

Professional Development Quarterly

November 2007

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Creating Synergy Through Competitive Intelligence Training

Ellen M. Callinan

Competitive Intelligence: *A systematic and ethical program for gathering, analyzing, and managing external information that can affect your company's plans, decisions, and operations.*

– Society for Competitive Intelligence Professionals (SCIP)
[\[http://www.scip.org/14_pr_060314.php\]](http://www.scip.org/14_pr_060314.php)

My former law firm had a reverence for the “rule of three,” which asserts that things are inherently more satisfying in clusters of three. According to columnist Gord Hotchkiss, “We tend to remember points best when given in groups of three, we scan visual elements best when they come in threes, and we like to have three options to consider.”¹ His sentence – even the SCIP definition above – seems to reinforce this notion. My firm translated this rule into presentations, briefs, and even management decisions. I remember my old boss explaining a restructuring idea as a “three-legged stool” in which three departments would work together to support the efforts of the attorneys.

That competitive intelligence is one of the hottest topics in the legal industry is a given. Defining and managing it has been the focus of many conference programs in recent years for several of the professions that support law firm attorneys. At least two law firm departments could lay claim to this responsibility,² although it would not be advisable for firms to vest sole responsibility in

PROFESSIONAL DEVELOPMENT

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any one. Instead, marketing and the firm library could function effectively to support the attorneys – with the professional development department serving as the third leg to unite these peers through attorney training programs.

Why Should Lawyers Understand Competitive Intelligence?

There is a threshold question: why should lawyers know how to perform competitive intelligence at all? More and more law firms are hiring professional CI staff to handle requests for this service.³ Nonetheless, even with library and marketing services available to support their efforts, attorneys need to engage in CI themselves for the most basic reasons: “to win new clients, cross-sell to existing clients, evaluate merger and acquisition opportunities and decide whether to add a practice area or open a new office.”⁴ CI may even become a service offered by law firms to their own clients.⁵

Competitive intelligence also informs the work attorneys perform for clients. Attorneys who know business research can learn more about their clients, ascertain industry trends, and discover facts about products, services and events related to litigation. Several years ago, some of my Georgetown

students complained when we spent four weeks on business resources – they only wanted to learn “legal” research. Nowadays, my students can’t get enough of this type of research and genuinely enjoy the assignments in which they apply what they learn, including assembling corporate profiles and developing personal business plans.

Thomas Waters, another CI consultant, offers an example of the factual value of CI in client matters:

“[F]or example, satellite photographs are available -- at minimal cost -- from various federal, state, and county agencies, such as the Environmental Protection Agency, drug enforcement bureaus, and agricultural departments. A photo of a manufacturing plant can be used to count the number of cars in a parking lot, which can yield an estimate of the plant's labor costs. Moreover, a detailed report from the Occupational Safety and Health Administration -- available under the Freedom of Information Act -- can provide extraordinary amounts of information about the inside of a plant, including the numbers of people working on the production line, the products coming through, and the actual tools or machinery being used.”⁶

Because they are generally the least prepared to do this work themselves, senior attorneys tend to rely on CI staff for support. Despite some skepticism about these efforts – after all, the *Bates v. State Bar of Arizona* decision was handed down before or during law school for many of today’s law firm leaders⁷ – these more experienced attorneys are embracing CI in their practices. According to Lauren LaCerde, manager of strategic intelligence at Thompson Hine: “My early experience was that sometimes people wouldn't understand the data, or they'd be completely naysaying [my findings] --- 'Oh, you're not right, I feel like it should be this,' and I'd say, 'Well, no, it's not.'" Now, says LaCerde, there's been a cultural shift (she claims no credit for it): “People are really very interested in the information, almost clamoring for it. I have people say, 'Update that [report] you did last year, because I loved it.'”⁸

The world looks a little different to younger lawyers, who already understand their role in developing business and want to make their own rain. They are often quite familiar with CI resources, having recently completed the process of finding a job. They are aware of the differences among competitor law firms, having chosen among them in the process of accepting an offer. Before they lose this skill in the tidal wave of client work, law firms can tap into this resource through training programs that put the stamp of approval on this business development activity.

Whether they use CI to develop new business, to uncover factual information related to existing client matters, or as a new service for clients, attorneys need to understand the process and resources that define competitive intelligence.

Who's in Charge Here?

Professional marketing is a relatively new profession within the legal industry,⁹ but it is one that has grown quickly. These days, most large firms and many smaller ones employ marketing professionals who are “charged with the promotions and communications, business development, and client relationship management programs.”¹⁰ A marketing department can consist of one or more members who “work with the firm’s attorneys to research new client opportunities, keep track of current clients, and get media placements for the firm and its attorneys.”¹¹

In-house CI professionals engage in formal CI projects, which might include:

- Identifying trends in case law and practice areas;
- Responding to RFPs for new legal work;
- Performing due diligence research;
- Conducting diversity and demographic studies of competitors and clients;
- Researching in-house counsel and clients’ other key executives.

On the other hand, law librarians have provided CI support in law firms for decades.¹² Through classic reference service, librarians have located background information on potential clients, researched industry trends and conducted literature searches to uncover press coverage of litigants and litigation. They have also contributed another classic service – the “selective dissemination of information,” or SDI. Long before RSS feeds kept them current on updates to their favorite web sites, librarians fed attorneys current awareness information through periodical routing and through regulatory and legislative tracking services.

CI researchers possess such core skills as:

- A strong business background;
- Expertise in research and analysis;
- The ability to identify patterns and trends from raw data;
- Extensive experience with CI information resources;
- Creativity and honesty in challenging situations.¹³

According to a survey conducted by Janet Peros in 2006,¹⁴ some librarians are moving beyond the delivery of raw information to providing synthesized, user-friendly reports directly to attorneys. In other firms, attorneys bypass the library and contact marketing staff for research. What can happen next creates tension between the departments. As one respondent explained, “[a]ttorneys (inappropriately) go to marketing asking for background information on a company. Marketing then comes to the librarian, gets the information, and frequently passes it on to the attorney as information they attained on their own.”¹⁵

Gitelle Seer, Chief Knowledge Officer at Dewey and the firm’s long-time library director, summed up the effect at a recent conference, “Before you know it the marketing staff is functioning as an intermediary between the library and the attorneys.”¹⁶

How PD Can Bring These Players Together at the Training Table

With Marketing and the library somewhat confused about who is in charge, PD can unite them in a firm-wide effort to bring CI to the attorney masses through training. Although many vendors offer training in competitive intelligence, by using in-house resources for CI training programs, PD can create synergy within the firm.

