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**THOUGHT-PROVOKING  
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LINKEDIN GROUP**

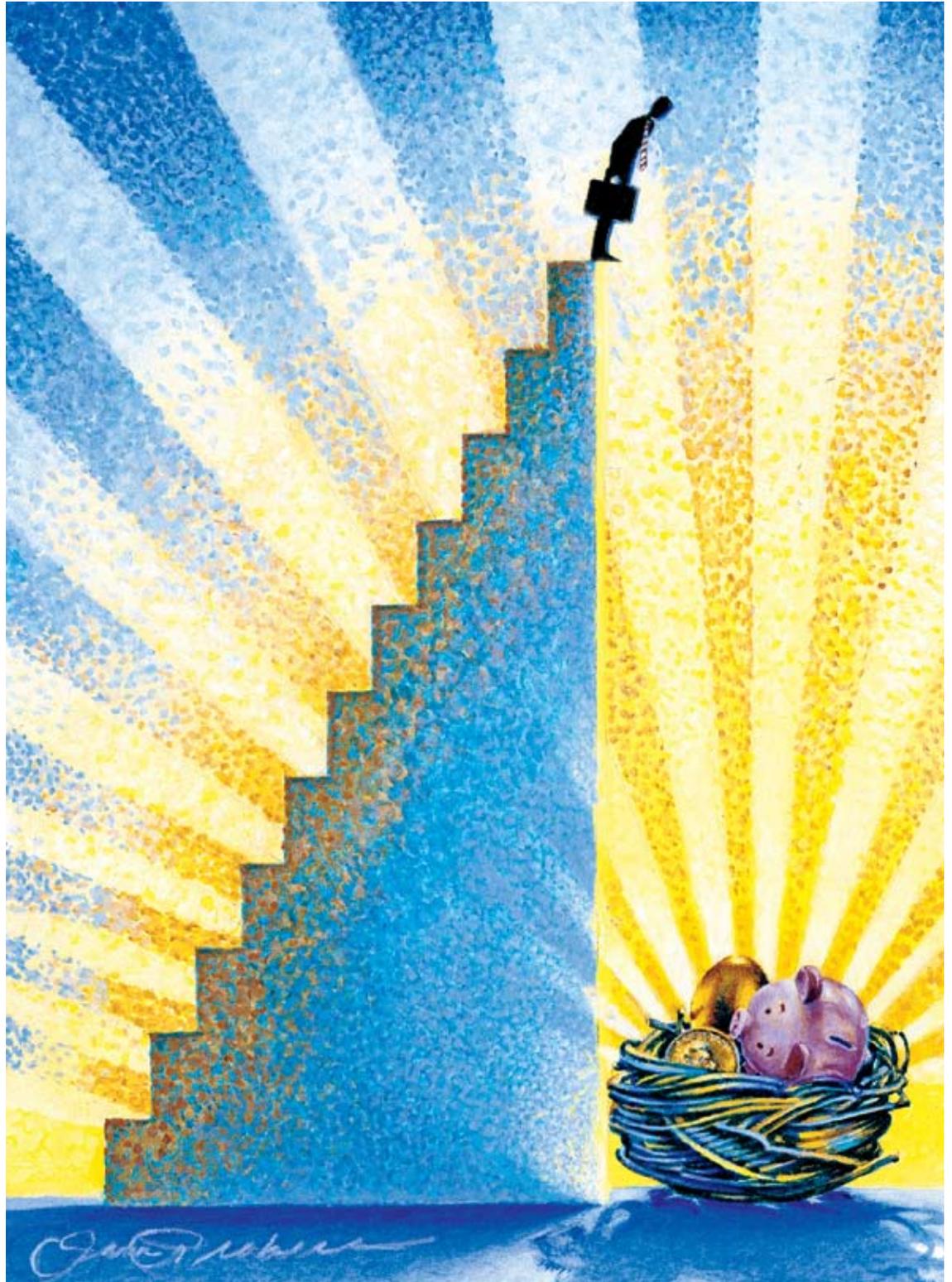
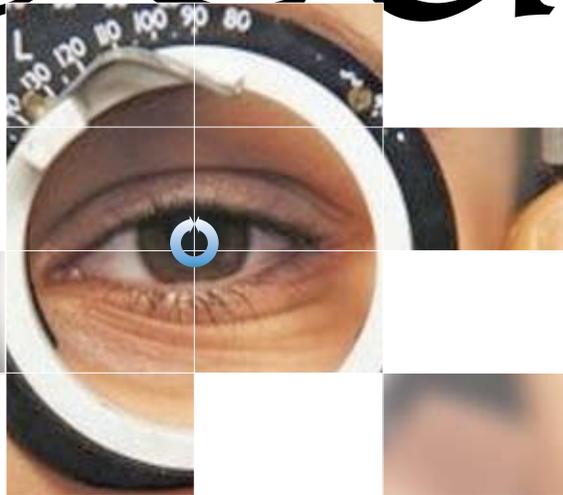


Illustration by Jim Prokell

# BRING YOUR FIRM INTO FOCUS



## BECOME THE LEADER IN YOUR FIELD

All law firms must have one major objective—be the leader in your field. Easy to say. Hard to do?

Achieving leadership demands superior legal performance complemented by savvy marketing—inside and outside the firm.

Begin by realizing your BRAND. Successful executives understand that clear, consistent marketing strengthens their firm's leadership position and their BRAND. However, they also know their attorney's are enrolled in the intellectual challenges of crafting successful and brilliant solutions for their clients. This, after all, is what attorneys do. But let's face it, most attorneys dislike marketing. Marketing steals billable hours. Grooming attorneys to embrace the firm's BRAND and adopt their role as

marketers requires guidance and a strong arsenal of support. Without this your BRAND becomes diluted and ineffective.

Intelligent marketing requires agility and focus in today's fast-paced, linked culture. Creating a consistent, clear BRAND connectivity is a "must" dynamic for success. If you are not proactive you will fall behind and perhaps fail.

Perpetuate your BRAND. Avoid looking stale and getting lost among your competition. Actively maintaining a current-looking web site is critical. Establish your site as a living breathing marketing tool which looks fresh and accurately portrays who you are. It should also acknowledge your attorney's accomplishments giving them a tasteful marketing BRAND. One they are proud to wear. One that

rewards performance and leadership.

However, what is most often misunderstood and neglected is making a commitment to optimize your search engine presence. This is a daily marketing process not an IT project. Paying attention to your site's details and BRAND encourages repeat connectivity and seamlessly translates that you will pay equal attention to your client's needs. This builds trust which, after all, is what legal leadership strives to achieve. Maximizing these necessary components is essential for securing your firm's leadership role.

Bring your FIRM into Focus with PROKELLSEO, an experienced search engine optimization resource, and it's talented web site designers.

PROKELLSEO

Dear Valued Clients and Friends:

**W**ell trust that you enjoyed a most productive and restful summer. I am hopeful that you will find this latest issue of my *International Review* Magazine to contain a number of pragmatic ideas, tips and techniques on law firm strategy and leadership that you can put to use immediately.

This issue begins with an article co-authored by my friend, Ed Reeser, that initially appeared in the June issue of *American Lawyer*. *Sliced Too Thin* identifies some of the dangers that can arise with wide disparities in partner compensation exist within a firm.

Following on that same theme, I've also included an item I co-authored with Ed, Jeff Carr, the General Counsel at FMC Technologies and Pat Lamb. In this piece we explore the challenge of how, if you never billed by the hour, would you compensate your lawyers.

Once again, in this issue, I am honored to include the thinking of my collaborators at the Managing Partner's Leadership Advisory Board (the LAB) as we address the question on how one handles the situation where a significant number of your partners are baby boomers approaching retirement. And, this article is but one of 18 different chapters that comprise our book published by Thomson Reuters: *Serving At The Pleasure Of My Partners*.

One article that has generated the most interest from readers and constant requests for copies is one I wrote a few years back entitled *It's Time To Think Differently About Law Firm Strategy*. Given the challenge we all confront in what has become a zero growth environment, I've included this article once again for those who have not read it as it is probably more relevant today than ever.

The last piece proposes some Thought-Provoking Management Metrics – some unusual, quirky but vital metrics intended to jump-start your thinking.

Finally I would draw your attention to a group that I started on LinkedIn specifically and exclusively for law firm leaders. Please have a look at the information on page 22 and come join us.

Patrick J. McKenna

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# SLICED TOO THIN

OFTEN VIEWED AS A SHORTCUT TO SUCCESS, WIDE DISPARITIES IN PAY, LIKE THOSE AT DEWEY & LEBOEUF, ARE INSTEAD DESTABILIZING FIRMS.

# THIN



As firms scour the market to attract laterals with large, portable books of business, they have become more willing to offer almost anything—special considerations, huge compensation, guarantees, and bonuses—to lure them. In our article “Crazy Like a Fox,” we noted with concern that the spread from lowest-to-highest partner incomes at some firms has increased to 10:1 or 12:1, and even 20:1. To reward top producers, we wrote, some firms had begun reducing the compensation of lower- and middle-tier partners, even when they had met or exceeded budgeted targets for client originations, hours worked, and hours billed.

