TOPICS

SPRING 2016

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Informed Opinions on Legal Management

Addicted to Distraction

Tony Schwartz, CEO and Founder of The Energy Project. Originally published in The New York Times, November 28, 2015.

One evening early this summer, I opened a book and found myself reading the same paragraph over and over, a half dozen times before concluding that it was hopeless to continue. I simply couldn't marshal the necessary focus. I was horrified. All my life, reading books has been a deep and consistent source of pleasure, learning and solace. Now the books I regularly purchased were piling up ever higher on my bedside table, staring at me in silent rebuke.

Instead of reading them, I was spending too many hours online, checking the traffic numbers for my company's website, shopping for more colorful socks on Gilt and Rue La La, even though I had more than I needed, and even guiltily clicking through pictures with irresistible headlines such as "Awkward Child Stars Who Grew Up to Be Attractive."

During the workday, I checked my email more times than I cared to acknowledge, and spent far too much time hungrily searching for tidbits of new information about the presidential campaign, with the election then still more than a year away.

"The net is designed to be an interruption system, a machine geared to dividing attention," Nicholas Carr explains in his book *The Shallows: What the Internet Is Doing to Our Brains*. "We willingly accept the loss of concentration and focus, the division of our attention and the fragmentation of our thoughts, in return for the wealth of compelling or at least diverting information we receive."

Addiction is the relentless pull to a substance or an activity that becomes so compulsive it ultimately interferes with everyday life. By that definition, nearly everyone I know is addicted in some measure to the Internet. It has arguably replaced work itself as our most socially sanctioned addiction.

According to one recent survey, the average white-collar worker spends about six hours a day on email. That doesn't count time online spent shopping, searching or keeping up with social media.

The brain's craving for novelty, constant stimulation and immediate gratification

TOPICS in this issue

DEPARTMENTS

Who We Are
The BCLMA, founded in 1972, is a non-profit organization with 150 Representatives and 280 Affiliates across BC. It is the BCLMA's goal to provide educational and networking opportunities, to enhance skills as legal administrators and managers, and to provide professional and personal benefits to its registrants.

Member Services
The BCLMA provides opportunities to network with other law firm administrators and managers at annual Spring and Winter socials, and monthly subsection meetings. We host an annual Managing Partners Event, and a large conference every other year.

Newsletter Services
Topics is a public newsletter. Contact the Editorial Committee to provide comments on articles, to offer suggestions for articles in future issues, or to augment the circulation list. We welcome your feedback! Please send comments to membership@bclma.org.

Submissions
If you have an article or story idea you would like to submit, please email Sunita March at smarch@cfmlawyers.ca. Please note that our prescribed article length is 1000 words. All submissions will be subject to review by the editorial board.

creates something called a "compulsion loop." Like lab rats and drug addicts, we need more and more to get the same effect.

Endless access to new information also easily overloads our working memory. When we reach cognitive overload, our ability to transfer learning to long-term memory significantly deteriorates. It's as if our brain has become a full cup of water and anything more poured into it starts to spill out.

I've known all of this for a long time. I started writing about it 20 years ago. I teach it to clients every day. I just never really believed it could become so true of me.

Denial is any addict's first defense. No obstacle to recovery is greater than the infinite capacity to rationalize our compulsive behaviors. After years of feeling I was managing myself reasonably well, I fell last winter into an intense period of travel while also trying to manage a growing consulting business. In early summer, it suddenly dawned on me that I wasn't managing myself well at all, and I didn't feel good about it.

Beyond spending too much time on the Internet and a diminishing attention span, I wasn't eating the right foods. I drank way too much diet soda. I was having a second cocktail at night too frequently. I was no longer exercising every day, as I had nearly all my life.

In response, I created an irrationally ambitious plan. For the next 30 days, I would attempt to right these behaviors, and several others, all at once. It was a fit of grandiosity. I recommend precisely the opposite approach every day to clients. But I rationalized that no one is more committed to self-improvement than I am. These behaviors are all related. I can do it.

cutting back my time on the Internet.

My initial commitment was to limit my online life to checking email just three times a day: When I woke up, at lunchtime and before I went home at the end of the day. On the first day, I succeeded until midmorning, and then completely broke down. I was like a sugar addict trying to resist a cupcake while working in a bakery.

