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Lateral Partner Integration: Getting One Plus One to Equal Three

Andi Cullins and Steve Nelson

Much has been written in recent months concerning the relatively poor results reported by firms in their lateral hiring efforts. A report produced by Lexis-Nexis and ALM Legal Intelligence found that, while three-quarters of the respondents expected lateral hiring of partners to increase over the next five years, only 28 percent found that such efforts were a “very effective” strategy for growth.¹

A separate study conducted by the Citi Private Bank Law Firm consulting unit of law firm managing partners found that the success rate for recent laterals was pegged at 60 percent at best. And that number has been questioned by one observer, wondering if the survey took into account both the overall direct and indirect expenses of hiring laterals, pegged at \$600,000 or more per lateral.²

Many factors have been cited as leading to the mixed results of these efforts. Among them are:

¹ “Study: Lateral Hiring Push Will Continue Despite Uncertainty About Its Impact,” *AmLaw Daily* (October 16, 2012).

<http://www.law.com/jsp/law/article.jsp?germane=1202575884133&id=1202575195242>.

² “The Culture of Contradictions,” *Am Law Daily* (January 18, 2013).

http://www.americanlawyer.com/PubArticleALD.jsp?id=1202585007880&The_Culture_of_Contradictions

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- Failure by some firms to be strategic about lateral hiring efforts, with decisions often based on a practice area being “hot,” or because other firms are doing it. In addition, many firms react almost exclusively to targets of opportunity—laterals seeking entry into a new firm—who are either referred by existing partners or presented by recruiters. As a result, firms are apt to bring in new partners with practices that are not aligned with the strategic vision of the firm.
- Failure by many firms to properly handle the due diligence process, particularly relating to projections of business that the lateral may bring to the new firm, but also relating to issues of quality, long-term potential, and cultural fit.

But a key factor in explaining the mixed performance of laterals has been the failure by many firms to institute and then carry out a comprehensive lateral integration program. While most firms have at least some integration program

on the books, what has been lacking has been the execution. In an article earlier this year in *The American Lawyer*, Amy Kolz hit the nail on the head:

Firms may be coming up with better procedures for each step of the lateral hiring process, but they often fall short when it comes to implementing them. Due diligence can be rushed or left incomplete; lofty integration plans might be forgotten or shoved aside after a new partner's first weeks.³

And, in the lateral partner integration game, execution is the key. Programs that have a limited focus on the first few days of the lateral's transition, deal primarily with administrative issues, and are process heavy will fall short of ultimate success. They leave too much to chance in transferring the new lateral partner's (NLP's) existing business and may leave that partner feeling stressed, ignored, and wondering what happened to all the recruiting promises she heard.

Integration programs should have two main goals: to assist the NLP in bringing over all of the business she originally forecast (or as much of it as possible) and to incorporate the new partner into the fabric of the firm administratively, culturally, and in long-term business production.

Six Considerations in Best Practices for Lateral Integration

We have found a group of best practices that seem to lead to greater success in

³ Amy Kolz, “Building a Better Lateral,” *The American Lawyer* (February 1, 2013). http://www.americanlawyer.com/PubArticleTAL.jsp?id=1202585325012&Building_a_Better_Lateral#ixzz2YZ6hdl91

the long term. These six practices are critical, regardless of the size of the firm:

1. The integration program starts during the recruiting and interviewing stages and is aligned with the overall strategic plan of the firm.
2. The program takes a long view of the integration process but sets benchmarks and checkpoints throughout the process.
3. It utilizes due diligence documents with an eye toward long-term client development.
4. It involves a cross section of individuals throughout the firm who are active in the process early and continuously.
5. It has deep buy-in from the management team and has the support and participation of partners throughout the firm.
6. It is supported by data so that results can be easily measured, and that data is transparent for both management and the laterals themselves.

The One + One = Three Model

As noted earlier, lateral recruitment at many firms often boils down to targets of opportunity. A partner with a substantial book of business is presented to the firm; and, depending on just how big those numbers are in relation to the rest of the firm, the chase is on. While this might seem like found money, the truth is, if the partner's business creates a silo, neither the firm nor the lateral will truly benefit in the long run.

Instead, firms should keep the strategic plan and direction of the firm in mind when reviewing potential new partners.

Laterals themselves are better served by this approach. In any lateral acquisition, the first question for both sides should be: How will the combination of what the firm is already doing and what the new partner is already doing result in more business than either entity currently has separately? The forecasted whole has to be more than the sum of the parts, or it's a break-even proposition at best. By carefully aligning recruiting strategy to the current strengths of the firm, and adding on practices that are tangential or allow robust cross-selling opportunities, the firm gives the NLP a better chance of bringing the clients he has and of benefitting from new colleagues and connections that can help him develop further business.

As a result, the first step in the integration process has to start in the recruitment phase. Not only does that call for a more judicious look at the proposed practice area, but it also means a more mindful scrutiny of the NLP's due diligence forms. The exercise has to extend beyond the conflicts and likelihood of business transfer, moving into an analysis of key strategic issues around clients, relationships, history, and future offerings. This is the place where business plans should be jointly vetted and agreed upon, milestones and benchmarks set, and timetables agreed to.

Best practices in this area include the development of a written individual business plan that is prepared in concert—with strong firm participation—for the NLP's first year, at a minimum. It should identify not only the business the NLP believes will follow him or her but also additional business opportunities the firm believes can be captured because of the NLP's expertise. Both parties should agree to the

reasonableness of the plan and discuss flexibility and options before completing a final agreement. Finally, this document serves as a bridge and a roadmap that can be revisited regularly to assess action on the mutual promises made during the recruitment phase.

Taking the Long View

Successful programs require the sustained participation and coordination of groups across the firm and have internally and externally focused components.

Most firms produce a flurry of activity around a new partner's arrival, but that excitement diminishes quickly. After a round of formal receptions and a few lunches, it's back to business as usual, leaving the NLP to figure things out on her own. Firm management keep their fingers crossed and hope the business promised will follow quickly.

Best practices, however, dictate 18 months to two years as the realistic length of time it takes to truly integrate an NLP into the firm. Here, the definition of integration is not limited to the transfer of the NLP's business but includes being able to function as part of the fabric of the firm. Management and executive committee members, practice groups, administration, marketing, and business development all have roles to play in this regard. And, as we've said, those roles can't all be shoved into the NLP's first two weeks on the job if you expect anything like success.

At the firm management level, this means not only giving the NLP some time to develop but also requiring firm management to be prepared to be ambassadors and emissaries for

integration. Executive teams need to think of the integration program as protecting the firm's recruiting investment. One of the most important things they can do is to send a top-down message that integration is important and needs to be sustained. It also requires firm management to commit to meaningful, periodic meetings with NLPs regarding progress that reference benchmarks and relevant statistical data.

