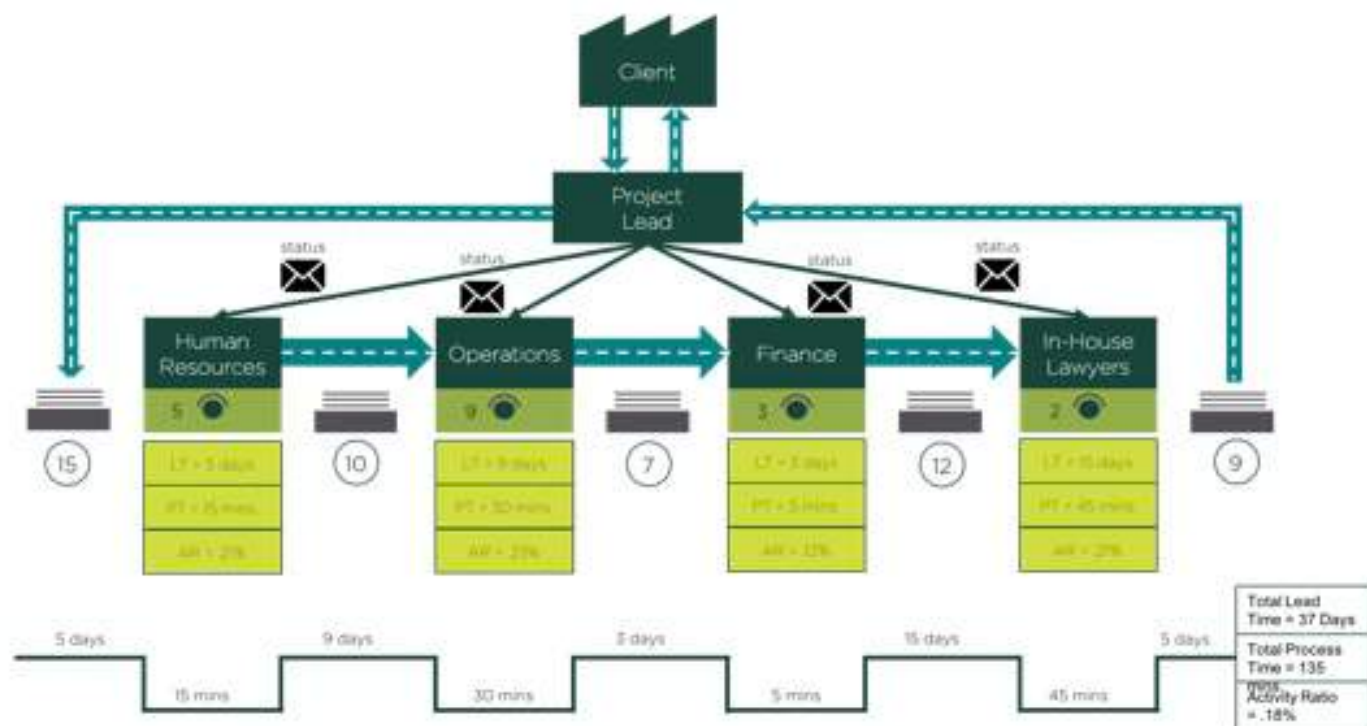
At the corporate level, that paradigm has changed dramatically since the 1970s. The role of the in-house lawyer has grown considerably to where today, the in-house lawyer (typically a former law firm lawyer) is in a much better position to determine what value means to the client. The in-house lawyer understands the law, so there is no mystery about legal services, and she understands the needs of the client. She can set the bar for what is needed separate from what the law firm lawyer wants to provide. The client and the outside lawyer must start by agreeing on what value means for each matter in its particular context. Put differently, each matter requires a risk-based evaluation of what value is needed to handle the matter. That

value determination will guide the next step, where the lawyer determines the value stream.

Principle 2: Identify the Value Stream

Value determination is the starting point. You must know what your client values if you want to focus the stream of what you do to produce that value. As the famous baseball player Yogi Berra said, “If you don’t know where you are going, you’ll end up someplace else.” A value stream is the sequence of value-added steps that leads directly from the client request to what you and the client have defined as value to the client. Knowing the goal, you can now identify the value stream.

