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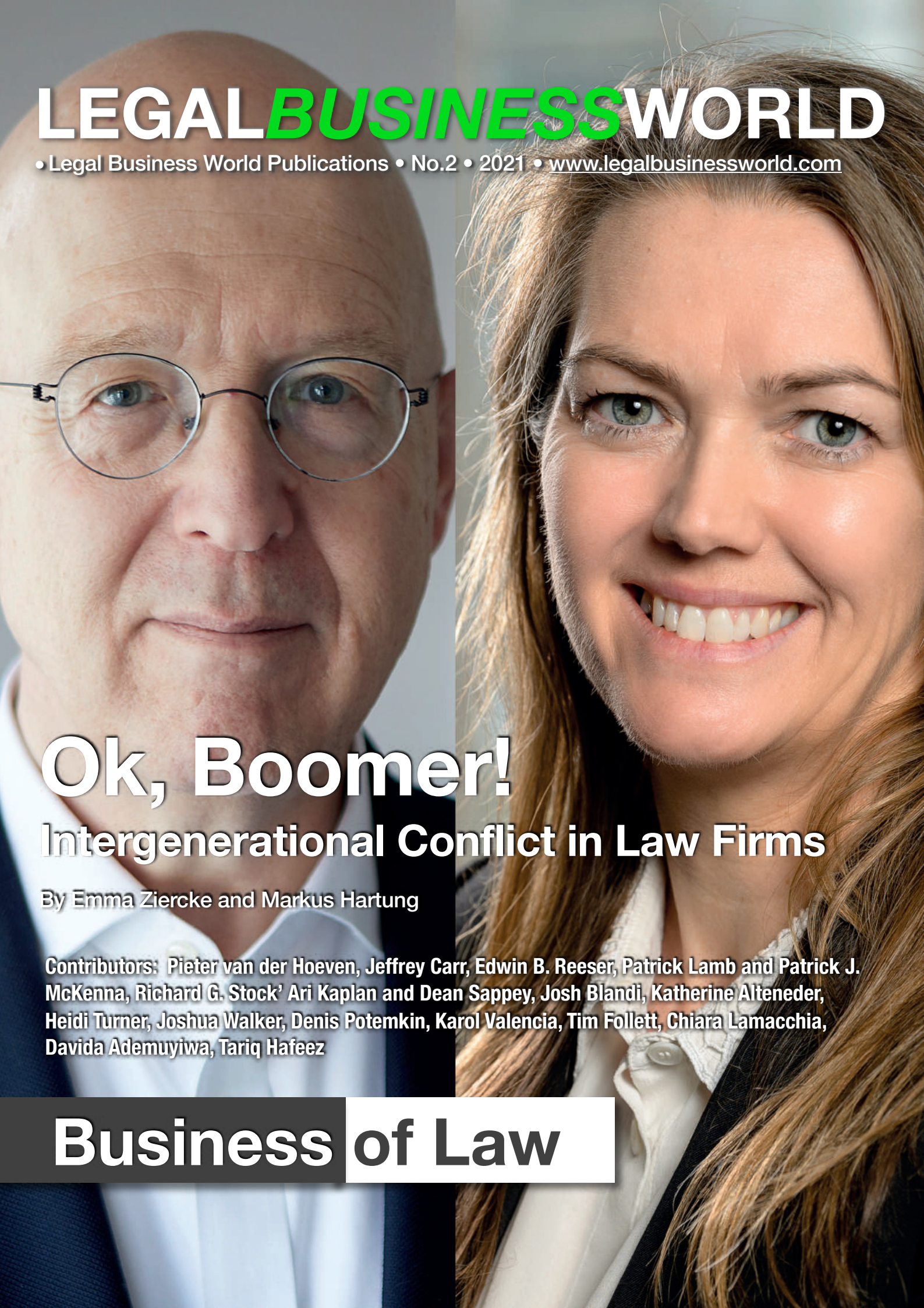

Ok, Boomer!

Intergenerational Conflict in Law Firms

By Emma Ziercke and Markus Hartung

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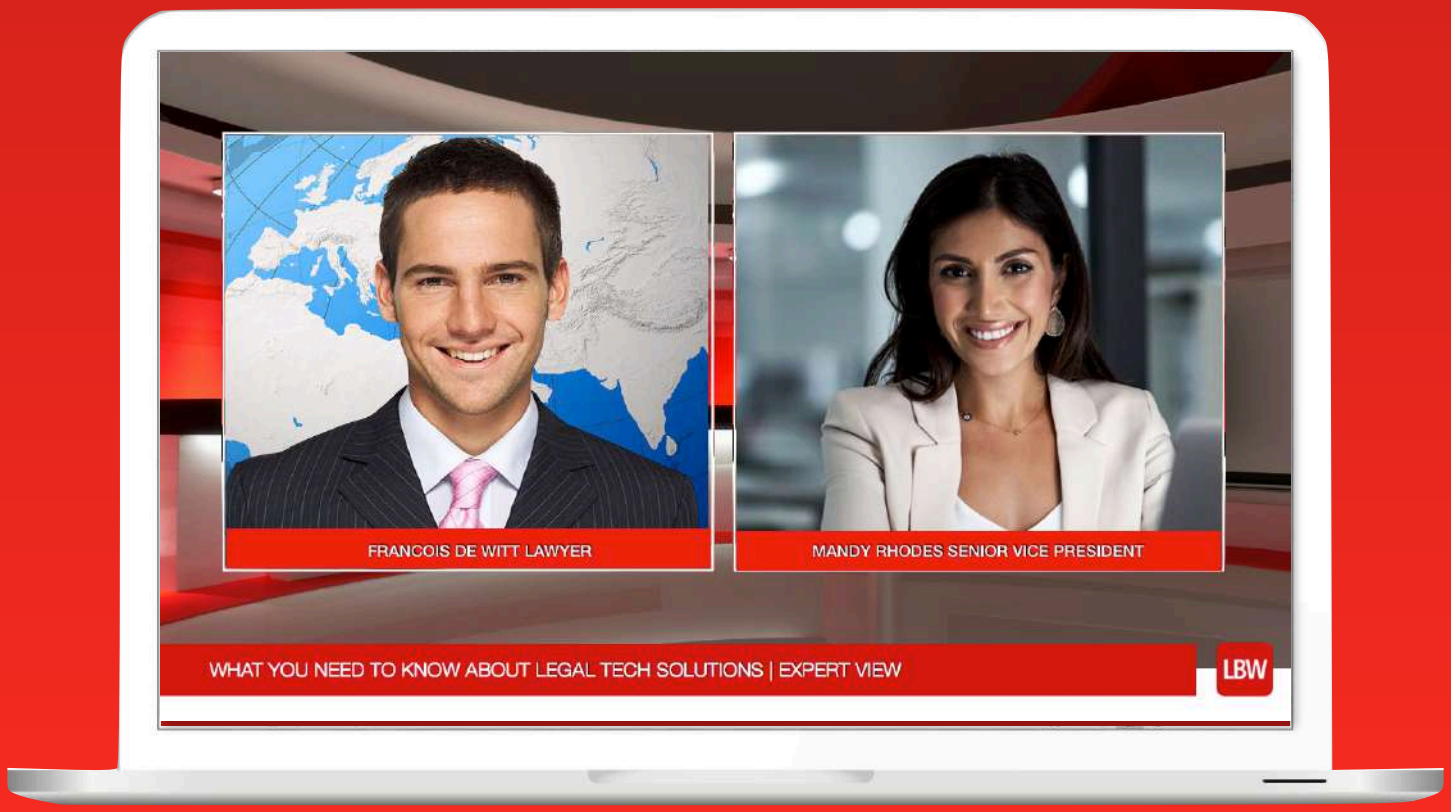

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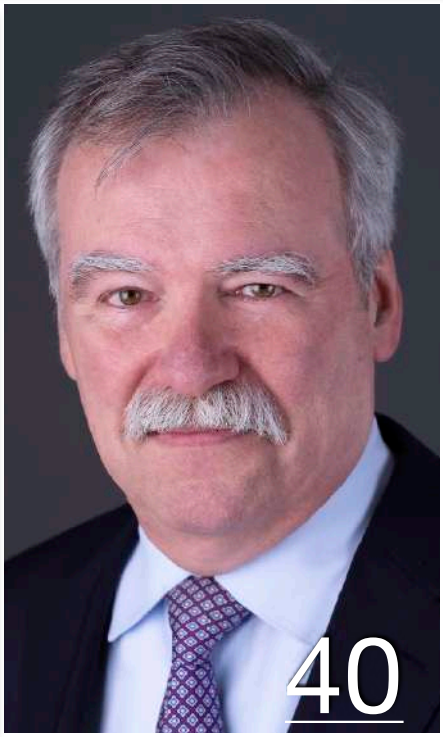

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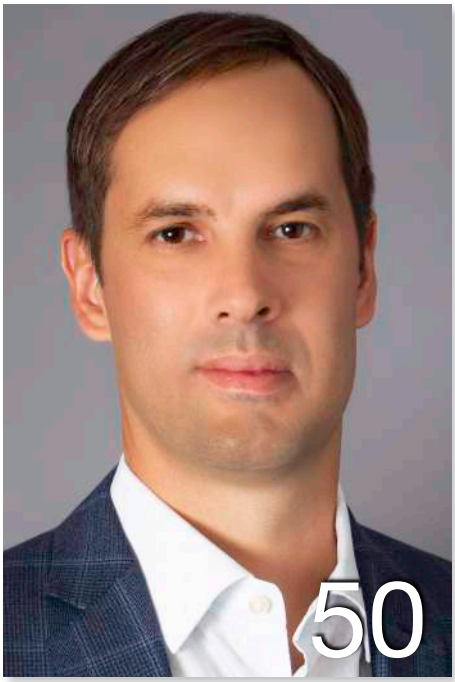

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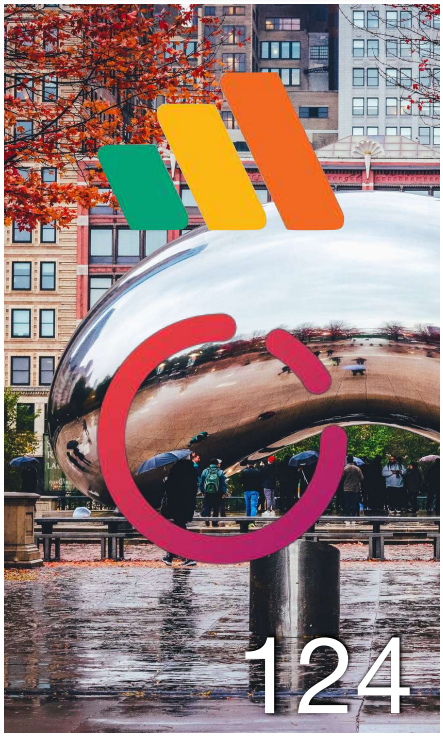

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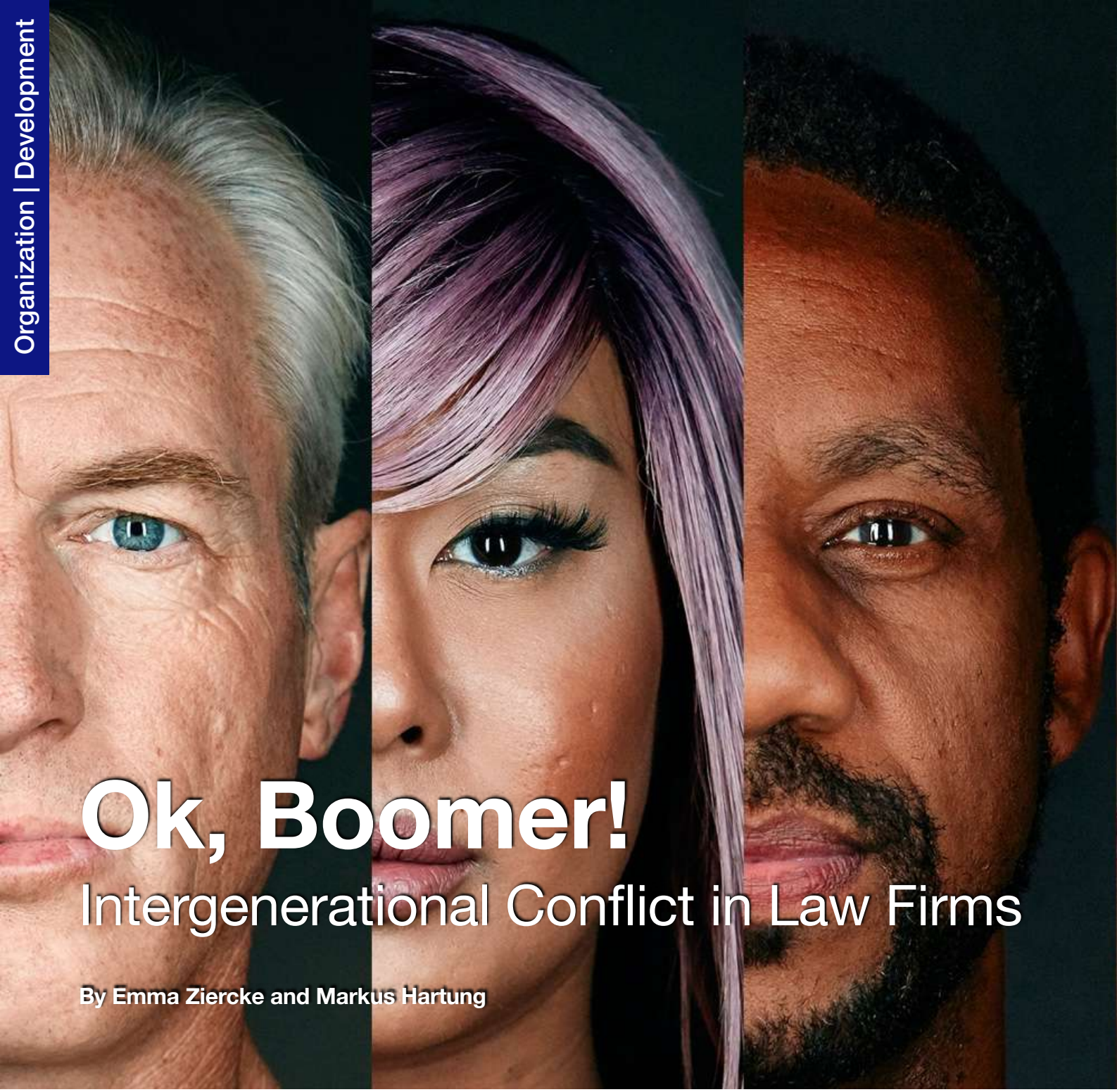


Ok, Boomer!

Intergenerational Conflict in Law Firms

By Emma Ziercke and Markus Hartung

Abstract: Many publications socialise the idea that intergenerational differences are a source of conflict in legal practice. The use of classifications ("Generation Y") and stereotypes ("Generation Y is lazy and entitled") leads to the perception that the generations have different values and work attitudes and that these differences are a source of interpersonal conflict in the workplace. Regardless of whether the differences between the generations are real or perceived, we argue that the conflicts are not attributable to generational differences *per se*, but to the fact that the older generation of lawyers is being confronted with change.The changes being heralded by "Millennial Lawyers" call into question many of the values and beliefs that older lawyers have grown up with and which form the bedrock of law firm organisational culture.

Law Firms as Multi-Generational Organisations

Law firms are home to at least three generations of lawyers: (1) Millennials (also referred to as Generation Y), currently aged between 25 and 38 years' old; (2) Generation X, currently aged between 39 and 59 years old; and (3) Baby Boomers, currently aged between 60 and 77 years' old. There is no universal birth year classification, so we have chosen the classifications established by Howe and Strauss (2007), the authors who originally coined the term "Millennial". In terms of how these generations are distributed within a law firm, an analysis by ALM found that 88% of associates in the top 400 American law firms are from the Millennial Generation, with Generation X making up 52% of all partners and Baby Boomers making up 40% (McLellan (2017)). This does not mean that the percentage of

female partners in these generations is 50% or even 40%: In fact, in American law firms, this figure is only 20% (see for example, Bachman (2019)). Given that conflict is considered a natural part of human interaction, in such a multi-generational organisation, intergenerational conflict may be regarded as inevitable.

Practitioner-directed publications often discuss how law firms can deal with the "challenge" of Millennial Lawyers. It is not our intention to prove or disprove whether intergenerational conflict in law firms is wholly attributable to "generational differences". However, we can share the observations from our studies on the characteristics and career expectations of Millennial Lawyers (Hartung/Ziercke (2019) and Ziercke/Knipping (2020)), as well as the insights we have gained from working closely with Millennial Lawyers on our annual *Law Firms of Tomorrow* course (part of the Bucerius Center on the Legal Profession's Certificate in Management and Leadership). We ask Millennials: (i) what they would do if they were managing partner; (ii) how they would attract and retain Tomorrow's Lawyers; and (iii) if they were in charge, what would the law firm of the future look like? Through their essays and business plans for the "law firm of the future", we are able to gather rich, qualitative data about Millennial Lawyers.

The War of the Worlds?

"I had one guy who came in and he was…he did a blog for us, absolutely atrocious, called him in [and] told him to go back and do it again. He said, 'I'm not doing it again', you know, and I was sort of sitting there absolutely flabbergasted thinking 'this is an opportunity for you to learn, etc', how he'd got so far in the process of becoming a solicitor to have that attitude, I was a bit 'like hang on a second.'" (Quote from a male partner, as cited by Bleasdale/Francis (2017))

The citation describes, by way of anecdotal evidence, a common situation in which a partner has given an associate a task, which the associate has not completed in the way the partner expects him to. The partner tells the associate to do the task again. Instead of doing so, the associate refuses. The situation encapsulates the feeling of shock and also helplessness that the partner experiences when the associate fails to respond according to what the partner perceives to be cultural norms.

It was the partner's prerogative to tell the associate what to do, and the associate's role to do it. The partner's *world* is being undermined by the associate's refusal to do what he is told. In a fictious sense, this conflict could be portrayed as "The War of the Worlds": A conflict between the world in which Baby Boomers, and to some extent Generation X partners, live, and the "alien" world from which the Millennial Lawyer comes.

The Partner's World

The world of the large international law firm partner is underpinned by three key features: *hierarchy*, "*busyness*" and *profit*. Whilst the concept of a partnership suggests a collegiate, long-term institution, in the opinion of some critics it is "*an environment where personal and local interests are usually pursued in preference to the firm's objectives*" (Mayson (2012). In contrast to the original partnership concept, large law firms have a strong hierarchy

which is visible both inside and outside of the organisation. A lawyer progresses along a clear career ladder: trainee, junior associate, senior associate, managing associate, junior partner, senior partner, group practice leader and eventually managing partner. At each rung of the ladder the wheat is sorted from the chaff, so that only the very best lawyers reach the top of the organisation. Lawyers inevitably compete with each other at each level to have the highest number of billable hours, to win the best work, and ultimately the best clients. This competition between lawyers is part of the "quality control" in law firms, such that only the strongest (and therefore the best) lawyers survive. In this so-called "pyramid structure", all decision-making, whether related to the strategic direction of the firm, partnership elections, or day-to-day management, takes place behind closed doors: Top-down management is the norm. Currently the top echelons of this pyramid are homogenous, with an average of 90% of partners in the top 10 German law firms being white males (see for example, Hall (2019))

In the partner's world, the more hours you work, the better. The law firm model focuses on input, rather than output, rewarding those who work the longest hours. Hard work is a key value in law firm culture, evident from war stories about the number of all-nighters worked and partners bragging about missing family events to clinch the deal for their client. However, "Busyness" is more than just a cultural value for lawyers: it is a basic assumption which defines a lawyer's relationship to the workplace and to other people. Long hours equal respect and are part of a lawyer's estimation of his or her own self-worth.

Finally, money counts. PPP (profit per partner) is the raison d'être for many large international law firms. "*PPP is the currency firms use to attract laterals, retain their own stars, and burnish their brands*" (Cohen (2019)). The focus on PPP and individual earnings means that, in the words of Stephen Mayson, "the sense of stewardship or custodianship for future generations that used to characterise the more collegiate of firms has been sacrificed on the daily altar of chargeable time and client billings." (Mayson 2012).

Furthermore, law firm partners share in the profits only for so long as they are partner and generate sufficient revenue to meet their targets. Partners who leave the firm may receive a small entitlement, but their equity interest vanishes. In order to provide for their retirement, they must ensure that they have sufficiently high earnings during their time as partner. Thus, their interest in the long-term future of the firm is diminished by the short-term nature of their partnership holding (Molot 2014).

The Millennial's World

From our research (see for example Ziercke/Knipping 2020, Hartung/Ziercke 2019) and from working closely with Millennial Lawyers on our "*Law Firms of Tomorrow*" courses, we have learnt that *equality*, *work-life balance* and *purpose* are the cornerstones of the Millennial World. In the Millennial World, everyone is equal and there is no place for hierarchy. Instead of being told what to do, Millennial Lawyers want to be involved in decision-making. Our research has shown that Millennial Lawyers want "*a voice*" and to be represented in management decisions such as

partner and associate compensation, promotion to partner, and firm strategy. Furthermore, Millennial Lawyers want to see transparent leadership, which even goes as far as being represented at the executive level of law firm management. Millennial Lawyers seek a collegial working environment with feedback, mentoring and teamwork. They want an independent committee to allocate work in order to reduce bias and internal competition, including inter-partner competition. Finally, in a world of equals, diversity is a given. For Millennial Lawyers, diversity is not just about gender but encompasses different perspectives, cultures, and backgrounds. Diversity is an inherent value for Millennial Lawyers, and they expect to see a diverse leadership.

For Millennial Lawyers, hard work (in other words, long hours in the office) does not automatically equate to respect. In fact, Millennials consider those who work long hours to the detriment of their families as bad role models. When asked to name their career goals, many Millennial Lawyers choose "work-life balance" or "not a 90-hour-week". Millennial Lawyers would rather work smarter and believe that technology holds the key to increasing efficiency. Boring work, such as sifting through documents, should be performed by computer programs. Technology is the necessary key to flexible working conditions, which will improve work-life balance. Furthermore, many believe that large international law firms are overly focussed on the billable hour, rather than the outcome of legal work.

Millennials feel strongly about the social and environmental impact of their work. When designing the law firm of the future, almost all Millennials on our courses choose to establish law firms for "good causes": environmental impact, finding new medicines, helping people without access to justice. This is something which continues in practice, as some Millennials refuse to work for clients who fall short of corporate social responsibility standards. Furthermore, they feel that partnership profits should be retained for long-term investment in the firm.

Tension?

The tension between these three cornerstones manifests itself in intergenerational conflict. The tensions are both values-based, i.e. arising from the perception that each generation weighs the importance of values differently (hierarchy vs. equality, profit vs. purpose), as well as identity-based, i.e. arising from the way that people define themselves, or how they perceive that others define them (busyness vs. work-life balance) (see Urick/Hollensbe/Masterton/Lyons (2017)). The conflict between the two worlds can be visualised in Figure 1 below and illustrated by the following three examples.

"*When picturing a law firm, many people imagine a very hierarchical workplace with an old cigar smoking, aggressive male boss, whipping his associates through long hours of hard, even unrewarding work.*" (Quote from an essay written by a Millennial, attending one of the Bucerius Center on the Legal Profession's law firm management courses). In the student's description, the partner is like a 19th century factory owner, shouting instructions to the workers on the factory floor. The worker has no say in the matter, he (or she) just does

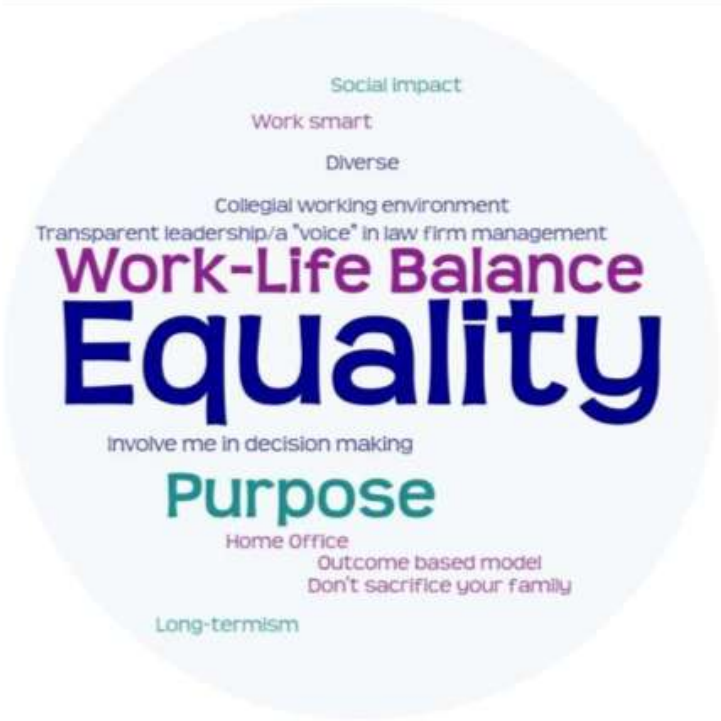
what they are told. The citation highlights the "them and us, worker vs owner" discourse that is present in many law firms and underlines the direct values-based conflict between the generations: The Millennial Lawyer believes in equality, a voice for everyone, whereas the Baby Boomer, and to some extent Generation X, partners believe in hierarchies and doing what you are told. The partners' deep-rooted beliefs, that the number of billable hours defines us as "good lawyers", conflict with the Millennial's belief that work is only one part of "self". This identity-based tension leads to conflict as each generation resents the way the other feels about them: "Lazy" Millennials and "work-obsessed" Baby Boomers and Generation Xers.

Millennials have a different idea of what law firms should be like: "*The purpose of EcoLaw is to foster and facilitate the development and enforcement of environmental law in a world which is calling more and more for environmental conscience. EcoLaw works in the environmental market not by giving the example, but by being the example, helping both governmental organizations as well as private individuals and companies in their structural developments to leave a better world for the future generations.*" (Quote from an essay written by a Millennial, who attended one of the Bucerius Center on the Legal Profession's law firm management courses, and designed the "Law Firm of the Future", 2017). Many of the mission statements written by Millennials focussed on purpose and social impact. In our Next Generation Study (Ziercke/Knipping 2020), we asked participants to choose words which they associated with large international law firms: The most popular word was "profit-orientated". This tension leads to values-based conflict as Millennials feel that law firms place profit ahead of purpose.

The Paradox

The tension between the two worlds is further compounded by the paradoxical nature of Millennial Lawyers. In our Next Generation Study (Ziercke/Knipping 2020), we found that Millennial Lawyers want to work for a law firm that offers, amongst other factors, a collegial working environment, flexible-working and good career opportunities. According the Millennials, the law firm of the future should be "innovative, family friendly, have a flat hierarchy, pro bono work, work-life balance, personal development opportunities and equal career opportunities". However, a majority did not believe that large international law firms could fulfil these wishes. Intead, such law firms were associated with antonyms such as profit-orientated, hierarchical, in-transparent, and "workhouse". In fact, only 7% of participants thought that large international law firms provided a collegial working environment, and only 1% thought that large international law firms could offer flexible working. Despite these beliefs, such firms were the most preferred legal market employer by a strong margin. In other words, the Millennial Lawyer wants work-life balance, equality, and puts purpose before profit however, he or she deliberately chooses to work in an environment which he or she believes to be hierarchical, profit-orientated and where long- hours are the norm. These contradictions potentially lead to the frustration that the older generations feel when dealing with Millennials, as they cannot "compartmentalise" the Millennials according to the widely socialised generalisations.

Figure 1 War of the Worlds?



Generation Y and Z

Generation X and Baby Boomer

"The War of the Worlds", written by H.G. Wells in 1898, drew on a common fear: the end of an age. Could it be that the conflict between the Partner's World and the Millennial World is heralding the end of an age? The conflict between the two worlds, does not manifest itself in an "invasion" on the part of the Millennials: They simply shrug their shoulders, and say "OK, Boomer" - in law firms, maybe they only think it. Millennials have not been taking to the streets in protest because they believe that law firms should include all employees in the decision-making process or put purpose before profit. Instead, it seems that the Baby Boomers, and to some extent Generation Xers, who, feeling threatened by the changes being brought in by the Millennial World, escalate the conflict.

Are Generational Differences Inevitable?

The simple fact that people are born and grow up at different times in the evolution of society means, for authors like Howe/Strauss (2007), that each generation of people has different characteristics: "*Generations shaped by similar early-life experiences often develop similar collective personae and follow similar life trajectories. The patterns are strong enough to support a measure of predictability.*" (Howe/Strauss (2007) at page 2). The predictability of these patterns encourages sweeping statements about the characteristics of Millennials. For example, the legal market press is rich

with articles purporting to define the traits of Millennial Lawyers: Millennials are said to put work-life balance above all else, be tech savvy, "job hop", be "entitled", be social-media addicts and need mentoring (see for example, KPMG (2017)).

In our "Herding Cats" Study (Hartung/Ziercke (2019)), we examined the personality traits of Millennials based on the five traits from Larry Richard's original study (Richard (2002)): scepticism, sociability, resilience, autonomy and inner-drive. We found Millennial Lawyers to be significantly more sociable, more resilient, have more inner-drive, and to be less sceptical and less autonomous than lawyers in the original study which began in the late 1990s. This concurs with the generalisation that Millennial Lawyers are more sociable than other generations, but not with the idea that Millennials lack resilience and are overly-dependent on their mentors.

In our Next Generation Study (Ziercke/Knipping (2020)), we discovered that Millennial Lawyers were not "disloyal job hoppers". Instead, our participants saw themselves working an average of 6.9 years' at a law firm and waiting an average of 6.6 years to become partner. Furthermore, our participants were ambitious and prepared to work more than 50 hours a week for the same pay, if it would improve their career chances. Other studies had similar results: Thomson Reuters (2019)) found that around half of their participants planned to stay more than 5 years. In fact, it could be argued that job switching is not specific to Millennial Lawyers but is actually a general trend affecting the employment market, as the gig economy takes hold (small short-term jobs given to independent workers, who go from "gig to gig" like musicians). In the UK alone, the gig economy has more than doubled in size over the last three years, with one in ten working adults now working on a gig economy platform (Partington (2019)).

Thus, despite extensive empirical research on generational differences in the workplace, there is little consensus on whether the traits attributable to a particular generation hold true *independent from* the categorisation of the generation. In other words: We often categorise ourselves as belonging to a particular generation because we want to be part of the collective. We feel this ourselves when a colleague describes the way in which a Millennial Lawyer refuses to take on some boring work. We are quick to concur, adding our own stereotypical statements, such as "When I was an associate, I would never have turned down work like that" or "Millennial Lawyers are lazy and entitled". Our consensus demonstrates the strength of our need to belong to a group, in this case, the "non- Millennial Lawyer" group.

Generational Bias

Popular generalizations around "Millennial Lawyers" and "Baby Boomer/Generation Xers" tend be harmful to intergenerational harmony in a law firm. Regardless of whether the stereotypes are true, the *perceived differences* may lead to conflict. Urick et al (2017) argue that whilst research is dedicated to establishing whether the generational patterns hold true, it is the fact that discourses in practitioner-directed media continue to generalise in a negative way about generational differences, which actually leads to conflict. Furthermore, stereotyping can lead to bias. "Age"

is both a visible and non-visible characteristic which forms the basis for categorisation. Whilst "ageism" is a form of discrimination we associate with older people, research shows that it is common for *both* old and young people to have experienced discrimination based on age (Abrams/Swift (2012)).

Practitioner-directed publications in the legal market are rich in anecodotal evidence on Millennial Lawyers ("*Generation Y is entitled, lazy, selfish, tech savvy, and incompetent*" : A citation by New York criminal defence lawyer Scott Greenfield, appearing on a Panel at InsideCounsel Super Conference in Chicago, May 2009, Dayton (2009)) and focus on how law firms can deal with the "problem" of millennial lawyers (see for example, "*Law Firm Management Struggles with Multi-Generational Issues*" Buchdal (2015), "*The Challenge of Generational Diversity*" Laud (2019), "*Why Partners don't understand Generation Y*" Dayton (2009), "*What in the world can be done about Millennial Lawyers?*" Black (2018)).

Change As A Threat

Regardless of whether it can be statistically proven that Millennial Lawyers are different from other generations, our insights into what this generation expect from their employer, as well as examples of conflict in law firms, have led us to believe that the conflict is largely change-driven.

The Baby Boomer generation, and to some extent Generation X, see themselves confronted with a "brave new world" to which they must adapt. This difficult situation leads to conflict with the Millennial Generation who bring forward the changes which strike at the foundations of law firm culture.

