Fordham University School of Law
A Continuation of Bridge the Gap:
Coping with Change, Uncertainty and Stress: Evidence-Based Tips
for Lawyer Well-Being

April 6, 2021
4:00-5:00pm ET

Training by:

Dr. Larry Richard [view bio]
Founder & Principal Consultant at LawyerBrain LLC

Reference List of Resources

https://www.lawyerbrainblog.com/2020/03/the-psychology-of-crisis-leadership/
NALP. PD Quarterly (pg 24), LRR, Wellness is the Cake, Not the Icing (November 2018) [view in document]
Bio of Larry Richard, J.D., Ph.D.

Dr. Larry Richard is recognized as the leading expert on the psychology of lawyer behavior. He has advised hundreds of top law firms and major corporate law departments on leadership, lawyer well-being, building psychological resilience, management, and related issues such as teaming and collaboration, coping with change, motivation, innovation, collaboration, influencing skills, talent selection, assessment, and other aspects of professional development and OD. Widely known as an expert on the lawyer personality, he has gathered personality data on thousands of lawyers.

A graduate of the University of Pennsylvania Law School, Dr. Richard practiced law as a trial attorney for ten years. He then earned a Ph.D. in Psychology from Temple University. For more than 20 years, he has provided consulting services exclusively to the legal profession. Formerly with Altman Weil, and more recently the head of the Leadership & OD Practice at Hildebrandt, he launched his own consulting firm in 2011, LawyerBrain LLC.

He is a frequent author and speaker on the use of positive psychology and applied behavioral science in helping law firms and law departments to succeed. He is a Gallup-certified Strengths Coach, and a licensed user of the MBTI, Caliper, Hogan, DiSC, StrengthsFinder and 14 other tools.

(Word count: 200)
Succession Planning for Clients and Practices
by Steve Armstrong & Tim Leishman

The Fifth Trimester: Rules for Supporting (and Keeping) New Working Moms
by Lauren Smith Brody

Wellness Is the Cake, Not the Icing
by Dr. Larry Richard

The Continued Emergence of In-House Career Advising for Lawyers
by Traci Mundy Jenkins

“Edutainment” to Enlighten and Educate about Harassment, Retaliation, and Related Topics
by Kit Goldman
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Welcome to the November 2018
PD Quarterly!

by Janet Smith, PD Quarterly Editor

Law firm PD is often associated with a focus on developing junior-level lawyers. In this issue’s first article, Steve Armstrong and Tim Leishman assert that today “managing the departure of the boomer generation may matter just as much as developing the newer generations.” Further, they assert that talent management professionals are well-positioned to take the lead in creating or improving their firms’ succession planning process — and they provide an important roadmap for doing so.

The issue then turns to advice from Lauren Smith Brody on how law firms can best support lawyers who are new moms (or dads) — in the process improving retention, recruiting, and firm reputation. Next, Dr. Larry Richard explains why “wellness” shouldn’t be a nice-to-have extra perk — and why the real wellness story isn’t about addressing problems but rather about cultivating a workplace that supports thriving, healthy, satisfying lives in the first place.

Our fourth article, by Traci Mundy Jenkins, explores the continued emergence of the in-house career advising role in law firms and how that role can best be integrated with a firm’s PD strategies. Finally, we conclude with an especially timely article: Kit Goldman describes an “edutainment” methodology for training about such critical topics as avoidance of harassment and retaliation — offering sample scenarios to illustrate what “edutainment” means and why it has resulted in extraordinary levels of engagement and knowledge retention.

I encourage you to learn more about becoming a contributor to a future edition at www.nalp.org/uploads/ForPDQauthors.pdf. I also invite you to contact me (jsmith@nalp.org) or Jim Leipold (jleipold@nalp.org) to share your comments or let us know what you want to see in future issues of PD Quarterly.
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Succession Planning for Clients and Practices: Safeguarding Your Firm’s Future

by Steve Armstrong and Tim Leishman

As the boomer generation moves toward retirement, succession planning is becoming increasingly important for many firms, and talent management professionals are well-positioned to take the lead in creating or improving their firms’ succession planning process. This article offers a roadmap to guide them.

Although the professional development function grew up in law firms by focusing on lawyers in their earlier years, firms are now realizing that managing the departure of the boomer generation may matter just as much as developing the newer generations. In a 2016 survey, 43% of equity partners said they expected to retire within 10 years.1 If those departures aren’t managed well, they can put at risk not only client relationships but also a firm’s reputation for the hard-won experience that the departing lawyers carry away with them.

The key to successful transitions is a well-designed, consistently applied process. Without an established process, succession planning — if it happens at all — is too easily derailed by disparate expectations and the self-interest and egos of those involved. That risk is especially high for firms that have abolished mandatory retirement ages — a step many larger firms have taken in response to rulings that, under the employment laws, equity partners should be regarded as employees, not owners, if they work in large firms where management committees make the decisions and most individual partners have little influence.2

The lack of an explicit process can also make clients nervous. If they see no successor for their 65-year-old relationship partner, the partner seems oblivious to the issue, and younger partners at other firms are eager for their business, their loyalty to their long-time firm may not carry the day. As a managing partner emphasized recently, “Clients don’t suffer change in their key lawyers well. Without a process for identifying the next lawyer from the firm, change in or loss of the client relationship is a high risk.”

Talent professionals are perfectly positioned to help firms work through this generational transition. It’s very much on their turf because it’s a key talent management issue. Moreover, it requires their kinds of skills: designing and managing complex

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2 If partners are categorized as employees, the U.S. Age Discrimination in Employment Act may make it illegal for a firm to force them to retire because of their age or, even, to change their partnership status or compensation solely because of their age. In 2007, when Sidley Austin settled the age-discrimination suit brought against it by the Equal Employment Opportunity Commission, it agreed that it would not maintain “any formal or informal policy or practice requiring retirement as a partner, or requiring permission to continue as a partner, once the partner has reached a certain age or age range....” See https://www.clearinghouse.net/chDocs/public/EE-IL-0205-0011.pdf.
Succession Planning for Clients and Practices: Armstrong & Leishman

processes that affect people’s careers and, at the same time, dealing expertly with the emotions and conflicts that not even the best-designed process can entirely subdue.

This article will first describe the data you may want to gather before proposing a succession planning process or revitalizing the existing one. It will then discuss what firms have learned about designing successful processes. The final section turns to the influence of a firm’s culture on how quickly it can put a process in place.

1. Analyzing Your Starting Place: Conducting a Succession Audit

Do you know enough about how retirements will affect your firm over the next decade? If not, collecting the data can be eye-opening. And, if partners are likely to resist the introduction of succession planning, the data can also be persuasive. Data may show, for example, that a significant percentage of the firm’s partners are in their late 50s or 60s, and that a large part of the firm’s revenue comes from clients with whom those partners have the primary relationship.

A succession “audit” can take two approaches. Most firms will benefit from both.

1. Focus on partners within 10 years of retirement from the equity partnership. If that date is unpredictable because the firm does not have a formal retirement policy, focus on partners 55 or older. On a spreadsheet, list each partner’s “assets”:
   • Clients with whom the partner has the key relationship.
   • Average annual revenue and profitability for each of those clients over the past five years.
   • Expertise, especially expertise that differs in degree or kind from the expertise of other lawyers in the firm.
   • A top-tier reputation within an industry or region that attracts clients.
   • The next column on the spreadsheet is critical: is there an obvious successor, someone who is already being prepared to step into the partner’s roles with each client and as an acknowledged leader in the partner’s area of practice?

2. Focus on the firm’s most important assets: its significant clients and its primary areas of expertise. The key questions: which partners are responsible for each “asset,” and are successors being groomed?

Sidebar 1. Clients Retire Too

A succession audit should focus on impending retirements in clients as well as in the firm. A client can be lost not only because the relationship partner retires, but also because the key contact in the client leaves. If a client has its own succession plans — or at least a clear sense of who is in the line of succession for senior positions — then forming relationships with those successors should be part of the firm’s own planning. Even if that’s not the case, partners should be asked — perhaps at their annual review meetings — to describe how they are building the firm’s relationships within each of their main clients beyond their key contact, especially if that contact is in sight of retirement. Some partners fail to realize they may not be the best person to connect with the younger personnel rising through a client’s ranks.
Although these two approaches produce overlapping results, the complementary perspectives can be more illuminating than a single one. And, if a firm draws a substantial part of its revenue from 10 or 25 larger clients, it may want to create a spreadsheet that shows the breadth and depth of the team serving each client, even if the lead partner is not approaching retirement.

Data about expertise “assets” — for example, what is the strength of a partner’s reputation for specific legal or industry expertise? — will be more difficult to gather. But it’s worth the effort. These assets may be even more important to the firm than specific clients, and they may also be the foundation for a client’s loyalty to a partner. Imagine, for example, a partner who is acknowledged to be one of the top three lawyers in the region for issues involving the ski-resort industry. That reputation took many years to build. If a successor to the expertise isn’t identified early and groomed intensively, what will happen when the partner leaves? Even if the partner’s ski-resort clients are long-standing clients of the firm, they may move to the acknowledged experts in competing firms.

2. **Designing a Succession Process: Best Practices**

The Early Steps

An effective process should be formal enough to establish the expectation that it will apply to everyone once they reach a certain age. But it should also be flexible enough to adapt to different personalities and circumstances. The best processes share the following characteristics:

1. **They are described in a formal document.** If there is no written description of the process, it becomes too easy for partners to ignore it, argue for exceptions to it, or feel that they are being pushed unfairly towards retirement. See Sidebar 2 for advice about these written policies.

2. **Conversations about succession begin early.** The first conversation should take place long before a partner will retire or step back from full equity status. If a firm has an expected retirement age, the conversation will typically take place at least five years before that point and preferably seven or eight. Ten years is not too early. If the firm doesn’t have a retirement age, the first conversation typically takes place at a set age, perhaps 55 or 60.

Why the long lead time? First, if there is no clear successor to a client relationship, it may take years for the client to trust another lawyer enough to regard him or her as a welcome replacement. Second, if a partner’s entire life has been the practice of law, it may also take time to face up to the prospect of retiring and think through the next steps.

The first conversation should be informal and supportive. The goal is to explore partners’ thinking about the future and about possible successors, not yet to create a definitive transition plan or to force them to make decisions. Although some partners will welcome this first step, some will not. They may regard it as intrusive or they may not be ready to think about retiring.

Here are some of the likely concerns:

- Am I ready to retire?
- Am I being pushed?
- If I hand over work and credit to others before I retire, what will happen to my compensation?
- Will I have enough money to retire comfortably?
- Will I lose control of my future?
- Are there options other than total retirement?
- I don’t think any other lawyer is willing to invest enough time in my clients to build the relationships.
The first conversation should explore these concerns, in addition to ensuring the partner understands the firm’s policies and expectations. See Sidebar 3 for an outline.

Although the tone should be informal, the approach should be more organized than a casual drop-by. The partner should be given enough time before the conversation to think about the questions he or she will be asked.

A tip: Partners pay attention to who has the first conversation with them. They may feel slighted if it is not the head of the firm in smaller or mid-sized firms or, in larger firms, a senior leader — ideally, one who is also within sight of retirement.

3. **Conversations continue on a regular basis.** Especially if a partner prefers to avoid the prospect of retirement, later conversations will probably go more smoothly if they take place regularly — perhaps at annual review meetings — rather than catching the partner by surprise. In one firm,

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**Sidebar 2. Writing a Formal Succession Policy for the Firm**

An effective written policy has two goals. It should clarify what the firm expects from partners as they approach retirement, but it should also speak in a human voice, not a bureaucratic one, so that the transition process seems collegial and supportive. If aspects of the policy belong in the partnership agreement, they can also be placed there, but the policy itself should not sound like an appendix to the agreement.

Its components typically include some of the following:

1. Its purpose: to ensure the firm’s continuity, serve its clients, support partners’ plans for their eventual retirement, and ensure opportunities for more junior lawyers.

2. The firm’s expected age for retiring or stepping out of the equity partnership, if it has such a requirement. If it does not:
   - its expectation that partners will notify it a certain number of years — perhaps three or four — before retiring and before they notify clients, and
   - the minimum revenue or hours the partner must generate to remain an equity partner.

3. The point at which each partner will first meet with a firm leader to discuss the partner’s view of his or her future (for example, at 55 or 60), and the frequency of later conversations (for example, during annual review meetings).

4. If possible, the firm’s approach to compensating the senior lawyer and the successor during a transition. Although the specifics are likely to vary from one situation to the next, the more clarity about the firm’s overall approach, the less risk of painful conflict as the specifics are worked out.

5. The options the firm offers for continuing with the firm in non-equity roles.

6. Resources the firm will provide (e.g., financial planning or “retirement coaches”).

7. The point at which the partner will be expected to create a formal succession plan.
for example, the managing partner has a yearly conversation with each partner older than 57. If a partner is within three or four years of retirement and does not yet have a succession plan in place, then the conversations should take place more frequently.