Many lawyers have been taught in what the trainer called “process mapping.” They assemble in a room and using sticky notes, create a flowchart-like diagram that shows the steps in a process from beginning to end, complete with detours. Unfortunately, these sessions seldom result in process maps or value stream maps.



Lawyers create Centaur maps—a hybrid that does not serve any purpose well.

A value stream map is like a story book. At a high level, it pulls together in a visualization the groups that are part of the value stream, where the process is push or pull, inventories, numbers of participants, and major metrics for the system. It gives you a good overview of the system, which you can use to target processes needing improvement. It does not, however, provide the granularity or specificity needed for process improvement. A true process map is far more granular than what lawyers typically see in Lean training, but process mapping is for another day.

Value stream maps require a trip to gemba—the place where the action happens. For a manufacturing plant, the gemba is obvious. You go to the factory floor and observe the activities that make up the value stream. Lawyers think they can skip the trip to gemba, asking why they need to stare at an office. But going to gemba is essential. As you watch someone go through their routine in an office, you will see the many opportunities to remove waste (which is why the seminal value stream mapping book was titled “Learning to See”). Creating a value stream map helps you identify where to focus your improvement efforts.

Principle 3: Create Flow

Legal services delivery falls at the opposite end of the spectrum from flow. Remember, flow happens when each value added activity smoothly connects to the one before it and the one after it, with no waste. Legal services delivery is a jerky, pushy affair encrusted with waste.

The partner pushes work to the associate, whether the associate is ready to handle the work or not. The partner waits until the as-

sociate completes his task, which depends on the other things in the associate’s in-box (and the clout of the lawyers who assigned those things). Work jumps back and forth, as partner and associate correct each other’s mistakes, fill in blanks, and gather additional information through research or queries to the client. The circle expands to include work flowing back and forth with the in-house lawyer and perhaps members of the management team. Somehow, they all reach the point where they call “done.” We can eliminate much of the back-and-forth activity with templates, checklists, and transparent processes. None of these steps impedes what lawyers want to do, yet all improve the process for delivering their services and, properly done, move processes towards flow.

Principle 4: Just-in-Time

When work arrives and you aren’t ready to do it, your system lacks on just-in-time. In the corporate law department, the description often is more just-when-I-can-get-to-it. Work rises and falls based on who asked, who screams, and which impending crisis needs to be averted. Multiply this case by many lawyers working across many matters and you have a system that fights fires.

JIT tackles these problems by improving the process. What causes work to build up (and the true answer seldom its “we have too much to do”)? Why are some activities performed too early and some performed too late?

Principle 5: Strive for Perfection

If there is one principle out of the five where legal services have stalled, it is in the drive to continuously improve, also called striving for perfection. In people, this is a quality that separates those who achieve much from those who don’t. Although I don’t have a scientific study at

my fingertips to support this, I believe that this quality is closely linked to curiosity. I also believe that curiosity is something we find less frequently in lawyers today.

To strive for perfection, you must continuously ask “is there a better way”? This does not mean constantly re-working the contract or brief on the client’s dime. It does mean asking when each matter finished how you could have done it better, faster, or less expensively. It does mean questioning each day why you do the things you do and if clients perceive them as value.

Striving for perfection sets apart the Lean winners from the also-rans. In the legal industry in particular, we have seen very few firms that have employed Lean move from episodic use to continuous improvement—the constant drive to achieve perfection in legal services delivery. This isn’t surprising, because to go from an intermittent improvement environment to a continuous improvement environment is perhaps the most difficult, and yet the most rewarding, step in any Lean program. And, how to do so is the last point for this essay.

The Kata Of Continuous Improvement

Ask someone in the legal industry what they think Lean means, and you will probably hear a story about “process mapping.” In the last decade, as many legal consultants and others have run to introduce Lean to their clients, they have latched on to the idea that process mapping seminars and some training on how to do a “kaizen event” will launch clients into blissful days of ever-decreasing costs.

