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Legal Design Journey Map

What it is, how it arises and where we're going

By Karol Valencia

Contributors: Patrick J. McKenna, Nicole Clark, Richard G. Stock, Eliana Fonseca, Ari Kaplan, Maya Markovich, Holly Urban, Pim Betist, Loesje Klaasen-Frankfort, Aaron Crews, Cash Butler & Jeff Kruse, Ajuni Chawla, Pieter van der Hoeven, Sarah M. Tetlow, Fatima Alsebai, Yvonne Nath
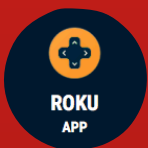
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How Effective Leaders Delegate

By Patrick J. McKenna, Thought Leader, bestselling Author and renowned Speaker

In discussions with new firm leaders before they formally take on the role, I ask them what they think that they will like doing the most, in other words where are they eager to spend their time. The most common response is: "determining strategic direction and implementation." After being in the job for some months when I come back and have them assess where they have been spending the largest portion of their time, they then confess how it is spent in "day-to-day administrative responsibilities" with absolutely no time for strategic issues. All too often, the urgent crowds out the important.

Whenever I've had the opportunity to follow up with new firm leaders and ask what surprised them the most during their first 100 days in the role and what changes they would make to be more effective if they had the chance to do it all over again, one of the more common responses I elicit is "needing to delegate more."

Delegation is one subject that every firm leader I speak with, has strong opinions about. Some feel that they do it well. Some will quietly admit that they don't even know where to start. Some have experienced a good example

of delegation. Some feel like every time someone has ever "delegated" to them, it felt like they had just been dumped on. Many believe it is something they should do more of to be effective; but there are some who resist it with a passion – almost as if they feel that their fingerprints should be found on everything.

In my work with leadership transitions, one of the problems that I will often see arise in the early months of the new leadership is a pattern of misunderstanding between the firm leader and some of the professionals on his or her senior team. The new firm leader will often find a myriad of issues awaiting their attention. In the give and take of early working relationships, some direct report will either seek to consult with the firm leader when they should have simply handled the issue on their own, or they proceeded without consultation when in the eyes of the new leader, they would have wanted input.

What then transpires is if they sought the leaders input when it was really not required, it is rarely brought to their attention. In this case the professional can easily misinterpret the firm leader's responsiveness to mean that she wants involvement on that sort of issue. If, on the other hand, this professional failed to consult when they should have, they will usually elicit corrective feedback. This results in a risk-averse 'if in doubt, check it out' behavioral response pattern. Since the failure to consult is corrected while the seeking unnecessary input is not and may even be (unconsciously) encouraged, the overall result is for more and more issues to reach the firm leader. The leader consequently be-

comes overloaded, diverted from their more important strategic tasks and feels swamped in trivia.

The most powerful antidote to this pattern is to meet with each of your direct reports and ask of them:

"*Do you ever see me working on tasks that someone who is serving as the firm leader should not need to do? In other words, are there areas where you believe I can delegate some of my responsibilities, help other people grow, and give myself more time to focus on the important strategic and long-term issues facing our firm?*"

One of the key questions that need to be asked of firm leaders is – "whose work are you doing?"

When, as a firm leader, you invest your time in performing administrative or other less strategic functions that should be done by others, you are overextending yourself in a way that consumes your limited energies. Sometimes you might not be aware of how much of your time is being taken up by routine tasks. Another thing you can do is keep a diary to make this 'routine creep' more visible.

Watch for the warning signs. If you find yourself hoarding work, and consequently working long hours as a result, that may be a classic sign of under-delegating.

How To Delegate Effectively
Delegating is a skill that needs to be learnt and some leaders can find it difficult.

However, learning to delegate is a key competency for being a good firm leader. Here are some basic guidelines to help you delegate more effectively:

1. Determine what you will delegate.

You decide which task you want to delegate. Keep in mind that delegating is different from simply assigning someone a task that is already a part of their normal job requirements. When you delegate, you give someone else one of your job tasks; but you maintain control and responsibility.

The nature of the task that you are delegating may fall into a number of different categories. For example:

- You may assign someone a task that you want completed in a very specific way. These are tasks that require time and effort but not a great deal of thought.
- You may give someone a topic to research for you. You want this individual to gather the facts, consider various approaches, get back to you to discuss their findings and make recommendations on how to proceed. These tasks can be more of a lengthier assignment in that they may require multiple steps and decision points.
- You may make someone a 'project leader' and give them full responsibility and accountability to make decisions, figure out the best course of action and get it done. Your provide direction, clarify the end goal and remain available as a resource. But they "own" the project.

2. Determine to whom you will delegate each task

A new firm leader rarely starts with a clean slate. Usually most of your team, especially your C-level professionals, are already in place. So to select that individual on your team who is the right fit, you need to know each team member's temperament, strengths, and interests so that you can best determine who might excel at the task and benefit from doing it. You can either delegate tasks based on the particular individual's strengths, or you can give your team members a list of tasks and ask who would be interested in the assignment.

I find that the best leaders engage in regular conversations with their C-level professionals about the kind of opportunities each would like to receive. The individual you identify must have the capability to do the work, or it is important for them to be able to learn how to do it. Your discussions can help you determine which professional would be good for this and not the best for that.

It may sound trite but you need to remember that your delegation requires two individuals and a relationship to exist between those individuals. Unless that relationship is based on trust, delegation cannot work. So in selecting the right team member you need to ask yourself: "How confident will I be in delegating authority to this person?" Confidence in the delegatee is a big issue in delegating – if you don't believe the individual is truly able to do the job you need them to do, you may have bigger problems than a reluctance to delegate. Conversely, good delegation is vital to the leadership development of those you delegate to in your firm.

In order for the person to feel empowered and

motivated, they should be given full responsibility and accountability for the task. Only by having ownership of the task will this individual know that you are trusting them to do a good job and thereby have the inspiration and determination to succeed.

3. Clarify your expectations and the results you want.

Delegation does not mean passing off or ignoring key aspects of your firm's operations, and especially if they are composed of areas outside of your expertise. Mastering the art of "managing the inscrutable" is a sine qua non for anyone who takes on the role of being firm leader. You can't simply leave all matters having to do with technology to your Chief of IT. It is only by investing the time to fully understand the business can you delegate with any confidence.

The trick is to delegate what you do understand, not what you don't.

Delegating is also not simply handing over a task and leaving someone to it, and then expecting them to do it exactly as you would. In general, the individual to whom you delegate uses his or her own methods to accomplish the task. If you expect use of a specific method to accomplish results, relate that to the person at the beginning. You need to determine the results you consider necessary for successful completion of the task.

As you begin, keep in mind that YOU will be the most common reason that your delegation fails. A typical problem occurs when, while you are delegating, you become concerned about not coming across as condescending when explaining the task, so you mistakenly assume the other person knows what you want and that giving too much guidance would be offensive. But, be assured that problems will occur when you hand over any task without clear direction about the standards you expect, the quality, or the timeline for completion. Ideally, it is a good idea to convey this information in the way the person likes to receive it. For example, does this individual absorb information best by verbal or written instructions?

You are going to think that your communication is clear but it may not be. For example, time means different things to different people. If you want the delegated work completed within a certain period, make that clear. If you say, "When you get time, would you please work on this," your project may remain untouched for weeks. Also, if you want portions of the work completed by certain dates, make that clear.

After you have given your colleague the information about the delegated task, ask him or her to tell you their understanding of both the task and your goals. If this individual's answers do not match your expectations, you need to review the matter in detail again.

Delegating effectively also means taking time to explain how this particular task may fit into a bigger picture, perhaps with regard to your or the firm's business strategy. You should not assume that you colleague will already know this.

You need to understand that if delegation doesn't work, it is because you have NOT done it right.

Did you choose the right person? Did you explain the task and expectations clearly? Did you set clear guidelines and deadlines? Did you schedule review sessions? Did you create an environment of trust that allowed this individual to ask you for clarification and guidance ahead of time?

4. Communicate this individual's authority over the delegated task.
Whether you prefer the term leadership or management, it is still about accountability. Though you cannot delegate your personal accountability, you can make others accountable for their results . . . but only if you are willing to give them your authority – and live with their results.

You need to carefully define the scope and degree of authority given to this individual for completing the delegated task. You need to explain which decisions he or she may make independently, which require consultation with you and which require your sole approval. Be specific. If you tell someone, "Do whatever it takes," you may end up with an unpleasant surprise.

Alternatively, a too-limited authority may frustrate the individual from accomplishing the task. Provide the authority necessary to accomplish the task but not so much authority that he or she can create a major disaster before anyone discovers the problem. Also, you need to make clear the budget available and any budgetary limitations.

Again, have this individual play back to you his or her understanding of their authority regarding this task. You obviously need to re-

solve any misunderstandings at the very beginning of the undertaking.

5. Establish a process for follow-up.
Successful delegation requires a balance of saying "no" to the urges of micromanaging, yet never walking away completely – even though the ultimate responsibility lies with you.

You need to set aside a period of time (perhaps each week) when you will be available to answer questions; but remember to let them know that you are still available if there's anything urgent. Identify checkpoints from the outset to help you avoid the temptation of constantly looking over shoulders. It is essential to set up these checkpoints to monitor progress and ensure the work is going according to expectations. Monitoring the progress avoids a discovery two days before the due date that the task is not on schedule. It also can serve as an indication of whether your colleague needs assistance.

Some individuals may hesitate to ask questions or request assistance. They fear that that will be interpreted as a sign of weakness or inadequacy for the job. Follow-up meetings give them the opportunity to ask questions within the context of a meeting designed for that purpose. The frequency of follow-up meetings will vary from project to project. Also, you may need to schedule more frequent meetings when delegating to someone new to your management team versus when delegating to an experienced and proven professional.

To help coordinate your delegated tasks, you should probably have an assistant monitor deadline dates, key deliverables and create

metrics that help everyone know if things are on track. You can then incorporate follow-ups on major initiatives into your regular management team staff meetings.

6. Recognize the contribution.

Once some project is complete and work is submitted, it is all too easy to immediately move onto the next super-urgent task; only giving an obligatory nod to the work that was done. The danger with this, however, is that you're sending the message that the work is not important and let's face it, no one wants to think their work isn't valued! Take the time to provide acknowledgment when it is due.

The quality of results is likely to vary greatly across different tasks and according to the different people doing them but in all cases it is important to always jointly learn from the experience for next time and to offer thanks for the efforts, as well as recognition for a job done well, when it is due.

When It's A Bad Idea To Delegate

There are some things that new leaders tell me they believe they should not delegate. For example, the firm leader has a special responsibility for the future so assigning to someone else the responsibility of thinking about the firm's strategic direction could put your future at risk. And because your colleagues view your competence often based on the work of your senior team, you should not delegate their selection. Others may help you screen various candidates, but in the end, the final selection must be yours to make.

Beyond these, one of the main areas that I observe leaders getting into trouble with delegating is in the execution or implementation of their strategic initiatives. Whether it is a matter of developing the firm's strategic plan, initiating industry teams, launching a new office, or getting the firm's practice groups operating more effectively, the firm leader cannot delegate all aspects of the implementation to others. If it is truly one of your top strategic priorities your partners expect to see you constantly sticking your nose in, asking the tough questions and tracking the progress of your initiative – otherwise you probably are not going to get any results.

Time and time again when any firm leader takes active interest in and announces some new initiative, that announcement is an endorsement for change and a signal of the leader's priorities. When that same leader is then seen to delegate the initiative and no longer be devoting any further time or attention to the matter, your partners take that as an explicit sign that the stated initiative is no longer a high priority. Even worse, those firm leaders who do this repeatedly are soon seen as either unfocused or gullible victims of the latest management fad.

That all said, successful leaders delegate. The best surround themselves with people on their internal management teams that are smarter than they are and give them room to run with huge responsibilities. The best leaders, says famed ex-GE CEO Jack Welch, *should always err on the side of delegation; and the bigger the enterprise, the more delegation you need to do.* And management sage, Peter Drucker said it as far back as the early 50's: "the ability to delegate lies at the heart of leadership."

What are your next steps? When are you

getting too involved? Give your direct reports permission to call you out when you haven't delegated something you should. And, when do you need to get more involved? Ask the people who are working with you. Their answers may save your time and increase your leadership effectiveness.

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About the Author
Patrick is an internationally recognized author, lecturer, strategist and seasoned advisor to the leaders of premier law firms; having had the honor of working with at least one of the largest firms in over a dozen different countries.

He is the author/co-author of 11 books most notably his international business best seller, First Among Equals (co-authored with David Maister), currently in its sixth printing and translated into nine languages. His two newest e-books, The Art of Leadership Succession and Strategy Innovation: Getting to The Future First (Legal Business World Publishing)) were released in 2019.

He proudly serves as a non-executive director (NED) or advisory board member with a variety of professional service firms and incorporated companies. His aim is to instigate innovation, provide independent strategic insight drawn from his years of experience, and support effective governance.

His three decades of experience led to his being the subject of a Harvard Law School Case Study entitled: "Innovations in Legal Consulting" and he is the recipient of an honorary fel-

lowship from Leaders Excellence of Harvard Square.

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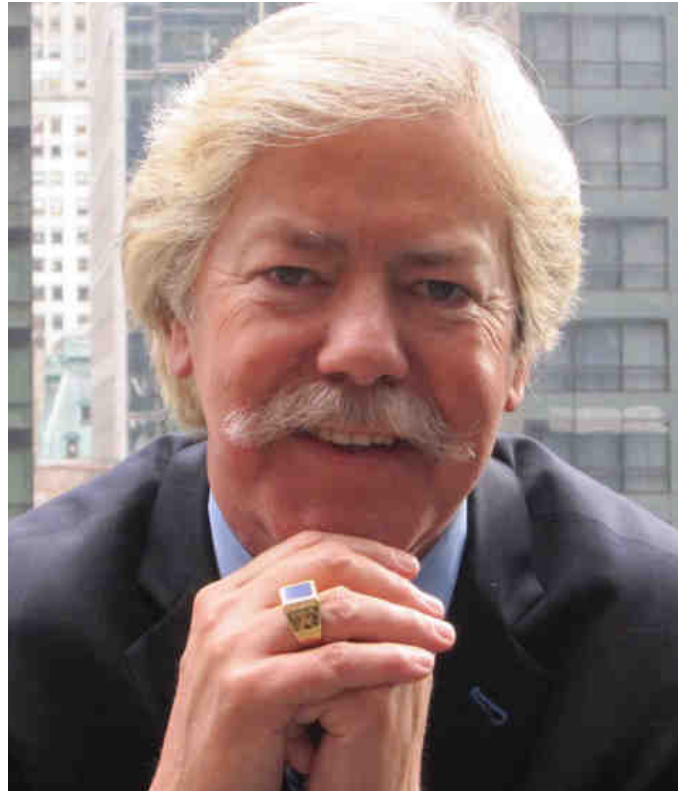
Legal Design Journey Map

What it is, how it arises and where we're going

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

Legal Design, probably is - after sexy Legal Tech and the super quoted New Law - one of the hashtags and terms currently used by lawyers, especially by those lawyers who have focused their interest in legal innovation and this article is aimed at giving a brushstroke of the concept of Legal Design from my perspective and personal experience, as well as sharing some insights about the birth of this discipline that represents the intersection between law, technology and design, but most importantly we will try to visualize the next steps of this discipline.

What is Legal Design?

The first time I heard the legal term design I related it - first and for the first instance and almost automatically - to art and not with technology, that came later... The point is that after having read multiple articles, having attended numerous MeetUps, countless talks with people from the Legal tech community and Legal Design around the world I was able to come to the following conclusion: "Legal design is much more than an academic discipline or discipline that interacts with others or the mere intersection between technology, design and right, it is a MINDSET yes as they read it, a different, authentic and fresh way of thinking that allows to recycle what does not serve and reuse it more efficiently, reinvent the obsolete, improve many processes that needed change or a new perspective. In short, the Legal design is a way of rethinking – and also acting – many things that we identify as challenges of the legal sector and problems of access to justice so that we can not only transform it, but redesign it, being able to release and let go of what is no longer applicable, thanking for the good times- as in a relationship, of the kind that was- and creating and / or designing in the present future with real access to justice, an understandable right- and understandable by all its users- but above all an adequate provision of legal services legitimately useful, usable and improveable.

How does it come about?

I personally believe that design as such has been since time immemorial and examples are diverse such as the discovery of fire to the design of the wheel or the design and creation of the internet as we know it today that emerged in 1983 approximately.

I have the particular theory that almost everything is already created and/or designed and that therefore there are less things that can really be created 100% from scratch and that are not really an improved or redesigned version of another previous one, in fact I believe more in redesign – it's still a theory in beta-changing state—in any way the main ingredients in the design process for me are the curiosity and the ability to identify user needs and problems to find solutions or improve processes that allow to solve those problems.

I regret to disappoint some people but there really is no precise date to indicate the birth of the Legal Design itself and if you know it I invite you to place it in the comments, I promise to take a look at it, what I can indicate are some milestones and again some ideas of my own regarding the emergence of this mindset

In a sense it is worth noting the following:

2013: The Legal Design Lab is founded [1] by Stanford Law School and D.School (design school) by Margaret Hagan

2014-2015: Many stakeholders from the legal sector, technology and design appear in the subject with brilliant ideas regarding the use and use of Legal Design for the development of products and services in the legal sector, the Legal Design network is created around the world.