The cornerstones of the Millennial World are not unreasonable: Surely law firms want to be more socially responsible? Surely the client wants a new billing model, away from the purely time-based, intransparent and inefficient billable-hour model? Surely the senior partner wants to see more of his or her family? Furthermore, the legal market is in a state of change. Law firms are forced to work more efficiently, to leverage technology, to create a new "value added" service for clients, to be more diverse. The demise of the billable hour has been a thorn in the side of law firms for many years. By questioning its usefulness, Millennial Lawyers are merely drawing attention to an underlying problem. Whilst change is a part of life, it is unsettling and can easily give rise to conflict within an organisation. Law firm strategies for dealing with the "Millennial Lawyer problem" revolve around recruiting and retaining Millennial Lawyers, rather than helping the Generation X or Baby Boomer lawyers to manage the dramatic change that law firms are going through: How will the Baby Boomer or Generation X lawyer measure his or her success if there is no billable hour?

Building A Multi-Generational Law Firm

Generational diversity can have a positive impact, by provoking change, or a negative impact, if firms continue to focus on stereotypical differences. Firms that concentrate on inclusion, rather than reinforcing the differences, can leverage generational diversity to their advantage. Firstly, firms need to acknowledge

that individuals might have different preferances, in particular with regard to work processes and goals. For example, an older lawyer may come in early and leave early to spend time with his or her family in the evening, whilst the junior lawyer do sport in the morning and therefore come in late and stay late. These two different working processes can easily lead to tension if the older lawyer insists that the junior lawyer is in the office at the same time. If, however, each acknowledges the other's work preference and understands that they actually have the same goal of getting the work done, whilst carving out some personal time, then the conflict can be alleviated. Furthermore, by having a team member available both early in the morning and late in the evening, the two lawyers might even be able to provide a better service to their client.

Part of acknowledging differences, is accepting and valuing those differences and working towards common ground. By involving each generation in the common goals of the firm, similarities, rather than differences, can be highlighted. Tools such as reverse mentoring (associates mentor partners) and "generational speed dating" (to gain new perspectives on old problems) are useful for helping each generation gain perspective on their differences and find common goals and solutions.

Finally, firms need to move away from stereotypes and inequality based purely on age: We might assume that the older partner knows nothing about technology, but by only offering IT training to older lawyers, we are reinforcing the stereotypes. If it isn't the case already, then firms need to ensure that benefits, such as Home Office, are available to all lawyers, not just working parents. Firms that focus on improving the system for everyone underline the inclusive, collegial nature of the firm, rather than the exclusive "them vs us" narrative.

The changes being heralded by Millennial Lawyers (or even just the highlighting of changes which have already begun) are part and parcel of law firm transformation. By viewing this change in a positive, non-confrontational light, then intergenerational tensions can be alleviated. The "Law Firm of Tomorrow" is one in which Millennials, Generation X and Baby Boomers "work on a peer-to-peer basis with the firm management and have a team spirit with their firm. They should feel important and assured that their work matters. Together the partners and associates of the firm should have a clear, joint vision of the future and a *way of working towards achieving that goal*." (Quote from an essay written by a Millennial, who attended one of our courses on "Law Firms of the Future" in 2017).

This is the English language version of the article "Ok, Boomer: Generationenkonflikte in Anwaltskanzleien" which was first published in Konflikt Dynamik (3/2020) in October 2020.

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After moving to Hamburg, Emma studied part-time for an Executive MBA at Nottingham University Business School, focussing on law firm management and organisational behaviour. In 2014 she completed her studies with distinction and won an award for best overall performance together with an award for her dissertation on Gender Diversity in Law Firms. The dissertation was carried out as a case study, the purpose of which was to understand the underlying reasons for the high attrition rate of talented female lawyers in the United Kingdom and Germany.

Emma currently works at the Bucerius Center on the Legal Profession as a senior research associate in the fields of Law Firm Management, Gender Diversity and Organisational Behaviour. Her main interest is in gender and generational diversity in the profession, and she has spoken on this topic at a number of events. A list of her publications can be found here: https://www.linkedin.com/in/emmaziercke/. Furthermore, Emma teaches Law Firms of Tomorrow, a course on law firm management, for the International Exchange Students at the Bucerius Law School.

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Since 2006, he is member of the Committee on Professional Regulation of the German Bar Association (DAV, chairing the Committee from 2011 through to 2019) and Co-Founder of ELTA – The European Legal Technology Association.

He is a regular lecturer and conference-speaker on leadership, management topics and professional ethics and has written numerous articles and book chapters on these topics. He is i.a. co-editor and author of "Wegerich/Hartung: Der Rechtsmarkt in Deutschland" ("The Legal Market in Germany") which came to the market in 2014 and has developed into a standard reference for the German legal market. He is also Co-author of "How Legal Technology Will Change the Business of Law", a joint study of The Boston Consulting Group and the Bucerius Law School. In autumn 2018, he co-published and co-authored the book "Legal Tech. How Technology is Changing the Legal World. A Practitioner's Guide" which is the first comprehensive analysis of the impact of Legal Technology on the legal profession

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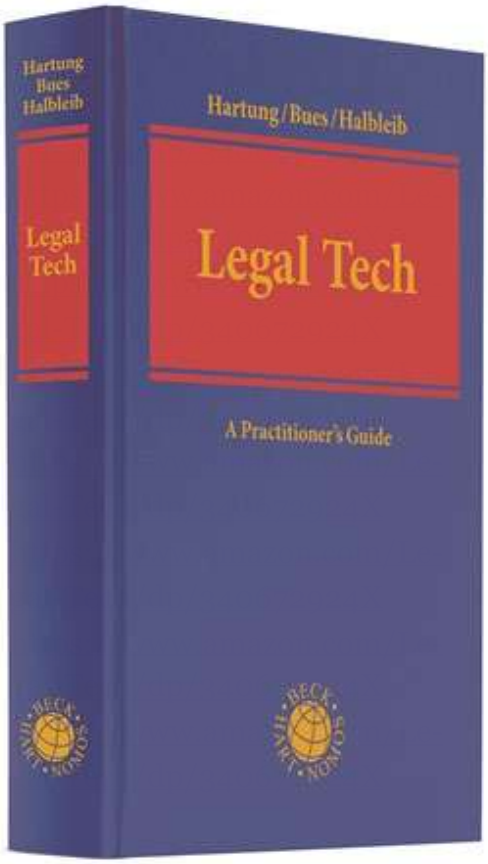

INFORMED TECHNOLOGY FOR OUR SUSTAINABLE FUTURE

WORLD LEGAL SUMMIT

FALL 2021

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BIENNIAL SUMMIT

OVERVIEW

The World Legal Summit is a multi party initiative. It brings jurisdictions together in understanding and exploring the development of legislative frameworks for dealing with emerging technologies and related global systems.

We launched the World Legal Summit in 2019 with the #WLS2019 summit that took place in 33 cities across 25 countries its first year. Building on the success of its inaugural year, there will be a world wide WLS summit every two years and your organization is invited to get involved.

Series Law Firm Pricing & Legal Project Management

Learning the LEGO Lesson

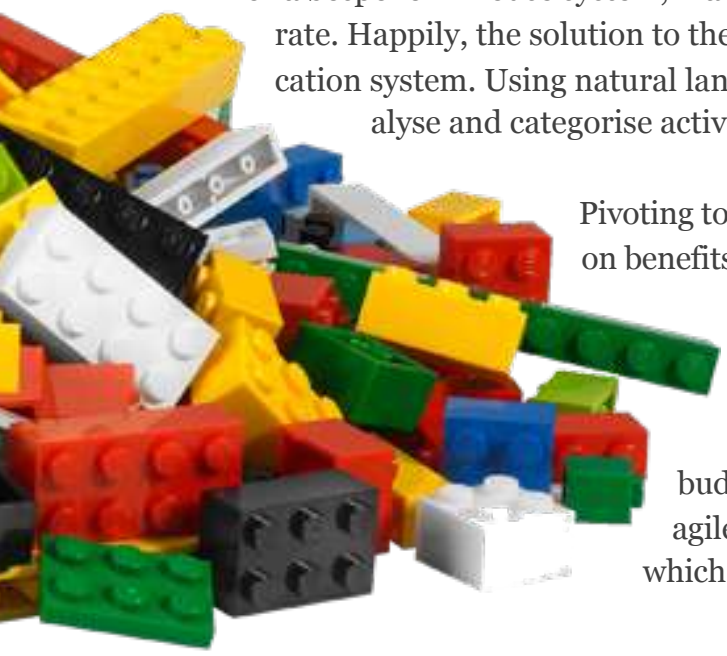
Why Retroactive Classification Makes Legal Practice Predictable

By Pieter van der Hoeven, Co-founder and CEO of Clocktimizer.

Every matter is unique. But often, the individual activities which come together to form a matter are not. Instead of building bespoke budgets, firms can use the wealth of data in their timecard narratives to generate activity-based building blocks. Like LEGO, these different blocks can then be used to build unique (but data-driven) fee structures for clients. Harnessing retroactive insights, through analysis of activities, is the easiest way to bring predictability and control over the lifecycle of a matter.

Introduction

In the first of this series on Law Firm Pricing and Legal Project Management I dived into the challenges faced by firms still relying on Phase and Task codes. Whether working with UTBMS, or a bespoke in-house system, manually assigning codes is repetitive and often inaccurate. Happily, the solution to the problem does not involve creating another classification system. Using natural language processing, it is possible to automatically analyse and categorise activities in timecards, based on timecard narratives.



Pivoting to narratives rather than codes has a number of knock-on benefits beyond those previously explored. In addition to increasing accuracy and reducing manual work, automatic categorisation unlocks the data in historical timecards. In turn, firms can use these historical insights to develop building blocks for fee structures, budgets and reports. This approach enables bespoke yet agile pricing and reporting strategies to be developed, which support firms in an increasingly competitive market.

Searching for the right data

The majority of law firms have begun to embrace fixed fees. In the most recent Law Firms in Transition survey from Altman Weil, 79.1% of firms with over 250 lawyers were working directly with clients on creative fee structures. This shift in engagement structure resulted in a more balanced sharing of risk between client and law firm. Which in turn triggered the search for historical data in law firms to develop more advanced structures. The new fee arrangements need to be as data-driven as possible to mitigate the increased risk they inherently put on the firm.

"From a matter management and budget tracking perspective, we were reliant on information we could extract from our practice management system, which was quite a process in itself. Matter analysis could take you a week because you pulled the reports with all the narratives and you had to sift through and identify & classify what happened. It took forever,"
Ebrahim Kaka - Webber Wentzel

Many of those reading will empathise with the plight of Ebrahim. For firms without automated time card narrative classification, the only way to develop fee structures is to manually dive into historical matters. It means spending hours in an Excel spreadsheet, manually assigning codes or tasks based on old narratives. It also means that most pricing teams have to hope that their selection of matters is similar enough to the new work to provide a solid fee quote.

Sitting on a gold mine

Not only is this way of working wildly inefficient, but it is also forcing pricing teams to rely on an incomplete picture of the work their firm does. One of the key reasons that Clocktimizer chooses to automatically categorise time card narratives, is that this enables firms to retrospectively dive into historical matters.

The act of recording a proper narrative has been pushed by e-billing guidelines that sprang up in the last decade or so. This means that natural language processing is able to analyse all historical matters in a firm in minutes, giving pricing teams a much wider pool of data to compare. To the delight of Stephen Allen, at the time Head of Global Service Delivery at Hogan Lovells, it meant Clocktimizer analysed a raft of his historical matters in seconds. He would normally have spent weeks extracting that kind of insight.

Automated time card classification puts enriched data in the hands of pricing teams. Instead of hoping that enough accurate historical data has been collected and analysed to develop an accurate fee quote, teams can compare years and years worth of old matters to become pricing sparring partners for the firm. Firms can even choose to identify the historical price of activities based on specific teams, or seniority levels, because their hands are not tied by the amount of manual effort that would have to go into that level of insight.

From data pools to building blocks

Importantly, it is this ability to break down and categorise historical data that is one of the most important tools in the arsenal of the modern pricing, LPM and other teams that rely on analytics and accurate reporting. Every matter is unique. Tougher still, the scoped

work included in a fee quote can change dramatically during the lifecycle of matter. However, by breaking matters down into component activities, it is possible to implement flexible pricing and reporting structures which can respond to this uncertainty.

At Clocktimizer, we analyse the activities that make up a matter. This data becomes the 'DNA' of a matter. Comparing this DNA with other matters outlines the activities which are quite similar in terms of time spent and which have a high variance from matter to matter. Having this information enables pricing teams to decide on the appropriate fee structure for each part of the matter.

These building blocks can then also be used to monitor the scope of the project and report to timekeepers and clients on the matter progress. Having granular insight into the anticipated work will even offer the chance to clients to decide which work they want to do in-house or which work should be done by their outside counsel, allowing for unbundling of legal services. This encourages risk sharing and increases transparency. Unsurprisingly, this in turn leads to happier clients.

Looking to the future

Clearly, the benefits of automatic classification of narratives are huge. Not only does it reduce much of the mindless manual labour that we would all like to avoid, but it also increases the amount of data at the hands of pricing teams and reduces the risk of entering into a loss-making engagement. In creating smaller building blocks, based on activities, pricing teams can be both accurate and flexible in creating fee quotes. But the benefits of narrative based pricing are not only retrospective. In my next article, I will tackle their ability to manage risk on future engagements. In doing so, legal project management and pricing teams can avoid write-offs and improve the efficiency of the firm.

About the Author

Pieter van der Hoeven, a former M&A lawyer with 15 years of experience in the legal industry, is the co-founder and CEO of Clocktimizer. Clocktimizer is an award-winning legal technology company that helps law firms to understand who is doing what, when, where, and at what cost. Global 100, Am Law 100, and Am Law 200 law firms use Clocktimizer to make data-driven decisions around matter management, budgeting, and pricing. Before starting Clocktimizer in 2014, Pieter was an M&A lawyer at DLA Piper and earned his MBA from Rotterdam School of Management and IE Business School. Pieter can be contacted at pieter@clocktimizer.com

Fixing Firm Compensation Models To Fuel Value Focused Legal Delivery Systems

By Jeffrey Carr, Edwin B. Reeser, Patrick Lamb and Patrick J. McKenna

This article evolved from the collaborations between a Fortune 500 GC, a Managing Partner, a leading practitioner in alternative fee arrangements and an international law firm management consultant. It was initially written in 2009 and pretty much forgotten about until now. Then a European-based lawyer and author of "Billion Dollar IP Strategy" reached out and graciously commented "I came across this article and it is revolutionary even today. The fact that this article still looks fresh points to the reality that the profession has hardly changed in the intervening years."

Is that true? We welcome your observations and comments.

INTRODUCTION

In this article, the four of us attempted to explore how a progressive firm might deal with one of the great impediments to adopting any

new change – your firm's compensation system. And while there is no one standard framework or precedent to follow, each of our four propositions is intended to provoke you to look at this challenge through a slightly different lens.

I. If You Pay for Hours, You Get Hours

We would define a value focused legal delivery system as one that is based on the true meaning of partnership between law firm and client through sharing of risks and rewards. There are many variants, but the critical element for all of them is there needs to be some portion – if not all – of the fees at risk coupled with a "true up" based on effectiveness, efficiency and customer satisfaction – in other words, value. It is a fundamental precept that you get that for which you pay. Firms built on originating credit, realization rates, and the leverage of associate hours all focus on top line

revenue growth as opposed to profitability to the law firm arising from reducing costs and providing effective services efficiently cannot expect to see material changes in behavior. The existing compensation structure fosters inefficiency at the client's expense and creates free-agent lawyers with books of business to change firms whenever the compensation looks better elsewhere. Existing compensation systems do little to assist the firm in retaining its best and most valuable people. Thus, in this world, it is the individual lawyer, not the firm, whose interests come first. This is a zero-sum game where the firm, one's other partners, and the customer suffer as the size of the slice of the pie is fought over. These "free-agent-what's-in-it-for-me" compensation systems stand in the way of meaningful progress.

One might look to the corporate compensation models in any public company proxy for inspiration to address this dysfunctionality. Here's a rather conventional structure to address each of these problems:

1. All firm employees are precisely that – employees.

Each person has a pay grade that is based on their role, their education and their responsibility. This might mean all incoming lawyers start at one salary level – but they would not move in lock step based solely upon their law school vintage. Obviously, those at the top of the organization (by position, not vintage) would have a higher salary than those at the bottom. Those at the top are responsible for running the enterprise, planning for its long-term sustainability and reinforcing firm culture from the top. These folks would constitute a C-Suite just as in a corporate environment. Practice/industry group heads or regional office heads would be equivalent to division or general managers. There might be a linear, pyramidal structure or a matrix structure with compensation structures reflecting those models. All employees would have annual objectives, annual reviews and annual development plans. Each employee should be paid at a percentage of the midpoint of the pay grade based upon performance (e.g., those rated "needs improvement" at less than 95% of midpoint, "good" at 95-105%, "outstanding" at over 105%). There would be an annual salary pool for the enterprise that would be set each year as part of the budget process. Each manager would be responsible to divide their pool among their direct reports – some employees would get more, others less – all based upon performance and the manager would thereby be forced to stack rank their employees to stay within the budgetary constraints of the firm as a whole.

2. Annual Incentive Compensation would reflect performance

Each upper and mid-level manager would have a "target" bonus defined as a percentage of base salary. The CEO might have a 100% target; other C- Suite members, 50-75%; GM's and Division Mangers, 40%; Managers 30%; other professionals 20%; and other staff 10%. This target would be the base for a bonus calculation reflecting overall enterprise performance as well as individual contribution. For example, in order to encourage overall business performance, 70% of the base or target bonus might be subject to a multiplier of 0-3, with a 1.0 reflecting budgeted performance. If the enterprise exceeded budgeted profitability, the multiplier would be higher; if it failed to

meet budget, the multiplier would be lower - - or even 0. Individual performance and contribution would be rewarded in the same fashion with accomplishment of specific time based and measurable goals affecting the multiplier of the 30% of base or target bonus. A simpler structure reflecting only enterprise performance might be used for lower-level professionals and the other staff. This structure encourages both a focus on overall enterprise profitability as well as individual contribution.

3. Long Term Incentive Compensation would foster growth, ROI and retention

The employees need to be stakeholders in the long-term growth and prosperity of the enterprise. In public companies, this is accomplished relatively easily through the use of options, stock appreciation rights and restrictive stock – all of which vest in the future. Unless firms become publicly traded (e.g., as in Australia and New Zealand), parallels from the private company and private equity worlds need to be adapted to law firm structures. In either case, such equity type grants encourage growth and create "golden handcuffs" making departure expensive as the employee forfeits that component of future compensation. As such, this makes retention of key employees easier. For those really interested in long term prosperity, performance-based grant multipliers could also be used.

Moving away from lockstep, eat what you kill, originating credit, leveraged pyramid, top line revenue focused compensation models, and towards these three elements, when combined with alternative fee structures based on effectiveness, efficiency and customer satisfaction, would further enable transformation of the legal service delivery model. The status quo will resist such change because it necessarily means dislocation, redistribution of income and acceptance of performance-based risk. If, however, you believe that such change is necessary or indeed even inevitable, those firms that move to a more corporate styled compensation structure will be better able to survive and prosper as enterprises.

II. Partner Compensation and The "Value" Reality

Imagine this: The Managing Partner of one of the largest law firms in the country is looking around the conference table at 20 of his/her partners. These 20 partners are the firm's highest compensated partners, collectively earning nearly $60 million in each of the last three years. Somberly, the Managing Partner informs the group that he/she has concluded that the firm's compensation system, which has been in place for the past two decades, must be scrapped. They wait for him/her to explain how the new system will favor them so the group can continue to receive generous compensation. "The days of paying people based on gross revenue generation are over. From now on, compensation will be based on net profitability of work."

The likely outcome of this meeting: It would only be a matter of days before the Managing Partner is replaced, or some of your fellow partners start exploring their options at other firms.

This story only sounds apocryphal. Instead, this scene may one day play out, as law firms

are forced by the "changing economic dynamics" to restructure their business models into something that eliminates the focus on top-line revenue growth and client-insured profit. Instead, the focus on profit margins, lower cost production and results instead of hours and body count will fundamentally alter the way law firms measure and reward the value their lawyers deliver.

The first challenge is to eliminate the concepts of "lone wolf," "rainmaker" and other solitary figures from the firm psyche. Rhetoric notwithstanding, many firms have rewarded revenue generators so lavishly in comparison to the lawyers who do much of the work for the rainmaker's clients that they have fostered a "what's in it for me?" mentality on virtually every issue. Instead of looking first to the interests of clients, many partners first consider whether a course of conduct will provide career security or additional income. The significance of the problem is magnified by two factors: first, the senior partners most likely to be in a position to ask this question are the people most likely to be able to add value or decline to do so. Second, the problem is so pervasive that many partners don't even bother to ask for input from another partner. Any senior partner who challenges the system is a threat to every other senior and powerful partner - - a no-win scenario.

The result of this behavior is that no matter how large a firm might be, it is comprised of individual silos. The partner builds his or her team, but there rarely are multiple "star" partners working on the same matter, no matter how complicated. Are we really to believe that one senior partner does not benefit from working closely with another senior partner on matters? If we do not believe this to be true, it seems inescapable that the state of affairs is influenced primarily, if not entirely, by compensation schemes.

Standard "eat what you kill" compensation schemes also are unhealthy. No amount is ever "enough." Instead, "enough" is defined as "more than" somebody else or some other group. The amount of time spent tearing down "the other guy" or complaining about minor compensation differences is enormous and wasteful, and particularly offensive in light of the amount partners, especially senior partners, are paid. Compensation systems should attempt to minimize or eliminate destructive behavior among partners. Firms where partners routinely collaborate invariably report that exceptional value is derived from these efforts.

The second challenge for law firms is to determine what kind of compensation system will encourage that collaboration.

In a smaller firm it always seems so much easier to imbue systems that encourage and reward collaboration. The best way to guarantee that the first question on everyone's mind is, how can we get better results for this client (and hence for the firm), would be to remove the ability of any partner to influence his or her compensation by a course of behavior different than the collaborative behavior the firm sought to maximize. You can accomplish that by deciding to pay partners the same amount. This was called the "rising tide raises all boats equally" compensation system.

The result of this system can be extraordinary. There is no destructive internal competition. Partners not only do those things in their comfort zone, but also are eager to help colleagues, because helping colleagues improves performance, which improves profitability. Partners are eager to accept assistance for precisely the same reason. This feature also has the collateral benefit that no time is spent at year end figuring out who gets what. There is no weighing of the relative value of one person's contribution versus another's. Such conflicts are inherently counterproductive.

As your firm grows and new partners are added, those new partners need not be paid the same as others. It is enough that there is a fixed ratio between one level and the next. So, for example, newly admitted partners with lesser experience may earn at a rate of 80% of the original partners.

In a larger firm, there may be three or perhaps four compensation bands. The criteria for movement from one to the next, in either direction, would have to be articulated specifically and transparently for each individual firm to reflect the nature of its practice and culture. The goal would be to avoid the kinds of small-scale distinctions among partners that foster the petty and destructive feelings of jealousy that so interfere with cooperation and collaboration.

While not the same as the "corporate model" this "banding" approach serves many of the same purposes. First, and foremost, it ties everyone's compensation to profitability of the enterprise. This result, move than any other single thing, puts people in the same boat. A fee system that rewards the firm's performance further enhances this notion of common sacrifice and common benefit.

The compensation banding approach is not new or revolutionary to the practice of law, but their application has been corrupted to the point where there are almost as many bands in some firms as there are partners. Firms have, intentionally or not, created classes of lower tier partners working to deliver profits that are transferred to that upper tier of partners invited to the conference table. The amount of "rainmaking" gross revenue generated separates those in the upper tier, but without regard to profit created by that work.

The banding approach does not directly eliminate the "free-agent-pay-me-more-or-I'll-shop-my-book-of-business" extortion that some individual lawyers practice. It does, however, minimize the influence of those inclined to play that game. Because the alternative fee model eliminates the value of armies of faceless associates and de-valued "income partners" (highly capable and hard-working lawyers who just don't happen to have the primary client relationship) working by the hour on a matter, the body count of the team assigned to a matter is eliminated. Instead, the value from a fee standpoint comes from obtaining a result and a small team of experienced attorneys will fare better. This puts more people in contact with the client and enhances the value of the team, which reduces the prominence of the individual. Clients who are getting better results from a firm's team are less likely to want to move to another firm, especially if that other firm is not using the same dynamic fee system.

Clients benefit from this system because the collaborative efforts of the partners will produce better, more cost-effective results than the silo system now prevailing. Clients also will be able to more easily see through the marketing rubric because the most profitable firms will achieve that status because they are the most successful in achieving their client objectives.

These changes will not come easily if at all at most firms. The vested interests and power of the entrenched beneficiaries of the status quo will stand firm to thwart the changes needed, since the old guard are the ones most likely to be relative losers under the new system. The thinking is that they paid their dues to a system where this was the way compensation worked, and now it fairly should be their turn at the trough. But the cheese has been moved for everyone. It is a fact in today's law firm world that you get what you pay for. Designing a system based on economic alignment, results instead of hours and cooperation and collaboration rather than competition among partners will make for better law firms and more satisfied clients.

III. Is Your Compensation System A Problem?

It might be very useful to have the lawyers in your firm engage in a thought experiment. What we need to do is imagine that our firm, suddenly, could no longer rely on billable hours to determine any partner's compensation. So, here's the question for your next partner's meeting or retreat:

"If we never billed another client by the hour, how would we compensate our fellow attorneys?"

Now to set the stage for your discussions, it might be valuable to just explore with the group, the many ways in which our traditional systems for compensating professionals have had some rather perverse side effects.

THE PERVERSITY OF BILLABLE-HOUR BASED COMPENSATION

For example, according to the reports of many spouses, they have had a noticeable effect on the self-worth of those lawyers who take immense pride in what they think they are worth (by what they can charge) on an hourly basis. Can't you just hear the typical conversation at home when some attorney says to their spouse; "What do you mean take out the garbage? Do you realize how much I charge clients for my time? I'll hire someone to do that job if you think it's so important."

Billable-hour-based compensation has had an effect on what we perceive to be camaraderie, as colleagues take congratulatory pride in working to all hours of the early morning, night after night, week after week, and year after year (all to be billed to some client). This traditional emphasis for relying on the billable hour as our primary metric has also caused many firms to weigh different contributions in a rather pertinacious manner. There are countless examples of where we reward work done (grinders), more than we reward those who invest non-billable time to cultivate and build long-term client relationships – work managed (minders).

In a similar manner we reward the volume of work processed over the profitability of that same work. We have partners who log incredibly long hours doing work that if we dared to really analyze its value, would be marginally profitable at best. We focus almost exclusively on short-term revenue such that we compensate the workhorse who generates 2500 billable hours of 'commodity' work more than the attorney who is developing a potentially lucrative new frontier practice where the engagements are highly complex, but the client demand is still emerging, and the attorney's billable hours barely exceed 1500 hours. Rarely do we ask ourselves who is more valuable to our firm in the long-term.

Finally, irrespective of what we might say, we value those attorneys who are production driven over those who are charged to invest time managing a group and helping each of the group members become even more successful at what they do. Consequently, we get pseudo leaders who at the end of the year tell us, "yeah, I guess this practice group is pretty dysfunctional, but hey, look at my hours!"

SOME PERFORMANCE METRICS WORTH REWARDING

There is a philosophy regarding compensation nicely articulated in Alfie Kohn's great book Punished by Rewards. Kohn suggests that the best system is to pay people well . . . then do everything you can to get them to forget about the money. He warns us that any incentive systems can be disastrous, because they can always be gamed (which lawyers love to do). Many believe that any reward system must be judgmental, with nothing that even smacks of a formula. The minute you give lawyers a formula, you give them all permission to ignore anything that's not in the formula. But life is subjective and so is partner performance. It cannot be reduced to a simple formula. So, with respect to specific performance measures, here are six factors that a firm should identify, track and measure:

1. Profitability

Your primary goal should be to inspire profitable performance and we've already reviewed that in detail in the first two parts of this article. However, in addition and as a signal to discourage your attorneys from simply chalking up hours, consider setting a ceiling such that it is clearly understood that no additional compensation will be paid any attorney who exceeds that ceiling. Such an action will also send a clear signal that time invested in other important activities like mentoring, business development and personal skill building will be considered value at compensation time.

2. Client satisfaction

Using a specific questionnaire or client feedback interview, survey every client at the end of every major transaction or lawsuit. Survey each client semi-annually. And (here's the key point) every three months publish the average client satisfaction scores for each group within the firm to all lawyers in your entire firm – high or low. In that way, everyone can easily see which groups are stellar, and which groups are less so at serving their clients.

3. Systematic evaluations of quality

There are two levels upon which you might internally evaluate the work quality being delivered to clients – first by determining whether

there is proper delegation and supervision on engagements and secondly, by whether there is career-building and people development feedback provided for those working on the engagement at the conclusion of the matter. Here again, you should have every group or client team rate the responsible partners effectiveness as both an engagement manager (does this partner delegate and supervise work effectively?) and as a talent developer (does this partner provide feedback that allows me to learn and do a better job on the next assignment?) You could then publish the results to everybody in the firm so that all can see who is judged to be effective at delivering quality.

4. Contribution to business development

This is an important factor and should purposely NOT be quantified so that joint marketing can be encouraged, and activities like seminars, speeches and articles can be recognized.

5. Personal skill development

The question within the group becomes: Is this professional working to develop and build their knowledge, their substantive skills, and make themselves more valuable and special (read that to mean: meaningfully differentiated) to their clients? The question for each individual member to reflect upon is: "What is it that I can meaningfully do and contribute to enhance value for my clients now, that I couldn't do for them a year ago?" And if your personal answer is zilch, then I think we have a problem.

6. Contribution to the success of others

These contributions should also be judged by your peers and could include recognizing individual team members who contribute value, who follow through on executing their projects for the team, and who come to the aid of others, above and beyond the call of duty. It should include recognizing those who make substantive contributions to the firm's knowledge bank and help the group avoid reinventing the wheel in serving clients. It is useful to utilize three-year moving averages on all of these performance metrics, so that you cannot obtain the full reward for top performance until it has been demonstrated for three years.

What weight should you give to these factors? As indicated earlier, you should work very hard to say: "there are NO weights." No portion of compensation can be "locked in" by doing well on any subset. You've got to do well on all. You judge the whole professional and the full range of performance in deciding whether high or low compensation is deserved.

Having said all that, many prefer systems based on points or share of the coming year's profits. That way, in any given year, the only way for someone to get more cash is to improve their particular practice group's performance or firm-wide results.

As you explore this issue of compensation without relying on billable hours, remember that you need to involve everyone in the diagnosis and design—get their input. Involvement is absolutely essential. We often say, "no involvement, no commitment." AND, keep it simple. It's quite easy to make

any compensation system more complicated than it needs to be.

IV. The Partnership Track: A Blind Race

At the beginning of one's career, one sets upon a course of being a "good soldier", doing what the system asks of you in the profession's self-described "tournament" style search for excellence. You must perform better than others so that you may advance within the organization. A large measure of blind faith is involved in doing this (which is amazing considering the cynical nature of most lawyers) [note—or maybe it shows cynicism is borne of age!] because the standards of what it takes to be successful as defined by each firm are not usually communicated clearly or applied evenly – perhaps because they may be neither particularly well- defined nor politically correct in the first place. For the participants, the perception, and all too often the reality, is not so much that they are participating in a rigorously monitored and graded competition but running a race in a fog with no lanes, no finish lines, no judges and no spectators.

Given industry average attrition rates for associates of about 20% per year and eight-to-ten-year track to partnership, the probability of attaining partnership is poor for those enlisting in the competition. This system renders the cost of advancing the few who survive the ordeal prohibitive. How does a system work at all, let alone efficiently, by hiring the best and brightest talent available from the most prestigious law schools, paying premier salary and benefits packages, and then going through them like tissues in flu season? The cost to the organization is multiples greater than the returns possible from the few that succeed. This cannot be the real purpose . . . so what is the real story? Maybe the system isn't about a reward for being the "best of the best" after all. Maybe its portrayal as a tournament, should be revised as a game that has few winners, and which clients subsidize with unnecessarily high fees and costs. A game that drives many of the best and brightest out of the profession by consuming them on a treadmill of relatively meaningless work, and severely limited prospects of advancement. The soylent green wafers the system consumes for nutrition aren't made from plankton after all.

Few partners are made relative to the numbers hired from law school, and fewer still are home grown. In many firms the number of lateral partners admitted over the past ten years significantly exceeds the "home grown" partners. Furthermore, those who make partner still tend to be net "givers" to the profit pool for many years after they make partner. A net "giver" is a person who contributes more in personal service and client book dollars to the firm than they are paid, after costs. In most law firms, that is a significant majority of the equity partners, all of the income partners and of counsel, and most of the associates that actually do generate a profit. And it is a component of why life for many partners, especially those in the lower two thirds of the partnership ranks, and all associates, has become increasingly pressured and perceived as out of balance with a lifestyle that is worth living. Ever increasing billable hours quotas, and higher billing rates to be pushed upon their

clients are demanded of them by their leaderships. Political fear and oppression of contrary views of how firms should be run, or their client relationships serviced becomes commonplace. "Get with the program or get out" is the message. There is not much ambiguity there. Nor are there many alternative choices to move to other firms in which the mantra is any different.