Coordinating and sustaining this kind of effort within an organization as complex and dynamic as a big law firm is no easy feat, and likely it's why integration plans fall short so often. The most successful firms assign the expediter role to one individual. That varies from firm to firm. For some, the responsibility rests with the head of marketing or business development, for others it is assigned to the head of professional development, and for some smaller firms the Executive Director has responsibility. In any event, there is a clear directive from the top as to where the responsibility lies.

In turn, the best programs identify a specific individual who is responsible for each individual NLP and tracks with them during the process—up to two years out. Here again, exactly who is tapped to do this varies by firm. At some firms, members of the lateral partner recruiting committee do this, but for others someone from the marketing or business development department fills this role. One firm that has gone this route is Mintz Levin, which has been refining its integration program over the past two years or so. Carolyn Manning, Senior Business Development Manager at the firm, told us, "What makes our integration program unique is our customized road show by office. Each lateral has a business development manager glued to his or her hip, and we

accompany each lateral as they visit our various offices.” The focus, she told us, is two-pronged: to educate the new lateral on the various firm capabilities and clients and to help create new client introductions for both current and new partners. “Once the dots are connected, the BDM facilitates the client follow-up and tracks progress to hold everyone accountable,” she added.

Day One—and Beyond

Every new lateral’s nightmare is the same—showing up on Day One to find an empty office. OK, maybe not totally empty—there are a desk and a phone—but no files, no cell phone, no idea how to get into the existing systems, and no way to contact his clients. The truth is usually a bit better; but if there are still gaps like unobvious codes to open matters, make copies, and log onto the computer system, or delays in getting business cards or stationery—then your system needs serious repair.

Erring on the other side is just as daunting. Firms who hand the NLP a 3-inch binder full of all the necessary information while remarking “Let me know if you have any questions,” or sitting the NLP down in a conference room for two weeks of orientation, are also missing the mark. The trick is giving the NLP the necessary information on an as-needed basis so he isn’t faced with drinking from the proverbial fire hose.

The most successful programs work with the NLP to have things in place and ready on Day One. Catherine Alman MacDonagh, JD, co-founder and CEO of the Legal Lean Sigma Institute, recently handled a process-improvement consulting project for a multi-office AmLaw 100 law firm. That team applied

process improvement methodologies to help the firm revamp its lateral partner on-boarding and integration program. “Our goal was to have every lateral up and running on Day One,” she says, “meaning that the lateral is able to do and deliver work, especially to transitioned clients.” The firm instituted a “pre-boarding” process that, among other solutions, employed the use of the firm’s extranet protocol to do as much of the upfront work as possible before the NLP even shows up. In some ways, she says, “It’s like pre-boarding processes that some airlines use to make plane departures more efficient.”

Another aspect of successful programs is the ability to provide training on an as-needed basis for administrative issues and to assist the partner in bringing over files and clients or in opening matters. Jennifer Queen of McKenna Long, a firm noted for its innovative lateral partner integration program, started surveying attendees from its lateral partner orientation. “If you listen to what the lateral’s needs are and react to those,” she told us, “that helps you integrate the NLP more effectively.” What the firm learned through these new partner orientations is that “the new partner wants to know how to navigate the system, including how matter management and business development are handled, and how to quickly access resources to support client needs.”

A critical step is the involvement of marketing and business development, not just for press releases but also for resource planning and opportunity development that can lead to additional business. We found few firms who actually tracked the source of NLPs’ business and fewer still that compared the NLPs’ original lateral partner questionnaire or business plan to

actuals. While firms may have a sense of the work that transferred in collectable dollars, they are less clear about which particular clients or matters were at risk, or if there was anything that could be done to aid the NLP in solidifying an unresolved relationship.

Firms that involve their marketing departments deeply in the integration process are more successful in addressing such issues. At Mintz Levin, says Manning, the firm's Chief Marketing Officer meets with all lateral candidates during the interview process to help anticipate any issues with transferring projected business and to help plan cross-marketing efforts and integration. As a general rule, firms that involve their marketing and business development teams in the integration process tend to be more successful in making sure the NLP gets access—on a repeated basis—to existing partners who have a potential for cross-selling. More important, they make sure the objective of such meetings goes beyond the social aspects and focuses on mutual client development.

Queen says that McKenna, Long uses information gleaned from the due diligence phase and mutually prepared business plan to map out which partners the NLP most needs to meet. In this way, the firm can set up in advance what issues need to be covered in order to have the most productive business development conversations possible.

Successful programs also pay special attention to cultural integration. Whether the assigned party is called a mentor, a buddy, or an ambassador, someone is on hand to help the NLP learn the nuances of the firm. The focus of the effort is to make it easier for the NLP to navigate on a daily basis. Some small firms arrange spouse meetings, some firms send gift

baskets to the NLP and spouse, but the consensus was that the message must be: "We're glad you're here; you are an important part of us."

The Watchword is *Flexibility*

One thing we heard loud and clear is the need for flexibility and responsiveness to the requirements or circumstances of the NLP. For example, Queen notes that laterals who come to her firm while they are in the midst of a critical case or client emergency may not get the same level of orientation in their first few weeks. It doesn't mean that they don't need the same information from orientation as other laterals, or that the process should be jettisoned. Instead, the firm will have to work with these laterals to apportion their time responsively.

Similarly, MacDonagh says that requiring all aspects of initial orientation to occur in the first few weeks of a lateral's arrival, without prioritizing what she needs to get up and running, might be forcing her to drink from a fire hose. As a result, she said, her client "had to determine which elements of training are mandatory early, while others could be fit in further down the line."

Benchmarks, Milestones, and Data Review

In the end, the only way to know if the program or the new lateral is succeeding is by collecting and reviewing data. Benchmarks and milestones agreed upon during the negotiation phase have to be monitored through the first year and into the second. This monitoring requires periodic meetings to identify any challenges and planned strategies to mitigate them. Data tracking and

analysis on matters opened, hours, cross-selling success, and even participation in pitches can provide meaningful insight for individual partners and the integration program itself. Whatever system is employed to collect this data, it must be transparent to the NLP as well as to firm management and the integration program administrator.

Unfortunately, it seems few firms are really following up on these benchmarks. At a recent roundtable of legal recruitment professionals, many participants admitted that conducting full-scale assessments of how lateral recruits were performing (particularly as a whole) is something that often falls through the cracks due to a shortage of resources.