The CI curriculum would cover the sources and the application of business research to both case and client development. By using a case study to illustrate the process, Marketing and the library could help attorneys integrate CI into their practice routines and map out a pattern of collaboration among the attorneys, librarians and marketing staff.

Marketing could explain the objectives of competitive intelligence in business development, including:

- Defining the services the firm offers;
- Understanding the trends that affect these services;



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- Knowing the competition; and
- Understanding what differentiates your firm from the competition.¹⁷

The marketing curriculum could also describe the deliverables they might provide to attorneys, such as a SWOT (Strengths, Weaknesses, Opportunities, Threats) analysis or industrial structure analysis.¹⁸

The library's contribution to the curriculum would include an explanation of the relative cost of CI research tools and a demonstration of effective techniques for using them. Librarians can expose attorneys to the wide range of business research resources, including free and fee-based databases, high quality internet sites, government reports and statistics, information from financial analysts, company annual reports and web sites, and business periodicals. The library staff can also point out more unusual sources, such as:

- "Court records to track client representation by competitors, their rates and the effectiveness of their services.
- Filings with the Securities and Exchange Commission and other government agencies.
- Web logs, or blogs, to track industry trends, employee morale and gossip.
- Industry conference information to determine leaders and current issues.
- Networking events, such as chamber of commerce meetings, in communities or business areas targeted for expansion.
- Law firm want ads.
- Personal interviews with people who have worked for competitors or for targeted clients."¹⁹

Conclusion

Bringing Marketing and the library together to design an effective CI training program would create more than a relevant, cost-efficient seminar within a law firm. Professional Development could facilitate the teamwork between these departments that

will ensure continued success for the firm's future. Together, these three departments can offer a satisfying and effective educational opportunity for the firm's attorneys.

Notes

1. *The Rule Of Three In Search*, Gord Hotchkiss MediaPost's Search Insider, July 20th, 2006 [http://blogs.mediapost.com/search_insider/?p=320]
2. According to Thomson research, CI is most often the responsibility of a law firm's marketing department or library – or a cooperative effort involving both. *Law Firms: Use Competitive Intelligence to Make Better Business Decisions*, Janet Ellen Raasch, **Law Practice Today**, June 2007 [<http://www.abanet.org/lpm/lpt/articles/mgt06071.shtml>]
3. *Law Firms and Competitive Intelligence*, Leonard Fuld of Fuld & Co. (2005) [<http://www.fuld.com/bin/f.wk?fuld.doc.gen+@TYPE=LS2005>]
4. *Law Firms: Use Competitive Intelligence to Make Better Business Decisions*, by Janet Ellen Raasch, *Law Practice Today*, June 2007; [<http://www.abanet.org/lpm/lpt/articles/mgt06071.shtml>]
5. "Law firms may not be in the business -- at least not yet -- of discussing satellite pictures with structural engineers. But they are consultants and advisers, they know the legal system, and research is key to their principal functions. These attributes help explain why lawyers are able to offer a variety of CI services to clients." *Competitive Intelligence, Will More Firms Begin To Offer This Service To Clients?*, Donna Fryer and Steven A. Meyerowitz, 2004 [http://www.searchitright.com/article_ci.html]
6. *Competitive Intelligence, Will More Firms Begin To Offer This Service To Clients?*, Donna Fryer and Steven A. Meyerowitz, [http://www.searchitright.com/article_ci.html]
7. In *Bates v. State Bar of Arizona State*, the U.S. Supreme Court struck down a ban on advertising by lawyers. The rest is history. For a good summary, see *Bates Participants Reflect on Landmark Case*, David L. Hudson, (November 18, 2004) [<http://www.firstamendmentcenter.org/analysis.aspx?id=19091>]
8. *Competitive Intelligence: Brave New World*, Arthur Jones, **Daily Business Review**, August 27, 2007, [<http://www.law.com/jsp/legaltechnology/pubArticleLT.jsp?id=1187946141069>].
9. "According to a study by Cambridge, Mass., research and consulting firm Fuld & Co., 82 percent of law firm competitive intelligence programs are less than a year old, and none have been around for more than four years." *Competitive Intelligence: Brave New World*, Arthur Jones, **Daily Business Review**, August 27, 2007. [<http://www.law.com/jsp/legaltechnology/pubArticleLT.jsp?id=1187946141069>]
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11. *Blurring the Lines*, Janet Peros, **AALL Spectrum** (April 2006). [http://www.aallnet.org/products/pub_sp0604/pub_sp0604_Blurring.pdf]
12. *Competitive Business Intelligence: Strategies, Skills and Services*, Gitelle Seer, Presentation at the Special Libraries Associates Annual Meeting, 2006. [<http://units.sla.org/division/dleg/2006programs/SLALD-GS.pdf>]
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17. *How Do You Differentiate Your Practice Group From The Masses?*
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18. *Institute for Competitive Intelligence Curriculum: Autumn 2007*,
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19. *The Wise Use of 'Intelligence'*, Leigh Jones, *The National Law Journal*, 04-12-2005
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Burnout: A Necessary Part of Lawyers' Lives?

Randall Christison

Talking to a lawyer-friend recently, one in practice for many years, I asked how he was. "Working harder; enjoying it less." Far from flippant, he was deadly serious. Everything in his voice and body language suggested he was at the end of his rope.

I asked what he does after he leaves his office each day: "Home to my networked computer." In essence he's in the office many hours and telecommutes the rest.

I asked about his résumé, down at the bottom, where we put hobbies and personal information, what did he have there? With a mirthless laugh he responded, "You mean those things I haven't done in decades? That was a different lifetime." Maybe more accurately, that "was when I had a life, before the law sucked it out of me."

