

Definitely Mabey

Law firms harmed by risk aversion

The legal profession has repeatedly shown itself to be risk-averse in preferring others to be early adopters and making sure that somehow there will not be any short-term pain for long-term gain from overdue and necessary changes.



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As David Maister pointed out in his book *Strategy And The Fat Smoker*: “As human beings, we are not good at delayed gratification. We start self-improvement programs with good intentions, but if they don’t pay off immediately, or if a temptation to depart from the program arises, we abandon our efforts completely—until the next time we pretend to be on the program.”

In embracing this philosophy, law firms have in fact created more risk for their profession.

Unfortunately, I am convinced that this philosophy is at play again as consultants, managing partners, CEOs, and others are focusing on the need for change, driven by the latest economic downturn, to be predominantly structure- and technology-focused.

To paraphrase a passage from the book *The Power of Full Engagement*: We are machine-centred in our thinking—focused on the optimization of technology and structure—rather than human-centered—focused on the optimization of human alertness and performance.

To illustrate this point, below is a list of issues challenging law firms in Canada and throughout North America:

- Succession planning.
- Admission to partnership is like tenure and bad decisions can’t be easily reversed.
- Generational differences in viewpoints on work ethic, messages that motivate, authority, balance, and value derived from the firm.
- Uniformity at the expense of entrepreneurship.
- Good for me must be good for the firm.
- Lawyer complement.
- Disengagement.
- Lack of camaraderie by laughing at instead of with each other.
- Attitudes not worth catching.
- I versus we.
- Understanding the business of the practice of law.
- Debt load of new law school graduates.
- Degenerating relationships with clients

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- Dysfunctional management (defined as when an effort towards making something better makes it worse).
- Bigger is better mind-set.

While all of these issues should be addressed from a human-centric aspect, to the extent solutions are being pursued, many, if not all, are being tackled from a structural and/or technological perspective. In part, this is because of the ease of dealing in the realm of the abstract and impersonal and in part because of a growing crisis of character.

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.”

So there is no outcry about my impugning the ethics of the legal industry. When I speak of a crisis of character, I am speaking specifically of the “ability to meet the demands of reality.” We all know of people who we would say are strong in character of this nature and have the common trait of being able to self-correct.

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.

Some warning signals that perhaps your firm is not meeting the demands of reality include:

- The automatic assumption that the firm’s view represents the truth when in fact it is just one lens through which the situation is being seen.
- When the maintenance of self-esteem is the basis for not making decisions.
- When firm values are inactive.
- When items are repeatedly included on both formal and informal management meeting agendas.
- Every significant decision is referred to a committee or one is established to deal with the issue by developing recommendations.
- Prioritization of tasks is done on the basis of which ones can be completed the easiest or getting the small win to build upon.
- A mind-set that others can do for us what we should be doing for ourselves.
- Keeping up with the Joneses overrides making good choices for the firm.
- Bullying is not only tolerated but explained.

A note of caution: dealing with reality without tempering things with compassion is just cruelty.

So until next month, think about what Frank Hubbard meant when he is alleged to have said,

"Lots of folks confuse bad management with destiny."

Comments or Questions?

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