A not uncommon phenomenon is the partner who trains and works his protégés up to the level of finally becoming a potential success as a stand- alone partner – and therefore a competitor for the mentor. So, in this Hobbesian world, the protégé is counseled out before they have a meaningful relationship directly with any client of the partner, during a career in which they have been actively discouraged from developing their own independent client base. Senior partner "mentors" become sovereigns who "eat their young." Why do they do it? Because more equity partners potentially take away from the profit pie, creating competition in the area that the senior partner is most expert. Better to toss the juniors out and bring up another youngster until they reach the same level, repeating the cycle over and over.

This process repeats itself because it generates more money for the senior partners and consumes and eliminates potential competition. Hundreds of thousands of dollars of sunk costs for recruitment, training and mentoring is lost with every associate and junior partner so terminated. (A firm with 300 associates that loses sixty of them in any given year, loses Fifteen to Eighteen Million Dollars of otherwise net distributable income, perhaps as much as ten percent of the amount of total net income to the firm. That translates to roughly $80,000 to $120,000 per year per partner). Those are dollars that come from clients, and internally from the lower tiers of partners from income allocations. No other profession consumes its own people with such a voracious and wasteful appetite. A firm that refocuses its approach upon delivering value, through hiring a select number of people, and making every effort it can to invest in and retain as many of those people as it can, both in terms of skill development, and compensation sharing that supports collaboration and fair value to all of the members of the team, and to the stability of the business enterprise, will have an enormous competitive cost advantage over the present leveraged model that prevails. This advantage will not only be through the reduced turnover cost highlighted above, but in reduced operations expenses for rent, computers, lower recruiting costs and smaller classes of more selective hires.

Mention has been made recently of the jettisoning of the lockstep compensation model for associates as a positive move to bring "reality" to the cost structure of firms. This ignores the fact that merit-based compensation and promotion was the model before lockstep was adopted by big law firms. The problem was that partners did not put the time and effort into merit evaluation to make it meaningful, and exercise of power by partners did more to assure that "favorites" were promoted over more capable and deserving candidates. Returning to a system that firms couldn't make work before is not necessarily cause for rejoicing, nor any assurance that it will in fact reduce costs to clients. The bigger problem with

the model is the cost of the rollover of so many attorneys at such great cost.

What about the model of the big law firm? There is nothing inherently superior about the model of the big firm, though it could be inherently more profitable if it leveraged experience and prior work product instead of hours. As the current recession has shown, the big firm model is not more profitable: the global firms have had a harder time maintaining profitability. While the big firm model could be inherently more stable if it focused on talent development and succession planning, it does not; multiple failures of NLJ 250 firms over the past year belie this suspicion. While it could foster inherently better-quality work or "seamless" delivery of legal service through robust quality control and processes; it has not as virtually any client will attest. Bigger is just that . . . bigger – not better. Its advantage to clients may be incidental, as contrasted to its real benefit of size, and leverage to some of the partners, which delivers more profit in good times. In bad times it is reflected by the termination of those least responsible for the compression on profits, the associates, junior partners, and staff personnel. None of which would seem to be addressed to providing better quality work at lower prices for clients.

Do we need big law firms? Absolutely, and there will be a large and robust practice arena for them into the foreseeable future. Do we need "those types" of law firms, of any size, that derive substantial amounts of their distributable partner income from inefficiently consuming their own human resources? It is hard to believe that it is necessary or desirable. The new model has to change its compensation structure to incent behaviors significantly lacking in most large firms today.

That compensation model should focus on the long-term strengthening of the institution of the firm over the short-term remuneration to the partners. Reduce use of short term debt for working capital as by at least fifty percent compared to recent years, increase partner capital requirements to 100% of annual compensation, maintain larger balances of cash for operating reserves (60 days would be a good start), restrict payouts of departing or retiring partner capital to an intermediate term of 5 to 7 years, such that there is a major incentive to be a part of a firm that has strong prospects of long term survival, require limits to compensation and service terms of leaders and managers, include attorneys from the first year of associate status in profit sharing at a minimum scheduled level of 20% of compensation based on budget, and hold practice group leaders and other senior managing partners financially accountable for failure to meet budgets by having the first 20% of their income applied to results below initial budget before their partners bear the outcome. With authority should come accountability. With results should come benefits, and burdens.

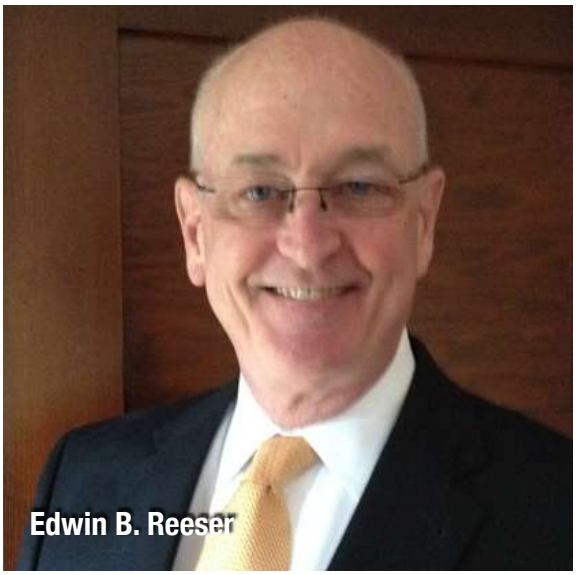
The rest will work itself out.

About the Authors
Jeffrey Carr is former Vice President, General Counsel and Secretary of FMC Technologies Inc, performance billing sensei and relentless advocate for reform of the archaic and inefficient legal service delivery model.

Edwin B. Reeser is a business lawyer specializing in structuring, negotiating and documenting complex real estate and business transactions for international and domestic corporations and individuals. He has served on the executive committees and as office managing partner of firms ranging from 25 to over 800 lawyers in size.

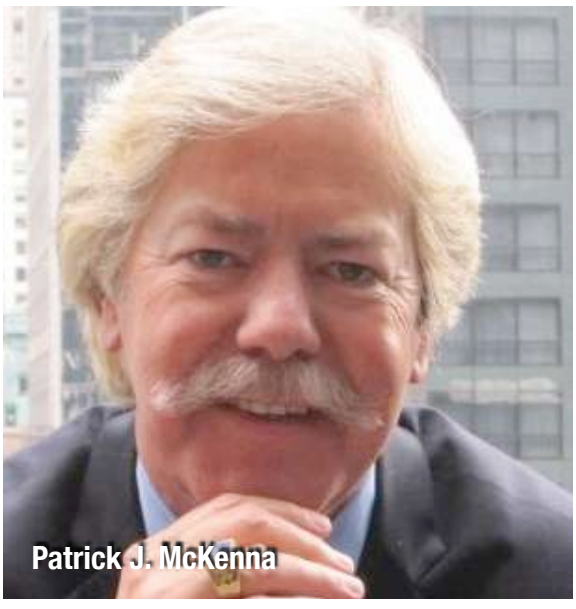
Patrick Lamb is Founding Member of Valorem Law Group, a firm that represents businesses in disputes using non-hourly billing arrangements.

Patrick J. McKenna works with the top management of premiere law firms to discuss, challenge and escalate their thinking on how to effectively manage and compete.


Edwin B. Reeser

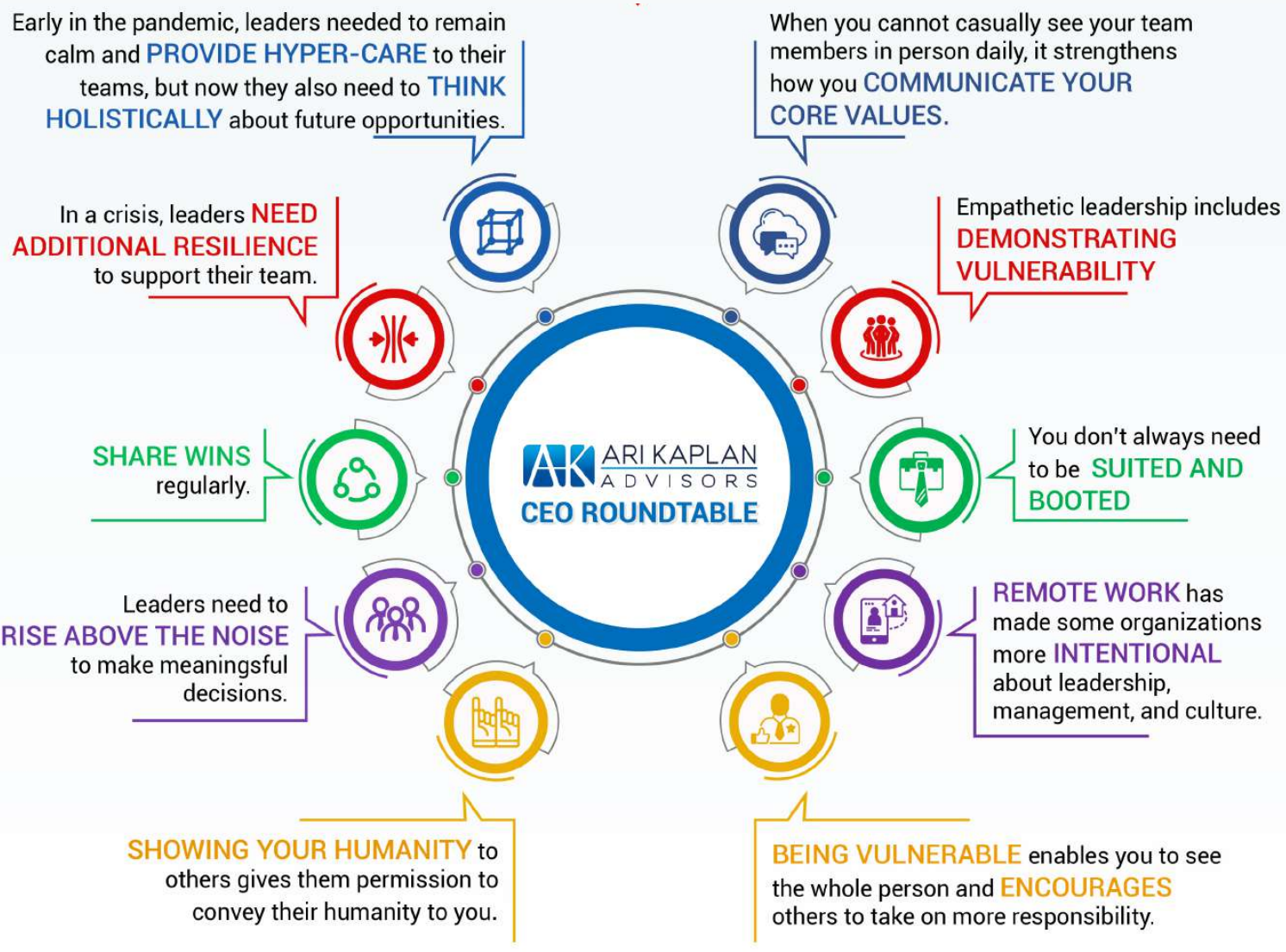

Patrick Lamb


Jeffrey Carr


Patrick J. McKenna

INFOGRAPHIC

LEADERSHIP IN THE PANDEMIC



Contact (646) 641-0600 or ari@arikaplanadvisors.com to learn more.

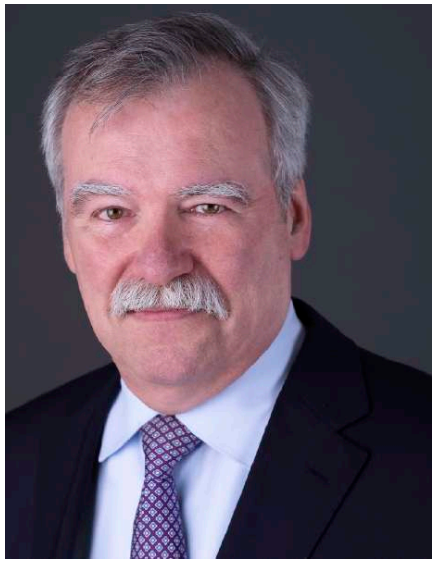
March 2021

Can Perpetual Power Corp Get Off the Clock?

By Richard G. Stock, M.A., FCG, CMC, Partner with Catalyst Consulting

This is the twenty sixth in a series of articles about how corporate and government law departments can improve their performance and add measurable value to their organizations.

Just a few years ago, I was asked to present a request for proposals (RFP) simulation for legal services at a national conference of General Counsel. The scenario was designed to question assumptions held by both buyers and providers of legal services. For the simulation, imagine a company called Perpetual Power Corp. (PPC), that manufactures and sells wind turbines. The headquarters is in Norway and the law department has lawyers in Oslo, Turkey, the United States, Brazil and India. PPC retains 12 firms for 21,500 hours of legal support on five continents.



One of PPC's initiatives is to reduce its number of firms to no more than three. Its General Counsel has invited three incumbent firms to submit proposals for as much of the work that they believe they can competently

manage. About 30 per cent of the work is commercial, 45 per cent is litigation, with the remainder for labour, IP and environmental matters distributed across the regions. Apart from reducing its administrative workload and securing predictable pricing for the future, PPC wants its firms to offer the right balance of coverage, competence, and costs.

The imaginary Fudd & Leghorn LLP has been doing most of PPC's US work — about 40 per cent of its global requirements. Fudd is offering to cover the Americas by collaborating with law firms in Brazil and Argentina. Fudd's proposal is not specific about coverage for Chile. And it is offering limited information about its capabilities for environmental work. Overall, Fudd & Leghorn is light on quality assurance protocols and the credentials of its South American firms, preferring instead to emphasize its own history of service delivery with PPC to secure more work. Still, the firm proposes to increase its discount to 20 per cent and is agreeable to a fixed price and 36 equal payments, with no hours to be reported to PPC. In summary, Fudd & Leghorn is relying on a calculated strategy to increase its market share to 50%.

Prudential & Gibraltar LLP is a Swiss firm with offices in 20 European cities. The firm has a 25-year history with PPC, dating back to the creation of the company, with legal support mostly in Europe. Prudential's proposal is to take on all of PPC's European and African work, approximately 40 per cent of PPC's global requirements, by collaborating with firms in Cairo and Nigeria. Their proposal does not mention legal project management or budgeting. There is no apparent link of service delivery to available collaboration technologies.

The financial side of Prudential & Gibraltar's proposal consists of a blended hourly rate of €300, plus an annual rate increase of 2.5 per cent for Europe, and a blended hourly rate of €200 plus an annual rate increase of 2.5 per cent for work in Africa. A 15-per-cent rate discount is built in. Billing would continue on an hourly basis. Prudential is expanding its coverage slightly, albeit by collaborating with secondary firms. Overall, its proposal is designed for a conservative client looking for stable hourly pricing.

The third fictional firm, Mark & Whatney Inc., has supported PPC for five years with IP, environmental and specialized litigation work. It has expertise in Six Sigma and other process-improvement methodologies, with experts in India, Japan and the US. The firm is prepared to bring that expertise to PPC's headquarters in Oslo.

With a proven track record in process improvement and a solid network, Mark & Whatney proposes to do 70 per cent of PPCs work worldwide — virtually all of its litigation, IP and environmental legal requirements. Its strategy would not disrupt PPC's relationships with long-standing commercial and corporate firms.

The firm proposes a fixed fee, discounted by 10 per cent, and then discounted again by 15 per cent if PPC is prepared to commit to ongoing efficiency projects. The firm believes that it can reduce PPC's requirements for legal services and is prepared to adjust its price up

front to reflect this approach. An annual review and adjustment mechanism of the annual fee would examine significant variations from estimated and agreed work volumes and the complexity mix of matters.

The three-firm simulation illustrates a watershed opportunity for companies like PPC to move away from hourly billing in favour of a fee arrangement promoting efficiency, innovation and lower costs. The scenario has two firms offering simplified billing, reporting and payment — attractive to law departments that want to shed administrative activity. PPC could well accept to allocate all of its non-commercial work to a global provider that can balance competence, coverage and costs. Provided the data analytics are solid and the RFP is thorough, the winning combination of firms should be clear. Designing the right type of RFP makes the choice easier. Most law firms are ready for a change.

About the Author
Richard G. Stock, M.A., FCG, CMC is the senior partner with **Catalyst Consulting**. The firm has been advising corporate and government law departments across North America, Europe, the Middle East and Australia since 1996. For law department management advice that works, Richard can be contacted at (416) 367-4447 or at rstock@catalystlegal.com.

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GLOBAL
GROWTH

Client-Centric Global Growth

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Dean Sappey, the president and co-founder of DocsCorp, a software company that develops a range of document productivity and security tools for law firms (and was recently acquired by Litera).

Ari Kaplan
Tell us about DocsCorp's global strategy and how it is adapting to a more tech-enabled workforce.

Dean Sappey
What's happened over this last year has really accentuated and reinforced our strategy of enabling legal professionals to be much more productive at their desktops, including lawyers and corporate legal professionals all around the world. Whilst everyone moved to working from home, it is even more important that they be highly productive, rather than relying on teams of people in another room to help on certain document-related tasks. Our technology is allowing lawyers to be much more efficient in their creation, development, sharing, and pairing of documents.


Dean Sappey

Ari Kaplan
You recently acquired a Docuble, which helps law firms with styling problems in Microsoft Word. Why is that an important issue in a firm's workflow?

Dean Sappey
We see that most lawyers are receiving documents from many sources, but law firms generally want to ensure that all of the contracts and documents that they're creating in Word or PowerPoint have a consistent theme and style. Microsoft Word styles are very complex and lawyers really struggle to get paragraph numbering and other formatting options to work correctly. We were looking for technology that simplified that for them so with one click of a button, it could run through a document and either reformat that file into the style of that firm, or look for issues or problems and correct them. Now that we're working in a much more distributed way and firms are moving from having back-end processing teams in favor of empowering attorneys to do the work themselves, we needed to get those tools directly to the desktop. All of our other applications follow the same theory about making technology easy for and accessible to every lawyer. This was another part of the puzzle that we needed to fill, and in this case, it was quicker for us to acquire a technology that was new and provides some fantastic features, rather than to actually build it ourselves. Historically, we have built our products, but there is only so many new products you can build yourself. As DocsCorp has accelerated its growth, we're now mixing a combination of acquiring fantastic new technology together with integrating it into our existing portfolio.

Ari Kaplan
How will you integrate Docuble into your suite of tools?

Dean Sappey
Docuble will be added to the DocsCorp toolbar that exists inside all Microsoft Office applications. It will be an optional product for clients and will not just appear there automatically. A firm might choose to switch from a current application or purchase this is an add-on so it is a separate product. We don't believe that it's a good idea to inundate the firm with a huge number of functions and buttons if they don't want them, so our clients can choose which of our tools to use, and license each one as they need it. They only have as complicated a toolbar as they want, but should they want all of our applications, they are available in one integrated set of tools that work and look the same.

Ari Kaplan
Last year you acquired Verowave Technologies, the UK provider of document production and assembly software. What do you look for in companies you want to add to your portfolio?

Dean Sappey
The typical formula is to look for technology companies that have a lot of existing customers and recurring revenue, for which you pay a lot, but those technologies tend to be by definition, much older, so they haven't got as much life ahead of them. On the other hand, we look for much newer technologies that are still proven. They've got some customers, but they may be in a particular region and have not been able to go global, either because they

didn’t have the bandwidth or due to limited marketing and sales resources. We look for products that are very new, i.e., two- to three-years-old in terms of their development so that we know they're scalable, and can work on-premises or in the cloud. We know we're not finding a lot of legacy code and they're very fast. We seek out products that are proven to be successful for their clients and that we can take to our 5,000-plus clients.

Ari Kaplan
What new features are your clients asking for?

Dean Sappey
Clients are asking for features that will make their lives easier and, ideally, they won’t even have to ask the software to do something because it will just know how to do it. They want features that they have to think about less and less. In the case of Docuble, rather than running a whole series of tests on a document and asking the user 1,000 questions to answer, this styling product simply fixes the document for you.

Ari Kaplan
Has anything surprised you about the way client preferences have shifted?

Dean Sappey
What has surprised me a little is that a few years ago, the view of all clients was that everything had to be in the cloud. Their preferences have not, however, gone that way and they have now realized that they want to continue using desktop applications for Microsoft Word, Excel, and Outlook. For work that we do every day, we see that we're much more productive if the work is on our desktop or laptop, wherever we are. Theoretically, we can be disconnected from the internet and keep doing all the work we need using all of the significant features and functionality that a desktop application can provide.

Ari Kaplan
What recommendations do you have for entrepreneurs who want to create appealing solutions like Docuble?

Dean Sappey
We were once entrepreneurs. My co-founder and I started DocsCorp 18 years ago with zero capital. We built our first product, which was pdfDocs at that stage, released it to a few clients, and then continued on working without any investment, which is unusual, though a lot of other entrepreneurs are doing it that way. First, get in there and just try to do it. Second, know your limitations. If you build a good product, particularly in this legal technology in space, it can go global and there's no reason why it should just sell in one country, state, or city. Recognize, however, that there may be a better path for you to achieve a great financial outcome or really change the world in terms of lots of lawyers using this product if you partner with other organizations. At some point, it may be beneficial to let a little bit of control go. Over the years, I have seen a lot of fantastic new products built by entrepreneurs who were great coders, but they never wanted to let it go. They didn't know how to build a sales and marketing team so the product never achieved a sufficient volume of customers. Be realistic about what your skill set is.

Ari Kaplan
How are you approaching growth in the

current uncertain business climate?

Dean Sappey
We changed our growth strategy a little. In previous years, we were much more focused on attracting brand new clients by going to about 50 different conferences around the world. It is now more difficult to get in front of a brand new customer, so we have changed in our approach to growth by focusing on delivering additional technology to our existing 5,000 clients, rather than working harder to add another 1,000.

About the Author
Ari Kaplan (http://www.AriKaplanAdvisors.com) regularly interviews leaders in the legal industry and in the broader professional services community to share perspective, highlight transformative change, and introduce new technology at http://www.Reinventing-Professionals.com.

Listen to his conversation with Dean Sappey here: https://www.reinventingprofessionals.com/client-centric-global-growth/

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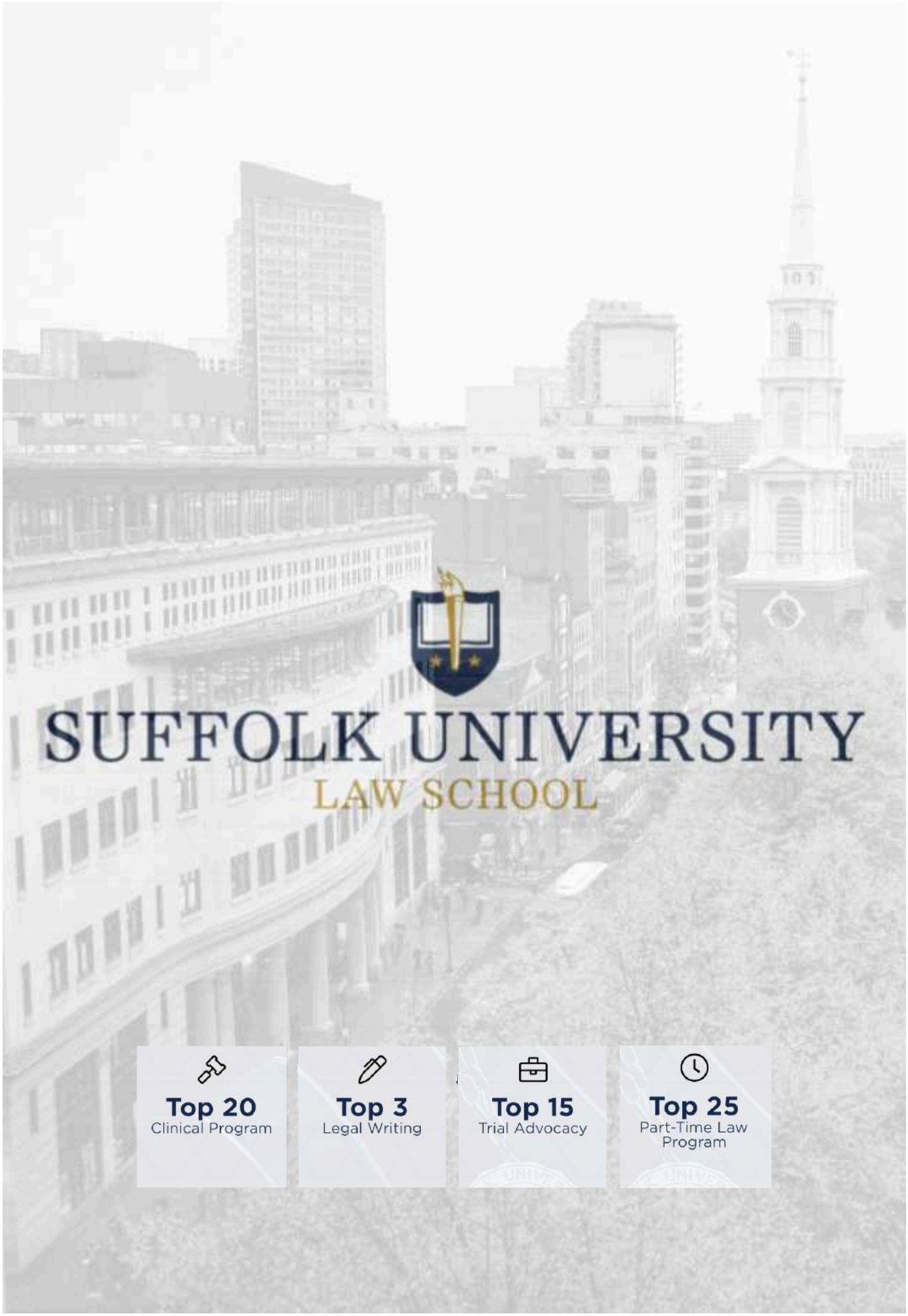

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LAW SCHOOL

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Clinical Program

Top 3
Legal Writing

Top 15
Trial Advocacy

Top 25
Part-Time Law Program

COVID-19 Impacts on Litigation

Trends for 2020 and Beyond

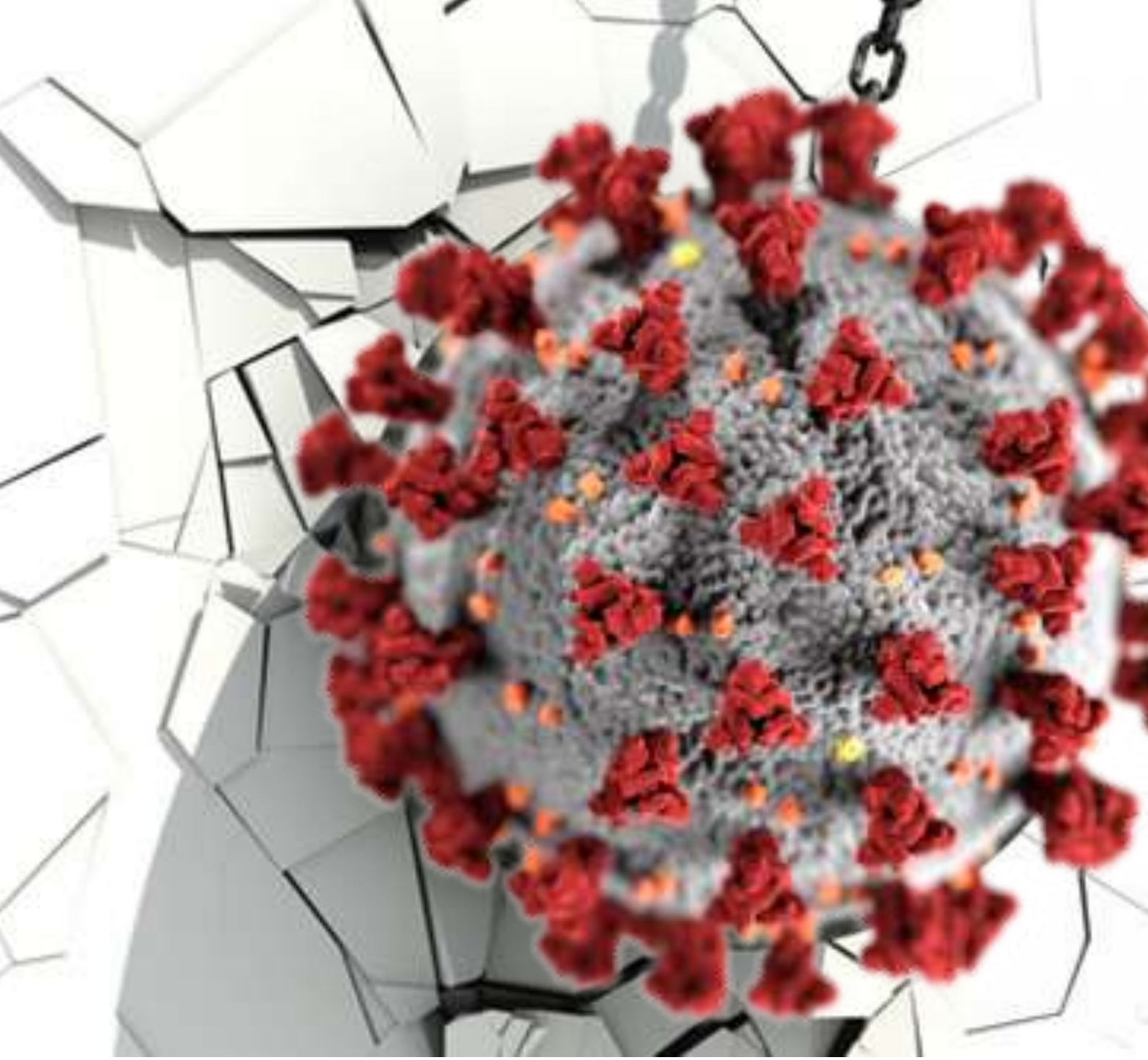
By Josh Blandi, CEO and Co-Founder of UniCourt

Despite widespread concerns that the impact of COVID-19 would significantly curtail legal services demands, litigation volumes for most practice areas in federal courts remained relatively stable in 2020. While some noteworthy exceptions remain, the consensus is that litigation practices - and the legal services industry writ large - are alive and well.

This article will review the year-over-year changes in case volumes from 2019 to 2020 for federal U.S. district courts. It will also highlight trends for countries in the European Union and specific spikes seen for particular practice areas. Finally, we will touch on how law firms and legal departments can use litigation data for strategic planning to stay ahead of the curve and the competition - even in another global crisis.

U.S. Litigation Trends

For most practice areas, litigation trends have



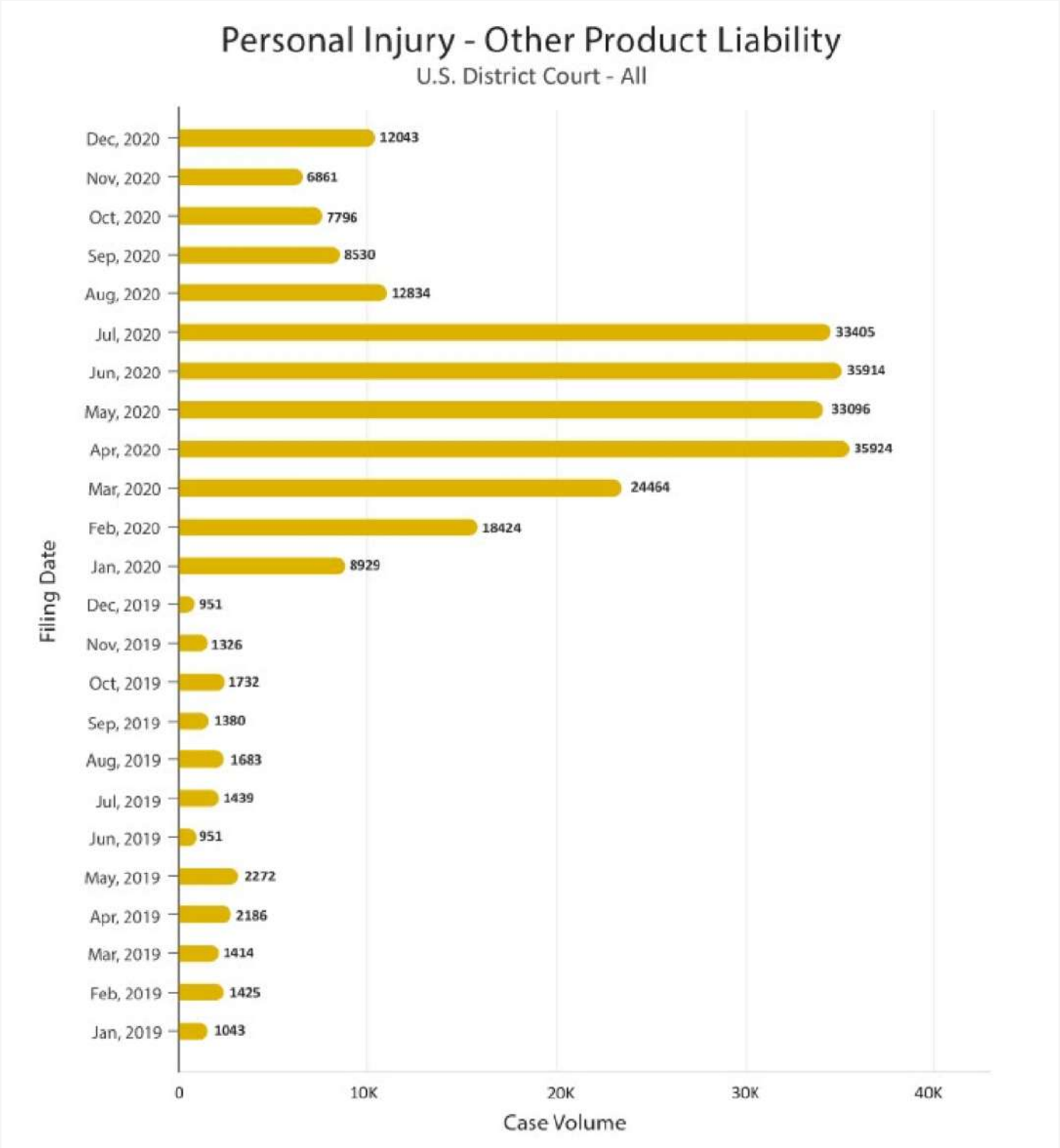
remained relatively stable in the federal courts. Labor law and civil rights cases, in particular, have seen high volumes of filings. However, there have been noticeable dips in others.

