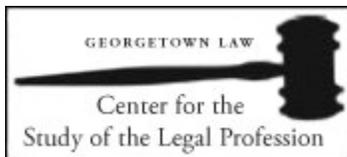




From Georgetown Law: “Law Firm Evolution-Brave New World or Business as Usual?” – our review of the conference

April 2nd, 2010 | By Gregory P. Bufithis, Esq.



Our coverage of “Law Firm Evolution: Brave New World or Business As Usual?”, a conference held March 21-23, 2010 by the Georgetown Center for the Study of the Legal Profession. For all our posts on the conference [click here](#).

Reported by: Gregory P Bufithis, Esq. Founder, ThePosseList.com and ProjectCounsel.com

Last week we had the opportunity to attend and report on the Georgetown Center for the Study of the Legal Profession conference “Law Firm Evolution: Brave New World or Business As Usual?”. The Center is devoted to:

- * Promoting interdisciplinary scholarship on the profession informed by awareness of the dynamics of modern practice;
- * Providing students with a sophisticated understanding of the opportunities and challenges of a modern legal career; and
- * Furnishing members of the bar, particularly those in organizational decision-making positions, broad perspectives on trends and developments in practice.

In support of its mission, the Center sponsors symposia, research, publications, workshops, and speakers designed to foster exchanges among scholars, practitioners, and students. The Executive Director of the Center is Professor Carole Silver, and the Co-Directors are Professor Mitt Regan and Professor Jeffrey Bauman.

The Conference

As we know, law firms have been affected to an unprecedented degree by the current economic downturn. Many have made deep cuts in lawyers and staff. Others have reduced salaries and hours, rescinded outstanding offers of employment, frozen hiring, delayed start dates for incoming lawyers, and even paid graduates to forgo the positions they earlier were offered. Many have lost clients as entire sectors of the economy have disappeared or have been radically realigned.

The purpose of the conference was ambitious: to examine, among other things, whether the dramatic steps that firms have taken are temporary adjustments to market conditions which will have limited long-term effect after economic recovery, or whether they reflect fundamental changes in the business model of law firms that are likely to transform the market for legal services and the legal profession in general.

For some background on how the conference came to be please see our video interview with Mitt Regan, Georgetown Law professor and Co-Director of the Center, here:

http://www.youtube.com/watch?v=cINGtvMeuqw&feature=player_embedded

For the full program and details on all the presenters at the conference [click here](#).

And if a fight was going to break out at this conference it would have happened at the opening session. After dinner, the conference was opened with a panel discussion “Emerging Relationships Between Law Firms and Clients”. Panel members included [Trevor Faure](#) (Global General Counsel, Ernst & Young), [Susan Hackett](#) (Senior Vice President and General Counsel, Association of Corporate Counsel), [Thomas Yannucci](#) (Chair Emeritus of Kirkland & Ellis) and [Reena SenGupta](#) (managing Director RSG Consulting).

Trevor Faure set the stage with a short history of the law profession and its economics, and where the current economic downturn has put law firms today. What followed was a rather animated discussion/debate/shout-out among/between panelists and audience that focused on lawyers need to identify the relative value in their work, and then cost and manage it accordingly. And Susan Hackett lay the responsibility for this firmly at the feet of ACC’s members: “In-house legal departments talk about the need to change the way that their external counsel bill and budget for work but where are the incentives for law firms to change?”

As might be expected, Tom Yannucci came to the defense of law firms and said “we have changed, we are changing. We recognize that the ‘lock-step’ system is dead, that we need to build sustaining relationships with clients, that we saw 2,000 partners switch firms in the last year and we need to change our model.

But there was blood in the water and Yannucci seemed to come under attack from the audience — and from some of his fellow panelists. As audience members said, the whole law firm model has become dependent — is still dependent — on large teams of people churning through large volumes of work. Hackett believes that the only answer to this conundrum is to shift the emphasis on to the value of the response: “The legal industry has become used to using time as

the only way of measuring value, so we base fees and budgets on that, rather than on the importance of that work to our business.”

But how do you set that value? Reena SenGupta offered that it must be driven by the client’s objectives. And [Leah Cooper](#) who was in the audience (and a presenter at the panel on new emerging trends of legal services) said ”it must also allow employment of a low-cost staffing option. Legal departments just aren’t having the appropriate conversations before work starts. The project isn’t defined; it just starts and later a bill arrives, so there are no expectations to meet or be measured against.”

Hackett believes that this has led to a dangerous environment in which law firms just bill until the work is complete with little insight into the business case behind it: ‘Law firms can rack up huge bills for cases that the company ultimately loses, engage in all sorts of work that perhaps isn’t necessary for the case or assign it to a more senior person than is required, and the company is faced with a bill that has no relationship to the outcome of the work.’”