2016: The Legal Design Summit [2] was founded and organized by Finnish firms Hellon (service design) and Dottir Attorneys (legal services) in collaboration with other firms and universities and initiatives such as Stanford's

Legal Design Lab. The last edition was held in 2019 in Helsinki. In all editions participated people who had been applying this long ago, without having to have "a label" or "coining a name" to the subject of "thinking different and out of the box" for the "right to understand" as my friends: Astrid Kohlmeier, Jose Fernando Torres Varela, Stefania Passera, Santiago Pardo, among others, but also many others that despite not having participated as speakers or having not attended these events were developing great things such as Robert de Rooy, Anna Posthumus, María Jesús Gonzáles Espejo, Lieke Bieleen, Lina Krawietz, Tessa Manuello, among others; finally other non-existent events that through their work in the design team of services proper, they have developed very interesting products and services such as Angelica Arrows , we're less, but here we go.

But there is an important detail that we should not forget and it is the fact that this discipline, mindset or whatever the legal design represents and is for you owes its name to design thinking and that yes that has a clearer start date and is the year of 1978 along with the birth of IDEO, [3] who textually on its page comment the following:

"... IDEO is often credited with the invention of the term "design thinking" and its practice. In fact, design thinking has deep roots in a global conversation that has been unfolding for decades. At IDEO, we have been practicing human-centered design since our inception in 1978, and we took the phrase "design think-ing" to describe the elements of practice that we find most apprehensible and teachable: empathy, optimism, iteration, creative confi-dence, experimentation and a embrace of am-biguity and failure. We knew from experience that our customers value these skills as much as they value the designs, we create for them (...) We want to teach people to use design thinking in their lives, communities, business-es and organizations..."

What follows is a paraphrase about other ideas that IDEO and mine comment on design thinking: "... As a mentality and methodology, design thinking is relatively young..." and we have no doubt [4] about that.

"... Today, design thinking has become a common language in many industries and dis-ciplines. The approach is fresh and effective, and newcomers can easily learn and produc-tive interactively with it..."..."That I still have less [5] doubt but, a lot of care because "... it's also easy to get stuck in the basic movements of design thinking..." such as mere visualiza-tion, or designing content and information, however; "... there are still no opportunities for more complete integration. As the concept has spread, it has not always retained a consis-tent meaning, nor a uniform depth..." and I fear that I identify a certain profit and lack of purpose in some agents who intend to apply design thinking for the mere development of services products or platforms that are not necessarily useful and sustainable in time, los-ing sight of the true for which of this method-ology.

"... The term "design thinking" can be used as a currency without a real commitment to un-derstand and apply the practice. At IDEO, we believe that applying design thinking with in-tegrity means continuing to deepen and refine,

to be students and practitioners for life at the same time..." and that last sentence [6] if it touches my heart because I firmly believe that regardless of the sector you are or in which you work we are sponges that adapt and able to absorb knowledge constantly, as a friend and mentor named Luis Felix says, we must be in a constant beta state.

What I also like about this IDEO history section is that they mention some additional milestones that perhaps few know but are relevant and necessary to remember:

"... Before the advent of design thinking, there were numerous approaches, practitioners, writers, and books that paved the way.

Don Koberg's 1971 The The Universal Traveler: A Soft-Systems Guide to Creativity, Problem-Solving, and the Process of Reaching Goals [7]
George Nelson's seminal 1977 book How to See: A Guide to Reading Our Man-Made Environment; [8]
Robert McKim's 1972 book, Experiences in Visual Thinking…" [9]

Where are we going?
Any idea about it, well this is interesting before I think I had it much clearer, but honestly in the current 100% VUCA(Volatility, Uncertainty, Complexity and Ambiguity)that reigns globally-even before COVID-19- I can only refer to Socrates that I only know that nothing is, and that what little I think I know I try to improve it, transform it, design it or redesign it and put it at the service of others and I think it's a good suggestion for everyone; either way I promised to rehearse some predictions and

here they go, and sure there are somewhat similar and some additional ones that Denis Potemkin told us at the "Future of contracting" event. [10]

Well without further a preamble here are mine:

1. Regulatory design. - If we are able to visualize contracts and manuals, I think it is time to apply the design to regulation and not necessarily use Sketch, Canva or whatever they use, but apply design thinking – and others – to improve regulatory design processes and have great standards in the short term, where they also participate by co-creating citizens who are ultimately the true consumers of the rules in each country or region.

2. MORE UX writting in contracts.- Much is said about the design of digital and non-digital contracts and services, visualization of them, the UX/UI, as should be seen or looked but precisely the design as mentioned above, pretend to improve the identification of problems to solve them and the understanding between people, much has to see the "message design" because only through a good design of the message, the parties will be better able to truly understand what they can or cannot do, what jurisdiction to go to or not, among others, that make interactions between users more dynamic, efficient and effective.

3. 100% digital contracts, which are actually integrated. - Integrated in the sense that these sections of identification, signature, and subsequent contingencies can solve them online also in the best case and above all to be able to continue the cycle in a normal way

despite the adversities or circumstances that may arise. This involves integrating contracts with technologies or technological solutions such as: Digital Onboarding, Blockchain, electronic signatures, Cloud, among others that I am perhaps developing at work like other friends and by "professional secret and loyalty" I cannot reveal.

4. *Audio contracts for voice devices or voice interfaces.* - I consider that perhaps this is the most ambitious feat and a while ago with some developer friends and designers I read a lot about it and I have commented on this idea with some colleagues and the first thing I heard was not possible or not of someone doing it today, but I think that only made me even more anxious and curious about it. A while ago I participated in a VUI community where I started with basic things of redesigning voice interface skills, but I have always believed that because of my passion for music and my passion for accessibility is that I believe that even if we do not see it viable today by a series of parameters, standards, regulation on data security, among others; audio contracts are part of the desirable future that I would like to implement in law, I need help with that experiment, they can leave me their comments and we can talk and prototype more about it together and exchange information about what has been being done or not about it.

5. *A holistic design* perspective.- This might go first, but I left it at the end because it deserves even a complete article (which soon comes) but I mention the following, we have spent a lot of time thinking that the law was the mere application of the sources of law that

many of them were written in a past that is not even similar to the current picture- perhaps in some things- but not in all and many of those rules and codes, just as jurisprudence in the Anglo-Saxon countries were done on the basis of observation, experimentation – some others on the basis of arbitrary taxation – but some design had, and if we go much further back to the beginnings of Greek law , where everything was born we will see that the law was not only a box of rules or resolutions that were applied for no greater reason, but were the result of the intersection of different perspectives, sciences and disciplines such as human behavior, biology, economics, theatre, oratory that nurtured law and made it the most important vehicle for achieving the long-awaited end of justice, a justice that was not reduced to mere paperwork, a mere process or a mere role and that formed lawyers who interacted with colleagues from other professions and had interesting talks and debates to improve their community.

Today we have the opportunity to do the same, to reconnect with that origin-to improve it- and as IDEO friends say to be able to really integrate design thinking into our practice that should be more receptive to improvements, seek to reinvent yourself, let go of what no longer works, give thanks for past times, communicate with other agents of change from other sectors and industries and take the best of their practices and processes to create a better right that positively impacts on end consumers who are the users of the same, but above all that highlights those lawyers focused on people who design, redesign or create right for people, I conclude by saying: "I have a short-term goal of seeing more people working together to create a better right for people."

Notes

[1] http://www.legaltechdesign.com/about/#team

[2] http://www.legaldesignsummit.com/home

[3] https://designthinking.ideo.com/history

[4] Same

[5] Same

[6] Same

[7] https://www.brainpickings.org/2011/11/11/the-universal-traveler-koberg-bagnall/

[8] https://www.amazon.com/How-See-Reading-Man-Made-Environment/dp/0974491802

[9] https://www.goodreads.com/book/show/365661.Experiences_in_Visual_Thinking

[10] https://www.futureofcontracting.com/

About the Author

Karol Valencia has been working as a Legal Project Leader and Legal Services Designer at the European RegTech eID for 1 year and as a Business Innovation Strategist and Legal Services Designer for the American legal tech Lawcus. She develops private consulting and focuses on projects and services with a holistic perspective through her brand Karol Valencia (worldwide and in remote mode). She is Community Manager at Eye Z Legal (India) and an active member of the Institute for Internet & The Just Society. Karole also works on the #Barpocalypse project for the redesign of legal education in the USA and is the ambassador in LATAM of ILSA (Innovative Law Studies Association). As a polyglot, she works on the translation of various technical documents, articles, books, papers and more when requested or translated simultaneously as an interpreter at events. She is a lawyer from Universidad Católica San Pablo, with post-graduate studies at PUCP, and has a law degree from UEM in Madrid, Spain. She has a background in digital transformation, innovation, programming and design in "En Estado Beta", "Iron Hack" and "Interaction Design Foundation"; in a self-taught way, she participates in communities such as Legal Hackers Lima, PsychoLAWgy and others, in addition to different volunteer work. Karole is a former teacher at the UPN, facilitator and international speaker of Legal Design & Legal Tech, and an activist in mental health issues. Currently she collaborates with columns and blogs such as: The Crypto Legal, her account at Medium, Idealex.press and Impact Lawyers. She believes in redesigning the legal system to achieve better access to justice for all. You can contact her at karol@karolvalencia.com

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From Gut Instincts to Hard Data:

Growing Your Law Firm with Legal Analytics

By Nicole Clark, CEO and co-founder of Trellis Research

"Three hours later, they'll be getting full pitches," explains Christian Mammen, a partner at Hogan Lovells in San Francisco. Mammen is referring to a practice many commercial litigators use to acquire new business opportunities. With the help of platforms like PACER and Trellis, litigators register for alerts that notify them whenever a new case has been filed against a company in their field of expertise.

As soon as an alert rings, a deluge of calls floods into the in-house legal team of the affected company within minutes. These calls contain pitches, snippets of advice on venue and strategy as well as commitments to defend the company. These pitches are backed by hard-data, serving as a reminder that legal analytics helps litigators win clients *and* cases.

Corporate Legal Departments

"In no field is resistance to evidence-based thinking more ferocious than in the United States legal practice," exclaims James Greiner, Director of the Access to Justice Lab at Harvard Law School. Greiner is referring to a legal landscape wherein 'gut instinct' is a valued asset, driving the decision-making practices from the beginning of a case to its conclusion.

Yet, in today's legal world, 'intuition' and 'experience' are no longer the watchwords of the legal profession. According to the Coalition of Technology Resources for Lawyers Survey, most corporate legal departments rely on legal analytics to help them evaluate and select law firms.

They do this with the help of products like LegalVIEW Predictive Insights, a software developed by ELM Solutions. The program deploys predictive analytics and artificial intelligence to rank outside law firms. By comparing billing rates and performance histories, corporate legal departments can approach prospective law firms with information about the average budget for a particular type of matter as well as statistics showing how well a firm meets its budgets and how long it takes to resolve cases.

Courting a Client with Numbers

What does it mean to say that your law firm is *the best* law firm? How can you convince a potential client that you have the experience, the expertise, and the skills needed to successfully handle their legal matters in a cost-effective manner?

Law firms across the country are beginning to use hard-data to court new clients by quantifying their relevant experience. They decorate their pitch decks with charts and graphs from Lex Machina, easy-to-grasp visualizations that demonstrate how they compare with their competitors. In fact, a recent survey by Lexis-ALM revealed that 100 percent of its respondents found legal analytics to be the most valuable tool they had available to demonstrate their competitive advantage to prospective clients.

How often do you settle right away? How often do you go to trial unnecessarily? Law firms can now provide new clients with quantitative answers to these questions, answers that can be made comparable to their competitors.

Keeping Your Clients Around

There is a general rule of thumb: twenty percent of your clients will produce eighty percent of your revenue. And so, while it is important to think about how legal analytics can help you grow your practice, it is equally important to consider how these tools can help you retain the clients you already have.

Descriptive analytics has helped attorneys identify emerging legal trends, keeping them abreast of the latest judicial rulings and analyses on pivotal topics.

Consider Trellis Research, an AI-powered multi-state trial court legal research and analytics platform. A simple search can uncover dockets, documents, and rulings on emerging topics, such as the unprecedented litigation surrounding COVID-19. With this information, litigators can stay proactive. They can anticipate problems that have not yet arisen, keeping their clients in the loop about unfolding legal matters and the plans they have developed to protect their client's particular interests.

Minimizing the Hurdles
The benefits of legal analytics for legal research and case development are already well-known. Law firms are now entering a new phase, one in which they are experimenting with innovative ways to apply the insights gathered from legal analytics platforms. One such application is business development. This is an aspect of the law that often sits outside the realm of expertise for most litigators, which many cite as a seemingly insurmountable hurdle to their success. Business devel-

opment, however, does not need to be a hurdle anymore. With legal analytics technologies, the same information gathered through everyday legal research can also be used to win new clients and retain old ones.

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About the Author
Nicole Clark is CEO and co-founder of Trellis Research Furthermore she is a business litigation and labor and employment attorney

Trellis is an AI-powered legal research and analytics platform that gives state court litigators a competitive advantage by making trial court rulings searchable, and providing insights into the patterns and tendencies of your opposing counsel, and your state court judges.

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Adaptable and Resilient Law Departments Add Value

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

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

In October, I had the opportunity to interview six Chief Legal Officers about the current state of their law departments and about the outlook for the next six months. Approximately 70% of non-government law departments in Canada have 5 or fewer lawyers. So, I chose from this cross-section while tapping into six different industries - pipelines, office and business supplies, publishing, food, architectural/engineering design, and a currency foreign exchange company.

My usual categories of inquiry covered workflows and workloads, the relationship of the law department with business units, law department resources, performance, and the relative use of external counsel.

Rob Van Walleghem is Vice-President and General Counsel with Calgary's Trans Mountain, the company now twinning the pipeline from Edmonton to the Pacific coast. Not without controversy, the project should be completed by the end of 2022. The relationships between the law department and the business units are strong. As a member of the company's executive team, as well as its Corporate Secretary, Rob has been going into the office since July. The remainder of the workforce has been at 30 % capacity (Phase 1) and is now moving to Phase 2 – always subject to developments in public health.

Workflows are constant and the legal team has managed well. But Rob remarked that there is a lack of distinction between the office and home when working remotely. It is a challenge to ensure that the amount of work done at home is not excessive. While there has been no need to refer overflow work to external counsel, there is

no reduction in the assignment of the usual matters to firms. Finally, there have been no metrics applied specifically to the law department this year. Instead, health and safety for members of the law department has been a primary focus.

Shari Hosaki is Vice-President, General Counsel and Corporate Secretary with Toronto-based Harper Collins-Harlequin Canada, a publishing house owned by NewsCorp. Her team of lawyers and contract administrators supports transactions for the editorial groups, oversees copyrights and trademarks, and manages libel cases when they arise - Mary Trump's book with another publisher being a case in point.

Shari explained how the COVID-19 environment greatly accelerated the use of technology in the law department, in dealing with both business units and authors and entirely replacing paper and couriers. Legal will continue working from home until the end of October. Like the Trans Mountain team, the law department needs to be more disciplined about managing its work volumes and its practice habits to better ensure everyone's well-being. Reliance on external counsel continues to be selective and specialized.

Harper Collins-Harlequin's publishing business is also changing because of the pandemic. Of note, there are more audio books, e-books, and direct on-line sales. Privacy and data security have also made a call on the company's legal resources.

Joel Levesque is McDonalds Canada's Vice-President and General Counsel. The legal team is collegial and focuses on real estate,

franchising, commercial contracts, advertising, relationships with suppliers, and the full range of human resource issues affecting its almost 10 000 employees in Canada. Joel explained that being part of a global company allows McDonalds Canada to learn from its other markets during the pandemic and customize its 2020 business plan for Canada. It then seemed practical to move to a recovery mode after three months. Business planning for 2021 is now well underway.

Webex and other communication technologies have been used extensively. IT and digital technologies are playing a greater role. It is expected that there will be more work for the law department in the new business model, all the while respecting the principles of safety for employees and clients. External counsel will see more work in certain categories, such as leased sites.

The IBI Group is a Toronto-based global architectural, engineering, planning, design and technology firm focused on the cities of tomorrow. Steven Kresak is General Counsel and Corporate Secretary. There has been an increase in the legal work to support contract negotiations and it is anticipated that the new level of work will continue for the foreseeable future.

Steve explained that the initiatives making up its 2020 business plan were paused from April to July, when business as usual resumed. Relationships with business units around the world have been very positive. The IBI Group plans on being more selective in assigning claims-related work to external counsel. Like many other companies, the pandemic has

created a host of employment law issues. Alice Abbott is Global General Counsel with Associated Foreign Exchange (AFEX), a Toronto-based provider of global payment and risk management solutions for currency drafts, wire transfers and risk management tools – for its corporate clients. Fleetcor is listed on the S&P 500 and recently announced its acquisition of AFEX, a transaction that should close in early 2021.

Alice has one member of her legal team based in Sydney, Australia while the rest are in Toronto. There has been no change in the regular workflow or workloads for the law department but Alice's personal focus has been on the closing the deal with Fleetcor. Managing expectations with business units has been especially demanding, with workdays regularly exceeding 12 hours. Part of this is explained by the need to support clients on five continents and 24 time zones.

As General Counsel of Staples Canada, Terrie-Lynne Devonish's law department has been active 7 days a week. With 10,000 employees across the country, activity since March has extended from how best to open up safely to managing supply chains, special projects, and the development of new business.

Terrie explained that access to remote technologies was already in place across the company, allowing the legal team to easily work from home.

It even made a secondment based in Edmonton for the Toronto-headquartered law department entirely practical. There has not been much change in the amount and type of

use of external counsel.

The six GCs and their legal teams have been resilient and adaptable with an increased focus on getting business done in an unprecedented work environment. It is easier to appreciate the value of each law department, regardless of its size and industry sector.

