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Discovering the Horizon: A Case Study of Learning Innovation in Progress
Jeffrey Ritter

In late summer 2006 at a conference on US competitiveness, Denis Cortese, MD, CEO of the Mayo Clinic, made a remarkable presentation. He acknowledged that, for their physicians, the knowledge required to be managed in order to maintain their competence had become overwhelming: A specialist could spend a year reading just the new research materials published in any given week. Indeed, he admitted, many of their patients arrived with better knowledge of the most recent research than the physicians themselves possessed. For his management team, knowledge and professional development pulsed as issues affecting not only competence, but also competitiveness.

Mayo Clinic's solution transforms the knowledge acquisition process of the doctor into a dynamic shared-learning experience in which the patient and the doctor jointly participate. By acknowledging they did not know it all, but putting in place the knowledge-discovery tools with which to locate all of the relevant research, the doctors were able to transform a competitive adversity into a competence-building opportunity. Today, the doctor and patient can conduct the research together, using online consultation tools that enable the right knowledge to be located and recovered for use at the right time.

As Dr. Cortese acknowledged, the diagnostic skills of his doctors were world-class, but the volume and complexity of knowledge required to use those skills required a "break the mold" solution that would better empower the doctors with the kinds of questions

lingual literacy in the languages, rules, and requirements of different domains: IT design; software development; records management; information security; and the rules, constraints, and obligations of the law.

Yet success in acquiring the right knowledge across different domains is difficult. The Internet makes volumes of information instantaneously accessible, but that quantity is overwhelming. In the absence of more effective learning tools and the ability to apply them to the specific problems that confront us each day, we will continue to be frustrated in our management of digital information, and we will continue to experience avoidable risks. The daily headlines confirm the potential costs, including financial losses, operating disruptions, and legal liabilities.

The recent explosion of attention to "electronic discovery" highlights the challenges this learning crisis presents to lawyers. In a world in which nearly all of the information that may serve as evidence is digital, can a trial lawyer, for example, be considered competent without understanding how to authenticate an e-mail? Or a securities lawyer, without understanding how information security controls can affect the reliability of reports to the SEC? Or an FDA lawyer, without understanding how digital signatures secure the integrity of clinical lab reports? Yet, for each, there is a continuing flood of new developments, new technologies, and new legal variables to consider—indeed, publications that focus on electronic discovery are now reporting up to five new decisions each week.

Nearly 25 years into a legal career that has included practicing in national and international law firms, bar leadership, UN diplomacy, academic research, and start-up businesses, I left private practice in 2006 to focus on developing solutions for this learning crisis that is overwhelming us all: How can we learn and understand all the different vocabularies, rules, and

to be asked and deliver powerful tools for arriving at the answers. [1]

The Mayo Clinic solution is illuminating. It suggests some of the critical building blocks for addressing a similar challenge—creating the tools for enabling the improved management of digital information as an asset of value. But this digital challenge is different because so many different professionals are involved in the process.

The Problem

The 21st century is presenting digital information as one of our grand challenges. Virtually all of us, no matter our professional role, must master the skills, tools and knowledge to manage an enormous volume of digital information in our lives and our work. At work, the effectiveness of every professional demands a nearly unique multi-

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[1]For more information on the Mayo Clinic vision, see as a starting point: http://www.mayoclinic.org/news2006-rst/3316.html.

requirements that are needed to perform our own professional duties with competence? How can we put on the desktop of professionals the tools required to gain access to, and manage, the different rules and risks in order to enable them to exercise a defensible standard of care?

Reflecting the attributes of the Mayo Clinic model, any solutions need to:

- Support more effective – and more efficient – learning for busy professionals;
- Provide access to the right knowledge at the right time and enable that knowledge to be refreshed efficiently;
- Enable collaboration among all the relevant stakeholders, not just those receiving the learning; and
- Empower professionals to bring the right questions to the table with the other stakeholders.

This article describes the challenges we have identified in pursuing solutions, including some factors that are unique to lawyers. It offers for your consideration the features of a suite of learning products and services launched in November, 2007 to enable records management professionals -- and, later in 2008, information security professionals -- to better perform their roles in managing digital information that can have legal significance as evidence.

On the table is the question of whether these tools will be useful to, and capable of being accepted by, lawyers and other legal professionals. Frankly, there have been strong views expressed in both directions based on preliminary presentations and focus group discussions. I welcome that debate and invite you to join it. I submit that we must as a community collaborate and ultimately develop consensus regarding how the legal profession will participate in the grand challenge of learning what is needed to be learned regarding the management of digital information in a global, wired, accelerated marketplace.

The Challenges

Based on my years of experience as an active contributor to continuing legal education, and additional independent research across different professional disciplines, here are some of the key challenges to delivering technology-intensive learning and tools to the legal profession:

Resistance to professional development in general and to proven best practices in learning

- Every profession must continuously improve the agility, professionalism, and productivity of its practitioners. Yet IT executives, consultants, managers, doctors, career government executives, auditors—all do more than the legal profession, which typically resists devoting meaningful time to professional development.

- Lawyers, nearly alone among the professions, are presumed to be competent when they complete professional development courses, with no testing.

- "Talking-head" delivery is still the dominant vehicle, even though it fails to engage and deliver the kind of "hands-on" interactive experience proven to enhance learning effectiveness. Even online training for lawyers largely re-packages talking head delivery, often with mind-numbing results—presenting two-inch displays of video-captured expert panels or solo speakers, accompanied by slide stacks not designed for legibility or communication effectiveness.

- In some law firms, management is pushing for lowered professional development costs. Ironically, the most likely beneficiaries of improved learning effectiveness—the clients and malpractice insurers (the ultimate carriers of the risks of poor or ineffective

educational delivery)—have been remarkably silent on the sidelines and are not yet clamoring for change or accountability in professional development. The result is that there is no compelling competitive pressure on law firm management (i.e., loss of client revenue) to think differently about professional development for their lawyers. At best, meeting the minimum CLE standards (for those jurisdictions requiring them) seems sufficient, even if doing so lacks any measurable demonstration of learning effectiveness.

Technophobia and dependence on text media

- Admit it--senior lawyers still resist training in information technologies for themselves except under the duress of the directive of a managing partner. Moreover, most firmly believe they can avoid the necessity of learning about digital information and computing by delegating to the younger lawyers ("John just got out of law school—he understands this computer stuff"). Yet, as today's electronic discovery cases highlight, lack of senior lawyer competence can be the basis for catastrophic failure in the courtroom.

- Many professionals routinely use visual mapping tools to create structure from complexity—in areas such as information security, audits, IT architecture, health care, supply chain optimization —all of which are business functions with substantial intersection with the legal field. Those same mapping tools (which are illustrated later in this article) have tremendous utility in the learning process: Visual learning is demonstrably more effective than text at achieving a real transfer of knowledge. Yet most lawyers do not employ visual mapping tools; largely, we insist on presenting our work product, and interacting with clients and adversaries, through the printed text document and, for learning purposes,

employing the slidestack equivalent of a text outline.

- The deepest dust in any lawyer's office is on top of the CLE conference notebooks and CDs. Who ever actually uses this stuff? With all the digital accessibility the 21st century affords, an essential requirement for CLE accreditation (delivery of bound or collected materials) imposes an antiquated method for accessing and preserving knowledge. Moreover, in most areas of practice in which digital information issues arise, there is such dynamic change in the controlling legal principles, technologies, and related risks that reliance on the materials from a prior conference without conducting online research can be professionally hazardous.

Lack of Team Skills

- Outside counsel are losing their role at the table in a full range of professional activities in which they were historically involved. One significant factor is that outside counsel have failed to demonstrate their value (based on current billing rates) in working as a part of the interdependent teams that clients assemble to solve legally-intensive projects such as outsourcing, regulatory compliance, reporting, and the preservation and production of electronic records in litigation or enforcement proceedings.

- But lawyers in law firms are not generally being trained to contribute to client-directed project teams (and their corresponding discipline of process, costs, and work product), nor being given the tools to contribute. The mapping tools mentioned above are proving successful at enabling collaboration and increasing the effectiveness of communications among different participants in projects, if only lawyers would use them!

In short, any strategic innovation for learning how to manage digital information that is intended to be used across multiple professions faces additional challenges when considering the use of that innovation in professional legal education.

The long-term prospects, however, are more favorable. Younger lawyers (Gen Y'ers) have spent most of their learning years online. This means that they have learned to navigate knowledge visually and with icon-driven cues to the sources and pathways. They use technology functionally and intuitively, and they expect their learning resources to be available on demand at all hours and in a single location (i.e., their computer screen) and to allow them to engage in and control their own professional development.

This does *not* mean they understand computers or digital information; it means they are comfortable with using them as tools for research, collaboration, and team interactions. Nor can the legal profession wait for Generation Y to reach the management level in law firms—the knowledge demands and the needs of their clients are critical *now.*

Building the Solution

In developing a solution, Waters Edge (my company) has created CastleQuest™, which delivers both online and live in-depth training on critical issues affecting digital information management.[2] Our initial curriculum focuses on training records and information management professionals in critical project-specific topics relating to electronically stored information (or "ESI") as

evidence. However, the product architecture enables additional catalogs to be developed, including role-specific courseware that could be focused on the needs of lawyers, both in-house counsel and outside trial counsel, across a full range of digital information management topics where IT and law intersect.