The conversation of any group of lawyers often turns to the stresses and frustrations of our colleagues – and often of ourselves – following years of practice. We lawyers easily identify the source; we work in an adversarial, pressured, high-speed environment. Long hours are often marks of success, even badges of honor. An unstressed lawyer? I've

not met one. Burned out lawyers? I've met several – including one in the mirror.

A Profession in Trouble

Since the problem began garnering attention in the 1980s, survey upon survey shows a profession in trouble. The signs are hard to miss:

- Large percentages, even majorities, if they had to do it over again, would not become lawyers.
- Many lawyers drop out of the profession altogether.
- Remarkable numbers, well more than 30%, qualify for mental health intervention, and not just for depression and substance abuse.
- Lawyers suffer nearly *quadruple* the clinical depression rates of the average occupation, easily the highest of any occupation studied.

As asked by one author,¹ "Lawyers have never wielded more political and economic power than they do today. [They] are the wealthiest in the world. In influence, affluence, and prestige, practicing lawyers

surpass most other occupational groups. Why are so many lawyers so sad?"

Why indeed? Part of the answer lies in a lawyer's distinct personality.

Lawyers Are Different

Studies suggest entering law students are not markedly different from other graduate students, at least as far as psychopathology. But other studies show these students are different from the general population in several ways, a difference law school intensifies. By the end of law school, law students are markedly different from their graduate school peers, and the difference is not healthy.

The well-known Myers-Briggs tests show lawyers and law students are appreciably different from the rest of the population. They are detached thinkers, not empathetic feelers, and abstract intuitive thinkers rather than concrete ("sensing") ones. Surprisingly, they are more introverted than extroverted.

Some suggest this reflects self-selection and law-school winnowing; much of law training rewards those whose hours of studying resembles less a courtroom performer than a monk. Susan Daicoff² summarizes the "attributes associated with effectiveness as a lawyer":

1. Need achievement,
2. Be extroverted and sociable,
3. Be competitive, argumentative, aggressive, dominant, cold,
4. Show low interest in people, emotional concerns and interpersonal matters,
5. Have disproportionate preference for Myers-Briggs *thinking v. feeling*,³
6. Focus on economic bottom-line and material concerns, and
7. Have a markedly higher incidence of psychological distress and substance abuse.

Not only do lawyers have a distinct personality, but they also work in a distinct environment. In the lawyers' world, we measure success (too often) by revenue and by billable hours. We gain success by putting in long hours, in a constantly pressured, highly adversarial environment, often carrying the burden of emotionally charged clients and situations. Dennis Kozich⁴ and Peter Lattman⁵ list the common sources:

- Long, dehumanizing hours,
- Burdens of responsibility for someone else's money, family, freedom, even life,
- The omnipresence of trained adversaries eager to pounce on any opening,
- Judges, juries, others constantly passing judgment on your performance,
- Ever-present deadlines,
- Ever-present interruptions: telephones, emails, Blackberries,
- Instant communication causing ever-faster documents and decisions,
- Competition for clients,
- Clients' stress and anger transferred to their lawyers,
- Job security concerns,
- A gap between the ideals of those entering the profession and the reality, and
- Too often, a gap between lawyers' intelligence and the mind-numbing nature of the work.

In years past, mail and telephones controlled our time. Now instant communication – email, fax, and Blackberry – make such memories seem quaint. Vacations once were a way to get away from these pressures. Now cell phones and laptops are essential parts of vacation packing. In essence, lawyers are called on to assume the burdens of responsibility for other's fortunes, family, and freedom.

Indeed, to help and protect others is why many became lawyers. But unlike the other helping professions, lawyers have trained, skillful, even ruthless adversaries waiting to jump on any mistake.

Getting a 90% grade in college was not bad; in law practice it's an invitation to embarrassment, if not to a malpractice claim. For many of us, judges, juries, even the news media, are passing judgment on our performance, a judgment that is visited upon our clients. And as lawyers progress from novice to veteran, their passage is monitored, scrutinized, and frequently harshly criticized by the firm's more senior lawyers.

Under these circumstances, it's hard to imagine a lawyer not suffering from stress. And added to it are the inevitable economic expectations and pressures.

Burnout's Red Flags

Here are the signs to watch for:

Physical

- Headaches, backaches,
- Fast or skipping heartbeat,
- Indigestion, diarrhea, gastric complaints,
- Sleep problems – getting to sleep or staying asleep,
- Appetite changes (decrease or increase),
- Sexual dysfunction or lost interest.

Mental

- Short fuse, impatience,
- Feeling of being overwhelmed,
- Emotional roller coaster,
- Forgetfulness, Inability to concentrate,
- Increased procrastination,
- Floating anxiety,
- Feeling of dread.

These warning signs are not unique to lawyers by any means – ask a police officer or a paramedic – but they are more prevalent. My one-sentence incipient-burnout test is the alarm-clock question: when the alarm goes off, do you:

- a. wake up, looking forward to the day?
- b. wake up, regarding the day with indifference?

- c. wake up, regarding the day with dread, burying your head in your pillow, hitting the snooze button repeatedly?
- d. throw the clock out the window?

Can Leopards Change Their Spots?

If lawyers indeed have a different personality and if lawyers are subject to a particularly demanding environment, can lawyers do anything about it? Do we instead resign ourselves to a life "poor, nasty, brutish and short"? (Well, maybe not "poor.") Can leopards change their spots?

We suggest yes, but it requires effort and changes in the way we think.

Over the past few years we lawyers have talked of "life-work balance." Some law firms devote considerable effort to the problem. Balance is a common topic in associate recruiting. But the signs of burnout continue to spread.

The Blackberry illustrates the problem. A few years ago we debated whether to provide associates Blackberries or simply let them buy their own. That debate is over. Firms have their Blackberry-equipped associates on a 24/7 leash. Vacations are replaced by resort-based telecommuting. Perhaps we should place a warning, "This device will handcuff you to the job."

Billable hours, uncommon before the supreme court's 1975 case, *Goldfarb v. State Bar*, now are ubiquitous. A whole generation of lawyers thinks of a world without billable hours as akin to working with quill pens. 1,800-hour requirements are remnants of some quaint, bygone era. Requirements, and worse, expectations, inexorably increase.