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About the Author
Richard G. Stock, M.A., FCIS, 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.
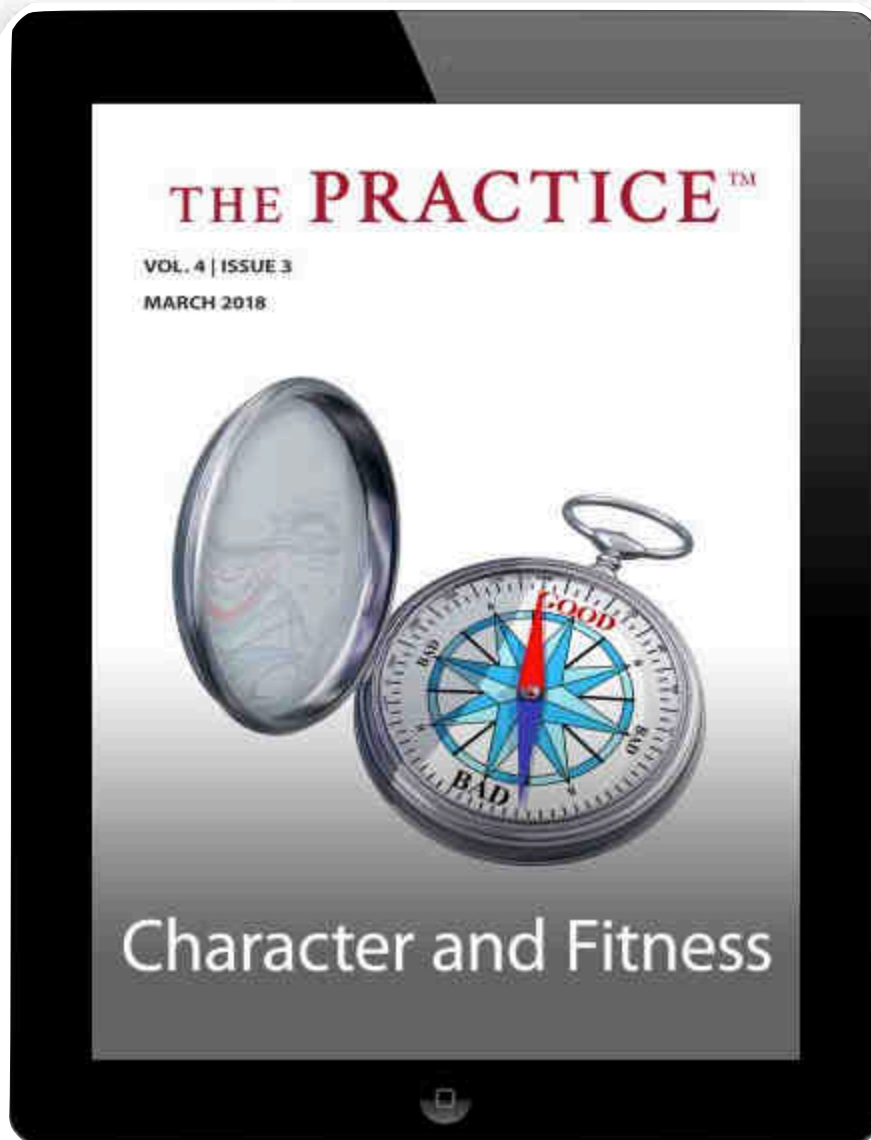
Accountability and Transparency in Automated Decision-making

By Eliana Fonseca, Legal Counsel Associate

Automation has become one of the buzzwords of 2020, gaining more attention that previous years due to the COVID-19 pandemic as a solution to enable business continuity. The implementation of new artificial intelligence and machine learning technologies is skyrocketing the evolution of automation and in particular allowing and increasing its use in decision making processes.

Recent years have seen rapid growth in the use of automated decision-making systems in many areas, such as social media marketing, recruitment, healthcare, and the justice system. The debates involving the benefits versus pitfalls of such systems are invading the legal arena.

Automated decision-making is a decision or output given by a machine with minimal human intervention. This can be done using algorithms. Human intervention is a key in the definition of this phenomenon as even when a machine takes a decision or provides a result and there is no human review of it at the end of the process, the human touch is still there, including the upfront design when the system or the algorithm is created.

An algorithm, which is a word derived from the name of the mathematician Muhammad Ibn Musa Al-Khhwarizmi (Latinised as Algoritmi), is in simple terms a set of instructions to transform input data into a desired output.

To create an algorithm, a developer will first collect a dataset, known as the "training set", which is the analysed and matched to a defined outcome or goal that the algorithm is intended to achieve. The data will be examined to identify specific patterns that are present in the training set that lead to the desired output.

The mechanism consists of feeding the machine with the data contained in the training set, so it can learn from it. Take the example of a recruitment process where an organisation wants to hire what they consider are "suitable employees". The algorithm will be set in a way that when a resume contains the name of a particular business school or university or other and sometimes more personal attributes like nationality or interests outside work (noting the need to address the legitimacy of such parameters), the resume is flagged and positioned into a priority shortlist for later review. Resumes that do not contain the predetermined attributes could be disregarded to avoid

further processing.

The last phase of the development of an algorithm is the testing and validation where the algorithm will be presented with a new set of data to check if it can detect the same patterns and generate the desired results.

When designing an algorithm, the developers do have some level of discretion on deciding what training set data to use, what objectives to set, what patterns are valid, and how to respond to certain outcomes like false positives where an error incorrectly shows as a positive result.

This helps to understand that algorithms are not such mystical creatures or autonomous objects that can be blamed for poor decisions as they are effectively responding to human designed algorithms with predetermined concepts and values. Basically, the algorithm will autonomously execute a decision in the way and with the criteria it was taught to do.

In examining the misconception that algorithms are objective, the results should be at best consistent to its decision design. In fact, all data processed by the same algorithm will coherently prompt the same result or decisions based on the same criteria. Data containing the same pattern will not be treated differently when processed by the same algorithm.

If however the view of being objective means that decisions taken by algorithms are impartial or unbiased, then this argument may require a deeper analysis. The bias and discrimination can often be hidden within the training set, on the objectives set or the links between

the patterns that prompt the output, as well as the output itself.

The American docudrama "The Social Dilemma" raises interesting points regarding algorithms. In one of its passages, Dr Cathy O'Neil, Data Scientist, defines algorithms as *"opinions embedded in code"* and says that algorithms are *"not objective"*. She further notes, *"Algorithms are optimized to some definition of success. So, if you can imagine, if a commercial enterprise builds an algorithm to their definition of success, it's a commercial interest, it's usually profit"*.

Take the example of Amazon. In 2018, Amazon abandoned an AI-developed recruitment tool when it realised that the tool was not rating candidates in a gender-neutral way, as it was reportedly favouring male candidates. Such an outcome was because this AI tool had been fed and trained with resumes submitted to the company over the previous ten-year period. Most of the resumes were submitted by male candidates and therefore, the system was taught based on data that was balanced in a male candidate's favour. Such patterns then influenced its subsequent decisions. It was said that the system was not given genders as key terms associated with the vetting process, however since most of the data was related to men, some gender-based patterns were conclusive for the decision-making process. Underestimating the influence of the human intervention on automated decision-making processes may lead to rejecting the use of technology and software over recognising the issues are within the algorithm itself and the specific values or patters they use that should really be challenged and scrutinised.

When an algorithmic decision is found to be biased, discriminating or prompts a wrong result or infringes a human right the key issue to address may be to identify who is held accountable for it, whether that be the designer, the executor or the person who interpreted that decision and acted on it.

Accountability may be difficult to assess as the developer may argue that they did not know how the algorithm will be used in its workplace application. The person implementing the algorithmic tools may, in turn, not fully understand how the algorithmic tools operate, what situations it was designed to be used in and the extent of its application and limitations. Without an understanding of its source code, the user may be utilising the algorithm for situations it is not adequately equipped to handle.

To manage this, accountability has to be considered in the algorithm development process, supported by any relevant implementation procedures, cautions and policies to ascertain who has the necessary degree of control, the appropriateness of its use in defined application areas or the authority to be held accountable for errors.

Another key concept is transparency that is critical when relying on the use of algorithms for decision-making. It is not enough to give a person the right to scrutinise an individual or organisation for action taken based on an algorithmic suggested decision, although it can be argued that leaders do need to self-assess all advisory inputs they receive. For that right to be effective, a potential claim must have a clear fundament, and that can exist when the

claimant can challenge the validity, accuracy, and legality of such a decision. This is achieved by giving transparency to how the algorithms work.

This extends beyond the transparency to the structure or code of the algorithm, to the appropriateness of the training set that considers elements such as the potential for biases hidden in the data, which may not be easily detectable from a review of the code.

In the famous case Loomis v. Wisconsin, the State of Wisconsin was challenged for using a decision support tool, called the "Correctional Offender Management Profiling for Alternative Sanctions" (COMPAS) in the sentencing of Eric Loomis to six years in prison. Apart from claiming that COMPAS was gender and race biased, it was alleged that using such software in sentencing violated the defendant's right to due process because it prevented the defendant from challenging the scientific validity and accuracy of such a test as the access to the algorithm was impossible because it was protected as a trade secret as executable code.

The need for transparency is contested by an entity's arguments of protecting trade secrets. Intellectual property rights or private protocols are assets to a business and may be arguably remedied by having algorithms reviewed by independent auditors. This would also have to consider how code updates are managed. Conversely, making algorithms more open to the public, could be easily manipulated and gamed for ill purpose.

While debates are still open and laws are starting to address critical points regarding the use of artificial intelligence, it is a must for companies using automated decision-making systems to develop policies for responsible development, implementation, use, and review of such systems.

This may include considerations of the legitimate purposes for using algorithms, the appropriateness and limitations of their use in complex situations, the depth and breadth of the datasets used that guides their applicability, the biases and other ethical issues around privacy and appropriate information use.

As security concerns to information management systems arise, such systems also have to consider the protection and security of the data used by the algorithm, any authentication certification required, the protection of the code, the need for updating the algorithm to remedy any issues found and the authorised users of these systems.

Independent on the system issues, such decision-making technology should still be considered an input to what may require a human intervention for the ultimate decision on complex, high risk or legally challenging matters.

About the author:
Eliana Fonseca is a qualified lawyer, admitted to the Argentinian Bar Association with an international career focused on Middle East countries, and currently working and living in Dubai, United Arab Emirates (UAE).

She works in the Luxury Industry as an Associate Legal Counsel of one of the leading

retailers of luxury watches and jewelry in the UAE.

Eliana is a certified Legal Project Practitioner (LPP) and recognized by the International Institute of Legal Project Management (IILPM) as the Accredited Training Provider (ATP) in the UAE.
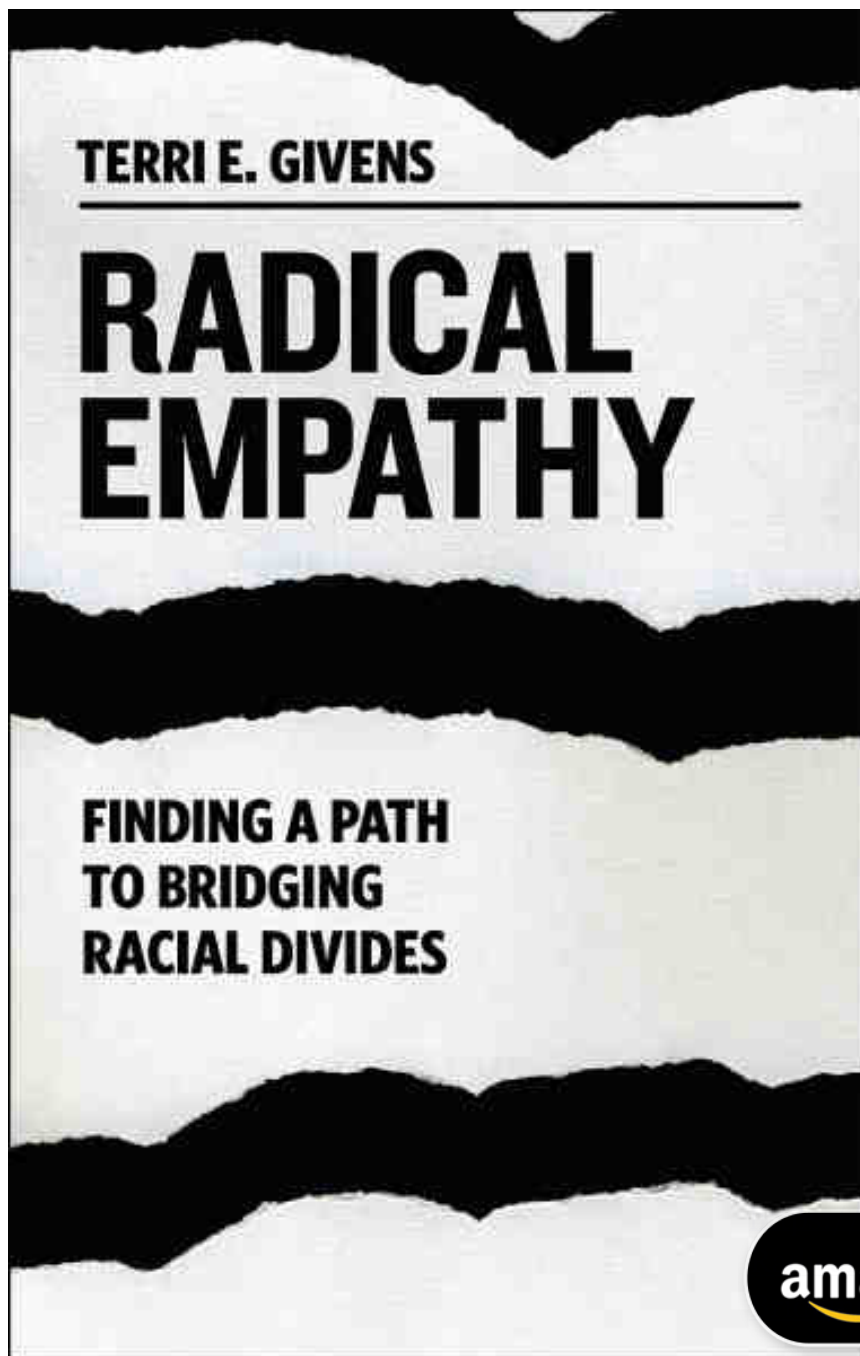
Incorporating the Entrepreneurial Mindset into Legal

By Ari Kaplan, Principal, Ari Kaplan Advisors

Ari Kaplan speaks with Maya Markovich, the chief growth officer at Nextlaw Labs and one of ILTA's five Influential Women of Legal Tech for 2020.

Ari Kaplan

Tell us about your background and your role at Nextlaw Labs.

Maya Markovich

My career path has not been linear, but it has been instrumental in my current role. I started out with an academic background in behavioral science and organizational psychology, focusing on how groups influence each other and adapt to new patterns. That really led me to change management, consulting, and technology. I went to law school to continue developing my skills in an arena where I felt I could have a broader social impact and practiced for several years just as legal tech was beginning to gain traction. While deploying and maximizing technology to streamline very labor intensive processes with an ever-increasing volume of data and a high risk of human error, I became intrigued by how technology could improve results for clients and let lawyers spend more time on strategic tasks. Eventually, I made the leap into product management and product marketing roles for businesses targeting various aspects of the business or practice of law. Then, Nextlaw Labs found me and I immediately recognized the opportunity to bring together all of these threads of my experience in a groundbreaking effort. My title is chief growth officer, but that covers a broad spectrum of activity. There is really no way to generalize and no two days are the same, but on any given day, I could be vetting startups for potential partnership, supporting startups, both within and outside of our portfolio, brainstorming new solutions with Dentons attorneys, consulting with Dentons clients on their legal workflow challenges, and just trying to stay on top of the rapidly expanding and evolving legal tech landscape to help global practice leaders execute their practice innovation strategies.

Ari Kaplan

Why was Nextlaw Labs founded five years ago?

Maya Markovich

The legal profession was undergoing disruption driven by globalization, technology, generational shifts, and client expectations. Nextlaw Labs was founded in 2015 to shape and drive this disruption and embrace the opportunity to be a force for transformation in a profession that has traditionally been resistant to change.

Ari Kaplan

How has the mission of Nextlaw Labs and its work evolved since 2015?

Maya Markovich

The initial Nextlaw mission was to reinvent the business and practice of law through technology and it has since grown into different operating units, which include Nextlaw Ventures, the investment arm, Nextlaw Referral Networks, a network of small to mid-sized law firms and public relations firms, and Nextlaw In-House Solutions, which is a consulting advisory focused on supporting in-house counsel in the business of legal departments. When we first launched Nextlaw Labs, we envisioned going to market three ways:
(1) developing proprietary tools for Dentons;
(2) co-developing solutions with Dentons clients; and,
(3) providing funding and expertise to legal tech startups with compelling solutions.

We hit the ground running and spent significant time identifying some of the critical pain points that Denton's attorneys and their clients were experiencing. We delivered solutions on all three fronts, but it did not take long for us to realize that our impact could be much greater if we focused on just the last one. We were getting outreach from so many areas within Dentons that we began to focus more on working with early stage products, both within and outside the Nextlaw Ventures portfolio. We invested in the startups that addressed some of the challenges we had collectively identified and continue to partner with early stage legal tech companies that solve an identified pain point with Dentons clients or within the firm in some compelling way. We also spend a lot of time supporting client-focused innovation efforts within the firm.

Ari Kaplan
What skills do you think future lawyers will need to succeed and how can they obtain them?

Maya Markovich
There is a growing understanding that change is imperative, which I think is helping to build momentum and an appreciation for what motivates them. That is useful to gain buy-in on new processes and to drive diverse stakeholders toward a common goal. It benefits them individually and helps them collectively to thrive in the legal industry of the future. Ultimately, lawyers need some basic, foundational literacy, such as an understanding of what you can do with data, budgeting, design thinking, and project management. They also need to develop competency in creativity, flexibility, collaboration, and emo-

tional intelligence. All of these items are learnable. They are not personality traits; rather, they are skills. Law schools are slowly starting to get the memo on this, but it is largely still left to students and attorneys to skill up in these areas on their own by seeking them out, reading about them, and networking with those who are teaching these elements.