Our marketing research confirmed strong interest in CastleQuest outside the legal profession—in fact, one of the valued qualities is the fact CastleQuest places legal information in front of the technology professionals. For us, the question is whether professional development for lawyers that employs CastleQuest's design attributes and features can be accepted.

Here are five key design attributes and features, highlighted by illustrations drawn directly from our current products:

1. Interactive Lectures. CastleQuest is designed to foster participant interaction. Online lectures, when delivered live, feature interactive chat, video, and polling (see Figure 1 below); in addition, participants can control the priorities and order of presentation. As an additional feature, live on-site training incorporates hands-on interactive workshops with role-based exercises that require collaborative teamwork and problem solving.

- Live presentations enable one-to-one and one-to-many exchanges that dramatically improve the learning experience.

- Recorded on-demand online content includes recorded interactions of other sessions, combined with asynchronous Q&A via email with the lecturer.

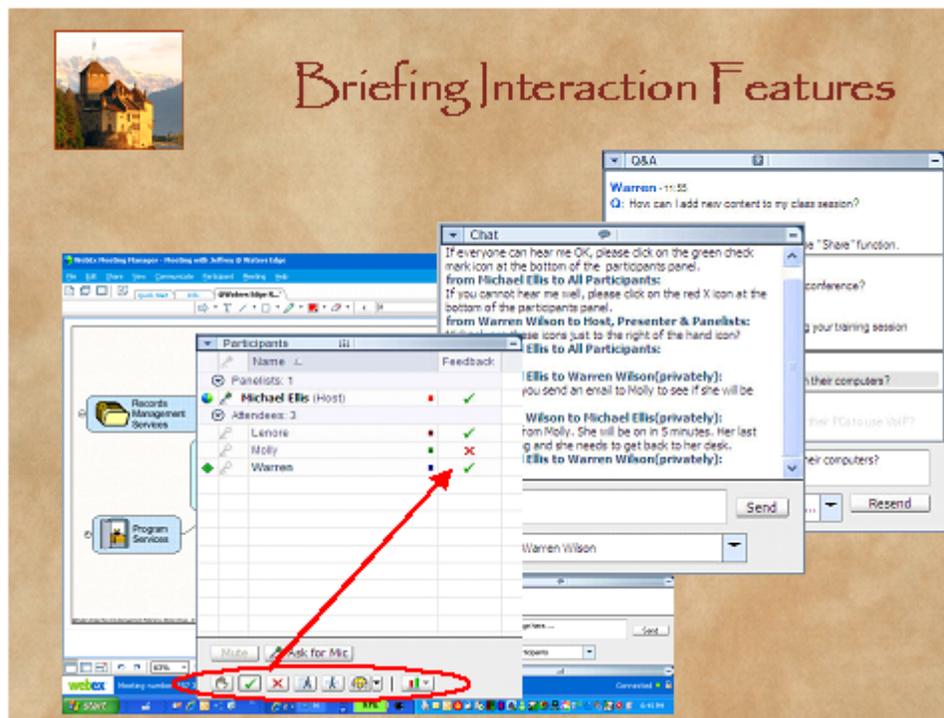[2]CastleQuest can be reviewed at http://cquest.wec-llc.com.

Figure 1

2. Role-based Learning. CastleQuest content is organized into role-based libraries that focus on the differing learning needs of different professionals. For example, lawyers need to learn more about technology; technologists need to learn more about legal rules to be navigated. Our architecture allows differing depth of analysis of the content based on the roles of the participants. For example, technologists are taught more about the Federal Rules of Evidence, while lawyers could be taught in more detail regarding the published technology standards for maintaining the authenticity of electronic records.

CastleQuest also introduces *action-based learning* (also known as task-based learning)—within each library, training is organized based on whether the actor is seeking to Evaluate, Build, Defend or Attack (see Figure 2). Our research indicates that, for any professional, our questions and knowledge needs shift based on the action we are undertaking. Our courseware is designed to differentiate the content between

courses, based on the actions most aligned to a professional's immediate needs.

Figure 2

Role-based, action-based learning offers subscribers the opportunity to select the training that best meets their immediate needs—**delivering the right training at the right time.**

Role-based, action-based learning enables the participant to transition directly from the training into client-specific interactions, thus maximizing the return on investment in the training itself by immediately generating revenue with performance that the training enabled.

3. Visual Navigation. CastleQuest employs "mind-mapping" software to organize and display educational content. CastleQuest Maps are uniquely designed to enrich the learning experience and enable participants to employ their visual learning skills, considered the most effective of all learning techniques.

The Maps do more than organize information—they provide a platform from which additional discovery can occur—revealing relationships, structure and organization (see Figure 3).
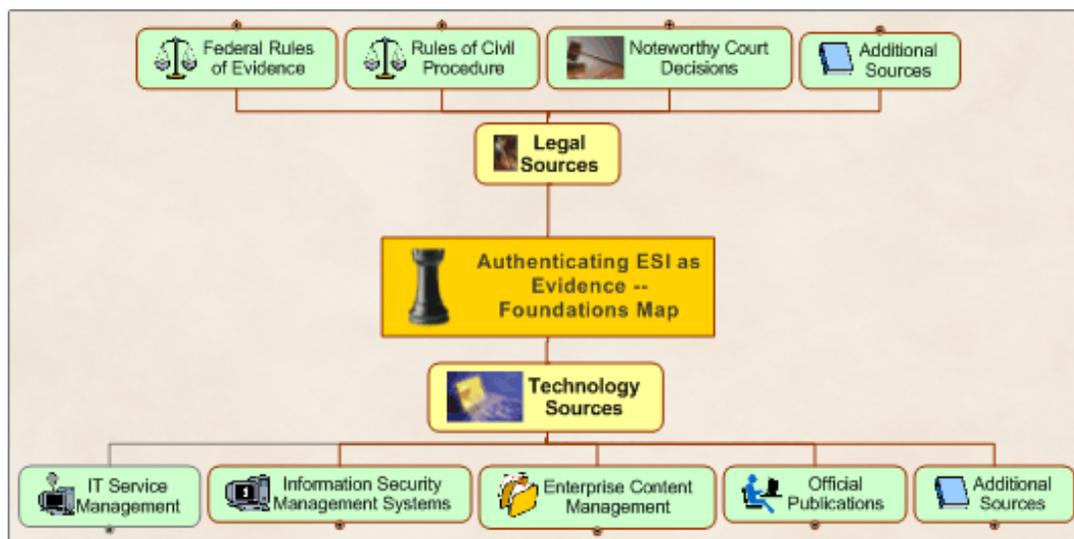

Figure 3

- Map-based learning aligns lawyers with map-based management practices of their clients used for project execution and asset management in governance, management, and supervisory activities with legal significance.

4. Functional Practice Tools. CastleQuest Maps are designed as "ready-to-go" practice tools for engaging teams in collaboration, problem-solving, and project design. In fact, both our live and online sessions are functional examples of how to use the maps in collaborative environments. The Maps delivered to subscribers as electronic pdf files (see Figure 4) are nearly 3 x 4 feet in size if published in physical form. Inspired by the needs of complex electronic discovery matters (where outside counsel is often competing with others to lead the process), CastleQuest Maps are useful for providing an immediate structure and agenda, as opposed to beginning with a blank board and no defined path forward.
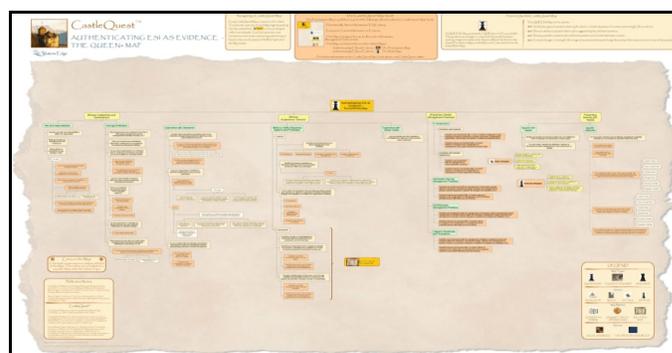

Figure 4

Unlike the duplicates of case decisions and regulations that fill CLE notebooks, the Maps provide a visually engaging collaboration tool to be used with their colleagues and clients.

("He with the map finds the treasure"—old Caribbean Pirate proverb.) The custodian of the Maps will naturally attract the opportunity to lead the collaboration.

- Maps are useful for focusing attention, triggering creativity, and framing discussions. The format highlights specific lines of analysis required (see Figure 5).