The issue with data collection and analysis isn't really one of availability of raw data. Most big law firms collect information on matters by client: who opened the matter, time billed, and various other factors. Collating this information and applying it to each NLP, making it easily available to those with a need to know, and keeping marketing and management abreast of progress are the steps that are lacking.

One firm we spoke with created a *dashboard*—a one-stop data shop—replete with all the necessary information that could be easily called up by those with a need to know. Best practices in this area incorporate this data into the periodic reviews with the NLP, management, marketing, and other essential parties.

Results

While it's still too early in the game to claim total victory, early results for the



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firms that have moved to these models are hopeful, and some are impressive.

McKenna reports that it has cut in half the length of time it takes NLPs to report billable hours. In addition, the average time to open matters on the transferred clients went from over 30 days to less than half that time. Mintz Levin has seen a marked increase in cross selling within

the first three months of the NLP's start date.

A smaller firm that implemented its first structured integration plan saw a 100 percent success rate. All of the NLPs it hired brought with them all of the business they claimed, went on to grow their practices beyond that level on the new platform, and have remained with the firm over time.

Quotes of the Quarter:

“In a star culture, the best people supposedly rise to the top in a Darwinian survival-of-the-fittest fashion. They rank their partners, pitting professionals against each other.... In a culture that pits one colleague against another, would you trust any colleague enough to share your ideas, your work product, or your clients with him or her?”

“In a world where heroes are worshiped, superheroes idolized, and rock stars treated as gods, it somehow gets lost on us that the true power lies in high-performance teams and not just one person, however good that individual might be. Lawyers are part of a firm to be part of a team, not to exploit and raise their own standing to the detriment of all who are ranked below them.”

- Patrick J. McKenna and Edwin B. Reeser in *The Am Law Daily* (“How Law Firms Get Burned by a ‘Star’ Culture,” July 29)

“There doesn't seem to be any doubt that there are too many lawyers available these days to serve elite clients.... But for everybody else, lawyers are often in short supply. Paying a lawyer several hundred dollars an hour for advice or representation is a luxury beyond the means of many—if not most—Americans.... When people can't get lawyers to help them with complex problems, they stand to lose the things that are most precious to them, like custody of their children, the roof over their heads, or that quintessentially American opportunity to make a fresh start after crashing and burning.”

- Leah Plunkett of the University of New Hampshire Law School in *The New Republic* (“The Real Way to Fix Law School: More Lawyers,” July 24)

The Art of Providing Productive Feedback

Lynn Anne Baronas

“Thinking is easy, acting is difficult, and to put one’s thoughts into action is the most difficult thing in the world.”

—Johann Wolfgang von Goethe

An 18th-century lawyer by trade, Goethe was not writing about the process of delivering feedback to lawyers when he penned these words. In all probability, he was bemoaning the challenges of navigating the pressing demands of a career that spanned the sciences, art, literature, religion, politics, and law. That said, Goethe’s words aptly describe the challenges seasoned lawyers face when providing constructive feedback to associates. Generally speaking, it is easy for most partners to diagnose and prescribe remedies for performance issues; it is far more difficult for them to deliver their important, meaningful, and timely feedback to those who would benefit from it.

While law school provides a basic foundation in the substance and theory of law, young practitioners ultimately grow into proven professionals by navigating a variety of new experiences during the formative years immediately following law school. During these all-important post-law school years, the importance of timely communicated partner advice cannot be overstated; productive feedback is essential to a positive upward learning trajectory. The act of communicating purposeful and productive feedback to others takes time, commitment and—in some more difficult cases—courage. This article offers some tips and strategies for sharing productive feedback—for drafting effective written

evaluations and delivering direct and constructive messages during evaluation conferences.

Thoughtfully and carefully crafted performance evaluations equip associates to understand others’ perceptions of their work product, provide a platform for discussing areas of future growth and investment, and afford a solid foundation for professional development planning. When it comes to writing high-quality evaluations and providing helpful feedback, there is no substitute for these three steps:

- Prepare thoughtfully
- Write and speak with clarity and specificity
- Encourage and support meaningful verbal dialogues

Prepare thoughtfully

Clear and productive interpersonal communications, whether written or verbal, require careful planning and preparation. The art of drafting useful performance evaluations and offering helpful verbal feedback to associates requires no less. Therefore, before putting pen to paper or meeting to discuss feedback, partners must carve out some time to review the entire landscape of an associate’s performance during the period the evaluation is intended to cover. This “thinking time”

should include a review of (1) the relevant performance evaluation template; (2) associates' prior-year performance evaluations; (3) associates' self-evaluations; and (4) associate work product submitted to evaluators on specific matters during the relevant time period.

Advance partner review of the performance evaluation template is important for several reasons. First, it equips evaluators to understand the directions, procedures, and deadlines governing the process. Second, it focuses partners on the time period for which feedback has been requested. Finally, it positions partners to identify and ask questions about the specific competencies designated for evaluation.

A review of prior-year evaluations can also be helpful in the thinking stage. Partners who review associates' past evaluations are far better positioned to notice positive or negative trends in performance year over year. They can also assess how associates have performed against previously stated goals or have addressed suggested areas for growth or improvement. Partners who review prior year evaluations will find them particularly useful in considering the overall direction and focus of professional development for associates.

Associate self-assessments afford partners critical insight about the associate's own perception of performance. This, in turn, equips the partner to flag discrepancies between perception and reality and to plan for any necessary clarifications or course corrections. For this reason, self-assessments can also set the stage for a fruitful dialogue during evaluation conferences.

Finally, thinking about work performed by associates on specific matters during the relevant time period will also help partners as they begin the process of critically assessing performance. What work product or performance stood out and why? Where did the associate's abilities and experience shine? What deficiencies needed addressing? What specific examples will demonstrate the issues at hand?

Partners who conduct this preliminary review will be well positioned to provide a helpful overview of how associate performance has measured up against the specific competencies listed in the evaluation template. They can then begin to offer feedback that addresses areas of achievement, highlights areas for improvement, and provides examples that equip associates to improve future performance and enhance professional growth.

Write with Clarity and Specificity

Whether writing evaluation narratives or preparing for evaluation conferences, partners need to deliver key messages about associate performance with clarity and specificity. In a sense, performance evaluation feedback offers a "reality check"—done properly, a performance review educates those who are being evaluated about others' perceptions of their performance. Where the associate has had successes, the evaluation narrative offers partners an opportunity to recognize and celebrate positive contributions and to reinforce areas of growth and mastery. On the other hand, where the associate has failed to meet expectations, the evaluation offers an opportunity to mark areas for improvement and to discuss strategies for change. Challenging as it may

sometimes be, partners must resist the temptation to sugar-coat any messages communicating a need for improvement.

