



Stephen Mabey, CA
Principal & Managing Director

Definitely Mabey

One issue fits all

By Stephen Mabey, CA

For the past four years, with a steady ramping up to the "sky is falling" theme of articles and blogs of late, parties inside and outside the legal profession have been actively diagnosing its woes. The remedies offered have ranged from self-serving to a genuine interest in being part of the solution.

The most frequently offered remedies include:

Complement balancing: everyone must deal with underperforming partners; reducing intake of new talent; de-equitization; raising the bar of partnership admission; contract lawyers; increasing the number of paralegals;

Sales: (oops I mean business development): sales training; branding or rebranding; more sponsorships; less advertising; commissioned introductions to targeted clients; law firm associations focused on referrals;

Engagement: surveys; focus groups; psychological studies; human behavioural specialists; value statements; vision statements; service statements;

Expense Restraint: staff reductions; cloud technology; mobile apps; office reduction by size and number of locations; training; pooling; supplies procurement;

Profitability: key performance indicators; knowledge management; cost accounting; project management; alternative fee arrangements; task-based billing; rate monitoring; profits per partner; lateral hires;

Strategic planning: shorter cycles; more action oriented; less paper; client interviews; annual business plans; check-the-box lists; market mavens; need to be a business and not a profession;

Compensation: less formulaic; more formulaic; more to rainmakers; broader income gap between 'grinders' and 'minders'; book of business; compensation for all efforts; reduced achievable top end!

I don't doubt some of these solutions have merit for firms whose circumstances really require such a response, although firmly believe there is no cookie-cutter solution for the ills and woes faced by many firms.

If you really want to save money, stop paying for solutions "other firms" have embraced and do what makes sense for your firm!

A lesson was reinforced for me this past month—never judge a book by its cover (or the first 17 pages). I am referring to the ["2013 Report on the State of the Legal Market"](#) that is a joint production by The Center for the Study of the Legal Profession at the Georgetown University Law Center and Thomson Reuters Peer Monitor. This report is well worth a slow, focused read.

To be fair the first 17 pages contain some meaningful statistics and indicators, deal with the results of 2012 in a measured way, and cover off—in a practical fashion—some of the significant challenges facing the legal

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profession/industry (in the interest of appearing balanced to both camps). While the data seems aimed at larger sized firms, there is relevance for small and mid-sized firms if for no other reason than you might appreciate more your vantage point.

For me, the real meat of the report is on pp. 18 and 19, "Changing Partnership Model." The following passage confirmed my hopes that finally someone was going to take a balanced approach to perhaps why partnership models need to change but there is no need to "throw the baby out with the bathwater":

"Some observers have opined that the legal market (at least as regards large law firms) is moving inexorably toward a corporate model of essentially top-down management, in which practicing lawyers will become little more than fungible employees. In our judgment, that prediction is not well founded, but it is true that firms are struggling to strike a new and appropriate balance between models that provide necessary centralized management and structures that preserve the essential independence of professional judgment."

This next section of the report captures the essence of partnerships as they existed (and some still do somewhat today) leading up to the last four years:

"It includes concepts like participation by the full partnership in governance decisions, the provision of services by professionals exercising relatively unfettered discretion, and the use of collegial structures as the basis of organization—all designed 'to respect professionals' desire for autonomy, to maintain the principle of partnership, and to promote acceptance and cooperation."

No doubt a real degree of the stress and dysfunctionality being experienced in firms today is a result of partners clinging to this model when the world in which their partnership operates has changed. The report

points out various competitive forces (aided and abetted by some consultants and the like) have "resulted over time in a misalignment with the underlying ideas, beliefs, and values of many law firm partners." The outcome is a new model they label the "managed professional business."

The report then goes on to draw a comparison of the managed professional business to the historical partnership model as follows:

"The attributes which sociologists of the profession used to identify as the hallmarks of a professional, such as education, vocation, esoteric knowledge, self-regulation, and civility, have been replaced, or at least augmented, by an interpretation that stresses punctuality, style, dynamism, financial success, and entrepreneurialism. The meaning of the term 'partner' has also changed [away from an emphasis on autonomy]. In the MPB, a partner is a team player, one who trusts the leadership and works for the common good, for example by transferring work to the person in the firm who is most competent or short of work."

The good news is rather than stopping here and advocating for the total overhaul and dismantling of the partnership model as so many bandwagoners are doing, the report advocates a more balanced call to action: The good news is rather than stopping here and advocating for the total overhaul and dismantling of the partnership model as so many bandwagoners are doing, the report advocates a more balanced call to action:

"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

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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:

- are willing to appreciate the values espoused by both parties;
- accept that compromise is the order of the day; and
- the firm's leadership staunchly oversees the balance and is prepared to make the necessary adjustments, either way, in a timely, consultative manner.

Until next month, as Bruce Barton is believed to have said:

"Action and reaction, ebb and flow, trial and error, change—this is the rhythm of living. Out of our over-confidence, fear; out of our fear, clearer vision, fresh hope. And out of hope, progress."



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Stephen Mabey, CA, Principal & Managing Director of Applied Strategies Inc., can be reached at smabey@appliedstrategies.ca.

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