Short-term Solutions

So it seems not much good news is out there. But lawyers can try some remedies, some short-term, some for the long haul.

Under the sort-term rubric are familiar ones:

- Modern time management skills;
- Stress management skills;
- Physical hygiene: exercise, nutrition, sleep;
- Taming the chemical monsters – caffeine, alcohol, drugs;
- Vacations that are *vacations*, days off that are days *off*.

One problem remains difficult to solve: changing an achievement-oriented profession's definition of success. And revenue and billable hours represent an unmistakable measure.

Long-term Solutions

Periodic Change. "Just like my house-plants, I need to be repotted every ten years or so." Mental and intellectual stimulation may be the leading reason we become lawyers. But after several years in the same practice field, many find the thrill is gone.

The now largely forgotten practice of sabbaticals was a useful solution. Changing into an entirely new field is likely economically unrealistic, though taking the financial hit may be a solution of last resort. But developing into related areas is within the reach of most. Sometimes clients, needing assistance in a new area, can provide that springboard.

Firm Style. How the firm conducts business includes how it treats its people. Does the firm increase or ease stress? Usually it's the former. Does the firm promote collaboration or competition; does it reward cutthroat, "I'm in it for myself" behavior, or team efforts? Does the firm reward rainmakers and no one else? Do the firm's members share attitudes, behavior, values, friendships? Does the firm promote the lawyers' family responsibilities or undermine them? Above all are there collegiality, mutual support, and respect?

Client Relations. Clients sometimes expect too much. Putting those expectations on the lawyers' shoulders only increases stress, magnified especially for those lawyers who entered the law to protect and serve others. Lawyers have much to do with raising and moderating those expectations, both for their clients' and their own sake.

Success and Money. Chasing high income is its own self-defeating effort. The Woodard Rule⁶ (no matter what the income, "I'd be happy if I only made 25% more") applies as much if not more to high income earners as to those earning five-figure incomes. As long as money is a (or the) criterion for success, lawyers will cause themselves untold unneeded stress. Rethinking this goal may prove the most difficult trait to remedy, yet the most important.

Positive Changes. Amiram Elwork, PhD,⁷ talks of changes in his chapter "All the Sages Agree." Those who are happiest, those who enjoy the benefits of stress and don't succumb to its destructiveness, are those who

- (1) have reasonable goals and expectations,
- (2) feel competent in their jobs,
- (3) have challenging work, but
- (4) have work balanced by leisure,
- (5) have a good marriage and family, and
- (6) contribute to the community.

They do not seek success at any cost, do not demand or aspire to be the top dogs, do not spend their lives at work, and do not substitute work for family. Instead, those who contribute to the community are often the ones who feel the best about being lawyers, for they are the ones who can use their hard-earned skills for the common good.

Sharpening the Saw. Continuing the theme of "all the sages agree," is the universal view that those who continue to develop their skills, those who engage in lifelong learning and continuing professional

development, are those who best keep the stress monster at bay.

One needs only to think of Stephen Covey's parable⁸ of the lumberjacks who are too busy, working too hard, driving themselves to exhaustion cutting down a tree, all because they "don't have time" to sharpen their now quite dull saw. And continuing professional development has the added benefit of exposing us to others we wouldn't otherwise know, and to ideas, even inspirations, we would never otherwise encounter.

The Prescription

Lawyers work in a tough environment, and yet we make it tougher on ourselves. We need to turn some of that toughness toward protecting ourselves from burnout. To do so requires effort, requires knowledge, requires self-awareness, and requires reworking of our law firms. But lawyers' own personalities render self-protection much more difficult. We spend our time and effort on others' problems, on achieving, on competitive success. And we are hardly introspective.

These very characteristics make it *unlikely* that burnout-susceptible lawyers by themselves will successfully carry out a burnout-protection program.

First, all of us need to understand the risks and the warning signs, and identify what in

our work and our personality leads us toward burnout. Law school didn't teach us that.

Second, we need someone, usually a coach, to keep us on the right path and to alert us to our high-risk and self-destructive behavior.

Third, we need to exercise the same kind of self-discipline that enabled us to get as far as we have already, but this time self-discipline directed at helping ourselves.

Fourth, for those who have firm management responsibility, you need to attend to the firm's culture. Because high-achievement lawyers – the ones who are the chief assets of any law firm – are the ones most susceptible. The firm must not be the cause of burning out its prize assets.

Just as we didn't become burnout champions overnight, it will take time to get it turned around. But it's worth it.

I suggested to my friend from the opening paragraph that one reason his firm hired him was because of the complete person he was, a person who had those end-of-the-resume experiences. What made him a more complete lawyer, one more valuable to his clients, were those same things.

Burned-out lawyers are not much good to anyone. My friend needs to dig out that old résumé and reconnect with himself, a good first step in burnout prevention.



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randychristison@yahoo.com.

Notes:

1. Mary Ann Glendon, *A Nation under Lawyers: How the Crisis in the Legal Profession Is Transforming American Society*, 1994, p.15.
2. *Lawyer, Know Thyself: a Psychological Analysis of Personality Strengths and Weaknesses*, 2004, pp. 40-41.

3. Those with a high “thinking” score analyze situations, keeping a detached distance, seeking logical and rule-based conclusions. Those with high “feeling” scores prefer to get close to the situation, a “looking from the inside,” and seek conclusions based on achieving harmony and consensus.
4. “Stress: What Is It?” in Julie Tamminen, ed., *Living with the Law: Strategies to Avoid Burnout and Create Balance*, 1997, pp. 1-2.
5. <http://blogs.wsj.com/law/2007/07/16/british-lawyers-are-unhappy-too/> by Peter Lattman, July 16, 2007.
6. From Newport Beach CPA Douglas C. Woodard, describing his extensive experience with high net worth clients.
7. *Stress Management for Lawyers: How to Increase Personal and Professional Satisfaction in the Law*, 2d ed., 1997, pp. 157-159.
8. *The Seven Habits of Highly Effective People*, 1989.

Quote of the Quarter

“Companies that provide people with opportunities to learn and grow become talent magnets, drawing scarce talent in droves.”