**This is a dangerous development. As shown by Dewey & LeBoeuf’s collapse, widening compensation spreads can destabilize firms.**

## Here’s how:

• WIDENING SPREADS FRUSTRATE THE DEVELOPMENT OF EFFECTIVE PRACTICE GROUPS

For most firms, attracting laterals is a top strategic priority. Often, improving operational results by adopting a practice group structure is another. Compensation systems that create huge spreads between the highest and lowest performers or

focus on individual contributions can inadvertently weaken practice groups. Partners ask themselves: Why should I spend non-billable time meeting or working as a group when only individual efforts are being measured and compensated?

Various studies suggest that such behavior may eventually contribute to instability. For instance, data from a study of college and university

faculty groups conducted by Stanford University Graduate School of Business professor Jeffrey Pfeffer shows that the greater the level of salary dispersion, the less likely faculty members were to work on research with others from the same department, and the lower the level of research productivity. (Individual group members’ job satisfaction levels were lower too.)

Pfeffer’s research shows that paying high performers significantly more than low performers gets results—when these individuals are working solo. But in situations where individuals are required to collaborate with peers, wide disparities in compensation often weaken trust among team members and strain the social connections that contribute to strong group performance.

• LARGE DISPARITIES IN COMPENSATION TEND TO ALIENATE STARS AS WELL AS NEAR-STARS.

Here’s a familiar scenario: Firm management, perhaps unconsciously, becomes blinded by a potential lateral’s status, overpays to sign her,

and then showers her with praise and attention. The firm is perceived as providing more resources to the outsider than to homegrown partners, even when both have comparable books of business. Partners begin to resent the lateral (and her pay), avoid her, cut off information to her, and—almost imperceptibly—refuse to cooperate or collaborate.

a raft of other hires who have failed to meet expectations but who have not performed poorly enough to warrant dismissal. The 31 percent is just a six-year average. When Brandon looked at individual years to determine how long partners were lasting, the picture was even more bleak. Among partners hired in 2007, more than 50 percent had already left.

firms for long, despite the astronomical compensation packages that firms pay to lure them.

• WIDENING COMPENSATION SPREADS INDUCE MID- TO LOWER-LEVEL PARTNERS TO LEAVE.

A firm's profits-per-partner figure is an average—an arithmetic mean. But it doesn't say anything



“*C*ompensation systems that create huge spreads between the highest and lowest performers or focus on individual contributions can inadvertently weaken practice groups.”

The arrival of a high-flyer can result in interpersonal conflicts and break down communications within the practice group, so much so that performance suffers. Partners feel alienated and disconnected from the firm, and up-and-comers can become antsy when they believe that newcomers are treated preferentially. When that happens, widening compensation spreads foster tension, damage morale, impair partners' trust in management, quietly eat away at the internal partnership ethos, and poison any sense of meaningful collaboration.

• ONCE LURED BY HIGH PAY, LATERALS OFTEN FAIL TO PERFORM AS EXPECTED.

We were struck by the recent research of Mark Brandon at Motive Legal in the United Kingdom, which showed that nearly a third of lateral hires into London law offices had failed within five years. Brandon studied 2,295 hires into U.K., U.S., and merged U.S.-U.K. firms in London from 2005 to 2011. Of those hires, 714 (31 percent) had already left the firms they were hired into. That attrition rate represents only the out-and-out failures; behind the figures lurk

The most surprising finding of Brandon's research relates to team hires. The acquisition of multi-partner teams has become many firms' stated preference with regard to lateral partner hiring. The idea is that a team is more likely to bring along clients successfully, is less reliant on a single individual, and will be a more solid hire for the firm. However, the study shows that team hires are no more likely to succeed, statistically speaking, than individual hires.

Meanwhile, the research of Harvard Business School's Boris Groysberg (*Chasing Stars: The Myth of Talent and the Portability of Performance*) shows that too many top performers quickly fade when they change firms and often underestimate the degree to which their past success depended upon such firm-specific factors as long-term working relationships, quality of resources and support, and informal systems through which professionals obtain information and get work accomplished.

Moreover, some lawyers are simply serial movers: Once they start changing firms, they keep moving to the highest bidder. Many stars don't stay with

about a more salient figure: *median* profits per partner, which wide compensation spreads can distort to unsustainable levels. This can be demonstrated by looking at two hypotheticals.

Imagine first an unrealistically simple scenario — a 600-lawyer firm with 150 equity partners, 150 income partners, and 300 associates. The firm has gross revenues of \$480 million (\$800,000 revenue per lawyer), with net operating income of 32 percent (\$153.6 million), which we will treat as fully distributable.

In this scenario, the compensation spread is 1:1 — all 150 equity partners, irrespective of their contribution in hours, client billings, and administrative service, receive equal compensation. Everyone earns the same: \$1.024 million (the net divided by 150 equity partners). Profits per partner, the arithmetic average of net divided by 150 equity partners, is \$1.024 million, and that's also the median.

Now consider a more complex (and realistic) scenario. The firm still has gross revenue of \$480 million, 32 percent of which goes to net. The

firm's equity partner compensation spread is 15:1, with the lowest-paid equity partner receiving one-half of the average PPP. Suppose only one partner is compensated at 15:1, two partners at 12:1, three partners at 8:1, four partners at 5:1, five partners at 3:1, and 15 partners at 2:1. Average PPP is still \$1.024 million. Fifteen partners (10 percent of the total equity partnership) earn more than the average PPP. Taken together, those 15 partners receive 33 percent of the net (about \$50.076 million).

*“Some lawyers are simply serial movers: Once they start changing firms, they keep moving to the highest bidder.”*

Now let's broaden the picture to include 15 partners who are compensated at exactly the average PPP. That gives us 30 partners (20 percent of the equity partnership) who are at or above the average PPP. Together, they receive \$65.536 million (42.7 percent of net). The highest-paid partner receives a multiple of 7.5 times average PPP, which is as much as all of the partners combined in the category of those who earn three times average PPP, and half as much as the entire group of 15 partners that makes the average PPP.

What must happen to the rest of the partnership structure to achieve this result? The remaining 120 equity partners share in \$88.064 million, an average of \$733,866 each. The average PPP is still \$1.024 million, yet 80 percent of the partners make less than that.

Now consider firm operating costs, which are allocated on a per-partner basis. Overall, they are \$326.4 million (68 percent of gross revenue), which works out to roughly \$217,600 per partner. Suppose equity partner Mary is billing 1,750 hours at \$650 per hour with a 92 percent collection realization. Over the course of a year, she will generate \$1.0455 million. Subtract her overhead allocation (\$217,600), and \$827,900 remains.

If Mary is compensated less than \$827,900, then she receives nothing for the client business she delivers to the firm and nothing for the enterprise profit from the fee earners who are not equity partners. She contributes profit from her labor upstream, to the partners who earn more than the average. In this hypothetical firm, considerably more than half the equity partners, probably 60–66 percent, are in this category. Almost two-thirds of the equity partners in the firm are leveraged. Equity partners might expect associates and non-equity partners to be included in the pool of workers from whom profit is leveraged. But do they think of themselves as leveraged? Probably not.

The wide compensation spread at Mary's firm **gives her a financial incentive to leave her firm**, to seek out a firm where she can make more money by reducing operating costs, while working fewer hours and cutting her billing rates and fees to clients.

Let's say she moves to a smaller firm, takes \$2 million of her \$3 million client base, drops her hourly rate to \$500, and bills 1,600 hours a year. That generates gross revenue of \$736,000 (after 92 percent realization) and leaves \$1.2 million of the work she brought in (billed at \$350 per hour, for 3,428 hours) to be performed by contract attorneys or associates at an average weighted cost of \$150 per hour. Conservatively,

that work could be expected to result in a profit of \$685,714. She has rent, supplies, insurance, staff, and other overhead expenses of \$100,000 – \$150,000. The net enterprise profit for a smaller book of business in the new model is at least \$500,000, by our conservative accounting, and the formerly leveraged partner now takes home \$1.286 million, instead of \$600,000 – \$800,000 at her old firm.

Given that, how much incentive do partners have to stay put, in an effort to reach the top 10 percent in the prototypical current business model? What incentive does any partner have to stay, without sharing in the enterprise value of the work they deliver? What incentive do clients have to stay, for that matter? There may be clients who need their outside counsel to be part of a larger “platform,” but those are easy enough to develop without the cost load and profits allocation formula that pushes rates astronomically high.

At many firms with wide compensation spreads, even the partners who earn more than the firm's average PPP are being leveraged by those above them. Their actual share of enterprise profit is quite low, much lower than the value of their client billings.

At what point does a firm like this collapse under the weight of its own stars?

*This article was first published in the June 2012 issue of American Lawyer Magazine.*

*My Co-author: EDWIN B. REESER is a business lawyer in Pasadena specializing in structuring, negotiating and documenting complex real estate and business transactions for international and domestic corporations and individuals. He has served on the executive committees and as an office managing partner of firms ranging from 25 to over 800 lawyers in size.*

# IS YOUR COMPENSATION SYSTEM A PROBLEM?

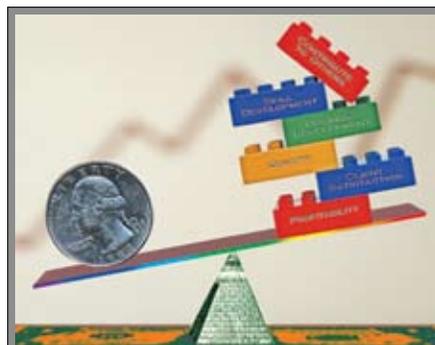
It might be very useful to have the lawyers in your firm engage in a thought experiment. What we need to do is imagine that our firm, suddenly, could no longer rely on billable hours to determine any partner's compensation. So here's the question for your next partner's meeting or retreat: "If we never billed another client by the hour, how would we compensate our fellow attorneys?"

