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**12 Secrets
to
Improving Legal Service**

HBA Legal in discussion with
NewLaw thought leader
Mitch Kowalski

12 Secrets to Improving Legal Service: HBA Legal in discussion with NewLaw thought leader Mitch Kowalski.

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February 2018

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HBA Legal founding directors Brett Ablong and Nathan Hepple
joined with Mitch Kowalski,
acclaimed NewLaw thought leader and author,
to explore key aspects of what Mitch calls
'The Great Legal Reformation'.

This is what they talked about.



L-R: Brett Ablong, Mitch Kowalski, Nathan Hepple

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Welcome

At the end of 2017, the directors of the HBA Legal, Nathan Hepple and Brett Ablong, invited global NewLaw thought leader Mitch Kowalski to join them in Australia for a couple of weeks.

Their goal was to further explore the unstoppable change in the global legal industry, and how law firms must evolve to meet shifting client needs and the more-for-less challenge.

In short, they questioned, how must we change to thrive, in what Mitch calls 'The Great Legal Reformation'.

Bringing together clients, business leaders and academics, they ran workshops, presentations and meetings and asked: How can legal innovation improve client experience and outcomes? They discovered the power of Design Thinking to help reach this goal.

After a full and fascinating fortnight on the East and West coasts of Australia, Nathan, Mitch and Brett sat down to reflect. And this is what they discussed.



Chapter One: 'The Great Legal Reformation'

Mitch:

The legal services industry is a global industry - so if you really want to understand what's going on, you have to travel. You can't just sit at your desk and listen to the internet. So I was quite happy when HBA invited me to come and see what's happening in Australia. I hadn't been here for a few years so it gave me a really good opportunity to take a look at the landscape and see how things have changed, and also to look under the hood of HBA Legal.

There's a lot of fog in the innovation space and so you really need to get out and about and see what's going on.

Nathan:

And so having travelled around the country with HBA and meeting some of our own clients and people what are your initial observations?

Mitch:

I hadn't been to Australia in about 4 years so it was really neat to see the transition. I think there's a lot more emphasis on innovation in legal services. I think there's a more strategic imperative that we are seeing with firms (particularly with your firm) where the market is shifting and being more cognisant of having to be different and create a unique client experience. And I think technologically the innovation I'm seeing has grown significantly in the last four years. So it's an exciting place to be.

Brett:

So Mitch in your opinion what's driving this change in the legal industry?

Mitch:

Oh without a doubt, two factors. Number one: clients. I think clients in Australia are much more aggressive than I've seen in other countries around the world and they are really battling this more-for-less challenge. They are putting a lot of pressure on Australian law firms, more so than I see in Canada and the United States, so there's that imperative going on from the client's side. And two, technology is also changing the way that law can be done so we are seeing ways for law firms to compete much better. Then you layer on top of that the millennial generation

which is changing the dynamic here also, because millennials just don't want to practice law in the same old way. They are checking out, they want to have the opportunity to do something better, faster and cheaper not just for the client but also for themselves, for their own personal lifestyle.

So it is a lot of forces that are driving change and will continue to evolve throughout our lifetime.

Nathan:

And we're big fans of the Great Legal Reformation, which is the subject of your books, and certainly Brett and I have been very engaged with your thoughts over a period of time. How do you see HBA being involved in the Great Legal Reformation of Australia? And globally?

Mitch:

Well I'm excited about what you're doing, because first of all you're a smaller operation managerially so you're much more agile, you can react to things much faster, you're willing to take risks in the marketplace. And I think you really understand the concept of law as a team sport and all the pieces of the puzzle of the firm all work together in a way to put people, processes and technology together that is far different from other firms. So that's a refreshing thing, I don't see that a lot. A lot of firms are so entrenched with their current model and so fully consumed by that model they can't move off the space, so newer players and more agile players like yourselves have a huge advantage. So keep doing what you're doing!

“legal solutions are not just about the lawyers and what the lawyers bring to the table ... there is a holistic approach to the solutions that your clients need.”

Nathan:

One of the most important things to us is making sure we deliver on our promise of constantly evolving. Do you have some thoughts on that in terms of the Australian experience around

questions such as AI and the rush of firms to be announcing that they've bought the latest toy, so to speak?

Mitch:

Yes, the 'AI frenzy'. I think obviously there's a fair amount of hype in that, and everybody and their pet dog wants to say they're employing AI because it's the cool buzz word of the day, but there's also a fair amount of technological solutions to problems that we don't quite have. So people are rushing to build things without listening to the marketplace and are using technology for a PR bump. So what I've always said and I know you guys are in agreement with me, is that you have to understand what the processes are and what you're trying to achieve for your client, and then build around that. Then maybe there's an IT solution to that, maybe there is not. But seeing IT as this magical panacea for every single problem in the legal industry is a really big mistake to make.