Kaizen events are interesting—and very American—things. In the 1980s, Maasai Imai was a consultant in Japan who had worked for Toyota

Motor Company, among other clients. He was a TPS aficionado and was bringing it to clients outside the automotive industry and outside of Japan. He needed a way to introduce clients to the concepts and so he built into his program a two-day workshop that included a kaizen burst (kaizen roughly translates into “continuous improvement”). A burst used a small team that focused for a brief period on a particular improvement problem. Toyota Motor Company occasionally used the burst approach when some problem needed a bit more than continuous improvement.

Imai’s workshops were successful and as he moved them to the United States he found that two days wasn’t sufficient, so he extended the workshops to five days and called them “kaizen events.” In other words, the concentrated burst that Toyota Motor Company occasionally used, became a two-day workshop and then a five-day workshop Imai used to market his consulting services. The Americans who took the workshops believed that kaizen events were the normal way to approach improvement efforts and the idea became embedded in the U.S. view of Lean.

As Lean moved into legal services, it brought with it the kaizen event. Now, lawyers hear the word Lean and they think “kaizen event”—the need for continuous improvement has been lost. Lawyers, law departments, and law firms think the way to implement Lean is through these concentrated events. That is bad, but the situation got worse. Lawyers are impatient and complain they don’t have five days to spend on one improvement event. So, the time for kaizen events decreased from five days, to a few days, to less than a day. Lean training workshops today typically last a day at most (often half a day) and have become show-and-tell mapping

events. Continuous improvement has been transformed into quick fix. We have moved far away from the Lean that helps organizations. This brings us to *kata*. If you have watched a video of a Japanese martial arts class practicing, you have seen a *kata* in action. In martial arts, it is a sequence of steps that are repeated over and over again so that the student becomes highly proficient in the steps. In the words of one popular meme, they become part of the student's muscle memory. In Lean, *kata* stands for learning the improvement parts of Lean, so that continuous improvement becomes part of your daily routine. Improvement is not delegated to the few hours or days of a kaizen event, it happens all the time.

Kata is a culture change for an organization, especially a legal services delivery organization. Law firms are not set up for continuous improvement. The individual lawyers pay attention to the developments in their specialties and keep up with the law, but they do not continuously focus on ways to improve their practices. If anything, the compensation of most firms—based on the billable hour—tilts against improvement. Being less efficient has its rewards.

Kata isn't easy. Remember how hard you fought against practicing the piano or learning to dribble the soccer ball? Habits are not easy to learn or break. To make the culture change so that the *kata* of continuous improvement becomes part of the organization, you typically need something that binds together the employees of the organization. This is the second (or perhaps first) major hurdle for legal services delivery organizations. Working under a common banner (a law firm name) or within a group (a law department) is not sufficient. Peo-

ple need something more to rise above the crowd—to invent them to practice the continuous improvement *kata*. Continuous improvement requires that individuals be bound together to achieve that something more, that greater purpose.

Healthcare is going through its own Lean transformation right now, and you can see where healthcare workers have an edge over lawyers when it comes to finding a greater purpose. Everyone who works on the pediatric cancer ward comes to work with a common purpose that drives them through the day. Wanting to reduce the suffering of children naturally drives people. Wanting to write a pithier contract to help a multi-billion dollar company earn more money pulls less on the heartstrings.

Though it may be difficult, for lawyers, law firms, law departments, and legal services delivery organizations generally to succeed at Lean, they must find their greater purpose. It is that purpose that will motivate individuals to expend the effort to learn the *kata* of continuous improvement and to approach each day as another opportunity to get better. With that transformation, legal services delivery organizations will find the multiplying effect of continuous improvement powers them past competitors; makes work more interesting for the participants; improves the quality, timeliness, and efficiency of services; and yes, drives down costs.

Embrace Lean And The Future Of Legal Services

Lean entered the legal industry through the backdoor as a way to address clients' growing concern about how to provide more legal services using fewer resources. Lawyers immediately and not surprisingly pulled back from

what they saw as an attack on the things they prized the most: autonomy, creativity in solving problems, and professionalism. Many met the meme “law is a business” with the rejoinder “law is a profession.”