To be most informative and useful, therefore, the message delivered in a written narrative—positive or negative—must be direct and unambiguous. Effective evaluations focus on the individual’s underlying performance, steering clear of personal attacks or observations. Similarly, the most helpful narratives contain specifics, not generalities, and provide illustrative examples. Finally, as a general rule, when writing narratives each partner should speak of his or her own perception of work performance and exclude “hearsay” or otherwise reference the perceptions of others.

The import of these guidelines plays out in the following two sample evaluation narratives, written for an associate who has repeatedly missed deadlines.

First Sample Narrative: Associate has miserable time management skills. As many of my partners have noted, she constantly misses deadlines.

This sample narrative misses the mark in several respects. It focuses squarely on Associate, personally, rather than on Associate’s performance. It lacks specific details regarding missed deadlines: it does not state the deadline Associate missed nor does it mention the impact or consequences of the missed deadline. The narrative does not offer any specific helpful feedback; instead, it provides a vague, but negative, comment about Associate’s time management skills. Finally, it offers an unattributed blanket indictment of Associate’s failure to meet deadlines by “many” other partners, making it impossible for Associate to

identify the specific partners with whom to follow up to discuss the issues they may have with her work.

Second Sample Narrative: In the past six months, final drafts of briefs in the Smith, Jones and White matters have been rushed and, therefore, less polished than I would have liked. In each case, Associate has not met the deadlines I have set. The Smith draft was delivered to me five days later than I requested, the Jones memorandum was three days late, and I received the White brief a full week after my deadline. While all of these delays caused workflow problems for me, the delay in the White matter was the most problematic--both for our client and for me. The delay significantly reduced the time I had available to edit the brief, and, while the final version of the brief was filed on time, I had to work late several nights to get it into shape for the client to review. The final version was also delivered to the client later than I had promised and, as a result, our client was very unhappy with our work.

This second sample narrative is far more comprehensive than the first: It clearly puts Associate on notice that there were missed deadlines and includes identifiable examples. The feedback unambiguously informs Associate that the missed deadlines were unacceptable and explains why (*i.e.*, the brief was less polished, the client was unhappy, and the partner’s own work schedule was negatively impacted). This narrative likely took the partner some time to draft; however, the investment of time will benefit the firm in the long run as it offers Associate a constructive snapshot of her performance and a starting place for considering strategies for improvement.

Encourage and Support Meaningful Conferences

Partners should schedule face-to-face annual conferences to discuss performance. A successful evaluation conference offers a platform for purposeful, constructive, and meaningful conversation about work performance. Done well, an evaluation conference affords a partner the opportunity to offer advice and to explain how an associate's particular performance impacts either the specific matter or the team handling the matter. Evaluation conferences also promote and encourage productive two-way conversations and include ample time to discuss plans for future growth and development.

Not surprisingly, the most meaningful evaluation conferences result from thoughtful planning. Evaluation conferences should never be held on the "spur of the moment": Associates must have sufficient advance notice to enable them to prepare thoughtful and comprehensive questions and comments. If it is firm practice to share written performance evaluations with associates, partners must take care to afford associates ample opportunity to review, react to, and assimilate the feedback in the written evaluations before conferences are scheduled.

Once the conference is scheduled, the partner should be intentional about identifying three or four key items of feedback to highlight and then host the meeting with the goal of communicating those points. During the conference, it is important for a partner to speak directly and succinctly—not vaguely—about the key areas of improvement or desired behavioral changes. A useful strategy is to state the specific desired behavior and

contrast it with the performance the associate has delivered.

Applying this guideline to the scenario described above, the partner hosting her evaluation conference will give Associate a very direct message: "During the past evaluation period you have missed three important deadlines. This year, you must deliver every item of work product to me on or before the deadlines I set." Likewise, the partner will avoid vague messages (*e.g.*, "You never get your work to me on time.") or lengthy, off-track messages (*e.g.*, "I used to have the same problem with time management. Let me tell you how I handled this issue..."). Vague and lengthy messages serve only to detract from salient feedback and have the potential to distract the associate from the desired behavioral adjustment.

In addition to providing helpful and frank feedback, productive evaluation conferences offer the opportunity for a positive, useful dialogue. For this reason, the partner hosting the conference must set the tone for and strive to maintain a positive mindset throughout the meeting. One way of accomplishing this goal is to set a positive tone at the outset of the meeting (*e.g.*, "This is a learning experience, and we want to help you grow as a professional").

An effective technique for inviting dialogue is to present the key feedback in the form of a question. A partner might ask an open-ended question relevant to the area for improvement, then wait for and listen to the answer (*e.g.*, "What changes do you think you might make going forward to ensure that you meet your deadlines?"). To reinforce the goal of having a dialogue, she might then rephrase the associate's response, repeat it back and follow up with another open-ended question (*e.g.*, "So you think that

using your Outlook calendar to set up reminders in advance of the assigned deadlines might help. Can you think of anything else?”). In many cases, this approach will prompt a dialogue between the associate and partner that will generate several plausible ideas and strategies for a curative plan. The partner can then encourage the associate to take responsibility for drafting a written action plan, including specific goals, based on the dialogue.

Finally, here are a few concrete suggestions to help partners keep a conversation “on track” during an evaluation conference:

1. Resist the temptation to psychoanalyze the reasons underlying a performance issue (*e.g.*, “We know you are having problems at home, and that may be why you are having troubles making your deadlines.”). Doing so is the quickest way to derail dialogue, detract from the effectiveness of messaging, and raise ancillary issues that are, at best, irrelevant, or at worst, inappropriate for a workplace discussion.

2. Steer clear of humor or sarcasm when making a key point about work performance (*e.g.*, “I so appreciated your very late draft. Thanks a bunch for putting me on the spot with our client.”). Evaluation conferences are serious business—they impact performance, self-perception, and morale—and are only truly effective when delivered with respect and tact.

3. Do not use an evaluation conference as a platform for “fixing” what you perceive to be the associate’s problem (*e.g.*, “Maybe you need to concentrate more on your career than your social life.”). Your perception may be inaccurate.

Offering Continuous Feedback

While each of the three topics discussed above is critical to a successful formal annual performance evaluation process, feedback works best when shared in real time throughout an associate’s tenure at a firm. Partners can use several strategies to make sure the opportunity to teach and coach an associate to peak performance is not lost in the shuffle of a busy and pressure-filled practice.