4. **Leaders are prepared to address compensation issues.** Partners may be reluctant to involve a potential successor in a client relationship because they are afraid their compensation will take a hit when their work begins to move to the successor. But they may also be reluctant to raise the money issue head-on. How a firm handles this thorny issue depends on the specifics of its compensation policy for partners approaching retirement, but it’s far better to raise the issue early than to appear to ignore it. To be prepared to address the issue, the firm should be clear about two aspects of its approach.

First, how will it allocate compensation between departing partners and their successors? For example, does it expect to “pay double” — or, at least, more — for two or three years to compensate the successor for investing in the relationship without reducing the senior partner’s compensation? Or does it expect the junior partner to delay the rewards of stepping into the senior partner’s role until the senior partner leaves? Or does it expect senior partners to give up some compensation to which they would otherwise be entitled?

The second aspect goes hand-in-glove with the first. How will expectations and evaluation criteria be modified in the two or three years before a partner leaves the firm or moves to a non-equity status? Will the criteria be changed to reflect the importance of helping others take over the client relationships? Should billable-hours and revenue expectations be reduced? For example, one firm that has

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**Sidebar 3. An Outline for the Initial Conversation**

- Begin with the importance of their contributions and their clients.
- Underscore that there is no hidden message: it’s the normal conversation with everyone at this age.
- Ask broad, open-ended questions: “What are you thinking at this point about what you would like to be doing in 5, 10, or 15 years?”
- Ask follow-up questions like a friend: express interest, but don’t press.
- Describe the options the firm offers other than a full equity partnership.
- Offer help with their next steps whenever they would like.
- Ensure they understand the firm’s expectations and policies, especially policies about compensation as partners transition their practices.

If this conversation takes place within five years of a potential retirement, then some more specific issues should be raised either during the initial conversation or in a prompt second conversation:

1. Do you have someone in mind as a successor for each of your clients?
2. If so, what further steps should we take to prepare that person to succeed with the client?
3. If not, how should we go about identifying a successor?
retained a mandatory retirement age has a three-year step-down that begins at 67, with partners reducing their workload over the next three years to five-sixths, two-thirds, and one-half of a full-time hours load, after which they may continue under a contractual of-counsel relationship. At another firm with a less formal approach, when a partner turns 62 the firm begins conversations about phasing down over several years and eventually moving to income-partner status.

5. **Leaders are prepared to talk about options.** For some partners, a clean break with the firm, or with practicing law altogether, may be attractive. Others may prefer a continuing relationship, perhaps with a reduced commitment and reduced compensation. Firms that have an established set of options find it easier to negotiate these ongoing relationships. Although it may be tempting to be less structured about the possibilities, that approach carries risks: the appearance of favoritism, awkward negotiations, and murkiness about what a new role requires.

Some possibilities:

- A continuing equity role but with reduced shares, tied to expectations for hours or revenue.

- An income partner or senior counsel role, with compensation tied to revenue and with clear expectations about how much time the lawyer will devote to his or her practice each year.

The advantage of these two options is that the firm retains senior lawyers’ expertise and connections and, perhaps, avoids the risk that they will join a competitor. A disadvantage is that the senior lawyer will have less incentive to pass work on to another lawyer, unless compensation is structured to encourage that process.

- A contractor role, through which the lawyer is hired to handle certain types of work but is no longer an employee of the firm.

- A non-practicing role, perhaps with a focus on associates’ development, the mentoring of younger partners, or providing support for the firm’s management committee.

6. **Successors are identified early.** The choice is usually easiest for large clients whose work is staffed with more than one partner. In those situations, the client has time to come to regard the second partner as the obvious successor without feeling rushed. For clients whose work will support only one senior lawyer, succession planning will have to focus on the delicate process of introducing a successor to the client at the right time, and the pace of the transitions will have to be guided largely by the client. In firms that rely largely on one-partner clients, a best practice is to emphasize in their general marketing, their communications with new clients, and their client interviews their policy of ensuring a client has more than one point of contact in the firm. For example, one firm tells its clients:

> “In addition to the core team we assign to each client relationship, we always develop a ‘reserve bench’ of available lawyers who are experts in the specialist areas most relevant to each client’s specific business. In this way, we can always assure continuity and quick, high-quality service for all of our clients’ legal requirements. Our philosophy is that our clients will never be left to deal with a ‘stranger.’”

7. **Clients are involved early and often.** Clients won’t be oblivious to the age of their primary relationship partner, or to the fact that they have only one partner whom they entirely trust with their work. By the time a partner reaches 60, even if he or she has no intention of retiring, clients should receive some reassurance that they will not be caught by surprise. They should also be reassured that the firm values them enough to ensure a smooth transition and that they will have the deciding voice — or, at least, a large voice — in choosing a successor and designing the transition.
The relationship partner is usually the best person to provide that initial reassurance. However, if the firm has a formal client-interview process conducted by someone other than the relationship partner, those conversations can uncover concerns that the client is reluctant to disclose to a partner whom they regard as a friend. (For example, concerns about the partner’s apparent choice of a successor or declining appetite for hard work.) See Sidebar 4 for relevant questions. At some point, the head of the firm, group, or office should reassure the client that the firm’s leaders are also paying attention.

8. Partners are offered support. That support can take two forms. First, free or discounted access to financial planning. One firm, for example, provides free access to a financial consultant for all partners when they reach 45. Second, access to advice about options for continuing to remain professionally active after retiring. That advice might come from already retired partners who have made the transition successfully, from other partners who can help the retiring partner find roles in the community or in nonprofit organizations, or from executive coaches who specialize in transitions into retirement.

The Middle Steps

9. Creating an individual succession plan. Although firms differ about when they expect a partner to create a formal succession plan, firms that manage transitions successfully have a clear expectation about the timing. In one firm, for example, all partners over 60 are expected to have a written transition plan, regardless of when they plan to retire. At another, the firm expects partners to put a plan in place at least three years before they expect to retire.

For the ingredients of an individual plan, see Sidebar 5. The plan must be a living document rather than a piece of paper in a drawer: the partner should discuss it with the firm’s leadership and then with clients, and it should be referred to in client interviews and in the firm’s review meetings with both the partner and his or her successors.

10. Ensuring the successor’s success. In addition to the partner’s overall succession plan, the partner and each successor should develop a written plan for each client. This approach may seem bureaucratic, but it can ensure both live up to their sides of the transition bargain. The plan would cover the following topics, although some would be skipped if the two partners have already worked together for years and the successor knows the client well.

Sidebar 4. Questions for Clients:

- Are we giving you the right mix of staffing?
- Are your needs changing in ways that will require new forms of expertise or staffing from us?
- If partner X is entirely unreachable, is there someone else you’d be comfortable calling with a really tough problem?
- What’s your view of junior partner Y, with whom you have worked?
- Which of our associates would you be comfortable relying on if they become partners?
- Would you like to know about our approach to transitions when partners retire?
Sidebar 5. Outline for a Partner’s Succession Plan:

- Expected retirement date, or date at which the partner will give up lead responsibilities for some or all clients.

- List of clients to be transitioned.

- Key contacts in each client, proposed successor, and other lawyers who work with or have relationships with the client.

- The firm’s expectations for the steps the partner will take to make the transitions successful.

- Compensation during the transition period.

- If relevant, the partner’s title after the transition period and continuing expectations for compensation, office space and support, expected workload, etc.

- If relevant, expectations for the partner’s continuing availability to consult and, if necessary, work with the successor. This item and the previous one might be included in an employment contract with a retired partner, if one is put in place.

The steps the relationship partner will take to ensure the successor gets to know all the relevant contacts at the client, not only those with whom the successor has already worked.

- The expectations and schedule for moving specific work to the successor.

- A plan for introducing the successor to other partners (and professionals outside the firm such as bankers and accountants) who are important to the client or can help to serve it.

- If appropriate, a plan for enabling the successor to spend time at the client, including visits to the client’s offices in other cities.

- A checklist to guide the successor’s “education” about a client, if he or she has more to learn:
  - The client’s business and industry
  - What the firm does and doesn’t do for the client
  - The resources the client uses and needs
  - The client’s decision-makers and gatekeepers, including their professional idiosyncrasies and personal profiles
  - Past problems and successes
  - Internal threats (e.g., client personnel with ties to other firms) and external threats (the competition)

11. Monitoring the process. Through the transition years, someone in the firm’s leadership should keep an eye on the process by talking with the relationship partner, the successor, and the client. Ideally, this person should be a partner who is not directly involved in the partner’s practice and who has enough seniority to demonstrate to the client that the firm takes the transition seriously. A member of the firm’s executive or management committee is often a good choice.

The Final Steps

12. Celebrating a successful transition. Partners will be more likely to embark willingly on a transition process if they see others who have succeeded before them. When a transition comes to a successful end, the firm’s leaders should find a way to publicize the success in the firm and praise the participants.
13. **Continue to monitor.** Even if a firm conducts formal client interviews, the head of the firm or a significant partner should speak with the client two or three times during the next year to ask if the transition continues to go smoothly and to demonstrate the firm’s attentiveness. Because it is easy for these conversations to be forgotten, a staff person should be charged with ensuring they take place.

### 3. Taking Culture into Account

If your firm doesn’t yet have an organized succession planning process, how quickly one can be put in place — as well as its design — will depend in part on the firm’s culture and its compensation system for equity partners. Unless the culture is already aligned with the requirements of a formal succession planning process, trying to push forward too quickly may generate antibodies to attack an unwelcome innovation.

Law firm cultures can be arrayed along a spectrum that runs from highly individualistic to highly collaborative. Similarly, their compensation systems, which typically align with and support the culture, range from “eat what you kill” to pure lockstep.

At one end of the cultural spectrum, partners regard clients as “theirs,” not the firm’s. They are reluctant to bring other lawyers into the client relationship. They resist any step that would involve sharing the compensation that results from the client’s work — or, at least, they want to control how they share the rewards. And, more generally, they assume they have total authority over their client relationships. This type of culture usually rests on a compensation system that, if not entirely “eat what you kill,” relies heavily on origination credits.

At the spectrum’s other end, partners assume clients “belong” to the firm. They habitually try to involve other lawyers in a client relationship, and they do not expect to run entirely autonomous practices. This type of culture usually rests on a lockstep or modified lockstep compensation system.

Between these extremes there is a great deal of middle ground. As you think about the effects of your firm’s culture on succession planning, three questions are key:

- Are your partners already accustomed to conversations about bringing other partners or senior associates into their client relationships? If not, how likely are they to resist those conversations as intrusive?
- Do they habitually focus on developing the next generations, or do they more often regard them simply as resources to do the work?
- Are they accustomed to the firm’s leadership exercising some oversight of how they are managing their practices, perhaps through an annual review process that focuses on more than compensation?

If a firm’s culture is likely to resist formal succession planning, the firm then faces a choice. Should it put in place a full succession planning policy and process nevertheless, because the data about impending retirements makes it too dangerous to wait? If so, then it will have to go through the usual process of instituting a difficult change: speaking individually to those who will be most affected, enlisting supporters among that group, using the data to persuade, preparing to confront the most difficult issues (such as compensation), and communicating again and again both individually and to the partnership as a whole about the need for change.

On the other hand, if your firm isn’t facing a retirement crisis, it may choose to begin with incremental steps. First steps might include, for example, arranging for the head of the firm (or the heads of practice groups) to have an informal conversation with each partner who is 60 or older, or clarifying the options for partners who wish to reduce their practice, or beginning a discussion about modifying the evaluation and compensation criteria for more senior partners.
Conclusion

A well-designed succession planning process has benefits that go beyond retaining clients when partners retire. It can also contribute to the firm’s current health. It reassures younger partners and senior associates that their road forward will not be blocked. It reassures senior partners that the firm is willing to support their transition into retirement or semi-retirement. It reassures everyone that the firm’s leaders are looking after its future. It encourages a more thoughtful approach to how clients are staffed. And, perhaps most important, it fosters a one-firm approach to the nurturing of client relationships. It will take effort to implement succession planning if your firm is starting from scratch, but the effort pays off.

About the Authors

Steve Armstrong and Tim Leishman are principals of Firm Leader Inc., which provides consulting and training services to law firms. Steve and Tim focus primarily on designing and conducting programs for law firm leaders on leadership and managerial skills, for new partners on building their practices, and for associates on business development and managerial skills, including delegation and feedback.

Tim was a partner with management responsibilities in a leading Canadian law firm and has been consulting with law firms for 20 years.

Steve is an educator and consultant who led talent management groups at major U.S. firms for 20 years before joining Firm Leader in 2009. Steve also teaches legal writing for judges, government agencies, and firms, and is the co-author of Thinking Like a Writer: A Lawyer’s Guide to Effective Writing and Editing (3rd edition, 2008, Practising Law Institute).
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COOs, HR Directors, Directors of Recruiting, and Directors of Professional Development turn their heads when they see how their attorneys and staff benefit from the advanced features of Micron Systems’ integrated cloud-based talent management platform.
The Fifth Trimester: Rules for Supporting (and Keeping) New Working Moms
by Lauren Smith Brody

Returning to work after maternity leave is a breaking point for many attorneys. Get this critical transition right and you'll improve retention, recruiting, and firm reputation. Here's how.