Nathan:

And I think the concept of us embedding ICT (information and communication technology) architecture people within the firm is going to be a key advantage that HBA people have as we move into the great legal reformation and we head towards 2025.

Mitch:

Without a doubt! Another mistake that I see time and time again is firms who see IT as simply only a 'keep the lights on' kind of function, make sure the computers are working, make sure we can log into this etc, and not using IT as part of their strategy. So they don't spend any money on research and development, on what they can do with the firm. They don't employ IT people who are architects and driven to actually be builders of something - and that's a huge loss because IT will be part of the solution and every firm is going to need to investigate how the technology informs that solution.

And the easiest way to do that is to have your own IT who are embedded and understand what you're trying to achieve - and can work quickly. But if you're outsourcing that kind of solution it's going to be very expensive, it's going to take a long time. The developers don't really understand what you're trying to achieve and so you are going to have a lot of missed steps.

HBA has really understood that legal solutions are not just about the lawyers and what the lawyers bring to the table, that there is a holistic approach to the solutions that your clients need. So why wouldn't you build a 'cradle to grave' kind of solution for what they really want.

and help them out in a way that may not involve the lawyers? It may involve only one part of your business and that's okay, because that's what the client asked for. And so for you to build a holistic approach I think is unique, something I haven't seen at all globally and I think it's going to give you a real competitive edge.



Chapter Two: Design Thinking for the legal industry

Mitch:

Design thinking is really simple, it's a tool, it's a disciplined approach to problem solving that uses designers' methodology to create customer value, and to create some market opportunity. So I know that's a lot of words, but it's just a tool that is used to make some market breakthroughs, solve some big problems or even small problems in a way that's very disciplined. It's an innovative approach where you empathise with the client. You rush through a prototype, you go back to the client and say "what do you think about this yes, no?", tweak start again over and over and over again until you get it right. It's what designers use when they are designing things like chairs, cars, buses what have you.

Nathan:

Well the corporate world has been using that model for years.

Mitch:

You're right the corporate world's been using this for 25 years already.

Nathan:

This is nothing new, this is only new to lawyers because they are not alive to these challenges.

Mitch:

We've heard that from clients, "Yes our business units do this all the time, why do you think our company is still alive?"

Nathan:

One of the light bulb moments I watched people have during the course of your design thinking workshops Mitch, is when you put up the picture of the orchestra on the screen and ask the question who is the best musician here?

Mitch:

Yep and that's how the law firm should be operating, I mean lawyers are one piece of the puzzle

"It's an innovative approach where you empathise with the client."

they are not the entire puzzle, just like a musician is one piece in the orchestra, not the entire orchestra. And people want that experience that the orchestra brings. You come to hear the music and how everybody works together and interlocks together to give that experience, so too the law firm.

If law firms are just simply going to look to their lawyers to come up with solutions they are going to miss out on a whole range of ideas from the rest of their teams. One of the refreshing things we've seen with the design thinking workshops that we've run here is you've involved a whole range of people. It hasn't been just the lawyers it's been a whole range of people. So that's really what law firms need to do - take everybody's opinion into consideration and not just simply segregate people.

Brett:

And as you know Mitch our people have been through the design thinking workshop and have been trained in it and they will continue to be trained in it.

Mitch:

I think it really is important to create more competitive advantage for all firms to use that methodology. I mean you're not going to use that every day, it's not about operational efficiency, it's about how do we get through to the next level? What's the next thing that we should be thinking about because someone's breathing down our necks? And certainly you know in traditional law firms, there are a whole host of people breathing down your neck. So the choice is yours.

Chapter Three: Constantly Evolving

Nathan:

So Brett, one of the interesting things that I reminisce about a lot is our trip to the States, when we very much went on a spiritual journey if we can call it that. One of the things that drives us as a business, is trying to identify directly with clients about how things can be improved for them. That's not just about HBA, that's about the legal industry more generally and it caused me to think about our experience with some of the connections we made in the States.

Brett:

Absolutely. We both came out of a large law firm always wanting to do things differently for clients, and the traditional large law firm model just didn't allow that to happen. When we went to the United States we met with a law firm who had a really significant challenge to try and ensure that they got results, because the sort of work they were doing was very low margin work.

Nathan and I always had a view that lawyers weren't always the answer to the question, and we went into this law firm with 100 people and they had four lawyers. Four lawyers. IT people, all sorts of people working there to get a solution for their clients. That's the sort of thing that I think as a young law firm, as a law firm that wants to do things differently for their clients, we need to team together with other types of professions.

Nathan:

Well the responsibility we have in general is to involve the profession. I think that we as participants need to sometimes take a step back and have a look at what's going on, on the ground, and the experience that clients are having. And where you've got a circumstance that

often it's cheaper for a client to build an in-house team than it is for them to outsource the work - you're dealing with a broken model.