Law is both, and one part without the other will not survive. When we say law is a business, we recognize that the time when money was no object is now firmly in the past. We are not likely to hear current day equivalents of Nicholas de-Belleville Katzenbach (IBM’s former general counsel) respond to the question whether the sky was the limit for resources available to fight the government’s antitrust lawsuit with the answer “There is no limit.” That door has closed. Lawyers also are not likely to hear clients say, “do what you think is best” and be left to decide for themselves what value to provide.

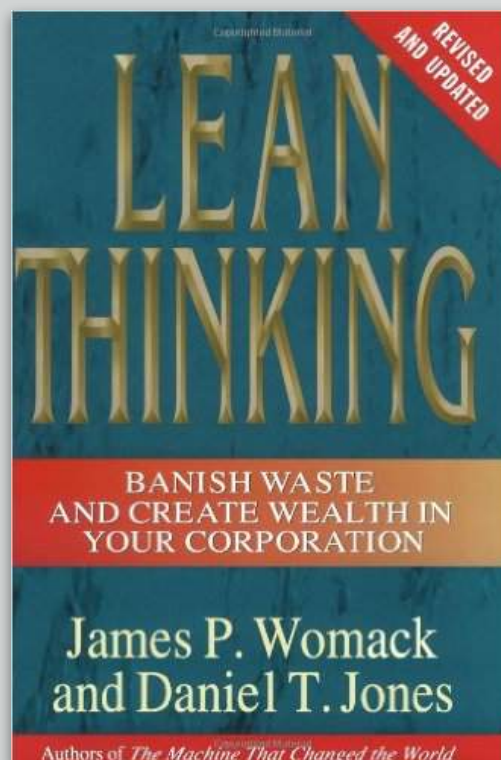
Like many things, what it means to be a professional is no longer clear (and perhaps it never was). But it must stand for something and that something at a minimum is to perform one’s tasks at the highest level possible. It is inconsistent with legal professionalism to disrespect time, quality, or people.

This is where law and Lean are aligned. Whether counseling a client, preparing a contract, or judging a dispute, professionalism dictates using the means at our disposal to provide products and services clients cannot obtain through other means. Lawyers must provide their services at the highest level possible, but not at the highest cost possible. Reconciling these demands requires creativity, innovation, and deep respect. Lean is a well-established path to higher quality, improved productivity, increased timeliness, and greater respect for the people who provide the services. It sits on

the direct line between what lawyers want to do and what clients want them to do. Lean is the path to the perfect legal practice. -Ken Grady

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Book Tip





Center for Entrepreneurship and Innovation

A conversation with René Orij, Managing Director of the Center for Entrepreneurship and Innovation at Leiden Law School

You're the Managing Director of Center for Entrepreneurship and Innovation of Leiden Law School. Many people know your Center - but for those who don't: What is the mission of the Center and its core activities?

The mission of the entrepreneurship and innovation center is to support law students from Leiden University in becoming more entrepreneurial and to turn them into innovative legal professionals. That's why the center focuses on assisting students in developing the knowledge and skills needed coping with the big challenges in the future of the legal services.

We do not aim at students only, as our *raison d'être* for students must be the link with the future professions of these students. That is why the center aims to stimulate entrepreneurship amongst law firms, other legal professionals and organizations with a strong bond with law. Concretely this means the coaching of startups in ideas they have in legal tech.

What ‘need’ does it fulfill for law students? And do you see the Center also fulfilling a need for legal professionals?

As mentioned above, there is definitely a need to learn more about entrepreneurship and innovation.

For example - what if artificial intelligence takes over tasks of lawyers in the future – do lawyers have to become tech-savvy? In any case they have to become entrepreneurial to be able to outcompete their competitors, whenever computerized competitors or not.

You identified 4 pillars as the Centers’ core activities. What do they stand for?

Pillar 1: Information platform

A part of the center is the information platform in which the latest trends in the field of legal entrepreneurship and legal tech are being watched. The center has become the founding father of a network around the topic of legal tech. Within this network a think tank is set-up with entrepreneurs and scientists from the field. This means we are always up to date regarding to things happening in the legal tech market.