I'd always heard it took exactly three trimesters to become a mother. Boy, was I wrong.

In my weeks at home on maternity leave after the birth of my first (fussy) baby, I learned about what pediatricians called an additional “fourth trimester.” Human babies are born three months too early, the notion goes, so to soothe your tiny infant you employ tricks like swaddling to recreate the feeling of the womb. Miraculously, it worked on my baby boy.

Only problem: The timing was impossibly ironic. Depressing, even. Just at the moment my baby woke up to the world, got on a schedule, and gave some rewarding soul-filling coos and smiles back to me (his desperate, disillusioned, formerly ambitious-and-competent-executive mother), my 12 weeks of FMLA-sanctioned leave were up, and I had to cut the cord a second time and go back to work full-time in a job that had few boundaries and loads of stress.

Ah, I realized. There's a fifth trimester too. This one is a developmental phase for the parent.

I was a mess, but I was lucky — one of the 56% of U.S. workers eligible to use that unpaid time “off” in the first place. I muddled through, thanks in large part to a compendium of privileges: a supportive spouse, good health insurance, a savings account that could take a temporary hit, a few weeks of paid leave from my employer, parents who could fly to town on a moment’s notice, and a workplace culture that was at least somewhat parent-friendly.

(Ironically, it was also helpful to my career that my husband was still in his medical residency, making me the breadwinner in our family by a factor of three or four. As miserable as I was some days, we needed my paycheck. Thirty percent of college-educated moms in professional jobs drop out of the workforce soon after having a baby, according to research published by the Russell Sage Foundation. That's often because their salaries barely cover the cost of childcare. I knew that quitting wasn't an option.)

On the other side of this enormous transition, I realized that the return to work — while far more challenging than it should have been both emotionally and physically — had set me up to handle all future career and life transitions. It had made me a better colleague and manager. And, most encouragingly, it gave me new drive to find meaning in my work.

After a few years, and a second son, I decided to make researching this fifth trimester my new work. I surveyed and interviewed 732 women who had diverse approaches to both motherhood and career: hourly wage-worker moms, Fortune 500 executives, doctors, lawyers, self-employed entrepreneurs; single mothers, same-sex partner mothers, adoptive moms,

There was good news: Many women, like me, sought deeper meaning in their work after becoming a mother, doubling down on their careers — if they were choosing to work, they wanted to make it count.

And there was bad news, too:

- 76% of women were back on the job before they were physically or emotionally ready to be there.

- 81% of mothers who pumped breastmilk on the job said that working negatively affected their ability to feed their babies the way they wanted.

- 70% of partnered respondents reported fighting more with their spouses during their fifth trimesters than ever before.

- 79% spent less than one hour per week on any kind of self-care.

- Their commutes were 50% more stressful after having a child.

- 48% worried more about getting out the door on time on workdays than they did about their babies’ development (and they cared about their babies’ development quite a bit).

Almost every woman I interviewed — regardless of self-reported ambition level — had experienced at least a temporary urge to quit. Women’s expectations of their gender role at home and their expectations of themselves in the workplace were out of line with the reality our culture actually offered. As I tell my guilt-wracked clients: This isn’t your fault. It’s not your boss’s fault, or your firm/company’s fault. It’s a much bigger cultural epidemic that we all have the opportunity to help solve together, one parent and one workplace at a time.

Whether a mother’s transition back to work happens at two weeks postpartum or after six months of paid leave, it has the potential to derail — or propel — her career. And her employer has more influence over that outcome than anyone.

**Women’s expectations of their gender role at home and their expectations of themselves in the workplace were out of line with the reality our culture actually offered.**

Since publishing my book, I’ve launched a speaking business and consulting firm, also called The Fifth Trimester, to help workplaces learn how best to support parents as they return to work, thus improving retention, recruiting, and reputation. Roughly half of my clients have been law firms and legal organizations — and many of my interviewees, and the women I’ve coached personally, have been attorneys (or, it must be noted, former attorneys now doing different work).

Two broad-stroke conclusions about new mothers and law firms:

1. Law firm maternity leave is typically generous compared to the rest of corporate America…

2. … and yet, mothers drop out in droves.

These are highly educated, highly motivated women, the vast majority of whom enter their career assuming they’ll stick with it, research reported by the National Bureau of Economic Research shows. And yet, the 2016 Diversity Benchmarking Report by the New York City Bar found that while 49% of associates are women, only 19% of partners are female. “Erosion in the pipeline directly affects future leadership,” the report stated. And while voluntary attrition of attorneys is down overall, it still impacts minorities and women disproportionately.
Law firms have a unique opportunity to change America’s workplace culture for the better by supporting new parents in this critical — and relatively short — transition time. Law firms are, by their very nature, afforded a level of respect and “rightness” in our culture that sets a tone that can ripple through other industries and, I believe, ultimately help shape our federal policies (policies like the proposed FAMILY Act that could eventually spare the private sector the cost of these initiatives).

By solving these issues for new parents, moms and dads, firms can keep them for the long haul, making good on the investment of their training, and sending the message to incoming associates: Humans matter here. Now, on to the solutions. Here is how to be an employer of choice (and longevity) for working parents:

**Offer Six Months of Paid Parental Leave**

For my book, I interviewed mothers who took as little as one day and as long as one year. There were women in both scenarios who were satisfied. But generally, 76% of the wide range of women I surveyed wished they had had more time. On average, they reported feeling physically better (not back in their old clothes, but comfortable and healed) at about the 5.5 month mark postpartum. Emotional comfort took a little longer, almost 6 months. This makes sense, too, since they reported sleeping a full adult night’s sleep of 7 hours straight right around then too, at, on average, 7 months postpartum. Six (paid) months is also the amount of time at which researchers have shown that the mother’s risk of postpartum mood disorders declines. And babies of moms who have at least 6 (paid) months of leave are more likely to be healthy. That’s in part because the moms are more likely to breastfeed, which reduces the chance of ear infections, respiratory infections, and childhood obesity, and also because these babies are more likely to make it to their doctor appointments on time and get vaccinated.

**Give Your Existing Policies and Benefits a Hard Look for Inclusiveness**

Cool bells and whistles seem to get the most headlines … things like dry-ice shipping of milk for moms who are pumping and traveling (very helpful and meaningful). Those benefits, while not that widely used yet, go a long way toward showcasing a company’s commitment to retaining women — always a good thing.

But the changes that I think will have an even greater, wider cultural impact don’t always get a lot of attention. These are things like:

- updating policies to be fully inclusive of same-sex parents and adoptive parents, and even step-parents.
- equalizing the leave time offered to men and women, doing away with the notion of a primary versus a secondary parent (this was popular for a while but forces one partner’s time to be more valuable than the other’s time, and you can guess the typical gender breakdown there, which perpetuates the wage gap in several ways — more on this in a bit).
- allowing intermittent leave that lets couples decide whether they’d like to be home with baby at the same time or in succession, thus allowing the baby to mature a bit before being left with a caregiver.
- offering support staff paid family leave alongside corporate employees. Starbucks and Amazon now do this for their hourly employees. A number of law firms that have reached out to me for advice have a very upstairs/downstairs approach to benefits, with the support staff receiving not just less than the attorneys but sometimes almost nothing at all. (It doesn’t help that my HR contact at those firms almost always falls into the “downstairs” category.)
In my consulting, I also talk a lot about “de-uterusing” these benefits. Pregnancy and new parenthood may be the most visible personal life need in the workplace, but I have yet to meet any worker in any stage of life who doesn’t need some personal life support. Expanding policies beyond the realm of parents’ needs benefits everyone and helps keep parents from seeming lesser-than in the workplace.

**Consider a Phase-in Program**

The women I spoke to in tech and law had this in common: When they came back, they were expected to be back at 110% right away. Often, that was almost impossible. Initially, they robbed time from their personal lives and self-care to tend to work. But quickly, that led to resentment and career ambivalence. Phase-in programs offer a more humane and sustainable approach that lets workers adjust emotionally and logistically to the new demands on their time and focus. A 2015 report done by KPMG for Vodafone showed that a global policy offering returning mothers a four-day week at full pay for six months would save $14 billion in childcare costs, easing families into the financial adjustment to parenthood as well. I’ve met with women from several firms that have optional phase-back programs, some paid, some prorated, some tied to billable hour expectations, some a few weeks, others a few months. In almost every case, it was the first thing the mother mentioned to me about her experience. Goes a long way, doesn’t have to cost a lot.

**Make Sure Your Space Works for Breastfeeding Mothers**

I interviewed one former Wall Streeter (she quit) who worked at a financial firm in downtown Manhattan. It had a gorgeous lactation suite for the (very few) mothers on staff. The room, she told me, was appointed by a famous interior designer and even had a view of the Statue of Liberty. Clearly, the intentions were good. But no one used the room. It was up a long elevator ride too far from the women’s offices. None of the time and money invested in benefits matter if workers feel like they can’t use them.

On the other side of the coin: Facebook’s NYC office has a fairly spartan lactation suite. It’s friendly but small, with ugly tan lounge chairs with little desks attached. There’s a sink and a refrigerator, and the room is located in a central spot. It’s extremely functional, and perfectly user-friendly. The Facebook moms I spoke to raved about it.

By law, women are entitled to time and clean space (not a bathroom) to pump breastmilk for their babies. If you don’t have an appropriate space, I’ve seen office sharing and rotation plans that have been a reasonable accommodation.

In terms of time: My survey respondents said that, on average, the actual time spent pumping breastmilk was 20 minutes, three times a day. Unfortunately, the logistics around pumping — setting up, cleaning parts, traveling to the pumping space (waiting for elevators and the like), storage of milk — was almost an additional hour per day. Whatever you can do to make those logistics easier is worth real money and time. A lock on the door, a mini fridge under a desk, the one-time cost of a hospital-grade pump. These make a real difference.

Women also reported struggling with the stigma of pumping, of seeming like they were “on a break.” Those who were happiest and most successful pumping were able to work during their pump times, taking calls, or getting through emails uninterrupted. Wherever women are pumping, make sure there’s good wifi, light, and outlets so they know that this can be time found, not lost. All of that matters so much more than how “fancy” your lactation room is.
Sponsor Women’s Leadership Initiatives in More Than Name

You’d be hard pressed to find a big firm that does not have some form of internal women’s support group. Same goes for diversity and inclusion. But how many of those groups have a designated budget? And how many offer their members flexibility to meet and peer mentor one another during the workday? Very few.

• When Venable LLP — a notable exception to the above — hosted me for a lunch and learn at its Washington, DC office, one young associate stood up during the Q&A portion after my talk and thanked the senior partners — most well out of their childbearing years — who had taken the time to attend. I’m paraphrasing, but she said something like, “I’m glad to know that you’d host an event like this and that my future here matters to you. But thanks also for being here yourself so I know that I’m not missing emails from you right this minute.” Everyone laughed in knowing appreciation.

• Another large firm I’ve been in conversations with offers its attorneys a yearly continuing education stipend to use however they would like on an array of offerings, including maternity coaching. This is tricky, because, again, intentions are great. (And clearly, I’m biased, because this is a part of the work I do.) But if a woman chooses to spend her stipend on back-to-work coaching and no longer has the funding to attend a career-advancing conference, has she just mommypacked herself? Possibly.

Offer the coaching. Offer the lunch and learns. Offer the mother mentorship networks. Some women will use them. Some won’t. All will simply be glad they’re available.

Offer Flexibility of Location and Hours — for All

The best policies I’ve seen in this regard are, surprisingly, the least specific. Employees who are allowed to propose their own flex plans tend to err in favor of getting their work done. That’s a win for everyone. Often, they’ll find that their superiors are worried about the slippery slope of setting a precedent that would be hard to maintain firm-wide. I always advise, for this reason, that they propose a trial plan. This allows the employee to remain accountable. And, often, her needs will change and evolve as her baby ages even just a few months.

• One important note: Encourage men to engage in these conversations around flexibility as well. That 2016 diversity benchmarking report from the New York City Bar showed that while 9% of females used flex time, only 1% of males did. The message that sends, just looking around the office, is that men are more valuable and more needed in the workplace than women, further contributing to the erroneous assumptions of the Motherhood Penalty and the wage gap.

• Surveys of millennial workers — who will make up 75% of the workforce by 2025 — show that this generation values flexibility and work/life integration highly, in some polls more than their salaries. Flexibility is the reality of our workforce, not the exception. If we can no longer leave work at work, we can’t be expected to leave home at home either.

Account for the Unique Pressures of Making Partner

“‘I’m hitting my hours, just barely,’” one associate, a new mom, told me in a Q&A at a bar association foundation event. "But if I want to make partner, I need to ‘make rain,’ and I just don’t have the time and access to that kind of networking right now.” Oftentimes, I’m told, this is why new mothers don’t advance in law. They don’t have the time to bring in business, or they are cut out preemptively by well-intended colleagues who think that they can’t, or don’t want to, take on work that would push their careers to the next level.