– Robert Gandossy of Hewitt Associates, who led *Fortune*’s 2007 “Top Companies for Leaders” survey

The Intersection of Pro Bono and Professional Development: A Win-Win for Associates

Kristy Weathers

In recent years and for various reasons, many firms have taken steps to organize or increase the pro bono hours of their associates. Many, however, still struggle with getting a wide range of associates even to participate, much less to meet the 50-hour annual minimum encouraged by the ABA rules.

Given the understandable emphasis on billable hours and what can sometimes be a difficult chore of maintaining a work/life

balance, it's not surprising that the noble pro bono incentive of "it's the right thing to do" is not enough to keep the majority of a firm's associates consistently involved in pro bono. But in an age where training and professional development are at or near the top of many law student surveys, highlighting the intersection of professional development and pro bono may help a firm's pro bono partners and directors involve a broader range of associates.

Pro bono and professional development

The participation of a firm's associates in pro bono projects can depend on multiple factors: the firm's culture, whether billable hour credit is given, how organized the firm's pro bono efforts are, and recognition for pro bono work.

But just as compelling, and sometimes not as emphasized as it could be, is the potential impact of pro bono work on an associate's professional development. Pro bono work can help develop an associate's skills by providing opportunities that traditional billable work, especially in larger firms, may not be able to offer (or at least not until late in an associate's career).

Those opportunities include the following:

1. Immediate ownership of a matter

The associate interviews the client, determines the client's needs and priorities, analyzes the problem, and structures his/her efforts to reach a solution. Common sense, judgment, substantive legal skills, and "ownership" all come into play.

2. Direct contact with clients

Although a partner is generally assigned to provide oversight, many pro bono matters are handled directly by the associate, who has direct contact with clients and is responsible for communicating with the client, setting realistic expectations, and maintaining the client relationship.

3. Learning to deal with a difficult client

Just as in the world of paying clients, some pro bono clients are easier to deal with than others. Associates have to learn to deal with clients who don't communicate, who stretch the truth, who push unreasonable positions, etc.

4. Business development

Not only do pro bono participants oftentimes have the opportunity to meet other lawyers in the community, there is the potential to develop business. As Rachel Spears, Executive Director of the Pro Bono Partnership of Atlanta, explains: "Our organization provides pro bono opportunities for transactional attorneys, with a particular focus on in-house attorneys. A number of my in-house volunteers have told me that they are more comfortable taking on a pro bono matter if they can be paired with a law firm attorney. I encourage firm associates to ask their clients to work with them as a team on pro bono projects. These partnerships can strengthen the relationship between a firm and its clients and can lead to more paying business."

5. Negotiating skills

Pro bono clients, just like paying clients, depend on their lawyers to negotiate on their behalf. Training courses on negotiation are helpful, but nothing can substitute for the real thing.

6. Courtroom skills

Although transactional pro bono work is becoming more and more available through efforts like the Pro Bono Partnership of Atlanta, the opportunity to get into a courtroom is always appealing to young litigators and will continue to be a strong incentive.

7. Sense of accomplishment

Younger associates often say that even "simple" or "routine" pro bono matters give them a sense of satisfaction and an opportunity to get involved in areas they feel passionate about. Pro bono work also may involve high profile exposure and the opportunity to work on complex, intellectually stimulating matters of national

importance. But whether simple or complex, pro bono work allows associates to see the direct impact of their involvement in a way that some billable work may not.

Increasing your pro bono base

If your firm has struggled with getting a broader range of associates involved in your pro bono efforts, there are several options for increasing your pro bono base:

1. Work with firm management

It goes without saying that firm management needs to "buy in" to the importance of pro bono work, from both the ethical and the professional development perspectives. Some firms have simply done a better job at creating and maintaining a culture that encourages and rewards participation in pro bono. Other firms promote pro bono in their recruiting efforts, but then sometimes give less than subtle messages that associate time could be better spent elsewhere.

Associates can meet their billable requirements **and** meet their ethical obligations for bono work; the two are not mutually exclusive. Work with your managing partner and governing committee to make sure that the message comes from the top.

2. Market the professional development potential of pro bono work

Those responsible for pro bono and professional development at their firms should



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work together to coordinate their efforts, particularly those firms that have career guidelines or competencies. Make sure your associates understand the potential benefits of their involvement: They are building skills to make themselves better lawyers, whether they stay with a particular firm or not.

3. If you haven't already, consider billable hour credit

Some firms give unlimited billable credit for pro bono, others give 50 hours. Some give no credit. For anyone trying to meet minimum billable requirements, bonus hours, etc., billable credit understandably makes a difference.

4. Make it easy

Make it easy to get involved. Survey associates to get an idea of areas they are interested in and then individually target them with opportunities. Where possible, give estimates of time involved or skill development that might be a part of a particular pro bono matter. List the associates who have worked in particular areas and their contact information.

5. Recognize and highlight pro bono efforts

Highlight individual involvement and successes at firm and team meetings, not just pro bono newsletters. Practice group leaders and other partners may miss what their associates are doing if the communication is not directly aimed at them.

Conclusion

The intersection of pro bono and professional development provides a win-win for everyone. And ultimately, the reasons for getting involved in pro bono work are irrelevant, since the goal is for the associate to fulfill his/her ethical obligation to serve others. In pro bono, no matter what the incentives, the ends justify the means.

Executive Coaching of Partners in Law Firms

David Coleman

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What do you do with a partner who is performing well technically and economically, but whose style of practice exacts such high human costs that the firm's long-term best interests may not be well served? Given the business structure, hierarchy, and work/time pressures in most firms, it may seem impossible to deal productively with such situations. Sometimes it **is** impossible; however, at other times, it is possible to intervene constructively using the services of an experienced executive coach, a relatively new type of professional service to law firms.

In this article, I will:

- define executive coaching,
- identify some advantages and disadvantages of this approach to the firm and to the individual being coached,
- describe the kinds of situations in which it might be most effectively used in a law firm context,
- name the necessary ingredients for success of a coaching project, and
- provide some key factors in selecting a coach.

What Is Executive Coaching?