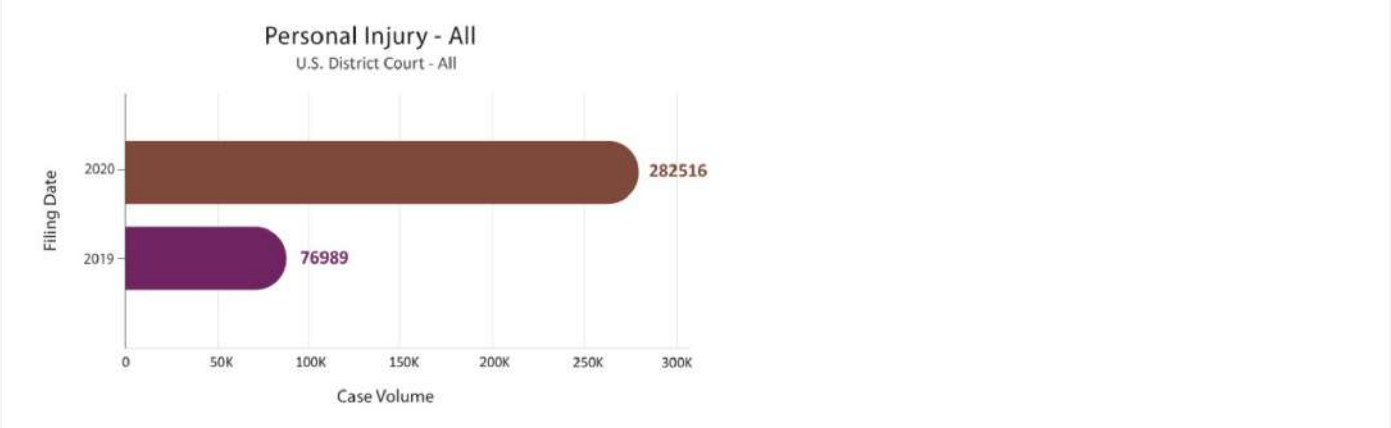
Here is a data-driven breakdown.

Personal Injury Cases

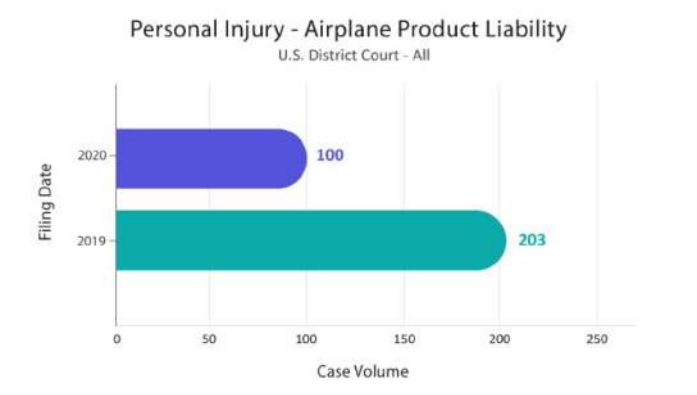
One of the more interesting changes in litigation trends from 2019 to 2020 case volumes relates to the massive spike in personal injury cases filed in U.S. District Courts during 2020.

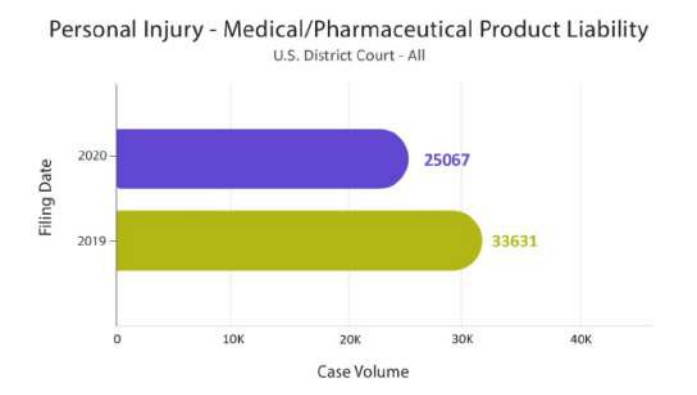
While there were close to 77,000 personal injury cases filed in federal court in 2019, there were over 282,000 cases filed in 2020, nearly a four-fold increase. However, this increase is almost entirely attributable to over 227,000 personal injury - product liability lawsuits brought against 3M Company.


Personal Injury - Other Product Liability
U.S. District Court - All
Filing Date
Dec, 2020 12043
Nov, 2020 6861
Oct, 2020 7796
Sep, 2020 8530
Aug, 2020 12834
Jul, 2020 33405
Jun, 2020 35914
May, 2020 33096
Apr, 2020 35924
Mar, 2020 24464
Feb, 2020 18424
Jan, 2020 8929
Dec, 2019 951
Nov, 2019 1326
Oct, 2019 1732
Sep, 2019 1380
Aug, 2019 1683
Jul, 2019 1439
Jun, 2019 951
May, 2019 2272
Apr, 2019 2186
Mar, 2019 1414
Feb, 2019 1425
Jan, 2019 1043
0
10K
20K
30K
40K
Case Volume


Personal Injury - All
U.S. District Court - All
Filing Date
2020 282516
2019 76989
0
50K
100K
150K
200K
250K
300K
Case Volume

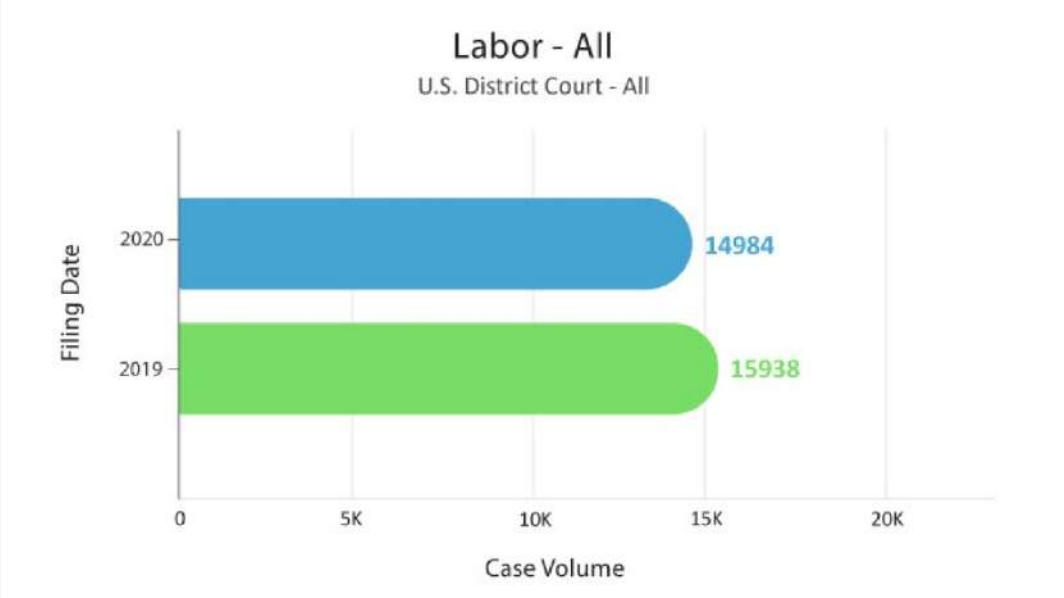
Within the personal injury practice area, there were also two changes in litigation trends that could possibly be related to COVID: (1) a significant drop in airplane product liability litigation, likely due to a sharp decline in air travel during the height of the pandemic, and (2) a noticeable drop in medical/pharmaceutical product liability cases, which may have been caused by a decline in the number of patients in the US receiving care for non-COVID related issues and injuries in 2020.

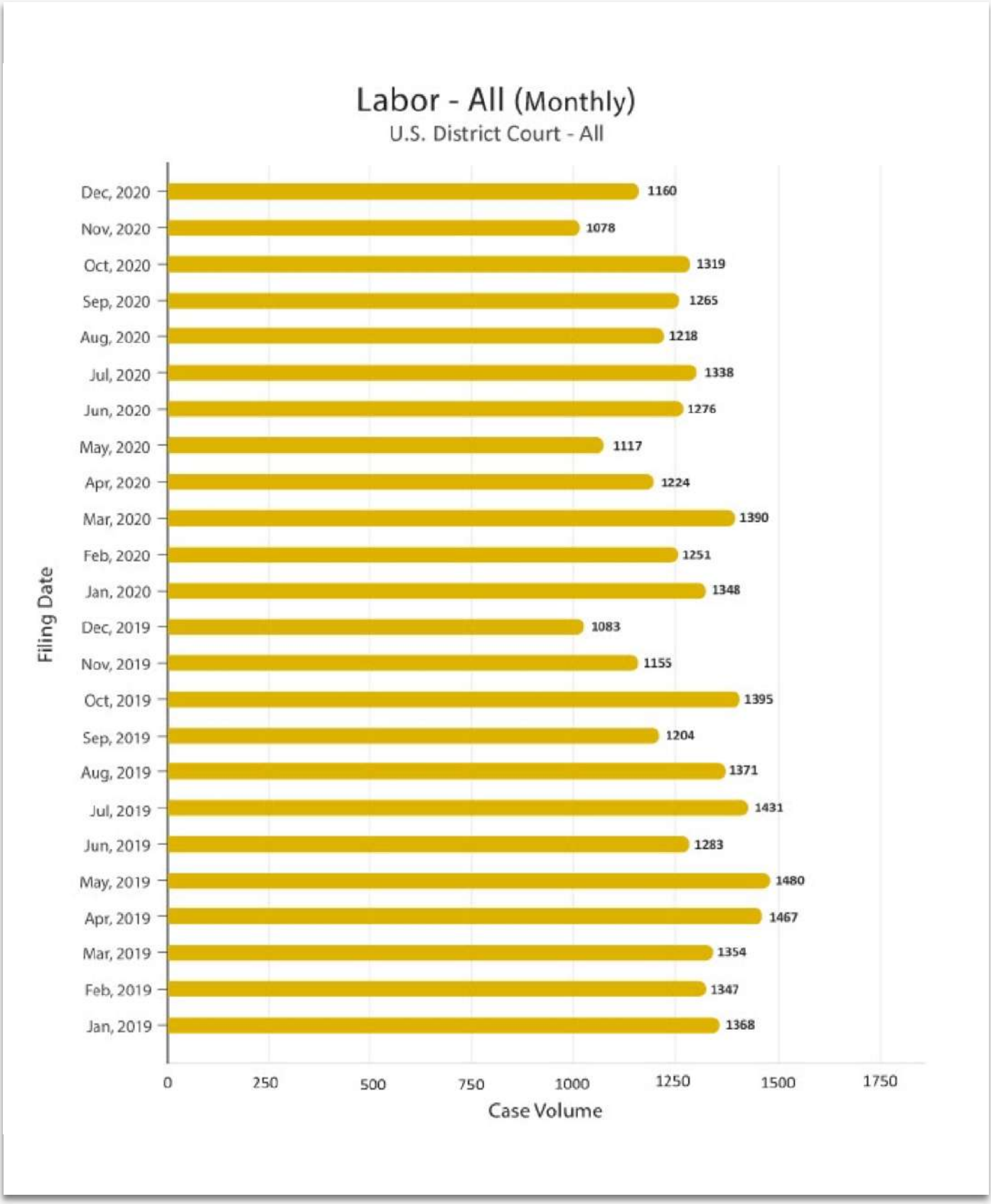




Labor Litigation

Throughout 2019, labor litigation filings remained strong, totaling just shy of 16,000 filings in federal U.S. District Courts. In 2020, that number dropped only slightly to a little under 15,000 cases. With the volatility in the US labor market during 2020, the relative stability in the number of labor related cases in federal courts on a month by month basis all the way from January 2019 to December 2020 is somewhat surprising.




Labor - All (Monthly)
U.S. District Court - All
Filing Date
Dec, 2020
Nov, 2020
Oct, 2020
Sep, 2020
Aug, 2020
Jul, 2020
Jun, 2020
May, 2020
Apr, 2020
Mar, 2020
Feb, 2020
Jan, 2020
Dec, 2019
Nov, 2019
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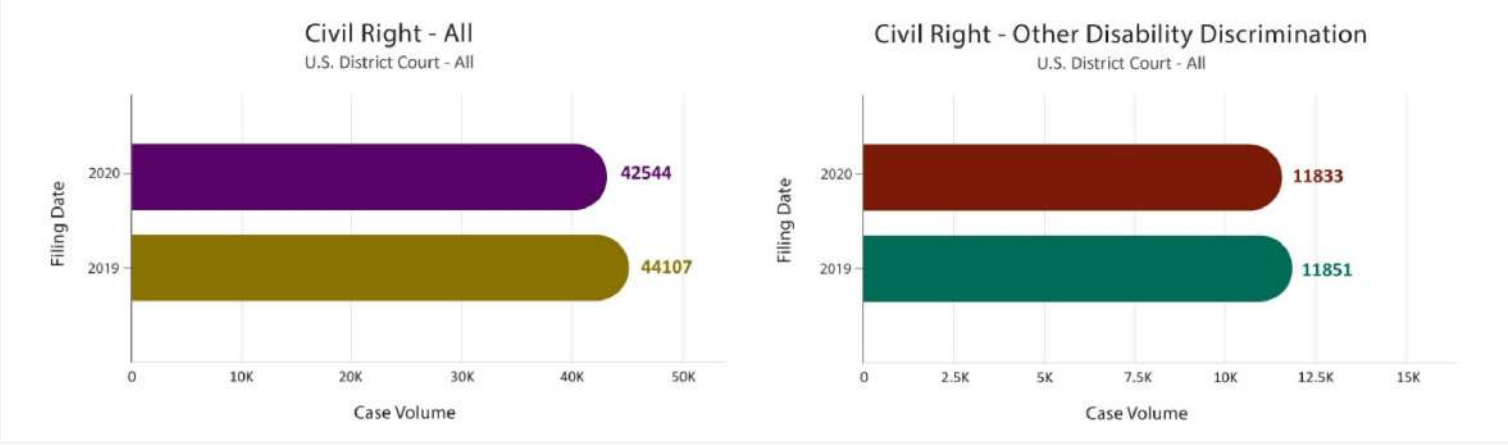
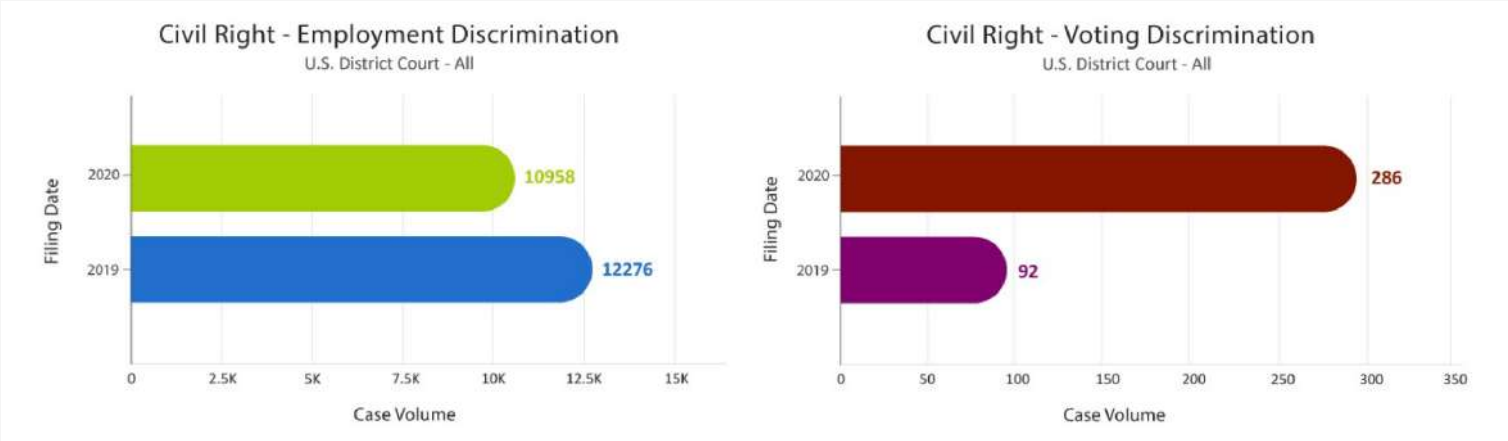
1348
1083
1155
1395
1204
1371
1431
1283
1480
1467
1354
1347
1368
0
250
500
750
1000
1250
1500
1750
Case Volume

Civil Rights Litigation

Along with a steady pace for labor litigation in the midst of the pandemic last year, there was also a relatively stable volume of civil rights litigation from 2019 to 2020. In 2019, there were just over 44,000 civil rights cases filed in U.S. district courts, compared to about 42,500 cases in 2020. For the most part, all of the case types within the civil rights banner remained consistent from 2019 to 2020, even though there was a slight drop in disability discrimination cases and a modest decrease in employment discrimination cases. The data also shows a spike in voting discrimination cases filed in federal courts, which could be foreseeable given the volatility of the 2020 election cycle in the US.



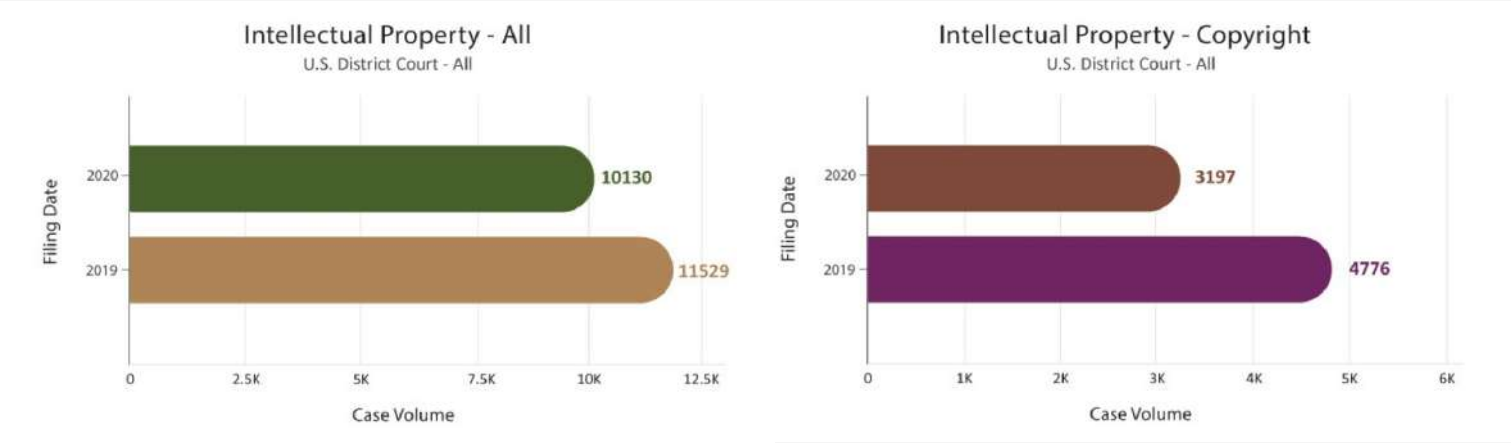


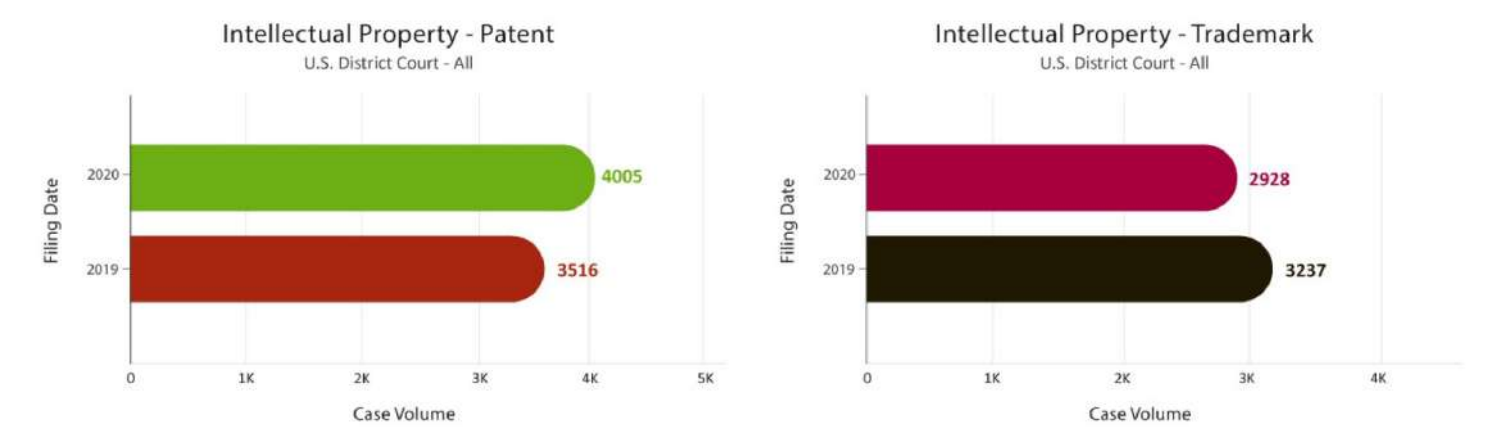
Intellectual Property

Litigation for intellectual property (IP) lawyers also provided a steady stream of work despite the pandemic. However, there was a noticeable decrease in filings year over year with about 11,500 cases in 2019 and just over 10,000 cases in 2020.

Within the umbrella of IP litigation, we saw a slight uptick in patent case volumes with close to 500 additional patent cases filed last year compared to 2019.

But what caused the overall drop of about 1,500 IP cases in 2020 was a significant reduction in copyright litigation, combined with a minor slowing in the number of trademark cases filed in federal court.

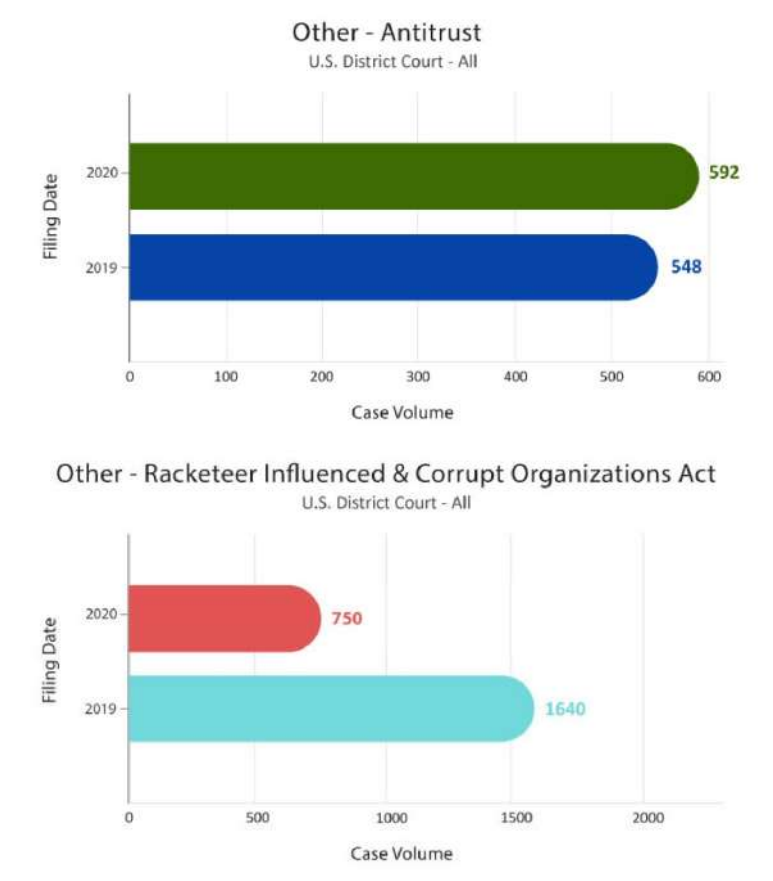




Antitrust & RICO Cases

In addition to the more standard practice areas of personal injury, labor, civil rights, and IP, we also want to share the data for two other niche practice areas: antitrust litigation and Racketeer Influenced & Corrupt Organizations Act cases, also commonly known as RICO cases.

For all of the bluster and talk of increased scrutiny of social media companies and other antitrust targets in 2020, there was only a



minimal increase of less than 50 more antitrust cases last year. However, in the white collar defense world for RICO cases, there was a sharp reduction in the number of cases filed, with less than half of the caseloads in 2020 compared to 2019. With a new US Attorney General now in place, it will be interesting to see how litigation volumes in these niche areas unfold in 2021 and beyond.

Litigation Trends beyond the United States

With some notable exceptions, for many countries within the European Union (EU) there has not been a reported wide scale

uptick in litigation during 2020. This is largely due to the fact that many courts at the beginning of the pandemic either closed or significantly scaled back their operations, notably, in Italy, Spain, and France.

This past January, the United Nations shared a report on 2020 climate change litigation volumes, noting that the number of climate change related lawsuits has doubled globally since 2017 across dozens of countries, including the EU. This will be a trend to continue to watch as 2021 unfolds with regulators in various jurisdictions pushing for sustainability legislation and increasingly active investor litigation in this space.

Besides the increase in climate change and sustainability related matters, another specific practice area seeing caseloads on the rise in the EU is insurance litigation. Due to business closures enacted across the EU, and specifically in countries like Germany, restaurants and bars were particularly hard hit during 2020.

Upon seeking to collect on their insurance policies, many of those same businesses found that their loss of business due to the pandemic was not covered by their policies and have

taken their disputes into court. As noted by an executive partner at the international law firm CMS, insurance is going "absolutely nuts" and "insurance claims are going up everywhere." In the US, interestingly enough, there was not a wild increase of insurance litigation in federal courts, even though there was a noticeable bump from 11,107 cases in 2019 to 12,233 cases in 2020.

As court data is more closely guarded in many countries in the EU, it is harder to provide more accurate reporting on 2020 case volumes outside of studies and reports published by the EU and well-funded research operations. And while the EU Justice Scoreboard is a great step in the right direction of providing a wealth of information on litigation volumes in member countries, there is no real avenue to access the underlying court data to verify the statistics presented. Moreover, the EU Justice Scoreboard's published reports do not contain any data for the prior year's case volumes, making it difficult to take real action on findings contained within the data.

Leveraging Litigation Data for Strategic Planning

Whether you're 3M's legal department facing the onslaught of 227,000 plus product liability cases, another Fortune 500 company with looming litigation risk on the horizon, or a Global 100 law firm with a large corporate litigation practice group, it's critical to be prepared and proactive when you see trends that could impact your business operations and business development opportunities.

While knowing what's happening throughout the entire litigation market may not be necessary for legal departments, knowing what's happening with the litigation in your industry, your niche practice areas, and litigation involving your chief competitors can make the difference between being blindsided by fast-moving trends and budgeting properly for foreseeable spikes.

And for law firms with profits tied heavily to the success of their litigation practice groups, knowing the trends impacting your bottom line is critical for gaining more business when the going is good and also walking away unscathed when business begins to drastically dry up.

Specifically, litigation trends can help law firms determine when to actively seek more litigation work from their top clients and to also proactively transition their business development efforts to seeking more advisory and transactional work during litigation downturns, or to focus on other clients altogether.

As the continued global fallout from COVID-19 keeps rolling through the US and EU courts, we will eagerly be watching this space for future developments to see how the legal industry and businesses react to unfolding litigation trends.

About the Author

Josh Blandi is the CEO and Co-Founder of UniCourt, a SaaS offering using machine learning to disrupt the way court records are organized, accessed, and used. UniCourt

provides Legal Data as a Service (LDaaS) via our APIs to AmLaw 50 firms and Fortune 500 businesses for accessing normalized court data for business development and intelligence, analytics, machine learning models, process automation, background checks, investigations, and underwriting.

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The Justice for All Framework:
Opportunity for Investment and Reform

By Katherine Alteneder, Consulting Senior Strategic Advisor to the Self-Represented Litigation Network (SRLN)

Americans have been searching for a solution to the civil justice gap for generations. Today it is estimated that 50% of all Americans cannot get the legal help they need, and in state courts upwards of 75% of the people in civil cases are self-represented. This problem is so vast, and has so many adverse effects on American society—from unjust evictions to family separations to job loss and beyond—that it is difficult to see the whole crisis clearly, let alone craft an adequate response.

The United States federal government made its first effort to address civil justice needs as part of Lyndon Johnson's Great Society. In 1964, Johnson created the Office of Economic Opportunity (OEO), which set aside federal funds for the creation of a small number of legal services programs for the poor around the country. The OEO effort was the precursor to the Legal Services Corporation (LSC), founded in 1974, which continues to help fund civil legal aid for those unable to afford it.

These two dates, 1964 and 1974, were the last watershed moments in the history of civil legal aid, when national leaders decided to devote at least some time and effort to the epidemic of unequal and inaccessible civil justice.

We may have arrived at another watershed moment.

The COVID-19 pandemic has brought widespread attention to the social and income inequalities that undermine the rule of law in the United States, as well as to the infrastructure challenges that the judicial and executive branches face as they try to meet the needs of the public. The legal community—judges, lawyers, scholars, service providers—knows this crisis reaches far beyond society's most vulnerable and is also undermining opportunity for the middle class and small businesses. This problem has been growing in magnitude over the last two decades. It has been especially visible to justice system leaders in the rising numbers of self-represented litigants in state courts, who are now estimated at 30 million or more per year. Today, leaders from the Conference of Chief Justices, the Conference of State Court Administrators, and the American Academy of Arts & Sciences are organized with a response that is designed to help all Americans and strengthen the rule of law.

In September of 2020, the American Academy of Arts & Sciences published Civil Justice for All, a national report that helps to define and address the civil justice gap.

Fundamentally, Civil Justice for All is a capacity-building report. It recommends a range of strategies to provide more legal assistance to more people in need: more lawyers, more legal assistants, more cooperation from service-providers like doctors and social workers, and more technology to mitigate inequalities of income and access.

Given the prestige and influence of the American Academy, one of the nation's oldest learned societies and an "institution builder" for much of its history, the seventh and final recommendation of the report merits special attention. It calls for the creation of "a national team, or even a new national organization, to coordinate the efforts listed above, collect much-needed data on the state of civil justice, and help identify and publicize effective innovations that improve access."

Such an effort would be an invaluable addition to the legal landscape. As the Academy report states, there is no standardized, consistent "system" for civil justice in America. Instead, there are "many vigorous yet uncoordinated institutions, organizations, and efforts…distributed unequally around the United States."

In effect, the Academy report concludes with a call to remedy this disorganization, to systematize civil justice. And a follow-up report, Measuring Civil Justice for All, provides a blueprint for data collection—another important step in the coordination effort.

While the Academy effort has made been making the case for capacity and data collection, the Conference of Chief Justices and the Conference of State Court Administrators has been developing and testing a framework to re-align and deploy new and existing resources in the states through the Justice for All Initiative, hosted at the National Center for State Courts in partnership with the Self-Represented Litigation Network.

Launched in 2016, the Justice for All Initiative has supported the development of a national

civil justice strategy and framework for reform that is being tested and improved in fourteen states selected through a competitive grant process.

The Justice for All Initiative envisions a future in which civil justice is administered through a continuum of services, from self-help materials to alternative dispute resolution to limited-scope or full legal representation. In this continuum, individual litigants receive precisely the help they need—no more and no less, and lawyers work "at the top of their licenses," able to trim overhead to increase profit. This continuum is part of a framework that brings together traditional and non-traditional stakeholders to increase access to justice, and includes government, non-profit, and for-profit providers. The framework also offers a component architecture to assess interventions, set targets, and measure progress.