Admittedly, I don’t have the universal answer here. Is it moving away from billable hours? Allowing flex time so that new parents can work from home and apply that saved commuting
time to the “stretch” client wooing portions of their workday? I’m sure the answer varies firm by firm. I’m equally sure that a firm’s very bright women lawyers would like to propose a plan. Some of the most thorough, well received, economically advantageous plans I’ve seen in all types of organizations — including the new plan at *The New York Times* — were developed internally by women’s committees.

**Make Room for Pro Bono, and Pro Mother, Work**

Similarly, don’t underestimate new mothers’ desire to do meaningful work, even if that means taking on more work than before. New mothers may have to set new limits and become more efficient, but that doesn’t mean they want to beg out of work. If anything, most want to have a deeper and more personal connection to their work to help validate their careers. So, don’t count them out of “extra” projects. Ask if they’re interested.

At Crowell & Moring LLP, in Washington, DC, attorney Maya Uppaluru began researching and writing about access to health care for new mothers soon after returning to work from maternity leave. She recently published stories in the *Harvard Business Review* and the *Washington Post*’s new feminist newsletter, *The Lily*. This work adds a whole dimension to her expertise, benefitting her firm, too.

> All of these policies impact cultural norms in a legal setting. But transparency, I’ve found, is the key to changing any workplace culture for the better.

**Be Mindful of Hidden Income Loss from Parental Leave**

Even attorneys who are paid in full through their parental leaves may take home less total compensation at the end of the year when bonuses and equity are calculated. It’s a problem that can be compounded as increases are measured looking at year over year income. The best policies account for time away without penalizing the employee. At American Express, employees receive their full annual award incentive bonus for up to the fully allotted 28 weeks of leave. If an employee chooses to take unpaid leave beyond that, the bonus is appropriately prorated. In my experience, these kinds of policies seem to elicit few, if any, grumbles from non-parent employees. If anything, they build morale. One waitress in Ohio described a similar scenario that she and her colleagues developed: When one was pregnant and unable to take on as many tables or shifts, they pooled their tips and divided evenly to include the new mother equally.

All of these policies impact cultural norms in a legal setting. But transparency, I’ve found, is the key to changing any workplace culture for the better. Because if colleagues — both junior and senior — can see that new moms both struggle and survive, the workplace will be kinder, and everyone will realize: This is simply a transition, a developmental Fifth Trimester.

And we do develop. As workers and mothers, we emerge from the Fifth Trimester stronger. New working mothers reported becoming more decisive, more efficient, more comfortable saying yes to things that matter and no to those that don’t. They focus on deliverables. They become, essentially, ideal employees. They also become ideal mentors, role modeling full lives and passionate pursuits for their colleagues. They manage up and down differently, knowing full well that, like it or not, people see you differently once you’re a parent. You see yourself differently too.

It took me far too long to realize that.

I wish my expectations of myself, back in my dark days, had been more reasonable. I wish I had known that the challenges of new working motherhood were not a failure on my part but proof of new muscles growing stronger. And I wish I had known to be more hopeful. These days, I am.
About the Author

Lauren Smith Brody is the author of *The Fifth Trimester: The Working Mom’s Guide to Style, Sanity, and Success After Baby* (Doubleday/Anchor) and the founder of The Fifth Trimester movement and consulting, which helps parents and businesses collaborate to create a more family-friendly workplace culture. The Fifth Trimester has been featured in *The New York Times*, on Good Morning America, CNN.com, Fast Company, and dozens more outlets, and Lauren has been a featured speaker at companies and organizations including Facebook, Fried Frank, The New York Times, Google, American Express, The Wing, GLG, and more. She has written about the intersection of business and motherhood for, among others, *The New York Times, Slate, Bloomberg Businessweek*, and Elle. Later this year, she will be featured at the Women’s Conferences in Massachusetts, Pennsylvania, and Texas. A long-time leader in the women’s magazine industry, Lauren was most recently the executive editor of *Glamour* magazine, where she ran the editorial staff and produced the magazine’s annual Women of the Year awards, honoring luminaries like Dr. Maya Angelou and Hillary Clinton. She is also the founding editorial director of #FAM x Condé Nast, a new brand for Millennial parents. Raised in Ohio, Texas, and Georgia, she now lives in New York City with her husband and two young sons.
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Wellness Is the Cake, Not the Icing
by Dr. Larry Richard

Think of wellness not as a “nice-to-have” perk that gets added on after all the “important” stuff has been addressed. Think of it as the last remaining untapped source of competitive advantage for your firm.

Over the past three years, several confessional articles have been published by recovering lawyers who struggled with addiction or depression, and by survivors of lawyers who ended their lives by suicide. In addition, a major study of lawyer substance abuse was published by the American Bar Association in 2016. These articles have received far more attention than similar articles in the past, and have started a long overdue national conversation about the importance of wellness in the legal profession.

Moreover, they’ve inspired many law firms around the country to begin some serious efforts at establishing a variety of programs designed to intervene with, support, or rescue impaired lawyers.

But the real story is not about how to deal with the endgame — lawyers who are already suffering from these conditions — it’s how to design a workplace and cultivate a workforce that supports thriving, healthy, satisfying lives in the first place.

Think of wellness not as a “nice-to-have” perk that gets added on after all the “important” stuff (i.e., utilization, leverage, realization, pricing, margins, expense control, etc.) has been dealt with. Rather, you are well advised to think of wellness as a set of integrated and systemic practices that should be deeply embedded in your firm’s culture, and should touch every aspect of the practice that touches human beings. Think of it as the last remaining untapped source of competitive advantage for your firm.

What we need is a comprehensive “preventive medicine” approach. The latest scientific research on wellness offers law firms a great opportunity. The practices, policies, and workplace conditions that lead to a healthy, thriving, and satisfied lawyer also happen to be among the most powerful drivers of profitability, productivity, employee engagement, client retention, and excellence in the practice of law.

But the real story is not about how to deal with the endgame … it’s how to design a workplace and cultivate a workforce that supports thriving, healthy, satisfying lives in the first place.

And, in focusing on the “wellness” end of the spectrum, it’s not enough to just add educational programs or a meditation room, yoga class, or physical fitness program to the perks that you provide your lawyers.
To understand the power of a wellness approach, we first have to understand why law firms are more vulnerable than most organizations to “unwellness.”

To begin with, law firms have a built-in bias toward the negative. We are trained in law school to “think like a lawyer.” One of the main things this involves is learning to challenge every assertion, to be skeptical, to look for faults, problems, things that are wrong or could go wrong, to pay attention to what’s not working instead of to what’s working, and to be vigilant about the motives of others.

In addition, my friend and colleague Dave Shearon has frequently written about how lawyers must face values conflicts every day in their work, and how this alone can erode well-being.

According to a study published earlier this year in Harvard Business Review, the practice of law was ranked as the loneliest occupation.¹

In short, what we do every day for a living puts us at risk for undesirable mental states and their consequences.

Now add to this all the newer pressures we’re all facing — accelerating change and uncertainty, rising pressure on prices, greater competition from new types of providers, increased commoditization of practice specialties due to increasingly sophisticated clients who have more and more access to information that used to be within our exclusive control, and so forth — you get the idea.

These emerging forces amplify the stress that results from all the built-in elements I’ve described above. It’s no wonder that lawyers are suffering. We need to address this in a systemic way. We need to make “wellness” an integral part of the law firm culture so that all of our personnel are steeped in cultural reminders about how to create the kind of positive environment that counteracts the negativity that is often a necessary by-product of our work.

Many of the stressors I’ve identified here are either outside our control or they’re things that we really don’t want to or can’t afford to change. But we do have choices: We can (a) change how we respond to stress on an individual level, and (b) change the conditions and environment within which we practice law — that is, change your current law firm culture into a “positive law firm culture,” i.e., one that supports and drives thriving and well-being.

Luckily, it’s in this area that the greatest advances have been made in the social sciences in the past 20 years. And these advances give us some powerful principles and practices that can:

- Provide help and solace to those already suffering, and even reverse the damage that stress may have already caused;

Further, law is based on an adversarial model. As we internalize this model, we become less empathic and more tolerant of “we-they” thinking. Research shows that this type of thinking produces negative emotions.

Decades of research in the field of cognitive behavior therapy (CBT), amplified by more recent neuroscience research, show that (a) our thoughts actually generate our feelings, and (b) negative thoughts generate negative feelings.

Further, we know that a steady immersion in negative feelings can lead to anxiety, depression, and palliative behaviors (e.g., drugs, alcohol, etc.) designed to numb us to those unpleasant mental states. It can also lead to profound loneliness. According to a study published earlier this year in Harvard Business Review, the practice of law was ranked as the loneliest occupation.¹
Wellness Is the Cake: Richard

• Build psychological resilience and mental toughness to help us cope with ongoing sources of stress and adversity; and

• Inoculate us against future stressors by fostering more sweeping cultural changes across the entire firm.

So, what can a wellness approach do to achieve these outcomes, and in the process provide the other desirable benefits first noted above?

While "wellness" is often thought of as fostering physical health, it’s much more than that. In fact, evidence is mounting that the psychological factors may be even more important than the physical factors, or at least that the two are inextricably intertwined. Multiple scientific studies over the past two decades have shown strong links between psychologically positive cultures and the desired outcomes we all want for individuals and firms. There is a vast literature spanning many disciplines — some studies look at “happiness” at work, others look at “engagement,” still others look at “work satisfaction,” “positivity,” or “positive emotions”— for purposes of this article, I’m lumping them all under the category of “positive cultures.”

For starters, one of the most influential articles makes a strong case that happiness leads to success, rather than the other way around. Most lawyers I talk to seem to make the flawed assumption that success will lead to happiness.

Extraordinary research comprising dozens of other studies explores the payoffs that come from building a happier, more engaged, more energized, or more satisfied workforce. Here’s a list of just some of these payoffs:

• Better mental health
• Better physical health and immune response
• Greater productivity
• Higher creativity and more innovation
• Greater commitment to work

• More supportive and less critical attitudes at work
• Greater collaboration
• Higher resilience and a greater ability to recover from various adversities
• Better coping with conflict
• Better social connections
• More effective leadership
• Lower turnover
• Fewer mistakes
• Greater shareholder value
• Stronger customer loyalty

And higher profitability is even another payoff. Research by Professor Kim Cameron at the University of Michigan has shown that various positive cultural practices contribute to higher profitability, efficiency, and effectiveness.

Here’s a summary of some of the principles and practices that should be incorporated into a positive law firm culture.

The Basics

Any wellness program, of course, needs to focus on the physical components — the importance of proper diet, adequate exercise, sufficient sleep, proper health monitoring, and regular checkups. These are necessary but not sufficient elements.

The real potential for a transformative culture comes from psychological principles and practices. These can have enormous potential to create a law firm climate that fosters thriving and overall wellness. Here are the most important ones:

Positive Emotions: Although there are many competing models for how to create a positive culture, nearly all of them include primarily practices that are designed to evoke positive emotions in a reliable and ongoing way. Research shows that positive emotions are the principle driver of most of the beneficial outcomes listed above. Fostering positive emotions in
the workplace can offset many of the negative emotions that are part of practicing law. Here are some simple examples of things that a firm can do to begin to actively foster positive emotions:

- Reserve five minutes at the beginning of every meeting to recap what’s working, what we’ve done well so far, and/or what we’re proud of.
- Reserve five minutes at the end of every meeting to not only itemize commitments and action steps, but to also call out what worked well in the meeting.
- Teach your leaders to “catch somebody doing something right” (credit to Ken Blanchard and his 1982 classic, The One Minute Manager).
- Teach your leaders to increase the use of “please” and “thank you.”
- Teach all your lawyers the simple but powerful “Three Good Things” activity and encourage them to do it daily.
- Employ a “Reciprocity Ring” at firm retreats.

**Meaning:** People thrive when they know that the work they’re doing matters — i.e., when it’s meaningful. We often become so absorbed in the intellectually stimulating legal work itself that we lose sight of the impact that it has on the client. To counter this, a comprehensive program needs to build in ways to encourage lawyers to pay attention to both. Training and development programs need to be designed in such a way that lawyers can see the linkage between the work they’re doing and the effect it has on the client.

Research shows that there are four pathways to meaning:

- **Purpose:** There are two elements to “purpose”— having a goal that evokes passion or inspiration, and using your strengths to serve others in a meaningful way. But be careful — Psychologist Robert Vallerand makes a critical distinction between “harmonious passion” — loving something in a way that is enriching and that generates positive emotions — and “obsessive passion” — being slavishly compelled to keep pursuing something even if you suffer as a result.
- **Belonging:** Feeling part of something bigger than yourself; feeling accepted and connected to others in the workplace.
- **Transcendence:** Stepping outside yourself and becoming connected to a higher reality — through art, religion, spirituality, nature, sports, or other forms of awe, wonder, or excellence.
- **Storytelling:** Making meaning of your life experiences by the narrative you tell yourself about those experiences; journaling is often used as an effective tool to help people make sense of their lives, especially as a way of coping with adversity.