Finding the solution to the broken model is more challenging because there are a lot of doubters out there, there are a lot of people out there that want to keep it going the same old way ... "five more years, let's see how we go". But that's not something that Brett and I wanted to rest on, and that's how we met you Mitch. Through buying your book on Amazon (and loving it!), right from the start we were on a journey of improving the way that we do things for the benefit of clients.

“this is a continual evolution ... law firms are morphing into more consulting businesses, rather than just law firms.”

Brett:

And it's been a continual evolution. You know we're continually looking at ways to do this better. The problem that a lot of traditional businesses have is that they're always inward looking, but by going out to the world and reaching out to you, we were able to see that this is a continual evolution - that law firms are morphing into more consulting businesses, rather than just law firms.

Mitch:

Well I think this is about bringing the fun back into law. Because people have a preconceived notion of law, that it will be always exciting and all that sort of thing, and of course that's not true, it's not 'Suits' all the time!

But I think if you're forced to look at how we can do things differently and have that constant engagement with the client... That's what gets me really excited. It's "Okay wow, how can we

make this fun?” And certainly the millennial generation really likes this. “Oh wow ... I have the freedom to do that really?”

Nathan:

And here’s where the fun starts for me. The fun starts with the question “What can we do differently?” And I get asked that question a lot. From law students, from clients, from other lawyers. And the answer is really simple: “Well what is the problem that you need solved?” “How can we simplify and solve whatever it is that you’re facing at the moment?” because the need these days that we have to respond to (and every law firm has to respond to the need) has evolved significantly, and as we move on in time that is changing every day, every week.

So, 10 years ago the solution might have been more hourly rates, or a reduction in hourly rate, but it certainly was still that old pyramid structure where the partner ran the relationship, they had a senior associate and various other people in between. That was the law firm profit model that had been set up some years before. Then we saw fixed fees (and I was an early adopter to fixed fees and made that work). And a lot of people I spoke to about that positive experience that I’ve had simply say “Tell me about fixed fees. How do I make that work?” And I was always at pains to say “That might not be the solution, let’s think more broadly”.

Brett:

It’s just one tool in the bag.

***“The fun starts with the question
“What can we do differently?””***

Chapter Four: Legal Services: Where and how?

Brett:

The clients' perspective is really one where their world is changing a lot. Clients, especially after the GFC, had to do much more with much less and are constantly going through situations where the in-house legal department is subject to a budget and they're not allowed to exceed that budget. They've got to do more-for-less. Clients are looking for law firms that are going to respond to that I think. The more-for-less challenge. And if law firms don't respond to that, then they're going to move on to alternative providers I would have thought, Mitch. What's your view about that?

Mitch:

Yes, absolutely. There's so many opportunities now for clients to move in different directions that the law firms have to respond to that. It's very clear that the more-for-less challenge as you mentioned is a huge driver and it is absolutely mind boggling that we've created an industry where the client can do it cheaper themselves. You would never build a car yourself but that's essentially what we've done with legal - we've allowed the client to build the car themselves cheaper, better, faster - and that's just not a recipe for long term success. So whether you like it or not, whether you believe it or not, that's what's happening in the industry and that's where we have to go.

Brett:

And of course in my years, I've seen a lot of companies take the legal team in-house. Is that really a solution to the problem over a long term?

Mitch:

I think long term, all that happens is the client brings the problems that we have in a law firm internally. So it's a short term solution that may get some traction for another 10 years or so until in-house clients start saying "Ah, we've just internalised the problems that we used to

externalise and now we're a bit bloated on that, we're not as efficient, so now how do we fix that?"

Nathan:

A more-for-less challenge exists whether between a law firm or in-house. Because if you have an in-house team doing the work, there is a cap on the amount of money you can spend on salaries. You can't just keep throwing lawyers at the problem. That's not the solution because that's what the law firms have done in the past and in-house teams are going to face the same more-for-less challenge. It'll look different and it will feel a bit different, but ultimately the same question is going to be asked by the finance team as to how much the legal team is then spending on say, wages, or spending on the small amount of outsourcing that they're doing.

The answer to that really lies in the IT solution.

Working in conjunction with the in-house team and using the outsource providers on an as-needs basis, where they can dip in to assist on some of the pointy ended matters. Taking the IT solution as a start, there is low-end work that is being done by in-house teams because it's too expensive to outsource to the law firms, but the challenge that I hear from in-house counsel again, is "How can I do that faster, how can I do that cheaper?"

The IT solution to that is to provide a platform whereby that can be done in a very automated sense. The solution is not to offshore that in my view. I don't think you necessarily achieve quality by offshoring everything, because again you've still got the more-for-less challenge where lawyers have to check it when it comes back in. But, the technological advances that we're seeing now are so high, and are coming at such a rapid pace, that the accuracy is increasing beyond what a human being could do.