Like the American Academy effort, the Justice for All Initiative advocates extra help for the most vulnerable populations, yet its principle-driven framework can be applied to all. One of the most innovative aspects of the Initiative is its call for a paradigm shift from a focus on designing a legal system by and for lawyers alone, to one that recognizes the rule of law must support an individual's direct access to the law. In other words, one's access to justice cannot depend solely on whether or not one is represented by an attorney. The public is entitled to understand the law, and be able to use it. By embracing user centered design, the Justice for All Initiative incentivizes changes to systems and services that will hit the sweet spot (in a coordinated way) for the public, lawyers, judges, and justice tech entrepreneurs.

As already noted, the public demand for legal help far exceeds the capacity of the traditional legal system. In recent years, we have seen significant innovation and testing of legal help by people who are not trained by law schools but instead have developed specialized legal expertise by working in the courts or for non-profit organizations. While it is well accepted that accountants and real estate brokers can provide effective professional advice that may have legal consequences, this is not the case in family law, wage theft, eviction, and debt collection where there is only nascent acceptance of field-specific non-lawyer experts providing advice with legal implications. However, the overwhelming demand for legal help has provided the opportunity for court based and court annexed self-help services to demonstrate that non-lawyer experts can provide important and effective assistance. For example, trained navigators from the University Settlement Navigators Pilot Project in the Brooklyn Housing Court were able to help 100% of their clients avoid removal from their homes by the marshal, while one out of nine tenants without such help were being evicted at the time of the 2015 program evaluation. Justice for All embraces the notion that capacity building in the civil justice field must include the development of non-lawyer expert providers with field-specific training.

The Justice for All Initiative's continuum approach supports non-lawyer experts, private entrepreneurs, and justice tech in addition to lawyers; the framework ensures that systems are designed to deliver right-sized legal help at

the right time. If done properly, this also creates opportunities for up-stream interventions to avoid court altogether, as well as off-ramps to allow for negotiated settlements (on-line or in-person) between the parties without judicial intervention. When people end up in court, they face limited options, significant risk, and deleterious, poorly understood downstream consequences. The Justice for All Initiative addresses this problem first—the risks associated with being in court—and in doing so creates an infrastructure that supports both those in court and those seeking alternative or upstream solutions. Some of the innovations advanced by the the Justice for All Initiative include:

- self-help centers providing standardized forms, legal information, and process guides;
- language access initiatives for those with limited English proficiency;
- accommodations for those with visible and invisible disabilities;
- judicial and court staff education to improve the quality of the proceedings and support procedural fairness;
- tech-based solutions that reduce trips to the courthouse and enable court users to find legal help and resolve their disputes online;
- and, intentional simplification of policies, rules, and statutes to reduce the often unjust impact of form over substance.

Throughout the country, courts, legal service providers, and others have made heroic efforts to broaden access, with few resources at their disposal. But little has been done, or even tried, at a scale large enough to overcome the great disparities at the root of the problem—including growing income inequality—because public and private investment has been woefully insufficient.

Funder hesitance is understandable; in the absence of a recognizable, national system for civil justice, coordination among the stakeholders within the sector, an accepted framework for innovation, or benchmarks for success, massive investment can seem premature.

However, by considering the efforts of the American Academy of Arts & Sciences, the Conference of Chief Justices, and the Conference of State Court Administrators together, investors can welcome the opportunity for which they have been waiting for so long. For the first time in almost four decades, there is real momentum behind the idea of coordinated, national effort to improve access to civil justice, as well as a framework and strategy to deploy interventions for measurable results.

About the Author
Katherine Alteneder is an experienced justice system innovator who has led and influenced reform efforts throughout the United States. She currently serves as the Consulting Senior Strategic Advisor to the Self-Represented Litigation Network (SRLN), which connects and educates lawyers, judges, and allied professionals who are creating innovative and evidence-based solutions so that self-represented litigants have meaningful access to the courts and get the legal help they need.


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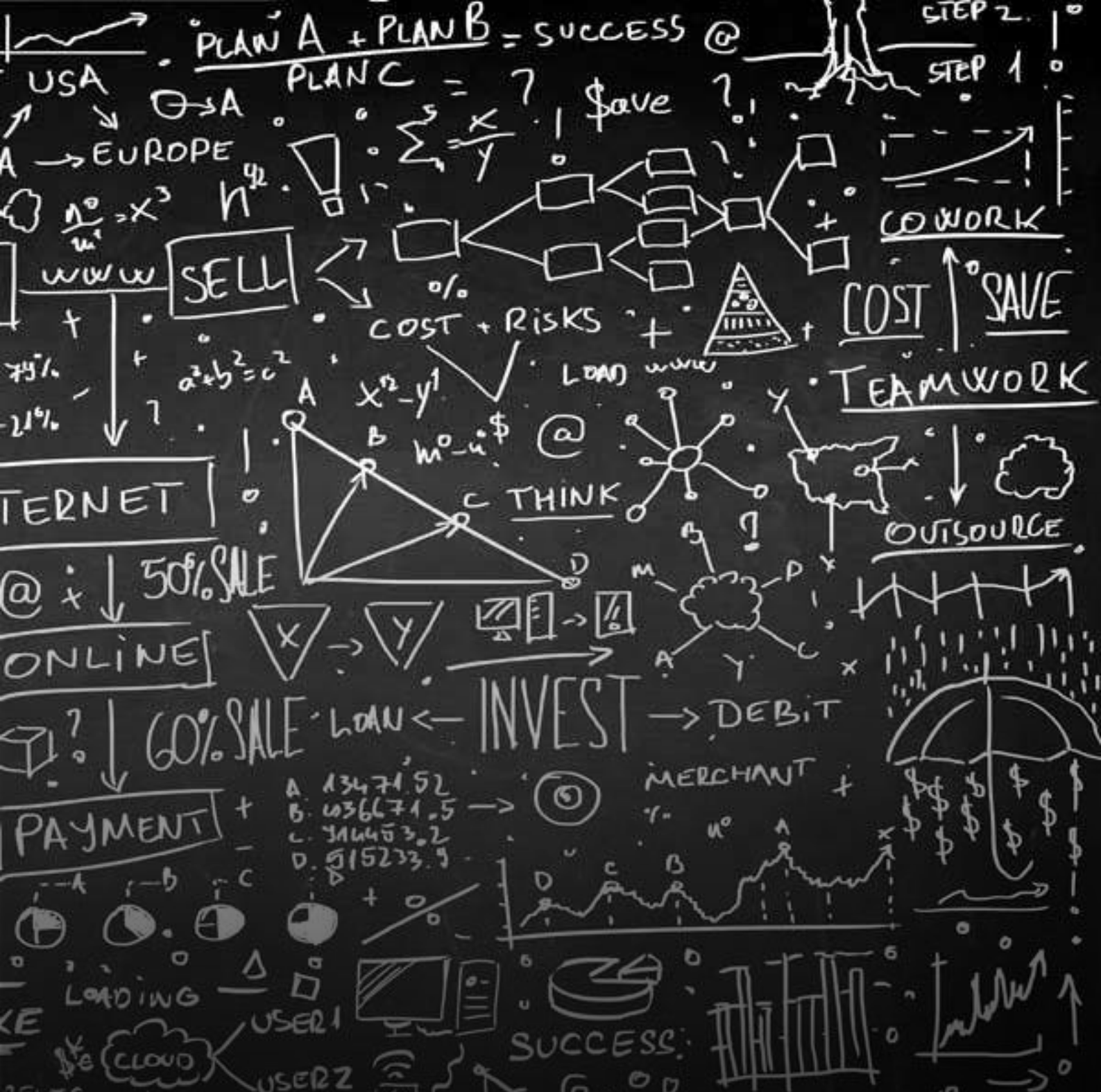
10 CHALLENGES

By Joshua Walker, Chief Product Officer for Aon IPS, Author, "On Legal AI"; Co-Founder: CodeX; Lex Machina

I. Background (How Legal Innovation Efforts Fail by Definition)

There is a common flaw in "legal innovation" efforts: The term is generally undefined. As attorneys, we would not tolerate a material undefined term in an agreement. Why tolerate one in an area which purports to fundamentally impact our work processes? Furthermore, how can one really define "success" if "failure" is not similarly defined? This ambiguity is somewhat reminiscent of salutary but frequently ill-defined "Ethical AI" efforts. A superficial, consequence-free treatment of profoundly important legal issues looks like "ethics theatre"; a red herring to prevent legal from intervening in engineering.

Similarly, failing to provide formal structure



around “innovation” projects—whether legal or otherwise—tends to induce “innovation theatre”: activities designed to create a kind of shadow puppetry of change, without its back-breaking, painful reality. Improving client outcomes, at scale, in fast moving, high stakes engagements is more like breaking rocks at speed, or shifting lumber, than the technical sand play it is depicted to be. (This does not mean that innovation is not “fun”. Indeed, it is one of the most rewarding (and scalable beneficial) things one can do.

But it is the kind of “fun” or reward one gets after building a cabin, or finishing a painting. It follows effort and very sustained focus. It is the “fun” of craftsmanship—much like law at its best itself.)

Where new legal works are driven by

appearance *ab initio* (as opposed to an ex post communication of early success), they have two negative effects. First, they occlude real innovation. It is hard for "expensive" improvements to flourish when funders and customers are offered an ocean of facile, empty options that look the same. Second, they actually sap the incentive to do the requisite heavy lifting for real change by rewarding the communicator (e.g., law firm) too early. As summarized in "On Legal AI" (Fastcase; Full Court Press 2019): **Pretension is the thief of action.**

This note defines "legal innovation" and poses ten challenges to attorneys and legal industry mavens, leveraging that definition. They may be completed within 12 months.

II. Legal Innovation (A Qualitative Equation)

Legal innovation can be defined in five characters: $\mathbf{RP^2 > RP^1}$. In Plain English, legal innovation (or "LI") is where the return on investment of process two exceeds the return on investment of process one.

Here are some rather more technical parameters around that definition: R generally refers to the net outcome of the system—including total risk and value. P^2 generally means a "baseline"—the thing we are comparing our new [potentially improved] process against. As evident in this term's lack of adjectival adornment: "process" does not mean technological process. It means process. We should be agnostic to technology *per se*. R drives all.

At the risk of (a) being too fancy and (b) being too mathematicky sounding (not a word), we can refer to the thing we are trying to achieve in legal innovation as "**delta R**": An outcome where process two has outperformed process one.

By way of analogy: If a surgeon used new tool X for a surgical procedure Y, and it (X&Y) led to 20% decrease in surgical or contemporaneous mortality and a 20% improvement in health outcomes, all factors reasonably considered and controlled for, we would call that "innovation".

The same analysis may be harder for "word surgeons", but not impossible. We try to separate the procedure from the outcome in both cases. For both fields, we must also measure net societal, business, and particularly client costs, with an emphasis on individual health utility/wellness. Even if one believes that "cost should be no object" in medical, safety, or legal fields (e.g., discovery), it is . . . inevitably.

Allocating unlimited amounts to any particular procedure or group—or, worse, being totally blind to economics or economic impact—is going to end up killing people, by depriving someone/somehow. By burdening the system—or more importantly a human—beyond its or her capacity to sustain such burden at any point in time, you will break one or the other. **Good intentions may be unlimited. But budgets are finite.**

Armed with a simple formula, we can separate innovation theatre from innovation reality. Even a rough, qualitative formula can serve as a kind of intellectual razor—sorting project means and ends. We need only apply it carefully, perhaps surgically, understanding its

limitations (especially when applied to complex legal artifacts, relationships, and culture).

III. Ten Challenges (For the Next 12 Months)

To that end, here are ten challenges designed to be completed within a twelve month period. We do not expect any one, or even any entity, to do them all . . . though this theoretically is possible. The ultimate goal is concrete, *provable improvement* in client outcomes—demonstrably helping people better—but we space these out amongst different categories and levels. Educating ourselves and others, for example, is a legitimate means to that ultimate goal.

The metes and bounds of any challenges should be expanded to the present resources and opportunity—but small, concrete pilots with rapidly testable results are encouraged.

There are several somewhat radical elements to these challenges. First, the efforts are designed to be social. Second, you have permission to fail (or at least be modest in your initial goals). Both of these things are somewhat antithetical to a hard-charging elite, working with high stakes. Socializing our failures and experiments is perhaps one of the more anathemic (this word does not exist) operations I can think of for the Bar. We earn our keep and our clients through a patina of perfection, and vigorous shows of competence. But if we let difficulty and the inevitable initial failures stop us from developing the next generation of legal solutions, the world will simply pass by the profession, and increasingly accrete operations on the edge of "legal" work to others more agile—accountants, pure legal tech companies, and others. Rather, start forming simple habits to evolve yourself, your enterprise, and your client's legal function.

Indeed, I argue that we have a legal duty to engage in such challenges, and operationalize our successful outcomes.

"To Many Eyes, All Bugs Are Shallow". Socializing experience and results (not client data or outcomes) is as important here as it is for software coders to commiserate and cross-fertilize software development approaches. The difficulties we are addressing are too profound and too socially dependent to address alone. Think of the present conversation as a kind of "Inns of Court" for legal system and process improvement (as well as a hub for vetting and socializing tools, technologies, resources, etc.).

Failure <u>is</u> an Option. Failure is Data. The second antithetical feature of these challenges is that you have permission to fail and/or be lousy at your first efforts.

This is probably the sole unique feature of "Silicon Valley" as a concept, according to its votaries: That failure of one effort is generally considered an *advantage* in the next one.

Perhaps this is the social instantiation of the scientific method: Where every experiment is considered a data gathering positive, even (and sometimes especially) where the experimenter's hypothesis is disproven. The experiment generates data. And we are not prophets about outcomes. Incrementally, we gnaw away until we get to the truth. And the

experimental effort is essential to generating the accidents and incidents that ultimately provide client value.

How do we experiment without affecting clients? In short, we already do, and we already are. We are already "experimenting" constantly with clients and client data, and these "experiments" (called "client engagements") definitely affect them. Just because we avoid "blow ups" for certain periods, just because we are systematically diligent from a craft perspective does not mean we are not constantly gambling with client outcomes. We do not have systematized data on individual client outcomes, much less nation state outcomes.

A better question to ask the Bar, ourselves, is: ***How have we been experimenting so badly for so many centuries?*** A good experiment, any good sustained process, requires collecting outcome, cost, and other types of data. What the Bar has been doing is more like alchemy.

Let me give you an example of a "good experiment" that can only have a positive outcome for clients: A law firm analyzing its litigation outcomes and costs against a peer group cohort. This is analyzing historical data. But it is likely to reveal major surprises against innate firm biases and procedural assumptions. If a firm was worried about liability or confidentiality, it could handle the entire thing under privilege (under a separate, non-competing firm). (But note that this latter consideration is an issue for the firm, not the client.)

Another comparable (if more complex) project could be done with transaction outcomes. A third project (which controls against client risk), would be to design **and test** a new technologically-aided procedure for completing a new process. When an engineer develops a new bridge, she doesn't just throw up some tarmac, girders, and cable and then start sending cars across the contraption. (I argue that this is precisely what attorneys do most of the time, albeit guided by experience.) There are explicit phases. To radically simplify: Design, Test, Build, Test Again . . . and only then let people use it. (See also "On Legal AI" re the "EDEN" method for legal artificial intelligence development.)

Risk of Stasis, Versus Risk of Change. The other problem with asking "what about client risk?" is that it is only one half of the equation. "What about the risk of not changing" is an equally valid question. Failing to improve, stasis, leads to economic death in many senses—but most particularly to law firms themselves, as institutions. What people really mean when they pose the former rhetorical question is that: ***Arrogant change insensitive to legal idiosyncrasy and untested (by experience or model) is likely to blow up.*** True.

But these are not the experiments or the challenges we are suggesting here. Quite the converse. The balancing of these risks are entailed in "$RP^2 > RP^1$". But this subject deserves a broader conversation than we have time for here. (One may also need to consider "switching costs" in calculating an innovation threshold/delta, but these may ultimately or immediately washed out with continued operations, as well as further refinement.

Moreover, immediate switching costs can be ameliorated where the future value is concrete (or, at least, deemed a worthy risk). Mechanisms to address such switching costs include (i) contractual, (ii) third party, and/or (iii) client-based mechanisms or investment. Thus, clear prospective value can be parleyed into present investment. For example, prospective law firm software and analytics licensing fees can be parleyed into present investment to create such product.)

Again, permission to fail and/or be lousy at your first efforts is critical. Most of us (and this author especially) are lousy mathematicians, and middling "engineers" at best. That is not the point. We can focus on being attorneys best. The point of these challenges is to arbitrage even a smidge of quantitative or operational thinking into our standard practices.

I have found that even a basic understanding from other fields may definitively help us (a) ask good questions of our engineering and financial partners and clients and better (b) understand where we need to hire/partner/translate legal acumen into another domain. Thus, as with any habit or new field, you need to have the chutzpah to fail, meander, start very small. Pilot projects are good. But they need to be concrete.

To reiterate, by failure I mean only in situations which do not effect clients. ***Experiments are designed to learn. Implementations are designed to save.*** The ethical rules all apply. Indeed, the ethical rules require us to improve to improve client outcomes—they require us to pursue "delta R".

The first three challenges are very simple (to say): Achieve delta R for each of the following client/user classes:

1. Transactional.
2. Litigation.
3. Citizen.

Pick a single category. Then pick a single use case from your no doubt myriad book of past or prospective cases.

The fourth challenge is a bit more specific: Given a specific "big data" or "artificial intelligence" (these terms are both . . . ambiguous) project, design, develop, test, and deploy a new legal governance system. (You may deploy "legal AI" in the challenge, but this is not required.) The fifth challenge requires you to design a legal solution from first principles. And so on. **Essentially, the challenges involve: six verbs, twelve months, and a very large dollop of your personal discretion**. I encourage you to reach out to me personally (e.g., http://linkedin.com/in/joshua-walker-17a9111a8) regarding any issue ***See Summary on the next page.***

IV. Conclusion

There are two material innovation issues which we do not have space to address today: Innovation governance and (as noted above) risk. As a practitioner, I am actually most proud of some of my failures. For example, when I tried hard but ultimately failed to convince a major industrial company to loosen somewhat the operational reins on an innovation effort, I failed. But in hindsight, following that original advice would have yielded

The Summary

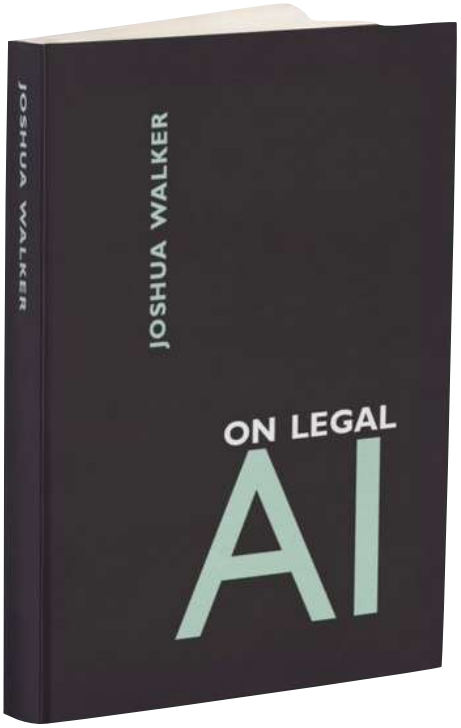
ITEM	VERB	DESCRIPTION
	PROVE (Delta R)	Prove delta R for a new process or procedure in the following contexts:
ONE	Transactional	Transactional or corporate;
TWO	Litigation	Lawsuit or lawsuit avoidance / improved risk management;
THREE	Citizen	Legal system output for a representative citizen or set of citizens.
FOUR	GOVERN (AI & Data)	Design, develop, test, and deploy a new legal governance system for an "artificial intelligence" or "big data" project. (You may employ "legal AI" in the effort; but it is not a requirement of the challenge.)
FIVE	DESIGN	Design a legal solution from first principles. Clean slate.
SIX	MODEL	Model a legal (1) risk and (2) upside value using empirical/historical data. Test the model against live performance data.
SEVEN	BRIDGE (client-firm)	Create a specific construct (you can involve third parties) to enable legal and compliant data sharing for a select domain between both (a) one or more clients and (b) a law firm.
	EDUCATE	
EIGHT	Youth	Educate a non-lawyer, non-law student on a complex legal issue. Write up the use case on your experience and/or the communication itself. (The younger the audience the greater the points; but we give credit for difficulty as well.)
NINE	Client	Translate a complex legal risk or upside value to a non-legal client audience. Second, detail a method by which such translation could be done automatically or otherwise at scale.
TEN	Self	Educate yourself on a topic which (i) you presently know nothing about and (ii) is additive to present discussions (e.g., topics adjacent to above challenges, quantitative or empirical reasoning, actuarial science, mathematics, design, visualization, computer science, [legal] AI, etc.). Summarize for an audience (and, ideally, try to teach them what you learned).

billions of dollars to the company. I hate seeing BigLaw making some of the same mistakes in their own innovation governance. Defining that macro innovation structure well and optimally will be do-or-die for these kinds of efforts.

The comments and any opinions herein do not reflect the views of any entity.

About the Author

Joshua Walker is the author of "On Legal AI", perhaps the first fact-based treatise on the



subject. Previously, he cofounded and led (i) CodeX: The Stanford Center for Legal Informatics and (ii) Lex Machina, which he also served as CEO and Chief Legal Architect.

Walker has been building legal analytic systems for over 25 years, initially as National Team Analyst, Office of the Prosecutor, International Criminal Tribunal for Rwanda. He is currently the Chief Product Officer for Aon IPS; and continues to seek and actively develop the next generation of legal AI solutions.

Walker obtained his J.D. from the University of Chicago Law School and his A.B. from Harvard College, *m.c.l.* He writes and presents frequently all over the world, for governments, the Bar, and enterprise.

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Why lawyers should embrace plain language, and how to do so

By Heidi Turner, legal writer and editor

Clear communication is a vital tool for your law firm's success. Potential clients look at your website and marketing materials to decide if they want to work with you. Current clients rely on your communications to determine how they feel about continuing to work with you. Every interaction you have with a client or potential client shapes their opinion of your law firm.

Unfortunately, the majority of law firm communications, including websites and emails, are written at a level that the general population cannot fully understand. This can affect a firm's ability to bring in new clients or keep their current clients happy.

Embracing the principles of plain language can help you differentiate from other attorneys, effectively engage your audience, and grow your client list.

What is plain language?

Plain language refers to wording that is clear and understandable to its intended reader. It encompasses the words used, but also to the length and complexity of sentences, how a document is framed or formatted, and how well organized the thoughts are.

At its core using plain language means your intended reader can understand what you've written without referring to a dictionary or asking someone else to interpret the document. Text written in plain language is free from jargon—or clearly defines that jargon—and uses the most easily comprehended words and phrases to accurately convey its message.

Why is plain language important?
According to a US Department of Education adult literacy survey, only around 20 percent of American adults perform in the two highest levels of literacy. If you're writing only to those people, you're missing out on a large portion of the population, and many potential clients.

The vast majority of the population has limited knowledge of and experience with legal language. This means that they will have difficulty understanding your meaning and taking action on your communications.

Beyond that, people make assumptions about you and your character based on the wording you use. If you tend to use a lot of legalese—or worse, Latin—in your communications, there's a good chance they'll view you as being somewhat pompous and disinterested in helping them.

Myths about plain language
Unfortunately, people have their own idea about what plain language is, referring to it as a "dumbing-down" of writing or ideas. This isn't true. You can still use adult language in your communications, but you need to use language that the average person can understand, not words and phrasing that require a law degree to work through.

A document is only useful if the person who is meant to read it and act on it can understand it. If they can't, they aren't likely to do anything with it. They'll ignore it and dismiss it. They'll find someone else to work with.

When you're writing any client-facing communications, ask yourself this: did I learn that word or phrase in law school? If the answer is yes, take it out of your client communications. They shouldn't have to go to law school to understand you—if they did, they probably wouldn't need you.

How can plain language help my law firm attract clients?
Communication is a two-way street. You develop a website to confirm your reputation or to attract clients (or both). But your website can do neither if the people reading it don't understand it.

Too often legal websites are written only to convey information lawyers think they need to get out—not what their readers actually need to know. When the focus is on the lawyer's needs the language tends to become more highly technical. When the focus is on the client's needs it's easier to write in language they'll grasp.

Clients won't work with you if they can't understand you. And the vast majority of clients out there aren't familiar with legal jargon. They don't know what a summary judgment is or what cum laude means. Prima facie means nothing to them. They care about whether or not you can help them with their legal matter, but that language doesn't really tell them anything useful.

Plain language also helps to differentiate you from your competition. There are countless lawyers out there who offer the same services, have a comparable education, and can list similar successes on their site. When everyone says the same thing using the same legalese, it's hard for clients to tell anyone apart. They don't know who can best represent them.

Finally, plain language makes your value clear. It takes the focus off your vocabulary and puts it squarely on the work you do. It highlights your true expertise, which usually involves solving your clients' legal or business issues.

Clients won't hire you because you have a big vocabulary. They'll hire you they believe you can solve their problems. But you have to show them you can solve their problems.

How would using plain language affect my firm?

If potential clients read your website and don't understand what you've written, they're likely to assume they won't understand you in a meeting, either. They won't feel engaged by your content or see how it's relevant to them and their circumstances.

Your clients feel empowered to make informed decisions when they can understand what they read, and when they know that you care enough to speak to them in their language. When they can clearly comprehend what you've written, they are more likely to continue working with you.

Why am I having difficulty removing legalese?

It's understandable if you have a tough time letting go of your legalese. After all, client-centric communications aren't generally addressed in law school—academic language that shows off knowledge is highly rewarded. So you've already received positive reinforcement for using it.

Typically, people make decisions for their business based on what others are already doing successfully. If you see other law firm websites using the same legalese to market themselves, you're likely to follow suit. This is especially true where there can be legal consequences to inadvertently writing the wrong thing. Saying what everyone else is saying feels safer.

It's also easy when you work in a specialized field to assume that everyone has the same understanding of the language used as you do. Your colleagues understand the same terms and phrases. You write court briefs and read judge's decisions that are filed with legal jargon. And the legal industry is highly covered in the entertainment and news media, so it's easy to assume that the general public has a high level of understanding of your language based solely on exposure.

In that way, the legal industry is similar to the editing industry. Many people have taken English classes during their education. Most of us do some form of writing, whether that's our main career, writing reports for jobs we do, or simply sending emails and texts to our friends.

Just because our society is filled with people using English doesn't mean that the majority of those people know what a subordinate clause is, can use "appositive phrase" in a

sentence, or can define the term "dangling modifier" with ease.

The same is true of legal jargon. While the general public is surrounded by the law and references to the legal industry in their day-to-day lives, that doesn't mean they understand what Chapter 11 bankruptcy means, or how discovery relates to their situation.

Think about how you feel when you come across unfamiliar and highly specialized jargon from another field. You don't want your clients feeling that same way after reading your communications.

How can I implement plain language in my communications?

Although implementing plain language may sound difficult, there are some easy steps you can take to make your communications more understandable to your audience.

Write for the average person

An important first step is to remember that when you write for your clients or potential clients—in your website, blog, or emails—you aren't writing for the courts or for a specialist audience, you're writing for a layperson. Don't write your client communications to impress your feared advanced torts professor or an impatient judge—write to build a trusting relationship with your clients and potential clients. Imagine that you're sitting down for coffee with a good friend who doesn't understand the legal industry and explaining what you do to them. If you wouldn't say a word, phrase, or sentence aloud in that scenario, don't use it in your writing.

Use your clients' language

Tailor your communications to the people you serve. Listen to how they talk and use similar language when you speak to them. Ask for feedback regarding your communications.

Avoid any language or phrasing that you learned the meaning of in law school.

Doing so not only improves the chances you'll be understood, it makes your clients feel that you care about them.

Check your assumptions about the language you use

If you come across any legal words or phrases that you assume everyone understands, ask a friend who isn't in the legal industry if they understand the words or phrases. Have someone with a non-legal background read over what you've written. If they stumble over language, chances are other readers will too. Replace or define those words.

Check your readability score

Readability is an important concept, and one that isn't exclusive to the legal industry. Studies of readability showed that when a newspaper article is written to improve readability, readers made their way through more of the story's total paragraphs.

You have tools available to you to check how readable your content is. If you use MS Word, open the Word menu and click Preferences. Under Authoring and Proofing Tools, click Spelling and Grammar. Under Grammar, select both check grammar with spelling check and show readability statistics.

Then, when you've written your document, go to the Tools menu, and select Spelling and Grammar. Once Word has finished checking your grammar and spelling, it shows your document's readability. A higher percentage on the reading ease scale indicates the document is easier to read and understand.

The number on the grade scale indicates the grade level required for someone to understand the document. So if it shows up at an 8, the reader needs to have at least around a grade 8 education to understand your document.

Use short sentences where possible

Not every sentence requires four commas, two dashes, and a semi-colon. The more long sentences with multiple clauses you use, the more difficult it is for readers to understand you. You can have some long sentences to enhance flow, but if you have strings of sentences with 20 words or more, your sentences are too long. Break them into two sentences or find ways to use fewer words.

One way to check if your sentences are too long is to read your content out loud. If you find yourself repeatedly stopping to gasp for air in the middle of sentences or rushing to the end so you don't lose your breath, you're being too wordy. This is also true if you repeatedly get to the end of a sentence and forget how it started.

Your readability check from above will tell you the average number of words per sentence in your document. It should be no higher than between 15 and 20 words.

Switch from passive voice to active voice

Typically, active sentences use fewer words than passive sentences. An active sentence is one with a subject that acts on its verb. In a passive voice, the subject is the recipient of the action.

> An example of active voice: *We filed the paperwork.*
> An example of passive voice: *The paperwork was filed by us.*

The passive voice is often used because it sounds fancier—and because many of us are used to padding word counts for academic essays. But the active voice is easier for your readers to read and understand. If your sentences are too long, see if you can switch some from passive to active.

Your readability test shows you what percentage of your text is passive. A lower percentage means fewer passive sentences.

Replace big words with shorter words

Don't use your client communications to show off your vocabulary. Where possible, replace big words with smaller words that have the same meaning. Terminate can easily become end. Expedite can become hurry. Utilize means the same as use.

You don't have to only use words children understand, but if your document needs to be more readable consider replacing complex words with simpler ones.

Use formatting to break up text

Being understood isn't just about the words

you use—it's about making a document readable overall so your audience doesn't give up partway through. Keep your paragraphs to around five sentences at most. Use headlines and subheads to break up the text and guide the reader through your ideas. Make use of white space so the content doesn't feel overwhelming, and information can easily be segmented.

Legal writing is okay, sometimes

Legal writing has its time and place. It's just not necessarily appropriate when you're persuading people to work with you. Your clients are busy, and often under stress. They don't have time to look up every legal term they come across or try to sort out an unclear paragraph. If you want to attract and keep clients, show them you care about them by communicating clearly.

A good lawyer is valuable but replaceable. A good lawyer who communicates well and cares about clients understanding them is indispensable.

About the Author

Heidi Turner is an award-winning legal writer and editor. Since 2006, she has helped her clients in the legal industry—including lawyers and law firms, legal technology companies, and legal SaaS organizations—connect with their target audience and establish their authority. She helps her clients find authentic ways to engage their audience and build a reputation, with a focus on client-centric communications. In addition to her writing and editing work, Heidi is an instructor in Simon Fraser University's editing program.

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Contracts in four dimensions

Contracts are not just about process and data. A more dimensional view of contracts can deliver amazing results and uncover solutions in unexpected places.

By Denis Potemkin, lawyer, legal designer/engineer and legal tech entrepreneur

GCs have a problem. A recent survey of 2000 in-house lawyers and their business clients by Big Four firm EY found rising workloads and increasing cost pressures. 88% of GCs said they would be reducing the overall cost of their team, yet expect workloads to increase by 25% over the next three years. An astounding 90% of business development leaders reported they face challenges working with their procurement, legal and commercial teams on contracts, with 57% saying that inefficiencies in the process result in lost business. Yet 97% of GCs said they find it hard to get the budget to invest in legal tech.

So how do you solve this conundrum? This article focuses on contracts - frequently identified as a top priority for GCs. We will start with understanding the problem better, then present a fresh way of looking at it.

Framing the problem

Trade is a foundation of our civilisation, and contracts are the lifeblood of trade. But merely transacting is not enough: building relationships makes the difference between winning and losing. Relationships are both harder than ever and more important than ever.

Building relationships means bringing people together, getting them on the same page, creating clarity and getting to "yes" fast. Yet contracts and contract processes are still highly dysfunctional. Contracts are poorly understood by the business, while the process creates bottlenecks and erodes trust.

Most of the time we're looking at the problem in only one dimension: using tech to solve process inefficiency. This is a slow, resource intensive process with challenging ROI yet no guarantee of success. Once you get there, the solution might result in savings, but you're still only fixing supply-end problems, not the core dysfunctions. Technology alone does not make the business good at relationships, which is a human challenge.