Meaning in life and work can be one of the most powerful antidotes to the disconnected and lonely feelings that often lead lawyers down the path toward depression, substance abuse, and in some cases suicide.

**Autonomy/Control/Discretion:** Almost as frequently, the literature identifies how important it is for workers to have an ongoing experience that they are the masters of their own ship. That is, people want to see evidence that they have the autonomy to make decisions every now and then about things that are meaningful to them. The opposite would be micromanaging someone. The choices need not necessarily be momentous...
Wellness Is the Cake: Richard

— the key is that the individual has the freedom to regularly exercise some control over his or her own experience.

Social Connection: The importance of this element cannot be overstated. Feeling connected to others produces copious amounts of the hormone oxytocin. And the more oxytocin, the more people trust others, the more collaborative they are, the more engaged, and the higher the profitability. Researcher Paul Zak has studied the neuroscience of trust and its role in forming these connections, as well as the payoffs it brings.  

You can cultivate social connection in several ways:

• Increase the feeling that an individual belongs — to his/her practice group, to the office, to the firm. (Notice that “belonging” is important for both social connection and meaning.)

• Cultivate a culture that actively encourages people to form and sustain authentic relationships.

• Design the architecture, reward systems, and workflow to make it easy for lawyers to form “best friendships.” (Gallup’s research shows that people who report having a “best friend” at work are seven times more engaged than those who don’t.)

• Foster a culture of collaboration. Don’t require everyone to collaborate on everything — collaboration pays off best when it’s done selectively and smartly. Under those conditions, it can have a huge payoff.

• People want to feel “known,” i.e., they want to know that others see their true, authentic self, as opposed to seeing them as a two-dimensional caricature. In a law firm, this can be achieved most simply by learning more about an individual’s life experiences and personal likes and dislikes during the supervision process.

Mastery/Competence/Strengths: We have 75 years of research indicating how powerful it can be to focus on one’s strengths. People are motivated by the feeling that they are progressively mastering a skill and growing increasingly competent and effective in using that skill. When the skill is also something that they enjoy using, and they get to the point where they do it effortlessly, it can be considered a “strength” as well.

Research shows that when managers place more emphasis on cultivating strengths as opposed to repairing deficiencies, workplace engagement soars, and what Gallup calls “active disengagement” drops from 22% to 0%! When people get to use their strengths every day, it leads to high levels of engagement, work satisfaction, and overall well-being.

People are motivated by the feeling that they are progressively mastering a skill and growing increasingly competent and effective in using that skill.

The practices I’ve covered represent the core drivers of workplace well-being. There are over a dozen other principles and practices in the literature that also contribute to well-being. Here is a list of just some of them:

• Optimism
• Goal clarity
• Clear expectations
• Evidence of progress toward a meaningful goal
• Pride
• Respect
• Gratitude
• Giving
• Fairness
• Flow
• Growth mindset
• Fostering emotional intelligence
• Mindfulness
Wellness Is the Cake: Richard

You need not implement all of these in order to create a positive culture. But the ones you do implement need to cascade throughout the firm culture in a saturating way. They must be encapsulated in overall policy considerations, embedded in firm-wide messaging, captured in cultural artifacts and symbols, conveyed through stories, taught to and role modeled by leaders, and constantly reinforced among the rank-and-file lawyers and staff. They need to be so pervasively a part of the culture that the average worker in your firm can’t escape their daily influence.

None of this is easy. Changing individuals is hard. Changing an entire culture is harder. But the one saving grace is that we are now living in a time of greater change than any of us has ever experienced. And one upside of being in such a disruptive climate is that most of your people are more likely to be receptive to internal change initiatives now than at any previous moment. So, take advantage of this window and commit to changing your culture for the better. Not only can you reduce lawyer loneliness, depression, and substance abuse, but you can increase everything good about working together, including worker satisfaction, client satisfaction, and the bottom line.

Endnotes

1 Achor, Shawn; Kellerman, Gabriella Rosen; Reece, Andrew; Robichaux, Alexi (March/April 2018), “America’s Loneliest Workers, According to Research,” Harvard Business Review.

2 I’m using “wellness” and “positive culture” interchangeably in this article.


5 https://ggia.berkeley.edu/practice/three-good-things
https://www.youtube.com/watch?v=ZOGAp9dw8Ac.


About the Author

Dr. Larry Richard, founder of Lawyer-Brain LLC, is widely regarded as the leading expert on the psychology of lawyers. He practiced law as a litigator for ten years, and then earned a Ph.D. in Psychology from Temple University. He’s been studying lawyers for over 25 years, and turning that knowledge into techniques for performance improvement. He is a trusted advisor to leaders of law firms and law departments around the world. www.lawyerbrain.com.
Wellness Is the Cake: Richard


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The Continued Emergence of In-House Career Advising for Lawyers: Practical Considerations for Integrating the Role with Your Firm’s PD Strategies

by Traci Mundy Jenkins

An in-house career advisor demonstrates a firm’s commitment to the career development of its lawyers. The suggestions in this article are starting points for creating a foundation on which to build and expand the position.

With an increasing number of law firms incorporating a career advisor/counselor/coach as part of their professional development team, what are the practical steps for maximizing the success of this new support for the firm’s lawyers? In my current role as Career Development Advisor — a newly created position in Venable LLP’s Professional Development and Training Department — my previous experience in law school administration, legal recruiting, and as a practicing lawyer creates a transferable foundation for developing an in-house career counseling program.

Prior to rejoining Venable, my most recent position involved 15 years of focusing on the career development of law students as assistant dean for a career services office at a large law school. That career development encompassed all facets of utilizing students’ new legal skills and strengthening their professionalism for careers in the public and private sectors. Now, I am fortunate that the opportunity to develop an in-house counseling program materialized at the same law firm where I grew my legal practice for seven years. This full-circle moment in my own career confirms that the journey of career exploration continues beyond the conclusion of formal academic training — it’s an ongoing process for all of us.

Revisiting the Need for Career Development Support for Law Firm Lawyers

What’s in a name? Although the title of an in-house career advisor (the term that will be used in this article) varies depending on the law firm, the position is usually held by an individual who supports the firm’s efforts to ensure that the lawyers’ career development goals — as well as their greater professional development goals — are met. (See the sidebar on the following page for some of the titles now in use by firms for this role.) A career advisor typically serves as a confidential sounding board on a wide range of topics impacting a lawyer’s progression and development. These include questions and strategies on topics such as effective communication, building internal and external professional relationships, and navigating the path to partnership — and even working with lawyers who say, “I want to leave the firm and/or legal practice altogether!” The ability to address a broad spectrum of inquiries, as opposed to being viewed as the firm’s “secret” contact for departures, adds value to the role and expands the landscape for confidential and impactful discussions.
A Note About Terminology

This article uses the term “career advisor” for the in-house career-focused role that is continuing to emerge at law firms. In reality, a wide range of labels is used to describe this role. Some of the titles currently in use at law firms include: Associate Career Development Counselor, Attorney Career Counselor, Attorney Career Development Manager, Career Coach, Career Counselor, Career Development Advisor, Career Development Manager, Career Guidance Specialist, Career Link Coach, Director of Career Development, and Professional Development Counselor. Note particularly the use of “coach” versus “counselor.” Caution should be used when selecting the title based on the actual functions of the position.

While most agree that the addition of a career advisor is a good idea, the criteria used to determine who best fits the role are often defined by a firm’s needs. Considerations include:

- Will all firm lawyers have access or is the focus on a certain subset (e.g., associates)?
- Is past experience with legal career counseling required?
- Is it important for the candidate to have a law degree and/or practice experience?
- Is a coaching certification preferred and, if so, what kind?
- Will a background in creating and organizing programs and resources be beneficial?
- Should the individual possess past experience interacting with key decision-makers in their organization?
- All of the above?

One clear illustration of the potential for an in-house career advisor to make a positive impact is provided by the recent NALP Foundation report entitled Update on Associate Attraction: Findings from a National Study of Law Firm Associate Hiring and Departures — Calendar Year 2017. The report states that, in general, firms of all sizes continue to experience a major outflow of associates during the first two to five years after the associates are hired (p. 11). This statistic not only highlights the need for action, but for further probing about why associates are leaving, where they are going, and the feelings they are taking with them.

The NALP Foundation report goes on to assert that the most frequently cited reasons for an associate’s departure were “career changes to other types of legal jobs” (17%), followed by feelings that “work quality standards were not met” (16%), and “pursuit of specific practice interests” (16%) (p. 26). However, “… the most frequently reported job-type destination for departing associates was “law firm associate” (41%), a 4% increase from 2016” (p. 29). Based on this data, while associates may want a “career change,” most of the movement is to another law firm. That, coupled with more than half of the departures being labeled by the law firm as “unwanted” (as opposed to “desired” or “neutral”) means that firms are losing their investments in trained talent to competing law firms.

So, we understand why it’s important to incorporate the career advisor position into a law firm’s professional development initiatives. What remains is the “how.”
Continued Emergence of In-House Career Advising: Mundy Jenkins

During my short tenure in the law firm professional development world, it has become obvious to me that true value is offered through programs, trainings, and resources. However, the corresponding challenge is encouraging lawyers to take advantage of those available tools for success. Professional development specialists understand that the internal and external achievement of lawyers is important to the firm and that the costs to interview, hire, integrate and train a new lawyer can be exorbitant. Multiply that by numerous hires on an ongoing basis and the cost can significantly affect the firm’s bottom line.

Keeping in mind that law firms are businesses, the focus on an efficient and stable workforce should be a priority that is a close second to providing exceptional customer service. An in-house career advisor can help maximize the firm’s talent while minimizing the associated costs of departing lawyers, particularly those who are “unwanted” losses and those who have less than positive feelings about their firm experience. If lawyers decide to leave, the hope is that they do so with positive feelings about the firm, its lawyers and staff, and the skills they developed during their tenure with the firm. The following strategies are aimed at achieving that outcome through the assistance of the career advisor. These five strategies are suggestions for the new career advisor, but they should also be understood by PD and other talent management professionals within a firm.

1. **Review the Overall Firm Structure, Professional Development Programs, Trainings, Resources, and Other Firm Support Already Available**

   Let’s call this the “sponge stage.” Not only is your new law firm career advisor role being added to an established team, but in many cases the career position will be a new position that lacks any precedent for past implementation. Conducting this assessment not only educates you, as the new career advisor, about the firm structure and its offerings, but complements your understanding about the culture of the firm, firm management, and where there is a need for help. In addition to learning about the professional development department, this includes becoming familiar with the operations of the practice divisions/groups, practice management, training, marketing and/or business development, diversity, pro bono, wellness and related benefits, human resources, alumni relations, evaluation, recruitment, and library services. Any meetings and/or programs sponsored by those departments and committees represent an invaluable opportunity to learn more about the firm, its operations, and what it already offers to its lawyers.
As important as it is for you as a career advisor to understand the big picture of where the firm focuses its efforts, it is also important for the firm leaders to understand the career advisor role, what it is (and isn’t), and its scope and function.

Meeting with lawyers and staff aware of the firm’s operations is crucial to an advisor’s education process. At Venable, the lawyers are divided into four divisions: Business, Government, Intellectual Property, and Litigation, with a partner chair for each. There are four to seven practice groups led by other partners within each division, and those groups include lawyers of all levels. My initial introduction to many of the division lawyers was through division meetings that often included lawyers in the firm’s other offices followed by several practice group presentations. I explained my new position and obtained a sense of how each division or group operates, how work is assigned, and the expectations of the lawyers.

As important as it is for you as a career advisor to understand the big picture of where the firm focuses its efforts, it is also important for the firm leaders to understand the career advisor role, what it is (and isn’t), and its scope and function. By way of example, my introductions and presentations outlined my role and its scope: a firm-wide focus on the firm’s associates, the confidential nature of career counseling that spans a variety of topics, and an explanation of how I intend to add value to them as owners of the firm — essentially by optimizing the performance of associates for the benefit of the internal clients (partners) as well as the firm’s external clients.

When taking stock of the existing firm support, consider the multitude of available resources — and whether there are benefits to further developing them and/or creating new resources. In particular, if there are trainings or resources already available to your lawyer population, you should become familiar with their content so you can advocate for their use when appropriate. Although substantive training is offered, consider whether it can be delivered in a different way or encompass other content that aids the lawyers with whom you are working as a career advisor. If other techniques are needed to help lawyers determine their strengths, priorities, and values, would self-assessment tools fulfill that purpose, and, if so, which ones? As the interactions with a career advisor’s lawyer population grow, particularly with increased individual career counseling sessions, the resources will automatically expand and an arsenal of tools will be developed that can be utilized depending on the situation presented.

2. Determine Additional Career Development Needs

After conducting my initial assessment, I started to figure out the best ways to supplement existing resources, particularly given the wide array of topics that arise during associate discussions. I also reviewed and compiled different self-assessments for the lawyers’ use. The type of self-assessment that is recommended depends upon the associate’s needs. For instance, does the associate want guidance on working with others, or help with defining their career goals and personal values? Since some assessments serve a distinct purpose, it’s important to understand what can be gained from each type of assessment. In the end, I took a few self-assessments with which I wasn’t familiar so that I could comprehend their purposes and results.