Figure 5

- Electronic template versions of the Maps can be edited, modified or expanded through direct use, thus enabling vital information to be collected and a more rapid project strategy to emerge. The tools allow information to be exported into a variety of other formats-- documents, spreadsheets, project plans, etc.
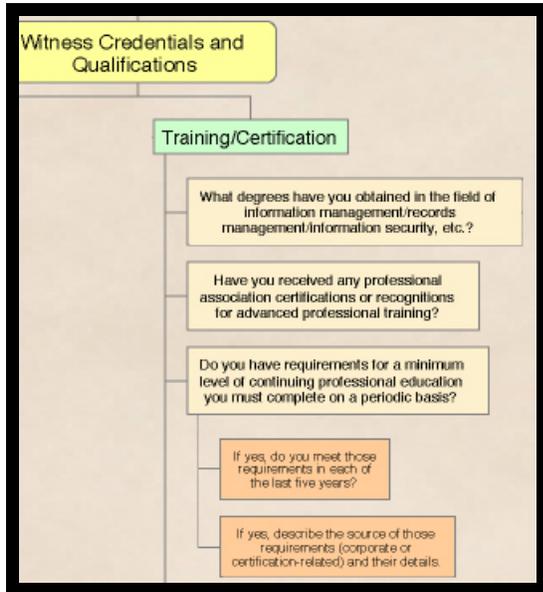
5. Authoritative Knowledge. All CastleQuest knowledge is anchored to specific authorities, and our technology enables us to update the Maps with current knowledge. Each CastleQuest Briefing begins with a Foundations Map, presenting the relevant statutes; regulations; case law; and, from the technology sector, the published standards, best practices, or functional criteria. Figure 6 illustrates the sources integrated into our E-Discovery Briefings within the existing catalog. The remaining Maps—the Risks Map (laying out the risks for specific activities) and the QUEENs Map (presenting the Questions for Examination)—are linked to the Foundations Map.
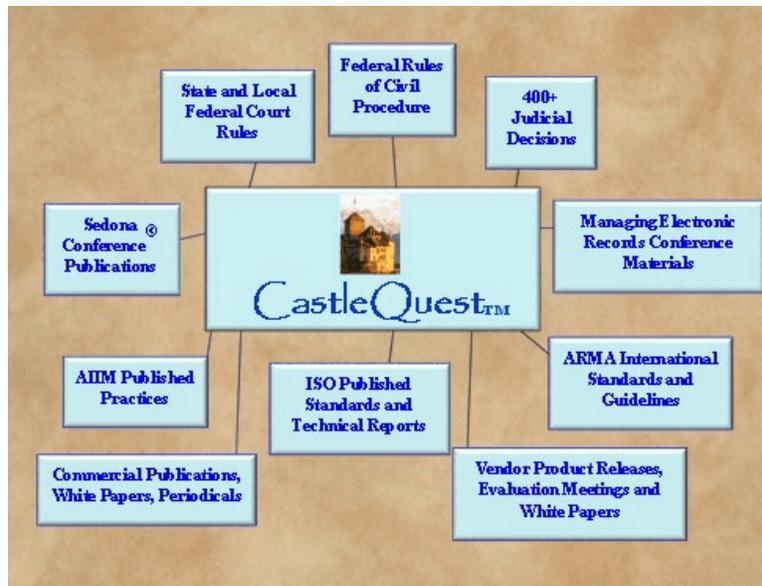
Figure 6

- Linked resources assure that reliance on the practice tools is proper and defensible.

- The ability to demonstrate that every question on the QUEENs Map is supported by proper authority significantly strengthens the questions into compelling ammunition.

Where Things Stand

CastleQuest was launched in November 2007. As mentioned, our original library serves records and information professionals. Experienced e-discovery attorneys who registered for our existing library offerings have given us favorable reactions, but we are still undecided as to whether CastleQuest embraces learning strategies and tools that will be accepted for the professional development of attorneys and other legal professionals. When CastleQuest is held up against the unique challenges within the legal profession presented earlier, we believe we have demonstrated it is possible to break the mold and develop something different. Here is a list of what we believe CastleQuest solves for the legal profession, together with some remaining issues or challenges that face delivering new learning mechanisms to the legal profession:

- CastleQuest organizes and presents knowledge in a manner that younger professionals from all disciplines will understand and find engaging. As a result, we believe its visually-intensive learning has significant future value as an alternative to existing methods.

    But younger professionals are not the decision makers in selecting which professional development resources to purchase. Senior lawyers who oversee professional development, and professional development officers themselves, must understand the advantages of this type of training and its value to their clients. What needs

to be done to enable the gatekeepers to realize that innovation will directly contribute to increased competency (and stronger revenues)?

- CastleQuest improves the delivery of the right knowledge at the right time—role-based and action-based learning significantly enhance the appeal of online learning that is responsive to specific needs in specific cases.

    But CLE-focused development programs are slow to adapt to more responsive learning resources because those resources tend to be more expensive than existing solutions (such as the use of internal lawyers delivering talking-head lectures). Should we persist in offering CastleQuest Briefings as training or refine the assets into research services that can be charged directly to clients as case-related research?

- Map-based learning provides a method for varying the content presented to different audiences—the layered approach allows future CastleQuest Briefings to be designed with greater breadth for senior professionals (meeting their needs for an overview and to be able to give clear instructions to younger lawyers) and greater depth for the in-the-trench soldiers (meeting their needs for comprehensive analysis). As well, the layered approach enables diverse knowledge (law vs. technology) to be presented in an integrated approach.

    We have no basis for knowing whether the buyers of legal training will value variable content as a solution that overcomes traditional opposition to senior lawyers' participation in training programs. What incentives or features will be effective in encouraging senior lawyer engagement with learning about digital information?

- CastleQuest uniquely integrates competence testing, dynamic content, visual mapping, and practice tools into a functional, integrated solution. In doing so, CastleQuest offers legal professionals the tools that enable them to retain or improve their role in collaborative project teams and better prepares them to engage immediately in shaping the technology-driven processes used to manage legal risk .

Our next steps will be (1) to apply for CLE accreditation with the various states and (2) to explore whether both major corporate counsel organizations and malpractice carriers are willing to advocate for developing more extensive training requirements as a condition for the most favorable client engagements or the most cost-effective malpractice insurance coverage. What will work in moving institutional law firms to "catch up" to other professions in the quality, intensity, and effectiveness of lifelong professional development?

We welcome your questions and comments regarding our innovations. If you believe we are on the right track, let us know. If you believe we are barking up the wrong tree, let us know.

We are committed to breaking the mold and doing so with transparency and openness—the journey toward authentic change requires being able to make mistakes in public and, in learning from those mistakes, to get better. It is a quest on which we would like to collaborate with professional development leaders. Together we can empower legal professionals to meet the challenge of managing digital information in the 21st century.
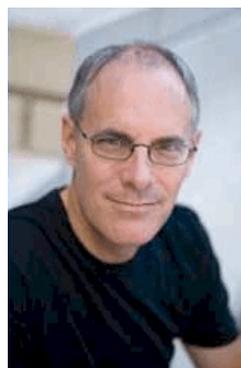
Jeffrey Ritter, Esq. *is CEO of Waters Edge and the creator of CastleQuest™, the training product and service described in this article, which can be visited at http://cquest.wec-llc.com. Jeffrey has been an active contributor to professional development throughout his legal career, including with the ABA and as co-chair and advisory board member for Georgetown University Law Center CLE Institutes. He is the co-author of Evaluating the Outside Discovery Capabilities of Outside Law Firms (BNA, 2006). He may be reached at jeffrey@wec-llc.com or by telephone at 1+202.285.7385.*

Quote of the Quarter:

"With the younger generation of employees, organizations need to rethink how they deliver learning. Today the most important trends are toward audio, mobile, and collaborative environments."

– Karen O'Leonard of Bersin & Associates, 2007 project lead for *Training Magazine*'s annual study of the training industry

Diversity in Action
Elaine Arabatzis

Imagine this scenario: High-level equity partners and non-attorney staff engaged in a meaningful discussion where mutual respect for, and validation of, different perspectives is the standard protocol. The very act of the dialogue itself serves to further efforts to move beyond fundamental diversity toward the creation of a truly inclusive environment.[1]

Diversity and Diversity Training in Law Firms

The diversity dialogue, as many now term it, has evolved over time from formerly pure instruction-oriented programming into today's more interactive format. This evolution reflects significant progress in the way that diversity itself is approached in law firms, and serves as a living testament to many voices being heard, considered and acted upon – the truest demonstration of diversity and inclusion.

The genesis of the diversity movement in the legal profession was sparked by two principal considerations:

1. It is, above all, the right thing to do.

2. Corporations, which are typically held to more rigorous public scrutiny than private law firms and whose businesses depend largely on favorable public perceptions, began to demand it of their legal service providers.[2]

Law firms responded in kind; diversity hiring and retention programs and other diversity-advancement-related initiatives became the standard, along with *de rigueur* diversity training. With the passage of time, however, there has been a gradual refinement of the many efforts undertaken in the name of diversity, the evolution of diversity instruction into diversity dialogues among them.

The content elements of these two approaches can be strikingly similar, as certain relevant information must be imparted in any effective diversity training. For example, the business justification (or business case) for diversity in law firms is an essential component, as is the quantifiable cost associated with the loss of diverse talent (even within the paradigm of natural, and to some extent desirable, attrition in firms). Other formulae for diversity training content typically include some focus on the strength derived from people's many, varied differences and the enhanced client service that results -- and the innovative ideas that emerge -- when different ways of thinking are embraced.

Moving from content to format, however, is where we can observe the growth in diversity training that has occurred in recent years. Interactive formatting that is designed to engage, include, and draw out participants' interest and desire to be a part of the diversity movement overall seems to have become more commonplace. This seemingly

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[1] It is both noteworthy and relevant that in most law firms, non-attorney staff are typically more diverse than the attorney ranks of the organization.

[2] This meant different things in different contexts; for example, public attorneys (whose ranks traditionally represent greater diversity than the private sector) were unaffected by this edict, while law firms began to vie for top diverse talent (in keeping with their pedigree approach to hiring) that continues to be drawn from a very finite pool of candidates. At the same time, law school minority enrollment statistics began to play an increasingly significant role in law firm recruiting strategies, which is the academic-related component of the development of the diversity movement in the private sector.

simple change in the process can have subtle, yet significant, effects on workplace relationships.