For example, when involving a junior attorney in new matters, wise partners are mindful of using the assignment to enhance the associate’s skill level and substantive experience. How might the matter help the associate practice existing skills or learn new skills? Will the new matter expand the associate’s expertise in a specific niche? While the mantra “sink or swim” can work as a teaching strategy, more often, associates learn more confidently and comfortably when a more experienced practitioner is willing to offer feedback and advice in “real time,” and as they navigate their way through a new experience.

To ensure that the very good goal of providing feedback more than once a year becomes reality, partners might consider scheduling regular face-to-face meetings with the associates with whom they work frequently or extensively. These meetings, which can be set as recurring meetings by calendar invitation, can cover a variety of topics, including the progress of the associate against goals discussed at the annual performance evaluation conference, strategy and feedback about the specific matters on which the associate is working, and a discussion of whether the associate perceives that he or she is handling matters that afford a fair opportunity to stretch and grow.

In the end, associates need feedback to understand what they are doing well and where improvement is necessary. While it is true that associates are responsible for their own careers, and that the response to feedback they receive can only come from them, a sincere commitment to providing useful feedback—both throughout the year and during an annual performance evaluation process—benefits both associates and firm partners. Associates who receive thoughtful and timely feedback acquire a more realistic sense of how they are performing and are positioned to learn new skills and strategies efficiently and quickly. Partners who are authentically invested in teaching and mentoring—those who are willing to “tell it like it is”—contribute to building a firm culture where associates feel valued and encouraged. That commitment yields improved associate morale, productivity and retention.

In short, there is no getting around the time it takes to prepare, write and deliver effective feedback. When feedback is delivered effectively and in real time, however, the return on investment is immeasurable.



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Classic Quotes:

“We now accept the fact that learning is a lifelong process of keeping abreast of change. And the most pressing task is to teach people how to learn.”

* * *

“To be sure, the fundamental task of management remains the same: to make people capable of joint performance through common goals, common values, the right structure, and the training and development they need to perform and to respond to change.”

– Peter F. Drucker (1909-2005)

PDQ Classic:

Burnout: A Necessary Part of Lawyers' Lives?

Randall Christison

[Note: This article was first published in our November 2007 issue.]

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 short-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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writing, listening skills, and other matters. He may be reached at 619-233-3200 or 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.



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 (302) 249-6229 or marag@profdev.com.

Promote Change by Accentuating the Positive

A common approach to organizational change is to focus on what's wrong, what needs to be fixed or eliminated. Lawyers with their analytical bent are particularly inclined to that approach. So are consultants. "Let's identify what the problems are so we can get rid of them."

The unfortunate result can be that other people within the organization feel attacked and devalued. Their defensiveness can then generate resistance to the change effort. In organizations that are polarized around major issues, defect-based approaches can further inflame hostilities.

A recent school of organization development, known as Appreciative Inquiry, is based on identifying and building on an organization's strengths instead of eliminating its faults. Instead of asking questions like "What's wrong here?" and "How can we fix or change it?", the AI practitioner asks questions like "What is working well here?" and "How can we use that and build on it?"

As explained by David Cooperrider, a professor at Case Western Reserve and major contributor to the field, in his *Appreciative Inquiry Handbook* (2nd Edition, Berrett-Koehler, 2008), AI projects proceed through a "4-D Cycle":

1. **Discover:** Identify and appreciate what is working well, the "Best of What Is"
2. **Dream:** Envision how to build on existing strengths to create a better future
3. **Design:** Plan the new and improved processes.
4. **Destiny:** Implement the plan.

When I was involved with organizational change projects, both in-house and later as a consultant, I found that a pure AI approach did not work with lawyers—they seem to be critics (not to mention perfectionists) by nature and are determined to ferret out every flaw and fix it. But using that approach in my information-gathering interviews and surveys seemed to be very reassuring to people, including the lawyers, and to dispel apprehension and resistance.

And a blended approach to the overall project, one that used AI techniques side-by-side with problem identification and analysis, worked better for me than either approach alone. By recognizing both the assets to be preserved and the defects to be repaired, we can produce a balanced solution that does not "throw the baby out with the bath water" and that ultimately best serves the organization and everyone in it.

– Gaye Mara

Professional Developments

News and Press Clips

“Big Law” Is Dying, but Law School Can Be Fixed

In late July *The New Republic* carried two articles by senior editor Noam Scheiber on what he views as the failing health, and poor prognosis for recovery, of the 200 or so elite U.S. law firms serving the largest corporations.

The first article (“The Last Days of Big Law,” July 21) chronicles the history of Chicago-based Mayer Brown to exemplify “the escalating plight of Big Law” – firms’ drive for ever-higher profits per partner, clients’ drive for lower legal costs, cut-throat competition between partners for clients and compensation – and, for associates, crushing debt and workloads, lengthening partnership tracks, and growing job insecurity.

<http://www.newrepublic.com/article/113941/big-law-firms-trouble-when-money-dries>

The first article generated an energetic response, both pro and con, which Scheiber summarized and answered in a followup article (“Yes, Big Law Really Is Dying,” July 28). In sum, he believes the long-term trajectory of client demand and firm profitability is a downward one and that “Big Law” will not “simply bounce back the way it has after previous recessions.”

<http://www.newrepublic.com/article/114065/death-big-law-firms-cant-be-ignored>

A companion article to Scheiber’s first piece laid out some changes to legal education recommended by six “experts”: Harvard Law professor Alan Dershowitz, *New Republic* editor Mike Kinsley, University of Colorado Law professor Paul Campos, *Slate* editor and legal correspondent Dahlia Lithwick, Above the Law founder David Lat, and Cisco Systems general counsel Mark Chandler.

We’ve heard—and published—all but one of the recommendations before. That one, by

David Lat, is to require two years of post-college experience prior to entering law school—to insure that the law school decision is not simply an automatic default choice, to enrich the law school environment and class discussions, and to reduce enrollments.