Now to set the stage for your discussions, it might be valuable to just explore with the group, the many ways in which our traditional systems for compensating professionals have had some rather perverse side effects.

## THE PERVERSITY OF BILLABLE-HOUR BASED COMPENSATION

For example, according to the reports of many spouses, they have had a noticeable effect on the self-worth of those lawyers who take immense pride in what they think they are worth (by what they can charge) on an hourly basis. Can't you just hear the typical conversation at home when some attorney says to their spouse; "What do you mean take out the garbage? Do you realize how much I charge clients for my time? I'll hire someone to do that job if you think it's so important."

Billable-hour based compensation has had an effect on what we perceive to be camaraderie, as colleagues take congratulatory pride in working to all hours of the early morning, night after night, week after week, and year after year (all to be billed to some client). This traditional emphasis for



**“T**his traditional emphasis for relying on the billable hour as our primary metric has also caused many firms to weigh different contributions in a rather pertinacious manner.”

relying on the billable hour as our primary metric has also caused many firms to weigh different contributions in a rather pertinacious manner. There are countless examples of where we reward work done (grinders), more than we reward those who invest non-billable time to cultivate and build long-term client relationships – work managed (minders).

In a similar manner we reward the volume of work processed over the profitability of that same work. We have partners who log incredibly long hours doing work that if we dared to really analyze its value, would be marginally profitable at best. We focus almost exclusively on short-term revenue such that we compensate the work-horse

who generates 2500 billable hours of 'commodity' work more than the attorney who is developing a potentially lucrative new frontier practice where the engagements are highly complex, but the client demand is still emerging and the attorney's billable hours barely exceed 1500 hours. Rarely do we ask ourselves who is more valuable to our firm in the long-term.

Finally, irrespective of what we might say, we value those attorneys who are production driven over those who are charged to invest time managing a group and helping each of the group members become even more successful at what they do. Consequently, we get pseudo leaders who at the end of the year tell us, "yeah, I guess this practice group is pretty dysfunctional, but hey, look at my hours!"

## SOME PERFORMANCE METRICS WORTH REWARDING

There is a philosophy regarding compensation nicely articulated in Alfie Kohn's great book *Punished by Rewards*. Kohn suggests that the best system is to pay people well . . . then do everything you can to get them to forget about the money. He warns us that any incentive systems can be disastrous, because they can always be gamed (which lawyers love to do). Many believe that any reward system must be judgmental, with nothing that even smacks of a formula. The minute you give lawyers a formula, you give them all permission to ignore anything that's not in the formula. But life is subjective and so is partner performance. It cannot be reduced to a simple formula. So, with respect to specific performance measures, here are six factors that a firm should identify, track and measure:

### 1. Profitability

Your primary goal should be to inspire profitable performance. However, in addition and as a signal to discourage your attorneys from simply chalking up hours, consider setting a ceiling such that it is clearly understood that no additional compensation will be paid any attorney who exceeds that ceiling. Such an action will also send a clear signal that time invested in other important activities like mentoring, business development and personal skill building will be considered value at compensation time.

## 2. Client satisfaction

Using a specific questionnaire or client feedback interview, survey every client at the end of every major transaction or lawsuit. Survey each client annually. And here's the key point, every three months publish the average client satisfaction scores for each group within the firm to all lawyers in your entire firm – high or low. In that way, everyone can easily see which groups are stellar and which groups are less so at serving their clients.

## 3. Systematic evaluations of quality

There are two levels upon which you might internally evaluate the work quality being delivered to clients – first by determining whether there is proper delegation and supervision on engagements and secondly, by whether there is career-building and people development feedback provided for those working on the engagement at the conclusion of the matter.

Here again, you should have every group or client team rate the responsible partners effectiveness as both an engagement manager (does this partner delegate and supervise work effectively?) and as a people developer (does this partner provide feedback that allows me to learn and do a better job on the next assignment?) You could then publish the results to everybody in the firm so that all can see who is judged to be effective at delivering quality.

**“**You should have every group or client team rate the responsible partners effectiveness as both an engagement manager (does this partner delegate and supervise work effectively?) and as a people developer (does this partner provide feedback that allows me to learn and do a better job on the next assignment?)”

## 4. Contribution to business development

This is an important factor and should purposely NOT be quantified so that joint marketing can be encouraged, and activities like seminars, speeches and articles can be recognized.

## 5. Personal skill development

The question within the group becomes: Is this professional working to develop and build their knowledge, their substantive skills, and make themselves more valuable and special (read that to mean: meaningfully differentiated) to their clients? The question for each individual member to reflect upon is: What is it that I can meaningful do and contribute to enhance value for my clients now, that I couldn't do for them a year ago? And if your personal answer is zilch, then I think we have a problem.

## 6. Contribution to the success of others

These contributions should also be judged by your peers and could include recognizing individual

team members who contribute value, who follow through on executing their projects for the team, and who come to the aid of others, above and beyond the call of duty. It should include recognizing those who make substantive contributions to the firm's knowledge bank and help the group avoid reinventing the wheel in serving clients. It is useful to utilize three-year moving averages on all of these performance metrics, so that you cannot obtain the full reward for top performance until it has been demonstrated for three years.

What weight should you give to these factors? As indicated earlier, you should work very hard to say: “there are NO weights.” No portion of compensation can be “locked in” by doing well on any subset. You've got to do well on all. You judge the whole professional and the full range of performance in deciding whether high or low compensation is deserved.

Having said all that, many prefer systems based on points or share of the coming year's profits. That way, in any given year, the only way for someone to get more cash is to improve their particular practice group's performance or firm-wide results.

As you explore this issue of compensation without relying on billable hours, remember that you need to involve everyone in the diagnosis and design—get their input. Involvement is absolutely essential. We often say, “no involvement, no commitment.”

AND, keep it simple. It's quite easy to make any compensation system more complicated than it needs to be.

*This article was originally published in the Los Angeles Daily Journal.*

My Co-authors: JEFFREY CARR, a Fortune 500 GC (FMC Technologies), EDWIN REESER, a Managing Partner, and PAT LAMB, a leading practitioner in alternative fee arrangements.

# Handling Boomers Approaching Retirement

NOTES FROM THE LAB

## QUESTION

“Here’s a question we’re facing, as we have a significant number of baby boomers approaching retirement. Our firm has always approached transition / retirement on a fairly ad hoc basis, and we’d like to adopt some guidelines which would offer a bit more certainty on both sides.

Over the past 20 years, most of our attorneys (between the ages of, say, 57-63) begin to slow down somewhat, their total compensation begins to slide downward with their production / hours, and eventually they decide to go Of Counsel (which is close to semi-retirement here). Our Of Counsel arrangements generally include two years of regular firm benefits (including firm contribution for health, dental, life insurance). The initial compensation portion of the Of Counsel arrangement has varied considerably, depending upon the senior attorney’s timing and ongoing value to the firm, e.g., does the attorney have many loyal clients whom we hope to transition to others? Will the attorney cease all billable work or merely reduce time over a 2-4 year period? Thus, some attorneys receive a predetermined salary (generally a portion of the prior base salary, but usually with no expectation of a bonus), others receive pay based on a formula, and others receive nothing (but with a possibility of a discretionary bonus if they in fact produce some revenues—either by billable work or client billings).

The Firm obviously would like to capture the senior attorney’s good will and client base, if possible, and to assist the senior attorney into retirement. Do you have any suggestions for ways in which law firms can promote the various interests / goals in a fair manner?”

When it comes to your question, our collective feeling is that all firms are now entering new territory, and that implies not having the clearest road map to guide us (as will be evident later here with some of the examples from each of our firms).

First, the question of whether mandatory retirement policies are still

available is very much up in the air or is close to crashing to earth. It is unlikely that any of us can predict how all of this is going to shake out. It seems likely that retirement ages will be extended. For now, mandatory retirement policies may still work, but they may not survive in the long term at least for large firms.

Second, while we have not yet personally observed a pattern emerging



from the boomer generation, it is clear that on balance they (we) are entering what had been traditional retirement age healthier and more energetic than some of our predecessors. So far, however, we have not yet seen them determined to continue practicing. What is clear is that the half-generation behind the boomers seem eager to have their day in the sun. We will not engage in the current indoor sport of predicting how the X, Y and millennial generations will handle all this. Nor will we comment on the 'retire in place' phenomenon directly.

What we see going forward for firms, in some variation / combination, are the following:

- No mandatory retirement - and the challenge of how to manage a generation of "partners" who will have the legal option of continuing - when most firms have been built on a successful model of generational turnover.
- To deal with the fact of no mandatory retirement will require a clearer and more demanding regime of managing partner performance requirements with less sympathy or tolerance for some form of "wind down" that has characterized many partnerships.
- An increasing use of some form of retirement incentive in exchange for -

- a more programmatic approach to transition of roles and client relationships; and

- which retirement incentives may counter the current trend of eliminating all forms of firm funded (read un-

funded) retirement benefit.