It’s important to consider how lawyers will work with you in your career advisor role. How can they schedule appointments, particularly when multiple offices and time zones are involved? If programs are part of your position’s responsibilities, planning a schedule of proposed programs and sharing it with the PD department will ensure that your programs don’t conflict with other internal professional development training opportunities — and that the timing is appropriate based on content and lawyer level. Is it practical to order food? (If you feed them,
Continued Emergence of In-House Career Advising: Mundy Jenkins

they will come — but lunch on the East Coast means breakfast on the West Coast.) Think also about other resources and ideas for counseling and programming that will benefit the lawyer population with whom you are working. Important trends may start to emerge across practice groups and offices after increased engagement and interaction.

Finally, are there professional organizations that you, as the career advisor, should join, or does the focus of engagement need to shift within those to which you already belong? What sources should be explored to gain a better understanding of professional development generally if this is a new field for you? Are there internal and external trainings that would advance your understanding and development in the field? All of these approaches strengthen the career advisor’s standing as a “go to” resource for the firm’s lawyers.

3. Strategies for Introducing and Promoting the Position to the Target Lawyers and Other Members of the Firm Community

Invest time in outlining the proactive steps needed to enhance lawyer utilization of the additional support a career advisor offers, particularly since the role isn’t necessarily viewed through a “mandatory” lens. Considerations include:

- How should the career advisor role be marketed to the lawyer population being supported?
- How and when is the career advisor involved not only with current lawyers but lateral hires and their integration process, and the orientation for entry-level lawyers?
- When the firm has multiple offices, how does that affect the plan and timing?
- Is there an opportunity for recruiting efforts to be enhanced by demonstrating the firm’s commitment to the career development of some or all of its lawyers after they are hired?
- Are there natural times in the year when it’s important to connect with certain lawyers?

I was introduced to the firm’s associates in person during a visit to each office. We organized programs and, when possible, the associates were grouped based on their level of experience. The purpose of my career advisor role, the ways in which we could interact, and how they could schedule appointments were outlined. I also asked the attendees to participate in a short assessment exercise so they could better understand the connection between their personal goals and how those impact their performance as associates. In addition, the associates were given the opportunity to schedule individual career counseling appointments during each of my visits.

In the end, it’s important to ensure that partners who lead divisions, departments, or practice groups are positioned as fully aligned advocates.

In many firms, associates complete a career development assessment as part of their evaluation process. Depending upon how a firm structures its evaluations, the evaluation process could easily lend itself to conversations between lawyers and the firm’s career advisor. This is particularly true if lawyers are asked to set goals for the upcoming year and if the chance for self-promotion, advocating for training, or taking advantage of leadership opportunities exists. Another question dependent upon how a firm structures its evaluation process is whether the career advisor should be involved and, if so, how.

In the end, it’s important to ensure that partners who lead divisions, departments, or practice groups are positioned as fully aligned advocates. Once they are educated about how the career advisor can help them, particularly by cultivating and enhancing lawyers’ professionalism skills, these partners will become allies who can promote the career advisor’s support to those with whom they work.
4. Identify and Foster Effective Collaborations with Other Firm Departments

Which departments and programs present opportunities for critical partnerships, and how should these partnerships be developed? I can share two examples of how I have collaborated with others at Venable.

It was an effective way to show the link and continuity between networking (or simply building professional relationships) as junior-level associates and how that can evolve into business development for senior-level associates and beyond. The first entailed a blended learning “flipped classroom” program that was a joint effort with the firm’s senior business development manager. This was an obvious collaboration because of the intersection between building a professional network and transitioning those relationships to a business development platform.

The associates were encouraged to review an eLearning module on the topic of networking. That was paired with a series of programs that discussed the module content, offered practical advice based on the dynamics of the firm, and created a space for interactive sessions. It was an effective way to show the link and continuity between networking (or simply building professional relationships) as junior-level associates and how that can evolve into business development for senior-level associates and beyond. The program was recorded for access by others who could not attend one of the live in-person/video conference sessions.

An added benefit of that collaboration was that I received a subsequent invitation to be a presenter during a firm-wide business development team meeting because of the recognized synergies between professional and business development. If an associate is successful on the path to partnership, attention will necessarily turn to business development. Based on my firm’s current structure, the business development guidance is led by professionals on that team, so, at the appropriate time, the associate is encouraged to work with them during the next phase.

The second example of collaboration involved lawyer wellness. With the increased emphasis on the impact of wellness on the overall well-being of lawyers at all levels, a collaboration with the firm’s wellness department again resulted in a natural partnership. Like many law firms, Venable offers an array of incentives for participation in wellness programs, although some lawyer populations aren’t aware that the programs extend beyond staff and are also for them. As part of my career development focus on the firm’s associates, I routinely remind them about the programs offered by the wellness department. With the approval of that team, I created a pilot program for a segment of associates on wellness topics ranging from fitness and healthy eating to stress management, organization of their workspace, and overall well-being from emotional, financial, physical, and social perspectives. Highlighting these initiatives from a number of angles will hopefully result in increased awareness and participation.

5. Contemplate the Best Ways to Track Progress and Measure Success

To demonstrate the integration of the position into the firm’s professional development department and beyond, it’s important that you regularly review and analyze your activities as career advisor — especially since, for many firms, this is a new position for which a roadmap doesn’t exist. Tracking your activities as career advisor illustrates the value-add of your position for the target lawyer population and for other departments, divisions, and committees across the firm. Deciding how and when to report may depend on a preferred frequency. Over time, the reporting will also help you and others uncover trends and determine what’s working, what needs to be adjusted, and how the position can be used for other efforts not originally contemplated.
Tracking your activities as career advisor illustrates the value-add of your position for the target lawyer population and for other departments, divisions, and committees across the firm.

Although my method of tracking has remained constant, I routinely incorporate other categories as my outreach and activities expand. I compile a monthly report that is shared with my firm’s Senior Director of Professional Development and Training and the firm’s Chief Operating Officer. The report includes the number of associate counseling appointments and such details as the associate levels, their office location, how each appointment materialized (my outreach or proactive outreach by the associate), the meeting method (e.g., in-person, phone, WebEx), whether the associate is a lateral, and whether the appointment was an initial or repeat appointment. From there, graphic illustrations are developed from the data to easily make monthly comparisons.

The report also includes information on my activities, including programs offered, the number of associates who registered versus actual attendance, presentations, attendance at internal and external meetings, and my personal professional development activities, as well as a preview of forthcoming plans. Although content, format, frequency, and presentation of reports may vary from firm to firm, it’s good to develop a habit of monitoring progress on activities and collecting informal and formal feedback to constantly evaluate how career development support can best be delivered and utilized.

The “success” of a career advisor necessarily depends on the reasons why the individual was added to the team in the first place and how they relate to the goals deemed most important by the firm. In addition to the defined skillset, a positive attitude, active listening skills, a desire for creativity, and the willingness to learn and be flexible are several attributes of a successful career advisor.

Conclusion

The process of career development is ongoing, particularly for lawyers, given the many career paths available to them. For a law firm, once exceptional legal talent has been recruited, nurturing that talent should be a priority. It’s clear from research and anecdotal reporting that the chances that an entry-level associate will reach partnership in their initial firm diminish as time goes on. Efforts therefore need to be devoted to what happens to a firm’s investment in talent while the lawyers are at the firm and beyond.

An in-house career advisor certainly demonstrates a firm’s commitment to the career development of its lawyers. The suggestions in this article are starting points for creating a foundation on which to build and expand the position. Although the business of a law firm relies on external clients, it’s just as important that internal clients (partners, counsel, and sometimes senior-level associates) be sustained by the best talent possible and, in turn, that the talent be cultivated — resulting in high-performing lawyers.

Even when lawyers decide to leave a firm, it is extremely important to ensure that good feelings about the firm remain as they navigate their careers. You never know when a full-circle moment can happen: a happy alum (like me!) is a win-win for all!

The suggestions in this article are starting points for creating a foundation on which to build and expand the position.
Traci Mundy Jenkins is the first Career Development Advisor at Venable LLP, the law firm where she was a commercial litigation associate for seven years. Prior to her return to the firm earlier this year, Traci was the Assistant Dean for Career & Professional Development at American University Washington College of Law for fifteen years, where she partnered with law students and alumni on all aspects of their career development. Traci has also served as a director of attorney placement at a legal staffing company and as the managing partner of a start-up legal recruiting and diversity consulting company.

Traci earned a JD from the University of Virginia School of Law and a BA in Economics from Wellesley College. She is a frequent speaker on legal recruitment and professional development topics and is a former member of the NALP Board of Directors.
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“Edutainment”: Harnessing the Power of Entertainment to Enlighten and Educate about Harassment, Retaliation, and Related Topics

by Kit Goldman

Employing an “edutainment” methodology for training on critical workplace topics can achieve extraordinary levels of engagement and retention.

The “Edutainment” Genesis

It was October 1991. In my office, above the stage of the playhouse I built and operated in San Diego’s historic Gaslamp Quarter, I sat riveted — nay, mesmerized — watching the Clarence Thomas–Anita Hill hearings on a tiny, desktop TV.

For many of us outside the labor law community, that was the dawning of awareness about sexual harassment — an issue now in the consciousness of pretty much anyone not dwelling with the forest animals or contemplating their navel in a cave.

After a long run as an entertainment industry professional and early Gaslamp Quarter pioneer, I was ready to move from arts into business. I had built two theaters, produced over one hundred professional shows, had written, directed, and performed in dozens of productions, and longed to merge that passion with another passion: education, where a prior career track and my academic creds lay.

Watching those hearings, I had a prophetic thought: “This would make an amazing play.”

At that moment I had no clue that other momentous events involving sexual assault and harassment by U.S. Navy and Marine aviators who were members of the Tailhook Association had taken place the month before at their convention in Las Vegas. These events would ultimately propel our “edutainment” methodology into the limelight.

The embryonic idea that formed during the Thomas–Hill hearings took root. I left the theater to explore entertainment as a vehicle for workplace education. Friends of mine in human resources, where sexual harassment was now a hot topic, were eager for innovative methodology. An HR manager in San Diego put together a focus group to try it out. I teamed up with a lawyer/actor, we wrote and performed three issue-packed episodes, and the HR manager facilitated discussion around our “living hypotheticals.” The engagement and participation were off the charts. The concept had legs.

In 1992, the Tailhook scandal erupted. Lt. Paula Coughlin, a victim of sexual assault at the convention, went on television and told all after she reported the wrongdoing to her superiors and was unceremoniously shut down.

I teamed up with a lawyer/actor, we wrote and performed three issue-packed episodes, and the HR manager facilitated discussion around our “living hypotheticals.”
Repercussions from the Tailhook scandal were seismic, particularly in San Diego, where many of the alleged perpetrators were based. The Navy declared a stand-down day when 4,000+ personnel would gather at the Convention Center for eight hours of sexual harassment awareness training led by retired Navy Commander Dr. Kay Krohne.

An attorney in my orbit knew Dr. Krohne and connected us. Facing 4,000 military folk who didn’t want to be there for eight hours with only a podium and projector was a daunting prospect, so our collaboration was welcome. I wrote — and an ensemble of professional actors and I performed in — a series of realistic, hard-hitting, nuanced scenes evoking the military workplace — with just the right amount of humor to get the medicine down — providing living, breathing examples to explore and assess.

Requests for this unique training poured in. We became road warriors with Dr. Krohne and in smaller sessions, many of which were at the U.S. Office of Personnel Management in Denver, the methodology was honed, our subject matter expertise grew exponentially, and we developed the foundational constructs that today define our signature training. My co-trainer and I became recognized as accomplished facilitators and subject matter experts on our own.

In 1994, harassment took another giant leap into the collective psyche and created a national showcase for our rapidly evolving “edutainment” concept. Court TV, started in 1991, was now a ratings giant. When a prominent partner at Baker McKenzie, then the world’s largest law firm, was accused of forcing himself on a female subordinate, he faced off in court with his accuser and it earned prime coverage on Court TV. Their producers caught wind of our training and we wrote and performed a compelling dramatization for their coverage of the case.

Shortly thereafter, we launched a groundbreaking, decade-long collaboration with Littler Mendelson, wrapping our methodology around dozens of employment law topics, and providing scripted episodes and interactive segments for Littler client training.

Each year at the Littler Employer conference in Monterey, we did a deep dive into the “new new things” with the visionary attorney, Garry Mathiason, providing an “edutainment” tapestry for his general session.

Out of that collaboration came a quintessential example of the power of “edutainment” — a three-day total immersion frequently compared to training maneuvers with live ammo!

Following are some snapshots of the “Edutainment” experience.

**Conducting Lawful Investigations: The Investigation Course**

On the morning of the first day, 20 to 25 managers and supervisors from across the country file into a break room, get coffee, and grab a seat. What they don’t know is that among them are two of the five professional actors specializing in interactive training whom they will meet as “witnesses” in an “investigation” over the next three days.