Another innovative element is the description by Cisco’s Mark Chandler of a seven-month, faculty-supervised, paid externship at his company for University of Colorado law students, along with suggested changes to the ABA rules to facilitate such arrangements. (“How to Fix Law School,” July 23) <http://www.newrepublic.com/article/113983/how-fix-law-school-symposium>

The law school article attracted a response from Leah Plunkett at the University of New Hampshire’s law school, debunking the “too many lawyers, too few clients” complaint. She points out that, while there is an oversupply of lawyers to serve elite, high-paying clients, most of society lacks access to lawyers—because their fees are unaffordable or, in rural areas, because there simply are no lawyers available. She suggests some actions that law schools, communities, and lawmakers can take to fund the necessary jobs. (“The Real Way to Fix Law School: More Lawyers,” July 24) <http://www.newrepublic.com/article/114018/fixing-law-school-we-need-more-lawyers-poor-clients>

Law Practice Today: PD Issue

The May issue of *Law Practice Today*, “monthly webzine of the ABA Law Practice Management Section,” focuses on professional development in law firms. The wealth of articles in this issue, many of them by past PDQ contributors, address:

- assignment systems
- client service
- making partner

- group coaching
- the associate’s perspective on PD
- work/life balance
- diversity programs
- associate engagement strategies
- upward feedback programs
- overcoming passivity
- ethical issues in BD training

http://www.americanbar.org/content/newsletter/publications/law_practice_today_home/lpt-archives/may13.html

Measuring and Managing Individual Productivity

When Yahoo’s new CEO Marissa Mayer ordered the company’s telecommuters back into the office last February, she reenergized the debate about productivity and flexible working arrangements.

An article in Knowledge@Wharton discusses Mayer’s decision and how to overcome the inherent difficulties in measuring, managing, and incentivizing the productivity of knowledge workers, including lawyers—wherever their work is performed.

“Objective” indicators such as time spent or output produced can be misleading—one example they give is filing a high number of low-value patents vs. a lower number of truly valuable ones. “The risk is that we focus more on quantity over quality, just because we can measure it.”

And such indicators typically don’t include “citizenship behaviors” like recruiting and mentoring, which “are critical in knowledge organizations, yet ... frequently overlooked in favor of hard data.”

Three further risks are identified:

- *Rewards based on numerical targets* can incentivize perverse and even destructive performance. “If you aren’t measuring the right thing and you have incentives in place, you might trigger behavior you don’t want.”

- *Blanket policies in response to performance problems with a few individuals*—such as prohibiting telecommuting or limiting Internet access—can penalize and possibly demotivate all workers, including the strong performers. “The right answer is to deal with those individuals.” (This is where they say Yahoo’s Mayer went wrong.)
- *The organization’s most productive employees can become the “‘go-to’ players”* for every tough assignment and can get overloaded and burned out as a result. The risk is that they will leave, and the solution is (a) to monitor their workload while raising the productivity of their co-workers and (b) to give them meaningful incentives to stay. “Assigning them projects that increase their status often works better than financial incentives.”

The article recommends rigorous definition of the behaviors and outcomes that are most critical to the organization, followed by a determination of how best to measure them over time: “For lawyers or engineers, that might mean including more subjective criteria when determining the impact of their work.... Measuring how often others cite an engineer’s patents or refer to a lawyer’s briefs, or ask to work with them on difficult projects, might give a fuller picture of effective productivity than the number of patents filed or hours billed alone.”

“Productivity in the Modern Office: A Matter of Impact.” Knowledge@Wharton, May 8, 2013. <http://knowledge.wharton.upenn.edu/article.cfm?articleid=3250>

Law Firms Flunk In-House Counsel’s Technology Audit

“Raising the Bar on Technological Competence—the Outside Counsel Tech Audit” was the opening keynote at LegalTech West Coast in Los Angeles in May. The

speaker, D. Casey Flaherty, is corporate counsel at Kia Motors America.

Flaherty has devised a technology test for law firms that bid for his company's business, to ensure that they handle their matters efficiently. Each firm "must bring a top associate for a live test of their skills using basic, generic business tech tools such as Microsoft Word and Excel, for simple, rudimentary tasks." So far, all nine firms that have taken the test flunked it, one of them twice.

For example, few associates knew how to print a document to PDF, even though "Basic PDFs are required by courts, and it's a one-click process."

Flaherty "uses the test to help him decide winners of the beauty contests." He plans to automate it and make it available to other general counsel at no charge.

Monica Bay, "Big Law Whipped for Poor Tech Training." *Law Technology News*, May 22, 2013. <http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202601218054>

More on the Law Firm Tech Audit

In the same issue of *Law Technology News* (see the preceding item), Kia Motors's D. Casey Flaherty proposes and explains a "single-topic mini audit that in-house counsel can administer to potential or current outside counsel." The topic is not entirely technological, but we won't spoil the fun by telling you what it is; you'll have to read the article.

D. Casey Flaherty, "Trust but Verify." *Law Technology News*, May 22, 2013. <http://www.law.com/jsp/lawtechnologynews/PubArticleLTN.jsp?id=1202592919953>

Celebrity-Studded PD Conference

The MASIE Center runs an annual fall conference on employee development. This

year's program (*Learning 2013*, listed under "Conferences/General Audience" below) has attracted an extraordinary roster of celebrity speakers. The agenda features keynote addresses by:

- The Honorable Hillary Rodham Clinton (no word on the topic)
- Coaching guru Marshall Goldsmith, on employee engagement
- Journalist Jane Pauley, on Boomers in the workplace
- Actor George Takei ("Sulu" on StarTrek), on social media and storytelling
- Open University head Martin Bean, on MOOC's and open learning

www.learning2013.com

Fighting Back Against a Patent Troll

Elliott Masie of The MASIE Center has requested help from past users of the following learning management systems:

- "Continuous Learning System (CLS)," by AT&T Global Information Solutions International, Inc.
- "Etude," by Gerald Hollingsworth and GPU, Inc.
- "Learning Organization Information System (LOIS)," by KnowledgeSoft, Inc.
- "Registrar," by Siltan-Bookman Systems

He is working *pro bono* with the lawyers defending those systems against suits by the patent troll company IPLearn, which derives its revenues from out-of-court settlements of such suits. "The lawyers ... would love to see any samples of anything that describes the operation or public availability of these systems. For example: user manuals, help files, demonstration videos, brochures, press releases, and actual program disks/CDs. If you can help, would you send a note to my office at emasie@masie.com and we will contact you back."

In-Flight Wi-Fi

In a May article, Alan Cohen explains the technology behind in-flight Wi-Fi and the current and coming upgrades by the airlines to improve its speed and reliability. The article ends with an airline-by-airline rundown of the currently available service and planned upgrades by major U.S. carriers.

Alan Cohen, "No Rest for the Connected." *Corporate Counsel*, May 2, 2013.

FutureLaw Conference

CodeX FutureLaw 2013 was held on April 26 at The Stanford Center for Legal Informatics (a/k/a "CodeX"). The stated purpose of the conference was "to engage with the deeper issues presented by emerging technologies and their long-term impact on the law as they become more widely adopted." The conference objectives, agenda, and speakers are posted on Stanford's web site.