Yannucci shouted out “*au contraire*” (well, maybe not in French). He said “we look at all possibilities and options for clients and their relative costs and find better/cheaper alternatives” and ran through a series of examples in a complex litigation. And , he said “we accept that is our responsibility and we offer accountability”.

But many members of the audience said it was more than legal services should necessarily be cheaper. They should be more predictable and better aligned to the value in the outcome — a point Yannucci did not seem desirous of conceding. He said “it should be acceptable to charge a higher fee for certain work, if the value to the business is great”, a point agreed to by most of the audience. But the point really is: you don’t need to use high-level lawyers, who are charged out \$800 an hour, for routine tasks such as document review, standard research, etc. You can get that done by equally competent and intelligent people for much less than that. And it was point reemphasized by Hackett and Cooper. No one argued that high-level judgement work should not continue to go to lawyers. But a memo or brief “drafted for the 37th time” — better done a bit lower on the \$ chain.

The session ended on a somewhat down note: the inertia among law firms and in-house counsel. Law firms know this just as well as in-house counsel: change is difficult. Audience and panel comments seemed to echo the same thought: that it’s natural that individual lawyers are loathe to suggest change. Yes, everyone sees the logic for changing processes and systems, and for adopting new methods of measurement, but in reality: will the profession change? Will this recent economic crisis force the issue? Has it become “the tipping point”, the phrase used by many in the audience? Previous economic recessions have brought readjustments, but there was always a sense that “things would go back to normal”.

The general mood in the room? This time “it is different” and it will take time. But the change is happening.

For an excellent review of this opening session see the post by Aric Press for *The American Lawyer* by [clicking here](#).

I covered the conference along with Lisa DiMonte, Chief Executive Officer of MyLegal.com. We had the daunting task of attending all the panels and conducting video interviews with 27 of the presenters and attendees. Here are our notes and comments for each panel which includes links to the papers presented at each panel plus our video interviews with some of the participants on each panel. We'll be adding more to each entry as time permits:

- ***Creative Destruction and Innovation***

The panel discussed long-established economic principles concerning technological innovation and transaction costs to bear in the context of the elite law firm, where they have been largely overlooked in the commentary to date. These are helpful in explaining a number of the events observed in recent years. Our coverage includes video interviews with panel members David McGowan (Lyle L. Jones Professor of Competition and Innovation Law, University of San Diego Law School, and attorney with Durie Tangri LLP, San Francisco) and Larry Ribstein (Mildred Van Voorhis Jones Chair in Law and Associate Dean for Research, University of Illinois Law School). For our full post [click here](#).

- ***Emerging Trends in Legal Services***

The panel's focus was on the evolving relationships in today's corporate legal market between clients and service providers, and why. There was a full discussion of the purchase of legal services by large companies and the overall ways that ongoing changes in the legal market are affecting the choices large companies make in managing law firm relationships and the extent of variation in those choices. Our coverage includes video interviews with panel members Paul Smith (Partner, Eversheds), Leah Cooper (Director of Strategy, CPA Global), and Michele DeStefano Beardslee (Associate Professor of Law, University of Miami Law School). Also included are video interviewees with audience members Ron Friedmann (Senior Vice President of Marketing for Integreon) and Joshua Kubicki (The Legal Transformation Study). For our full post [click here](#).

- ***Business Model: Strategy and Governance***

Just what is strategy and governance really about? We are experiencing a sea change yet the world as we know it will not exactly end. Our coverage includes video interviews with panel participants Bruce MacEwen (President of Adam Smith, Esq.) and Stephen Mayson (Director, Legal Services Policy Institute; Professor of Strategy, The College of Law, London). For our full post [click here](#).

- ***Managing the Law Firm Labor Force***

Bottom line: the war for talent will return and law firms need to be on the cutting edge of talent management and new ways to work. Culture and environment will become more important for firms to distinguish themselves and compensation will be less of an enticement to recruit or retain talent. Our coverage includes video interviews with panel participants Deborah Epstein Henry (Founder and President of Flex-Time Lawyers LLC) and Cynthia Fuchs Epstein

(Distinguished Professor of Sociology at the Graduate Center, City University of New York).
For our full post [click here](#).

- ***Capitalizing Law Firms***

The buzz phrase: litigation funding. Litigation funding allows people with money to “fund” court cases (and, increasingly, arbitrations) on behalf of others who lack either the resources — or the appetite — to pay themselves. The funders, typically sophisticated institutional investors, take a slice of the winnings if the case is successful and share the pain if not. Our coverage includes video interviews with panel participants Anthony Sebok (Professor of Law, Cardozo Law School) and Timothy Scranton (President, Juridica Capital Management (US) Inc.). For our full post [click here](#).