Executive Coaching is the provision of tailored guidance to firm partners and directors on managing people and processes by an advisor professionally trained in both the behavioral sciences and human resource development. Simply put, executive coaching helps technically brilliant people

who lack information or skills in managing themselves or others. The goals of executive coaching can include:

- improving management of one's practice or practice group
- making better use of associates and other firm resources
- preparing for expanded responsibilities in firm management
- improving time management or job satisfaction
- increasing effectiveness through building relationships across the firm.

There are four types of Executive Coaching¹:

1. Coaching for Skills – focused on a specific task,
2. Coaching for Performance – focused more broadly on a person's present job,
3. Coaching for Development – focused on future jobs, and
4. Coaching for the Executive's Agenda – focused on immediate tasks needing accomplishment.

Executive coaching should be distinguished from personal coaching, which has a broader, less business-like focus and is often done by those without professional training.

Why Use Executive Coaching? Pros and Cons

For the firm, the primary advantages of executive coaching are:

1. It provides a mechanism to support partners' growth and development in a

¹See Witherspoon, R, & White, R.P. (1996). "Executive Coaching: A Continuum of Roles," *Consulting Psychology Journal*, 48(2) pp. 124-133.

way that is feasible given the realities of the practice of law today.

2. It makes available someone outside the firm structure who can provide support and challenge more freely than someone who works for the firm.
3. If offered to a whole category of partners at a transition point (*e.g.*, all new practice group leaders, all new partners), it can provide an increase in the firm's intellectual capital without the stigma of remediation being attached.
4. It allows for customizing skills development to the individual partner.

The primary disadvantage is the cost of offering individually tailored training or advice.

For the individual partner being coached, the advantages are:

1. Provision of just-in-time information and skills needed to do his/her job,
2. A confidential setting that allows for safety and face-saving in exploring new behaviors,
3. An external and objective perspective for looking at the management of his/her practice, and
4. An opportunity for exploration of longer-term life and practice goals that might lead to greater personal satisfaction and happiness.

The primary disadvantage is the time required to meet with the coach.

When and When Not to Use Coaching

Executive coaching is particularly effective at times of transition in the nature or scope of responsibilities. It can be invaluable when

assuming new duties, *e.g.*, becoming a practice group leader for the first time, moving from associate to partner, or becoming managing partner. It can also work well when motivation is high due to a teachable moment created by an action taken by the firm (*e.g.*, decrease in compensation or the delivery of a performance improvement message by firm leaders) or something life changing in one's personal life (*e.g.*, children leaving home, divorce, the death of parents or significant others).

Coaching is inappropriate when: (1) a decision has already been taken to eliminate the person, (2) there is no clear benefit to the individual and/or the firm for doing it, (3) no one is willing to deliver a message that change is required, or (4) serious personal problems, including addictions, need to be addressed first.

Necessary Ingredients for Success of a Coaching Project

In my 15 years of executive coaching in law firms, I have found the following six ingredients key to coaching projects working well.

1. **Firm Sponsor.** The coaching project must be overseen by someone who is viewed by the partner at least as a peer, if not as a superior. Typically, this might be the Managing Partner of the firm or the Practice Group Leader. With more senior partners, it may need to be someone other than the Managing Partner whom they respect and trust. This trusted colleague would be asked to oversee the project after the Managing Partner or Practice Group Leader had delivered the message about the change required.

2. **Clear Rationale.** Someone inside the firm must make the case for why coaching should be tried. The individual must see it is in her/his best interest to work with the coach. At the very least, the person must be willing to reserve judgment about the benefits of coaching until s/he has tried it.

3. Clear Expectations for Both Project Outcomes and Process. Before beginning the coaching relationship, success must be defined. What results or outcome are desired from the coaching? The broad steps in the process – gathering information from the individual and others, creating a development plan, what will be reported how often to the firm sponsor, how often meetings will occur – need to be specified.

4. Focus on Development, not Evaluation. Coaching works better when it is seen as an investment of the firm in the long-term development of a partner. While it is important to make clear that the person is accountable for making changes, coaching works best when the person believes the primary goal is his/her development, not whether he/she can stay or go.

5. Sufficient Time for Change. Typically it takes time to make changes in long-standing habits. Often firms are slow to deal with problems, yet want miraculous changes in a short time. In the case of someone assuming new responsibilities, it is important to allow sufficient time for learning new roles and skills. Frequently, it may take 12-18 months to make noticeable changes, particularly with long-standing and well-reinforced behavior patterns.

6. Confidentiality. Expectations about confidentiality must be sorted out in the first meeting. I usually recommend that the specifics of the coaching be completely confidential. We then clarify what kind of information will be reported to the firm sponsor. Most often, information is communicated by the person being coached him/herself to the sponsor in a three-way meeting with the coach.

Typical Steps in Coaching a Partner

The box to the right lists the typical steps in the coaching process for a partner like the one described in the opening paragraph: producing good legal work but exacting high social costs by his/her style of practice.

Typical Steps in Coaching a Partner

1. Phone call from Human Resource/Professional Development Director to Coach to describe the basics of the situation and explore the fit of the Coach's skills with the Partner's needs
2. Meeting of Firm Sponsor, typically the Managing Partner or Practice Group Leader, and Coach (perhaps with the Human Resource/Professional Development Director), to:
 - Clarify the issues
 - Plan the project
 - Plan the message
3. 3-Way Meeting (Partner, Firm Sponsor, Coach) to discuss:
 - Project plan, including next steps
 - Strengths and weaknesses
 - Time frame for changes
 - (If relevant, consequences if no change)
 - Success defined
4. Coach collects information:
 - 360° feedback instrument
 - 5 to 15 interviews of peers, associates, and staff, determined jointly by the Partner, Firm Sponsor, and Coach
 - Psychological tests (personality, motivations, interpersonal style)
5. 4 to 8 Meetings with the Partner over 3-6 months
 - Assess the situation from his/her perspective
 - Identify key issues
 - Create a development plan
6. 3-Way Meeting (Partner, Firm Sponsor, Coach) to review the development plan
7. Regular Meetings with Partner
 - Implement the development plan
 - "Develop management skills through what's already on his/her plate."
8. (Optional) Collect information again
9. Follow-up with the Partner (12-18 months later)
 - Assess progress
 - Clarify next steps