To really change the contracting journey in a more fundamental way, we need to look both nearer and further.

Not a one-dimensional problem

A contract (in Word or an editor inside an automation platform) is a two dimensional construct. It's a flat piece of A4. In practical terms it's only one-dimensional because you can only expand it downwards on the page. The typical contract process is also rather flat and linear: template -> draft -> internal ping-pong -> external ping-pong -> signature -> archive. After signature, contracts are usually "put in a drawer": businesses will use completely separate processes and systems to manage the underlying business tasks and will allow value to leak by not using the contract's governance, fiscal and remediation mechanisms.

Much of contract automation technology replicates the same tools and processes. It might produce data but it's arguable how much of it is actionable and whether it's really put to good use by businesses. Many of the advantages of technology are not actually used: for example online negotiation tools are rarely used; users still largely resort to exporting Word documents and exchanging redlines by email in the old way. Technology *reduces* the incentive for creating shorter and simpler documents and really thinking about the user journey.

A multi-dimensional approach

To make contracts really work as useful business tools - especially for building relationships - a more dimensional approach is needed. There are amazing things that businesses and legal teams can do by treating the contracting problem as a multi-faceted one that needs multi-faceted solutions. Whether technology is part of that or not.

Let's start with some foundations. At its most basic, a contract is information (the legal and

commercial information it carries) + process (its lifecycle). This is where contracting traditionally lives.

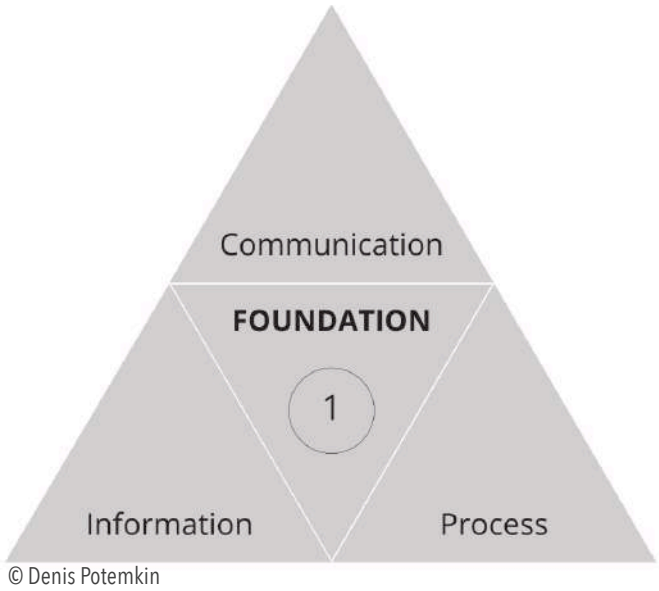

Figure 1: the first dimension

There is a third component to this which is often overlooked: *Communication*, which is the way the contract and the contract process are conveyed. How is the contract process explained internally? How is risk exposure reported? How are the proposed terms introduced to the other side? How do you agree whose template to start from? The Information and Process components can't operate well without a working level of Communication - and that means internal communication also.

Information and Process is where most professional effort is directed: working on templates, the drafting process, approvals, controls, automating parts of it. Communication does not often feature expressly. That is why, for example, organisations spend huge resources on creating long complex playbooks which nobody reads. It is also why lawyers and businesses are poor at communicating with the counterparty: it usually doesn't get more sophisticated than shooting one's template at the other side and hoping it sticks. When it comes to internal processes, companies focus more on approval processes, and less on creating clear visibility of risk.

The other dimensions

To get better results and faster, legal teams need to look beyond the foundation. I propose three other dimensions, which is a model I use in my contract design, process and technology work. We've covered the first dimension. Let's look at the others.

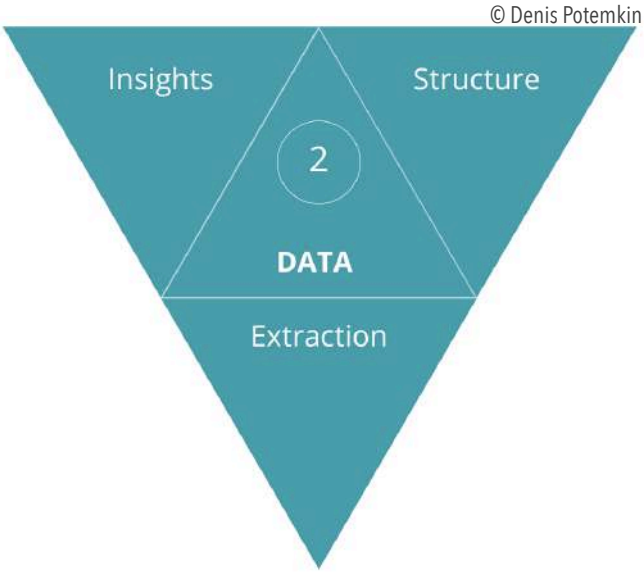

Figure 2: the second dimension

The second dimension: Data.

This is about making contracts and processes easier to automate, teasing out patterns and learnings and creating visibility of risk. The creation of structured content from the get go remains a challenge. As with all dimensions, this is not just about technology. Restructuring contracts to make data extraction easier is an opportunity irrespective of where you are with technology.

Restructuring contracts to make data extraction easier is an opportunity irrespective of where you are with technology.

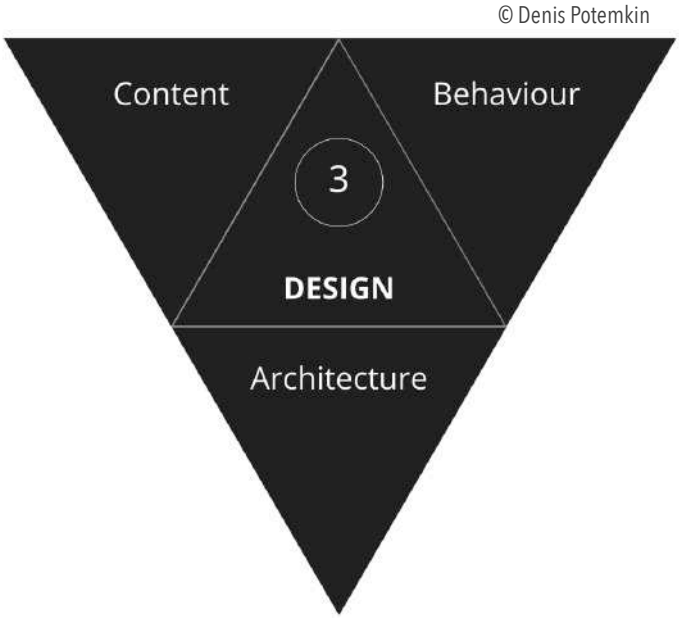

Figure 3: the third dimension

The third dimension: Design. Design means turning flat one-dimensional pages into something more thoughtful and empathetic, through information architecture, language and visualisation. I take a very broad view of design, and behavioural aspects come into this also. This is all about making contracts more human: getting people on the same page more quickly, building trust and creating enjoyable experiences.

The fourth dimension: Systems. This is about making the contract a more useful part of the ecosystem, rather than a mere snapshot that records the deal. One aspect of this is the ability of the contract to accommodate lifecycle actions and change events; for example ensuring that the contract makes it easy to handle microchanges, or to add SOWs under a master agreement. I call that *plasticity*. Another aspect is whether the contract helps with the underlying business tasks that it purports to manage; for example tracking and allocating ownership of new intellectual property under a development agreement. I call that *expansion* or expandability beyond a merely legal function.

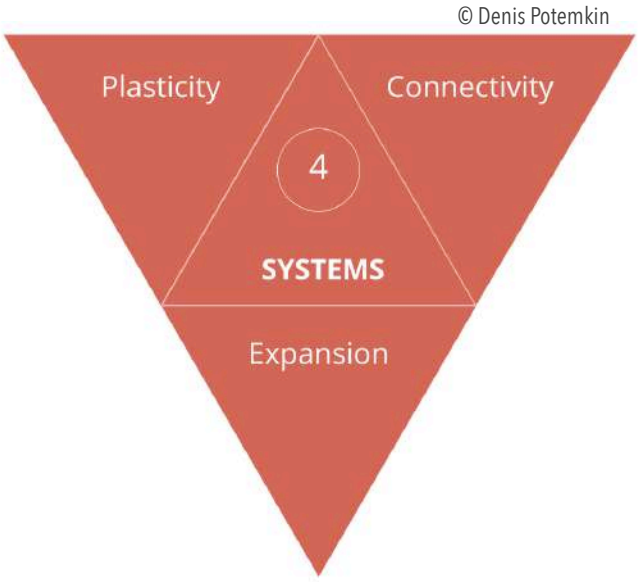

Figure 4: the fourth dimension

Connectivity is about how well the contract connects with broader business processes. This is important not just for efficiency, but for understanding how well the contract is performing, and for reducing value leakage (for example ensuring that remediation processes like penalties are followed through, or price change mechanisms are correctly applied). This is not just a question of process or technology: the contract itself has to help. For example, does that contract make it easy to calculate and apply damages? If the information is hidden inside dense legalese, it does not. If there is a simple table of triggers and resulting remedies that a commodity manager can apply, then it does.

The four dimensions of contracts
This is how it all fits together:

Technology is not a separate component in this model. It is an enabler, something that can implement and enhance any of the elements in the canvas. For example, some CLM solutions enable smart clauses to connect with ERP systems so that post-signature tasks - like issuing a notice or penalty - can execute automatically based on given business triggers.

As a matter of prevailing practice, certain parts of the model are more tech-driven than others. Data is primarily a tech play while legal design is very much a human artisanal activity. That will change. Structured data should be the way contracts are created and will be increasingly so, and automation of visual design is starting to happen.

The key is that a well designed contract and well functioning process must work across all these dimensions.

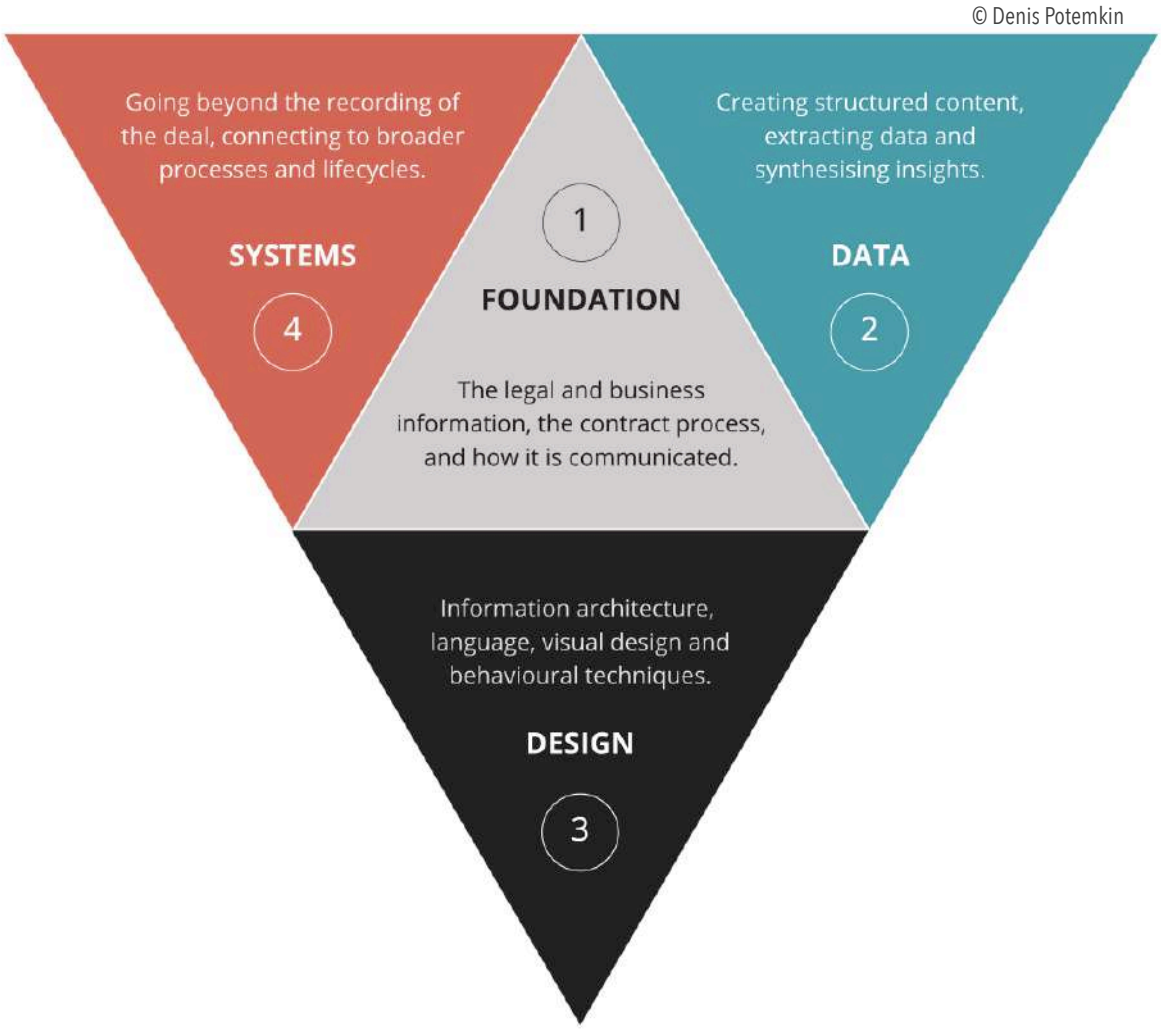

Figure 5: the four dimensions of contracts

Going deeper: the four dimensions of design

So far, I've argued that to create a better contract experience (and become better at relationships), it's necessary to look beyond process and information: at much more exciting dimensions like communication, data, design and systems.

should make people happier, not stressed and overwhelmed. How do you achieve all that?

We are now in the realm of design and design thinking.

There are many design frameworks. I use a 4-dimensional model to help me: the four

Figure 5: the four dimensions of design

There is another set of interwoven imperatives. In addressing any of these dimensions, it is important to look at all the outcomes including legal risk and business needs. Users must be able to experience the process in a positive way. It all needs to be scalable and actually work inside an organisation. And the result

dimensions of design. It can be applied to any challenge along the contract journey - whether that's in the dimension of communication, data, content or systems. It's all about having a clear purpose, delivering on all the important outcomes, with a great experience of all users, in a sustainable way.

Here is how I break it down:

Purpose: Why are you doing it? What is the purpose you are trying to attain? What are the objectives that will get you there? Design needs a positive transformational objective and an idea of what success looks like, otherwise the risk is to remain tinkering at the edges. Good design involves being vulnerable and opening up to criticism to make the problems visible. So it also needs a diagnosis: a brutally honest view about what's broken and whether your attempt to fix it will make it better.

Experience: An improved contract or contract process should strive for clarity, simplicity and usability. Ideally it should be a joy to experience (if only relative to the prior pain!). Designers aim to achieve joy in how users interact with home appliances and accounting apps. Why not legal processes?

Outcome: The end results of your contract or contract process should go beyond legal and risk outcomes. The solution needs to achieve commercial, human and relationship outcomes and lead to net value versus the investment required.

Sustainability: The best design is scalable (can eventually be deployed in organisations and in complex settings), resource-efficient (it uses human and technology resources wisely) and durable over time (future-proof yet malleable enough in case it isn't). Hence sustainable.

Applying it in practice

Let's see if we can apply the four dimensions of design to the original problem we discussed: communication. A recent survey by World Commerce and Contracting shows that 65% of companies want to improve how they communicate. There's the EY survey result that 90% of business development leaders reported they face challenges working with other functions on contracts. From my own experience as a lawyer and consultant, communication is a critical success factor. Projects where communication occurs early, frequently and with clarity tend to create less friction and more trust, and usually result in faster deal cycles and lower cost. Poor communication, on the other hand, creates collateral damage across the entire journey.

In the typical contract process, communication strategy - internal and external - is not adequately thought through. This means that the way users experience the contract journey is left to chance, brute negotiation leverage, and individuals' skills. So let's have a go at applying the four dimensions of design to this facet of contracts.

Step 1: Outcomes

We know that contracts need to manage risk. However if that's the primary focus, then all the documents along the process end up looking like defensive disclaimers or aggressive posturing. That's one of the key dysfunctions of contracts which creates friction and erodes trust.

Even a term sheet or "key terms" summary - in itself a great way to align early with the other side - will typically contain language that is biased towards risk, starting from the opening paragraph that tells the other side that this is just a summary and should in no way detract from the full set of terms that will come their way.

What if you look at these documents with a different lens: solving for human and relationship outcomes? That drives a different approach to the language, structure and content of the term sheet, away from risk-biased language, towards a more relational model. So to be effective, communication needs to balance the risk, business and human outcomes and this dimension of design reminds us to do that.

Step 2: Experience

An excessive focus on risk means ignoring the experience of your users (both internal and external). The outcomes have to be balanced - and can be improved even - with attention to the user's experience of your documents and communications.

A human touch is something that lawyers are often too busy or scared to apply on paper. One way to add a human touch to legal documents (especially complex agreements), is to have opening paragraphs that explain in a down-to-earth way what the document is and what you're trying to achieve. This is a simple but surprisingly effective technique. Adding a visual aid like an agreement map that gives the user an overview of the document is another way of being helpful and creating trust. Having a document that is a pleasure to handle will improve the user experience and is proven to reduce the level of unnecessary scrutiny and push-back. Introducing a bit of humour can be a huge added differentiator.

Step 3: Sustainability

A perfect process could be built around user friendly documents supported by a nice phone call at each stage. But that's not resource-efficient or scalable. So the challenge is making communications both human and scalable. Possible solutions lie in creating helpful documents (not just functional risk-focussed ones), adding a bit of humour and creating interactions that are engaging for the user (something more exciting than intranet links).

Another aspect of sustainability is simplicity. It's well known that complex systems are more prone to stresses and breakdowns. Simpler systems may lack precision, but they more than make up for it in resilience. When designing documents and processes, consider whether the additional detail is adding certainty but creating more complexity, more maintenance effort and increases the risk that the document or process needs amending as soon as anything in the organisation changes. Less can be more and the same applies to communication: the more you say and the more words you use, the higher the risk that a miscommunication occurs compared to simpler, more frequent touch points.

Step 0 and 4: Purpose

Getting all that right is impossible if you don't have a clear idea of what your purpose is. Purpose is the starting point and is also the way to pressure test what has been done. That's why purpose is at the heart of this model.

Most businesses have some sense of their objectives when starting a contract improvement project. But objectives are not the same as purpose. Objectives answer the "what", not the "why". The "why" answers the most fundamental questions, forces more honest scrutiny and can only be answered correctly if all the stakeholders are involved.

The way we communicate along a contract journey is going to be different depending on whether our "why" is focussed on cost, deal velocity, risk visibility, relationships, trust, team dynamics or wellbeing. For example, if creating confidence for management is part of the purpose, the internal reporting system is going to look different than if the primary purpose is better risk visibility. If a key purpose is to improve negotiating positions and win more battles in the "whose template" war, then the confidence with which the business communicates with the other side becomes critical and needs to be designed, not left to chance or individual strengths. Any solution needs to show return on investment, so a clear purpose helps to prioritise all these objectives and make it all affordable in terms of money and time.

Final thoughts

Looking at one facet of the contract problem, I have attempted to illustrate how a more expansive view of contracts can bring solutions to light which can achieve faster and easier results than bulky transformation and digitisation projects (and make those bigger projects leaner, too).

Cutting your template wordcount by 50% can achieve huge productivity gains without any technology. Making contracts more structured and better at handling data by isolating key variables and negotiables, for example through a Key Terms section, can simplify negotiations, improve controls and speed up approvals without reworking your whole process. Improving the information architecture of your templates can do as much to achieve self-serve as automation tools. And then there are behaviours: tools and habits you and your team can introduce, that improve collaboration and trust - and trust means speed.

A multi-dimensional view of contracts and contract processes is an important component of the GC's arsenal when solving those pressures of rising workloads, budget constraints and the need to deliver results quickly. These solutions can be found in surprising places, if you look.

About the Author

Denis is a lawyer, legal designer/engineer and legal tech entrepreneur. Denis consults businesses on contract process improvement, is Head of Innovation at London-based ALSP LexSolutions and founder of legal tech start-up Majoto (majoto.io) where he is building a contract automation solution based on the models described in this article.

He is passionate about design and behavioural change as a means to make legal processes and technology not only productive, but also better at creating positive relationships and wellbeing.

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The importance of re-skilling and up-skilling to achieve true transformation of the legal sector

By Karol Valencia, Legal Designer at eID/ Facilitator & Mentor for Innovative Projects

Every day we learn something new", that's true or no?, I think the answer should be yes, but the truth is that it depends and even in the middle of "interesting times" and "a globalized world" I think unfortunately we don't all feel like learning something new every day- literal even though the information is in front of us just a click away- and that's something because whenever we think about why a country doesn't progress, or that one sector does not modernize or does not improve, we often blame the other – and when I say another I mean literal to any entity or person - in any way the culprit is always a third party and the excuses not to learn something new daily unfortunately have enough and range from the most extreme cases linked to precarious realities where perhaps it is even more difficult to learn for various reasons, but also - and they won't let me lie -

there are cases and realities where there are absolutely all the facilities and simply because we love the status quo we don't force ourselves to follow advice or say that we've heard so many times and that we've even dared to suggest that every day we learn or you should learn something new.

In any way I proceed to explain why to quote this phrase at the beginning and that is that new realities and challenging times require professionals- of all sectors- who are encouraged to go out into their comfort zone and make the decision to reinvent themselves- our legal sector is no exception, the opposite is already time for us to put "the batteries" and try to adopt a different mentality , that we encourage ourselves to "cure" again and why not learn, learn new things or resume some that we enjoy a lot but by the system, work, time and other circumstances we leave aside and that are not necessarily linked to our legal exercise but that allow us to reconnect with ourselves, rediscover the reason for our decision to work for access to justice and provide freshness and different perspectives of other sciences , disciplines, arts and fields of knowledge - practical and theoretical - that allow once and for all to transform and redesign the legal and judicial system in order to ensure that the right reaches all corners and can be invoked and exercised by all users and interested in these services.

What have professionals and entities – in the private or public sector – done about it?

Some have reinvented themselves and others seek to reinvent themselves, but how they achieve that feat through two important processes called Re-Skilling and Up-Skilling, these training processes allow for a retraining of the members of the organizations in certain so that they enhance knowledge already acquired

as well as train the teams in new skills that have become relevant in the midst of the fourth industrial revolution and digital transformation, that becomes more exponential and digital every day in order to retain talent and not cease it but on the contrary the members of the organizations – in this case the legal teams of companies or law firms – can adapt to the changes and perform their work effectively according to the new standards and expectations.

For example we would have another group of legal operators who in many cases do not handle the subject of typing that is basic when it comes to being able to type and write faster the different writings, or who perform repetitive tasks in Word formats, but that because they lack some basic knowledge, I did say basic knowledge, such as the handling of the Microsoft Word program and all its functionalities ,-when I say all really are all that even and not yet develop automated formats or systems

that allow them to develop their tasks with greater efficiency and quality and at this point I emphasize the fact that not by using the newest platform or the latest version of some program we are already innovating, re-skilling focuses more on training professionals in skills that allow them to better develop their work and be up to date with the management of the tools considered as basic to fully and quality their work.

First of all we have the Up-Skilling.- which comes to be a kind of "additional training". This means training the worker in subjects – they've already known fully or of which they already has notions and puts into practice in his day to day – to help him to perform more effectively the tasks of his job, without having to develop a mixed profile, simply with the aim of doing his job better.

Secondly we will talk about the Re-Skilling.- which is nothing more than the "professional recycling of workers". As we have seen above, this phenomenon arises mainly from the digitization of companies, which makes it inevitable that the worker acquires new technological skills to carry out his work correctly taking into account the technological agents that have been included in the process.

For example here we can mention hybrid profiles of digital lawyers- those who understand and apply technology to their processes to digitize them and save time on repetitive tasks, among others, optimizing their work- , highlight the lawyers who have been interested in learning hard skills such as design, code, programming, processes, among others, as well as the famous "soft skills" that go far beyond the mere leadership of teams, emphasizing empathy and resiliency, all of this is even more enhanced when the legal operator enters into the curiosity to learn from other disciplines and sciences such as behavioral sciences, anthropology, philosophy, as well as languages that actually give it the tools needed to create, design, redesign and develop true solutions – measuring their impact on society – varied and ingenious that satisfy the people and users of the justice services and that are really useful to them to solve problems.

This process of re-skilling of course is the most complex because it requires a lot of desire to learn, curiosity and critical sense to be able to determine how or ways these new knowledges will allow us to power what you already know and will become a differential representative of our provision of services and jobs to other colleagues and services already in place in the market, in the midst of a landscape that seems to foster competitive but where those who really have a holistic reach understand the importance of synergies and that within organizations because they are at a more specific and enhanced level of re-skilling, they become mentors and/or facilitators of these skills for their peers and team members from legal areas,

law firms and other spaces where multidisciplinary teams converge – as well as diverse in every way– always with a view to [1] generating solutions that are useful and provide value for the organization, but above all for the people for whom they work.

Some of these profiles are that of the legal designer (both product and services), the leader of legal projects, the legal engineer, the legal or legal operations manager, the cybersecurity specialist, the legal technologist, among others and the new profiles that will appear when we understand that everything is linked if we connect it appropriately and put it at the service of others.

learned - however simple it is - to enhance and practice it but above all we should put it to the service of others and share it with others – and I do not just mean our teams - I mean the communities, that particularly changed my life a few years ago when I started frequenting them [2] and where I really ended up reinventing myself because there you not only learn, but put into practice what you have learned, the popular "learning by doing" and in which to the extent that you acquire seniority - I particularly do not believe in experts in the legal sector and less of technology because both sectors are so chameleons and changeable as they are dense as they are, because they are updated and

Finally I would not like to finish this article by indicating the following, I particularly think that every day we can learn something new and we should try to write down what we have

changed daily and in the case of regulation in a not-so-organized way, because

technology is often neat in that aspect-, but I do believe that there are specialties and specialists who have proven to be true futurists with critical sense of the sector in which they operate and that in innovation and other sciences have found tools that they apply and that in addition to simplifying their work, making it more efficient, are ethical when it comes to using technology and many of them see not a part but the whole, they value the

impact of the use of technology on the business, in their profession but above all in the transformation of the legal sector that continues to reinvent itself and I sincerely hope that it will remain in that line , but that function is the responsibility of each one because in each legal operator or team member there is the decision to practice accountability and "hazte cargo" of their constant and daily learning, let us remember that "whoever wants can" and amen.

Notes

[1] An excellent article in Jesse Waever's Diversity Team Medium.

[2] I recommend you take a look at the following: Management 3.0, en estado Beta e Intercomunidades, nice initiative that includes representatives from several communities, legal hackers, lean Kanban latam, service design club, hazte cargo, R-ladies, Data Science for business, WIT, among others.

About the Author

Karol Valencia is Founder & Legal Designer at WOW Legal Experience for Start-ups and Legal Industry, Legal Project Leader at eID, Business Development Manager at Change The Block, Legal Advisor at Digmak , and Ambassador of ILSA Alliance

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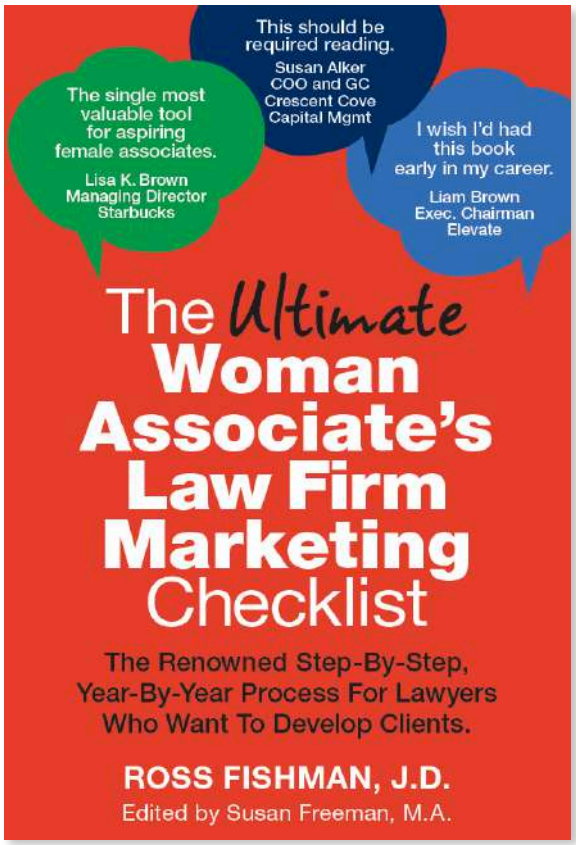

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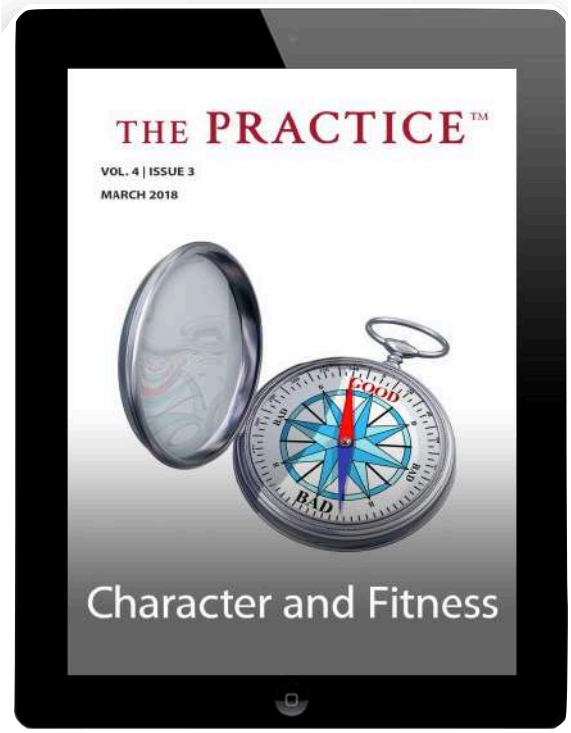
This book addresses a critical need for women associates. In the Legal sector, it is more important than ever to market yourself and create business development opportunities. If you own your own business - you get to dictate your professional careers and the earlier you can start on this path the better. For a variety of macro and micro reasons, women associates are less likely to have the information to be a successful business developer. No more, Susan Freeman and Ross Fishman lay out in plain English steps that can lead to women associates becoming more visible and better marketers. *Sheila Murphy, CEO, WOMN, LLC, Former Fortune 50 General Counsel*

I have long subscribed to the simple but powerful notion that "all good things begin with a list!" I can't think of a single tool that would be more valuable to an aspiring female associate, striving to navigate her environs and successfully sow the seeds of personal investment in brand, career, and community, than the thoughtful and competent compass she'll find in the principles set forth by Susan and Ross. *Lisa Kremer Brown, Managing Director, Starbucks Law and Corporate Affairs*



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CENTER ON THE LEGAL PROFESSION
Harvard Law School

Visualisation in Law:

Cutting Through Complexity

By Tim Follett, CEO & Founder of StructureFlow

Have you noticed how symbols are so prominent in society today? Or how frequent our use of the humble ":-)" is in digital communication? No doubt you've heard the phrase "a picture is worth a thousand words"...

The reason for this is simple: As humans, we are hard-wired to process visuals rapidly - from the plains of Africa to the jungles of 21st century cities. MIT neuroscientists have found our brain is able to process images within timeframes as short as 13 milliseconds. [1]

As the amount of information and data we are processing grows exponentially, both in our everyday tasks and working lives, we are struggling to process information and our attention spans are reducing. This makes visualising complex information for rapid neuro processing ever more important.

The communication trends are clear when you look at booming social media platforms that are primarily image-based, such as Instagram, Pinterest or Snapchat. Even Facebook and Twitter, which were originally text-based, have transitioned to favour visuals.

These trends are no less important when it comes to complex traditionally text-based, legal information... and legal teams are starting to take notice.

