

## Definitely Mabey

### Seven New Year's Resolutions for Law Firms

*"Making New Year resolutions is one thing. Remaining resolute and seeing them through is quite another."* - Alex Morritt, Impromptu Scribe.



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A simplistic but functional definition of culture is the way that:

- People relate to each other (consistency);
- People relate to the firm (mission);
- The firm adapts to its environment (adaptability); and,
- How work gets done (involvement).

The year 2016 was successful for a diminishing number of firms, and a year of frustration and falling behind for many others. The reason for much of the diminishing returns in the legal profession is predominately the "culture" that is institutionalized in most firms.

Historically once the culture has been subscribed to there is little interest in embracing change. This "stonewalling" is resulting in the failure by firms to achieve their potential and, dare I say, the prolonged erosion of confidence in private practice (as evidenced by the departure of a frightening number of Millennials).

If firms are to flourish in 2017, they have to take a hard look at their culture and make sure it is one that fully supports execution and not complacency.

Below are seven New Year's resolutions that law firms need to make regarding their culture to be well served by it in 2017 and beyond. This will not be an easy endeavour, and the challenge for many is *"the ability to carry out a good resolution long after the excitement of the moment has passed"*.<sup>1</sup>

1. **Manage the business aspects of the firm's practice in a businesslike manner** – The 2013 Report on the State of the Legal Market a joint production by The Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor concluded:

*"Plainly, to be successful in today's world, most every firm of any significant size must respond to the changing competitive realities of the market by centralizing many of the decisions previously made in more collegial ways and by embracing a consistent strategic vision that is uniform across the firm and that drives decisions and actions in all of its practice areas. At the same*

*time, a firm must preserve the essential qualities that nourish and support great lawyering, including structures that preserve the independence of professional judgment and the autonomy of lawyers to act in the best interest of their clients”.*

Obviously, the key is finding the right balance for your firm. This can only be done if the partnership and managed business proponents in a firm:

- Are willing to appreciate the values espoused by both parties (vision);
- Accept that compromise is the order of the day (buy in); and
- The firm's leadership staunchly oversees the balance and is prepared to make the necessary adjustments, either way, in a timely, consultative manner (producing useful change).

2. **Embrace meeting the demands of reality, accept that there is a risk in everything the firm does, and acknowledge 'to do nothing is to incur even greater risk' – Henry Cloud described the issue in his book [Integrity: The Courage to Meet the Demands of Reality](#) as:**

*“spending time in some alternative universe that does not exist to make the one that we are living in feel better... but, in reality, we can make the one we live in better only by seeing what is going on there and dealing with it head-on.”*

I expect the irony is not lost on the reader that avoiding reality consumes more of your time and energy and thus throws life-work balance off and exacerbates a whole other set of issues.

Signs that your culture has begun to embrace reasonable risk will include:

- When the maintenance of self-esteem is not the basis for making decisions;
- When firm values are not only active but enforced;
- When every significant decision is not referred to a committee;
- Prioritization of tasks is done on the basis of which are the most critical and not the easiest; and
- Keeping up with the Joneses does not override making good choices for the firm.

3. **Equate bullying to the same taboo as misappropriating client trust funds and deal with it accordingly – Bullying is a direct result of tolerance – so cultures must become intolerant – at least in dealing with this issue. Professional services firms in general, and law firms specifically are not immune to workplace bullying; in fact, they are more often than not an incubator for such behaviour. It never ceases to amaze how one person's divisive dysfunctional behaviour can permeate the entire organization like a cancer.**

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Some of the (not so) subtle signals that bullying is occurring in your workplace include:

- Yelling or ranting;
- Door slamming;
- Exclusion of an individual from important meetings (that would normally be expected to attend);
- Knowingly assigning tasks to individuals who are without access to the tools required to complete the task;

- Co-workers recruited to assist in systematically isolating the targeted individual; and
- Trashing the targeted individual behind their back to others in management roles.

4. **Institutionalize quality control (moving beyond lip service to “excellence in client service”)** – Quality control is one of the three drivers of profitability in a flattened or mature market. For the most part, in many firms, formal quality control procedures are trumped by autonomy. In fact, many firms share a common approach to quality control – they hire good lawyers!

Just as hope is not a strategy, relying on hiring the brightest lawyers as your approach to quality control is increasingly risky.

