

Definitely Mabey

Cliff diving v. cliff jumping

*Before exploring the difference between cliff diving and cliff jumping, I was reminded this week of a quote from the 1994 book *Flight of the Buffalo: Soaring to Excellence, Learning to let Employees Lead* that has not lost any meaning in today's legal profession and has in fact become even more true. The quote runs along the lines of "change is hard because people overestimate the value of what they have—and underestimate the value of what they may gain by giving that up."*

Or in legalese: "Yeah, but what are the other firms doing?"



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Now back to this month's topic. The "cliff jumping" I want to spend time speaking to, while bearing some semblance to the nerve required to actually dive off a perfectly good cliff, is a more recently turned phrase that strives not to undervalue gains to be made by giving up the *status quo*.

Adam Davidson, in a column in the Aug. 4 *The New York Times Magazine* titled "[What's an Idea Worth?](#)," speaks about "a national band of accountants who call themselves the Cliff Jumpers." They have dropped the billable hour in favour of providing "non-commodity accounting [yes, you can insert legal here] solutions for specific client groups." He points out they "can only figure out what to charge clients after spending a lot of [unbilled] time talking to them about their needs."

I fail to see the difference between accountants and lawyers on this issue other than perhaps the latter jumped on a solution quicker given there is less "Yeah, but what are the other firms doing?" mentality in their profession. As well, entrepreneurship started to reshape their market place before it did the legal one.

Now if you believe the following read on:

1. We are in a knowledge-, not production-, driven economy;
2. As a result of the oversupply of lawyers clients are seeking more affordable access to legal services; and
3. Technology based solutions in the legal profession have barely scratched the surface.

So in a production-driven economy measurable units are an acceptable norm. For a time, this equally applied to the professional service providers and so the billable hour became the norm.

However, in a knowledge- or service-driven economy "ideas, insights and/or concepts" become the norm and this is at total odds with trying to measure their financial value with a historical measurable unit such as the billable hour.

Guess what? The professional services provider will “lose” every time if the financial value of their contribution is measured in terms of a number of billable hours times a rate. By lose, I mean lost profitability (and likely revenue)!

Now I know it is about U.S. firms and therefore of limited relevance to Canadian firms (another myth that needs to be put to rest someday), but in the 2013 Survey of Law Firm Economics, a joint project of *The National Law Journal* and ALM Legal Intelligence, large law firm revenues increased 8.5 per cent while smaller firms’ revenues were flat or dropped (overall per lawyer revenue rose in 2012 1.1 per cent versus 2011 when it dropped 4.3 per cent).

“The professional services provider will ‘lose’ every time if the financial value of their contribution is measured in terms of a number of billable hours times a rate.”

I raise this in conjunction with a question of which group do you think is most actively pursuing a financial valuation of their advice to clients on a non-billable hour basis?

I earlier alluded to the impact entrepreneurship has and will continue to have on the legal profession. In the July 24 edition of *Forbes*, Cari Sommer wrote a column titled **“How entrepreneurship is reshaping the legal industry.”** I think it is a good surface read of some of the ways in which both entrepreneurial lawyers and non-lawyers will cause the legal marketplace to continue to change. Perhaps one of the best comments to come out of the article was in her closing where she advised “those headed to law school this fall, seek out a course in entrepreneurship. It may turn out to be the most valuable class of your law school career.”

There is no getting around it—change is here for the foreseeable future. Law firms have to change not because it is the popular thing to do or because it is necessary. Really! They need to change to get ahead as times change and the new competition that Sommer alludes to in her article emerges.

The new economic reality is if you always do what you always did, you won’t get what you always got!

Until next month, remember as Meredith West is reported as having said,

“If you want to stand out, don’t be different, be outstanding.”

Comments or Questions?

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