Benefits of Participatory, Inclusive Diversity Dialogues

As anyone who has ever attended a classroom lecture[3] can attest, our interest tends to dull when we are passive learners not engaged in active discussion or otherwise drawn into a participatory role. Our understanding and our "investment" in the subject matter can wane. When someone – a teacher or instructor – is talking at us, we serve simply as an audience. By contrast, when we are an engaged and integral part of the learning process, we absorb, retain, and enjoy what we learn through the act of doing. With exercises, discussion, or whatever the vehicle allowing for involvement, our capacity for learning is enhanced by simple virtue of our being active participants in our own learning.

Aside from the "absorption" factor, there are other benefits to a more participatory and interactive format of diversity training. Consider the following:

1. The very act of inclusion, the invitation to participate, is a step toward abolishing the micro-inequities that pervade many organizations today. Those micro-inequities can manifest in very subtle, yet debilitating, ways. When any level of employee – from the most highly trained and skilled to the less skilled – experiences, or even merely perceives, that their voice is not heard, their opinions are not valued, a chilling effect occurs. It is simply part of the human experience that when one feels unappreciated, undervalued, even looked down upon, morale and motivation will directly suffer; indeed, feelings of disloyalty, even a subconscious desire to sabotage or take that of which one feels wrongfully "deprived" can take root.

2. When individuals are engaged in an effort and actively participate in the process itself, they develop feelings of ownership of the effort overall and feel that the outcome of the endeavor is directly tied to their active involvement and to the value they bring to the effort. Moreover, the simple act of inclusion is emboldening to many. Formerly reticent people believe that others might be interested in their contributions when they observe other opinions being validated. Feelings of personal investment can develop as a result, as can a greater sense of being part of a larger team.

3. Diversity dialogues allow for a free exchange of ideas whereas passive instruction does not. When individuals perceive that their ideas are invited, barriers to free and unconstrained thought are removed. People feel more comfortable taking risks in the thoughts they articulate publicly when they don't have to fear that their ideas will be "shot down." Moreover, one who grows to feel comfortable expressing ideas in one discrete context may begin to express useful ideas in other areas to the benefit of the organization as a whole.[4]

4. The actual physical assemblage of individuals from different areas and levels of the organization serves as its own demonstrable, living example of true inclusion – people at every level of the organization are in the same room, participating in the same discussion. The organization can show its commitment to the reality that there is no one "right" way of doing things, that

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[3]As opposed to a hands-on, working approach to learning.

[4]For example, sometimes the person who brings our mail every day can make valuable contributions that streamline processes and, ultimately, save dollars. All we need to do is ask and then listen.

different approaches and strategies can yield markedly different positive results.

Diversity Dialogue Considerations

Diversity dialogues can include discussions ranging from the hidden costs associated with high rates of attrition to the commonalities we all share in terms of our life's priorities. The extent to which such a dialogue will be successful largely depends upon the culture of the particular organization, where along the diversity continuum[5] the organization stands, how the various groups within the organization interact generally, and whether the atmosphere is one in which frank and open discussion can readily occur. If the circumstances are such that the lawyers in the room dominate the conversation (which a strong dialogue leader or facilitator must be proactive to avoid), the results could be far less desirable in reality than the theoretical views would suggest. In other words, organizations should take care to ensure that the timing and environment are right before embarking upon such a course.

Diversity dialogues themselves can be approached in any number of ways, though certain basic elements are generally present:

- First, everyone in the organization, without exception, should participate in a dialogue.

- Second, given the demands of the profession and our modern-day attention spans, dialogues of more than a few hours tend not to engage participants for the duration. Once folks cease to be engaged, the exercise itself ceases to be a true dialogue and falls back into a more instruction-based experience.

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[5] See MCCA Green Book:

http://www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=1374

- Third, depending on the content of the specific exercises in the dialogue, it is generally advisable to limit attendance to twenty to twenty-five participants. A group that is larger than this tends to become a bit unwieldy in terms of managing the discussion and ensuring that everyone actively participates. Smaller group discussions within the larger group can encourage even more sharing of ideas.

- Fourth, while some organizations go the route of having a consultant conduct the actual dialogues, many participants feel more engaged when the dialogue is conducted by "insiders" who are familiar with the organization from within, not an outsider who hasn't actually lived within the organization's unique culture. The dialogue is thereby genuinely relevant to the actual experience of those within the organization.

- Fifth, those from within the organization who lead the dialogues should be trained in how to conduct the dialogues substantively and how consistently to draw out participants' active involvement.

Diversity Dialogue Continuum

A one-size diversity dialogue does not fit all. This holds true from organization to organization as well as within a given organization at varying points in time, along different points of the diversity continuum.

In many instances, different phases of diversity dialogues are appropriate, as internal diversity assessments reveal changes in areas where concentrated efforts are needed. Initially, it may make sense to have distinct dialogues for attorneys and non-attorneys. Moving on from there to more inclusive dialogues – which invite individual participation and, hence, personal investment in the outcome – will result in the fresh ideas and enthusiasm that breathe life

into diversity efforts overall. Everyone within the organization – top-to-bottom and laterally – reaps the benefits.

therefore, be a powerful testament to an organization's diversity philosophy. What greater model for the ultimate goal we seek to achieve?

Conclusion

Whether taking part in a diversity dialogue or in a brainstorming session on how to approach a challenging legal problem, we all need to feel that our opinions are valued in order to feel comfortable expressing them freely. We can realize enormous advances when we invite participation and demonstrate appreciation for the added value that diversity brings to the process, to the ultimate work product, and to the organization itself. The inclusive, participatory diversity dialogue can,

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Quote of the Quarter:

"Those dates are smack in the middle of our children's winter breaks, which are sometimes the only times to be with our children."

– Lawyers at Weil Gotshal & Manges, in a motion to reschedule hearings set for late December 2007. (The motion was granted.)

Update on Upward Evaluation
Gaye Mara

The last time we surveyed upward evaluation programs, in January 2002, interest in the subject was high. Both the number of responses to that survey and the pace at which they arrived (the first of them less than 5 minutes after the survey questionnaire was e-mailed out!) broke all our previous records for survey returns.

Not so this time around. Nineteen law firms responded to this year's survey (half the 2002 response), and at a much more measured pace. Perhaps upward evaluation has been around long enough to have become just another PD program.

The Survey

This is a two-part survey that combines and updates two earlier surveys. The first part, reported in this issue, covers upward evaluation programs. The second, which will be discussed in the May issue, covers other PD programs for partners; it updates and expands a Summer 2003 survey conducted and reported for us by Peter Sloan of Blackwell Sanders.

The usual caveat applies to the survey results: Because of the small size of our samples, and because the samples are not random, our data does not have statistical validity. It does, however, illustrate in some depth the trends and practices in numerous law firms today. We hope it also presents some useful new ideas and some useful information about ideas you may already be considering.

The Respondents

Although we invited other types of law offices to participate, ultimately all our survey responses came from law firms. The 19 firms that responded range in size from under 200 lawyers to over 1,000 and together employ over 12,800 lawyers. All have more than one office, and 12 have offices in more than one country.

The "average" respondent employs 674 lawyers in 11 offices in 4 countries. As with our other recent survey updates, the average size of the responding law firms has gone up significantly – in this case, by 35% from a 2002 average of 498 lawyers. We interpret that as being simply a reflection of growth and consolidation trends in the industry; even where the same firms are responding as before, they are larger now than in 2002.

Status of Upward Evaluation

Nine respondents currently have an upward evaluation program in place, and one more is implementing a program in 2008, bringing the percentage of those engaged in such programs to 53%. That's similar to our 2002 results, with 57% of respondents having or implementing upward evaluation programs.

Our 2008 results indicate a greater correlation between organization size and the presence of an upward evaluation program. While, as in 2002, both large and small firms do and do not have programs, the firms *with* programs in this year's survey are on average 33% larger than those without (765 lawyers for the "Haves" vs. 573 for the "Have Nots"). In 2002 the average size difference was only 7% (513 vs. 478).

As we might expect, this year's programs have also been around a little longer: In 2008 the median age of the respondents' programs is 3-5 years; in 2002 it was 1-3 years.

Another interesting difference is that this year only 2 respondents report having entirely "home-grown" systems – that is, programs developed and implemented by their own personnel without outside assistance – and both of those systems are relatively new (less than 3 years old). By contrast, in 2002 more than half the respondents' systems (11 out of 21) were home-grown, and those systems were older than the average (two of them more than 10 years old).

One possible clue to the discrepancy: In both of this year's home-grown systems, the data collection and reporting processes are automated. That suggests that development of the program may have been facilitated by evaluation software the firms already had in place for traditional evaluations (our 2006 PD technology survey indicated widespread use of such software at firms of all sizes). We'll talk more about technology support later.

The Programs

The primary objective of upward evaluation programs, as consistently indicated in our survey responses, is to strengthen supervisory performance by collecting candid feedback for supervisors from their subordinates. But firms differ somewhat in how they go about it.