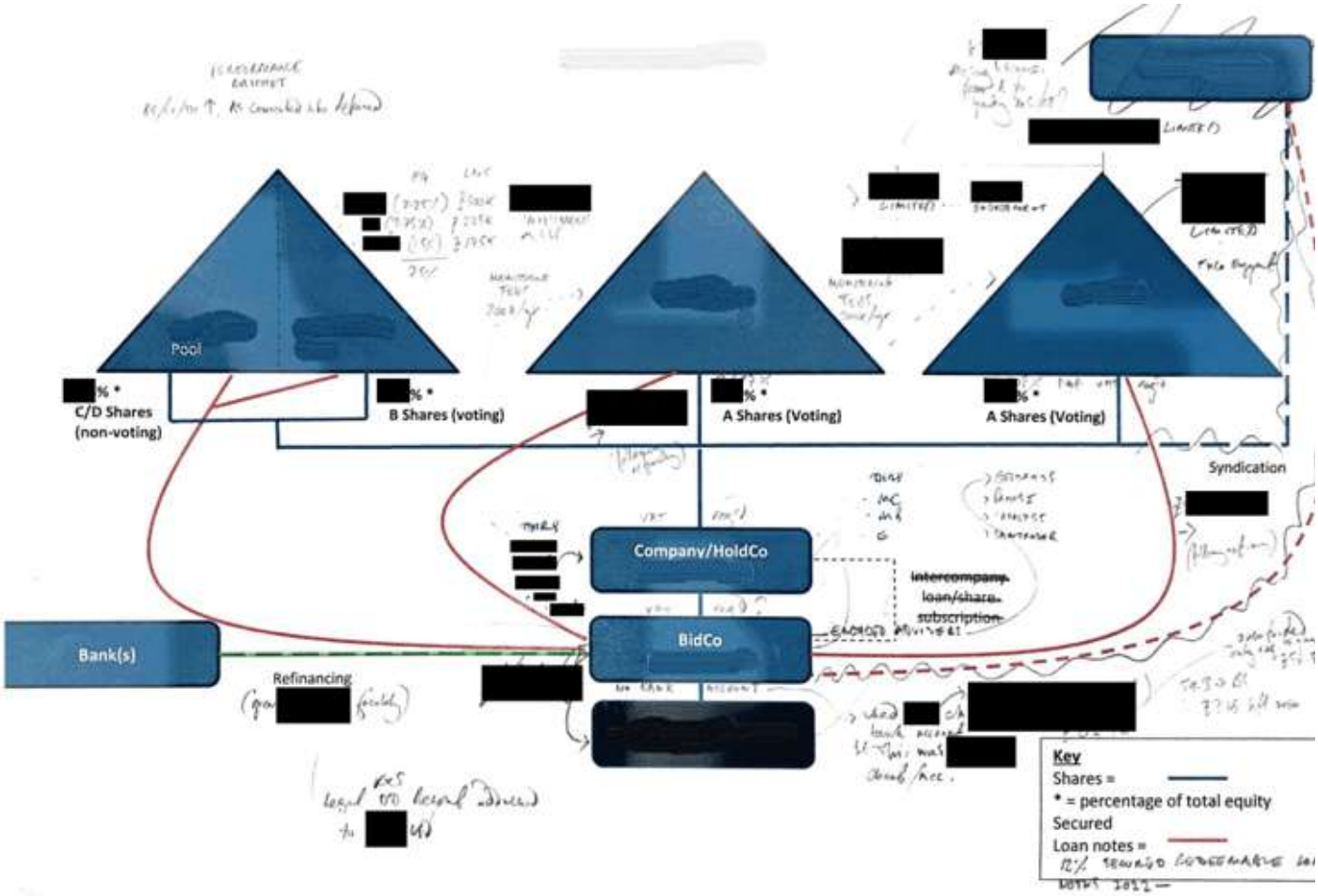
The evolution of legal communications
As a profession that has been text-driven for hundreds of years, and becoming increasingly complex in nature, the need to communicate complex ideas quickly via visualisation is pressing.

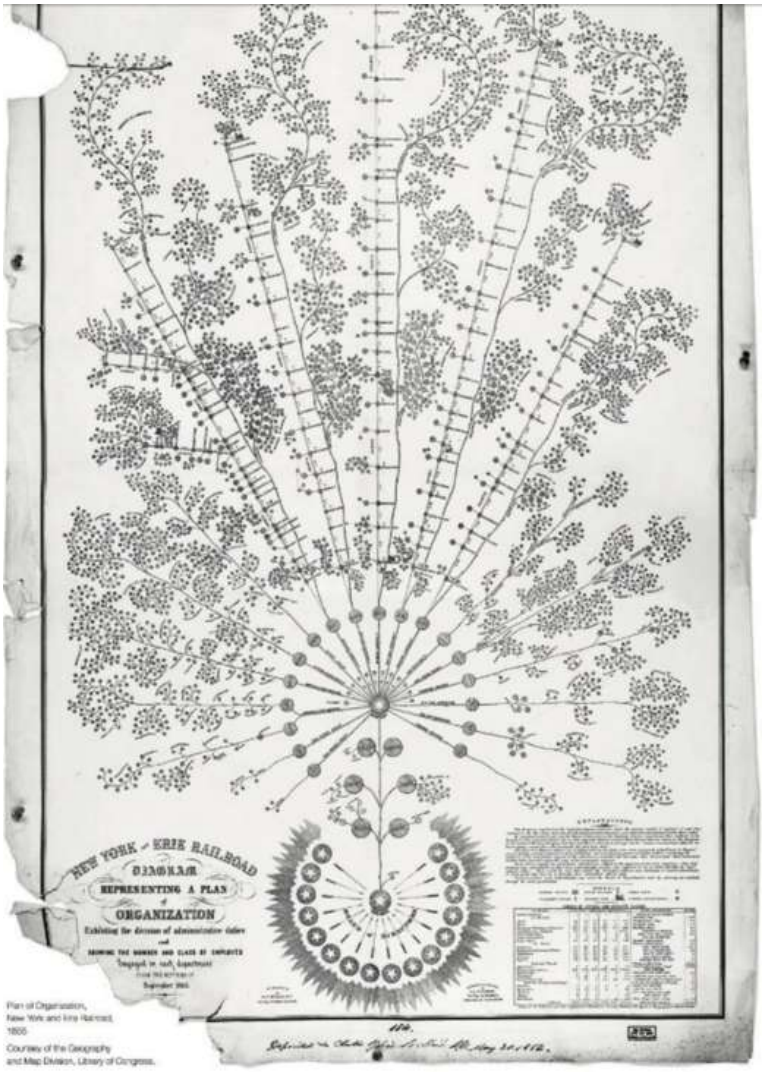
While a doctor can use an anatomical diagram to make a point, or architects and engineers have computer aided design (CAD) software tools to represent vast amounts of information relating to a building's structure, legal teams have been slow to adopt visualisation into their workflows to understand and explain the intricacies of a transaction or dispute.

In the last 30 years, we've seen some steps taken to incorporate visuals into legal work:

- The use of tables in contracts to improve readability
- Flow charts to illustrate a piece of analysis
- Structure charts and timelines to plan a transaction or map assets to be acquired or sold
- Infographics to explain legal rights

Example of a basic legal structure diagram





Example of an early organisational chart

As innovation in legal practice continues to gather pace, the use of visualisation techniques is increasing and evolving, helping legal teams solve their most complex day-to-day challenges.

Making complex ideas easier to understand

Legal structures and transactions have always been complex and difficult to understand, but it is an area where understanding is critical.

For example, a typical M&A transaction may involve 40-50 individuals across multiple organisations, so there is a fundamental need to ensure that everyone is on the same page as quickly as possible to promote efficient working and reduce the risk of misunderstanding.

Relevant information is often fragmented and stored across a variety of sources and systems, and held by different parties, which makes it extremely hard to present a holistic view and therefore a comprehensive understanding of the project.

By integrating innovative visualisation techniques and tools, lawyers can promote communication and understanding and address the challenges of complexity - "visually mapping" concepts and structures - whether a corporate structure, a M&A transaction, a dispute, or the connections in a complex piece of legislation.

There are clear benefits to be gained:

- Simplifying highly complex issues to speed up communication and understanding
- Getting a holistic view to improve analysis and identify potential roadblocks or areas of opportunity
- Ensuring everyone has the same understanding of the most up-to-date, accurate, information

By making information visual, it becomes more tangible, easier to work with, and understand. Like an engineer's CAD software, bespoke tools enable lawyers to create detailed, interactive visual models of legal structures and transactions, setting out the different

elements such as interconnected companies, contractual relationships and funding arrangements.

Junior lawyers and paralegals no longer need spend hours excruciatingly drawing diagrams in legacy drawing tools - manually moving shapes and lines around to make a structure chart look comprehensible (and well designed). Instead, they can now turn to legal visual modelling technology.

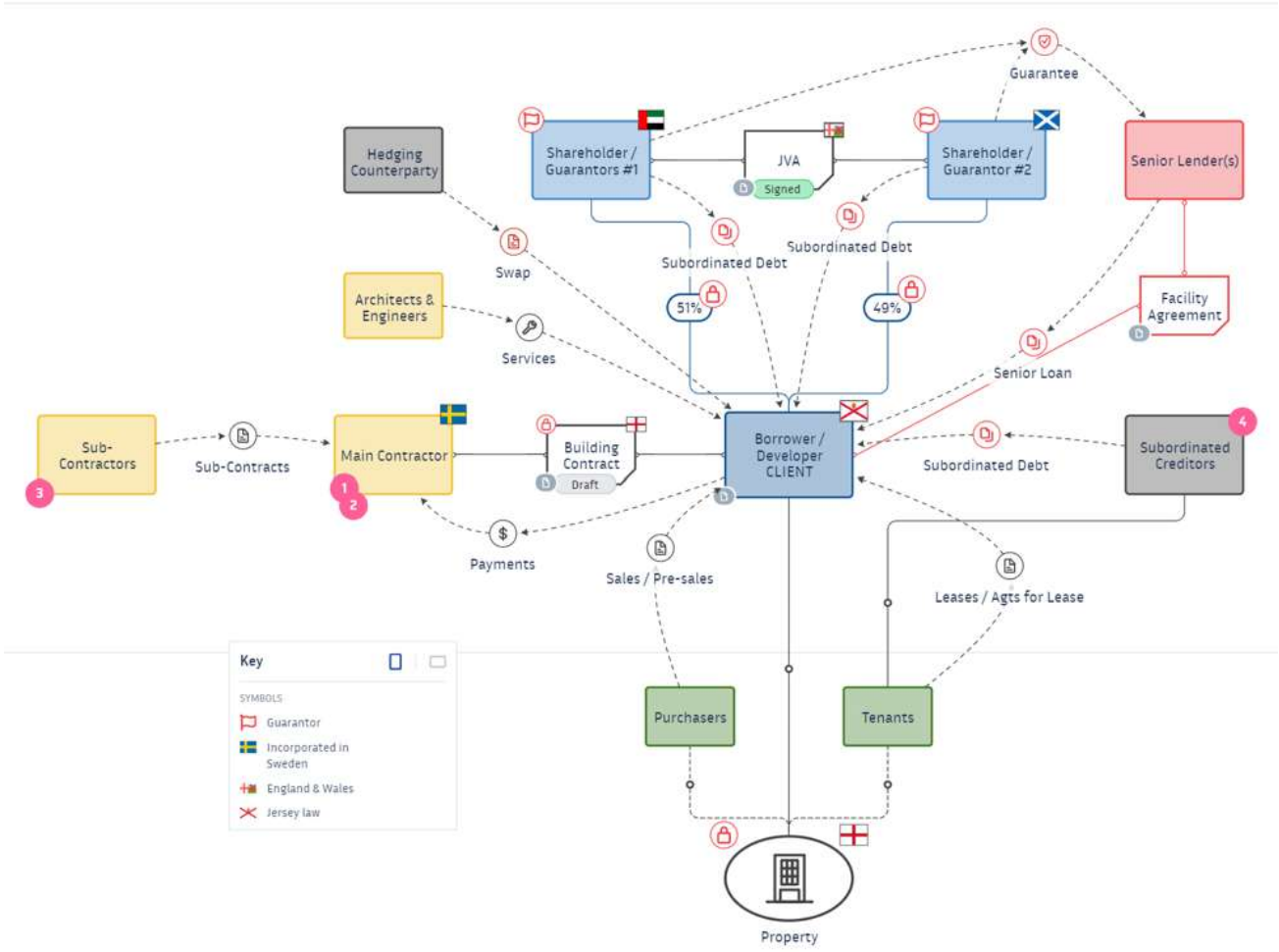
Connecting visuals with information

Not only are legal teams able to shorten the path to a clear visualisation, but deep connections can then be made to the information underlying the visual. After all, a diagram is fundamentally a visualisation of data.

Again, drawing the comparison to CAD, modelling enables the visual to be enriched, providing a broader and more detailed view of the legal subject matter as a whole – full details of the entities, individuals, contracts, and assets involved. Rather than a static visual, the visual model allows all parties - lawyers, their clients, and other stakeholders - to see the whole picture, as a "single source of truth", all at once.

This combination of visualisation tied to underlying information is what can really take legal teams to the next level as they strive to achieve clarity and understanding of complex issues.

A real estate development finance project created in StructureFlow



The client advantage

As the trends of adopting visual ways of working accelerate, clients of law firms are increasingly expecting complex legal information to be provided in easier, more digestible, ways.

The real-time, collaborative nature of sophisticated legal diagramming tools helps to build and maintain client relationships. With remote working expected to continue, using digital tools to communicate with clients regularly can be a strong driver for differentiation. In some recent legal trends reports, 68% of legal professionals say technology has helped their firms deliver better client experiences during the pandemic. [2]

In a global legal services industry that is only going to become ever more competitive, digital tools for visualisation can help law firms and in-house teams communicate complex ideas to their clients in ways that make them "stand out from the crowd", enabling them to win more business and trust.

Words will always be important for lawyers – they are integral to defining rights and obligations in legislation and contracts. But they are not the only tool in the toolkit. Visuals have a hugely important role to play. It is time to challenge orthodoxy and realise that text is - not always - best.

Notes:

[1] https://news.mit.edu/2014/in-the-blink-of-an-eye-0116

[2] https://www.clio.com/resources/legal-trends/2020-report/read-online/

About the Author:

Tim Follett is CEO & Founder of StructureFlow. An ex-corporate lawyer, Tim started his career at Slaughter and May where he trained and qualified in 2011 and then joined Farrer & Co in 2014. He set up StructureFlow in 2017 to address the frustrations he felt trying to visually model complex legal structures and transactions using tools that were not up to the task.

StructureFlow is an intelligent visual modelling tool for lawyers & finance professionals. Its mission is to help its users think, communicate, and collaborate more visually, and therefore more efficiently. Founded in 2017, StructureFlow is now being used by some of the world's largest and most prestigious professional services firms and in-house teams.

To learn more about StructureFlow and demo their software, please visit https://www.structureflow.co/

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Out of the Comfort Trap

The Legal Mindset Revolution

By Chiara Lamacchia, Founder at lawrketing.com and withoutconsulting.com

Everybody experiences a comfort trap, at least once in a professional lifetime - each career comes with a whole set of distinctive characters, behaviours, mindset and modus operandi that trap us in a status where we accomplish below our potential. In many cases, this inevitably ends up in stereotypes that are limiting business efficiency, cooperation and innovation.

What about legal professionals like us? The legal function is no stranger to stereotypes. As much as it is painful to hear it out loud, legal is far from being the first coming into mind when talking about business and strategy. No one would ever say "*oh cool, let's call legal!*". On the contrary, "*how can we delay the call-the-legal moment?*".

Truth is that in many cases the legal mindset is limiting the extent of our power within an organisation. Legal professionals tend to have a very stiff role, compared to other professionals – a certain way of doing things, a certain set of

duties and tasks, a certain way of conceiving the profession, a certain intellectual '*elite*' vibe – these '*certainties*' created stereotypes around legal professionals. That's our comfort trap.

If there is one thing that 2020 taught us is that we can expect the unexpected. As legal professionals, we can't afford to keep ourselves within this comfort trap. Pandemics, plastic pollution, global warming, innovation, sustainability, migration, equality, privacy – these are all a small part of all the challenges that are affecting our lives and markets radically and dramatically. All these urgencies call for legislative interventions that will be introduced more often and faster than ever to be able to cope with drastic changes. The legal function is expected to bring more value to the business. For all these reasons, legal professionals are urged to get out of the comfort trap, shake off stereotypes and switch to a new mindset towards innovation to be able to support and enhance business. How do we ensure to get the right mindset to better sustain business needs in an increasingly challenging world?

In the following paragraphs, we'll explore the most common stereotypes legal professionals are '*charged*' with and what to do to switch mindset and change the perception of Legal within the business environment.

1. The '*no*' department

The Legal department has often a reputation of being the '*no*' department. As Tammy S. Wood [1]: *"They are the naysayers who throw rain on every parade, who suck the fun out of every original idea and who point out all the risks but offer no insightful paths on*

how to get to the reward. The mantra is often heard in the C-Suite: Don't tell me 'No,' show me How!"

However, to be more precise, the legal department would be the '*it depends*' one. As I always say, '*it depends*' is the only possible answer that any legal professional can give in any type of situation. '*No*' is a time-sensitive answer and the safest one when we are unable to assess a situation. We tendentially prefer to have (almost) all possible variables sorted. To evaluate these variables, time is needed, and whenever someone gives us very little time to advise, the answer must be a well-deserved '*no*'. It's ultimately up to the business unit to accept and manage the risk. However, the best practice would be to include the legal function in the conversation since the first brainstorming. This enables us to conduct knock-out researches and provide solutions.

What we as legal professionals need to work on is learning how to win over and inspire the other teams to involve us at a very early stage of decision-making. The most important point is to explain the need for time. Lawyers are trained in the art of anticipating what can go wrong if things are done incorrectly.

We don't seek short-term victories, but rather for long-term success. Therefore, time becomes a critical variable to evaluate the risks and picture the cleverest strategic moves.

2. The trouble-makers

If the axiom is that Legal is the '*no*' department, the corollary is that every time we don't say no, we still carry with us a whole series of problems that badly affect the pressing business activities. We unveil problems, issues, limits, the '*but*' of any situation. We kill the vibe of new ideas.

Again, to be more precise, legal professionals are trouble-shooters. The reality is that we develop a peculiar way of thinking – we think defensively. Every time a case is presented to us, we start thinking about how to defend it, looking for floss, traps, measuring risks, forecasting the (un)forecastable.

In business contexts, legal professionals must be able to anticipate problems the company can't foresee and solve legal issues the company cannot solve. Now that businesses are requiring the legal function to bring more value – we need to make people shift in their perception about us: from the unconstructive department to the problem solving one, capable of giving strategic advice, making a positive difference to the company strategies, also and above all towards innovation.

In an ever-increasing regulatory environment, with businesses continuously growing in complexity, facing increasing pressure by macro-environmental elements (e.g., pandemics, migration, ageing population) – legal thinking needs to widen up. We have to brush up on the concept of VUCA [2] (an acronym for volatility, uncertainty, complexity, ambiguity) and allow much more constructive collaborations with other departments by going beyond the defensive approach, strengthening up the ability to gather more inputs from the other business departments, reasoning by analogy, envisioning outcomes, cooperating with other professionals and finally propose unique paths and new solutions.

3. The non-creatives

Apparently, there is no reasonable doubt: lawyers are physiologically unimaginative, non-innovative, uninventive. We have a traditionalistic, conservative, somehow orthodox way of working. Allegedly, we lack creativity, originality and imagination. We follow the rules. Whatever we touch is turning into a grey magma of complexity and boredom.

Whenever I hear this, I can't make up my mind about how '*legal*' would even be remotely considered as a topic for TV series. And instead, there is an abundance of lawyers on TV, such as Perry Mason, Law & Order, Suits, all extremely addictive and popular. Additionally, if only people knew the number of absurd questions, cases or requests clients and businesses manage to come up with, they would understand that '*creativity*' is the only way to go.

Beyond the frivolous arguments, the majority of legal professionals are intrinsically creative. Our beloved legal analytical thinking creates key usable insights that are useless if not assembled most cleverly. The analytical step is only the first one, which is giving us all the elements that we will use in the creative one. The latter couldn't exist without the former. We need to reposition our role in the business and include other teams in the conversation, to make them realise how the 'analytical' step results in opportunities and solutions discovery.

Firstly, we should start by becoming aware of our creative potential. We insist so much on our analytical skills, that it becomes difficult to conceive ourselves in any other way. People tell us we are not creative and we accept it. The shift should be towards awareness – looking at what we do in a new frame. Whenever supporting business, legal professionals extrapolate elements and connect these in a way that others are not able to do. We should never forget that a large part of being analytical is about being critical: we evaluate patterns and solutions, foreseeing possible risks and imagining possible futures.

Secondly, we should position ourselves as business players. Legal professionals need to reach the strategic balance between defending a business and making it thrives – between being '*business guardians*' and being '*business players*'. Our analytical mindset offers us a unique opportunity to make our creativity expand even more – we need to enhance it when we propose solutions. We need to open the door to other departments and involve them in the conversations.

4. The bad-communicators

I read once an interesting question on Quora: "*why is legal language so arcane and convoluted?*". That is the legalese, the dialect of legal professionals and legal documents.

We need to pick our battles and, in this case, there are very little chances to win. We tend to be complex, with the risk to result vague and unclear. How did we get from the sophists, orators and masters of eloquence to this?

When it comes to business and working with different teams, the legal professional way of communicating might turn out counterproductive. In many cases, departments are avoiding the legal one, or making decisions

based on the '*because-legal-say-so*' mentality. We tend to be verbose when we explain orally and excruciatingly long when we write and explain concepts to our non-legal colleagues. This is very dangerous for us as it reinforces stereotypes. The biggest mistake is forgetting that there might be someone without a law degree at the other end of the conversation.

I am amazed by the challenge/opportunity that our legal design colleagues are tackling. They are making a revolution in our field. Furthermore, we should take the communication issue to a much wider focus. Legal professionals need to learn how to talk to non-legal-savvy people, developing a way of explaining and arguing that is more accessible and understandable.

How to make it happen? Breaking the '*bad communicator*' stereotype is in fact the very first starting point of the legal mindset revolution, that will empower us to get out of the comfort trap.

The very first step: simplification. As John C. Maxwell [3] says "*people are persuaded not by what we say, but by what they understand*". We must be clear, to the point and simplify our communications. I'd like to provide you with some takeaways to put into practice:

- **Avoid jargon.** Imagine for a moment what it's like not to know what you know. Start from the assumption that the majority of people do not know anything about the law. *How would you explain your point more understandably?*

- **Re-think.** It might take as little as highlighting keyword in a presentation or using metaphors from daily life or even identify an image for every concept you are explaining. *How would you render your points into images or anecdotes?*

- **Share less.** We live in the information-overloaded era. The more details we share, the less our interlocutors discern what is relevant from what is not. Focus only on what you need them to assimilate. Ask yourselves if this is really relevant. *Is it adding anything substantial to the concept? Is this clarifying the concept or is it asking for more clarifications?*

- **Engage.** If you found some anecdotes or metaphors, it's time to use them. You can also go visual as this is the best way to overcome barriers. Take a piece of paper, a pencil, schematise and sketch your points – you will be able to explain something unfamiliar to your audience. *How would you design your points?*

Going Forward

As macro environments are shaking, laws and regulations will inevitably become more and more present in business strategy. When it comes to the legal sector, innovation has often a lot to do with technology but not enough to the mindset, skills and competences. The legal function is burdened with many stereotypes, namely, the 'no' department, the trouble-makers, the non-creatives and (of course) the bad-communicators. These are making arduous to reframe it into a much more powerful and strategic role.

Legal professionals need to shift their mindset and sit at the strategy table to make sure companies are well-equipped with all that is needed not only to mitigate risks and comply but also to innovate, grow and get/retain a competitive advantage. And it all starts with good communications.

Notes

[1] T. S. Wood (March 30, 2020) Making the Legal Department the 'Department of How' – Corporate Counsel https://www.law.com/corpcounsel/2020/03/30/making-legal-the-department-of-how/

[2] N. Bennett and G. J. Lemoine (January–February 2014) What VUCA Really Means for You – Harvard Business Review https://hbr.org/2014/01/what-vuca-really-means-for-you

[3] J. C. Maxwell (2010) Everyone Communicates, Few Connect. Nashville, TN – Thomas Nelson, p.165

About the Author

Chiara Lamacchia is a consultant in legal, marketing & legal forecasting with an LL.M. from Bocconi University (Milan, Italy) and an MSc in Marketing from Edinburgh Napier University (UK). Chiara works in corporate strategy and marketing serving global organisations, across different sectors. Besides, among other things, Chiara introduced a new concept, 'lawrketing', combining law, business, marketing and innovation – and is also the Founder of lawrketing.com and withoutconsulting.com, promoting the adoption of innovative ways of using the law for competitive advantage.

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Does English Really Increase Upward Social Mobility for Legal Professionals?

By Davida Ademuyiwa, Founder of Elitely Speaking

It goes without saying that without advanced communication skills in English, your career prospects as a legal professional in the global legal business arena are limited.

All over the world, there is a known but often unspoken phenomena, that links upward social mobility with your ability to communicate effectively in the English Language; the better you speak it, the higher up in society you go.

Out of 195 countries in the World, 67 of them speak English, is it any surprise why the English language is often a compulsory subject in most national educational curricula?
And according to Lord Denning, English judge and Master of the Rolls. "To succeed in the profession of law, you must seek to cultivate command of language. Words are the lawyer's tools of trade". But which language?

Fluency in the English language means access to more opportunities, better and higher paid jobs, being able to enrol as a member of an exclusive global workforce, working for global companies and the opportunity to do business with most of the world.

The English language is a passport that can get you into many countries, a key that can unlock many doors of opportunities and it has also been the stairway to success for many.

English is the language of social and economic mobilisation and a great way to fulfil your potential as a legal professional and secure the financial security and future for your family too.

When people hear this, they automatically think that they need to learn more English, but does learning English as a language increase upward social mobility by itself?

I'm afraid not.

One needs to move beyond learning English as a language and progress on to learning English as a skill.

What does it mean to learn English as a skill?

Let me use the example of swimmers to illustrate what I mean.

There is a big difference between an amateur leisurely swimmer and an Olympic swimmer, wouldn't you agree? Although they are both swimmers, the Olympic swimmer has developed aptitude and skills that clearly distinguishes them from the amateur leisurely swimmer. The amateur swimmer may continue to learn how to swim using the normal approach, but it would never make them an Olympic swimmer no matter how long they stick to using it, would it?

Now that's the mistake most people make.

To successfully compete in the Olympics, they will have to learn how to swim using a different approach, an approach that will help them adopt the right mindset, the right lifestyle and develop the right skills for the game.

It's this that places them in a different class of swimmers. It is the development of the mindset, aptitude and skills that allows the Olympic swimmer to become a recognised player in the global arena.

Now, think about this for a moment: every native English speaker can speak English, but can every native English speaker chair a meeting, give an effective presentation, write an effective article or report, or negotiate a contract in English? - Certainly not.

Before they can successfully do any of this, they would have to use a different approach. They will have to develop the mindset, aptitude and communication skills to perform these functions in English, thus the concept, learning English as a skill.

Now, if you're still trying to learn English as a language but not learning it as a skill, you're using the wrong approach and won't be able to achieve your professional goals. You'll never gain the mastery or competencies needed to function in the competitive legal business arena.

It's those who learn English as a skill that excel at what they do. It is this, that will distinguish you.

So, you need to choose the right approach, one

that will help you: upskill and make the transition from being an average everyday communicator in English to being world-class, so you can achieve your career goals.

Now, let me share the 3-step approach to help you accelerate your legal career and fulfil your potential as an International legal professional as it relates to developing advanced communication skills in English:

#1. Reposition Yourself to Become An Authority (Build Credibility and Respect)

First, you build a world-class professional profile and positioning as you work on building credibility and respect by becoming an authority in your field. You become a thought leader and influencer so that you can stand out in the international marketplace.

At the same time you also position yourself as the Go-to-expert at work, develop executive presence and prepare yourself to navigate the international legal business environment with confidence and greater ease so that you can build rapport, respect and work effectively with your foreign English speaking clients, colleagues and audiences, and achieve your professional or business goals fast.

Your positioning and authority is what will distinguish you from the rest at work in your field, it's your bridge and passport to professional success. Unless you master how to put your best self forward, and not only work hard, but smart, nothing really changes for you.

Would Ruth Bader Ginsburg, the American lawyer and jurist who served as an associate justice of the Supreme Court of the United States, have fulfilled her potential as a legal professional, if she had not stepped out of her comfort zone and the limitations of a job, and its description, to fight for the things she cared about and be a known as influencer and authority who not only impacted the legal world but the world at large?

Not only that, Ruth was known to have put forth the effort to sharpen her communication skills so that she could be a more persuasive and effective communicator, she also placed a strong emphasis on the importance of effective communication in the legal profession.

#2. Strengthen Your Core Communication Competencies

Second, you work on building your core communication competencies in the following areas:

a) Acquire Deep Cultural Knowledge

You work on acquiring a deep understanding of the professional English business culture, this will give you the skills required to decode the cultural nuances, or undertones, that come natural to native speakers of English, so that you are no longer an outsider and can truly enjoy the benefits of being included in legal business and other English conversations at high levels.

b) Build Strong Language Skills

You work on your language skills and make the shift from vocabulary-poverty to vocabulary-affluence, this helps you to increase your fluency and help you to become more concise

in English. You expand and refine your business English vocabulary (words, legal and business idioms, and phrasal verbs) and work on understanding and using expressions that native English speakers use.

c) Build Strong Articulation Skills
Then finally, you work on your pronunciation and intonation so that you can articulate words precisely and express yourself clearly so that you can be easily understood and make a good impression.

#3. Build Effective Legal Business Conversation and Writing Skills

Third, you work on becoming an effective legal business communicator in English.

a) Build Effective Legal Business Conversation Skills
You build a robust repertoire of phrases and skills that will help you increase your versatility and confidence to participate in, and navigate a range of formal and informal legal business scenarios, such as: casual conversations with colleagues , networking with clients, explaining, reporting, giving advice, persuasion, negotiation and presenting in an international environment. Then you hone your verbal skills so that you can continue to put your best self forward as you communicate, fluently, confidently, persuasively and concisely in virtual meetings or face to face.

b) Build Effective Legal Business Writing Skills
You develop your legal business writing skills so that you increase your productivity and optimise your time while writing, and build skills that will increase your confidence to initiate and respond to a range of formal and informal legal business situations, when communicating in writing.

In essence you build your professional profile, your executive presence and develop skills that will help take your legal business communication to world-class level, in a way that will raise your credibility as an expert in your workplace and build respect in the industry. This will boost your job performance, increase your perceived value at work, accelerate your progress and distinguish you as a world-class legal professional in the global market.

About the Author
Davida Ademuyiwa is the founder of Elitely Speaking. She is a communication expert and profile-building strategist for ambitious lawyers and legal professionals.

She helps them ace their job interviews, improve their job performance, accelerate their careers globally, in the legal business world, and fulfil their potential as international legal professionals through advanced communication skills in business English and profile-building.