- Institutional support (not funding necessarily) for all forms of partner retirement savings - tax advantaged and perhaps not tax advantaged as firms has a greater stake in assuring the ability of their partners to retire.
- More structure (probably contractual) to partners post "retirement age" status with the firm if they continue - and probably not in "partner" status.
- A more purely "what's in it for the firm" approach to "post-retirement" continuation with the firm.
- Generational struggles as some boomers, with the leverage of no mandatory retirement, want to stay on with the firm longer than is good for the firm.

Whatever the approach, we think it important to start the discussions early. All of us have had partners who retired but failed to mention it to anyone with the result that the needed transition didn't take place. We have also seen malpractice issues arise when the partner simply wasn't putting in the required time with an attendant lack of vigilance. Hence, early candid discussions about transition plans are essential.

Your firm needs to focus on what it needs out of the arrangement. Transition of clients is an obvious element but your firm's needs may also include the transfer of community positions or access, the training of others with regard to specific skills etc. Many of these, particularly client and community position transitions, may take some time to do correctly.

There may well be an advantage in having a policy that at a certain age, every partner must come up with a personal business plan which specifically deals with that individual's intentions / hopes as to retirement and transition, whether that retirement is to be within a certain specified period, or whether on a more general basis. That at least will get the thought process for the partner started, making it more difficult to just put off the subject as something to be addressed sometime in the future. That will also get the discussion going without you, as the managing partner, having to approach the individual to, in essence, say that it appears that he or she should be considering retirement.

The bottom line is that firms will be working to create an environment where partners have the ability to retire, an environment which does not encourage their staying on and where firms have to change their fundamental mind-set to facilitating retirement from one of mandating it.

THE LAB IS COMPRISED OF THE FOLLOWING DISTINGUISHED CURRENT AND FORMER LAW FIRM LEADERS: ANGELO ARCADIPANE (DICKSTEIN SHAPIRO LLP); JOHN BOUMA (SNELL & WILMER LLP); BRIAN K. BURKE (BAKER & DANIELS LLP); BEN F. JOHNSON, III (ALSTON & BIRD LLP); KEITH B. SIMMONS (BASS BERRY & SIMS PLC); WILLIAM J. STRICKLAND (MCGUIRE WOODS LLP); HARRY P. TRUEHEART, III (NIXON PEABODY LLP); R. THOMAS STANTON (SQUIRE SANDERS) TOGETHER WITH PATRICK J. MCKENNA

This is an area in which our better intentions have exceeded our execution. A number of years ago, we established a protocol for attorneys nearing retirement. The protocol included (1) asking partners to give notice to the firm at least five years in advance of intended retirement date, (2) a bilaterally negotiated “glide path” for the five-year period following the giving of notice, and (3) the stated expectation that during the five-year period, the partner would effect transition of client responsibilities to others in the firm. I still think that the protocol makes sense, but the differing expectations and intentions of our partners as they have advanced in years have made it more difficult to follow through with it. In most recent cases, the partner approaching retirement becomes a cash (or income) partner, with annual compensation set by agreement. This kind of arrangement normally does not continue for more than three years, but there is no prescribed time limit. Our experience perhaps demonstrates that it would be desirable to have a retirement protocol that establishes process but does not dictate terms, which probably should be fashioned to suit individual situations.

For our part, we are still working on a model that we have had for many years. Retirement at 67 with three year phase down prior to that, following customized programs of transitioning client relationships and other responsibilities, reducing work requirements and reducing compensation. We have offered incentives for earlier retirement on an individual and customized basis, usually a variation on a very modest, unfunded retirement benefit that we have in place; and facilitated by longstanding requirements for participation in tax advantaged plans and the addition in recent years of some of the new supplemental plans - all partner funded. We have an option (in the sole option of the firm and subject to the needs of the firm) to continue a former partner as a counsel on a year-to-year contract basis. Interestingly, only two partners in the last ten years have taken this status, on a full time basis, after passing age

67 and in each case for only about a year. We have a senior counsel status which can be customized, is generally not of significant economic consequence to either the firm or the partner, but which can be useful for both. Generally, those roles do not involve any heavy legal practice - or any at all.

Very fortunately, we adopted a Supplemental Retirement Plan several years ago, which provides pretty substantial financial benefits to retiring partners for a five-year period of time after their retirement. It is funded on a graduated basis by all partners - except laterals who arrive too late in their careers to participate. The plan provides, however, that you cannot draw any payments under the plan after age 70. This presents a strong incentive for partners to retire no later than age 65. Otherwise they forfeit the benefit. There are also covenants not to compete that are associated with receiving the payments, but these do not apply to taking on a government position, an academic

*“To deal with the fact of no mandatory retirement will require a clearer and more demanding regime of managing partner performance requirements with less sympathy or tolerance for some form of “wind down” that has characterized many partnerships.”*

position, other charity or public service positions, or even a general counsel position. The resulting benefits have been huge to the firm. We now have approximately 30 retired partners, drawing down their SRP benefits. Some are just traveling and golfing, but many others use the income supplement to allow them to do things they’ve always wanted to do like public service law, serving in the Justice Department, serving as President of the Georgia Conservancy, serving as Ambassador to Australia, or being public company general counsel. There have only been two partners in our entire history with the program who decided to continue practicing past age 65 and forfeit any of their SRP. One was a litigator involved in long and protracted securities class action litigation that he wanted to see to conclusion. It’s now concluded and he is drawing his SRP. The other is a Trusts and Estates partner whose client base is still decidedly older than he is and who will celebrate his 70th birthday next week. He performs a great

service to his clients and the firm and isn't in anybody's way. So I'd recommend a SRP as a starter. We have approximately \$30 million in our SRP capital account that represents previous SRP capital contributions by our partners plus income that has been earned on their previous contributions. In the current year, we will expense \$2.3 in SRP payments to partners over and above their return of SRP capital, but this is offset by \$4.6 million in new SRP capital payments that will be collected. We are constantly monitoring the SRP account to try to achieve actuarial sustainability and to insure that it not constitute a drag on current earnings.

Like many firms, we have for years had a mandatory retirement policy for partners. Partners are required to retire at age 65 with an option to extend this up to age 70 with the approval of the executive committee. During any extended period, the partner receives a fixed compensation based on his or her contribution to the firm. The system has worked well. However, there is a renewed discussion of this policy among partners. For several reasons, I think all law firms are going to be faced with a reexamination of their retirement policies. Self-funded supplemental retirement plans make a lot of sense. These plans allow partners to save significant amounts of money for retirement on a tax-deferred basis. We have had one in place for several years and all equity partners are required to participate. The plan was not universally popular with all partners when it was adopted, but most now recognize its value. If a partner has sufficient retirement assets, it should make it much easier to require or encourage retirement. These plans do not have immediate impact. It takes some years for partners to build up enough assets in them to make a difference. However, they should be carefully considered as part of a firm's long term planning. The sooner the better.

*“There may well be an advantage in having a policy that at a certain age, every partner must come up with a personal business plan which specifically deals with that individual's intentions / hopes as to retirement and transition.”*

We handle this on an ad hoc basis. We have a mandatory retirement age of 70. No one has ever questioned it and most people have scaled back well in advance of getting to that age. My observation of my generation is that, even though we are healthier and more energetic than 60-something's of the past, we are less likely to want to hang around the office just to have a place to be every day. The first wave of retirements in my years here was the post-WWII generation. There were not many of them, and they probably got the sweetest deal. The next

wave, the pre- and early-boomers, was and is harder because some in that group did not and do not want to come back in the compensation system or transition clients. We have dealt with these in the same way we deal with others in the system who are not acting in the best interest of the firm. By dealing with one or two of the problems, others have gotten the idea. I think a real key is either to have a scaling back program institutionalized or have the ad hoc conversations early and often. It also helps to have a few bell cows that will set the example. Sometimes resentment

arises toward the bell cows by the ones who do not want to go quietly. In most of our cases, by age 60, we are cutting compensation back gradually so it does not have to happen all at one time. A personal plan that establishes expectations is essential so that one scaling back does not get ahead of the other. We do not employ a bonus system or an evaluation frequency of greater than annually. Both a semi-annual look and a bonus system might help keep the compensation even with the production. By age 60, people can get to their 401(k)'s. We require that they be funded heavily from the day you make partner. Personal assets, including the 401(k)'s, are the only safely net.

This article is excerpted from our book, *Serving At The Pleasure of My Partners: Advice For The NEW Firm Leader*.

# REAL ADVICE FROM LAW FIRM LEADERS



## ***Serving at the Pleasure of My Partners: Advice to the New Firm Leader***

By Patrick J. McKenna and Brian K. Burke  
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**G**iven the need in today's economic environment to examine carefully our directions for the future, I submit that the state of most law firm's strategic planning tends to be too structured (read: boiler plated). It is too unimaginative, too backward looking, too conformist (to precedent and what has gone before), too data and numbers oriented (a budget is not a strategy), too analytical, and far too similar (to plans developed by competitive firms). In the final analysis most of these strategic planning "systems" appear to result only in massive paper, solemnly clad in three ring binders, gathering dust - their specific prognostications long forgotten. They have been of little help to firms in developing truly innovative and differentiated strategies, or achieving above-average RPL results. (I often joke with managing partners when we talk about strategy and ask them if they suffer the affliction of seeing 'S.P.O.T.S.' - Strategic Plan On The Shelf)

**I**n today's environment of declining demand for legal services, you must be able to challenge conventional thinking in order to grow. Conventional thinking only leads to mediocrity, being stuck in the middle of the pack. To grow you have to be willing to break the rules. You can't grow by following in the footsteps of competitors. You have to break away from the pack. Unfortunately, some firms tend to drift along with everyone else, reacting to changes in the tide, hoping that maybe things will start coming their way. From these firms, I continue to hear that "strategy is the easy part, it's the implementation that is hard."