A. What supervisors are evaluated and who evaluates them

All our survey data indicates that in the great majority of firms, the upward evaluation process is for lawyers only. As in 2002, the consistent arrangement among our 2008 respondents is one in which the associates evaluate the supervisory skills of the partners. A few firms include additional lawyers in the process: Three firms report that their senior associates/counsel are evaluated as well, and one more respondent hopes to implement the same arrangement.

Only one firm each (1) evaluates its top-level administrators, with administrative staff having input to those evaluations; and (2) collects lawyer evaluations from the legal assistants.

Most of our 2002 respondents likewise limited the program to lawyers, but they were more likely to collect evaluations on associates at all levels as well as on the partners. The breakdowns are shown in Figures 1 and 2 on the next page.

B. Program Effectiveness

We asked three sets of questions intended to get at how well these programs are working:

- How receptive are supervisors to their evaluation feedback?
- How many potential evaluators in fact participate in the process?
- How accurate, constructive, and complete is the content of the evaluations?

In both 2008 and 2002, about one-third of the responding firms with programs in place scored well on all three indicators (33% in 2008, 29% in 2002).

1. Supervisor Receptivity

In both 2008 and 2002, the attitude of supervisors at most firms toward their evaluation feedback was characterized as "mixed." Figure 3 on page 18 gives the breakdown.

2. Evaluator Participation

We asked what percentage of potential evaluators actually submit evaluations. Whereas experts cite evaluator participation of 75% or higher as the minimum standard of effectiveness, only a little over one-third of respondents in either survey sample achieved it. In 2008 evaluator participation skews slightly lower than in 2002, with over

Figure 1. The Supervisors Who Are Evaluated

Partners
2008 ████████████████████████████████████ 100%
2002 ████████████████████████████████████ 100%

Senior Associates/Counsel
2008 ████████████ 38%
2002 █████████████████ 57%

Administrators
2008 ████ 11%
2002 ██ 5%

Mid-level Associates
2008 0%
2002 ██████████ 29%

Junior Associates
2008 0%
2002 █████ 14%

Other Non-Lawyer Supervisors
2008 0%
2002 ██ 5%
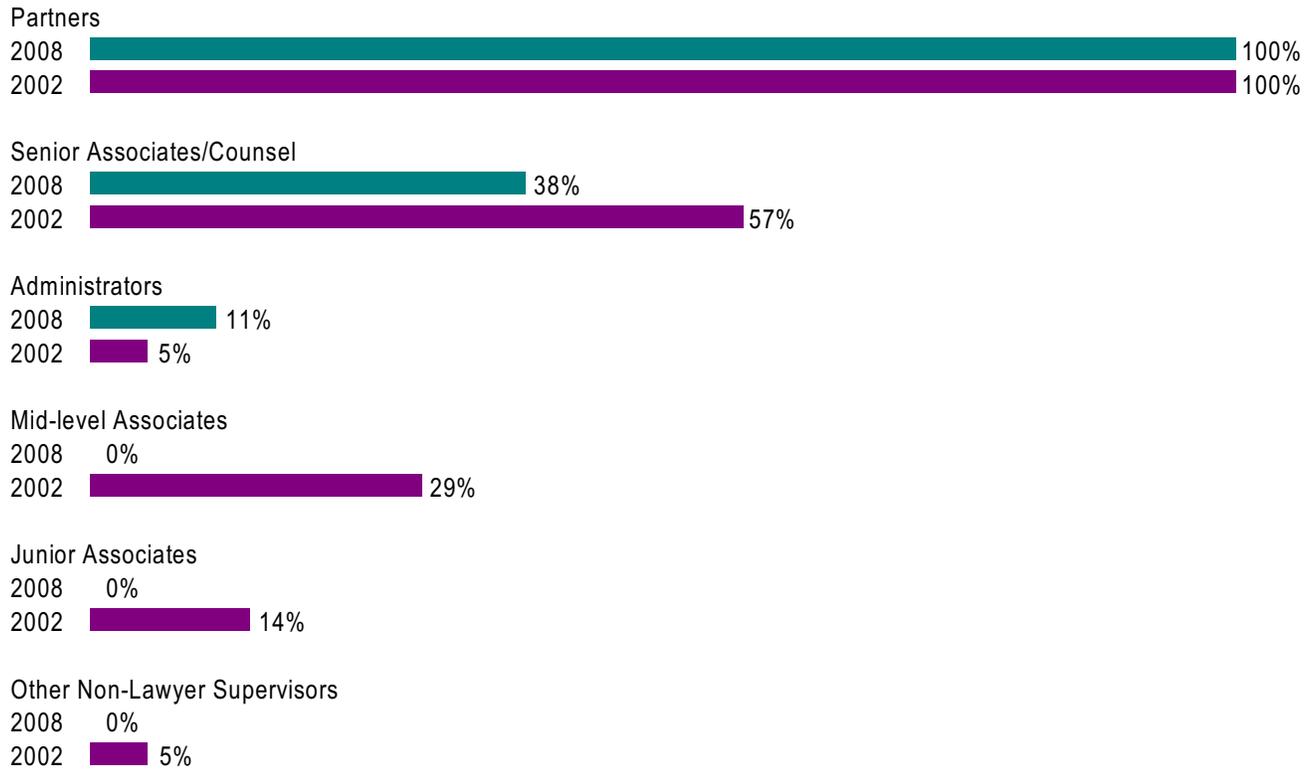
Figure 2. Who Evaluates the Supervisors

Associates
2008 ████████████████████████████████████ 100%
2002 ████████████████████████████████████ 100%

Administrative staff
2008 ████ 11%
2002 ██ 5%

Legal assistants
2008 ████ 11%
2002 ███ 10%

Partners
2008 0%
2002 ██████ 15%

Legal support staff
2008 0%
2002 ██ 5%

Figure 3. Supervisors' Receptivity to Evaluation Feedback

Generally very positive; most supervisors are eager to use the feedback to improve.
2008 ▬ 22%
2002 ▬ 37%

(Midway between "**Generally very positive**" and "**Mixed**.")
2002 ▬ 5%

Mixed; some supervisors are highly receptive, others uninterested.
2008 ▬ 67%
2002 ▬ 53%

Very poor; the feedback is ignored by most supervisors.
2008   0%
2002 ▬ 5%
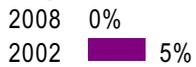
(Don't know.)
2008 ▬ 11%

Figure 4. Evaluator Participation Levels

Over 90%
2008   0%
2002 ▬ 11%

Over 75% but less than 90%
2008 ▬ 38%
2002 ▬ 26%
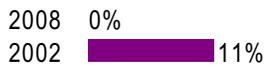
50-75%
2008 ▬ 25%
2002 ▬ 37%

Under 50%
2008 ▬ 38%
2002 ▬ 26%

a third of respondents below 50% participation and none above 90% (see Figure 4 above on page 18).

3. Evaluation Quality

We asked the respondents to rate the average quality (High, Moderate, or Low) of the evaluations that are submitted, on three dimensions:

• Accuracy (*i.e.*, candor),
• Constructiveness, and
• Completeness.

While the preceding Figure 4 shows that participation in the process could be better, Figure 5 on the next page indicates that those who are participating submit evaluations of decent quality, and apparently of somewhat better quality now than six years ago.

4. Words to the Wise

Two respondents offered good advice for strengthening the evaluation process and its impact on supervisors' performance:

• "Surveys used to gather feedback should be very behavioral in nature. Behavioral data provides the best input for changing and enhancing supervisor performance. Kickoff meetings with evaluators and evaluatees are critical for explaining the process, getting input on what will be asked, and in generating comfort with the process."

• "It's critical to figure out how to help those who have significant managerial problems but won't be able to improve on their own. It's also important to figure out how to make the results carry some weight – visible to management, enter into the compensation and promotion processes, etc. – without creating a 'big brother is always watching' environment or putting undue weight on incomplete data."

C. Supporting Resources

A common difficulty with all evaluation systems is the burden they impose on those who manage the process and, to a lesser extent, on the evaluators. Two types of resources that are typically employed to lighten the load are computer automation and the services of outside consultants. We asked our respondents to indicate whether and, if so, how they have used these resources. Their responses indicate that both are being used much more extensively now than in 2002.

1. Computer Support

We asked the respondents to indicate which, if any, of four steps in the evaluation process are automated. It appears the role of the computer in the process has increased dramatically since 2002; see Figure 6 on page 21.

2. Support from External Providers

The role of consultants and other external providers also appears to have expanded in some areas since 2002, as indicated in Figure 7 on page 21. Both then and now, the most common use of a consultant has been to compile and report the feedback from the evaluators. None of the respondents in either the current or the previous survey, however, has engaged a consultant to evaluate its program.

D. Pros and Cons of Upward Evaluation

We asked the respondents to check what they consider to be the greatest benefits and the greatest disadvantages of upward evaluation programs, and to add any that might be missing from our multiple-choice lists.