Ari Kaplan
How does the entrepreneurial mindset align with how lawyers typically approach problem solving?

Maya Markovich
The entrepreneurial mindset is really another way of describing the growth mindset, as opposed to a fixed mindset. Someone with a growth mindset expects to learn from every experience and accept failure as a part of how they learn. They listen to feedback from users and are willing to bounce back from failure to try again. This can be really different from common lawyer traits, such as risk aversion and deferring to precedent, but the landscape is changing so fast and the legal market is buckling under its own inefficiencies. It is not designed to handle the current challenges. Legal consumption is changing and when critical challenges cannot be solved by existing means, you need to develop new approaches, which is a hallmark of the growth mindset. It drives innovation and can accelerate change by shaking up the status quo because we seldom get it right the first time.

Ari Kaplan
How has the pandemic affected innovation in legal and who takes part in that effort?

Maya Markovich

The biggest threat right now really is going back to the traditional practice of law after the pandemic has forced the industry forward. The difference between the firms that are focusing on emerging from this period better than they were before and those treating it as a temporary shift is starting to become really clear. Some firms and legal departments are shelving or abandoning innovation and transformation projects while others are leaning into them with a focus on the mid- and long-term future. The law is never going to be the same. While clients are always going to need us, it will be more as trusted counselors who can think creatively and offer a deep knowledge of their business. Innovation requires experimentation and there is now an opening for lawyers to do more of it with new tools and processes. Many also have the psychological safety and the freedom to try and fail without judgment.

About the Author

Ari Kaplan 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.ReinventingProfessionals.com.

Listen to his conversation with Maya Markovich here: https://www.reinventingprofessionals.com/incorporating-the-entrepreneurial-mindset-into-legal

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Data Driven Solutions For Law Firms to Improve Profitability

By Holly Urban, CEO of EffortlessLegal

Uniformed Task-Based Management System (UTBMS) billing codes have been used for over 20 years to help both law firms and clients track the cost of legal tasks and expenses. By using UTBMS codes, billing data becomes much more standardized and capable of reliable analysis.

This heightened level of accuracy and uniformity allows billing data to be used to improve collection and realization rates, thereby increasing revenues and profits.

Moreover, when applied to previous and current billing and collections data, [machine learning and artificial intelligence (AI)](#) can improve performance and help prevent unnecessary non-billable work. More accurate budget and staffing projections can be produced from the marriage of billing data and its underlying work product. This allows both law firms and legal departments to optimize their planning to [maximize the allocation](#) of their resources.

This article will serve as an overview of how properly UTBMS-coded billing data can help law firms and legal departments improve their profits.

Standardization of Legal Billing Data
It is difficult to make heads or tails of vaguely described services, recorded by multiple time-keepers on the same day. It's equally difficult to parse through overly long task descriptions that included multiple different activities in the same block of text.

Recognizing the need for a solution, the American Bar Association, the Association of Corporate Counsel, and PricewaterhouseCoopers came together to develop and distribute a unified task-based billing standard for practice management. This standard was named the [Unified Task-Based Management System (UTBMS)](#).

The UTBMS assigns specific codes and categories to specific legal tasks and expenses. This gives both clients and the firm itself a clear view of what specifically was done, what resources were used, and for how long. It is this specificity that aids in analysis, alerting

the firm and the client to areas that may need attention.

With the new way of categorizing legal billing entries came a new way of formatting invoices to allow easy transfers of billing data. To address the issue of varying invoice formats, the [LEDES Oversight Committee (LOC)](#) created "open standard formats for the electronic exchange of billing and other information between corporations and law firms." The invoice formats created by the LEDES Oversight Committee were named LEDES formats.

LEDES formats help receiving systems present billing information in a more coherent and standardized format, making them considerably easier to review – a win for firms looking to receive payment faster.

Thus, UTBMS codes provide a standardized classification for legal services and expenses. The LEDES format is used to produce UTBMS-coded invoices in a uniform format. By incorporating both of these tools into the billing process, firms and clients can more easily make sense of vital cost and performance data.

"Moneyball" for Lawyers
A [recent article](#) in a state bar journal poses the question, "When it comes to optimizing your practice, do you trust your gut? Don't. If you aren't using data to measure what works and what doesn't, you can't be sure you're winning the game. The good news: your practice generates the data you need to gauge success and adjust as needed."

In fact, billing data can be used to tweak work

going forward for optimal results – much the way similar information was used in the movie "Moneyball."

UTBMS/LEDES coding is designed to highlight metrics for law firms to use to measure their internal profitability and productivity, as well as provide an easily reviewable breakdown of completed tasks and expenses, thereby promoting transparency for the firm and clients alike.

Using this data, law firms can immediately see if a specific task is taking more time than would be considered reasonable. Not only does this allow the firm to course-correct the issue in real-time, but it also makes it a point of focus that may require additional attention moving forward.

The International In-house Counsel Journal makes the case that, "a process that provides for actionable information from that data is central to being able to manage a legal department strategically and with greater efficiency. This is why the Uniform Task-Based Management System (UTBMS) code set is critical when looking at process improvements."

Similarly, a recent Legal Talk Network podcast discussed the usefulness of the implementation of data-driven practices at law firms, noting that "using data to determine the best strategy in front of a judge, to size up your opposition, to understand how long it's going to take to do your budgeting, all that is part of winning cases."

The need for improved efficiency is a never-ending pursuit. Making important decisions based on inaccurate information can be disas-

trous in most situations, but especially so for law firms. Conversely, the application of uniformly expressed and accurate data can be pivotal in making better-informed decisions.

Using UTBMS/LEDES standards provide a leap forward in that regard – so much so that the adoption of the standards has been increasing by leaps and bounds in recent years.

However, UTBMS codes are very often not uniformly applied, and are in desperate need of standardization in their precise use. Inaccurate selections of codes, frequent use of catch-all codes, and inconsistent associations of tasks and codes taint the viability of data produced. This level of inaccuracy is unacceptable for data analysis purposes.

Course of Action

According to a recent legal billing and predictive coding report released by Deloitte, "current technology advances are providing opportunities to better measure, manage and optimize legal spend, even while leveraging conventional management tools... These advancements are expected to enhance management activities for both corporate law departments and law firms, and potentially allow the promise of activity-based management for legal activities to become better realized."

Applications like OnIt, Thompson Reuters' Legal Tracker (Serengeti), LexisNexis' CounselLink, and Wolters Kluwer's TyMetrix 360° all allow clients to receive bills from outside counsel and allow firms to track invoices and payments.

For law firms looking to take advantage of the

benefits of UTBMS coding and LEDES formatted invoices, applications like Clio, RocketMatter, PracticePanther, ActionStep, and Timeslips all offer this functionality.

However, most of these applications necessitate the manual selection of UTBMS codes for their corresponding tasks or expenses using pull-down menus. This still allows for inevitable human errors and idiosyncrasies, which in turn damage the very standardization that makes billing data so valuable.

However, the use of UTBMS codes can be improved with the help of computers. Albeit in a different context, a recent Case Crunch lawyer challenge highlights the value of using computers to analyze and organize disparate data sets.

The challenge consisted of 100 commercial lawyers taking on the Case Crunch computer program. All of the competitors were given the facts of hundreds of the same type of lawsuit. The goal of the experiment was to see whether a computer program or real lawyers would more accurately predict if the claims would be allowed. Of the 775 predictions, the real lawyers achieved 66.3% accuracy. The computer's accuracy rate was 86.6%, making it the decisive winner.

The combination of internal litigation records and the billing data of related cases allows law firms to cross-reference information and see what is and isn't working. This makes standardized and uniform billing practices a process with benefits exceeding just the billing department.

Optimize Billing Management
Ensuring proper billing is not just the purview

of in-house legal departments. It is also an ethical responsibility that must be maintained by outside counsel submitting invoices for payment. As such, it is time-consuming for both law firms and clients to properly manage invoicing and payment.

Between the already un-billable time of billing itself, and the additional time consumed with invoice review every month, law firms and clients that don't implement an accurate and organized system to help them manage their billing needs will continue to lose out.

Standardized Billing
A recent American Bar Association article recommends that in-house legal departments should follow a checklist when tackling outside counsel billing:

- Hiring the right outside counsel
- Set outside counsel guidelines
- Implement legal project management
- Insource and outsource legal work
- Analyze matter outcome
- Terminate underperforming outside counsel

Similarly, a recent report from the Association of Corporate Counsel advances the idea that law departments can better work towards their goal of maintaining reasonable billing practices by incorporating standardization to outside counsel management and billing. Trying to use competing systems will likely only lead to compliance issues, different coding approaches, varying ideas of what constitutes reasonable service charges, and just general, needless confusion for both clients and their outside counsel.

Fortunately, it is easier than ever to optimize the management of invoicing and payment.

The "Latest Trends and Best Practices in Managing Outside Counsel" report issued by Thomson Reuters describes how automation can cut down on billing disputes by highlighting the exact point of contention. Additionally, the report reinforces the fact that automate legal billing makes the process of reviewing invoices much faster and easier. The faster the invoice is reviewed, the faster payment can be made.

Billing applications that are bolstered by automation and machine learning often emphasize their ability to automatically standardize time and expense entries. Law firms making use of these applications are showing significant increases in efficiency. Moreover, legal departments are using these tools to find more data-centric solutions to existing efficiency and productivity issues.

Not only does automation make the billing process easier for law firms, but it also provides in-house counsel with the ability to quickly compare billing data between two firms. This side by side comparison makes it easier to spot discrepancies that may have otherwise gone unnoticed.

Efficiency and transparency are essential to improving working relationships between law firms and outside counsel. Artificial intelligence and machine learning produce efficiency and transparency that manual billing simply cannot match.

Increase Law Firm Profitability
If a law firm can produce accurate bills that

comply with all obligations in a faster manner, logic suggests they would be able to receive payment at a commensurate rate. This would mean, theoretically, that faster billing equates to better cash flow and greater profits.

The law practice and advisory podcast The Un-Billable Hour suggests finding out how many days it takes to produce a bill compared to how long it takes to get paid for that bill and optimizing the process as much as possible.

However, the intricacy of legal billing is a large part of what makes cash flow for law firms slower than other industries. This is why online billing applications that offer automated solutions are so beneficial. They speed up the very aspect of the process that is uniquely troublesome for law firms.

Evaluate Billing Data
The Un-Billable Hour goes on to explain the fact that a large portion of a law firm's lost time comes from things like "disorganization, slow response to clients, late billing invoices and not tracking time," with lawyers pressed to get bills out each month, these stumbling blocks are particularly unwelcome.

The idea of simply raising billing rates to increase revenue has been shown to be largely ineffective. According to a recent Georgetown Law survey, "clients continued to push back on rate increases, keeping pressure on the realization rates that firms were able to achieve."

Raising prices is not the solution. It doesn't matter how high you raise hourly rates if clients won't pay them. If the hourly rate goes up, but the number of hours billed goes down

it doesn't improve profitability.

Nevertheless, according to Major, Lindsey & Africa's 2018 Industry Outlook report, law firms are missing opportunities to analyze "productivity and growth, spot emerging business trends and build new pricing models," in ways that could increase profitability.

Fortunately, improvements brought about by data-driven solutions more efficiently improve profitability while also cutting down on legal spend. Data-driven solutions are designed to increase profits and productivity by improving the way firms make money – i.e., improving realization and collection rates.

The real-time insights provided by such applications help law firms make smarter decisions and cut down on redundancy and waste. These applications allow law firms to increase their bottom line without increasing hourly rates.

Identify Loss of Billable Time
When it comes to collection rates, on average, "law firms are collecting only 83.5 cents for every $1.00 of standard time they record" according to the Georgetown Law survey. The survey further states that multi-year collection rates remain on the decline despite the fact that the economy has improved since the 2008 financial upheaval.

Similarly, Clio's 2019 Legal Trends Report notes that smaller law firms collect on even fewer billable hours per day, with many firms losing over 6 hours every day.

Although some of these losses can be attributed to clients failing to pay their bills, a notable portion of the losses comes from the necessity to complete time-consuming non-billable tasks like billing entry and review.

Data-driven solutions can help pinpoint the source of a firm's losses and help them come up with a plan to better allocate resources to optimize efficiency and thereby improve profits moving forward.

Conclusion
The use of UTBMS codes and LEDES formatting can provide a firm or legal department with an introspective look not only into billing practices but time management in all aspects of legal work.

The best way to fix a problem is to identify it. These standards make that considerably easier. The transparency these standards provide has the added effect of simplifying billing review for clients, because the standardization cuts down on the rate of billing disputes.

Furthermore, when coupled with artificial intelligence (AI) and machine learning, their implementation becomes even easier and more efficient. New AI and machine learning technologies will push the legal profession forward in more efficient and productive ways, increasing profitability without the headache of constantly raising hourly rates.

The predictive nature of data-driven solutions helps both law firms and clients focus their attention on issues that have proven to affect previous outcomes, and cut down on wasted effort and resources in matters yet to come.

About the Author

Holly Urbanis the CEO and co-founder of [EffortlessLegal](#), an award-winning innovator in software automation solutions for law firms and legal departments.

EffortlessLegal's applications work with a law firm's or legal department's existing systems to add various cost-effective automation features. Rather than requiring complicated data transfers and the adoption of a completely new system, EffortlessLegal allows customers to get set up in as little as 5 minutes.

The company collaborates with various law firms and corporate legal departments to design, develop and improve its applications. This means only truly useful solutions are offered.

For more information, please visit EffortlessLegal's website at: https://effortlesslegal.com

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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*

20 20 STATE OF LEGAL INNOVATION
IN THE ASIA-PACIFIC

Making the transition to document automation

Law Firm Asselbergs & Klinkhamer did it in 3 simple steps. Here's how.

By Pim Betist, Ceo docbldr

The Case

Asselbergs & Klinkhamer's Personal Injury department regularly looks after the interests of victims. To act on behalf of a victim, an authorization is virtually always required. Since each situation requires a specific authorization, the department deals with many versions of the document. The law firm posed the question: how do we guarantee the quality, uniformity and consistency of all these documents?

Photo: Loesje Klaasen-Frankfort, Asselbergs & Klinkhamer

Loesje Klaasen-Frankfort, Business Development & Operations manager with Asselbergs & Klinkhamer, shares her experience with document automation specialist docbldr.

1. Analysis
We started by distinguishing text we found in all authorizations from text that is used in specific situations. This analysis enabled us to determine what conditional texts are needed in what situation. We formulated questions for users to answer and thereby automatically generate the correct version of the authorization.

2. API
Where possible we enabled automatic input of data in the authorizations by linking with Epona's Contact Manager through an API. [Docbldr can link with any CRM tool with an API - Ed.]

3. Lay out
Docbldr's software ultimately ensures that all documents appear in the same format, both in PDF and Word. The latter permits users to make small adjustments after automatically generating the document.

The right authorization for each situation
The team of personal injury specialists now make the authorizations by answering questions in their own online environment. They generate the authorization they need in just a matter of minutes. This saves a lot of time. Time that can be spent on other things. On top of that, this way of automating documents ensures that all authorizations are guaranteed to have the quality and uniformity that Asselbergs & Klinkhamer stands for.

Would you like to get started with document automation? Send an email to demo@docbldr.com with a document of your choice. The docbldr team will turn it into a module for you to try free of charge for 3 months.

Click here to calculate your potential savings

Calculate the savings for your law firm

How many employees do you have and how many docucuments do they make during an average week?

Number of employees
The total number of employees including support

8 employees

Number of documents per week per employee
Letters, agreements, advices, etc

5 docs per week

Your firm saves

€93.600 on an annual basis*
or €7.800.- on a monthly basis

*Based on
✓ Internal hourly rate of €30,-
✓ 2 hours per document not using docbldr
✓ Time savings of 75% per document

Next eMag: How Brandl & Talos made municipal financing requests faster and easier for UniCredit Bank Austria.

The Value Series

A ClariLegal interview with Aaron Crews, Chief Data Analytics Officer at Littler Mendelson, P.C.

By Cash Butler, founder of ClariLegal and Jeff Kruse, President of Kruse Consulting and Dispute Resolution LLC

On November 9, 2020, Cash Butler and I had the honor of talking with Aaron Crews, the first Chief Data Analytics Officer for the international law firm Littler. As someone who views math as a hobby, data is central to Aaron's perspectives on the delivering value through legal services.

Humble Journey
Aaron describes his journey from studying technology and early coding at Rensselaer Polytechnic Institute to leading the Data Analytics team at as one of "luck and happenstance," and he humbly credits numerous mentors for his success. Initially a litigator, he began focusing on e-discovery issues in 2004. Eventually, be became one of Littler's e-Discovery Counsel. In his position as e-Discovery Counsel at Littler, he learned a lot about systems and architecture, and that knowledge helps him in his current role.

Aaron credits Paul Weiner, the head of National e-Discovery at Littler, for his career development. After a few years as e-Discovery Counsel at Littler, one of his biggest clients, Walmart, hired him to be its Senior Associate General Counsel and Head of e-Discovery. In that role, he helped Walmart build its internal e-discovery capabilities.

After a stint as General Counsel and Vice President of Strategy for Text IQ, Aaron returned to Littler in a new position as Chief Data Anayltics Officer. In this new role, he leads a team of over two dozen attorneys, statisticians, economists, data analysts, data scientists, coders, and actuaries. His team focuses on "using big data and artificial intelligence to help provide legal advice to clients." In short, Aaron embodies the intersection between legal, technology, and business.

Legal Issues are Really Business Problems
In Aaron's opinion, for attorneys to deliver value, they must first understand that "lawsuits and legal issues are really business problems that require lawyers." Aaron praises Michael Bennett, the Senior Vice President, General Counsel --- Litigation at Walmart, for teaching that "legal and litigation are crucial aspects of the business."

