

# Insight

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## Change at Firms Must Come from Leaders' Decisions, not Consultants

By Edwin B. Reeser

The profession at present overflows with dissatisfaction regarding the value in results delivered for the monetary cost paid for legal services (the client side) and value received for the human cost paid to commit one's life to providing legal services (the lawyer and staff side). The tension for both was vibrating with negative energy during a period of unprecedented growth in numbers of jobs and monetary returns for being a lawyer, well before the onset of the recession. A collapsing law firm business model is evidenced by mass layoffs of attorneys and staff, pay reductions across all levels of professional ranks and support staff who remain, and rapidly shrinking consumption of legal services by struggling clients.

Since we the lawyers are the ones who are responsible for building, or if you want to blame it on our predecessors, then at least tolerating, a business model that in both its structure and process is unsatisfactory to those who choose or are compelled to come into contact with it, as either a consumer or provider, it falls on us to just accept it as it is, or do something about it.

One of the first places to start is to recognize that the answer is unlikely to come from consultants. Robert Townsend, the legendary maverick leader of Avis, once remarked that if all the consultants in the world were laid end to end, he would not be surprised. Scores of law firms are chasing down a business or "strategic" plan they paid hundreds of thousands of dollars (in some cases more than a million dollars) for, dashing to, and already in some cases over, the ocean cliffs like lemmings. Firms chased acquisition of "high value" practices, shedding of "low value" practices, raising of billable hours, raising of billable rates, tougher standards to enter the partnership, dismissal of partners whose contributions are perceived as insufficient and implemented simple mechanical adjustments to deliver a metric: higher profits per partner. But for the business of law and those within it, this has become a disaster.

Consultants can only sell the advice that clients are willing to buy. This has been amply demonstrated with the rating agency evaluations of the risk profile and pricing of

bonds and securities for investment banking houses, the feasibility studies for real estate developments prepared for developers, etc. If the consultant's alternative to a fair and objective analysis is starvation because they will not deliver the advice that the buyer can get from a competitor across the street, which will lead to the objective of a closed deal for which the bankers or developers are paid, expect the report to be something less than a full treatment of the issue.

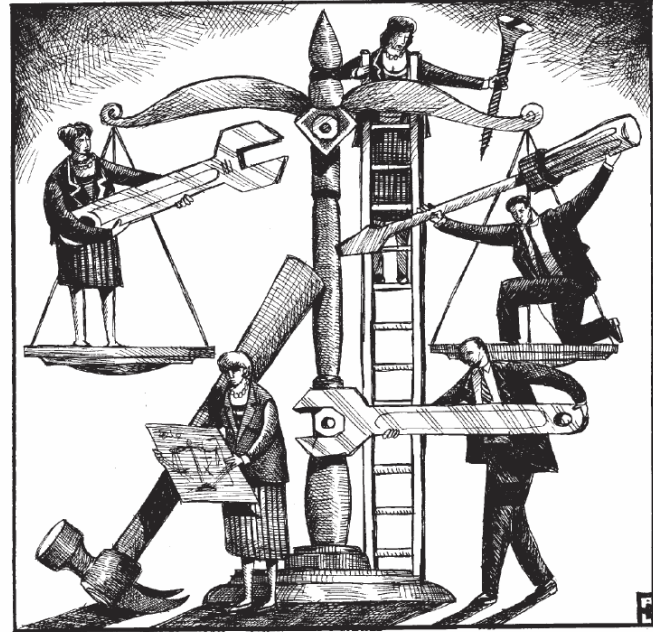
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Consultants respond to a scope of work that is defined by those who hire them. "How do we make more money?" is a question lawyers paid for. It was not accompanied by questions like "How do we provide better quality service and work product at a lower price for our clients" or "How do we make this a better place for our staff and attorneys to work at?" If a component of the answer potentially is "Those of you leading/managing are doing a really bad job," it may not be asked. A good strategy in examining a witness, a bad strategy in business. Good consultants may press to have those issues addressed, but to date law firm leadership has not been interested. Accept also that the underlying reason a report is commissioned can be to support a different agenda (merger/restructure, etc.).

This is not to slam consultants. This is just the way it is. Private

practice lawyers have a consultative role, and struggle with this problem, though with a unique imperative to counsel their clients on matters they do not want to hear, so that they are informed and presumably able to understand it "like it is." In-house counsel have additional challenges, since the difficult advice they sometimes have to give, is to the executive that controls their job and paycheck. Let us just respect the realities and challenges of all the players, and realize we have to make the analysis and decisions that define our careers and profession, so we must build the answers.

The mantra for consultants this past decade has been advocating growth, surrounded with wholesale restructuring from "geographic" to "practice group" centers of control. The theme is to apply expensive human resources across the country/globe more efficiently. The practice group approach, which has some potential advantages in marketing, business development, recruitment and case staffing, has some serious disadvantages, including lack of focus on disparate marketplaces, efficient use of partner resources through increased administrative duties, cost controls, mentoring/training and, most importantly, accountability of leadership for results. Costly dislocations occur when major structural change is thrust on an operating entity. (Flash bulletin: Not everyone supports change in a law firm.) Many people mistake change in structure as a solution, when it is nothing of the sort. It is simply deciding that henceforth during the game of musical chairs, everyone will march clockwise, as opposed to the old process of marching counterclockwise. The challenge of operating more effectively remains. Internal empires or silos of control become less geographic, but they are replaced with practice group equivalents. Most firms have more practice groups than offices, so the number of managers now required to operate effectively are increased, and you have even more people lacking the requisite managerial skill sets working in positions of control, rather than less. But this concept sold well in the consultancy sector. As the realization dawns that this approach is not the answer, any more than the geographic structure was the true root of all problems, something more sophisticated will



emerge. Just don't buy it until you think it through.

While structure changes can have relevance in approaching problems and challenges, and in some cases enhance the power of resolving them, they always come at a price, both in terms of implementation, and in presenting weaknesses in other problem areas. Answers in a people business are not likely to be found in structure. They are to be found in people. We have spent a decade farming the wrong field.

Law firms have not budgeted the way other businesses do. They looked at their personnel, applied a billable hours factor to them, a billing rate, polished it with write-off and adjustments assumptions based on historical experience, subtracted out forecasts of expenses (usually pretty accurate), and then determined the residual profit to be divided. Is that going to keep

the key producers happy enough to not return headhunter calls? If so, great. If not, what do we do to get to where we have to be to deliver the profit we must?

Typically that just involves a "squeeze" to transfer wealth internally. The bottom tier of partners, and all associates, are already pretty much just an exploited class, working large hours for a salary and bonus. More than 5,000 professional layoffs in the last year in BigLaw should be enough proof of that. The middle-tier partners carry the burden now. That works until such time as the middle tier decides to relocate.

It is time to forget everything we think we know or have learned about how to structure and run a professional law business. Time to take blank sheets of paper and start designing a whole new approach. And this goes for the well-established and erstwhile icons of the

profession. Because if they don't find a way to get there, you can be assured that somebody else will. Find a way to deliver a product and service the client needs at a price that delivers value, and a quality of life and compensation that is worth living for the professionals who do the work. We don't have either now. There is no reason we cannot if we just embrace the responsibility and opportunity to work the change now. Or you can ask the consultants.

**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.