Alternative service providers, like legal process outsourcers, have been able to make significant inroads with clients because they embrace and enforce formal quality management systems. The quality-control management strategies that some leading law firms and all of the established LPOs have embraced include the following components:

- Continuous professional training;
- Formal work intake and allocation procedures;
- Evolving knowledge management systems utilized by all;
- Internal spot checks for compliance and adherence to work methodologies and standards;
- Formal quality audits;
- Dealing with complement issues in a direct and timely manner;
- Formal review process before work delivered to clients;
- Project management as it relates to budgets and timelines for work undertaken; and
- Timely progress and end-of-file reporting and feedback procedures.

5. **Demand accountability** – Law firms typically have a low accountability culture. This lack of accountability is across the board and applies to all aspects of law firms including:

- Financial policies such as time entry, billing, collections, etc.;
- Respect;
- Firm mindedness;
- Business development;
- Work quality;
- Training;
- Succession;
- Client service;

The lack of accountability stems from what has been described as the “cult of the individual”. Be that as it may, I would boil it down to the “exception is the rule” culture – the defense of which has been articulated in profound prose in many a firm.

But simply put, without accountability there can be no execution and without execution, firms are just *treading water* and we know what eventually will happen.

6. **Treat the client as a peer and not someone to patronize** – It is all but impossible to find a law firm website that doesn't tout it as delivering exceptional, superior, client-centric etc. service. For the record, exceptional client service is about

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going beyond what is realistically expected of you. It is about surprising, and often delighting clients, turning them into enthusiastic referral sources and lifelong clients who stick with you not only because you do great work at a fair price, but because the value you bring to them goes far beyond just your services.

Few firms really achieve this level of service – or certainly according to most independent in-house counsel surveys and they are clients so their perception is reality.

Firms need to do less *assuming* and more *asking* to find out what is the value proposition desired by the clients. By value proposition, I mean that combination of service, quality, time, and price the firm delivers to its clients.

The main tenants of exceptional service are not complex despite evidence to the contrary by the (in)actions of law firms and include:<sup>2</sup>

- **Ask real questions** – We avoid getting personal for fear of saying the wrong thing; but by being overly cautious, we miss the chance to create a real relationship;
- **Participate in more than just the matter** – Interacting with your clients outside of a normal business setting will go a long way to reinforcing a real relationship;
- **Help them with services that you do not provide** – Clients will have issues that may be outside your scope of services but none the less you can assist in finding solutions – the pinnacle of which is to introduce them to another client who helps them with their issue;
- **Pick up the phone** – Email is not effective communication! Good communication is key to any relationship. By hearing your voice, clients get that you value them enough to take the time to make a personal call, and it gives you a chance to talk about something other than business;
- **Face the bad times head on** – Clients do not expect you to be perfect. They do, however, expect you to be honest. When something goes wrong, let them know quickly so that they are not blindsided by the issue later on. And never deliver bad news by email. Picking up the phone to discuss the news lets you reassure the client and answer any questions they may have. An after-hours email certainly won't do that for them; and
- **Be thankful and show appreciation** – Too often, we fail to even thank our clients for their business. We are so keen to finish a matter and move on to the next one that we forget to properly show our appreciation. Handwritten letters will delight and surprise your client, not only because you have thanked them, but because the way you did so was personal.

7. **Reward innovation** – As someone once said: “*The only way of discovering the limits of the possible is to venture a little past them into the impossible*”. If you are really encouraging innovation, you'll likely experience more failure than success, because everyone will be trying to come up with the next great innovation. Yes, for the skeptics in the audience, I am suggesting that firms encourage and reward failure (spectacular failure preferably).

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It is critical to the maintenance of a culture for innovation that you remind partners that not all innovations will be financially successful but if properly celebrated the development and execution of a new initiative may pay off even greater rewards through a boost in morale for all members of the firm, heightened stature in the eyes of clients for trying new things, and even introducing a little fear into the minds of your competitors.

**Conclusion:**

There is no doubt culture is one of the most difficult challenges to change in a law firm. It easily can be the greatest enabler or disabler of longevity and prosperity, particularly in these currently vexing times.

But to thrive in 2017 and beyond, change it must!

*“What the New Year brings to you will depend a great deal on what you bring to the New Year.”<sup>3</sup>*

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<sup>1</sup> Cavett Robert

<sup>2</sup> Smashing Magazine, Jeremy Girard, January 2012

<sup>3</sup> Vern McLellan

**Comments or Questions?**

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