Implementation may indeed be a challenge, but the notion that strategy is easy rests on the mistaken assumption that conventional strategic planning has anything to do with strategy-making. Of course strategy appears easy when the conventional planning process narrowly limits the scope of discovery, the breadth of involvement, and the amount of intellectual effort expended, and when the goal is something far short of growth, differentiation, and revenue generation. Little wonder, that in many firms, the whole notion of strategic planning has been so devalued. How often has it produced any real strategic innovation?

What is your measure of success in the development of strategy — a lengthy written document that finds

it's eventual resting-place on the shelf of your bookcase — or — a process that leads to competitive differentiation and wealth creation?

What I've learned is that the best performers are taking an entirely divergent tact. The way in which they are approaching the strategy process is based on some fundamentally different principles:

#### PRINCIPLE #1 GET TO THE FUTURE FIRST.

**F**orget focusing time and attention on having your partners develop some elusive firm mission or exotic vision statement. Your partner's time would be far better spent in doing some deep thinking about the trends that are currently shaping the profession. Have we even thought about how the future of our profession may unfold over the foreseeable next few years assuming a prolonged economic slowdown; and what would be required of us as a firm to get to the future first?

Consider: What has been the most profound change in the profession over the last five years? (How long did it take your firm to figure it out and adapt accordingly?)

Now, taking that forward, if we knew today what we will know at the dawn of 2016, (only three foreseeable years into the future) how would we

Your state of differentiation.  
 Initiatives for the coming year.  
 Blocks for the firm's future direction.  
 Prospects.  
 Develop strategy in action.

# ABOUT LAW FIRM STRATEGY

change our attitudes, actions and the way in which we practiced law — the services we offered, the clients we targeted, and the ways in which we chose to deliver our services?

The greatest handicap with the conventional planning process is that it works from today forward and implicitly assumes, whatever the assertions to the contrary, that the future will be more or less like the present. The leading minds know that the future will not be an echo of the present.

Getting to the future first requires that you be deliberately farsighted. Make no mistake, I'm not talking about navel gazing or trying to predict the future. Rather, what I have learned is that crafting effective strategy is really more a question of identifying the portent of changes which are already occurring — either in other markets, or in other professions, or in other industries. Some of the best rule-breaking ideas are out there already - in someone else's profession or industry. Look at what they have done and see how it might be applied to your own situation. Seeing the future has nothing to do with speculating about what might happen. Rather, you must understand the potential of what is already happening. My fundamental belief is that if we want to see the future, 80 percent of what you are going to have to learn will be from outside our profession.

Work from the future back. Make your aim-point the future you want to create not the future you're forced to accept. Then work backwards to the present to build the glide path to get there.

## PRINCIPLE #2 IDENTIFY INNOVATION AS YOUR TOP STRATEGIC INITIATIVE FOR THE COMING YEAR.

The management committees of firms just naturally focus their attention on that which is presented to them. What is presented to them is most often internal problems – partner performance that falls below standard, laterals that are not achieving according to expectation, and perhaps clients that are not being fully serviced. Firm leaders are usually given written reports on many of these issues. They will often receive a computer printout giving quantitative evidence of the performance shortfall. Then at meetings of the management committee everyone sets to work on reviewing and suggesting remedial action steps to address the problems. While these problems may consume the agenda time of management committee meetings, they should not be on the agenda of any session concerned with crafting strategy. Your strategy sessions should only be concerned with looking externally, looking to the future, and looking for growth opportunities. To do anything less allows growth opportunities to slowly die from neglect.

It is not sufficient for you to simply say, "Okay, I think it is time that we developed a (new) strategic plan for our firm." Your firm must be made receptive to the concept of strategy, innovation, and made comfortable with perceiving change as an opportunity, rather than a threat. "But, how can we overcome the resistance of certain of our partners to the idea of innovation?" is a question that is commonly asked. Even if I knew the correct answer for your unique culture, it would still be the wrong question. The better question to be considered is, "How can we make our firm more receptive such that individual partners embrace innovation and are prepared to devote some of their precious non-billable time to working for it?"

When strategic innovation is perceived by partners as the flavor of the month, the very concept goes against the grain and there will be no innovation. Innovation must be part and parcel of the ordinary, the norm, the routine. The concept must be communicated in such a way as to be made attractive and beneficial to partners.

The leading performers will use this stagnant economic period to create a "sense of crisis" and urgency from which to direct their partner's attentions to taking advantage of change. The management of these firms are telling their partners, "we see some potential changes on the horizon that may either present an opportunity for us, or if left unattended could have an adverse effect on our collective, personal fortunes. Here is what we are seeing . . . What do you think we should do and what actions might we initiate that could have the potential to transform these changes in our favor?"

Still some partners may say, "Why should we do anything? Things are going sufficiently well without our messing around." High performers recognize this as the opening for them to educate their partners as to what those competitors who are a little more alert might do, if we wait and miss the opportunity window. These firms work to create a clear understanding throughout the firm that inno-

vation is the best means to preserve and perpetuate the firm's wealth and individual partner's continued personal success.

Turn innovation into Job One — identify and articulate, with a sense of urgency, all of the various reasons why your professionals need to come up with new ways to:

- go outside the confines of their current practices into new areas;
- offer clients new benefits and enhanced value;
- apply new technologies and ways to deliver services;
- target new market segments and dominate niches; and
- develop new-to-the-firm ideas and new-to-the-profession innovations.

My fundamental question to any managing partner is, "How much of your last strategic planning effort was spent in actually creating new-to-the-firm and new-to-the-profession competitive strategy options?"

One managing partner expressed it this way: "I used to spend most of my time worrying about the *how* — how we did things, how we operated, how efficient we were (the internal). Now I've learned to spend more of my time worrying about the *what* — what opportunities to pursue, what alliances to form, what technologies to back, what experiments to start (the external)."

**PRINCIPLE #3**  
**ASCERTAIN THE "NEEDS" OF BOTH CLIENTS AND PROSPECTS.**

When we are looking to the future, many of us tend to think in terms of improving what we currently do. As lawyers, we tend to look at our current ways of doing things and how we can improve our methodologies, rather than taking a step back and thinking about what it is that our clients may actually want. If we are concerned for our future profitability we have to increasingly think about what is it that we do as lawyers that adds value or better

**“G**etting to the future first requires that you be deliberately far-sighted. Crafting effective strategy is really more a question of identifying the portent of changes which are already occurring — either in other markets, or in other professions, or in other industries.”

manages the risks that our clients face.

That sounds like a line from a screed on “getting close to your clients,” doesn’t it? The sermon on knowing thy client is a good and worthy one. And it has been delivered so loudly and so often for the past several years that many firms have taken it to heart. Those firms — who are the stellar performers — know quite a bit about their clients. But I’m talking about something else that they do.

Creating new wealth requires more than simply responding to market demand. I’m talking about crafting a competitive strategy based on being innovative in recognizing client needs, preferably even before the client may know that they have the need.

When we say we need to be client-focused, what we are trying to do is to better understand the articulated needs of existing clients. Your future-oriented challenge is to understand the unarticulated needs (the “what could be”), especially of new kinds of clients. Seeing the future first is very seldom about responding to articulated needs. It’s about understanding deep-down frustrations and

anxieties that people have, and creating new alternatives for them. I call this finding the “opportunity space” in which you have no competitors!

Thus, the question is not, “how might we better serve our clients?” That is an example of working from what is. To work from what could be, the central question becomes, “What service might we provide that clients are not yet asking for?” Your challenge is to encourage your people to continually ask: Whom do we serve? How do we do it? What new service offering that clients haven’t even thought to ask for yet, can we surprise and delight them with?

Some partners may think that this is the proper role of your marketing department. Unfortunately, the marketing function is about the worst possible conduit for bringing insight into this process, because marketing — particularly through the use of market research — tends to be a prisoner of existing concepts. The only solution here is to put your partners right up against current and prospective clients, to live with them, breathe their air, understand their frustrations. Only then, might you have the chance of developing deeper insights. You have to take off the blinders, as it were.

The problem with most of us in the profession is that we are all, too often, blind. The deepest reason for this is our inability to look outside of current experiences. If we think about it, most firms converge around how they perceive what business they’re in and what clients they want to serve. Think about the effects of everyone going to the same legal seminars and conferences, hearing from the same pundits, reading the same gossip blogs, and trading partners back and forth. As a result, is it any wonder that firms obsess and spend their time focused on what every other firm is doing — watching to see what Skadden Arps or Jones Day is up to — rather than sharpening their own views of the world? Dealing with this blindness involves looking deeply within the client to find hidden knowledge.

**PRINCIPLE #4  
OBSESS ABOUT YOUR STATE OF DIFFERENTIATION.**

Let's think for a minute. How different is what you are doing right now — the strategies that you are employing now — from the four or five key competitors in your marketplace?

If your answer is "not much," then how are you ever expecting to surpass their performance? We all know instinctively that doing the same thing and expecting different results is futile. But that is pretty much the result that conventional strategic planning has provided.