<http://www.law.stanford.edu/event/2013/04/26/codex-futurelaw-2013>

The conference chair, Tim Hwang of Robot Robot & Hwang LLP, personified some of the issues: According to Mark Michels in *Law Technology News*, the other "name" partners in Hwang's firm are "Apollo Cluster" and "Daria XR-1029." And much of the discussion among the speakers and the "about 250 law students, lawyers, entrepreneurs, investors, consultants, and technologists" in attendance focused on using technology to:

- meet "a vast unmet demand" for access to legal services and
- make legal services more efficient, more accessible, and less costly.

Speaker Eddie Hartman of LegalZoom opined that "the biggest competition lawyers face is not from other lawyers or law firms but from 'non-consumption' in the consumer market." ("Stanford Looks to FutureLaw," May 7, 2013)

California Reviewing Its MCLE Requirements

According to a recent email from an officer of the Bar circulated in ACLEA, "The State Bar of California is undergoing a complete review of MCLE from top to bottom including but not limited to the number of required hours, subject requirements, provider standards/certification and modes of education delivery." The current MCLE rules were updated in 2007 and went into effect on January 1, 2008.

Conferences

Legal Profession:

- 8/3-6/13, Baltimore, MD. *ACLEA's 49th Annual Meeting*. Association for Continuing Legal Education, www.aclea.org.
- 8/8-10/13, San Francisco, CA. *ABA Annual Meeting*. American Bar Association, www.americanbar.org.
- 10/4/13, New York, NY. *2013 Lawyer Development Institute*. Association for Legal Career Professionals, www.nalp.org.
- 12/11/13, Washington, DC. *2013 PDC Winter Meeting*. Professional Development Consortium, www.pdclegal.org
- 12/12-13/13, Washington, DC. *2013 Professional Development Institute*. Association for Legal Career Professionals, www.nalp.org.
- 1/18-21/14, Austin, TX. *ACLEA's 50th Mid-Year Meeting*. Association for Continuing Legal Education, www.aclea.org
- 2/20-22/14, Long Beach, CA. *2014 Newer Professionals' Forum*. Association for Legal Career Professionals, www.nalp.org.
- 3/27-29/14, Chicago, IL. *ABA TechShow*. ABA Law Practice Management Section, http://www.americanbar.org/groups/law_practice_management/events_cle.html
- 4/9-12/14, Seattle, WA. *2014 Annual Education Conference*. Association for Legal Career Professionals, www.nalp.org

Government:

- 9/25/13, Washington, DC. *ASTD Government Workforce: Learning Innovations Conference*. American Society for Training & Development, www.astd.org/Events.

General Audience:

- 9/9-11/13, Chicago, IL. *Principles & Practices of Performance Improvement Institute*. International Society for Performance Improvement, <http://www.ispi.org/content.aspx?id=86>
- 9/16-17/13, Chicago, IL. *Telling Ain't Training*. American Society for Training & Development, www.astd.org/Events.
- 10/8-9/13, Arlington, VA. *Telling Ain't Training*. American Society for Training & Development, www.astd.org/Events.
- 10/10/13, Arlington, VA. *Training Ain't Performance*. American Society for Training & Development, www.astd.org/Events.
- 11/3-6/13, Orlando, FL. *Elliott Masie's Learning 2013*. The MASIE Center, <http://masie.com>
- 11/12-13/13, Austin, TX. *ASTD Learn Now! Integrating Informal, Social, and Mobile into Your Learning Strategy*. American Society for Training & Development, <http://www.astd.org/Events/LearnNow>
- 12/4-5/13, Atlanta, GA. *Telling Ain't Training*. American Society for Training & Development, www.astd.org/Events.
- 1/22-24/14, Las Vegas, NV. *ASTD 2014 TechKnowledge*. American Society for Training & Development, <http://www.astd.org/Events/Techknowledge-Conference>
- 4/11-16/14, Indianapolis, IN. *THE Performance Improvement Conference 2014*. International Society for Performance Improvement, <http://www.ispi.org/content.aspx?id=86>
- 5/4-7/14, Washington, DC. *ASTD International Conference & Exposition*. American Society for Training & Development, www.astd.org/Events.

Courses and Certificate Programs

American Management Association, www.amacourses.com. AMA offers an extensive selection of online, on-site, and in-house courses in 23 subject areas, including:

- Business Analysis
- Communication Skills
- Human Resource Management
- Interpersonal Skills
- Leadership
- Management and Supervisory Skills
- Myers-Briggs Type Indicator® (MBTI®) Certification
- Presentation Skills
- Project Management
- Strategic Planning
- Thinking and Innovation
- Time Management
- Training and Development.

American Society for Training & Development, Certificate Programs, www.astd.org (see the website for online and/or on-site dates and locations for each topic):

CPLP Certification: Certified Professional in Learning & Performance

This is a comprehensive program consisting of approximately 10 weeks of coursework, a knowledge-based examination, and submission of a qualifying work product. It addresses the nine areas of expertise identified in the ASTD Competency Model for workplace learning & performance professionals:

- Designing learning
- Delivering training
- Improving human performance
- Measuring and evaluating learning
- Facilitating organizational change
- Coaching
- Career planning and talent management
- Managing the learning function
- Managing organizational knowledge

www.astd.org/Certification

ASTD Master Trainer Certificate Program

A three-part blended learning program intended to develop mastery of all aspects of training delivery, consisting of an initial online orientation, a 4-day in-person workshop with practice and feedback, and an elective online course.

www.ASTDMasterTrainer.org.

Other ASTD courses and certificate programs:

- Action Learning Certificate
- Advanced Designing Learning Certificate
- Advanced E-Learning Instructional Design Certificate
- Analyzing Human Performance Certificate
- Blended Learning Certificate
- Business Essentials Certificate: Strategy, Finance, Marketing
- Career Planning and Talent Management Certificate
- Coaching Certificate
- Coaching SMEs [Subject Matter Experts] to Facilitate Learning
- Consulting Skills for Trainers Certificate
- Creating Leadership Development Programs Certificate
- Creating New Supervisor Training Programs Certificate
- Designing Learning Certificate
- Designing Synchronous Learning Certificate
- E-Learning Instructional Design Certificate
- Essentials of Adobe Captivate 5: An Introduction
- Essentials of Adult Learning
- Essentials of Articulate
- Essentials of Camtasia Studio 7: An Introduction
- Essentials of Coaching SMEs (Subject Matter Experts) to Facilitate Learning
- Essentials of Designing Synchronous Games and Activities
- Essentials of E-learning Authoring Tools
- Essentials of Evaluating Leadership Development Programs
- Essentials of Evidence-Based Training
- Essentials of Experiential Learning and Simulations
- Essentials of Flash for E-learning Designers
- Essentials of Game Design
- Essentials of Graphics for Learning
- Essentials of Learning Transfer
- Essentials of Performance-Based Job Aids
- Essentials of Podcasts, Video, and Writing for the Web
- Essentials of Scenario-Based E-Learning
- Essentials of Social Media for Learning
- Facilitating for Excellence Certificate
- Facilitating Organizational Change Certificate
- HPI (Human Performance Improvement) in the Workplace Certificate
- Managing Organizational Knowledge Certificate
- Managing the Learning Function Certificate
- Measuring and Evaluating Learning Certificate
- Multimedia for Learning Professionals Certificate
- Presentation Skills Certificate
- Project Management for Learning Professionals Certificate
- Rapid Learning Techniques Certificate
- ROI Basics Certificate
- ROI Skill Building Certificate
- Selecting HPI Solutions Certificate
- Test Design and Delivery Certificate
- Training Certificate
- Transforming Traditional L&D: Doing More with Less – for Government