Figure 5. Quality of Evaluation Inputs

1. Accuracy: The evaluations fairly depict supervisors' actual performance.

High
2008 ▮ 75%
2002 ▮ 67%

Moderate
2008 ▮ 25%
2002 ▮ 33%

Low
2008 0%
2002 0%
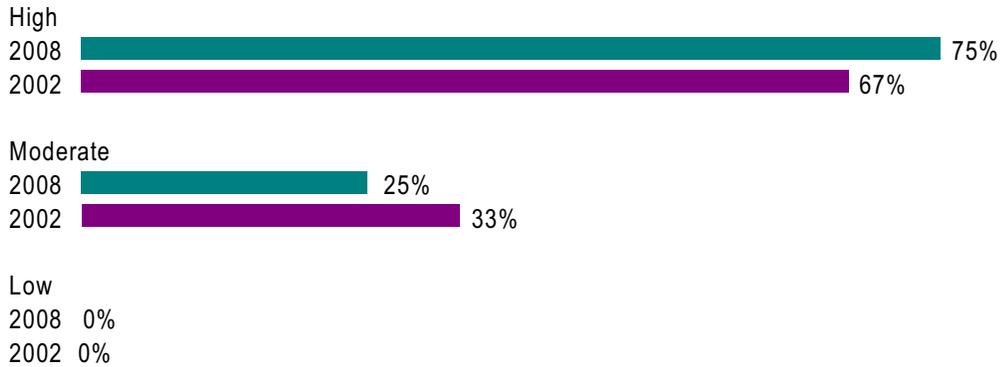
2. Constructiveness: The evaluations identify both strengths and weaknesses, and offer specific and actionable suggestions for improvement.

High
2008 ▮ 50%
2002 ▮ 62%

Moderate
2008 ▮ 50%
2002 ▮ 29%

Low
2008 0%
2002 ▮ 10%
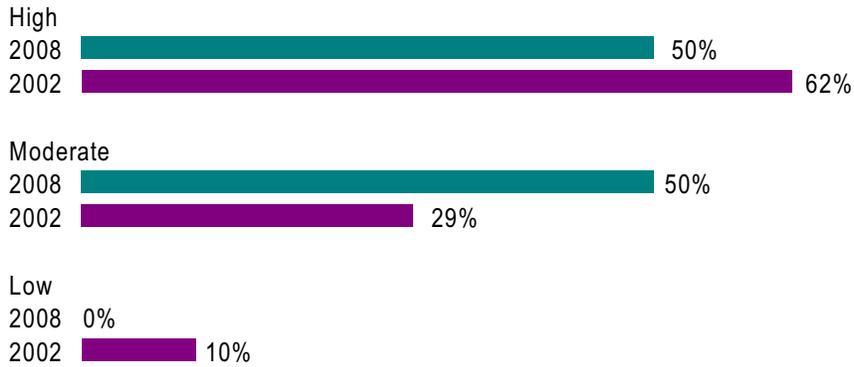
3. Completeness: The evaluations address all significant aspects of supervisors' performance.

High
2008 ▮ 37%
2002 ▮ 38%

Moderate
2008 ▮ 62%
2002 ▮ 43%

Low
2008 0%
2002 ▮ 19%
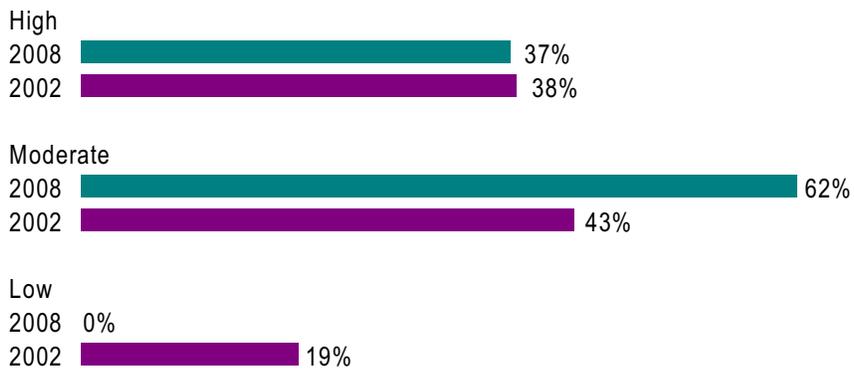
Figure 6. Computer Support for Evaluation Tasks

Evaluators complete and submit the evaluations on line.

2008 ──────────────────────────────────── 100%
2002 ─────────── 43%

Evaluators' inputs are directly captured in a database without additional inputting by others.

2008 ──────────── 62%
2002 ───── 24%

Draft evaluation and feedback reports for individuals are generated from the database

2008 ──────────── 62%
2002 ──────── 33%

Statistical summary reports are generated from the database.

2008 ──────────── 62%
2002   N/A (new question)

Figure 7. Use of Consultants and Other External Providers

Assisted with design and development of the program

2008 ── 12%
2002 ──── 21%

Evaluated/audited the program

2008   0%
2002   0%

Compiles the feedback from the evaluators

2008 ───────── 50%
2002 ─────── 37%

Provided the software application supporting the program

2008 ────── 37%
2002   N/A (new question)

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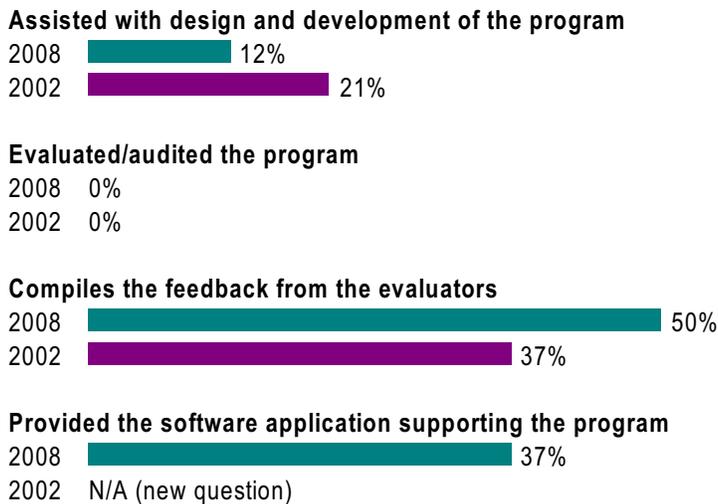
1. Benefits

The perception of the most important benefits of upward evaluation has changed little since 2002. The nearly unanimous first choice in both surveys was helping to improve supervisors' performance. There is, however, much less emphasis by this year's respondents on using the evaluation data to assign rewards and/or penalties. See Figure 8 on the next page.

Figure 8. Most Significant Perceived Benefits of Upward Evaluation

1. Feedback that helps supervisors improve their performance
2008 ████████████████████████████████ 94%
2002 ████████████████████████████████ 95%

2. Management information on the general quality of supervision and areas for improvement
2008 ████████████████████████ 83%
2002 ███████████████████ 70%

3. Subordinates' satisfaction from having a say about their supervision
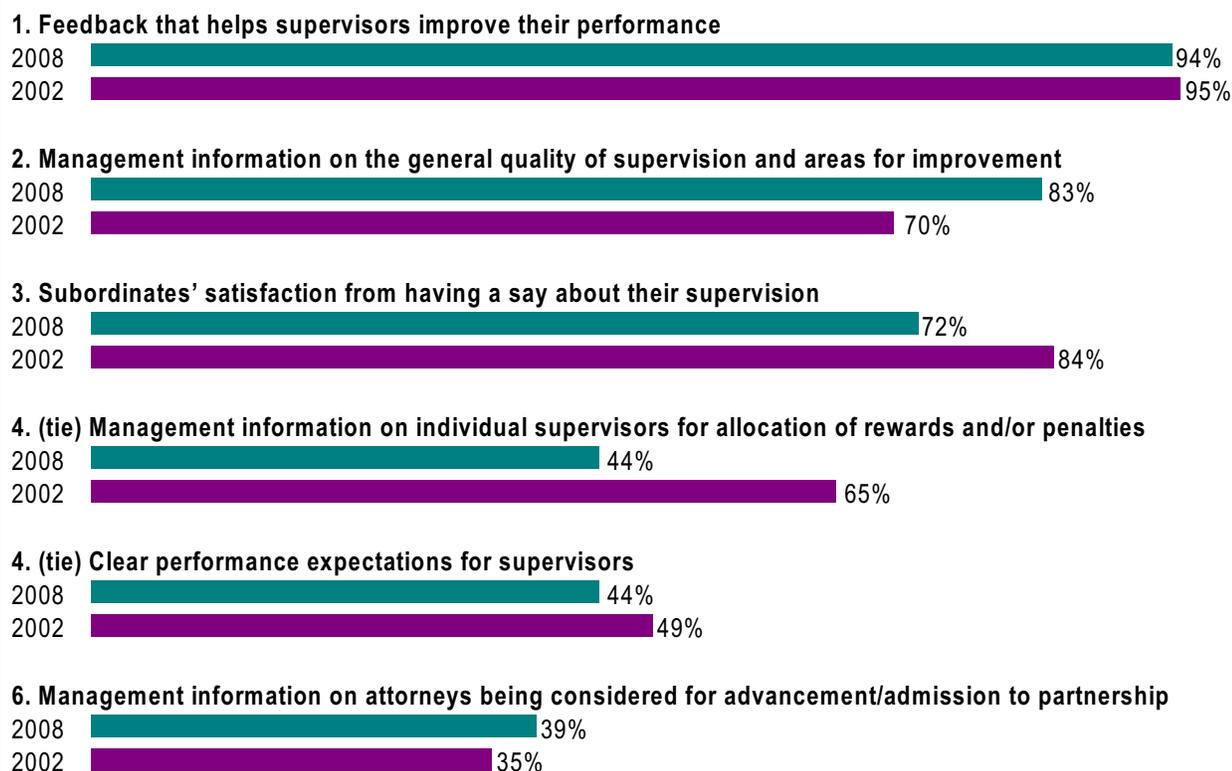2008 ████████████████ 72%
2002 ████████████████████ 84%

4. (tie) Management information on individual supervisors for allocation of rewards and/or penalties
2008 ██████████ 44%
2002 ███████████████ 65%

4. (tie) Clear performance expectations for supervisors
2008 ██████████ 44%
2002 ███████████ 49%

6. Management information on attorneys being considered for advancement/admission to partnership
2008 █████████ 39%
2002 ████████ 35%

2. Disadvantages

As shown in Figure 9 on the next page, there have been some marked shifts since 2002 in the disadvantages respondents perceive for the program:

- *Lack of follow-through on improving supervisors' performance* has risen to first place, and *Subordinates' fear of participating* has taken a plunge to second. That may reflect a maturing of the process: More programs have solved the front-end problems of obtaining the feedback and moved on to the more advanced ones of actually doing something about it.