- ***Rethinking Legal Education and Training***

Law schools can do a much better job of training lawyers and change is long overdue. Legal education has changed remarkably little in over a century. The approach that Harvard Law School devised in the nineteenth century, emphasizing professors teaching from casebooks in relatively large classes, has virtues. The method has taught countless generations of lawyers how to analyze issues and develop legal arguments. It is also very cost-effective to have one teacher in front of a large number of students. Some law schools generate significant profits for their universities. But the reality is that few law students graduate from law school ready to practice law. Studies show that the majority of law students never meet a client or have any practical experience. Our coverage includes video interviews with panel participants Thomas D. Morgan of George Washington University Law School, Jordan Furlong, of Edge International, and José M. de Areilza who is Dean of the IE Law School, Madrid. We also have vide interviews with attendee Marisa Mendez of the IE Law School. For our full post [click here](#).

- ***Conference Dinner with Richard Susskind, John Palfrey, Paul Lippe, Mark Harris, and Jeffrey Carr***

The conference dinner was titled “What is our legacy to the next generation of lawyers?” and featured as the keynote speaker Richard Susskind, IT Adviser to the Lord Chief Justice of England but best known for his book “*The End of Lawyers?*” and a panel discussion with Paul Lippe (Founder and CEO, Legal On-Ramp), Mark Harris (CEO and Founder, Axiom), Jeffrey W. Carr (Vice President, General Counsel & Secretary, FMC Technologies Inc.) and John Palfrey (Henry N. Ess III Professor of Law; Vice Dean, Library and Information Resources, Harvard Law School; Faculty Co-Director, Berkman Center for Internet & Society). For our full post [click here](#).

- ***Concluding Remarks by David B. Wilkens***

David B. Wilkins (Lester Kissel Professor of Law and Director, Program on the Legal Profession, Harvard Law School) provided some closing remarks. He addressed the big structural changes and the impact of those structural changes on the legal profession. For our full post [click here](#).

- ***A video interview with Richard Susskind, author of “The End of Lawyers?”***

If only we had been listening to Richard Susskind these past 5 years. He knew before all of us where we were headed. It was in his 1996 book *The Future of Law* wherein he claimed that the law would be transformed by IT. The book generated enormous interest and influenced public policy-makers and top managers in law firms around the globe. Many of its predictions have already come to pass. Our legal market melt-down merely accelerated the pace. But we all know him best for his monumental book *The End of Lawyers? : Rethinking the Nature of Legal Services* published in 2008. For our interview [click here](#).

- ***A video interview with Susan Hackett, General Counsel of the Association of Corporate Counsel***

The dramatic steps that law firms have taken as they adjust to market conditions reflect fundamental changes in their business model. Susan Hackett, Senior Vice President and General Counsel of the Association of Corporate Counsel, believes that the only answer to this conundrum is to shift the emphasis onto the value of the response: “The legal industry has become used to using time as the only way of measuring value, so we base fees and budgets on that, rather than on the importance of that work to our business.” For our interview [click here](#).

- ***A video interview with Reena SenGupta on the UK legal market***

The UK legal services market is embarking on a period of rapid change driven by factors such as market liberalization, new business structures and models, technological developments, and an increasingly sophisticated and discerning customer base. There is no better source for a conversation about the legal market than Reena SenGupta who has over 15 years’ experience of researching, reporting on and analyzing the legal sector. As editor and publishing director of Chambers Publishing, she devised the research methodology behind the Chambers and Partners guides to the legal profession and launched the first ever Chambers Global guide. For our interview with Reena [click here](#).

- ***A video interview with Rees Morrison on the challenges facing in-house law departments***

Rees Morrison was not presenting at the conference but attending. And as the guru of law department management with one of the most highly read online blogs *Law Department Management* we requested an interview. He is the eponymous founder of Rees Morrison Associates (RMA) which has for the past 20 years consulted solely to law departments: operational reviews, cost control, re-engineering, structure and organization assessments, client satisfaction, technology, benchmarking, and other issues. For our full interview with Rees [click here](#).

- ***A video interview with Jordan Furlong on the U.S. legal market as an extraordinary laboratory***

Jordan Furlong is a partner with Eedhe International which provides consulting services to law firms on strategic planning and tactical matters. But most of us know Jordan as an award-winning blogger who chronicles the extraordinary changes underway in the practice of law at his blog [**Law21: Dispatches from a Legal Profession on the Brink**](#). For our full interview with Jordan [**click here**](#).

All of the interviews can be seen on our YouTube channel [**by clicking here**](#).

All of the papers and presentations can be accessed [**by clicking here**](#).

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