www.astd.org/Education.aspx

Cornell University Workshops, Certificates, and On-Site Programs. Cornell's ILR School offers one- to three-day workshops, which may be taken individually or in a certificate series, in the following subject areas:

- Diversity and Inclusion
- Equal Employment Opportunity
- Human Resources
- Labor Relations
- Legal and Internal Investigations
- Management Development

The workshops can also be delivered at your site.

www.ilr.cornell.edu/hcd/

George Mason University Leadership Coaching for Organizational Performance Certificate Program, Fairfax, VA. A one-semester program certified by the International Coach Federation and consisting of 5 in-person course modules of 2-3 days each approximately once a month, supplemented by distance learning and independent work between modules. It includes:

- Course Module I, Leadership Coaching Foundation
- Course Module II, Creating Awareness
- Course Module III, Coaching Skills
- Course Module IV, Coaching Skills in Action
- Course Module V, The Process and Business of Coaching

www.ocpe.gmu.edu/programs/org_dev/leadership_coaching.php.

Harvard Law School Program on Negotiation, Cambridge, MA. All courses held in Cambridge.
www.pon.harvard.edu.

Fall 2013 Seminar Calendar:

- 1-day courses:
 - 9/19/13. *Understanding Diplomacy and International Negotiations*
 - 10/17/13. *The Art of Saying No: Save the Deal, Save the Relationship, and Still Say No*
 - 12/12/13. *Bargaining with the Devil: When to Negotiate and When to Walk Away*
- 3-day course:
 - 9/16-18/13. *Negotiation and Leadership: Dealing with Difficult People and Problems*. (Repeated 10/14-16 and 12/9-11)

Ithaca College Online Professional Development and Certificate Programs,
www.ithaca.edu/gps/professional/devcert/. Two-week online sessions in:

- Performance Improvement Management
- Strategic Communication Management
- Sustainability Leadership

NALP/ALI-CLE Online Programs for PD Professionals (archived video webcasts, available at <http://www.ali-cle.org>):

- Coaching Attorneys in Business Development
- Leadership in Practice: How Firms Can Help Partners Develop Leadership Skills
- Leaving Lockstep: Moving Toward Competency-Based Compensation
- LPM Update: Lessons Learned in Implementing Legal Project Management
- Meeting the Challenges of Lateral Integration
- Partners in Transition: Best Practices for Recruiting, Integrating, and Retaining Lateral Partners
- Professional Development 101-102
- Strategic Outplacement for Associates and Partners

Note: These courses are not easy to find on the ALI-CLE site. What worked for us was putting the course title in the “Search” box on the home page.

Training Live+Online Certificate Programs.

www.TrainingLiveAndOnline.com. Online courses; check the web site for dates:

- *The Art of Training Reinforcement for Performance and Profitability Certificate*
- *Creating Engaging E-Learning with Articulate Storyline Certificate: From Non-Programming to Advanced Interactions, Ready-to-Use Models and Source Codes*
- *Designing E-Learning with Captivate Certificate*
- *E-Learning Design Certificate: Effective and Economical Design and Development*
- *Instructional Design: Performance-Based and Results-Focused Certificate*
- *Leading Effective Live Online Events*
- *Performance Consulting Certificate: Smart Tools and Techniques for Making the Transition*
- *Project Management for Learning Professionals Certificate: Reduce the Rework*
- *Scenario-Based E-Learning Certificate*
- *Social Media for Trainers Certificate*
- *Training Coordinator Certificate: A Consulting Approach to Coordinating the Training Function*
 - *Training Manager Certificate: Managing the Training Function for Bottom-Line Results*

Degree Programs

George Washington University/Hildebrandt Institute Master of Professional Studies and Graduate Certificate in Law Firm Management.

The Master's curriculum is a two-year, 30-credit, blended learning program consisting of two 12-credit segments (Law Firm Management and Law Firm Leadership), and a 6-credit Independent Research Project. Each 12-credit segment begins and ends with an on-campus residency period in Alexandria, VA, with 4 months of online distance learning in between. The 12-credit segment in Law Firm Management may stand alone as a Graduate Certificate.

nearyou.gwu.edu/sfm/index1.html. (See article on this program in our February 2011 issue.)

University of Pennsylvania Executive Education for Chief Learning Officers. Penn's Wharton School and Graduate School of Education, in consultation with the training industry, teamed in 2006 to create an executive education program for Chief Learning Officers. In December 2010 the program was retitled *PennCLO* and draws faculty from across the University. The program "meets for two separate weeks each semester, allowing students to continue working while they study" and offers "a blend of on-site classes, distance learning, and 'field'-based projects" in six course blocks:

1. Strategic leadership
2. Workplace learning
3. Business acumen
4. Evidence-based decision making
5. Technology for work-based learning
6. Dissertation (for EdD candidates)

Students in the program may pursue a master's or doctoral degree from Penn's Graduate School of Education. Application deadline for the Fall 2013 Cohort is July 15, 2013.

<http://pennclo.com>

Saint Joseph's College Online—Master of Science in Education: Adult Education & Training Concentration. 33 credits

"Learners choose a major project in adult education or human resource training that is useful in their workplace. This master's degree concentration project evolves through a succession of courses in this program based on the students' personal interests and needs at their workplace in consultation with their faculty mentors."

<http://online.sjcme.edu/adult-education-and-training-concentration.php>

Villanova University Master of Science in Human Resource Development. A two-year online master's program, offering courses in:

- Introduction to human resources
- Organizational change management
- Human resource metrics and statistical research
- Human resource technology solutions
- Compensation and benefits
- Employment law
- Organizational training
- Financial management for profit
- Workforce planning

www.villanovau.com/hr-masters-degree/