Unfortunately, Aaron sees that "a lot of lawyers lose the thread that legal issues are business problems, and they try to get to risk free even though risk free is not possible in most situations." To avoid losing that thread, "lawyers need to understand the business and understand the wants and needs of their clients."

Value
Aaron's experience in-house at Walmart shapes how he views the provision of legal services today. His goal is to provide the kinds of solutions that he wanted when he was in-house but had difficulty finding. To Aaron, "value is identifying as quickly, sufficiently, and efficiently as possible what the facts and circumstances are of the business problem and then to identify what legal restrictions exist and then identify the options" for the client. The key to ascertaining the full range of risks and options, lawyers must understand their client's objectives. By understanding the client's business and objectives, legal service providers can determine "the most efficient way to deliver the needed legal advice or service."

Data to Deliver Value
For Aaron, data is vital to the delivery of value to clients. Increasingly, clients and prospective clients are asking to leverage data to deal with "legal issues." Frequently, potential clients ask whether data can be used to help with issues. Aaron firmly believes the answer is "yes, if you have the right data."

But to work successfully with data, "the fundamental thing you need is a really good question." You need "to drill down to what you are trying to understand by breaking the issue down into a series of really good questions." Once you have "that series of good questions, you can identify the data that is available to address those questions."

As an example of delivering value for clients, Aaron points to the data consultancy services his pioneering team at Littler provides for

their clients. As businesses make more decisions based on data, Aaron believes that "legal should be no different." Business can and should make data-driven decisions regarding lawsuits and legal advice. Littler built the Data Analytics team to "drive greater value" for its clients by helping clients use data to make decisions on business-legal issues.

Aaron credits Alan King, a Ph.D. in labor economics who is now a practicing labor and employment lawyer, for creating Littler's data analytics team. Aaron says that Alan had the insight a few years ago that litigation "is particularly susceptible to being understood through data." As Aaron put it, "for the fundamental question underlying most litigation, there is data that can help give you an answer."

Aaron's view is that most litigation can be broken down into questions and then clients can use available data to answer those questions. For Aaron, "data reinforces data, and data doesn't lie, so companies can look at the facts on the ground to get a deep understanding of the factual truths of the litigation." Aaron's philosophy is that good lawyers can use "the holistic understanding of the facts to shape the legal strategy that moves the client's business objective forward in an efficient way." In short, clients "armed with the data are able to make much better business decisions."

Aaron also explains that data helps clients understand what is driving the circumstances that lead to legal issues. The data not only helps with legal-business decisions but also helps with future risk mitigation and

understanding legal portfolios.

Aaron describes an idea that one of his partners, Scott Forman, had about ten years ago. Scott had the idea of collecting client's lawsuit data to understand the client's litigation portfolios to determine if upstream actions could prevent or reduce future litigation. That type of data "helps the client make better business decisions to move forward."

Procurement to Drive Value

Although "folks don't always think of Legal as space that can add value from the procurement process," Aaron argues that "savvy serial litigants" can "gain real value" if they leverage the Request for Proposal (RFP) process for value. Companies can use the RFP process to "leverage the economies of scale" and benefit the suppliers "but also drive real value and achieve good business outcomes." However, to drive value through the RFP process, the process should be structured in a way to allow "real apples-to-apples comparisons."

Properly structured and focused RFP processes can lead to the benefits of "scale and unity." By identifying and using the vendors with the right capabilities, those vendors can identify patterns in the data that can help make business decisions and can help businesses benchmark their performance against other companies.

Aaron believes that legal can team with procurement departments to help drive that value. As he explains, procurement can help legal find the right service providers needed to provide the best value for the business needs. But the RFP process should be "a process and not

a project" and that "you need a system ahead of time."

Of course, Aaron looks at RFPs from his data-driven perspective. A good RFP process starts with looking at available data and asking the right questions. With the right data, companies can develop scoring and ranking systems to help in the evaluation proves. He also notes that third-party vendors like ClariLegal can provide real value "by doing the leg work" for those who are leveraging ClariLegal's capabilities.

Thinking Forward to Drive Value

Sometimes lost in the procurement discussion is that "forward-looking law firms are rethinking their core businesses by building ancillary services into the fabric of their firms." Instead of needing a law firm and a separate e-discovery vendor and then an analytics firms, these more forward-thinking law firms are decreasing the inefficiencies associated with purchasing separate services by providing these services from within the firms.

Aaron thinks that savvy purchasers of legal services are asking firms which services they can provide more efficiently, and which services are better obtained through other vendors. Essentially, it is an issue of alignment – aligning the best most efficient providers to meet the specific business needs of the client.

Advice for Legal Service Providers

With his extensive experience as both a provider and consumer for legal services, Aaron has great advice for legal service providers. His advice is to ask really good questions. First, ask really good questions of yourself. Ask questions to determine your strengths and your weaknesses and identify ways you can improve. Ask about the market space in which you want to operate. Do you want to be the best, a value player, or the bespoke legal service provider and decide which one you want to be.

Then, ask your clients a lot of questions. Find out from them what they think about your strengths and weaknesses. Ask your clients how you can provide better service. Ask about their pain points. For instance, ask your client to identify the one thing you can do tomorrow to add value for the service you provide. Aaron sometimes sees that clients do not appreciate the need for certain services until a provider offers the option for adding value.


About the Authors

Jeff Kruse is President of Kruse Consulting and Dispute Resolution LLC where he consults with law firms and legal departments to help

them operate more efficiently through technology implementation and Lean Six Sigma techniques to improve their bottom lines. He specializes in assisting firms and companies on the RFP process. www.kcadr.com

Cash Butler is the founder of ClariLegal. A seasoned legal technology innovator, Cash has over 18 years of experience in the legal vertical market, primarily working in eDiscovery, litigation & compliance. Cash is an expert in legal vendor, pricing and project management.
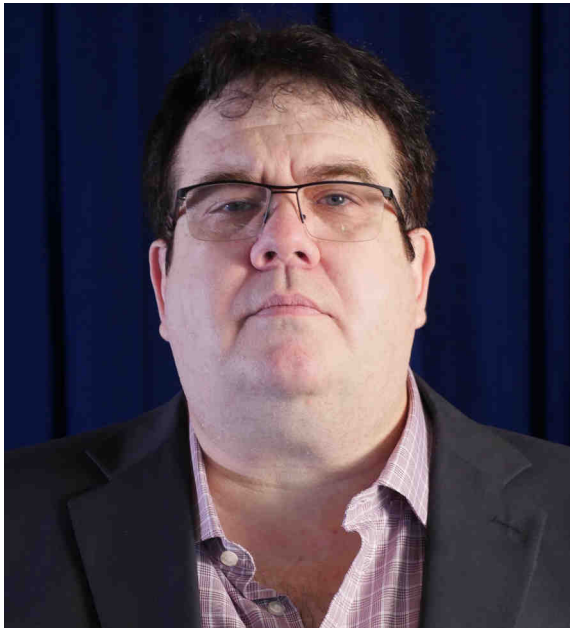
ClariLegal is a preferred vendor management platform for legal services that improves business outcomes. Made for legal by legal experts. We match corporations and law firms with preferred vendors to manage the work through a fast and complete RFP and bidding process. ClariLegal's platform allows all internal client segments to improve business outcomes across the board – predictability, time and money. Learn more

REINVENTING PROFESSIONALS

New Law and the Rise of ALSPs

November 6, 2020
Ari Kaplan spoke with Brad Blickstein and Bea Seravello, the co-leaders of the New Law practice at Baretz+Brunelle, a strategic advisory communications firm. We discussed the genesis of the New Law practice group and its recent report: Home Court Advantage: The Am Law 100 Moves Into Alternative Legal Services. We also spoke about the mini-maturity model for captive ALSPs and the Blickstein Group's Annual Law Department Operations Survey.

Ministry of Law (Singapore), Legal Industry Technology & Innovation Roadmap Report— The Road to 2030

The Pressing Need for Transformation

On top of a global pandemic, there is disruption from artificial intelligence, blockchain, multi-disciplinary professional services networks and NewLaw entrants to the legal industry. These trigger changing customer behaviour, rising cost pressures and new demands of value, speed and flexibility from the industry. Against this backdrop, many firms have long recognised the need for action.

Supporting the Legal Industry

Transformation is no longer radical, but essential. However, the transformation journey is not easy. There are challenges in adopting technology, such as the lack of resources to identify and implement suitable LegalTech solutions.This Legal Industry Technology & Innovation Roadmap (TIR) is here to help. It presents workshopped initiatives and recommendations, to support legal teams, both in-house and in private practice, in their transformation journeys. More importantly, to help those who are willing to keep an open mind and explore their options to spot and seize opportunities through transformation, to thrive in this new environment.

How the Roadmap Was Developed

The Technology & Innovation Roadmap (TIR) is a sector-wide plan by the Ministry of Law (MinLaw) to promote innovation, technology adoption and development in Singapore's legal industry up to 2030. It identifies technologies that will impact and change legal services, and explores ways to support development and adoption of such technologies. The roadmap is the result of a series of four inter-connected workshops conducted between April to October 2019, facilitated by the Agency for Science, Technology and Research (A*STAR), and brought together participants from across the legal industry and adjacent industries and disciplines to answer four key questions.

[Download the roadmap here](#)
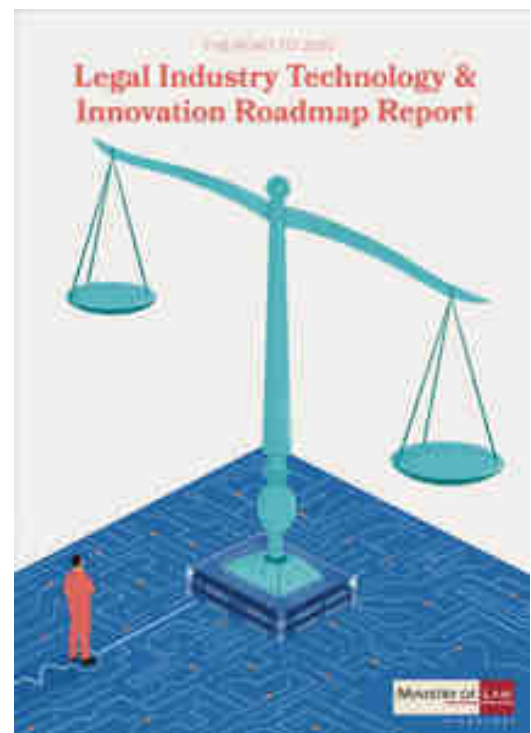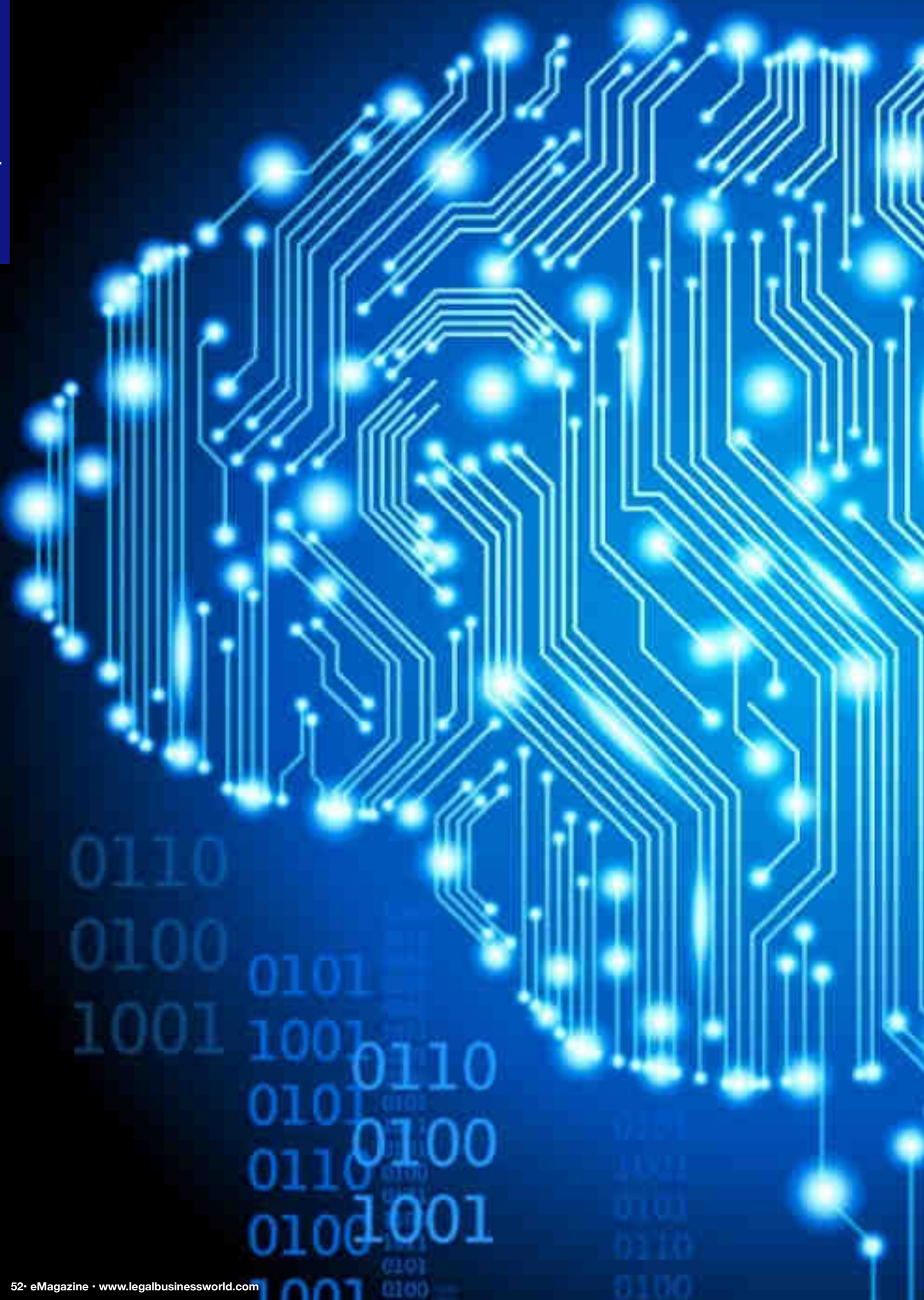
INTELLIGENT PRACTICE OF LAW

Humanizing Data Science - a pathway to success!

By Ajuni Chawla, Founder Eye Z Legal

This paper focuses on how legal professionals can derive maximum value from the practice and business of law in an intelligent, human centric manner. I have laid out methodologies, theories and design thinking tools to ensure lawyers are well-equipped to enhance their daily practices and realize competitive advantage, team harmony, management efficiency and incrementing revenue.

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"Clients rarely complain about the quality of legal work or the level of knowledge of lawyers advising them; but they frequently express concern about the mechanics of the working relationship between client and firm."

-Richard Susskind, Author, speaker, and an independent adviser to major professional firms and to national governments.

A nice meal at a world-class eatery goes a long way in winning the loyalty of a business. The acceleration in professional and personal lives has left many accustomed to instantaneous access and more transparency in their dealings, making information- the dish that tempts the appetite of any client- whether it is a legal practice or any other business model. Clients look for a flow of information that is not only concised, streamlined and regular- but also speedy, accurate in real time and more interactive.

Traditionally, the means of doing legal business were fiercely guarded, insulating its processes from the scrutiny of its clients as well as team members- in order to prevent those clients and members from uncovering a piece of information or process that might be used to negotiate a better price or take their business. Just like days of waiting to check the next morning's court listing or judgement copy is a thing of the past- technology is changing and rewriting those old rules- it is needless to mention that **transparency is in and barriers are out.**

At this juncture, it is essential to lay out intelligent processes that would reduce risks of being transparent while increasing the loyalty of your client and team member.

First Step?

Get Smart About Your Legal Practice's Data and Information.
- By humanizing, not automating!

The industry's leading firms are already investing in intelligence softwares to strength-en their business development and competitive advantage. Thanks to software-as-a-service models, access to intelligence solutions is a cost-effective investment that quickly results in a tangible ROI for the firm.

With the world moving towards digitalization- this is in fact a perfect opportunity to utilize and derive value from the data that already exists in your legal practice. But before we move ahead and start adopting or building multifaceted solutions- lets truly understand the intricacies behind legal business data, competitive intelligence, and client relationship insights- so we are able to make decisions backed by constructive in-depth knowledge.

Call for Action?

Strategize - "Strategy"- an integral part of legal practice- is also equally vital and mostly ignored when it comes to business of law. It is laying out a plan for the future inorder to achieve the objectives of your firm! Now- many of you might know what you are looking for, while some may be completely blank as to what to expect and prefer going with the flow. Example:

- Win new business ⇒ Find industries that need legal services
- Be a value-building partner ⇒ Support the insight of research teams
- Service development & innovation ⇒ Develop value add services to meet changing market demands

Prepare - Planning is preparing! It is followed by thinking on the strategy and further

ensuring that it is actionable. Also known as an implementation plan- it is when you document next steps you need to take to successfully reach your strategized goals. Example:

- Stronger client proposals ⇒ Tailor service to win new clients and maintain current ones
- Client-focused research ⇒ Mitigate risk before accepting a client
- Meet and greets ⇒ Have need-to-know facts and figures on clients before meetings/calls

Strengthen - Whether you are just starting out or have been practicing law since a while now- strengthening the very foundation and operations of your business side of practice would maximise your success rate and also prepare you for any unseen challenges. Example:

- Client service and retention ⇒ Understand the client's industry issues
- Business advisory services ⇒ Provide more personalized services
- Operational-focused, unbiased advice ⇒ Compare against information issued by investment banks and private equity groups

Moving Forward... How?

