

Definitely Mabey

The lost art of being an owner

By Stephen Mabey, CA

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Much has been written about the inefficiencies and ineffectiveness of partnership as a business structure. Like most things there is a grain or two of truth in what is being said but the bottom line is there are more 50-plus-year-old law

firms than companies.

In recent years, law firms have flown in the face of this fact and have been driving (or perhaps more accurately been driven) towards embracing a corporate model. So there are no misunderstandings, I am a strong proponent for firms making "business-like" decisions but I see that as being significantly different than attempting to run a law firm as a corporation.

Dr. Larry Richard, a director at Hildebrandt Baker Robbins, has written extensively about lawyer personalities and the differences between the general public and lawyers' personality traits. I would draw the following two extracts from his research to your attention:

- **Skepticism:** Lawyers have a 90-per-cent score for this trait, where as the general public scores only 50 per cent. "It's a very useful trait to have — questioning data, people and information. These are people who will say 'Oh yeah? Prove it.'" That's what people hire lawyers for. We're all born to be trusting and we learn to be skeptical.
- **Autonomy:** Lawyers have an 89-per-cent score for this trait, while the general public scores only 50 per cent. A person with this trait says, "I don't want anyone giving me orders or telling me what to do." When you try to influence the behaviour of lawyers, there will be a natural reaction against that. The best way to overcome "autonomy resistance" is to let the lawyer have input into what they're going to do. Let them

shape their own destiny. Participation leads to commitment.

Wikipedia provides a couple of very relevant insights into "corporate governance":

- The shareholder delegates decision rights to the manager to act in the principal's best interests. This separation of ownership from control implies a loss of effective control by shareholders over managerial decisions.
- A key factor is an individual's decision to participate in an organization, i.e. through providing financial capital and trust that they will receive a fair share of the organizational returns. If some parties are receiving more than their fair return then participants may choose to not continue participating, leading to organizational collapse.

Now it may be just my simplistic outlook on life but there would seem to be an inherent conflict between the personality traits of many lawyers and corporate governance. It also seems reasonable, to anticipate, that this conflict would escalate during tough economic times and/or heightened disgruntlement with the allocation of income.

None of the foregoing is to say that there are not a considerable number of partnerships sailing in a sea of dysfunctionality—there are—but rather simply to point out that adopting a corporate structure can certainly add an additional element of risk of an extended voyage.

While possessing no knowledge of any formal research having been conducted on the issue, the simple country boy I am has to wonder if [trying to resolve the issue of lawyer engagement while at the same time treating them as shareholders is like pushing string uphill with your nose?](#)

Now before folks run off and think I am excusing boorish behaviour, bad manners, disrespect, non-firm mindedness, not doing your fair share, etc. since it is ingrained in their DNA—think again. Work to change your structure so it works better; remove the partners / shareholders / leaders / management that are causing the

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dysfunctionalism; but no matter what you do, you have a real obligation to continue (or start) to act like the owner both you and your firm need you to be!

Thomas Clay of Altman Weil Inc. authored an article in 2002 titled "What are the obligations of partners?" that is as relevant today as it was then. In this article, he identified the following six obligations that every partner needs to fulfill in order to be a real law firm owner:

1. **Client-determined service quality:** clients, prospective clients, and internal clients (other partners) must receive the level of attention, treatment, timely service, etc. that "they" expect from every partner.
2. **Practice development:** to energetically participate in practice development efforts for one's self and for or with others.
3. **Management contribution:** to participate in (some portion of) management to ensure the effective, efficient running of the professional and business sides of the practice.
4. **Skill and knowledge transfer:** through formal and informal means (mentoring, CLE, briefing / debriefing, training programs, etc.) participate in the development of younger lawyers into effective practitioners.
5. **Firm mindedness:** act in a collaborative, team-oriented manner, complying with firm policies, systems, and procedures, treating all lawyers and staff with respect and putting the

firm's interest ahead of your own—no jerks tolerated!

6. **Personal economic contribution:** seek to produce lawyer billings on a yearly basis in an amount that covers his or her compensation plus allocated overhead.

For the most part, fulfilling the obligations of ownership is pretty much a self-regulated activity in law firms as too often partners fail to share their opinions directly with their co-owners. And whether in error or for convenience's sake, owners misinterpret silence as approval of their actions or inactions.

On the one-year anniversary of this column I would be remiss if I did not thank those folks who help to inspire each month's column. Until next month, remember:

"Character is doing the right thing when nobody is looking."



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