Mitch:

Well let me take that even one step further because I think if you look at this strategically if you're an in-house counsel, you're a GC, is you really need to put your work into certain buckets. So there is the work that is high risk and core of your business, and stuff that is high risk and not core of your business, and so on and so forth. So you get to the point where your in-house team is only doing the things that is high risk and core to your business right? This is

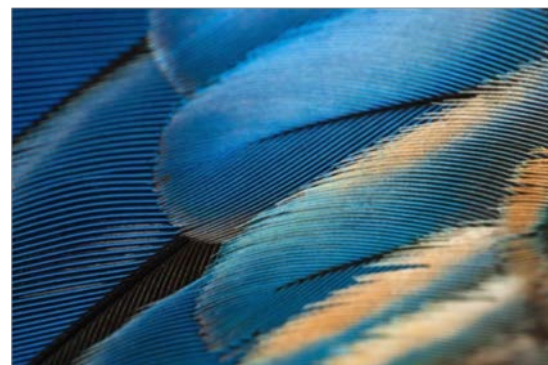
the essence of our being and this is what we do and everything else we find another solution to it.

The technology bit allows people who didn't go to law school to skill up and do higher value work, staying in the guard rails. You can even carve off some of that stuff to your business units and do it directly. So you never see certain contracts anymore because you built a system (or someone has sold you a system) that will allow the business team to just do that automatically so they never have to deal with legal again.

So you're right, it's an exciting time for in-house counsel to really start thinking about these issues in a much more strategic way, rather than in a knee-jerk way which is "just build my team".

Nathan:

And law firms can either choose to be seriously left behind or leap frog and move into the future world - which is what Brett is talking about by being a business that isn't just about a traditional bricks and mortar law firm, but rather being an overall business that offers many legal solutions.



Chapter Five: The Lawyer of the Future

Brett:

And that's where you need to look at the workforce of the future. So the millennials want the challenge - they don't want to be the lawyers that we were when we were training at law school, that we used to go through reams and reams of documents and do the very, very minor jobs that nobody likes to do. My view is that the lawyer of the future is going to be much more engaged. They are going to be doing the sort of work that they want to do not the stuff that really will be done by computer or technology in the future.

Mitch:

Yes, and when we say future I don't think we're looking too distant, we're looking 2025 ish, so 8 years from now or shorter, so it is an untethered approach where in order to be more engaged you have to be able to work outside the office, not be stuck in the office, not worry about face time, not worry about time sheets, not worry about all these sorts of things. So that feeds into what millennials like too. The flexibility/mobility option where I can work on my own schedule as long as the work gets done and that's okay where you're looking from inputs to outputs.

Brett:

Yes and I like it from a career perspective so if I'm running a business and it has different arms to it, an IT arm for example, a lawyer may not just want to be a lawyer anymore. I can offer them a career path in IT, I can offer a career path in claims and opposite the IT person might want a career path in law so I see this as a really good opportunity. I don't see this as being the death of lawyers and all doom and gloom, I see this as being an exciting time to be challenged and it's going to be good for the future.

Chapter Six: Responding to Risk

Nathan:

Well here's my big challenge for you – risk appetite. As I walk around and listen and talk to people it's really interesting to hear clients discuss their risk appetite. The challenge that I hear from more traditionally thinking law students or lawyers is “what about the quality?”. People go to a lawyer because they get quality. They don't just want an automated solution to a problem. But when you listen properly to general counsel, they have a risk appetite level in relation to certain levels of work. So one of the challenges that lawyers need to rise to, is to listen to their clients, to understand their risk appetite and respond with a service delivery that is going to suit that risk appetite.

Mitch:

Good enough is good enough.

Nathan:

Yes absolutely and no doubt you've seen globally some solutions to that problem, based on the risk appetite level.

Mitch:

Exactly and that's how in-house counsel thinks - it's all about risk allocation so law firms always are fixated with perfection, and clients are not willing to pay for perfection. They want something that is 'okay'. Let's not unturn every single stone, let's just deal with the stones that matter and everything else I'm okay with that.

Brett:

Well I think, at least in my experience, I was always advised as a young lawyer to write an advice so as protecting the firm's risk not protecting the client's risk and I think that's the change. That's the pivot in the marketplace at the moment, where the firms that are responding to this challenge are looking to the client's risk.

Nathan:

Well clients can't afford it anymore. Clients can't afford to have law firms apply a Rolls Royce model to every single issue that is referred to that law firm. Now that's not to say that quality is

not paramount. Quality must be paramount, but it's a given at any particular time the fact that a large corporate or any customer is going to a law firm means that they trust in that firm's ability. That's a given, but the distinguishing factor is the way that that high quality service is produced, and clients increasingly are happy to risk share. They are quite happy to come to a law firm and say "I have a certain budget, can we please have a conversation about how we allocate that budget based on my risk appetite", and I see the most successful law firms of the future supporting that way of thinking and working more closely with their clients to achieve that outcome.