Davida has a background in law and is a British politician. She is also the author of "Accelerate Your Legal Career Internationally". https://coaching-for-success.com/elitelyspeaking-ebook

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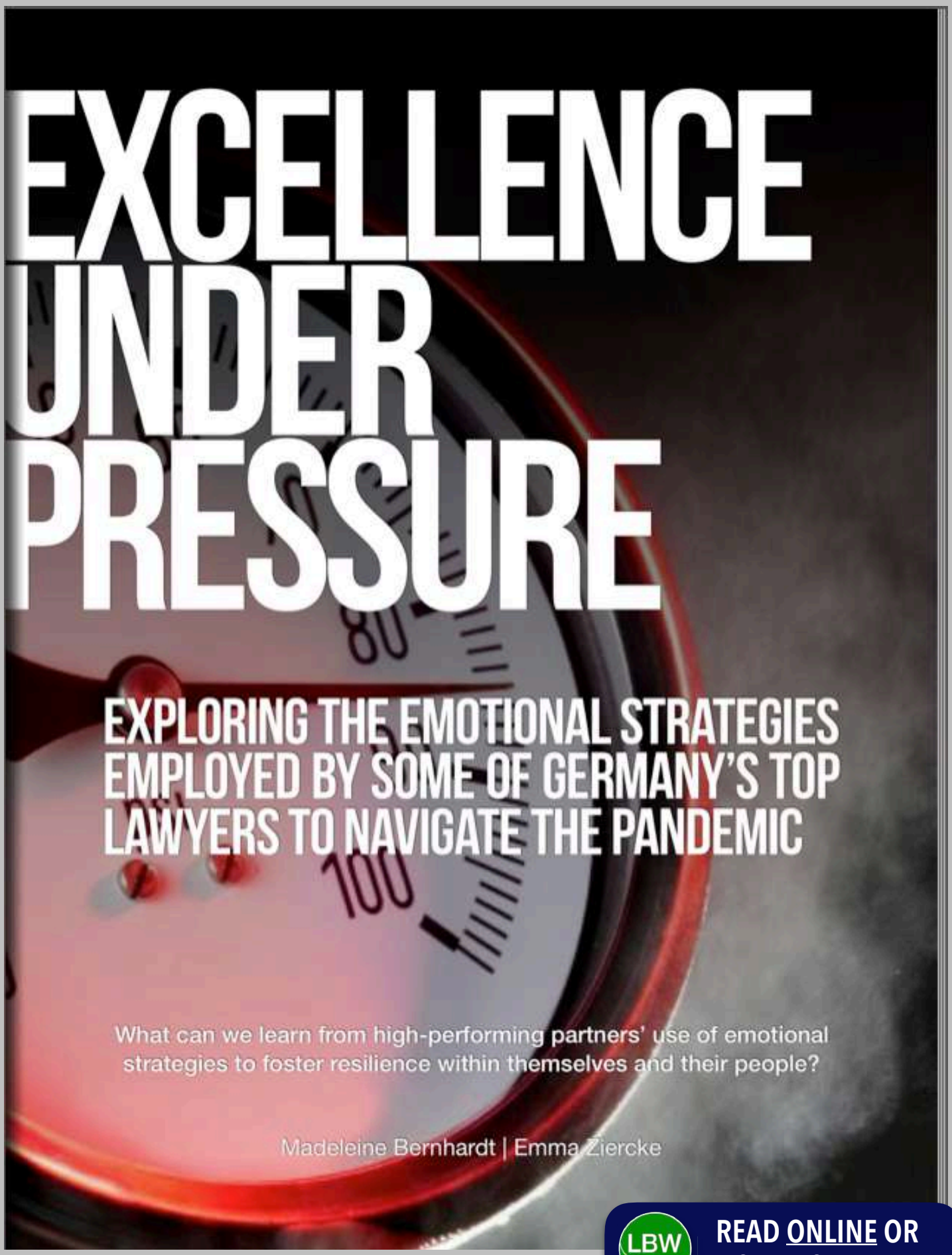
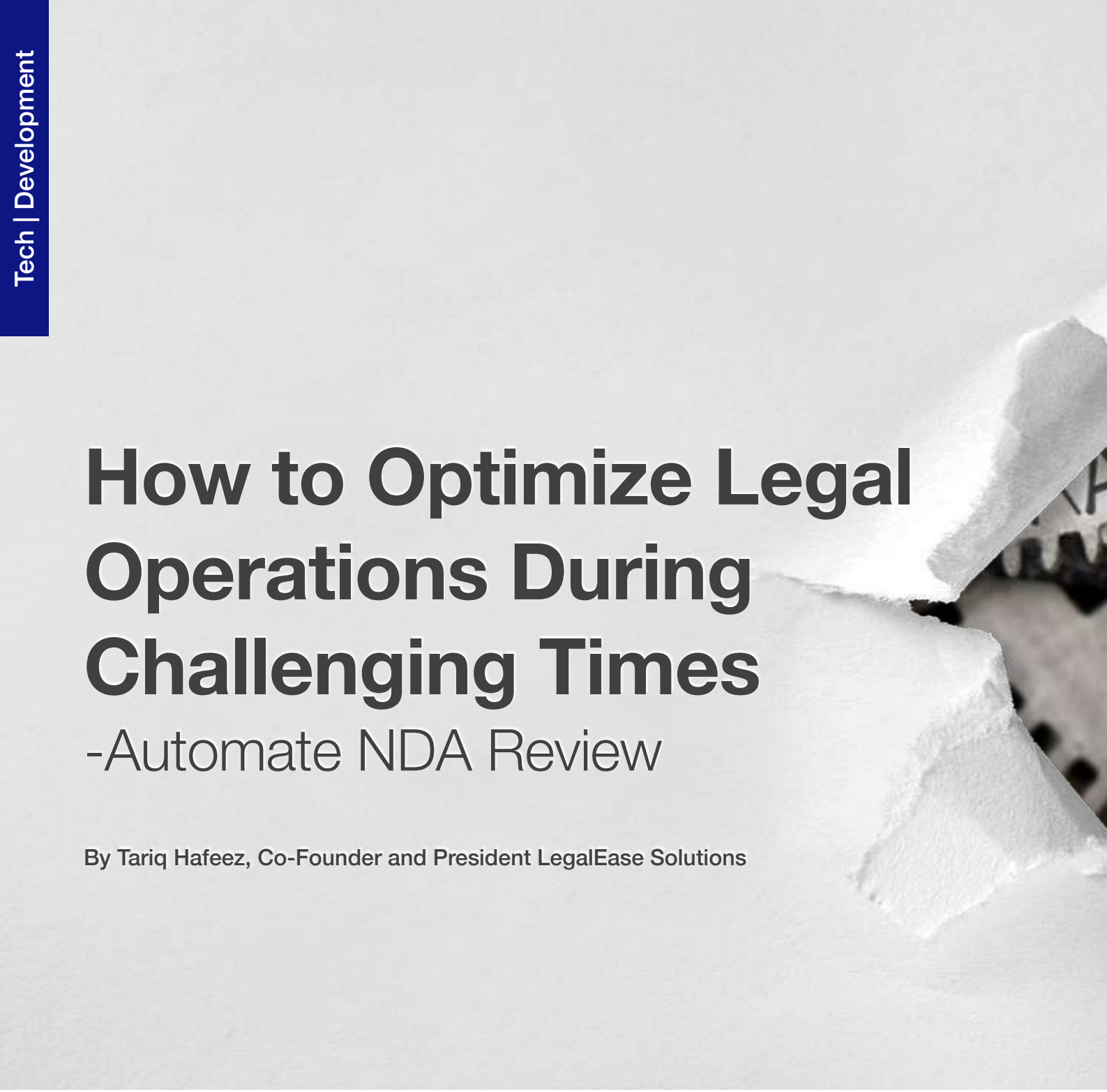


How to Optimize Legal Operations During Challenging Times

-Automate NDA Review



By Tariq Hafeez, Co-Founder and President LegalEase Solutions

As businesses press reset, enter into joint partnerships, and restructure with a view to reducing costs, consolidating resources, and improving economies of scale—technology is taking center stage.

In this article, we'll look at how automating routine and voluminous tasks, in particular—the AI-powered reviewing of non-disclosure agreements—can propel company law departments into smart, lean, and sustainable work environments of the future.

Trade secrets and confidential business information have never been more important

A company's or an individual's most confidential technical, financial, or business information

may comprise its trade secrets or confidential business information. An often-quoted example in this respect is the formula for Coca-Cola that has been protected as a trade secret for more than 100 years. Apart from trade secrets, a company's confidential information such as client lists and financial information, among others, is also as critical to protect when discussing a potential business relationship with a third party.

Additionally, as workforces and offices begin to more commonly operate remotely, companies have been looking to address confidentiality issues as urgently as possible. Many CLDs (company law departments) have voiced their concerns over the decreased deadlines for getting NDAs in place for business discussions,

given the instantaneity of virtual meetings. The days of the physical meetings allowed in-house teams a generous time to prepare agreements without having to rush everybody off their feet—a scenario changed by the pandemic in the blink of an eye across the globe.

Moreover, the rising importance of informational assets in the world economies has resulted in damages awards to the tune of hundreds of millions of dollars in private litigation and aggressive federal criminal investigations involving Trade Secrets thefts. These cases typically concern the disclosure of an entity's proprietary information to a competitor by an individual or one of the companies to a joint venture who is privy to the other's business secrets and at some point decides to go its separate way with no regard for the other company's confidential information.

Optimizing Review and Analysis of NDAs

In this challenging economic environment, companies are tapping into growth opportunities in capital-light ways. As the economy rights itself and companies position themselves for growth, they can be seen reinventing their business models, breaking away from traditional moulds of working and switching to legal tech tools to rev up their in-house operations.

For this reason, when business decisions take shape and deals advance, it is important to review contracts to see if the stipulations in the contract continue to reflect the same. Where manual reviewing can take days and completely miss errors pertaining to definitions, the term of a contract, confidentiality obligations, disclosure by law, jurisdiction/governing law, etc.—AI-powered contract review solutions spot issues in just seconds.

It's not uncommon for non-competition and non-solicitation clauses to be included in NDAs. Importantly, ill-drafted non-compete agreements may be viewed as restraints of trade, which limit an employee's freedom of movement among employment opportunities. Similarly, over-reaching and overly restrictive non-solicitation clauses may be unenforceable if they have an anti-competitive impact on the market.

In all cases, the parties should endeavor to draft and review these clauses clearly and unambiguously to support the enforceability of the clause.

In fact, in an article titled How AI Is Changing Contracts published in the Harvard Business Review, author Beverly Rich, J.D. from the University Of Southern California Marshall School Of Business states, "it has been estimated that inefficient contracting causes firms to lose between 5% to 40% of value on a given deal, depending on circumstances. But recent technological developments like artificial intelligence (AI) are now helping companies overcome many of the challenges to contracting."

Artificial intelligence allows in-house lawyers to perform their roles as in-house advisors actively participating in business deals and strategies from the very beginning instead of staying buried in real or virtual file cabinets. Centralizing contract processes—including creation, approval, execution, storing, managing,

amending, and renewing of contracts—in easy-to-search formats requires a hybrid solution.

A good process is essential to ensuring efficiency. Automating inefficient processes can make companies a hostage to fortune. CLDs wanting to automate their processes must consider bringing on board legal tech solutions consultants to identify what part of their routine tasks should be automated and how!

Customization is key to legal workflow automation. In the legal tech ecosystems—a particular solution's ability to provide user-specific customization of processes and to find the right solution for the CLD's operational requirements is the real recipe for success.

Accelerating NDA Reviews with AI-Assisted Attorney Intelligence

Established alternative legal solutions providers promise legal process expertise and business acumen at a predictable cost, which is a step in the right direction for smart, lean legal departments of the future.

Technology has inarguably expanded the bounds of what is possible in the legal profession. These outsourced contract review solutions begin with understanding the clients' preferred positions on an NDA and other contract types through existing playbooks or by creating new ones. Next, draft contracts are uploaded into AI-powered platforms where the software trained to read and contextualize the language of the contracts, look for specific concepts, review the document, and flag important concepts that demand human attention or are missing entirely. These software platforms also offer bespoke in-context advice to the client's express negotiation position for the attorneys to consider and approve much like the autopilot support for pilots.

NDA Review workflow powered by AI along with custom playbooks and human intelligence results in quick turnarounds of NDAs in two hours or less—putting valuable time and resources back in the client's pocket to focus on more strategic work, undoubtedly, a higher priority for growing the business.

Is outsourcing NDA Review a safe bet?

Non-disclosure agreements are usually standard business contracts used to keep confidential information and trade secrets behind closed doors. However, these contracts require routine inspections to ensure they're providing the required protection. This is easier said than done, as reviewing NDAs typically translate into a high volume of work. Drafting or reviewing a non-disclosure agreement requires a fine-tooth comb approach to get it right.

In today's business environment, company law departments are looking at fast-paced, flexible and same day turnarounds; streamlined processes; contract visibility and transparency; expert playbook creation, and problem-solving end-to-end solutions to augment business growth and shed their image of costly workflow bottlenecks in the system.

As businesses are becoming more comfortable, unbundling of legal services is becoming a reality—they are looking at efficiency, lesser budgets, and streamlined processes. People are also realizing legal work can be commoditized. Not all work needs a super lawyer. NDA

review is a perfect example of commoditized legal work that can be scaled.

About the Author

Tariq Hafeez is an entrepreneur with 15 years of experience and innovation in the legal services and technology space. As Co-Founder of LegalEase Solutions LLC, he has helped lead the growth of the company's services into a number of verticals including legal research, compliance, contract management, and litigation analytics and support. He also oversees LegalEase's business development efforts and services in-house legal and compliance teams and law firms in the automotive, healthcare, financial, technology, and software space. He obtained his JD from the University of Michigan and has previously worked as a State Prosecutor and a corporate lawyer.

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Twitter - https://twitter.com/tariqhafeezesq?s=20

About LegalEase Solutions

LegalEase Solutions leverages its superb global legal talent, process and innovation, and technology to provide in-house legal and compliance teams and law firms with cost-effective, efficient, and high-quality legal support services. Some of the solutions we offer include Contract Review and Lifecycle Management, Compliance Solutions, Predictive Analytics, and Legal Operations and Workflow Automation.

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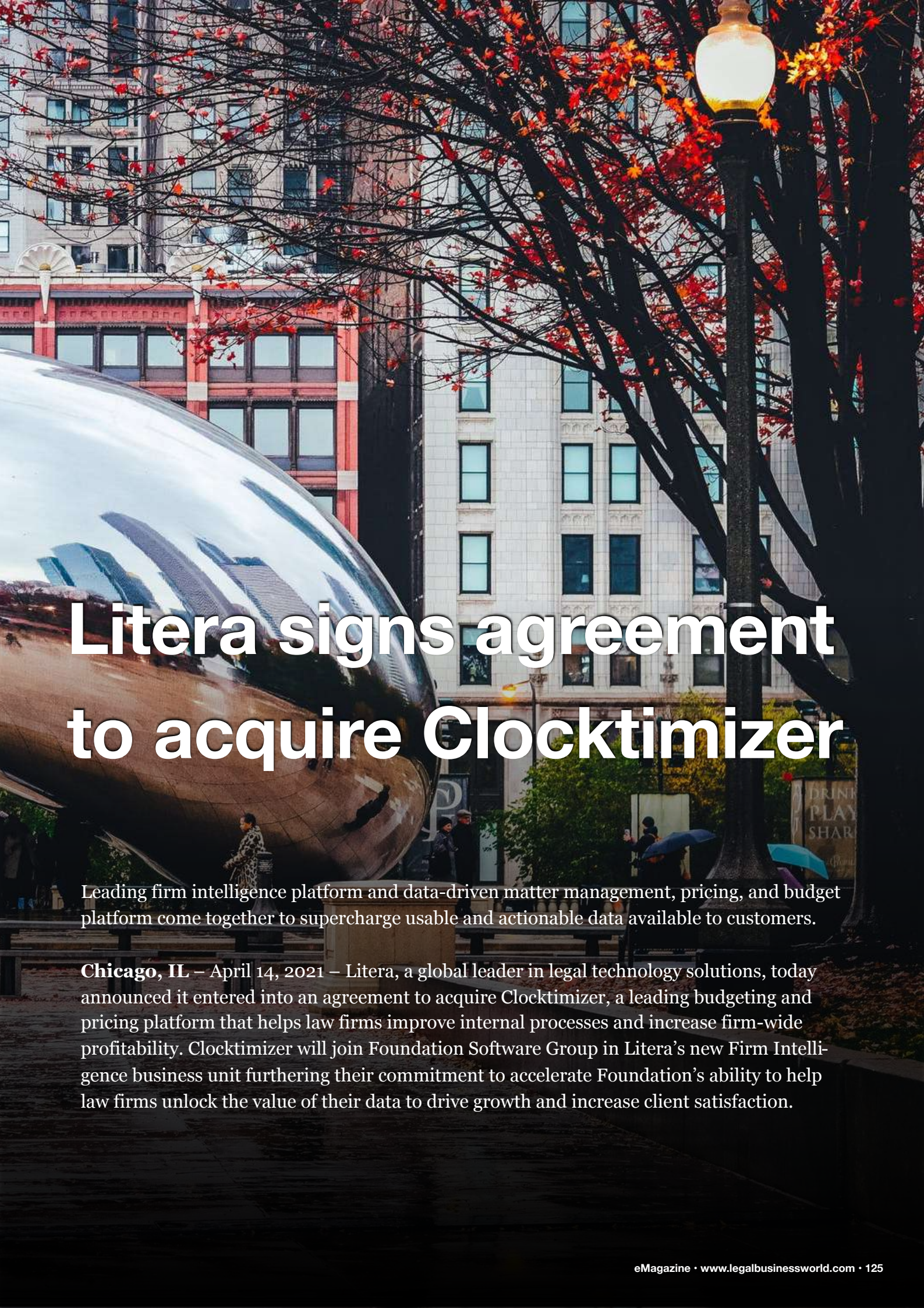

Litera signs agreement to acquire Clocktimizer

Leading firm intelligence platform and data-driven matter management, pricing, and budget platform come together to supercharge usable and actionable data available to customers.

Chicago, IL – April 14, 2021 – Litera, a global leader in legal technology solutions, today announced it entered into an agreement to acquire Clocktimizer, a leading budgeting and pricing platform that helps law firms improve internal processes and increase firm-wide profitability. Clocktimizer will join Foundation Software Group in Litera's new Firm Intelligence business unit furthering their commitment to accelerate Foundation's ability to help law firms unlock the value of their data to drive growth and increase client satisfaction.

With the combination, customers will be able to make smarter business decisions and provide more intelligent client experiences. “Litera recognizes the importance of passive data collection for pricing, budgeting, and legal project management for law firms,” explained Chris Vorderer, Managing Director of Firm Intelligence. “We are excited to bring Clocktimizer into the Firm Intelligence business unit to deliver critical data through Foundation’s enterprise data platform while also accelerating plans to help law firms improve profitability.”

Clocktimizer helps law firms understand who does what, when, where, and at what costs. Law firms use these insights to make data-driven decisions around matter management, budgeting, and pricing. Clocktimizer uses natural language processing to mine timecard narratives to paint a picture of current work product while leveraging historical data to improve future matter budgets and plans.

“Litera’s product portfolio and the importance they place on delivering a great customer experience made them a perfect fit,” said Pieter van der Hoeven, CEO and Co-founder at Clocktimizer. “Bram and I are excited to stay on with the business. We believe this acquisition opens up a lot of possibilities to build on our successes and continue to provide our customers with solutions they need to meet client demands while accelerating investment in the product to meet our goals.”

Clocktimizer and Foundation share similar customers, particularly within the AmLaw 100, which pairs well with Litera’s continued focus on the Global 100 firms where the vast majority use its products. Litera, Foundation, and Clocktimizer value similar core competencies that are important to customers including integrity, a long-term outlook, relentless focus on customer success, and the delivery of best-of-class solutions, providing a strong basis for the combination.

About Litera

Litera has been a global leader in legal technology for 25+ years, helping legal teams work more efficiently, accurately, and competitively. As a leader in document workflow, collaboration, and data management solutions, we empower legal teams with simplified technology for creating and managing all their documents, deals, cases, and data. For more information about Litera visit litera.com or follow us on LinkedIn.

About Clocktimizer

Clocktimizer is a leading business intelligence solution that helps law firms understand who does what, when, where, and at what costs. Global 100 law firms use Clocktimizer to make data-driven decisions around matter management, budgeting, and pricing. The pricing & matter management platform enables law firms to streamline operations, easily build and scale pricing and legal project management teams, improve firmwide profitability, and offer increased client transparency. For more information about Clocktimizer visit clocktimizer.com or LinkedIn.

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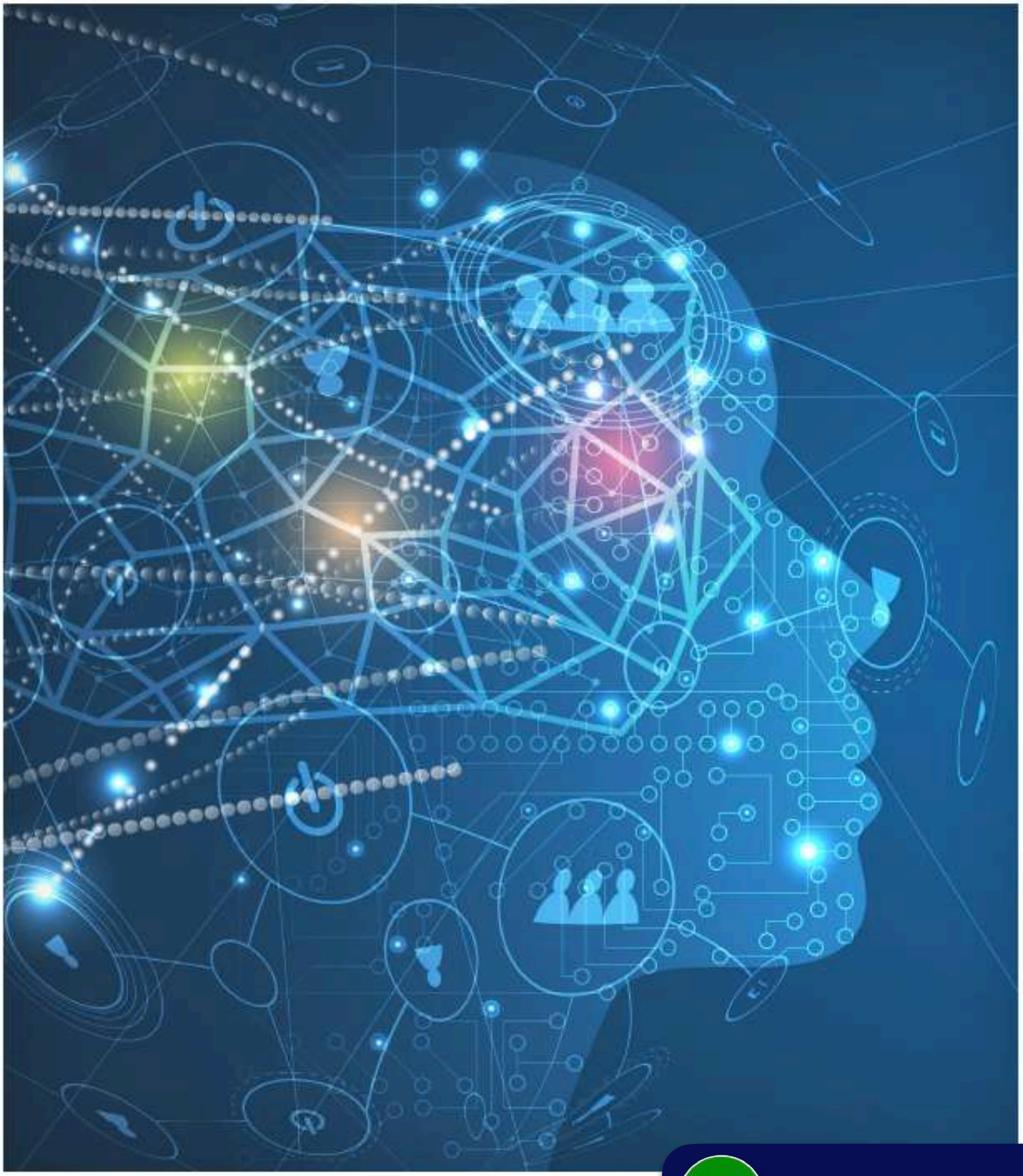

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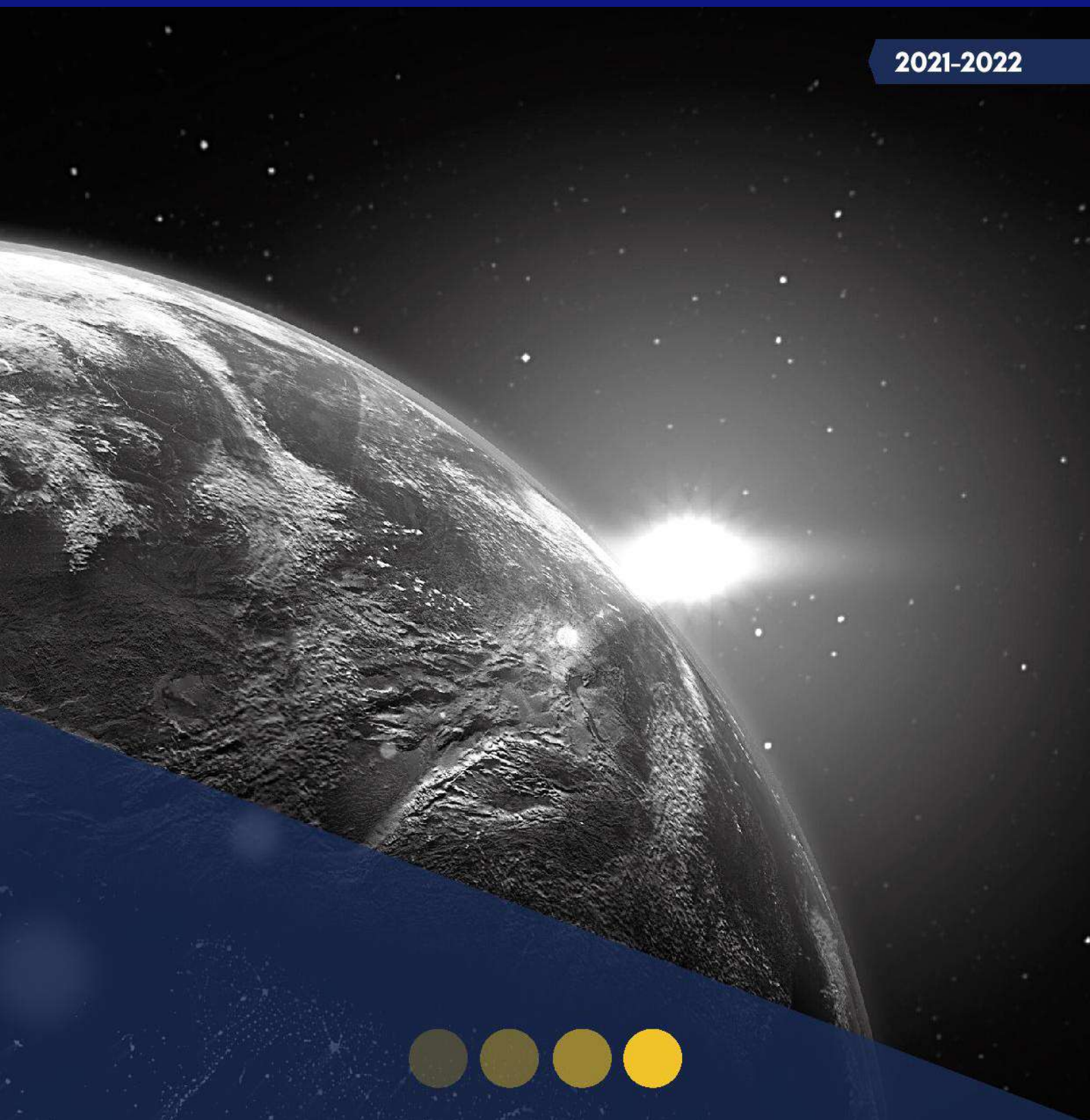


WORLD LEGAL SUMMIT

Impact Statement

WLS
WORLD LEGAL SUMMIT

WLS 2021

INFORMED TECHNOLOGY FOR OUR SUSTAINABLE FUTURE

The world is rapidly transforming with the development and increasing adoption of new technologies. New technologies are affecting existing systems, and creating the path toward future global systems that were previously unimaginable (for example, a world currency, self sovereign identities, or digital democracies). Right now these technological developments are happening in silos, and emergent global systems remain underdeveloped and ill informed.

The World Legal Summit (WLS) is a multi party initiative driven toward building global collaboration in addressing some of the issues at the core of these silos. We focus on bridging the gap between currently disparate stakeholder groups through our biennial summit, research, and community initiatives.

Bridging the gap between:

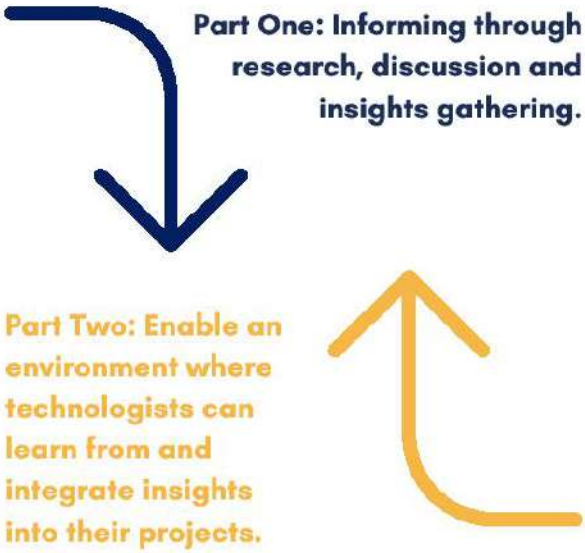
- Technology & Law
- Institutions & Grassroot Efforts
- Local & Global

WLS 2021

Technology & Law

Technology and related global systems are evolving at unprecedented rates. Traditionally, governance and lawmaking efforts have been reactive in their approach, lacking incentive and capacity to build proactive methods of creating governance frameworks. The WLS addresses this gap by creating a forum where both sides can come together, build legal insights and foster an environment in which these insights can be applied to new technologies as these systems emerge.

Informing Action



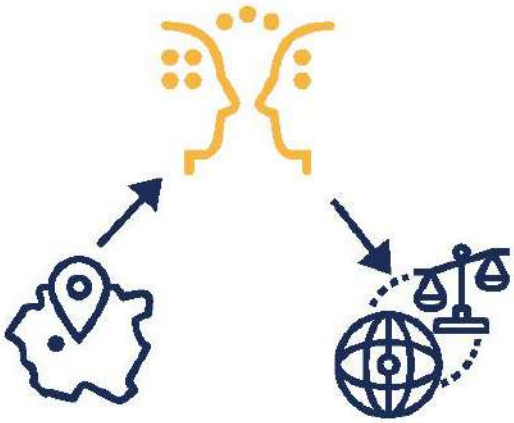
Institutions & Grassroot Efforts

The WLS invites stakeholders from traditionally siloed groups together, facilitating informed and diverse conversation. **Established stakeholders** and **industry challengers** alike are given a seat at the table, creating an unprecedented space for dialogue around principal issues shaping their industries, new technologies and our future global systems.

Local & Global

Legislative considerations have remained at the national level despite increasing global connectedness through digital systems. The WLS leverages modern tools to bridge the gap between local and global stakeholders, encouraging the development of universal frameworks. Through these efforts local nuances and cultural relevance emerge and are integrated with the global discussion, leading to a unique perspective and an analysis of global trends that accounts for localization.

Distillation of knowledge from national summits toward global trends.



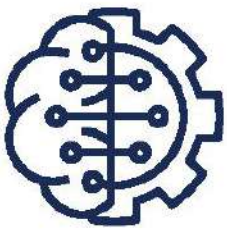
WLS 2021

WLS TECHNOLOGY PILLARS

As the capabilities of our digital era increase and our world becomes increasingly interconnected, we are experiencing the rapid growth of opportunities for new global systems that could offer solutions for some of the world's most pressing challenges. For example, the concepts of Universal Base Income (UBI), Self Sovereign Identities (SSI's), or digital democracies are all now possible in a way previously unimaginable. While these concepts are feasible and worth consideration within a national context, they are all the more impactful when considered in a multinational or global context. These concepts are offering solutions for improving economies, enabling citizen independence, disabling corruption, and creating a world in which we can co-exist as global citizens with the same human rights, opportunities, and sound governance structures.

Emerging technologies are at the forefront of factors enabling the development of these global systems; this is predominantly true of developments in AI and autonomous systems, digital identity and decentralized technologies, and data access and governance. For this reason, we have framed the following three **"WLS Technology Pillars"** to guide our resourcing and efforts.

Identity & Decentralized Tech



AI & Autonomous Systems

Personal Data Governance

"Fire was an invention that propelled civilization, but there is no doubt that fire has also been misused. The same can be said about new technologies." – Panelist Madrid, Spain WLS 2019

While these technologies are rapidly being developed and these beneficial global systems are emerging, there is a major gap in global collaboration. The investment in and the development of these technologies is primarily happening at a national level, or through international consortia styled groups that often maintain a biased agenda. This leads to a number of issues, such as:

- Emerging global systems are ill informed and lacking cohesive governance frameworks.
- Countries that have corrupt governments or are lacking necessary legal infrastructure are susceptible to emergent forms of corruption and ethical misappropriation.
- The innovation and growth of some technologies are stifled without a regulatory framework to allow for wider adoption and learning.
- Lack of global collaboration in standards building for these technologies.

WLS 2021

The inaugural year of the biennial WLS Summit supported solution development for some of these fundamental issues. The #WLS2019 summit did this by:

Drawing on the expertise of top industry leaders across academia, government, technology, and non-profit segments. 2,000 expert invitees participated, with hundreds of leading panelists driving their local discussions in 33 locations across 25 countries.

Creating access to information through the consolidation of insights into our biennial Global Report, and launching research tools designed to survey and surface insights on these topics from across all major world regions. In 2019 we launched the first version of the Decentralized Identity Readiness Scale, and the beta release of an interactive database designed to survey and deliver information about the the legislative frameworks existing worldwide for our core WLS Technology Pillars.

Catering to a diverse and expansive digital audience of 10,000 unique users across over 100 nations.

Establishing the foundations for having a substantive dialogue on currently nascent topics in need of further research and discussion. In some locations these topics were introduced for the first time in this way, and in many locations the multi-stakeholder format was unprecedented.

Enabled a global discussion and digital collaboration. The WLS platform was designed in this way so as to leverage the many tools available to us to uncover local nuances, while ensuring connection to a global context. It is worth noting that this format was by design, predating the COVID pandemic.

WLS 2021

GET INVOLVED: 2021

Global and Regional Partnerships

- Showcase your industry leadership in technology ethics and governance domains
- Place your experts at the centre of the local and global discussions
- Access a truly global community of legal and technology professionals
- Contribute to a growing dialogue in need of more awareness and multi-stakeholder support

Hosting and Local Involvement

- Lead the impact in your country for core topics of technology governance
- Access and engage with local experts
- Place your experts at the centre of the local discussion
- Bring your country's voice and local expertise to the global conversation

If you are part of an organization interested in getting involved with the WLS, we are happy to connect and discuss next steps for involvement.

Connect with us at **info@worldlegalsummit.org** or visit us at **www.worldlegalsummit.org** for more information.

GET IT NOW

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