In my strategy sessions with groups of partners I have often posed a simple question to the entire group — a question I believe is reflective of the primary concern that occupies most prospective clients' minds — what I have come to think of as the "defining" question. It goes like this: "Tell me please — as a prospective client, why should I choose you (your practice group / your firm); what makes you distinctive and what added-value can you bring to my business matters — that I cannot get anywhere else?" (Please, do notice those last six words).

Simply continuing to improve utilization (working a bit harder) or thinking that you can ratchet-up your hourly rates every year, may have been most law firms' primary strategy in the past. But I submit that it will no longer be a recipe for long-term success. And here's another shocker — simply focusing efforts on operating efficiencies (like learning how to project manage . . . 'commodity' legal work) and improved margins will not do it for you either. The root of all successful strategy, going forward, lies in being differentiated. Your firm, your individual practice groups must all work at making themselves different and intrinsically more valuable to their preferred clients.

A firm simply cannot be all things to all people and do a very good job of it. Strategy requires choices. But it's not good enough just to be different. You've got to be different in ways that involves a trade-off

**“T**he question is not, “how might we better serve our clients?” That is an example of working from what is. To work from what could be, the central question becomes, “What service might we provide that clients are not yet asking for?”

with other ways of being different. In other words, if you want to serve a particular target group with a particular definition of value, this must be inconsistent with delivering other types of value to other clients. Firms that end up competing for the same set of clients using the same set of inducements will find that it is a loser's game.

The trouble is that firms hate making choices, because doing so always looks dangerous and limiting. They always want the best of all worlds. It is psychologically risky to narrow your range of services, to narrow the range of prospects you are targeting. And this unwillingness to make choices is one of the biggest obstacles to creating an effective strategy.

**PRINCIPLE #5  
ARTICULATE “STRETCH” TARGETS.**

“Make no small goals,” the old saw goes, “for they lack the power to stir our souls.”

Subscribe to radical goals. Imagine what might occur if you were to declare to your partners that you wanted to achieve a 25% growth in revenue over the next two years, and then asked them to come forward with ideas as to how each of the practice

groups could contribute to making that happen.

I had an interesting experience in one firm where the managing partner decided that he wanted to survey every member of the elected executive committee prior to an important meeting. Using a questionnaire, he asked each of them as to their views of what might constitute a reasonable expectation for the firm's future growth prospects. In the questionnaire that he distributed, he told these partners that “our profits-per-partner have increased during the past five years at an average rate of around 4 to 5% per year. What do you think would be an acceptable annual rate of growth in profitability over the next five years?”

Now what he did not disclose was that 4 to 5% was not the real number, nor did he inform them it was less than half of what the firm had been averaging. Quite predictably, based on the information this managing partner provided, nearly all of his partners responded that they would be quite happy to achieve a level of 4 to 5% growth over the next five years.

The lesson here is very clear. No organization ever outperforms its aspirations. Our beliefs set the upper limit on what is possible.

**PRINCIPLE #6  
MAKE YOUR PRACTICE GROUPS THE KEY BUILDING BLOCKS FOR THE FIRM'S FUTURE DIRECTION.**

One of the most disastrous developments happens when firm leaders or a select committee of power partners takes it upon themselves to develop the firm's plan and then make their pitch to 'sell' the plan to the rest of the partnership.

That lesson became evident to me again recently, when observing the strategic planning process unfolding at a prominent Washington DC firm. This particular firm decided that they desperately needed to develop a new direction and as a result, the managing partner, COO and a retired McKinsey

& Company partner decided to develop the firm's new strategic plan. The plan was completed and the general partnership meeting was convened. That all transpired over two years ago, and to this date the firm still does not have an agreed-upon strategic plan.

There are a number of inherent problems with developing a strategy from a top-down perspective.

First, it assumes that all wisdom reposes within the firm leadership. Now that is not meant to be a disparaging comment. Centering the process around the thinking of the firm's elected executive committee may certainly involve some of your best and brightest, but unfortunately it serves to harness only a portion of the firm's creative potential. Look at any emerging development, being undertaken by any law firm, anywhere, and ask yourself this question: Did that initiative develop at the executive committee? Or, did some mono-maniac, in some practice group, perceive an unmet client need, and then make it his or her personal mission to initiate an innovative course of action? I can report, hand-on-heart, that in most every case, my observation is the later.

I find that in the best performing firms, management is looking to the practice groups to make a meaningful contribution from their particular vantage point. They are especially looking to practice groups that are doing things better and doing things differently. They single them out, celebrate their achievements, and consistently ask, "What are you doing or not doing, that the rest of us could learn from?"

They are also asking individual professionals for their personal ideas on how things could be done better and differently. They tell these professionals, "I want to hear from you as to what your personal career aspirations are. I want to hear where you see the greatest opportunities for our group and for the firm. And, I want your ideas on what you would like to see us try that is new, that would develop

new service offerings, and provide new ways of reaching clients."

Secondly, if one of your goals is to differentiate your firm in a meaningful way that attracts clients — and it should be, you will find it difficult to project a differentiated position for the entire firm, unless you are a boutique practice. Most clients will talk about the dominant strengths of a particular practice group, but rarely about the entire firm, no matter how much we invest in these silly-ass "branding" programs. Therefore, any attempt to develop strategy without looking to the practice group as the primary building block is likely to very seriously miss the mark.

#### PRINCIPLE #7 DEVELOP STRATEGY IN ACTION.

**W**hen it comes to executing a strategy, the end target may be clearly visible — "I want to climb that mountain over there" — but much of the route may be invisible from the starting point. The only way you're going to see the path ahead is to start moving. Thus while your strategy starts with foresight, it evolves through experimentation.

The most successful strategies start as small, inexpensive, limited-risk field trials. It is often far more effective than protracted analysis or market research — and always more reliable. Your market will tell you when you get it right. Craft strategy as you go along, mixing thought and implementation into the process. True partner commitment can only be expressed in actions.

In many law firms, the quest to follow precedent and achieve perfection drives out experimentation. One question I often ask managing partners: "Can you point to 5 or 6 small experiments going on right now that you believe could fundamentally remake your firm?" In most cases, the answer is no, there is *nothing* to point to.

The more experimentation, the faster a firm can understand precisely which strategies are likely to

work. The goal is not to develop "perfect" strategies, but to develop strategies that take us in the right direction, and then progressively refine them through rapid experimentation and adjustment.

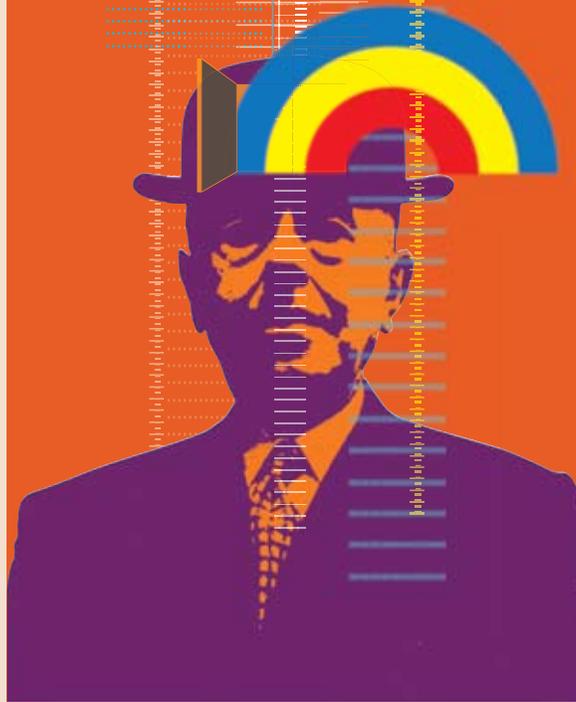
#### "THE TIME TO ACT IS LONG BEFORE YOUR HORSE STUMBLES"

For much of the past decade, many firms have been busy following the conventional rules. They have been wringing every penny they can out of ever increasing, billable hour rate increases. What first began in the gut of managing partners as a legitimate means to improve their firm's profitability, then became an obsession and most firm's primary strategy, ultimately now resulting in firms "hitting the wall" in terms of how many more, across-the-board rate increases they can really achieve. So what does that leave you with as a viable means for increasing your firm's growth and profitability into the future?

Strategy innovation is about rethinking the basis of competition. Strategy innovation does not depend on past success or established ways of practicing, deep pockets, or having certain types of practice. A strategy steeped in innovation should make every decision a consequence of imagination, not precedent.

I once heard an entertaining speaker describe the situation in this way: "Dakota tribal wisdom says that when you discover you're on a dead horse, the best strategy is to dismount. Of course, there are other strategies. You can change riders (hire a lateral). You can get a committee to study the dead horse. You can benchmark (copy) how other firms ride dead horses. You can declare that it's cheaper to feed a dead horse. You can harness several dead horses together and project manage their movement. But after you've tried all these things, you're still going to have to dismount. The temptation to stay on a dead horse can be overwhelming, but, the time to begin searching for new strategies is long before your horse stumbles."

# THOUGHT-PROVOKING MANAGEMENT METRICS



At a recent gathering of the profession, while bemoaning the lack of demand for legal services, the pathetic state of the economy and begrudging the increasing power of clients, one discussion centered around metrics – financial and performance-oriented measures. While we are all familiar with the usual billable hour, collections, matter profitability, and so forth, this discussion provoked me to think about some of the more unfamiliar and unorthodox, but vital metrics that I believe law firm management should be looking at. After all, it wasn't that long ago that the late father of modern management, Peter Drucker, reminded us all that *"if you can't measure it, you can't manage it."*

Here are a few unusual metrics that I think are worth taking a look at in your firm:

## Metric #1: Management Time Spent Exploring New Opportunities

If you are a firm leader, look at the issues that are currently consuming your time.