Mitch:

Yes a much more collaborative approach. I think you're 100% right.

“one of the challenges that lawyers need to rise to, is to listen to their clients, to understand their risk appetite and respond with a service delivery that is going to suit that risk appetite.”

Chapter Seven: Re-imagining the court system

Nathan:

We've talked a lot previously about the nature of the Court system and that being a barrier. How do we replace it?

Mitch:

Yes, I think you're fond of the eBay model that a lot of people talk about - various online retailers who have solved this internally themselves. I think we're eventually going to get to the stage where somebody is going to create that model in whatever industry, and we are going to deal with claims in that manner. I never believed that people wanted to have their day in Court, people want their problems resolved, they want their disputes settled quickly and efficiently. They might not always be happy with the result but they want it done today, not three years from now or five years from now and with all the pain and angst and anxiety that that kind of process brings. There will be a day when we are going to see many more disputes going into some kind of online mechanism that will do it quickly and efficiently.

Brett:

Well it seems to be the Court system is ripe for disruption as well. You know this is a system that is not always supporting the people that go there and get help. I have had experiences myself where both parties have been ready to conciliate a matter and we've been told we can't conciliate because they think we're not ready. That's putting the Courts (like law firms have done), at the front of the process.

Nathan:

Yes and an environment where service providers are taking on the more-for-less challenge to help clients in their risk sharing in that sense. Both of us - clients and service providers - need to take on the court system in terms of asking it to participate in change, otherwise I fear that the court system in many respects will be left behind.

Mitch:

Well it is going to be left behind because there's so much inertia and so many barriers for them internally to do things that I'm not really confident. You will need a visionary in government to

“the cost of access to justice particularly in the commercial sense is obscene at times. You’re talking many, many multiples of what the amount in dispute is being paid in legal fees”

say “I’m willing to take on revamping the court system, come what may, come what happens to my career or anything, this is a job that needs to get done and we’re going to make it happen”. But that’s not a very popular viewpoint - it doesn’t get you a lot of votes in an election, people whine and complain about the court system but no one ever is going to get elected by saying “we’re going to revamp the court system”. It’s not a sexy enough issue and I think that’s what prevents government from really redesigning it and of course judges, they’ve been brought up in the system, to them this is completely normal and the system works great for them.

Again, this is the way it’s always been done. It’s the court, it’s justice and this is right and so I don’t have a lot of faith that they can actually change it themselves. Somebody has to force their hand and whether that is a government or whether that is someone saying “you know what, we’re going to take a chunk of work away from it into some other system”. Just like Bitcoin is different from currency, it’s like people just say “we’re just going to create Bitcoin and trade in that system”.

Nathan:

And for all the black letter lawyers listening to this or those on the judiciary or whatever it might be, this is not a separation of powers question, this is a service delivery question. I think the judiciary and that court system will be vastly improved, and when I listen to speeches from senior judges, I’m sure they will nodding their head when I say this, that the cost of access to justice particularly in the commercial sense is obscene at times. You’re talking many, many multiples of what the amount in dispute is being paid in legal fees and for so many of those judges that have grown up in the system, they frankly lived in a world where it was far more reasonable, and so I think it really has ramped up to a point that is overheating and

bubbling over - so I believe that the system is going to rise up in terms of the users of that system.

Brett:

It has to eventually in any case, I think, because the people who are sitting in courts at the moment have been traditionally legally trained. The people who will be sitting in courts in the future will have been trained differently, so this may be a long term view, but there will be the millennials coming up through and they will want to do things differently. They will have different training and career expectations. So we will still need judges until we can get a computer or such artificial intelligence that it can make a decision, but they will want to improve the access to justice, they will want to get those things cheaper, they will want to do it differently in my view.

Nathan:

Well, in the law firm of the future, the legal organisation of the future that responds to a client's need is going to have to answer that question. If that organisation can work hand in hand with the client to offer some alternative to the traditional court path they are going to be seen as far more competitive, and the general counsel of the future (you've written about a hypothetical one in your first book Mitch which I was a big fan of), will breathe a sigh of relief to think that finally we've got an involved service provider that's not just coming to us with the usual grab bag of items, but they are evolved enough to think about problems that I haven't even thought about myself. That's a big tick for me.

Chapter Eight: What does a future law firm look like?

Mitch:

I like when you say organisation instead of firm because that's where we're going. It's an organisation, structured differently with people of different skills and who are remunerated in a totally different way and have different KPIs. When we say law firm everybody thinks traditionally and when we start changing the terminology to entity or organisation I think that's really important.

Nathan:

We're part of a movement and that movement is to be constantly evolving and offering that better customer service to clients through listening to them and working closely with them.