Pillar 2: Innovation labs

One of the goals of the center is to help existing businesses with innovations so they can ensure their position in this world of fast technological developments. We act upon this by the means of innovation labs. Open innovation sessions with experts from the field (startups and existing businesses) and our students will be held. As a team we explore the possibilities, write business cases and find suitable business models for the changing legal services. Teams of students can perform business analytics and also discuss about possible innovations.

Pillar 3: Legal startup support

There lies much potential in terms of technological developments in the legal sector. As a center we motivate our students to propose innovations. We then accompany them in an actual start-up. But also external startups can approach us for advice.

Pillar 4: Legal counsels/general counsels

Bearing in touch with legal counsels, we discuss what legal innovation actually means to them. They are par excellence the large clients of big law. What does such a client want or need from a law firm? Does the client want internet applications or internet based collaborating systems? Is it too early to think of the acknowledgement of information from non-law firms?

Looking at the change, what is the biggest challenge for the legal professional in let’s say five years from now?

The biggest challenge for lawyers is to change a very deeply-rooted attitude of ‘there is no need to innovate, because law firms operate a very successful business model. There are some very innovative people working in the legal industry, but the general paradigm in the industry is conservatism in a rapidly-changing world.

Do you think the Dutch legal market and its specific developments differ much from international developments in Europe and the US?

I do not see many differences in developments, except for the speed of change. Sizes of local markets, defined by differences in language and legal systems, differ from Anglo-Saxon part of the world. Small markets are less likely to experience quick introduction

of artificial intelligence (A.I.) products. But that's a matter of time, that AI will be able to deal with local peculiarities soon.

If we zoom in at the Law Firms, do you foresee a changing position from a competitive point of view in and between Big Law, Medium sized Firms and Small Firms?

There are some relevant issues here, which are not limited to the ones I give below:

Commoditized tasks, particularly in the mid-market, will be taken over by computers. This may lead to clustering of the mid-market, or maybe specialization into boutique firms. For Big Law other issues may become rele-

vant, for example the effect of a new tech revolution on Big Law's clients. If the big money-makers for Big Law - financial institutions - lose their future fight with fintech, Big Law will be out of business.

Or another issue, raised in the next question, becomes relevant: very professional corporate departments. Large corporations will be able to deal with many legal issues themselves in the future.

Small law firms may lose a lot of business, because of the introduction of internet-based applications. But their advantage over mid-size firms may stay their local presence. Small is beautiful.

Legal Industry Leaders Dinner | May 8, 2017 - Amsterdam - the Netherlands

Invite Only

On May 8th Harvard's David B. Wilkins and two other Thought Industry Leaders will speak about the Legal Market at an exclusive dinner in the Netherlands. There are only 8 tables available so all participants will have enough time to ask questions and discuss the subject(s). Interested in attending this dinner, please contact us at lexpo@igrowthlegal.com



HARVARD LAW SCHOOL
Center on the Legal Profession



Some say the Legal market is on the verge of a disruptive force that will have a huge effect on the market.

Then again, others say change will be an incremental process and the market will evolve naturally. What are your thoughts on this?

There is no crystal ball available that predicts our future. If A.I. is taking off, it will rather easily swallow parts of the legal market. But since at least twenty years the taking-off of A.I. has been predicted in the field of law, but no real commencement was made. In brief, for now changes are still slowly progressing, but A.I. may lead to a big bang.

The main development in corporate life that will change it all in my perspective is the blockchain. I believe all ownership of all assets in the world will be registered in a cloud-based ledger using blockchain technology pretty soon, accompanied with all possible transactions and payments.

Can you give some examples of how you support legal services more on the entrepreneurial side and how to introduce some innovations to tie in with the major developments in the industry.

We want to create awareness that leaning on principles of 'business as usual' will lead to the end of law firms. Understanding of principles of demand and supply, related to a legal specialization, is absolutely necessary. If there is no demand for your legal knowledge, you need to change – gain new skills and learn new things. To be able to understand what the demand of clients and prospective clients will be we assume big

data analytics will be important tools for law firms.