- The *time burdens* for administrators, and to a lesser extent for the evaluators, are also seen as less of a problem than they were in 2002, no doubt as a consequence of automation.

One respondent reports giving evaluators the option of either "speaking with an outside consultant or using the internal feedback gathering system." Another comments that subordinates' fears will inevitably continue to be an issue in some contexts: "[Upward evaluation is] least useful in groups that are so small that the participation rate is very low, because associates don't believe they can remain anonymous."
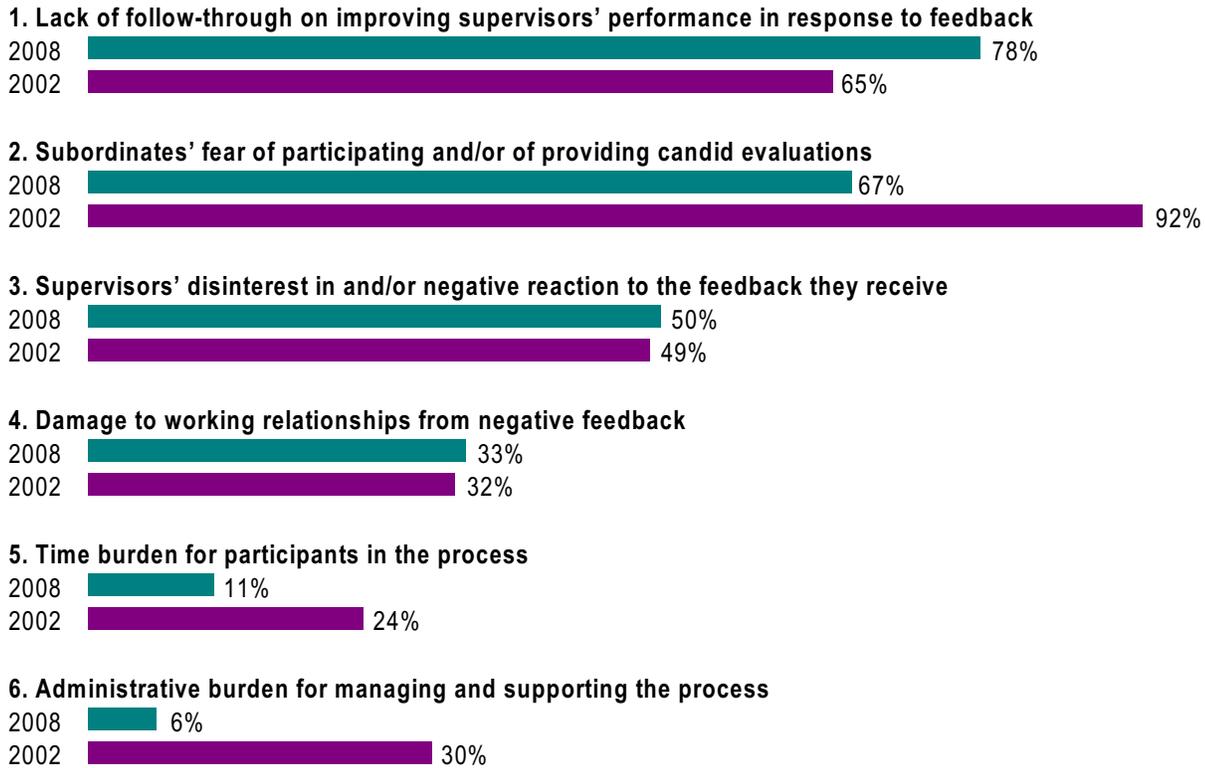
Conclusion

It appears that in the six years since our last survey on the subject, firms have made some progress with upward evaluation:

• Increased support from both computer applications and outside consultants has greatly reduced the practical burdens of collecting and compiling the feedback from evaluators.

• Subordinates' fears of providing candid feedback also seem to have lessened.

• The quality of the feedback received from evaluators is generally quite good – very candid, mostly constructive, and reasonably complete.

But some problems remain:

• As in 2002, over 60% of upward evaluation programs failed to attain the benchmark participation level of 75% of potential evaluators. So, while the feedback they do get is generally good, they're not getting enough of it to ensure the credibility and effectiveness of the program. And the continuing shortfall in participation makes us wonder whether subordinates' fears of retribution or damaged relationships from criticizing their supervisors have truly been put to rest.

• The ultimate goal of upward evaluation – that is, improving the performance of

supervisors – continues to elude most firms' grasp. Over three-fourths of our 2008 respondents cite "lack of follow-through on improving supervisors' performance" as one of their top complaints about the program. That, too, can affect evaluators' participation: If no action results from their feedback, why take the time and the risk to provide it?

Nobody said it would be easy! In our experience, the two prevailing partnership cultures in law firms are hierarchical/top-down or Wild West independent. In either culture, upward evaluation goes strongly against the grain.

At the same time, studies by NALP in the legal profession and by numerous researchers in business at large consistently point to the same conclusion: The practices of and relationship with the supervisor are critical to subordinates' performance, development, morale, and retention. If firms want their best employees to do good work, grow in competence, and stay, then inculcating strong supervisory skills and best practices throughout the firm are the single best way to accomplish that. A good upward evaluation program can, at the outset, tell them what they need to work on and how far they have to go, and later confirm how far they have come.

The NALP-ALI-ABA 2007 PD Institute: Well Attended and Worth Attending
Gaye Mara

The first Professional Development Institute was put on in 2002. At the time, it looked very much to me like the basic, one-day "In-House Training" workshops that AILTO[6] had been putting on for new PD professionals every year or two through the 1990's. I didn't see much of interest to me personally at the time, or in subsequent years.

That is, until 2007. As usual, I checked the agenda and saw many **PDQ** contributors on it. Not as usual, quite a few of the sessions piqued my interest.

Apparently quite a few people found the program appealing. This PD Institute proved to be the largest ever with 303 attendees, almost double the 2002 attendance. Those numbers reflect to some extent the growth of law office PD staffs, and the program reflected their increasing sophistication.

At least one session touched on every important egg in the PD basket: competency models, in-house training, off-site CLE programming, performance appraisals, developmental assignments, satisfaction and retention, diversity, career development, leadership development, alumni programming. There were some thought-provoking sessions on connecting best practices in adult learning with generational differences and on the law of HR as it applies to law firms. There were also several sessions on career development for PD professionals themselves: on writing on the job and for publication, on managing your career, and on using PD data to toot your own horn.

The well-planned program structure placed a plenary session at the beginning and end of each day, and four concurrent sessions to choose from at other times in between, some of them repeated in subsequent time slots to make choosing less painful. All sessions were 75-90 minutes long, allowing the presenters to explore their topics in reasonable depth. A

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[6]The American Institute for Law Training Within the Office, an ALI-ABA subsidiary.

fat binder of handouts eased note-taking and provided additional resources.

There was a nice flow to the content, with an opening plenary of partners talking about the importance of associate satisfaction and retention, and a closing plenary of PD professionals presenting practical ideas for reducing attrition. Given the devastating costs of attrition to law firms, and NALP's series of studies correlating it to lack of developmental opportunities, it made sense to bookend the program with presentations on that subject. Retention has become the *de facto* metric for PD success.

Most of the sessions were panel presentations, but atypically, in my experience, the discussions were interactive, fast-paced, and engaging. Paula Nailon of the

University of Arizona law school and Tracy LaLonde of Akina were especially terrific and lively moderators. In fact, most of the speakers seemed to be having a good time; and as a result, so did the rest of us.

The first-class venue for the meeting, the Ritz-Carlton at Pentagon City, added to the enjoyment – attractive surroundings, good meeting facilities, and great food. My one complaint was the exceedingly long lines at the few ladies' rest rooms during the breaks. This is a female-dominated profession, and better provisions should have been made.

The 2008 PD Institute is coming up in D.C. on December 4-5, the Thursday and Friday after Thanksgiving. I hope to see you there!

Professional Developments

Events

Upcoming PD-related conferences, seminars, and workshops:

Legal Profession:

﹡ 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.

﹡ 5/29-31 and 7/17-19/08, San Francisco, CA. *Hastings Leadership Academy for Women*.

UC Hastings College of Law, http://www.pardc.org/LAW.

﹡ 6/19-20/08, Washington, DC. *2008 NALP & ALI-ABA Lawyer Development Institute.* National Association for Law Placement, www.nalp.org.