Mitch:

And this is what the clients are doing anyway. This is the business model for every business, when we talk to clients they say "yes we have to start thinking this different way, we have to use design thinking to get to the next level because we've plateaued out and we need to change what we're doing". To them that's normal and so for them to see that coming out in law firms, that's what they want, that's what gets them excited. None of this is really rocket science, which is the amazing thing, none of it is rocket science. It's just simply common sense and applying common business principles to a piece of the economy that didn't really have to worry about that stuff.

Nathan:

Let me ask you some hypothetical advice – 28 year-old lawyer sitting in a firm, she's frustrated, she's looking ahead saying what's my career about? How does she feel, how does she prepare for that future?

Mitch:

Wow, well first of all look about leaving! But build her other skillsets, so she's going to have to understand more about technology, more about process, more about team work, more about empathy and emotional intelligence. That set of skills is really lacking in lawyers and law

schools, and so if she can build those things then she is going to have to go out and find either some new upstart, or build her own model, but those are the skills that she's going to have to embrace.

Nathan:
HR manager? What's your advice to that person?

Mitch:
Oh yes, find a different firm! You know if I had a penny for every single HR manager who has told me, in a traditional firm, "what are we going to do to, our associates don't want to be partners" I'd be a millionaire. So, from that point of view they have to convince their firms that we have to offer more. Many people have used this analogy, that rising from associate to partner in a traditional firm is like winning a pie eating contest where the prize is just more pie. And people are tired of pie, sick of pie, don't want pie anymore, I want cake I want beef, I want something completely different. Why can't you broaden my menu? And that's what as a HR manager you need to do - if you can move your firm in that direction and convince them. Otherwise you're going to have to find yourself a new place too.

Brett:
So we're looking at firms with a much flatter structure I'd assume, and perhaps firms that no longer go by the old titles of partner, senior associate, associate?

Mitch:
Yep those titles, I know for so long people have clung to them because there's prestige attached to them, but as an organisation I think you have to ditch that. You have to come with a brand new set of titles and if people are that fixated on titles, that they're that fixated on mahogany walls and a big flashy desk, then you probably don't want them in your organisation if you're a forward thinking organisation, because they are not coming along for the ride! They are coming here for the money and if that's the only thing holding them there, then eventually they are going to leave, so that's not the kind of glue you want building your firm.

Nathan:
And finally what's your advice to the 60 or 70 something year old man that's been at a firm from the beginning and has all these millennials coming up from behind him, making the challenge?

Is it simply “get out of the way they’re coming” or is it “embrace this and these are some of the things that you can do to help yourself to have a bit more fun in the twilight of your career”.

Mitch:

Use their energy, use their ideas, don’t stand in their way, let them bring you along because they’re going to refresh your career at a point where you’re probably just tired and counting the days anyways! And trying to figure out where you’re going to live afterwards, am I going to live in Perth or am I going to live in Sydney on my retirement. So failing to use that energy, failing to use their ideas, failing to allow them the autonomy that they crave to lift all the boats with the rising tide, I think is a huge mistake, it’s a missed opportunity.

The competitors of the future, the competitors right now, are the kid in his mum’s basement building chatbots to service clients that five years from now is going to be getting venture capital of \$20 million to completely take away a chunk of business or to leverage that into a different kind of firm. The competitors we have now are the flexible lawyers who are saying “I only want to work three days a week and that’s cool and I can offer the same level of product from a mobile standpoint and a more flexible standpoint and at a better price standpoint”. That stuff is already happening, and that is just going to continue to amplify so that’s your options.



Chapter Nine: Listening to clients

Mitch:

If you're a client walking in the door, I think the first thing you want to know is "Does this firm really understand what is important to me, or are they just going to give me an off the shelf, 'here you go this is the way we do things'?"

It's a firm that has a diversity of thought in their environment that's going to use a number of different people. If I am a client, I walk in the door and say "Okay, what team is going to look after me? What does the team structure look like? How are they going to work together? Are they interested in being efficient? Am I getting billed by the hour or not? What is the process that is involved with delivering me that service?" And I think more and more clients are saying "Okay, great, legal services is fine, how's it going to get to my door? And what are the KPIs around getting it to my door? And does that work for me or does that not work for me? So let's not talk about law cause I get it, I want to know how that's delivered to me."

Brett:

And how the law firm is satisfying that particular organisation or that person's KPIs. How do they get their bonus? How do they get home earlier to go and see their kids, how's the law firm delivering on them achieving that?

Mitch:

So did you even ask me those questions when we talked? No, okay so then you really don't know anything about me, you're not willing to know anything about me because you didn't ask the stuff that's really important to me, and I to go back to design thinking - that's design thinking in a nutshell - empathising with your client, getting into their skin, walking around in it, so they really get it. What's important to them beyond the legal services, fees, okay sure got that but what else? Why are you shifting in your chair? Well because the chair's too high, oh maybe I can fix your chair. Those kinds of things are really driving clients.