Setting up internal workshops can help explore, sustain and implement objectives for your firm. These can be moderated by internal or external experts. Many workshops start small, including just the immediate members of project teams. However, as interest grows, the workshops can expand to include partici-

pants from other functions and operations who want to be involved in improving their practices in accordance with your firm's vision. Workshops can help you address and change- management, team and client issues that inevitably arise during the course of your business. They enable your team to work on the same page- learn from each other and share what works and what does not.
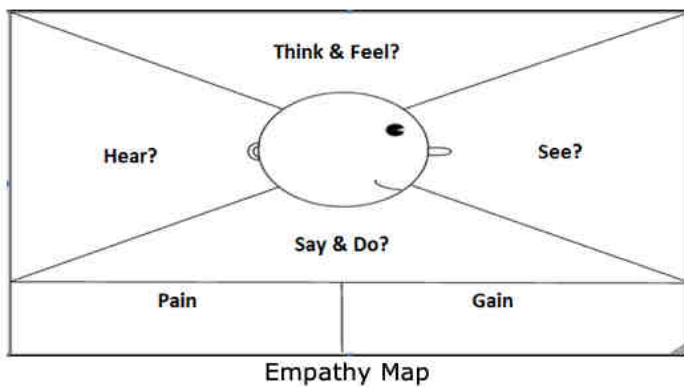
Here are a few activities and strategies that can be incorporated by your firm to advance an innovative road map for your future success!

Customer Intelligence

Practice of law is all about creating value for your clients and so business of law is to ensure that you are able to add lasting value to your client's lives so your results show for it and that client stays with you!

Customer Intelligence is widely adopted by several pioneering businesses-who are finding that their ability to build customer loyalty and win new businesses. Though this can be easily achieved through technological inclusion, it's crucial to develop and refine skills to understand and address rapid changes in customers' environments and behaviors by framing human-centric ways to focus on your end-users perspective.

This can be done effectively by incorporating a vital tool of design thinking called the "Empathy Map". It allows you to set aside your own assumptions about your service and gain real insight into your end-users and their needs.
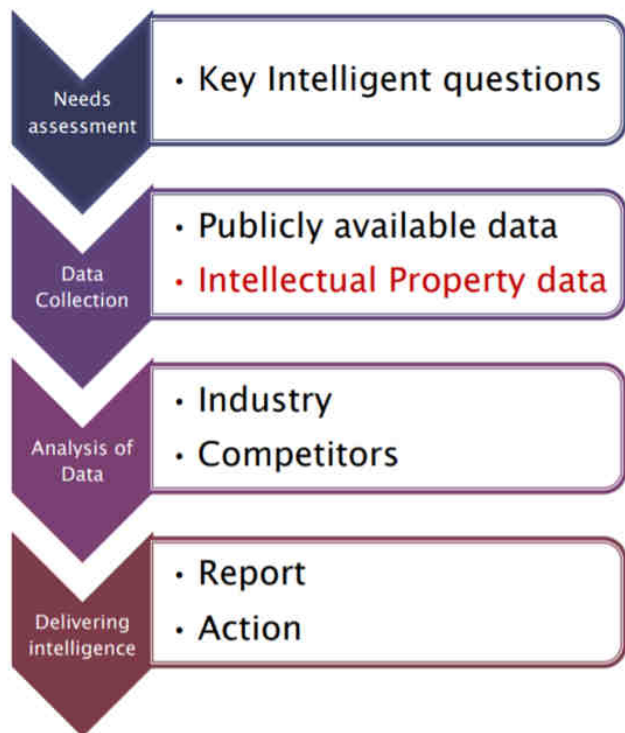
Empathy Map

Business Emotional Intelligence

Emotions drive behavior. They are at the heart of the energy that drives motivation and commitment in any business. They can bring magic or misery to individuals, work teams and groups.

Business EQ is a practical work based approach to Intelligence that helps leaders and teams to understand why people behave the way they do and how to maximise their engagement with and performance at work. It advances management of critical emotions and behaviours and success of leaders and teams.

The key to Business EQ is self awareness and awareness of others in your team- adapting emotional and behaviours at work (EBW) team psychometric assessment tools would be powerful in measuring change at an individual as well as group level. It would also create balance at work as assessing insights on core drivers that underpin performance would be easier.

	Recognition	Regulation
Personal Competence	**Self-Awareness** • Self-confidence • Awareness of your emotional state • Recognizing how your behavior impacts others • Paying attention to how others influence your emotional state	**Self-Management** • Keeping disruptive emotions and impulses in check • Acting in congruence with your values • Handling change flexibly • Pursuing goals and opportunities despite obstacles and setbacks
Social Competence	**Social Awareness** • Picking up on the mood in the room • Caring what others are going through • Hearing what the other person is "really" saying	**Relationship Management** • Getting along well with others • Handling conflict effectively • Clearly expressing ideas/information • Using sensitivity to another person's feeling (empathy) to manage interactions successfully

EBW Team Psychometric Assessment Tool

Competitive Intelligence

One of the quickest ways to set-off competition is to provide your clients with high quality service. One might wonder what differs one lawyer from another- apart from the experience of course- the way you plan, organise, deliver and strengthen your client relationship, while also providing resources to retain talent. The best way to achieve these goals is to gain access to competitive intelligence by conducting a systematic and ethical workshop for gathering, analyzing, and managing information that can affect your company's plans, decisions, and operations. The gathering and analysis of information allows for advanced identification of risks and opportunities in the competitive arena.

Comprehensive Market Intelligence

Understanding and learning what's happening in the world outside your practice- allows you to set aside your own assumptions about the world and gain real insight into users- their needs, behaviour patterns and trends.

You can be as competitive as possible- but learning as much as possible about the business and country's general political and social landscape in general, empowers you to anticipate opportunities and face challenges head on. In order to promote effective strategy and confident decision making, you must consider the latest data and information encompassing and forming a market intelligence report.

Competitive Intelligence Process
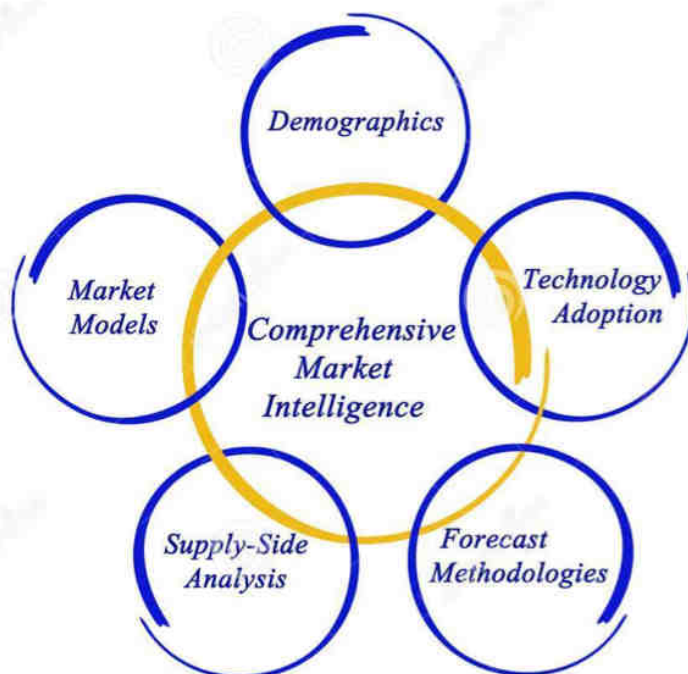
Comprehensive Market Intelligence

Resources:

1. "Design Thinking: The Beginners Guide" – an excellent guide to get you started on your own Design Thinking projects: https://www.interaction-design.org/courses/design-thinking-the-beginner-s-guide

2. Why Law Firms need access to market intelligence: https://www.ibisworld.com/industry-insider/law-firms/why-law-firms-need-access-to-market-intelligence/

3. Why Industry Information Matters: https://www.ibisworld.com/industry-insider/how-to-use-industry-research/why-industry-information-matters/

4. Shaping Business Strategy through Competitive Advantage:https://www.wipo.int/edocs/mdocs/sme/en/wipo_smes_bik_13/wipo_smes_bik_13_k_pierre_el_khoury.pdf

About the Author

Ajuni Chawla is a young lawyer with a zeal to create a meaningful change using her passion tor innovation, creativity and holistic learning. She works very closely with topics at the intersection of law, technology, design thinking & community building- and is currently working on a Startup that she founded when she was in law college- Eye Z Legal- that urges individuals to envision the legal industry in a holistic way.

She also practices Legal Service Design and consults with a focus on accessible and sustainable delivery of legal services. She is the technology lead at International Legal Alliance, a Facilitator at the Legal Creatives' Cohort, Pereko Foundations' Business Design Bootcamp and an organiser for Mumbai Legal Hackers.

The data suggests diversity correlates with better financial performance.

Likelihood of financial performance above national industry median, by diversity quartile, %

Delivering Matters as Promised:
The Holy Grail of Legal Service Delivery

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

The rise of legal service delivery has its roots in the economic downturn of 2008. Since the move of work in-house, and the increasing demand for transparency in fees and matter management, law firms have been pushed to fundamentally change the way they interact with their clients. However, this transition is far from over.

The vast majority of firms rely on write-offs, or a host of other profit-eating mea-sures to cover their fundamental failing. That they do not deliver the majority of work to budget, or to scope. The truth is that legal service delivery is still in its infancy, and will require law firms to integrate better tools, and better training and rewards systems, before it reaches its full potential. However, should that potential be reached, firms stand to see happier clients, increased profitability and reduced write-offs.

The rise of legal service delivery

[Since the 2008 recession] there has been mounting evidence......that clients, non-law firm competitors, and even many law firms are now operating with very different assumptions about the role law firm services should play in the legal ecosystem and how such services should be delivered. In the past year or so, this evidence has grown to the point that it seems apparent that a fundamental shift is now well underway" 2020 Report on the State of the Legal Market

For anyone who was working in the legal industry at the time, the impact of the 2008 recession became quickly apparent. Law firm operations have changed relatively little over the last century. The hourly rate, and position as trusted advisor rather than risk-sharing partner, was the status quo. However, the recession shone a light on the industry. Clients, often in financial difficulties (if not outright distress) were more prone to probe their counsel's invoices. The hourly rate was no longer acceptable. Clients demanded *transparency*.

The problem is that a firm constructed on the principle of hourly billing is not set up to deliver it. Or at least, not yet. As a result, the last ten years has been a scramble for law firms to improve on their approaches to pricing, staffing and matter management to meet the demands of an increasingly challenging marketplace and demanding clients.

Importantly, the 2008 recession also introduced new ways of working for internal legal departments. By 2020, Altman Weil reported that nearly 7 in 10 law firms have seen their clients move a proportion of work in-house. Most of the remaining firms see that coming. Clearly, those who fail to be sufficiently transparent, or competitive, are not only competing with other firms, but the ability of clients to internalise costs.

The culmination of much of this transformation has been the growth in popularity of *legal service delivery*. The natural heir to the combined thrones of Legal Project Management, Pricing, Client Services and a host of other legal service disciplines. At its heart, Legal Service Delivery is about **delivering matters as promised**. When implemented effectively it enables firms to meet client expectations, thus ensuring their continued collaboration.

Understanding legal service delivery

Before determining the relative success of legal service delivery, it is worth briefly defining it. There can be a tendency to confuse service delivery with the way lawyers actually practice the law. Trial, corporate law, M&A and all other major areas of legal practice have remained relatively unchanged in the last fifty years or so. Yes, technology has come to play a greater role in areas like discovery, and due diligence. However, the greatest impact of technology has been on the functions supporting their practice. As Mark Cohen succinctly puts it:

"Technology has profoundly changed the delivery of legal services- how and by what structure those services are best rendered and by whom. Technology has been a key factor in creating a legal supply chain in a vertical where, until relatively recently, law firms were the sole outsourced legal service providers." Mark Cohen

Legal service delivery, then, is the ***manner in which lawyers engage clients, scope and open matters (with or without specific pricing arrangements), and then how they manage the matter through its lifecycle, to completion.*** It is the machinery which supports the practice of law.

It would be fair to say that legal service delivery is no new concept. As long as lawyers have practiced, there has been service delivery to some extent. However, it is only recently that firms have attempted to improve the quality of their services in order to maintain market position in the face of increasing competition. In order to compete, it is increasingly important for firms to be able to deliver matters as promised (or risk losing their clients), particularly in the face of a second looming financial crisis.

The current state of legal service delivery

It would be fair to assume, given the length of time that has elapsed since 2008, that progress towards consistent service delivery would have been greater. However, market research among law firms sadly does not support that. While some firms are leaping ahead in measuring and improving their performance for their clients, they are still in the minority.

"In every year from 2013 through 2020, Managing Partners gave mediocre marks in terms of their seriousness about changing their service model. The low marks are jarring when one considers that Managing Partners recognise that the market had changed substantially over the last ten years and that firms needed to change to stay competitive. Less than 2% of firm leaders strongly agree that law firms have changed as much as was needed, which invited many clients to look for answers elsewhere." [Altman Weil: Law Firms in Transition 2020](#)

Of all the firms surveyed by Altman Weil, as part of their yearly Law Firms in Transition research, only 5.5% considered their legal service delivery program to be 'mature'. Over half ([53.9%](#)) said that their service delivery program was either in early stages, or didn't exist at all. Currently, the majority of efforts are applied in an ad hoc manner, unequally across practice groups or matters. Accordingly, outcomes are mixed, and firms have little way of knowing how successful their efforts are. Without data, it is very difficult to compare like-for-like, or be sure that your efforts are consistently successful.

What we can learn from the successes

But things are not all doom and gloom. Recently, Clocktimizer [hosted a webinar](#) with Anshoo Patel, of Blank Rome, who shed some light on the way they were approaching practice innovation. Together with LawVision, they have built a data driven matter lifecycle. By incorporating data at every stage, they can set targets and then monitor their success in real time. This enables their firm to consistently deliver matters to the client as promised.

Again, the data in Altman Weil shows that firms which have implemented practice innovation strategies are seeing success.

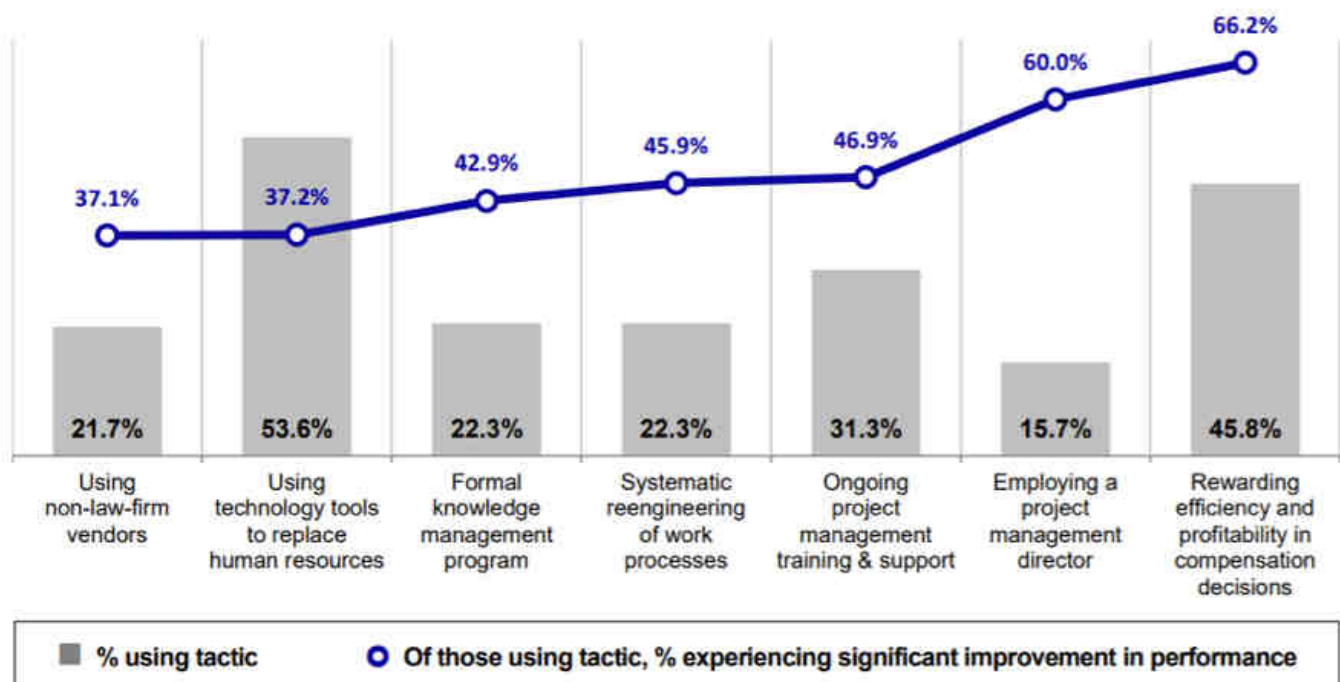Firms which introduced reward schemes for

increased efficiency and profitability shared that they have improved firm performance in over 66% of cases. Equally, employing a Project Manager or Director has shown positive impact in 60% of cases. This is currently a young area of innovation for firms (and was included for the first time in the 2020 survey). As such, many investments still are too young to officially determine their success or failure. However, initial data suggests that investment in improved service delivery initiatives pay off for firms.

It is equally important to note against the relative success of service delivery initiatives, that the alternatives are potentially damaging to firms. In a poll recently conducted by Clocktimizer, those surveyed shared that between 5 and 20% of firm revenue is lost to write-offs or write-downs. These write-offs often come as a result of a mismatch between the expected

cost of a matter, and the invoice finally delivered to a client.

As Jessica Davis, Director of Matter Performance and Service Innovation at McCarter & English notes, this mismatch is a failure of service delivery. At McCarter, Jessica has been able to use service delivery data to have conversations with clients in advance of costs exceeding pricing arrangements, or before out-of-scope work mounts up. In turn, this has reduced write-offs for the firm, by including the client in the decision making process.