When we reach cognitive overload, our ability to transfer learning to long-term memory significantly deteriorates. It's as if our brain has become a full cup of water and anything more poured into it starts to spill out.

The problem is that we humans have a very limited reservoir of will and discipline. We're far more likely to succeed by trying to change one behavior at a time, ideally at the same time each day, so that it becomes a habit, requiring less and less energy to sustain.

I did have some success over those 30 days. Despite great temptation, I stopped drinking diet soda and alcohol altogether. (Three months later I'm still off diet soda.) I also gave up sugar and carbohydrates like chips and pasta. I went back to exercising regularly.

I failed completely in just one behavior:

What broke my resolve that first morning was the feeling that I absolutely had to send someone an email about an urgent issue. If I just wrote it and pushed "Send," I told myself, then I wasn't really going online.

What I failed to take into account was that new emails would download into my inbox while I wrote my own. None of them required an immediate reply, and yet I found it impossible to resist peeking at the first new message that carried an enticing subject line. And the second. And the third.

In a matter of moments, I was back in a

self-reinforcing cycle. By the next day, I had given up trying to cut back my digital life. I turned instead to the simpler task of resisting diet soda, alcohol and sugar.

Even so, I was determined to revisit my Internet challenge. Several weeks after my 30-day experiment ended, I left town for a monthlong vacation. Here was an opportunity to focus my limited willpower on a single goal: liberating myself from the Internet in an attempt to regain control of my attention.

I had already taken the first step in my recovery: admitting my powerlessness to disconnect. Now it was time to detox. I interpreted the traditional second step — belief that a higher power could help restore my sanity — in a more secular way. The higher power became my 30-year-old daughter, who disconnected my phone and laptop from both my email and the Web. Unburdened by much technological knowledge, I had no idea how to reconnect either one.

I did leave myself reachable by text. In retrospect, I was holding on to a digital life raft. Only a handful of people in my life communicate with me by text. Because I was on vacation, they were largely members of my family, and the texts were mostly about where to meet up at various points during the day.

During those first few days, I did suffer withdrawal pangs, most of all the hunger to call up Google and search for an answer to some question that arose. But with each passing day offline, I felt more relaxed, less anxious, more able to focus and less hungry for the next shot of instant but short-lived stimulation. What happened to my brain is exactly what I hoped would happen: It began to quiet down.

I had brought more than a dozen books of varying difficulty and length on my vacation. I started with short nonfiction, and then moved to longer nonfiction as I began to feel calmer and my focus got stronger. I eventually worked my way up to *The Emperor of All Maladies*, Siddhartha Mukherjee's brilliant but sometimes complex biography of cancer, which had sat on my bookshelf for nearly five years.

As the weeks passed, I was able to let go of my need for more facts as a source of gratification. I shifted instead to novels, ending my vacation by binge-reading Jonathan Franzen's 500-some-page novel, *Purity*, sometimes for hours at a time.

I am back at work now, and of course I am back online. The Internet isn't going away, and it will continue to consume a lot of my

WELCOME & KUDOS

New Member Firms and their Representative

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attention. My aim now is to find the best possible balance between time online and time off.

I do feel more in control. I'm less reactive and more intentional about where I put my attention. When I'm online, I try to resist surfing myself into a stupor. As often as possible, I try to ask myself, "Is this really what I want to be doing?" If the answer is no, the next question is, "What could I be doing that would feel more productive, or satisfying, or relaxing?"

I also make it my business now to take on more fully absorbing activities as part of my days. Above all, I've kept up reading books, not just because I love them, but also as a continuing attention-building practice.

I've retained my longtime ritual of deciding the night before on the most important thing I can accomplish the next morning. That's my first work activity most days, for 60 to 90 minutes without interruption. Afterward, I take a 10 to 15-minute break to quiet my mind and renew my energy.

If I have other work during the day that requires sustained focus, I go completely offline for designated periods, repeating my morning ritual. In the evening, when I go up to my bedroom, I nearly always leave my digital devices downstairs.

Finally, I feel committed now to taking at least one digital-free vacation a year. I have the rare freedom to take several weeks off at a time, but I have learned that even one week offline can be deeply restorative.

