

Definitely Mabey

Don't Shoot the Messengers – Change Them!

The Altman Weil, Inc. 2018 Law Firms in Transition survey that was recently released contains a number of thoughtful insights including perhaps capturing the essence of why law firms are so slow to embrace necessary change.



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Basically, the proposition is that "threats" to the legal profession in the past have been driven by "known types of events," i.e. recession; societal change; legal rulings; etc. These known events could be dealt with through simple endurance and a belief that "this too will pass."

The threats faced by law firms today, and really in recent years, seem to be driven in a sense by "unknown events." The greatest unknown of these threats is the evolution of technology over the past decade or more. The historical "this too will pass" mindset has not and will not work for law firms when they attempt to deal with technology in particular.

There are a number of reasons why such an approach will fail and result in many law firms no longer enjoying growth of financial success as seen in the past (although I am not advocating a fundraiser for law firms - yet) and, in fact, will be the actual demise of tiers of law firms. Most failures will stem from a lack of a foresight:

1. The degree of the commoditization of legal services that would occur due to the use of simple technology;
2. To see that the next wave of technology evolution would take that widespread commoditization / commercialization and run it deeper into the practice of law and delivery of "legal type services";
3. "Alternative service providers" seeing the legal profession as an untapped lucrative marketplace ripe for the entrance of players embracing cost-reducing and efficiency-enhancing technology;
4. The impact of finances (and those accountants) on their legal colleagues residing inside clients that have resulted in such a clamour for technology-driven process improvements ("TDPI");
5. New "entrants" into a previously closed profession being so willing and able to "go around" law firms and deliver this TDPI directly to clients for their implementation; and
6. The real game changer of late which is resulting in more and more "David versus Goliath" scenarios, artificial intelligence harnessed to make common sense.

While in the external world, you could make a case that these were in fact somewhat "known events" even if the legal profession did see the oncoming change "this too will pass" approach is neither nimble enough or sufficiently proactive to address these evolving events.

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To compound the quagmire that many firms find themselves in, they have resorted (once again) to various historical approaches, including:

- Let's "eat our young" - by laying off associates - although it should be noted that hire-backs are on the rise despite acknowledgement of a flat legal market;
- Let's "eat our old" - performance levels of older partners that were tolerated for years are no longer acceptable if firms are to maintain the other partners' income;
- Let's continue to offer larger client rate discounts - to the extent that they exceed "paper increases" in rates or, perhaps worse, agree to alternative fee arrangements without understanding what they are doing economically; and
- The annual favourite, let's "cut our way to profitability" - by reducing expenses with no regard to the actual long-term impact on profitability.

The respondents to the Altman Weil survey were comprised of law firms of the following size:

Firm Size (No. of lawyers)	No. of Respondents
1000+	17
500 - 999	41
250 - 499	51
100 - 249	124
50 - 99	165
Total	398

One telling item from the survey was the reasons selected by participants as to why their law firms were not doing more to change the way they delivered legal services. The top four answers were:

1. Partners resist most change efforts (68.6%)
2. Most partners are unaware of what they might do differently (60.2%)
3. We are not feeling enough economic pain to motivate more significant change (58.7%)
4. Clients aren't asking for it (54.7%)

No one should take comfort from the integrity with which the participants answered. The following recasting of these responses will likely put me on a no-fly list in many law firm management circles, but sometimes the obvious has to be stated:

1. If you don't want to listen to me, I am taking my ball and going home;
2. Ignorance is bliss so let's not disrupt their blissfulness;
3. The best way to react to an oncoming financial crisis is to experience it; and
4. Let's follow the herd mentality.

If you don't want to listen to me, I am taking my ball and going home.

To bring balance in dealing with this issue, resistance to change in law firms is well documented and has legendary status. It is easy to take a penetrating look at the problem but much harder to try and be part of the solution.

In many law firms, it is the "right messenger" who has the best chance at moving the partnership along the change curve. So I would suggest firms seriously consider choosing a new messenger if

they are meeting resistance to change, lack knowledge of alternative solutions, or there is a feeling that clients are not seeking changes. (Clients often don't state or give notice that they are "seeking change". They simply change - firms that is.)

Sounds simple, right? Clearly, it isn't as this requires firm members to step outside of their comfort zones. Given the lack of progress in many firms and the resulting explanations for this lack of progress, there would seem to be no downside to changing up the messenger.

So, why not create a platform for one of the following messengers at your next practice group meeting, partners' meeting, or retreat?

- **A client** – or better still, a desirable client who is known for using legal technology software to handle work that they previously gave to a law firm. They can speak to the applications used today and what they see coming next (or more importantly what they would like to see next);
- **A managing partner** - from a non-direct competitor whose firm is acknowledged as being in front of the change curve - to share the benefits and perhaps more importantly how they got there (I have found most to be fairly generous with their time);
- **A CEO or senior VP of a company** - that is focused on the legal industry with proven TDPI (make it clear in advance this is not a direct sales pitch but an enlightenment exercise) - to discuss the "state of the nation" of legal technology and again, more importantly, the developments they see in the works and on the horizon; and
- **A booth** - where local technology developers can come in to demonstrate both existing software and projects under development and discuss what projects they see on the horizon.

The above sounds crazy to many I expect, but clearly, the status quo is not conducive to ensuring financial health in the medium to the long term for most firms.

At its simplest level, firm members and management need to remember the truth in the comment:

"You are free to make whatever choice you want, but you are not free from the consequences of the choice."

Comments or Questions?

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