Key Factors in Selecting a Coach

Since executive coaching is a relatively new field without an accepted credentialing process, it can sometimes be hard to determine whom to hire. Here are my suggestions for what to look for in a coach:

1. Professional training and an advanced degree in psychology, social work and/or human resources.
2. Experience in organizations rather than the clinic or counseling.
3. Focus on the practical rather than the theoretical.
4. Experience in working with professional service firms, particularly law firms, can be helpful but is not absolutely essential.
5. Not selling products -- i.e., particular 360 instruments or particular tests -- as **the** approach.
6. Listens well.
7. Catches on quickly and uses the firm's language for describing his/her approach (e.g., section heads versus practice group leaders; directors versus partners).
8. Calm, demonstrates a sense of humor.
9. Not argumentative, but not someone who agrees to anything you say. Solid.
10. Can broadly describe the steps s/he will follow, recognizing that the shape of most projects will change and evolve.

Summary and Conclusion

In this article, I have attempted to define coaching, identify when to use it, detail the advantages and disadvantages of coaching for both the firm and the individual, clarify some key ingredients for success, and describe the typical steps in the coaching process. Finally, I concluded with some tips for selecting a coach.

Executive coaching is a new approach to fostering partner development in law firms. It is not an answer to every problem. However, in some circumstances, with the right approach, it can be most beneficial in providing support to partners' long-term growth and development, and in enhancing their contribution to the firm.

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(Editor's Note: This column highlights best practices and new approaches to common challenges of in-house training managers. We invite your comments and your suggestions for future articles. You can reach us at (703) 719-7030 or maraeg@profdev.com.)

Rethinking Mentor/Mentee Matchups

The success of a mentor program ultimately gets down to the success of the individual relationships between mentors and mentees. When those relationships are strong and productive, mentors derive deep satisfaction and mentees rapidly gain confidence and ability.

Unfortunately, we have all seen mentor/mentee relationships that were less than optimal. Here are four ways to reshuffle the matchups between mentors and mentees for better results:

1. Traditional One-to-One Mentoring Relationships

One way to help the traditional pairing work better is to stop assigning mentors and instead have mentees choose their own mentors, submitting their requests to the PD Director or head of the mentor program, who then compiles and conveys them to the designees. This has the dual benefit of (1) engaging and empowering the mentee at the very start of the relationship, and (2) giving extra motivation to the mentor, who will likely have a more positive attitude toward the matchup knowing the mentee has asked for him/her. As a result, there is usually less passivity on the part of the mentee and better give-and-take in the relationship.

Three possible difficulties with this approach can easily be remedied:

New hires are not ready to choose. Those who have been hired out of the summer program may already have formed good relationships and know whom they want as a mentor. But others may not, and certainly new campus or lateral hires may need a

little time to decide. To get around this problem, assign a temporary mentor in consultation with the mentee, to be changed as soon as the mentee is ready to make a choice.

Everyone wants the same mentor. There are a few lawyers at every firm who are extremely popular with young lawyers and who would be chosen by more mentees than they could handle. So have mentees submit three choices in rank order, and approach the designees in that order with the names of everyone who has chosen them. This gives the popular mentors choice in the matter as well, as to whom and how many they will mentor.

Lawyers who carry significant management responsibility could also be popular choices. As a general rule, however, they should be ineligible to serve as mentors, for two reasons:

- They are already contributing more than their fair share to the organization and should not be asked to shoulder additional non-client burdens, and
- Their power to influence junior lawyers' fate, combined with their responsibility for the welfare of the organization as a whole, can pose a conflict of interest with the mentoring relationship, whose purpose is to promote the success of the individual mentee.

The mentor does not want the mentee. Having the program manager serve as go-between, and having the mentee designate alternate choices, allows a designee to opt out without discomfort to anyone.

2. Group Mentoring

To enlarge the positive impact of those lawyers who are especially interested in and good at mentoring, consider setting up mentoring groups that meet weekly to share information, discuss issues, and solve problems. Each group should be headed by multiple mentors so that one lawyer's unavailability does not block progress. That also makes it more likely that every mentee will find a good rapport with at least one mentor.

The ratio of mentees to mentors should be no higher than 3:1 and the groups kept small – no more than a dozen members total – to promote full participation at the meetings. Mentees should also have the option to meet privately with a mentor about issues they are not comfortable bringing up in the group setting.

3. E-Mentoring

Sometimes lawyers who are not available, or perhaps not temperamentally suited, for a traditional mentoring relationship will be willing to

respond to online or e-mailed questions in their area of expertise. Designating such a lawyer as an “e-mentor” for a particular subject can enable him or her to make a valuable contribution to associate development without a big time commitment.

4. Reverse or Mutual Mentoring

New lawyers may have special expertise of their own that more senior lawyers could benefit from – often in computer skills, but sometimes also in a foreign language or some other area. This presents an opportunity for upward mentoring, either in a mutual exchange with a traditional mentor or in a separate “reverse mentoring” relationship with another senior lawyer. This is a further way to empower and more fully engage new lawyers in their relationships with other lawyers at the firm. It can also enrich diversity efforts if it enables senior lawyers to learn about the language, culture, or other aspects of the lives of nontraditional hires.

– Gaye Mara

Professional Developments

Events

Upcoming PD-related conferences, seminars, and workshops:

Legal Profession:

- ❖ 11/5-6/07, Austin, TX. *ACLEA CLE Boot Camp*. Association for Continuing Legal Education, www.aclea.org/bootcamp07.pdf.
- ❖ 11/29-30/07, Washington, DC. *2007 NALP & ALI-ABA Professional Development Institute*. National Association for Law Placement, www.nalp.org.
- ❖ 1/8/08ff., online. *NALP/ALI-ABA Live Video*

Webcast Series, cont'd (www.nalp.org):

1/8/08, *Meeting the Challenges of Lateral Integration*.

1/22/08, *Roadmap for Women Lawyers' Success*.