﹡ 8/2-5/08, Vancouver, BC, Canada. *44th Annual Meeting.* Association for Continuing Legal Education, www.aclea.org.

General Audience:

﹡ 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.

﹡ 2/12/08ff, on line. ***ISPI Skillcast Series for Performance Improvement Professionals:***

2/12/08. *HPT: 7 Tips for Sustainability.*

3/12/08. *A Manager's Guide to Improve Workplace Performance.*

4/16/08. *The Supervisor's Role in Performance Improvement.*

5/14/08. *Overcoming Workplace Complexity and Performance Uncertainty.*

International Society for Performance Improvement, www.ispi.org.

❋ 2/12-15/08, San Diego, CA. *ISPI ProSeries Workshops.* Choose from concurrent 2-day workshops on mentoring, performance consulting, organizational performance, and fluency building. International Society for Performance Improvement, www.ispi.org.

❋ 2/13/08ff, Scottsdale, AZ (or online, as noted). **Clark Training Workshop Series**, Clark Training & Consulting, www.clarktraining.com:

2/13-15/08. *Needs Assessment for Performance Technologists: Tools and Techniques.* (Repeated 9/17-19)

4/1-4/08. *How to Plan, Develop, and Evaluate Learning.* (Repeated 10/21-24)

4/8-11/08. *How to Plan, Design, and Evaluate e-Learning.* (Repeated 10/14-17)

5/5-9/08, Online only. *Building Expertise: How to Apply Learning Psychology to Instructional Design.* (Repeated 11/17-21)
5/12-16/08, Online only. *E-Learning and the Science of Instruction.* (Repeated 12/1-51)

❋ 2/26-28/08, San Antonio, TX. *ASTD TechKnowledge Conference & Exposition.* American Society for Training and Development, http://www.tk08.astd.org/.

❋ 3/3-5/08, Orlando, FL. *Accelerated Learning Training Methods Workshop.* The Center for Accelerated Learning, www.alcenter.com. (Repeated 4/21-23 in Washington, 5/19-21 in Atlanta, 6/16-18 in Lake Geneva, NY, 7/14-16 in Denver, 8/11-13 in Chicago, 9/15-17 in Dallas, 10/6-8 in Lake Geneva, 11/3-5 in Seattle, 12/8-10 in Phoenix.)

❋ 3/3-6/08, Dubai, United Arab Emirates. *37th Annual IFTDO World Conference and*

Exhibition: "Knowledge and Human Resources." International Federation of Training and Development Organizations, http://www.iftdodubai2008.com/.

❋ 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.

❋ 4/15-16/08, Chicago, IL. *The 2008 Annual Diversity Conferences.* The Conference Board, www.conference-board.org/diversity. (Repeated 5/6-7 in New York, 6/26-27 in San Diego.)

❋ 4/22-24/08, St. Petersburg, FL. *Impact 2008: Enterprise Learning and Talent Management Conference.* Bersin & Associates, http://www.bersin.com/newsevents/impact/index.htm.

❋ 5/8-9/08, San Francisco, CA. *The 2008 Employee Engagement and Retention Conference.* The Conference Board, www.conference-board.org/retention. (Repeated 6/19-20 in New York)

❋ 6/1-4/08, San Diego, CA. *ASTD 2008 International Conference & Exposition.* American Society for Training & Development, http://www.astd2008.org.

❋ 6/22-25/08, Chicago, IL. *SHRM 60th Annual Conference and Exposition: Great Minds Come Together*. Society for Human Resource Management, http://www.shrm.org/conferences/annual/

News

See you in Dubai? On March 3-6 (see calendar entry above), the Dubai Police Academy is hosting this year's annual conference of the International Federation of Training and Development Organizations. The venue is the Dubai International Convention and Exhibition Centre, at which such august bodies as the Boards of Governors of the World Bank and International Monetary Fund have met. We couldn't get past the social calendar, which includes such events as:

• A desert safari, with a camel ride, 5-star *alfresco* banquet, and overnight at a Bedouin campsite.

• A cruise on the Arabian Gulf in a 56-foot catamaran.

• A balloon or helicopter ride over the desert and mountains.

- Indoor skiing at Ski Dubai, an indoor ski facility with 5 runs including "the world's first indoor black run" (400 meters with a 60-meter drop). All equipment and clothing provided. If you're not a skier, you can snowboard, toboggan, or just play in the snow.

There's still more, but you get the idea.

A good, (mostly) green trend: holiday e-greetings. For the first time this year, we received a number of holiday greetings in electronic form. About time we started saving trees!

Our favorite: Nixon Peabody's online greeting, with gorgeous video clips of endangered species and habitats set to music. If it's still online, you can see it at http://www.nixonpeabody.com/holiday2007/index.html.

Our least favorite: A 5-meg CD from the American Society for Training and Development, which arrived by mail in a cardboard envelope. Nice touch, the video clips of numerous staff members wishing us happy holidays from their desks as the roving camera passes by. But here's an expensive package received by thousands that will only add to the landfills.

Fortune's 100 Best Places to Work, 2008. Congratulations to the six law firms on Fortune's latest list, all of them repeaters for at least the third year in a row, although in slightly revised order:

- Arnold & Porter (19)
- Alston & Bird (26)
- Bingham McCutchen (41)
- Perkins Coie (55)
- Nixon Peabody (66)

Even better, the law firms have moved a little higher on the list than before, averaging out at 42nd place this year compared to 50th in 2006.

Winners are chosen based on (a) responses by 400 or more randomly selected employees to a 57-question survey (the "Great Place to Work Trust Index") created by the Great Place to Work Institute (worth 2/3rds of the total score), and (b) responses by management to a Culture Audit also developed by the Institute

(1/3rd).

To be eligible for consideration, an organization must be at least 7 years old and have more than 1,000 U.S. employees. An online nomination form is available at www.greatplacetowork.com; application deadline is March 31, 2008.

Studies

Diverse effects of diversity training. Sociologist Alexandra Kalev analyzed 31 years of EEOC reports by 830 mid-size to large organizations to see the extent to which the companies' diversity training programs were followed by increases in the numbers of women and minorities in management. Her study based on that data, published in 2006 in the *American Sociological Review*, found that the training produced mixed results and, on average, little benefit.

In a follow-up study that is not yet published, Kalev has delved deeper, correlating the differences in results with a difference in the type of diversity training that is offered and the organization's purpose in undertaking it:

- Voluntary programs undertaken for the purpose of promoting the organization's business goals led to increased numbers of women and minorities in management.

- Mandatory diversity training that focused on legal risks and compliance, however, apparently causes a backlash against women and minorities. It was followed by a decrease of as much as 12% in their representation in upper management.

(Shankar Vedantam, "Most Diversity Training Ineffective, Study Finds." Washington Post, 1/20/08.)

Fortune's "Best Companies to Work for" Produce Superior Returns. A Wharton professor has found that employee satisfaction, as indicated by a company's presence on Fortune's list of *Best Companies to Work for in America*, correlates with superior long-run stock performance: 14% per year from 1998-2005, more than double the market return. (We wonder how the presence of a law firm on the list translates to financial performance?) (Alex Edmans, *Does the Stock Market Fully Value Intangibles? Employee Satisfaction and Equity Prices*. Available on line at http://ssm.com/abstract_985735.)

MCLE Watch

(We thank Dave Carr of Reqwired, Inc. for the information on which this column is based.)

Alaska has changed its long-time "voluntary" CLE requirement to a part-voluntary, part-mandatory requirement: 3 hours of ethics annually are mandatory, and 9 hours of additional CLE are voluntary. Reporting of all CLE hours, however, is mandatory. 2008 is the first year under the new rule, with courses to be completed by December 31. See http://www.alaskabar.org/library/SCO 1640 - BR 65 and 66 - TXT.pdf for the new rules, and http://www.alaskabar.org/library/MCLE_FAQs.pdf for the FAQ's.

In November, **Texas** made interactive distance courses eligible for participatory CLE credit.

New Texas Rule 2.1.2 specifies that:

"Credit may be claimed for participating in any of the following activities that encourage interaction, discussion and contribution:

> a. live interactive webcast and teleconferences;

> b. pre-recorded, on-demand web based programming and teleconferences including interactive audio, video and digital media and which include and promote discussion forums or other viable options for interaction and discussion, subject to approval of the MCLE Committee; and

> c. other such interactive CLE activities as may be developed through advanced technology, subject to approval of the MCLECommittee.

http://www.texasbar.com/Template.cfm?Section=Minimum_Continuing_Legal_Ed&Template=/TaggedPage/TaggedPageDisplay.cfm&TPLID=13&ContentID=2546

The Learning Lab will resume in the May issue.

100% Renewal Rate by our law firm subscribers in 2006 and 2007!! Check out the expanded, online *Capital CLE Calendar*. Thousands of live, in-person CLE courses, offered by over 100 providers in 10 major metropolitan areas, are indexed by topic and date, continuously updated, and accessible 24/7. Viewable, printable, and keyword-searchable in the major browsers.

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Index to PDQ Articles and Survey Reports, 2003-2007

Administration and Staffing of PD

Fried-Fiori, Sari, "Learning Management Systems for Law Firms." February 2006, 1-10.

Jones, Rachel W., "Leading the Virtual PD Team." August 2007, 14-16.

Mara, Evelyn Gaye, "*The Learning Lab:* Coordinating Training Logistics." November 2004, 7-8.

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