"Proactive write-offs may seem helpful, but they are invisible. A client won't know you have discounted the work. Talking with a client about the work you have done already, and why you understand that the client needs the discount, makes the client aware of how well you value the

	Using non-law-firm vendors	Using technology tools to replace human resources	Formal knowledge management program	Systematic reengineering of work processes	Ongoing project management training & support	Employing a project management director	Rewarding efficiency and profitability in compensation decisions
% experiencing improvement	37.1%	37.2%	42.9%	45.9%	46.9%	60.0%	66.2%
% using tactic	21.7%	53.6%	22.3%	22.3%	31.3%	15.7%	45.8%

■ % using tactic   ○ Of those using tactic, % experiencing significant improvement in performance

Source: 2020 Altman Weil survey

relationship. This is likely to lead to increased collaboration." *Jessica Davis*

What is holding service delivery back?
If service delivery has been shown to be successful, can increase client satisfaction and firmwide profitability, why is it not implemented as standard throughout the legal world? It is often argued that clients aren't demanding change. However, the earlier data showing 7 out of 10 clients are moving work in-house is a clear sign that that may not be the case. Instead, they are choosing to give their feedback with their feet.

Equally, other firms cite a lack of desire to innovate from senior firm management. Law firms, with the partnership structure, are inevitably averse to change. Those that stand to lose the most from changing 'a tried and tested way of working' are those that sit at the top. As such, firms must be able to collect solid data to demonstrate the positive impact service delivery innovation could have on their firm. This can be easily achieved by performing smaller tests within practice groups. Being able to compare like-for-like across matters with and without service delivery should make a clear enough financial case for firm-wide adoption.

Beyond firms not taking advantage of service delivery at all, the commonest problem is the inability to consistently scale service delivery to impact all matters in a firm. The conception is that costs are too high, or that it is too mammoth a task to complete. Importantly, failing to implement good service delivery throughout the firm is a wasted opportunity. Sure, some of your matters now run on time and to budget, but the other half don't.

So your firm isn't remotely as profitable as it could be.

However, this conception also proves to unravel when you explore the tools available to the modern law firm to support their service delivery methods.

Scaling-up legal service delivery
At Clocktimizer, we are lucky to work with some of the most innovative, client focused law firms in the world. Through our work with them we have pulled together some best practices which show that consistent, firm-wide service delivery is not a pipe dream. It is achievable with the tools currently available. As such, here are some of the key ways firms can consistently deliver their matters to plan.

First and foremost, firms should ensure that they have ***developed the right teams.*** Service delivery is the oversight of all of the moving parts of a matter. It means that you will need pricing teams to properly scope and then set a fee for the work based on historical data. It means you will need LPM teams to keep matters on track and to budget.

Client value will be essential in helping your firm identify and prioritise your client's needs and wishes to ensure closer collaboration and that you meet expectations. If you have these teams in place, and reward their successes appropriately, then your matters have considerably more likelihood of being delivered as promised.

Secondly, firms must ***embrace technology which delivers early warning systems***. Sadly, nobody has a crystal ball. As such, you

can scope a matter perfectly and still come up against unexpected developments. In many cases this out-of-scope work will end up happening without the knowledge of the LPM in charge of the matter. However, existing technology, like Clocktimizer, allows firms to create a detailed matter scope made up of individual activities. Out-of-scope work is then automatically identified as soon as it is logged, giving your firm a heads up that things are not going to plan before it is too late. Importantly, these notifications can be tailored to a client's specific wishes. Because this technology is easy to set up, it can be rolled out to every matter in a firm with ease.

Not all firms currently involve pricing teams in every matter. However, for true legal service delivery, they should be involved in pricing analysis of your matters, and to help **create and manage budgets**. For most clients, the key expectation for service delivery is the price. No one wants an unexpected bill, and in the financially uncertain times we live in, it could cause a client to seek alternative counsel. Pricing tools like Clocktimizer enable firms to scope their matters and build a fee arrangement based on historical data. This can then be automatically converted into a trackable budget or project plan. Importantly, the budget can be broken down by phase and task, ensuring greater oversight. This will enable your firm to keep matters on track financially, firm wide.

Finally, the key to great firm-wide service delivery adoption, is **sharing your successes**. This goes beyond internally sharing success. Obviously it is important that service delivery initiatives which have positive financial effects

for the firm should be roundly celebrated. However, firms should also make it a habit to share success with clients. It may go unnoticed that you consistently deliver matters as promised to clients. Or indeed, taken for granted. Use matter reports to regularly update clients on how you are performing as their legal counsel. Long term it will make you a more valued partner.

The future of legal service delivery

"We had the opportunity to pitch for some wage and hour class action work, which is complex, expensive work. Our data set for this sort of work was somewhat limited over the past decade and we had very little time to build a quote. The client was looking for fixed fees and capped fees by phases, so we were able to use Clocktimizer to identify tasks and classify them into phase categories and constructed a quote from that. Because of how detailed our quote was, we pitched an AFA and won the work." Levi Remley

We recently interviewed Levi Remley, a Pricing Manager at Barnes and Thornburg, about the way Clocktimizer had helped their firm improve their client service delivery. This story is emblematic of the direction that all law firms should be headed, with the right support internally and from external technology vendors.

There is nothing currently standing between a law firm's desire to deliver matters as promised, and their ability to do so. By embracing the tools available, firms can finally meet the desire for transparency that clients have been sharing since late 2008.

Importantly, this drive towards firm-wide matter management will have knock on effects for profitability and efficiency. The only question now, is which firms will rise to the challenge?

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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

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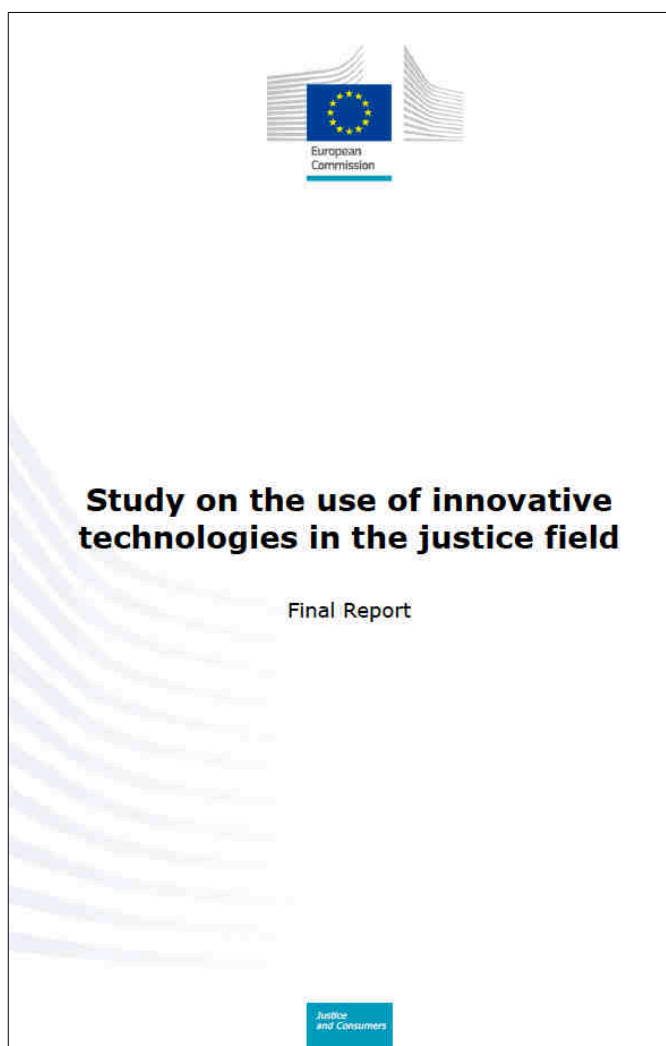
In the White Paper on Artificial Intelligence (AI), the EU recognises the need to step up actions aiming to build an ecosystem of excellence supporting the development and acceptance of AI across the EU economy and public administration.

The e-Justice Strategy and Action Plan 2019-2023 identify as priority areas the use of AI and blockchain/DLT in the justice field. In this context, the present study explores the existing policies and strategies at European and national level, as well as the state-of-play of the use of innovative technologies in justice. Following comprehensive consultations, the study identified 130 projects that use innovative technologies - 93 projects of Member State authorities and the judiciary, 8 – of legal professional organisations and 29 - of ICT companies based on their products and services.

Download the White Paper (for other languages click here)

The ARTT of Effectively Managing Your Email
To Support a Successful Law Practice

By Sarah M. Tetlow, Founder of Firm Focus

Picture this scene that is all too familiar to most lawyers. They arrive in their office or workspace and open their laptop while taking a seat. The bottom of the screen invites them into a vast array of application options, and the first that they open is their email. Twenty-three bolded messages await them at the top – the unread emails. They quickly scan the bolded lines to find a response from their client. They read the response, sigh, and close that email, for now. They click on a few more emails, without making a decision about them, before getting up to grab some coffee.

Lying below those twenty-three new and bolded emails is another 10,542 messages. Those emails consist of priorities neglected, assignments forgotten, and essential communication comingled with spam and solicitations. *Email has transitioned from a communication tool into something that demands our constant attention and defines how to spend our time* in our practice. There is a better way.

Without looking at your email, how many messages are in your inbox right now? Take a guess and write that number here _____. If your guess is anything above 30 emails, this strategy will help you control and organize your email more effectively. The A.R.T.T. Email Productivity System™ (or "ARTT System") in this article will help you run a more efficient law practice and increase your firm's revenue. A successful law practice must have healthy habits and systems around the primary form of communication with clients, colleagues, and opposing counsel. Demand control of your email, your workday, and your law practice starting today. Whether you have 50 emails or 50,000, there is a healthier way to manage email.

I. Jelly Belly Variety Pack

I live about 45-minutes from the Jelly Belly Factory in Vacaville, California. In 2019, I took my two young sons to the Jelly Belly factory tour. During the tour, participants wear the "Jelly Belly Factory" tour hat and taste jellybeans throughout their various development stages. The tour finishes in the merchandise store. Amongst candy, toys, clothing, and other paraphernalia, the tourists cannot help but notice the colorful bin of jellybeans. Not surprisingly, one of the top sellers of the

Jelly Belly factory is the jellybean variety pack.

After leaving the factory, you open the variety pack of jellybeans and immediately start searching for that favorite color. You dig through the mix to find as many of the bright red Very Cherry that you can find. Once you have exhausted that hunt, you reach for the light pink Bubble Gums. Then the white Coconut and the speckled green Juicy Pear. As you continue this behavior, you sometimes come across a random Very Cherry that you missed, and you snatch it up before it disappears again. Then you get to the bottom of the mix, and you're left with the Toasted Marshmallow or the Buttered Popcorn. The flavors that you cannot pay anyone to take from you.

When I am working with my clients on their email and email management approach, I compare the variety pack of jellybeans to their email inbox. They experience decision fatigue each time they check email and have to decide what to do with the email. It compares to the jellybean variety pack, searching through each time it demands our attention, knowing which flavor to pick, yet having to put in the effort to find that flavor. While Jelly Belly variety packs are colorful and fun, the problem is that it involves too much energy to find the one you want. Similarly, in many lawyers' email inboxes, they also are blending all of their ARTT. Is it urgent? Is it important? Is it junk? Is it handled? Is there an action associated with this email? When is that action?

Email programs attempted to solve this problem by creating a simplistic system: Read and Unread. The problem with using "Unread" and "Read" to track "Action" and ***everything***

else is that your brain has to work harder to identify: What is the priority of this action email? How long do I need to set aside for this email? When do I need to handle it?

II. What is the A.R.T.T. Email Productivity System™?

Instead of operating from the variety pack of jellybeans – the mixed ARTT of email – try selecting only your favorite flavors and reducing the decision fatigue. Establish an email inbox that supports the ARTT of email separated into the various actions you need to "do."

First, you have Action emails. Then, you have two types of Reference emails: those that are actionable and those that are archival. Next, you have Tracking emails. Finally, some emails belong straight into the Trash.

Action. Action emails are typically something that you should DO within a reasonable amount of time once the email is received. These are typically either quick decisions or need to be transferred to your project list.

Reference – Actionable. Reference Actionable emails are your DELAY. The webinar for two weeks from now. The scheduled phone call with a client in a week. The plane ticket for two months from now. There is an action tied to the email; however, the action is sometime in the future. We need to delay the action, so the email does not stay in your inbox, demanding your frequent attention and mitigating the more urgent correspondence.

Reference – Archival. The Reference Archival is the email that does not have an action tied to it at all, but you do not want to delete it either. These are the bulk of your email messages. You file them away to have the conversation's history but no longer need to associate an action with the message. Leaving these emails in your inbox is like licking each jellybean and then placing it back in the variety pack. It just does not make sense.

Tracking. The Tracking emails you have DELEGATED to someone, and you need a response or need to track the email. Consider the question you asked the client and need an answer back. The assignment you gave the associate with a deadline of next week. These do not require action by you at this time, but you want to keep track of the communication.

Trash. Finally, how many messages in your inbox are indeed trash, and you haven't bothered to DELETE them? Why bother when you are so overwhelmed by all of the emails that you don't want to make that extra effort or decision to hit delete. Yet, these Buttered Popcorn emails are further impacting your ability to manage your email. They are contributing to the overall decision fatigue you face when staring at your email.

III. How to apply the ARTT System.

When "Uncle Bill" created Outlook and the idea of "Unread" and "Read" came to fruition, it was a brilliant way to separate the emails that we needed to decide on from those that have already been considered. As time has passed, technology advanced, society has shifted to an increase in asynchronous communication, the method of "Unread" and "Read" has become obsolete and unreliable.

Fortunately, Outlook, and other email platforms, are designed to support a system such as the ARTT System. Busy and talented lawyers have altered their lives and their practices by implementing the ARTT System and suddenly being more responsive, proactive, and organized for themselves and their clients. All while reporting working more efficiently and effectively, resulting in a reduction of hours spent working and increased firm revenue. Email is a powerful tool; however, it is essential to revert to using it as the communication tool it was designed to be and not the method by which you decide what to work on next.

IV. Conclusion

Now, recheck your email inbox. How many messages are really in your inbox? I'll wait while you write the answer here _____. How far off are you from your guess above? How would it feel to get that number down by half? One-third of that number? Forget percentages; how would it feel to see less than 30 emails waiting for you to decide where in your ARTT System they belong? You can be successful in your life and practice by approaching your email with a new perspective, mastering the ARTT of email, and separating the Action from the Reference, Tracking, and Trash.

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About the Author

Sarah M. Tetlow is the founder of Firm Focus, which focuses on productivity consulting for attorneys and other legal professionals. She uses her past experiences, organizational and strategic thought process, education, and training to help law firms improve their bottom line and operate more efficiently. More important-

ly, attorneys see a reduction in stress and anxiety and increased focus and new business. Sarah created the A.R.T.T. Email Productivity System™ to help lawyers and busy professionals manage their email more intentionally and strategically and reduce decision fatigue. Sarah frequently teaches the ARTT System to attorney clients in group settings and one-on-one private sessions. The next A.R.T.T. Email Productivity System Workshop will take place on Wednesday, January 6, 2021 from 9:30 – 11:00 am PST. Contact Sarah for more information or to register.

Sarah has experienced first-hand the stresses that attorneys endure in trying to manage multiple projects. They also have the daily necessity to react to more pressing needs in a matter of minutes, causing frequent mind-shifting and multi-tasking. Sarah's mission, and the reason for starting Firm Focus, is the desire to see a change in the industry. To help attorneys and other legal professionals experience control over their day and mitigate the poor habits caused by the workload. Ultimately, through Firm Focus, Sarah wants to help attorneys boost productivity and reduce stress at work. You can contact her at sarah@firm-focus.com

Doing Business in the Gulf & Arab countries for Foreign Investors
UAE | Qatar | Egypt

By Fatima Alsebai, Legal Counsel

Arab countries seek to attract Foreign Direct Investment (FDI) to finance comprehensive and sustainable developments, which has become a major goal pursued by these countries. So they are keen to encourage the participation of foreign investors in product and service investment projects. Thus, many Arab countries revamped their legal frameworks regulating investment e.g., Egypt, Qatar, UAE, Oman. Egypt works hard to establish itself as a leading

destination for FDI. These efforts spearheaded by the promulgation of a new investment law in 2017 which is considered a landmark investment law. The law is replacing a 20-year-old law on investment guarantees and incentives, that promotes domestic and foreign investments by establishing several new guarantees for private companies, such as Equal treatment for foreign and national investors, the granting of residence rights for the duration of projects,

and protection against nationalization or seizure of funds without a court order, along with the right to transfer profits abroad.

As well as many gulf countries changed their investment laws by increasing the percentage of the foreign ownership in the company's capital by a percentage up to (100%), instead of the old laws which were restricted ownership by 51% owned by nationals. e.g., new Qatari Law No. 1 of 2019 on Regulation of Foreign Capital Investment in the Economic Activity and the UAE new Federal Decree No. (19) Of 2018 Regarding FID. Certain companies in both countries can be fully foreign-owned in different economic sectors.

This movement is intended to improve the confidence of international investors in the economy, stimulate private-sector activity, and encourage more investors to invest directly in the region. In this context, I'll analyze the most common forms of business used by foreign investors and the most important points of the FDI laws in Egypt, UAE, and Qatar.

Forms of the business that can be 100% foreign ownership

1. Forming a new Company

Qatar
Under the new law as mentioned before, the projects can be 100% foreign-owned, by submitting an application to approve the increase of foreign shares above 49% in the company's capital to the competent Department. (After paying the prescribed fees and submitting the supporting documents specified by the Department.)