Out of that collaboration came a quintessential example of the power of “edutainment” — a three-day total immersion frequently compared to training maneuvers with live ammo!

After introductions, one of the attorneys leading the program tells everyone that for the next three days they are no longer who they are with their actual employers. Instead, they are collectively the HR manager for a fictional company for which the leader provides a little history: It was a start-up and now, with explosive expansion, there are growing pains, problems with the culture, and issues involving misconduct, power abuse, and the like. An org chart is passed out and the attorney starts
profiling key players, including a rock star female sales executive named Diane Donnally. Reference is made to a situation between Diane and one of the company’s founders.

At that point, the actress portraying Diane rises in the audience and emotionally interrupts the proceedings. The group is jolted and, for a few short moments, is unsure whether this is real or part of the program. Every eye is riveted on her as she speaks:

Diane: ... Excuse me.... I’m sorry to interrupt. It will only take a minute. If you’re going to talk about me, there’s something I need to say.... It’s really important. Not just to me ... to everyone here (moves to the front of the room). I’m Diane Donnally. And what the attorney said about the problems here? That’s exactly what’s happening (emotional). I ... personally ... am in the middle of a really miserable situation ... with David Burton, one of the company’s founders. I’m a really strong person, OK? I thought I could handle anything. Believe me, in this industry you learn how to get along with aggressive men. But this ... (more emotional, verge of tears) nothing I knew how to do made it stop. So I had to file a complaint. About Burton. I examined my options and none were left. He’s got a lot of power in the company. I’m scared about what this will do to my career, and you have no idea how important that is to me....

Now another actor, playing Jason, Diane’s colleague, pipes up and makes his way to the front of the room.

Jason: Diane, can I ask you something? (to audience) Hi everyone, I’m Jason Richards. I work with Diane. (to Diane) Don’t take this wrong. You know I’m always on your side, but ... you always seemed fine with Burton. I mean, he is who he is.

Diane: I know. (to audience) I put up with it for a long time, kept trying different things to get it to stop. I never liked it or welcomed it. But I’m a good actor. He was my boss, my mentor. Maybe I seemed comfortable, but I wasn’t! I’m afraid no one’s going to believe me. I’m no saint. I’ve done my share of wild and crazy things. You know what I mean. I’ve been known to have a few drinks. A few skeletons. Losing a major account because of ... (very emotional) I had to contact an attorney. I feel like my career — my whole life — is on the brink of ruin. Even if the company sides with me, David will never forgive me. He’ll make life a living hell. I might as well kiss my career goodbye. (cries momentarily) I’m sorry. This is really stressful for me. I feel so powerless. I’m having trouble coping. And I’ve never had trouble coping. Thank you for listening. Hopefully you can figure this mess out so we can all get on with our lives. (She throws down stack of complaints, exits.)

Now Diane’s complaint is distributed and the attorney reviews it with the group. It details ongoing harassment and possible assault at a conference in Vegas. After an overview of investigative procedure, small groups are formed and assigned to rooms where they plan and conduct their investigation over the next three days. Files with relevant documentation are provided to each group — with some key items held back to see if it they are requested. Our five expert actors portray the witnesses, raising vital issues and confronting the investigators with the full array of typical investigative challenges. Attorneys observe, coach, guide, and instruct. On the third day, each group submits a report with recommended remedial action, and one member of each group must defend their report in a mock trial at the end.

This kind of experience can achieve extraordinary levels of engagement and retention and create mental muscle memory to apply the learning on the front lines.

Disruptive Physician Behavior

The construct we created for the investigation course has been a vehicle for intense engagement on numerous other topics in many venues over the years.

In the health care arena, we provide the experience in collaboration with super dynamic attorney, Carlo Coppo of Nossaman LLP.

Imagine this: you’re attending the CAMSS (California Association of Medical Staff Services) annual conference. You grab a seat in the packed breakout session on Disruptive Physician Behavior.
Edutainment: Goldman

This kind of experience can achieve extraordinary levels of engagement and retention and create mental muscle memory to apply the learning on the front lines.

Halfway through the program, a clearly distressed woman stands up in the audience. She is in scrubs, says she is the Operating Room Supervisor at her hospital, and asks if she can speak. She says what the attorney is describing is exactly what’s happening at her hospital, starts telling the group about an incident with a physician the day before, then says “… You know, rather than me telling you about it, let’s re-wind the clock to yesterday so you can see for yourself....” At that moment, an angry man in a lab coat, the physician she referred to, comes out of the audience and confronts her in a hostile and aggressive manner.

In the scene that unfolds between them, we learn that the physician threatened and harassed the OR staff, sent a tray of sharp instruments flying, and stormed out of the ER with a patient waiting. He feels justified because of perceived disrespect. He indicates he is under tremendous pressure from his workload. We learn it’s not the first time he has exploded. There has been harassment, and misogynistic and racially offensive rants and comments. His conduct was reported, but he is a top admit- ter and nothing was done. When the nurse tells him she must report the conduct to the Chief of Staff, the doctor laughs it off, demeans her, and threatens reprisal. The nurse turns to the audience for input, and interactive discussion flows like a river in spring.

Although it’s quickly apparent that this is an enactment, at the start there is palpable concern, anxiety, and watchfulness. Audience members express how their thoughts race to assess the risk and decide what to do should someone go off the rails.

While this gripping format has been part of our signature methodology for more than two decades, it has never resonated more intensely than today. We performed this last year at the CAMSS conference on June 2. Fast forward less than a month to June 30 at Bronx Lebanon Hospital at 2:45 pm. That’s when an actual doctor, “allowed” to resign in 2015 amid sexual harassment allegations, walked into the hospital with an AR-15 assault rifle concealed in his lab coat, shot and killed another doctor, and injured six others. He was described as aggressive, talking loudly, and threatening people.

It was our scene played out to where you never want it to go. It brought home in stark terms how crucial meaningful, impactful training is to a safe and harmonious workplace.

While this gripping format has been part of our signature methodology for more than two decades, it has never resonated more intensely than today.

Sexual/Workplace Harassment and Retaliation

This is our core training, which we have delivered all across the legal landscape, including for numerous firms, State and County Bars, Inns of Court, Federal Defenders, the U.S. Court of Appeals for Veteran Affairs, and the National Center for State Courts.

In a highly interactive opening segment, we lay out key information regarding quid pro quo and hostile environment harassment (verbal, visual, and physical), state and federal law, protected classes (now including gender identity and expression in many states), complaint procedure, supervisor responsibility, and liability.

Exercises with attendees bring to life the underlying concepts of intent vs. impact, and welcome vs. consenting. These are vital distinctions.
We drill down on these issues of particular relevance to law firms:

- Harassment as non-work-related conduct.
- Definition of the workplace.
- Harassment by outside third parties, such as clients.

Unlike most industries — notwithstanding entertainment and media where we have many clients — legal professionals may be exposed to materials or conduct that can reasonably be considered offensive as part of their work. It’s important to remember that harassment is conduct not necessary for job performance and that definition changes depending on the workplace.

*Unless management truly understands their legal obligations in such circumstances — the need to take immediate and appropriate action and what that action is — there can be substantial risk for the firm.*

It’s also important to understand that the workplace is anywhere work-related activity takes place. Much off-site work-related activity is required for legal professionals. Sometimes it might not feel like the workplace, but it is. Also, for members of management, anywhere employees of the firm are present must be considered the workplace, even if it is a purely social encounter. When there is not equal power or authority, social situations where something inappropriate occurs can continue to resonate in the work environment.

Harassment by outside third parties, such as clients, is a vital and sensitive area for law firms. How about that prominent six-figure client who engages in sexual teasing or banter, tells off-color jokes, or wants someone younger, or more attractive, or of another gender, race, or ethnicity? Unless management truly understands their legal obligations in such circumstances — the need to take immediate and appropriate action and what that action is — there can be substantial risk for the firm. We make sure everyone knows the rules of that road.

Now, speaking of risk… often the last of the three episodes we perform in our harassment training explores workplace romance and the ominous specter of favoritism.

Romance between coworkers with equal power and authority is never advisable for many reasons, but it doesn’t have to be toxic if things stay professional at work. Conversely, romance between a member of management and an employee, regardless of whether there is a direct reporting relationship, is fraught with peril and to be avoided at all costs. We like to leave our learners with a cautionary tale on that note. Following is an abbreviated version of the scene.

*The setting is a bar and grill. The characters: David, a partner (or manager), and Sheila, an employee. Sheila doesn’t report to David; she works for Stan, David’s best friend at the firm. Sheila and David have been an “item” for the past six months. She’s at a table waiting for him.*

SHEILA: David! Over here.

DAVID: Hey, sorry I’m late. Have you been here long?

SHEILA: Long enough to have a Long Island ice tea. At least there’s an upside.

DAVID: You want another one?

SHEILA: Sure. You’ll have one too, right?

DAVID: No, I’ve actually got a meeting after this.

SHEILA: Are you okay? You seem stressed.

DAVID: I am. Very stressed, actually.

SHEILA: What can I do to put a smile on that handsome face?

DAVID: I wish it were that simple.
SHEILA: What’s so complicated? Oh, speaking of complications, you need to call your buddy, Stan. There’s a glitch about me going to the conference with you next month.

DAVID: Glitch?

SHEILA: This morning, Stan gave me the list of who’s going so I can set up the travel. My name wasn’t on it. The only support person going is Bambi.

DAVID: Did you talk to Stan about it?

SHEILA: Yes! He went into a song and dance about the budget — how it looks like favoritism because I went to New York and San Francisco with you. Anyway, I said you needed me there, for staff support, and you’d call him….

DAVID: Why did you do that? He knows I don’t need “staff support.” Why not just send out an email letting everyone know we’re sleeping together? I can’t believe you did that.

SHEILA: Honey, I’m sorry. I thought it was just as important to you as it was to me. Besides, everyone knows we’re sleeping together. The rumor mill’s the most efficient system in this place! Stan’s assistant even posted a picture of us on Facebook.

DAVID: What??

SHEILA: I thought you knew. Anyway, will you call him?

DAVID: Sheila, we need to talk about something.

SHEILA: OK.

DAVID: Listen to me. This morning, I’m in the men’s room. In the stall. Two of the managing partners come in. They don’t know I’m there, right? I lift my feet up. They start talking about this married partner who’s screwing up bad, overstepping his authority, getting perks for an employee who’s got him by the

... whatever. I’m thinking, “Who could this idiot be?” Then they said his name.

SHEILA: Oh my gosh, who was it?

DAVID: Who was it? It was me! Listen, Sheila … please don’t be upset. We’ve got to stop.

SHEILA: (stunned) Whoa, whoa. Time out. Hold on. You don’t mean that. I know you don’t.

DAVID: Don’t tell me what I mean. We agreed if things got uncomfortable — for either of us — we’d call it quits as friends. No questions, no anger, no bitterness. Remember?

SHEILA: (upset) Yeah, I remember. Actually, I’ve been expecting this. I’m too old for you, right?

DAVID: Haven’t you heard anything I said? It’s not …

SHEILA: Not attractive enough, is that it? …

DAVID: … No … I mean … yes … no … you’re very attractive. And I care about you….

SHEILA: (very upset) OK, let’s see — you care about me. I’m attractive enough. I’m not too old. But you’re calling it quits? Uh uh, David. I know you too well. You’ve got the hots for that little … Bambi, don’t you?

DAVID: Look, Sheila, things are out of control. I cashed in favors with Stan to get you that window workstation everyone wanted, the merit increase, the trips. Stan took a lot of heat over it. Now you want me to call him about another conference? Stan’s your boss. It’s his decision. My credibility’s turned to crap. What happens when another employee, man or woman, runs into HR and complains about what or who you have to do to get job benefits and points right at me? That’s harassment, Sheila. It’s all over the news. I’m not going out like that.
SHEILA: David, please listen to me. I love you. I didn’t get involved for the perks! I swear! You’re all I want! I honestly didn’t know I was causing problems. I’ll never ask for anything again. So, the problem’s solved!

DAVID: Sheila, we both knew this would end sometime. It’s been beautiful. I have no regrets. Listen, we’ll go back to being friends, go to lunch….

SHEILA: (tearful) What are you talking about? You think we can act like you’re just another partner and I’m just another employee after what we’ve been to each other?

DAVID: I know I can. I mean it’ll be tough … but you know … we have to. What choice do we have?

SHEILA: (breaking down) I don’t know. I don’t think I can see you in the parking lot, stand next to you in the elevator, watch you put your moves on someone else. I trusted you with my heart, my feelings. Now you’re throwing me away like trash. Do you know how humiliating this is? I don’t think I can go back. I need to look at my options.

DAVID: Of course you’re going back. What are you talking about — “options”? There’s only one option: get past this and get on with our lives. What do you mean, “options”?