Nathan:

And that isn't just about lawyers being the solution - for many clients lawyers are the smallest

part of the solution that they need. They might still come to the law firm trying to find the solution, because they've got a long term commercial relationship. They are still thinking and hoping and praying that the investment they have made over many years (and many millions of dollars) is somehow going to pay off, and the law firm is going to come up with the right solution. But in my view, the solution is often not going to include lawyers at the front end. The client team might look like a dedicated IT solution person as part of the team. It might look like, for example, other professionals coming onboard in the form of accountants that the law firm is partnering with, but at all times, the lawyers are not at the centre of this discussion piece. It's the client that sits at the centre of the discussion piece, and their needs.

Mitch:

Exactly and it may be that you come up with a solution that prevents these bad things from happening to the client so you don't even use us!

I think it's really impressive when you go to clients and say "Actually if we just did this you wouldn't even have this problem", so yes, I just took myself out of a job, but I think the clients want that honesty to see that you're really interested in helping them solve their problem. You're not in it for what goes into your pocket at the end of the day, so if you can say (and this came up again some of the design thinking), was preventative law. If you can convince your clients and help your clients to prevent things from happening, they will love you even more than just seeing you on a daily basis and fixing problems.

Brett:

The analogy in our law firm is to be the fence at the top of the cliff rather than the ambulance at the bottom of the cliff.

Mitch:

Yup.

Nathan:

And you're going to be out of a job anyway. Here's the reality guys, the client might not tell you this as a law firm, but you're going to be out of a job anyway if you're not more efficient and you're not facing up to the more-for-less challenge. So let's sit down and be honest with people and perhaps design a programme whereby we put ourselves out of a job at the end of, say, a three year period, but there will be other jobs. There will be trust, and there will be efficiencies

that will be identified where I think the law firm will actually get a massive surprise by finding that there is still a place for us here.

Brett:

And I see the great race, whenever I look at my Twitter feed, towards large firms buying artificial intelligence. To me that's not answering the problem, that's just pushing again the law firm in front of the client and saying "We've got this smart computer here that can somehow do something differently for you". Now that might be one answer to the solution to the problem, but that is not the answer, because in my view it's not putting the customer at the front of the equation.



Chapter Ten: The importance of culture and fit

Brett:

Culture in an organisation is prime. If you don't have the right people within an organisation with the right culture then it's not going to work. So for example, at HBA it's very important to us to ensure that we employ people that have as part of their DNA the desire to challenge the status quo, that they want to continually evolve. We want people who are always thinking outside the box. We're not interested in employing people at HBA Legal where they want to think traditionally.

Nathan:

And what about where there's a mismatch between the client's culture and HBA's culture? Are you brave enough?

Brett:

Well it does happen from time to time and we like to think that we can work with clients to try and see whether that will work for both of us. So sometimes clients aren't aware of all the things that we can bring to help them, so they are not aware that we, for example, have a business called Pillion in Newcastle which can provide low cost and accurate process driven work, they are not aware that we have a claims business called Paratus that is the fence at the top of the cliff, to prevent any work getting to lawyers in the first place.

If we explain that to the clients and still they are not interested in what we are doing because they want to keep doing it the old way, or they want to do it a different way, that's it, we don't force it down their throats, we're not the right law firm for them.

Mitch:

I think what's really interesting is we're going into a time now, regarding culture and attitude,

away from where for so long legal entities have hired for skill, “I want the top students in the law school, I want the best lawyer in the world”, and he or she will just fit into the equation.

I think today you hire for attitude or culture and the skills will be learned and adapted to the skills you need. A lot of the skills will be buffered by a technological or workflow solution, so more and more, you are able to hire for that attitude or culture than just say “I don’t really like her but she does really good work”. I think those days are numbered.

Brett:

Well if you don’t hire the right people within the right culture and you’re offering a product which is supposed to be different, there’s a complete credibility issue.

Nathan:

Well you can’t then deliver on the promise importantly. And if we have a client at the beginning that doesn’t sign up to the culture, or the service delivery model that we want to achieve, and may still wish to do it a different way, we will not be able to achieve success for them because there’s a disconnect between what they want to achieve and what we can deliver. There’s no point in starting that process to end in failure.

Mitch:

You can’t run dual systems, right? You can’t say well for these clients we’ll do it this way and for this client, okay we’ll do it for you because we’re really hungry for your work. You have to be brave enough to say you know what that’s not who we are. I understand that the work may be really great, and sure we would love to have that extra revenue stream, but we’re not going to shoe horn you into our process because that’s not what we’re about.

Nathan:

But Mitch you just described one of the scariest prospects to one of the managing partners out there who has got 80 partners, because for those people who might be listening the challenge is they have got 80 different individuals who each have their own business product, each have their own business plan and ...