Projects can be instated in all legal entities except the joint-stock companies listed on Qatar Exchange, which may be owned only with a percentage of 49% (at most), by the foreign investors.

However, the most common form of corporate business used by foreign investors is the Limited Liability Company (LLC).

UAE
The Federal Law by decree No. 19 of 2018 (FDI Law) introduced the possibility to obtain a majority of the shares by a foreign owner in the UAE companies. Where up to 100% foreign ownership would be allowed by special permission from the local licensing authority. Under this law, projects may take any of the following legal entities:

• Limited Liability Company, including a one-person company (Sole Proprietorship)
• A private joint-stock company, including a one-person company.

Egypt
The foreign investors in Egypt can establish a legal entity or new Company by different forms of companies, 100% foreign-owned, namely:
a. Limited Liability Company: Is a common entity to set up a small business that required at least one manager who must be an Egyptian.
b. Joint Stock Company: Whether it is a closed company or a listed company.
c. Partnership Limited by Shares.

The entities mentioned above can be 100% foreign-owned, except the companies that are

doing business in exclusive sectors or required a minimum range of their contribution. For instance, the importing activity, as well as the investment in the Sinai area that required approval from the relevant Egyptian Authorities.

2. Foreign branch office and representative office.

The other common form of business include establishing branches of a foreign company

Qatar
Under Article 5 of the Foreign Investment Law, a foreign company can establish a branch or obtain temporary registration. I.e. a foreign company wins a bid or engages in executing business contracts in Qatar, and may need to have legal representation in Qatar to execute these projects.

This means, they need to set up locally, or they can get a special exemption from the Ministry of Industry and Commerce that allows them to set up a branch office of the foreign company that will undertake the designated project. This would only be valid if the contract has been entered with one of the ministries, government bodies, public authorities/institutions, or companies in which the State participates. The bid will be granted by one of these organizations if they fulfill all requirements of the competent authorities in the State, register in the Commercial Register, and obtained a commercial license for the company's branch. Such branches can be 100% foreign-owned and do not need any 51% local shareholding to operate.

UAE
A branch of a foreign company must have a

sponsor who is a UAE national or a company fully owned by UAE nationals. Whereas certain sole partnerships and professional partnerships can be entirely foreign-owned in exceptional cases, by obtaining special permission from the local licensing authority.
In each case, the branch or company must obtain a license from the federal and/or municipal authorities to carry on its proposed activities.

Egypt
Foreign companies may set up a branch office if the company has a contract with an Egyptian party, and it's permitted to set up a representative office which can be 100% foreign-owned. However, it is not allowed to conduct direct sales according to Egyptian Companies Law.

3. Free Zone Companies

Qatar
Law No. 34 of 2005 regulates investments in the free zones, 'which are geographic zones within the territory of the State which are treated as being separate areas have special and distinctive rules of regulatory and customs aim to attract and encourage the investments '. In 2018, Qatar has created an independent authority called the Qatar Free Zones Authority (QFZA).

A company launched in the Qatari free zones can be 100% foreign-owned provided it meets the criteria of the relevant governmental organizations. Moreover, the free zone users are eligible for several incentives such as; Exemption of export and import duties, freely transfer the profits outside the State without

any restrictions, waiver of restrictions on the origin of capital, the freedom to choose the project's legal form, and several other perks for logistics and communication, besides, providing the highest possible advantages to both Qataris and foreign investors.

UAE
In general, the free zones have their own regulations which are regulated by the relevant free zone authority. Free zones are generally subject to their own corporate law, independent of general corporate law and the UAE foreign investment law. Therefore, some investors may choose to set up their business in free zones to avoid any complications or restrictions. Some laws are not applicable to free zone companies, such as the tax law — provided that the company's activities do not exceed the border of the free zone. Note that the main UAE federal laws do apply to these companies, such as the Federal Penal Law (once a crime takes place in the free zone).

The Free zones focus on different business areas, including shipping, commodities, financial services, and telecommunication.

Projects in a free zone can be 100% foreign-owned and no UAE national agent, UAE partner, or shareholder is required. Noteworthy, UAE has more than 40 free zones.

Egypt
Free zones in Egypt are considered a special investment system governed by the provisions of Investment Law No. 72 of 2017 and its Executive Regulations. Its enforcement is overseen by the General Authority for Investment and Free Zones.

Free zones are governed by special provisions on taxation, customs, and finance. Such zones have special advantages, guarantees, and exemptions Granted to Projects. Under the policy set by GAFI all types of investment activities are allowed to be exercised inside free zones, with the exception of the following:

- Weapons, ammunition, explosives, and any industry relating to national security.
- Wine and alcoholic beverages.
- Fertilizers.
- Manufacturing of iron and steel.
- Petroleum refining.
- Liquefaction, manufacture, and transport of natural gas
- Energy-intensive industries.

The Permitted economic sectors for the FDI

Qatar
The foreign investor may invest in all the economic sectors with a percentage of (100%) of the capital except the following sectors:
a. Banks and insurance companies, unless otherwise excluded by a decision from the Council of Ministers.
b. Commercial agencies.
c. Any other fields for which a decision from the Council of Ministers is issued.

UAE
Under Article 6 of the new FDI Law, The UAE Cabinet classifies business activities into two categories known as the Negative list and the Positive list.

Negative list:
Foreign ownership above 49% is not permitted

in sectors of the economy, as stated in the "negative list". These include the following activities:

- Exploration and production of petroleum materials investigations,
- security,
- military sectors,
- manufacturing of arms, explosives and military equipment, devices and clothing, banking and financing activities,
- payment systems and dealing with cash, insurance services, and other activities mentioned in article 7 of the FDI law.

The Positive list:
Foreign ownership up to 100% may be permitted in sectors as stated in the "positive List". Currently 122 sectors are specified in the "positive list". In this list, there are 3 categories in which an investor can launch its business:

    a. Agricultural sector
    b. Manufacturing sector
    c. Services sector.

Egypt
The new investment law targets and focuses on many sectors for the investment projects include 13 sectors shall be part of the activities governed by the provisions of the Investment Law, namely:

1. The Industry Sector
2. The Agriculture, Livestock, poultry, and the fish production sector
3. The Trade Sector
4. The Education Sector regardless of type and level
5. The Health Sector
6. The Transportation Sector
7. The Tourism Sector
8. The Housing, Construction, and Building Sector
9. The Sports Sector
10. The Electricity and Energy Sector
11. The Petrol & Natural Resources Sector
12. The Water sector
13. Communication and Technology sector

While, Sectors where Investment chances are fewer, The Monopolistic Sectors (The banking system is exclusively held by the State and the telecommunications sector, as the state operator Telecom Egypt had a monopoly and now it is also operating mobile phone lines. But both sectors are open to competition).

Incentives & Privileges for the foreign investor

Qatar
- Providing the needed lands to the foreign Investor to establish their investment project through either leasing or usufruct.
- Freedom to import whatever they need for setting up, operating, or extending the project.
- Exemption from income tax in accordance with the provisions of Income Tax law.
- Exemption from custom taxes with respect to imported machinery and equipment needed for setting up the projects.
- The industrial projects shall be exempted from customs on imported raw and half manufactured materials that are needed for production and which are not available in domestic markets.
- The benefit of transfer all amounts relevant to their investment from and to any external destination without any delay.
- The right to transfer the investment owner-

ship to any other investor or assign ownership to their local partner.

UAE
- No expropriation ensuring the property is not expropriated except for public benefit in exchange for fair compensation.
- Not to seize or confiscate project funds unless by a court hearing.
- The right to use real estate.
- Make financial transfers for project returns outside the country.
- The licensed foreign investment companies are treated like national companies.
- • Ensuring the confidentiality of technical, economic, and financial information.
- Transfer the ownership to a new investor and amending the article of association.
- Change the legal form of the company, merger, acquisition, or liquidation.

Additionally, the UAE launched a permanent residency system for certain foreign nationals. Called the 'Golden Card' will be handed to "investors and exceptional competencies.

Egypt
- Equality of investment opportunities regardless of the size and location of the Project.
- Under a decree issued by the Cabinet of Ministers, an exception can be made granting the foreign investors a preferential treatment in the application of the principle of reciprocity.
- Granting a residence permit to foreign investors throughout the term of their investment projects in Egypt;
- The Investment Projects may not be nationalized.
- The right to repatriate profits and/or receive

international finance without any restrictions;
- reduction up to 80% of the paid-in capital in the date of starting investment projects in Egypt for seven (7) years;
- Accelerating the liquidation process by no later than (120) days from the date of submitting the relevant liquidation request;
- The right to export the investment projects' products, whether directly or indirectly, without requiring the registration with the Exporters Registry;
- Application of a unified custom duty at a flat rate of only 2% of the value of any equipment, machinery, and devices that are necessary for the establishment of investment projects or continue any infrastructure projects;
- The Prime Minister may grant additional incentives.

Dispute settlement

Qatar
The foreign Investors may agree to settle any dispute between them and others through arbitration or any other means of settling disputes following the law, but there is an exception:
- Labor dispute: shall be settled by the Qatari Labor Disputes Settlement Committee according to Qatar's Law No. 14 of 2004 (Labor Law) and the provisions of the entry, exit, and residence of expatriates in Qatar.

The investor-state' Agreement to Arbitration which is considered as administrative contracts shall be subject to the approval of the Prime minister or the person to whom he delegates.

Furthermore, I'd like to point out that the Council is in the process of the launch of the Court of Investment and Trade, which aims to accelerate the pace of conflict settlement and a reassuring message to investors wishing to work in Qatar.

UAE
Under article 12 of FDI Law, any disputes that may arise related to the FDI project may be settled through all alternative means of dispute resolution. A foreign investor has the alternative of resorting to the UAE's local courts. In case the investor chooses to continue to prosecute its dispute in the local courts; it shall be done in an expedited way.
Any federal government department entering into a contract that includes an arbitration clause shall obtain the prior approval of The UAE Cabinet.

Egypt
Under the Articles, 82 to 91 of The Egyptian investment law provided for multitier mechanisms for the settlement of investment disputes, including litigation, amicable settlement, and alternative dispute resolution (ADR). And they stated that three specialized committees shall be established by the General Authority for Investment.

a. The Grievances Committee: To examine complaints filed against the resolutions issued by the authorities concerned with the issuance of the approvals, permits, and licenses, such complaints shall be submitted to the Committee within 15 days from the date of notice of the decision petitioned against.
b. The Ministerial Committee for Investment

Dispute resolution: to look into applications, complaints, or disputes between investors themselves or between the investor and one of the state bodies, and it shall settle the matters within 30 days from the date of closing of hearings and submissions.
c. The Ministerial Committee on Investment Contracts Dispute resolution: To settle disputes arising from investment contracts to which the state or one of its bodies, authorities, or companies is a party.

In addition to those committees, the said law establishes an independent center—the Egyptian Arbitration and Mediation Centre—for the settlement of disputes between investors or with governmental entities. The law allows settling investor-State disputes through domestic or international ad hoc or institutional arbitration.

Conclusion

We see that the efforts made to encourage foreign investment in the Arab & Gulf Countries have a positive effect on the entrepreneurial spirit.Where the GCC was placing substantial restrictions on the foreign ownership of the companies by at most 49% of the capital, now, that's been changed and a landmark step was taken to encourage the foreign investments.

Noteworthy, Egypt already was more flexible as it's not adopted the sponsorship system. On the other hand, although the full foreign ownership is restricted to specific sectors - to varying degrees in the three described countries- there is some flexibility in the new framework which allows the Cabinet to change the list

(see UAE) or grant an exception (see Qatar).

Another important point is investment arbitration. Foreign investors prefer to settle disputes through arbitration, instead of resorting to the domestic Courts in the host country. The related laws, allow foreign investors to resort to international arbitration for any disputes arising out of their investment. Though the issue may only appear in investor-state disputes, if the dispute relates to a contract with a government entity, several FDI legislations explicitly require the consent of the State to resolve it. Also the government will probably prefer to settle the dispute via the domestic courts under the local laws, although a local arbitration mechanism may be an alternative. We believe it should be more flexible and stipulated in specific articles in the investment laws, in which its conditions are regulated precisely. Nevertheless, those countries have attached great importance to the ADR in the past years. Looking at the current climate it is interesting to note that the vast majority of the private sector disputes with the foreign investor are now resolved through the arbitration.

On balance, it may be submitted that the strengths and safeguards of these country laws substantially outweigh any risks; in any case, time will tell whether these facilities & strengths will attract the confidence of the foreign investors.

About the Author:
Fatima holds an LL.B degree and an LLM in International Commercial and Investment Law from the University of Cairo. She is pre-

paring a Ph.D. in the International Arbitration Law and International Commercial law. Fatima is working as Legal Counsel at AHB trading and contracting LLW in Qatar. Before joining AHB, Fatima practiced Corporate, Litigation, and Arbitration areas at the top-tier law firms in Egypt and Qatar. Fatima has a great interest in Legaltech, as well as the comparative legal research of different foreign and international laws.

ALSP Advisor Launched

Yvonne Nath, a law firm strategy consultant with LawVision, has launched ALSP Advisor, a consultancy that connects Alternative Legal Service Providers (ALSPs) and law firms.

ALSP Advisor aims to build win-win relationships between ALSPs and law firms by helping ALSPs, especially those that are lesser-known, gain recognition and deliver exceptional value to law firms of all sizes while helping law firms improve operations, differentiate themselves from their competition, and increase the value they deliver to their clients and shareholders alike. ALSP Advisor maintains a curated database of hundreds of ALSPs that can support the business and practice of a law firm. Want your ALSP or law firm to stand out?

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HELPING THE NEW FIRM LEADER SUCCESSFULLY TRANSITION

VIRTUAL ADVISORY SESSIONS

Leadership transitions do not occur as a series of linear or logical steps. If you are about to take the reins and transition into the role of Firm Leader, you are about to make a quantum leap into a new reality – one often containing big goals and complex challenges. Will you be prepared to successfully navigate this transition? Do these sound like some of the perplexing questions that you have been asking yourself:

· Am I really clear on the reasons why I accepted this position?
· How can I be sure that I have correctly understood what is expected of me?
· Which tasks should be a priority and which tasks can be put on hold?
· Who am I going to meet with first and what am I going to say?
· Have I defined the challenges and determined an approach for dealing with them?
· When can I begin to introduce change and what is my initial plan of action?
· How do I make sure that I have the support I need from the partnership?

These questions can rattle around in your brain with little clarity. My name is Patrick J. McKenna and since 2007, I have helped dozens of new firm leaders, many from AmLaw 100 and 200 firms, navigate their first 100 days by way of my highly successful Master Class (see: First 100 Days Masterclass with the various testimonials). These advisory sessions provide that same content – only in a highly interactive and customized one-on-one process. I can help you achieve the clarity you need and here is how I propose that we tackle your transition:

One-On-One Consultations
We will schedule a session approximately every second week (or weekly if required) – each lasting about 60-90 minutes by telephone or desktop video; and I will provide additional counsel by email as needed. The intensity of the support depends entirely on your unique needs. I am here to help you get the job done and your problems are my problems.

Homework and Reflections Assignments
You may expect to be provided with prescriptive reading materials, things to think about, thought-provoking exercises, and homework assignments – all to help you be highly successful in your leadership transition.

Document Review
I will also review and provide detailed feedback on any documents, reports or written notes related to your leadership transition – from formal job descriptions to your First 100 Days action plan.

These sessions will give you practical insights and actionable perspectives about how to succeed in your new role. And my entire process is:

TOTALLY CONFIDENTIAL – no one in your firm need know that you have retained a special advisor to assist you with your leadership transition.

EASILY ACCESSIBLE – from anywhere in the world through audio (telephone) or video (Zoom or other) desktop conferencing and either during regular office hours or at a time that is most convenient to you.

AFFORDABLE – your one-on-one advisory assistance is priced on a flat fee for Ten (10) sequential sessions (plus any disbursements) complete with my satisfaction guarantee – If you are not completely satisfied with the services provided during any session in this engagement, I will, at your option, either completely waive my professional fees or accept a portion of those fees that reflects your level of satisfaction.

WHAT IS INVOLVED IN MY FIRST 100 DAYS ADVISORY SESSIONS

Here are the issues that we will address over the course of our sessions together.

Session 1: **Beginning Before the Formal Handoff**
What competencies, resources, and skills do you bring to this new role and how will you leverage them?

Session 2: **Getting Clear on Your Mandate**
Review 4 predictable stages of your transition and 10-point critical action plan for working with your predecessor.

Session 3: **Understanding Your New Role**
How does your firm's current circumstances shape your expectations of what your first steps should be?

Session 4: **Hitting the Ground Listening**
Determine partners views of the important areas where you must succeed and what their appetite is for change.

Session 5: **Working with Your Administrative Professionals**
Identify how well your administrative professionals are performing and how they should work with you.

Session 6: **Working Effectively with Your Business Units**
Review 10 elements of structural integrity and how you can help your practice/industry groups accomplish results.

Session 7: **Setting Your Strategic Agenda**
We will develop your specific 100 Day Action Plan identifying your priorities going forward

Session 8: **Stimulating Change That Sticks**
Review 25 different strategic levers you have available to you to stimulate productive change

Session 9: **Securing Early Wins**
Design some 'early wins' pivotal to building political capital and momentum around results

Session 10: **Managing Your Time – Priorities Dilemma**
How will you balance your time in the early weeks, given the demands that will be made?

Virtual Advisory Sessions

LET'S ARRANGE A NO-OBLIGATION INITIAL DISCUSSION

Contact me (patrick@patrickmckenna.com) to set up a time for a get-to-know-you conversation. I will ask about the challenges and issues you are expecting to face in your first 100 days and you may ask me any questions you wish about my background and specific expertise.

There is no obligation to enlist my services as a result of our discussions and at the very least, I'm sure that I can provide you with some valuable initial counsel

Patrick J. McKenna

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