- ❖ 1/26-29/08, Las Vegas, NV. *44th Mid-Year Meeting*. Association for Continuing Legal Education, www.aclea.org.
- ❖ 2/5-7/08, New York, NY. *LegalTech 2008*. American Lawyer Media Events, www.legaltechshow.com.
- ❖ 2/21-23/08, Providence, RI. *2008 NALP Newer Professionals' Forum*. National Association for Law Placement, www.nalp.org.

- ❖ 3/27-28/08, Philadelphia, PA. *2008 Diversity Summit*. National Association for Law Placement, www.nalp.org.
- ❖ 4/16-19/08, Toronto, ON. *2008 Annual Education Conference*. National Association for Law Placement, www.nalp.org.
- ❖ 6/19-20/08, Washington, DC. *2008 NALP & ALI-ABA Lawyer Development Institute*. National Association for Law Placement, www.nalp.org.

General Audience:

- ❖ 11/6/07, San Francisco, CA. *Great Place to Work Best Practices Forum*. Great Place to Work Institute, www.greatplacetowork.com.
- ❖ 11/6-7/07, New Orleans, LA. **Workshop Series for the Performance Professional:** *Geary Rummler on Performance Consulting, Margo Murray on Mentoring*. International Society for Performance Improvement, www.ispi.org. (Repeated 2/12-13 in San Diego.)
- ❖ 11/6-8/07, San Jose, CA. *DevLearn 2007: The E-Learning Development Conference & Expo*. eLearning Guild, www.eLearningGuild.com.
- ❖ 11/8-9/07, New Orleans, LA. **Workshop Series for the Performance Professional:** *Carl Binder on Performance Improvement, Donald Tosti on Organizational Performance*. International Society for Performance Improvement, www.ispi.org. (Repeated 2/14-15 in San Diego.)
- ❖ 11/8-11/07, Arlington, VA. *Diversity Leadership Development Institute: Innovation at the Speed of Diversity*. National MultiCultural Institute, www.nmci.org.
- ❖ 11/12-14/07, San Francisco, CA. *The Best of Talent Management Summit*. Linkage, Inc., www.linkageinc.com/tm.
- ❖ 11/12/07ff, Scottsdale, AZ (or online, if noted). **Clark Training Workshop Series**, Clark Training & Consulting,

www.clarktraining.com:

- 11/12-16/07, Online only. *Building Expertise: How to Apply Learning Psychology to Instructional Design*. (Repeated 5/5-9.)
- 11/26-30/07, Online only. *E-Learning and the Science of Instruction*.
- 2/20-22/08. *Needs Assessment for Performance Technologists: Tools and Techniques*.
- 4/1-4/08. *How to Plan, Develop, and Evaluate Learning*.

- ❖ 11/14-16/07, Seattle, WA. *Accelerated Learning Training Methods Workshop*. The Center for Accelerated Learning, www.alcenter.com. (Repeated 12/10-12 in Phoenix.)
- ❖ 2/4-6/08, Atlanta, GA. *Training 2008 Conference & Expo*. Training magazine, www.trainingconference.com.
- ❖ 2/11-13/08, New York, NY. *The 2008 Enterprise Learning Strategies Conference. Learning Readiness: Equipping Your Employees & Your Organization to Perform Your Business*. The Conference Board, www.conference-board.org/els.
- ❖ 2/26-28/08, San Antonio, TX. *ASTD TechKnowledge Conference & Exposition*. American Society for Training and Development, <http://www.tk08.astd.org/>.
- ❖ 4/5-8/08, New York, NY. *The Performance Improvement Conference: Enhancing Knowledge, Know-How, and Results*. International Society for Performance Improvement, www.ispi.org.
- ❖ 6/1-4/08, San Diego, CA. *ASTD 2008 International Conference & Exposition*. American Society for Training & Development, <http://www.astd2008.org>.

News

Steve Gluckman of Distributed Insight, who has provided numerous PD directors with e-learning conversion services in recent years, has been lured over the fence into a law firm. He announced in October that he is joining Manatt, Phelps & Phillips as their new Senior Director of Professional and Organizational Development. Steve will be resident in Manatt's Washington, DC office.

Howrey LLP has been named an “ASTD Best” organization for its training investments and innovations. The October issue of *T+D* profiles the firm’s Leadership Academy for fourth-year associates (pp. 73-74).

Required, Inc., was brought into the Thomson-West fold in August. Required has provided rules updates for *PDQ*’s regular “MCLE Watch” feature since August 2006. It has also ranked as the top provider of MCLE tracking services in every *PDQ* technology survey since it appeared on the scene. Founder Jason Shrensky, who is still with the company, says the biggest change members will see is the integration of CLE content (West Legaedcenter’s courses) into Required’s CLE/PD management systems.

Resources

Charles E. Stinnett, *The Extraordinary Law Firm: Making Your Firm a Great Place to Work*

MCLE Watch

(We thank Required, Inc. for some of the information on which this column is based.)

The **New Jersey** Supreme Court’s Ad Hoc Committee on Continuing Legal Education held public hearings in October to “receive input from members of the bar and other individuals” on the possible establishment of an MCLE program. Currently the State has an education requirement for new admittees only.

<http://www.judiciary.state.nj.us/notices/2007/n070921a.pdf>.

(Association of Legal Administrators, 2007; \$75 members, \$85 public). Stinnett, a past president of the ALA, studied the law firm winners of *Fortune*’s annual ‘100 Best Companies to Work for’ competition. His book explains how to become one of them – or, if you don’t seek the limelight, simply how to create a better working environment for your employees. The book was unveiled at this year’s ALA annual meeting. www.alanet.org.

Surveys

Leadership development. The October 1 issue of *Fortune* reports the results of an international survey to identify, rank, and profile the world’s top “academy companies” – that is, the companies that are best at grooming future leaders – and to analyze the practices those companies share. There are also numerous interviews with the companies’ top officers and alumni detailing their personal experiences and actions.

Effective January 1, 2008, **New York** “will require that the faculty of every accredited course ... include at least one attorney in good standing, who must actively participate in the course or program.” Disbarred attorneys may not be on the faculty. Effective August 2, 2007, substance abuse credits may be counted toward the ethics requirement.

<http://www.courts.state.ny.us/mcle.htm>.

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