I often ask of managing partners a couple of questions that painfully illuminates where they spend their time. First: *"What proportion of your management time is spent solving problems versus what proportion is spent on exploring new opportunities?"* After a rather awkward reflection period, the answer I usu-

ally elicit is about 80% on solving problems and maybe 20% on exploring opportunities.

I suspect that it is really more like 95% on problems and 5% on opportunities, but let's analyze what this division of time infers. This means that as the firm leader, you are spending 80% of your time and energy looking backwards and fixing things, while only 20% looking forward and creating things. Firms operating in this mode will find it hard to lead in their marketplaces.

So why does this happen? Well, it should be obvious that most professionals are veteran problem solvers. We are trained to resolve the issues, put out the fires, correct the underperformance, and generally "fix" the problem. There is a powerful gravitational pull that unconsciously moves us toward fixing things instead of innovating; toward restoring instead of increasing, and toward reacting rather than being proactive.

We need to understand that fixing things, while however noble, simply restores the prior performance or condition, which is comfortable, but limits value. However, if your focus is on improving

the condition, on inspiring entrepreneurial endeavors, on being innovative; then your intent is not on restoring the status quo, but on developing a level of performance that exceeds any previous standards.

There is a follow-up question I then pose.

*"Of the time you spend on exploring opportunities, (remember it was reported to be 20% of the total) how much of that time is directed toward pursuing billable production, winning the next big transaction or responding to a competitor, (the present) versus pursuing the development of entirely new skills, new services or new technologies (the future)?"*

Again, if I were generous in reporting what I have learned, the average managing partner spends about 60% of his or her time exploring present opportunities and 40% on future opportunities.

That drives a point worth scrutiny: What kind of a future is likely to be created by a firm leader spending about 8% of his or her total management time and energy focused on that future?

And this is in firms that have a managing partner who spends ALL of their available time on management matters!

Those managing partners spending less than full-time usually have next to no time for the future . . . except of course, during that one-day, off-site, annual planning retreat exercise. (AND, is it any wonder why so many of these retreat-generated

“strategic plans” are dead on arrival?)

## Metric #2: Number of new revenue ideas, practice areas, and/or services launched in the past year

At a meeting of partners I posed a number of questions for the group to both express their views and vote upon (with electronic voting machine that allow your vote to be posted anonymously). One of the first statements that was posed was: “We are good at identifying new areas of client demand and establishing entirely new areas of practice and specialized skill in advance of competing firms.” I then asked the assembled partners to identify the relevant importance to their firm of being able to establish new areas of practice in advance of competitors. No surprise here, in that 92% of them identified this as an important attribute to their future success. When I then inquired as to their feelings on whether they

elicit an answer of ‘Yes’ from a significant majority (anywhere from 54% to 71%) of partners. In other words, these talented professionals are most certainly aware of lucrative opportunities out there . . . but are they taking any action on pursuing them?

I then ask: “Is there an established procedure or protocol within your firm to encourage new ideas or promote the development of entirely new areas of practice?” And, finally I ask: “Is there any formal mechanism available to advance new ideas or compensate those who might invest what would otherwise be billable time in developing new practices?” Both of these questions continue to receive a resounding “No” by anywhere between 71.1 to 93.4% of most partners.

Now what should seem obvious from this and what I have learned is that innovation becomes much harder to stimulate when you are swimming upstream against the currents of firm processes that don’t exactly encourage it. Structures and processes do make a difference. They may not make innovation happen, but they prepare the ground so that any innovative ideas that exist will have some chance of getting a receptive hearing.

Attention is your most powerful management tool. So if you want your professionals to focus on innovation, nothing speaks louder about what is of bedrock importance than where and how everyone chooses to spend their time.

## Metric #3: Defining Distinctive Attributes That Clients Value

One of the most difficult questions that we all face, that is sometimes articulated but always on a prospect’s mind is: “Why should I choose your firm (your practice group / you), what makes you distinctive, and what specific added-value do you bring to my particular business matters . . . that I can’t get anywhere else? Do notice those last six, very discomforting words as they go to the heart of – “so what makes you so special?”

And flowing from all of this, to what extent have you fashioned a credible, dignified and believable answer that demonstrates how you are differentiated in a way that clients may actually find valuable?

A curious irony is that most firms go to great lengths to look like every other firm. In fact a common reaction that I’m likely to elicit from the management of any firm when first presenting a new market opportunity is: “Can you please give us a list of the other firms which are doing this.” Competitive advantage means getting out in front, by focusing on some area in which you can be unbeatable. By definition, if you are doing what everyone else is, you don’t have an advantage.

In answer to the question “Upon what basis is your firm truly differentiated from your competitors?” partners respond, but only after taking some time for reflection. The typical response usually will include some reference to the firm’s full breadth of services and high technical proficiency. This pause for reflection is interesting. It doesn’t suggest that the question came as a total surprise, as one that had never been asked before; or that this is an issue that this partner has not regularly considered. What it does suggest is that despite any previous contemplation, a wholly satisfactory answer has not been found and that a suspicion exists in the mind of this partner that he or she is offering, at best, only a superficial response.

There are relatively few critical questions that successful practitioners and leaders need ask of themselves, and ask of all of their partners:

- What are we best at?
- What are we world-class great at?
- What makes us unique?
- How are we going to serve our clients in a way that nobody else can?
- What “wow” new services can we offer?
- What are we going to do that will truly lead the market?

And . . . successful firms don’t stop asking these

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were better than or worse than their competitors at establishing new areas of practice, 81.6 % scored themselves as “worse than competitors.”

As I explored this further with a number of subsequent questions, I asked the following ‘Yes’ or ‘No’ question: “Do you actually have an idea for a new ‘niche’ area of client demand that with some modest investment and nurturing could become a lucrative new area of practice sometime in the near future?” Surprising to any firm (but not to me as I’ve been asking this question often enough) I will most always

questions and they certainly don't stop even after getting a dignified answer.

#### **Metric #4: Time Invested Growing Know-How**

Every progressive law firm today is focusing enormous attention on issues related to handling their client matters more efficiently, learning project management skills and exploring various alternative fee arrangements – all very noble and important undertakings.

But is that all that is required to be competitively successful in the practice of law?

Indeed, one might argue that while these programs should not be abandoned, are these initiatives not simply finding ways to be more efficient at making buggy-whips (translation: improving our ability to deliver commodity services)? My point: rather than focusing exclusively on today, where is the balance in time spent investing in your tomorrow – on building your skills, on making yourself more valuable to clients tomorrow than you were yesterday?

What you now know and are able to now do, what your current practice's success is built upon, will unavoidably depreciate in value unless you actively work on learning new things and building new skills. Continual "know-how" development is a lifelong requirement, not an option. Unfortunately, the systematic development of skills, if left unattended will not happen by itself.

The truly gifted lawyers continually ask themselves one question – "What is it that I know today, that I didn't know at this time last year?" Or put slightly differently: "What is it that I can do for clients today, that I could not do for them one year ago?" This question is intended to provoke how we might best make ourselves "indispensable." An answer of: "nothing much" suggest we are slowly making ourselves . . . obsolete!

The most successful professionals are constantly on the grow. Much like in financial planning where

one of the key principles is to "pay yourself first," highly effective professionals devote a portion of their time to personal growth and developing new skills. Are you paying yourself first? Make your list of the three most important new skills you need to progress over the next twelve months to specifically develop a higher level of competence.

#### **Metric #5: Effectiveness of Meetings**

Most meetings suck, and most often they are nothing more than an information dump ("so George, tell us all, what have you been up to lately?") that could as easily have been communicated by e-mail, or simply an excuse for having the firm pay for lunch. And they're expensive: a one-hour meeting of six of your partners is likely to cost \$3,000 at least, in unbilled time. Meanwhile, no one really tracks whether these meetings are useful, or how they could get better. And all you have to do is ask.

Here's a challenging thought: In the last minutes of your very next meeting, ask your partners to each (anonymously – on a scrap of paper) rate from 1 to 10 how effective they candidly thought your meeting was. Look at your scores, figure out the average, and then . . . without getting defensive about why you scored whatever you scored, go to a flip-chart, get a marker and brainstorm with your colleagues the answer to this question: "What, specifically, could we all do to make our next meeting even more effective?"

Notice, please, that this question is only concerned with taking action.

Every firm holds numerous meetings, and every meeting (hopefully) has an agenda, whether written or unwritten. The cumulative content of those agendas clearly signals leadership's priorities and concerns. The conscious management of your input into meeting agendas is a powerful signaling device.

The very best use of the group's time is to review specific learnings and new developments acquired while serving clients, dealing with client problems, or gleaned by researching new and emerging issues that may impact the group's practice. There is a vast difference in the value of hearing a partners talk (in general terms) about a matter that they have been working on, versus hearing about what that partner specifically learned, that might be of use to others in the group, from the way in which a particular situation or transaction was handled.

**R**ather than focusing exclusively on today, where is the balance in time spent investing in your tomorrow – on building your skills, on making yourself more valuable to clients tomorrow than you were yesterday?