Important trends are globalization, increasing level of the General Counsel and related insourcing, IT solutions/tooling and more smaller offices with a sharp focus. The question is how to respond on this, how to become a game-changer?

The negative question is how not to become a laggard, but the positive is the one you describe, but in my own word: How to create a competitive advantage by speedy adaptation of really useful innovations.

In the next article you can read about New Business models for the Legal Services Market (Linking Empirical Academic thinking with Legal Practice).

René Orij once was an international banker, now a business model expert at Leiden Law School. He is a Managing Director of the Center for Entrepreneurship and Innovation at Leiden Law School.

Besides this position René also is Course director of Legal Studies and assistant Professor at Leiden Law School. His specialties are:

- Entrepreneurial innovation and new business models.
- Law firm management.
- Business and society links.
- Corporate reporting.
- Risk management and subprime crisis.
- Social innovation and social value.



New Business models for the Legal Services Market

Linking Empirical Academic thinking with Legal Practice

By René Orij, Managing Director Center for Entrepreneurship and Innovation at Leiden Law School

A business perspective on legal services differs strongly from a purely legal perspective. Empirical vs. normative. Many lawyers in business are not fully familiar with that perspective on their own work. An empirical perspective lets one better understand concepts of demand and supply for legal services, or in other words the market for legal services. Markets do not behave how it should be, but the information from the past may provide tools to understand how markets will behave in the future.

That market is a rather special market, for example because products are not dearly defined, and the market is not transparent.

What we know about the market, is that it is on the move, mainly caused by external pressure. This pressure calls for adjustments related to the way earnings are generated in the profession.

The way earnings are generated is the business model. To be able to cope with the external changes, the business models have to be adapted, in other words business model innovation.

Turbulence, Business Models and Examples

In this article I describe what is currently happening in the market – with a focus on the Big Law market- and thereby provide a preview of the legal services business model of the future. First of all, I'd like to describe the turbulence in the market. Secondly I will define the business model; first in general and then for the legal market. Finally I will make an attempt to determine, based on a few examples, which part of the legal business model is in need of innovation and how innovation can be done.

The turbulence in the market can be illustrated through a few examples, such as the emergence of digital developments like in the Netherlands: DoeHetZelfNotaris, Firm24, the convenience store- or Hema-notary and others. Innovation guru Christensen together with his co-authors describes new forms of services, especially legal services. From an American perspective he focuses on the Anglo-Saxon examples from the US, such as Axiom, AdvanceLaw and LeClairRyan with their Discovery Solutions Practice and the British

Lawyers on Demand. Christensen et al.'s article published in Harvard Business Review in May 2013 is now already a few years old, but still very relevant in legal practice. The article is about disruption, the most important buzzword in entrepreneurship and innovation nowadays. But do these examples of innovative legal services lead to real disruption of the market? We don't know yet.

In the legal services, market changes can partly be illustrated by the emergence of niche offices. Niches usually stand for the market niches.

Apparently there is a demand for services in a separate niche. If this is actually about full market niches is doubtful, since they coincidentally run parallel to the fields of law, as taught at universities. So, that suggests supply-side niches, where demand is needed. But is there a demand for these specializations? Or are these niche firms simply more efficient than the large firms? Or do niche firms reach their clients better? It's the customers call on what specialty he or she is looking for. Trends in the market for consulting services show that there is a movement going from full to modular advice; in other words from firms with a wide range of services to niche firms.

One of the most transparent items in the market until now has been the hourly rate of lawyers. Although not freely available information, figures on the hourly rates for all kinds of lawyers have been known in the market. Clients can use these data to compare between lawyers. They can compare the hourly rate, but not the price for a particular legal service. The rates have also been seen a way to measure quality, partly because there is no better measurement of quality available.

With many clients, the perception of prices has changed. Prices are going down because of the reduction of costs and because changes in demand. The costs are going down, due to technology, improved working processes and other ways of hiring staff. Price consciousness can lead to a different kind of demand. Demand changes occur in a very particular way – clients value the services of lawyers differently than in the past. Clients more clearly want a solution to a legal problem, instead of buying legal services by the hour. An example of buying different services is the hiring by businesses of temporary lawyers as internal legal counsel, instead of purchasing external legal advice.