Mitch:

...You are going to have to be ruthless, if you want to be successful you will have to be ruthless, you will have to be really strategic and be willing to say “No sorry you’re not coming along for the ride it just doesn’t fit”.

Chapter Eleven: Re-thinking claims management

Nathan:

A massive frustration we had at HBA was the inefficiency within the process of managing claims that our clients were experiencing, and rather than sit back and allow the current status quo to remain, we decided to challenge it by creating Paratus.

The Paratus Pathway really is a designed method to deliver a claims solution to clients. It might involve legal, it might not involve legal but at every step of the way we're driving to make sure we reduce costs and we reduce duration. The secret sauce, if you like, around all that, is the collaboration between all of the service providers that we engage. A lot of the time when I go out and see new customers and talk to them about the Paratus Pathway, the Paratus journey, they're asking me "Nathan where's the catch? I've got a lawyer coming along and talking to me about saving me money, reducing the duration on claims and giving my team a better experience. We can go home earlier at night and look after our family. Where's the catch?" And I have to say "There is no catch. This is just about being better, faster and cheaper." And in many ways Mitch, it's embodying a lot of the things you've written in your books.

Mitch:

Yes, you've hit the nail on the head. It's client-centric. Client-centric approach, how does it make my clients' life easier and it's a little bit sad that clients think there's a catch to that, so good on you.

Nathan:

Well, there's plenty of challenges out there in the current marketplace, but a great thing about Paratus is it can be different things to different people. It's not meant to be the overall solution, just as fixed fees aren't the one solution, just as having an IT solution isn't always going to be

the one fix, but it certainly gives our team a massive advantage over many of our other competitors (both law firm and non-law firms) when we're out there pitching for business.

Mitch:

You know, you're creating that entire holistic approach. It is the future and I'm glad to see that you do it.



Chapter Twelve: Meeting the more-for-less challenge

Mitch:

Brett, obviously I've seen a lot of things happening around the world globally and so how would you summarise HBA Legal and what you guys are up to and what your vision is?

Brett:


At HBA Legal we're always trying to do things differently. Very early after we set the firm up (late 2011), we went to different marketplaces in Australia and around the world and found that clients wanted things to be done differently so that they were meeting the more-for-less challenge - cost was really important in their mind. And that got Nathan and I to thinking about how could we help with that within the markets that we operate in. And we operate in the insurance market, where there are high volumes of claims made by people. And we thought, what if we were able to establish a business which would take claims from when they first came about, to the very end, and at the same time save money for clients?

And in fact one of the people that works with us, Geoff Brookes, had been doing this for 19 years under a different incarnation. So Geoff had always been driven to try and find a solution for clients. But what Nathan and I did was to take it to the next level, and say "Let's build this up and invest into it". So we set up the company Paratus.

Paratus is a claims management company which is based in Melbourne but services all over Australia and internationally. It's run by our general manager, Sean Hayes, who has had a very long history in the insurance market. And what we have put in place is a very structured automated process around claims management so that we're only seeking legal advice when we need it. Okay? It only draws on legal advice when it's needed. And so we find the results that we've had is that we can reduce the amount of costs involved in the claim by ensuring that lawyers don't get involved unless they have to. Now that's a bit different for law firms. Most law firms would try and

PARATUS

maximise the fees that they're incurring on claims but we thought that was a really good solution to the problem.

 And what we found was that when we combined Paratus with HBA and with our low cost outsource provider Pillion in Newcastle, we started to find real cost savings right in the middle where the three entities meet. Costs we could pass on to the client. So instead of passing the savings on to us as owners of a law firm, we pass it on to the client instead.

Nathan:

And we do that. And we do pass on the saving. And I tell you what we're not - we're not everything to everyone. We're very deliberate in the clients that we are getting into business with, because it goes back to that central culture piece that we want to make sure that we're working as part of the orchestra together with clients, rather than being separate and trying to fit into their system simply to get their business.

Notes

Brett Ablong and Nathan Hepple are founding directors of legal services business HBA Legal, claims management business Paratus, and innovation outsource provider Pillion. These businesses comprise The HBA Group.

Click to find out more about Brett and Nathan, and please get in touch.

Mitch Kowalski is the inaugural Gowling WLG Visiting Professor in Legal Innovation at the University of Calgary Law School, the legal innovation columnist for Canada's National Post, and a consultant for in-house legal departments and law firms, and has also served as in-house counsel. He is a Fastcase 50 Global Legal Innovator and the author of *Avoiding Extinction: Reimagining Legal Services for the 21st Century*, and *The Great Legal Reformation: Notes from the Field*. Visit him at kowalski.ca.

Just give HBA a shout if you'd like to discuss a new approach to legal service.

(PS You can watch the video of this discussion at hbalegal.com)

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