Therefore, rather than: "tell us please, what you are working on?" the question should be phrased: "show us please, what have you learned during this past month that may be highly useful to the other members of our group?"

Most meetings are status reports on the present. So, for example, if you are serious about promoting business development make sure that each meeting devotes 25% of the time to listening to ideas for improving client service, generating new revenues or developing new services. Also, the things that get your swift and detailed follow-up will always be perceived by your people to be of the highest importance.

*This article was published and represents one of my regular practice management columns for SLAW.ca*

# EXCLUSIVE LinkedIn Group: Law Firm Leaders

Last year I launched the ONLY group on LinkedIn exclusively for, and populated by law firm leaders – firm chairs, managing partners, and a few qualified executive committee members. Thus far we have welcomed **over 185 law firm leaders** as members with 62% representing leaders from firms of 100 to 300 lawyers; 16% from firms of 300 to 500 lawyers and another 19% coming from firms of over 500 attorneys.

Our membership, while international, hails primarily from U.S. firms of over 100 lawyers in size, and this is a “closed” group, which means that it is “member-only” with none of our discussions being visible or searchable on the Web.

The members of our group have been active with over 40 different discussions having been originated thus far. Some of our most recent discussions have been on topics like:

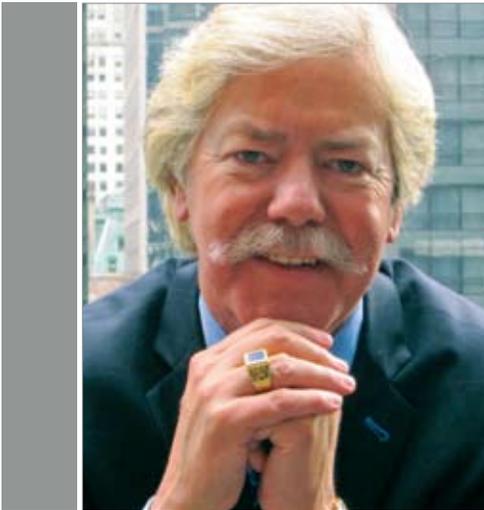
- *How Do You Get Performance Feedback As A Firm Leader?*
- *What Is Your Experience With The Maximum Size of Practice Groups?*
- *Has Anyone Considered The 'Unfinished Business' Issue That May Confront Partners Leaving Dewey?*
- *Important Trends Impacting Our Profession.*
- *Are Some Firms Creating A Lateral Bubble?*

I started this group for two reasons: One, to introduce managing partners to social networking sites (like LinkedIn, Legal Onramp, FaceBook and others) where more and more lawyers are learning to connect with each other and with clients.

The second reason is because I continue to co-facilitate a one-day program (see: [www.First-100Daysmasterclass.com](http://www.First-100Daysmasterclass.com)) for brand new managing partners, usually held at the University of Chicago and participants continue to report to us that they have few outlets where they might ask questions or seek relevant information and advice. And so I thought, why not experiment with a social network site like this to see if we can collaborate and put it to good use. So this is a tool to help you build relationships and learn with and from your peers, who face similar questions, issues or challenges. I encourage group members to share leadership-relevant materials, pose questions, direct attention to timely and relevant articles or trends, and comment on what others are saying.

Now, if you don't happen to be a member of [www.linkedin.com](http://www.linkedin.com), I guess you will have to join. But the good news is that there is no cost other than a couple of minutes of your time to register. And the shocking news may be how many in your firm are already members and indeed you may even find that your firm is already listed under “Companies.” Imagine that.

If you are already a member than this is even easier. Just search under “Groups” for **Law Firm Leaders**, click on the “Join Group” button and I'll look after the rest.



## PATRICK J. MCKENNA

### P R O F E S S I O N A L P R O F I L E

An internationally recognized authority on law practice management, Patrick McKenna serves as co-Chairman of the Managing Partner Leadership Advisory Board, a forum for new firm leaders to pose questions about their burning issues. Since 1983 he has worked with the top management of premier law firms around the globe to discuss, challenge and escalate their thinking on how to manage and compete effectively.

He is author of a pioneering text on law firm marketing, *Practice Development: Creating a Marketing Mindset* (Butterworths, 1989), recognized by an international journal as being “among the top ten books that any professional services marketer should have.” His subsequent works include *Herding Cats: A Handbook for Managing Partners and Practice Leaders* (IBMP, 1995); and *Beyond Knowing: 16 Cage-Rattling Questions To Jump-Start Your Practice Team* (IBMP, 2000), both of which were Top 10 Management bestsellers.

One of the profession’s foremost experts on firm leadership, his book (co-authored with David Maister), *First Among Equals: How to Manage a Group of Professionals*, (The Free Press, 2002) topped business bestseller lists in the United States, Canada and Australia; has been translated into nine languages; is currently in its sixth printing; and received an award for being one of the best business books of 2002; while in 2006, his e-book *First 100 Days: Transitioning A New Managing Partner* (NXTBook) earned glowing reviews and

has been read by leaders in 63 countries. The book *Management Skills* (John Wiley, 2005) named McKenna among the “leading thinkers in the field” together with Peter Drucker and Warren Bennis; and in 2008, the book *In The Company of Leaders* included his work amongst other notable luminaries like Dr. Marshall Goldsmith and Brian Tracy.

His published articles have appeared in over 50 leading professional journals, newsletters, and online sources; and his work has been featured in *Fast Company*, *Business Week*, *The Globe and Mail*, *The Economist*, *Investor’s Business Daily* and *The Financial Times*.

McKenna did his MBA graduate work at the Canadian School of Management, is among the first alumni at Harvard’s Leadership in Professional Service Firms program, and holds professional certifications in both accounting and management. He has served at least one of the top ten largest law firms in each of over a dozen different countries and his work with North American law firms has evidenced him serving at least 62 of the largest NLJ 250 firms.

His expertise was acknowledged in 2008 when he was identified through independent research compiled and published by Lawdragon as “one of the most trusted names in legal consulting” and his three decades of experience in consulting has led to his being the subject of a Harvard Law School Case Study entitled: *Innovations In Legal Consulting* (2011).



## FIRST 100 DAYS

### Master Class for the New Firm Leader

#### TESTIMONIALS:

**I** was struck by the synthesis of the issues you presented. It was amazingly clear and comprehensive, given the breadth of the topic and the short time available. I was delighted to attend the event and I learned a lot from it."

*Hugh Verrier, Chairman  
WHITE & CASE*

**T**hank you for allowing me to participate in your First 100 Days Seminar.....it has truly helped me hit the ground running.

**ONE YEAR LATER:** *Your Seminar really did help me to prioritize my goals and objectives for the first 100 days. As I look back, I really didn't know what I didn't know leading up to taking on this new responsibility as the Managing Partner. The guidance and suggestions I took away from the seminar (and reading materials) were extremely helpful. I had a much better understanding of what to expect. I really do appreciate all of your help.*

*Richard D. Nix, Managing Partner  
MCAFFEE & TAFT*

For more details, a copy of the day's agenda or to register, please visit:  
[www.first100daysmasterclass.com](http://www.first100daysmasterclass.com)

#### WHY A MASTERCLASS FOR NEW FIRM LEADERS?

**"N**ew firm leaders mistakenly believe that because they have served as a practice group manager or on the firm's executive committee they have the necessary background for taking on the role of leading the entire firm. Not even close!"

It may not be fair, but it's true: Your first few months as Managing Partner or Firm Chair — the time when you are just starting to grasp the dimensions of your new job — may well turn out to be the most crucial in setting the stage for a tenure that hopefully should last for years.

While these first 100 days will present a unique window of opportunity, they also hold potential for others to misunderstand you. How quickly you swing into action as the new leader, for example, might provide a basis for your peers to characterize your management style as rash, purposeful, or indecisive. Your selection of colleagues within the firm for consultation on your early decisions will fuel others' notions that you're inclusive, authoritarian, or even playing favorites. Some partners might rush to label you as fair or arbitrary; a visionary or a cautious bureaucrat. Some are even likely to try to test your composure in the early going.

This one-day intensive masterclass is designed to help you hone critical skills and develop a plan for a successful transition as you move into your role as your firm's new leader.

**WHEN:** Thursday  
February 7, 2013  
**TIME:** 8:30 am - 4:30 pm  
**WHERE:** Glecher Center  
University of Chicago

#### YOUR MASTERCLASS MATERIALS

- **24-PAGE MONOGRAPH** — "FIRST 100 DAYS: TRANSITIONING A NEW MANAGING PARTNER"
- **200-PAGE HARDCOVER** — "SERVING AT THE PLEASURE OF MY PARTNERS: ADVICE FOR THE NEW FIRM LEADER"
- **75-PAGE WORKBOOK** INCLUDES CASE STUDIES, EXERCISES AND DISCUSSION MATERIALS
- **COPY OF 170+ SLIDE POWER-POINT PRESENTATION**
- **A FORMAL, WRITTEN AND CONFIDENTIAL 15-PAGE "HOGAN" PERSONALITY ASSESSMENT WITH COACHING RECOMMENDATIONS.**

#### YOUR MASTERCLASS FACULTY:

**Patrick J. McKenna** is an internationally recognized authority on law practice management; and

**Brian K. Burke** is the former Chair Emeritus at Baker & Daniels with over 20 years in law firm leadership positions.