For many law firms the number of billable hours are not their main key performance indicator anymore, but rather less hours, higher sales and a customer who keeps coming back. But certain law firms are now beginning to see the deleterious effects of hourly billing. Baker mentions 19 effects. Ranging from the misalignment between demand and supply of legal services, to transferring the risk of the size of the fee to the customer. The latter means: the client pays more if the work is done inefficiently, but with a fixed fee the law firm bears the risk of a possible mismatch between revenues and expenses.

The credit crisis can be mentioned as a cause of market turbulence and also a reason to cut costs. By making greater use of ICT and specifically the internet, companies operate more efficiently. Therefore, opportunities to compete on price are arising. Or the choice to offer products through the internet because of a differentiation strategy: ease and speed are seen as key product features by some customers. Differentiation means that a focus is put on features that customers consider important. Do the legal service providers monitor what

their customers need or want? According to Christensen et al. the market for legal services is traditionally not transparent, particularly on the matching of demand and supply with regard to the contents, or in other words, do law firms provide what customers want or need, how customers value legal services?

Christensen et al. describe that new market entrants are disrupting this market. Disruption is the shaking up of existing markets, mainly because of innovations. Innovations can lead to more efficiency (i.e. lower costs) and more effectiveness (i.e. better service). Existing business models are becoming worthless and there is a need for new ones. Innovation can occur in various ways. A method to cover all types of innovations is to divide innovations in four types - products, processes, positions and paradigms. Perhaps the more towards the latter, the more disruptive. The paradigm shift is mainly about the way we think about business on an abstract level, specified as the business model.

Although the phenomenon of a business model has been established for some time now in business discourse, in the Netherlands it remains a vague and broad concept, a many-headed monster. Business models are focused on constructing a value proposition, and creating customer value and many other market-based elements, combined with revenues and expenses. It also involves the network of stakeholders - from suppliers to customers, competitors and the mix of permanent or temporary employees. In brief, the business model may be defined as a combination of strategy, marketing, profitability and organizational structure. Do lawyers work with concepts such as customer value, value proposition in the legal services market?

More than in most of the other parts of the business world, the market for legal services is about knowledge, or rather the application of knowledge.

The legal market is similar to the markets of other service providers, such as accountants and management consultants. But it also differs from these other markets. The legal market is broader than the accountancy market, because it has more subject areas.

Differences between those market segments are mainly determined by legal content. Accountancy products are also defined more clearly – an audit of the financials of a company has a limited scope, whereas legal services needed on a very wide range of topics mainly occur when some undefined problem

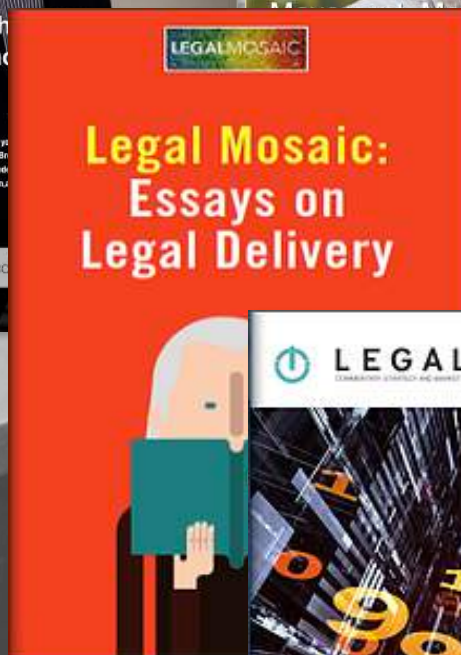
arises. Legal knowledge is democratized. Because higher education is accessible for the majority of the population, the possession of knowledge, legal knowledge, is available to many people, more people than in the past. Furthermore, all laws and most of the jurisprudence in the many countries are freely available online.

The access to legal knowledge is not restricted to having a legal education anymore. Computers may be able to solve legal problems all by themselves in the near future, because of the free access to much of the available legal knowledge and increasing computational power. Susskind et al. describe an expected exponential growth of information technology in professional services.



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