SHEILA: I don’t know. I’m confused. Feeling a lot of … what do you call it? …. emotional distress. I never really wanted to get involved with you. I only did it because you’re my boss’s best friend and I was afraid to say no. I need to talk to someone. Get some advice, support. Maybe human resources. Maybe Gloria Allred.

DAVID: (to audience) OK, everyone. Group hug! What did I do? What should I do now?

Interactive discussion follows on key learning points:

- Favoritism
- Quid pro quo
- Welcome vs. consenting
- Power abuse
- Manager responsibility/liability: knew or should have known
- Employee personal responsibility
- Social media
- Investigation
- Remedial action

The interactive “edutainment” format is designed to hit these critical benchmarks for effective training:

- **Engagement.** Attendees must be compelled from the get-go to tune in and open up to what’s being offered. Interactivity and scenarios for discussion are great tools for engagement.

- **Impact.** Training needs to hit home on a personal level and make a powerful statement about the importance and relevance of the learning.

- **Internalization.** There must be sufficient depth for learners to chew on the information, digest it, engage in critical introspection, and synthesize key concepts in the context of their own lives in order to become enlightened as well as educated.

- **Retention.** Better retention of learning is achieved through engagement, impact and internalization, and resulting enlightenment. Powerful images and interactions will be recalled and inform learners during real life incidents.

- **Application of knowledge.** When learners are engaged and impacted, information is internalized, and enlightenment occurs, the content becomes part of participants’ thinking and actions.
Shall we end this serious exploration on a lighter note? Let’s do! A while ago, a prominent attorney with whom we often collaborated was heading up the California State Bar Employment and Labor Law Section and wanted to bring some fun to the annual meeting. We introduced a character named Nick Dicta, the Singing Judge, who brought a legal dimension to some iconic hits by The Eagles. This one is to the tune of “Lyn’ Eyes.” Feel free to sing along!

_Labor lawyers out in California_  
_Know how strange a life in court can be_  
_So if you’re comin’ buddy, let me warn ya_  
_Assume you’ve lost your mind a priori_  
_Now if your boss says “fire her, she’s no hottie”_  
_Remember Yanowitz v. L’Oreal_  
_No teeth in mandatory arbitration_  
_Dissing ain’t no trespass at Intel._  
_“Our hands are clean,” claim folks at Dial_  
_Then spent 10 mil avoiding trial_  
_Say pretty please, get on your knees_  
_Or the court won’t tap the common fund for fees_  
_NLRA, FMLA_  
_ADA, tell me what’d I say_  
_DFEH, EEOC_  
_ERISA, COBRA, OSHA, EAP_  
_SLAPP & ANTI-SLAPP’s got tongues a-flappin’_  
_Don’t sue till you’ve exhausted remedies_  
_What’s needed to make arbitration happen_  
_A modicum of mutuality_  
_HIPPA, WARN, FLSA_  
_Retaliate and you’ll pay_  
_The labor zone is quite bizarre_  
_Enough to drive a lawyer to the bar_  
_Grab your briefs and head down to the bar_  

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**About the Author**

Kit Goldman is a senior consultant for Wolf Management Consultants, LLC. She is a nationally acclaimed trainer, facilitator, and subject matter expert — and professional actor — who has enlightened audiences totaling more than 800,000 professionals on human and legal issues in the workplace. Her firm’s unique “edutainment” methodology harnesses the power of entertainment to enlighten and educate on dozens of workplace topics, and achieves unsurpassed levels of engagement and retention.

Wolf Management Consultants is considered one of the most comprehensive consulting, coaching, and training firms in the country committed to providing long-lasting results to law firms of all sizes. For further information contact us at (858) 638-8260, by email madams@wolfmotivation.com or visit our website at www.wolfmotivation.com.

Neil W. Hamilton

Roadmap: The Law Student’s Guide to Meaningful Employment is a guide to sharpen students’ awareness of the characteristics most valued in the workplace — whether it is in a law firm, a company, or a government entity. The map encourages students to use their time in law school to develop the competencies important to their future. The book helps the reader form a conscious plan to demonstrate these self-development experiences. It's a great resource to enable students to be better prepared to enter the search for employment.

The Lawyer’s Guide to Mentoring, 2nd Edition

Ida O. Abbott, Esq.

The essential guide for lawyers, their employers, and the legal profession. Updated in 2018, this NALP bestseller offers practical tools for establishing successful mentoring relationships in today’s dynamic legal workplace.

Developing Talent: A Practical Guide

Gaye Mara & Nora Mara, Editors

Presenting the expertise of 38 PD professionals in one comprehensive handbook, this volume draws from updated versions of previously published PD Quarterly articles.

Innovating Talent Management in Law Firms

Terri Mottershead, Editor

Experts in talent management, HR, and PD from firms, law schools, and legal consultancies in the US, UK, and Australia provide tips and tools for firms as they consider future strategies and as schools reshape curricula for the future.
News and Press Clips

You Can’t Change What You Can’t See

Much of the past research on gender and racial bias has relied on psychological experiments, such as the well-known experiment where a subject is sent identical résumés with different names. Instead, the survey that is the basis of You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession looked at bias in actual workplaces by asking attorneys whether they had experienced gender and racial bias in processes ranging from hiring and compensation to work assignments, performance evaluations, and multiple types of support, including mentoring and networking opportunities. This new report — written for the American Bar Association’s Commission on Women and the Profession and the Minority Corporate Counsel Association by Joan C. Williams, Marina Multhaup, Su Li, and Rachel Korn of the Center for Worklife Law at the University of California, Hastings College of the Law — is compelling reading for anyone involved in law firm talent management. Many of the study’s findings will not be surprising — but some may be. Of particular note is the fact that the report ends with “Bias Interrupter Toolkits” outlining small steps that can be taken to limit bias in several key areas, including work assignments and performance evaluations. A description of a corporate sponsorship program is also included as an example of best practices.

The report is based on a survey launched in April 2016 that was completed by 2,827 respondents, with 525 respondents including comments. Survey findings are reported for four categories of respondents: white men, white women, men of color, and women of color. Bar charts throughout the report provide striking visual representations of respondents’ experiences of gender and racial bias — and of whether responses to a particular question primarily revealed gender bias, racial bias, or both.

The report begins by talking about prove-it-again bias and tightrope bias. Prove-it-again bias refers to respondents’ experiences of having to prove themselves more than their colleagues. While only 28.17% of white men reported experiencing this bias, 53.57% of white women, 53.60% of men of color, and 62.94% of women of color said they had experienced prove-it-again bias. Women of color were also far most likely to believe they were held to higher standards. On a more positive note, more than three-quarters of all groups believed their ideas were valued by their colleagues — although 91.45% of white men believed their ideas were valued compared to 82.20% of white women, 88.80% of men of color, and 78.40% of women of color. Other findings related to prove-it-again bias are also featured.

Tightrope bias refers to bias associated with prescriptive stereotypes. Questions asked in this area addressed respondents’ experiences with being interrupted, as well as whether respondents were penalized for being assertive, felt free to express anger, felt they were asked to do more administrative tasks or literal housework than colleagues, or felt their colleagues saw them as leaders or “worker bees.” A number of these questions revealed more gender bias than racial bias, but some clearly revealed both.

From other parts of the report, here’s a sampling of how many respondents agreed with each of the following:

- Family leave would be harmful to my career — 42.42% of white men; 57.07% of white women; 47.20% of men of color; 50.00% of women of color.

- Asking for flexible work arrangements would NOT hurt my career — 50.44% of white men; 36.23% of white women; 38.10% of men of color; 32.16% of women of color.

- I have equal opportunities for high-quality assignments — 81.11% of white men; 63.27% of white women; 59.48% of men of color; and 52.65% of women of color.
I have had good mentors [referring to informal as well as formal mentoring] — 68.14% of white men; 62.63% of white women; 60.68% of men of color; and 57.04% of women of color.

I have equal access to networking opportunities — 82.03% of white men; 57.18% of white women; 62.39% of men of color; and 55.63% of women of color.

I don’t receive constructive feedback — 21.38% of white men; 25.87% of white women; 40.17% of men of color; and 35.02% of women of color.

These truly are only a small sampling of the many questions asked — and it’s much easier to grasp the comparative responses when looking at the bar charts accompanying each finding than from simply reading the statistics. Findings also include a brief section on the differences between bias experienced in law firms and in-house corporate legal offices (and yes, there were differences). There are also findings on sexual harassment, including:

Experienced workplace sexual harassment — 6.90% of white men; 26.50% of white women; 10.80% of men of color; and 24.80% of women of color.

Encountered sexist remarks at work — 73.3% of white men; 83.8% of white women; 77.5% of men of color; and 75.9% of women of color.

Reading the report, it would be difficult not to notice that regardless of whether bias on a particular question skews more toward gender or toward race, women of color usually (although not quite always) experience the most bias. But there is far more information for PD and talent management professionals than presented in this brief summary. The suggested “Bias Interrupters” in the Toolkits at the conclusion of the report are also helpful resources that can be shared with law firm leaders. You Can’t Change What You Can’t See: Interrupting Racial & Gender Bias in the Legal Profession is 125 pages (including endnotes).

New Resources on Lawyer Well-Being

The article by Dr. Larry Richard in this issue of PD Quarterly continues a series of PDQ articles sparked by the release of the 2017 report of the ABA’s National Task Force on Lawyer Well-Being, The Path to Lawyer Well-Being: Practical Recommendations for Positive Change. (Go to www.nalp.org and enter “well-being” in the search box at top right to access past PDQ articles related to lawyer well-being.) Recently the ABA launched a new Well-Being Toolkit for Lawyers and Legal Employers featuring practical guidance for legal employers who want to join the lawyer well-being movement by launching organizational initiatives. The Toolkit, created by Presidential Working Group member Anne Brafford, a lawyer and organizational science researcher, can be viewed as a design prototype and is offered as another step on the path to lawyer well-being. Also available is the Well-Being Toolkit Nutshell: 80 Tips for Lawyer Thriving, summarizing 80 of the Toolkit’s key items to help employers get started on a lawyer well-being initiative.

California Bar to Consider Changes to Nonlawyer Ownership Rules — Could Change Be on the Horizon?

In July, the State Bar of California approved the establishment of a task force to consider amending the ethics rules that limit ownership of legal services companies to lawyers. Establishment of the task force came in response to a “Legal Market Landscape Report” that the California Bar’s Board of Trustees had commissioned William Henderson to write; Henderson is
a professor at the Indiana University Maurer School of Law and a well-known legal industry analyst. The task force is scheduled to complete its work by the end of 2019, so decisions on any changes are still quite a way off.

In the meantime, Henderson’s report is highly recommended reading for anyone interested in the current and future legal landscape — not only in the U.S., but also the models already adopted in the U.K. and Australia. The concluding paragraph of Henderson’s executive summary provides a small taste of the larger report: “The legal profession is at an inflection point. Solving the problem of lagging legal productivity requires lawyers to work closely with professionals from other disciplines. Unfortunately, the ethics rules hinder this type of collaboration. To the extent these rules promote consumer protection, they do so only for the minority of citizens who can afford legal services. Modifying the ethics rules to facilitate greater collaboration across law and other disciplines will (1) drive down costs; (2) improve access; (3) increase predictability and transparency of legal services; (4) aid the growth of new businesses; and (5) elevate the reputation of the legal profession. Some U.S. jurisdiction needs to go first. Based on historical precedent, the most likely jurisdiction is California.”

Writing in his Law21 Blog on July 26, Jordan Furlong, another leading analyst of the legal industry, commented, “I’ve been in this business too long to harbour any illusions about the legal profession’s willingness to change…. But here’s the thing: Eventually, change does arrive, often when you least expect it…. There will be a moment when that shift begins. This might even be it.”

Learn how to submit an article proposal for PD Quarterly at www.nalp.org/pd_quarterly

NALP also invites your feedback on PD Quarterly. Share your comments with Janet Smith (jsmith@nalp.org) or James Leipold (jleipold@nalp.org)
Upcoming Events

2018 PDC Mid-Winter Meeting
Professional Development Consortium

November 27, 2018
Washington, DC
www.pdclegal.org

2018 Professional Development Institute
NALP and ALI CLE in collaboration with the Professional Development Consortium

November 29-30, 2018
Washington, DC
www.nalp.org/events

2019 CLOC London Institute
Corporate Legal Operations Consortium

January 21-22, 2019
London, England
www.cloc.org

2019 Legal Recruiting Summit
NALP

January 24, 2019
New York, NY
www.nalp.org/events

2019 NALP Newer Professionals’ Forum
NALP

February 7-9, 2019
Cincinnati, OH
www.nalp.org/events

2019 NALP Reimagining Recruiting:
A Design Workshop
NALP

March 14-15, 2019
Washington, DC
www.nalp.org/events

2019 NALP Annual Education Conference
NALP

April 8-12, 2019
San Diego, CA
www.nalp.org/events

2019 ALA Annual Conference & Expo
Association of Legal Administrators

April 14-17, 2019
Grapevine, TX
www.alanet.org

2019 NALP Emerging Legal Careers Summit
NALP

June 7, 2019
Washington, DC
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