Occasionally, I find myself returning to a haunting image from the last day of my vacation. I was sitting in a restaurant with my family when a man in his early 40s came in and sat down with his daughter, perhaps 4 or 5 years old and adorable.

Almost immediately, the man turned his attention to his phone. Meanwhile, his daughter was a whirlwind of energy and restlessness, standing up on her seat, walking around the table, waving and making faces to get her father's attention.

Except for brief moments, she didn't succeed and after a while, she glumly gave up. The silence felt deafening.

Tony Schwartz (@tonyschwartz) is CEO and founder of The Energy Project and bestselling author of The Way We're Working Isn't Working, published in 2010. A frequent keynote speaker, Tony has also trained and coached CEOs and senior leaders at organizations including Apple, Google, Sony, the LAPD, and the Cleveland Clinic.

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Silvia Zambon, **Stikeman Elliott LLP**, Vancouver

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Influencing Without Authority

Russel Horwitz, Principal with Kwela Leadership and Talent Management

Do you ever find yourself wishing that you had the authority to change things? In this article, we will discuss a number of tips to influence in such a way that others willingly alter their thoughts and plans, irrespective of one's authority or positional power.

UNDERSTAND RESISTANCE TO CHANGE

When people resist ideas, the reason is typically apparent by examining the following three questions:

- Is the problem that you are trying to solve clear to the other party, along with the full implications of inaction?
- Have you been clear about what you want and the specific benefits of doing things the suggested way?
- What is the extent of the first step that you expect the other party to take, and can it be minimized? For example, is there a creative way to have them take a series of smaller steps to provide early wins and comfort with the change?

Think about the last time you made a suggestion to someone and they did not adopt your way of thinking. Which one of these variables do you feel needed more attention? Knowing this, how would you approach the same situation if it were to present itself today?

DEAL EFFECTIVELY WITH THE BOSS

One thing I have realized in business is that everyone has upward reporting relationships. Even CEOs & business owners are subservient to boards of directors and clients. When attempting to drive change upwards via the boss, consider the following:

- It is your job to sell an idea, but it is not theirs to buy it. Don't throw ideas that are not synthesized over the wall and expect something to happen. Think it through and be prepared to make an effective pitch.
- Show how your idea links to the bigger organizational agenda that the boss is concerned with. If it does not, ask yourself if it is really worth pushing the point.
- Be prepared to pitch the same idea on multiple occasions – persuasion is not a one-shot effort.
- Don't expect the boss to be infallible – no one is. Show patience with their thinking and work with the boss in a respectful way as you would with anyone else.
- Build the relationship by consistently asking the question: "how can I improve at what I do?"

BEING A GOOD LISTENER

We are born with one mouth and two ears – a good salesperson uses them in that proportion, and in that order. If you are doing all the talking, do not be surprised if people do not adopt your ideas. So what to do? Consider this:

- Learn to really listen to people. The official name for the skill is "active listening" which does not mean parroting everything you hear. What it does mean is that you explore the hot buttons of others by asking probing open ended questions, that you park your judgments safely away, and that you watch for non-verbal cues. It also means that at some point you state what you have heard in your own words to make sure you have it right and that the other side actually feels heard (nodding does not have the same effect).
- Incorporate what you hear. Persuasion typically requires a number of "kicks at the can", and each kick needs to

be better than the one preceding. You do this by adapting your pitch to what you hear. If they are worried about the investment required, then show how it will lead to a greater return, or find a way that costs less. If they are worried that quality will go down, then show how errors and problems will be caught with your new idea – you get the idea.

STRESSING BENEFITS OVER FEATURES

Even though we may intellectually understand the difference between features and benefits, we often struggle to convey the latter when attempting to influence others. Some tips:

- Features are attributes of an idea or product, and benefits are why it is useful. For example, the features of a toothbrush may be that it is electric and rechargeable, but its benefits would be better brushing, cost savings as batteries need not be purchased, and reduced environmental damage. To move from features to benefits, keep asking "why is that important?" until you arrive at the core benefits.
- Be sure to convey why your idea is important to something the other party cares about or the organization as a whole. Stressing that something is important to you personally may not be enough.
- If your idea links to a key organizational strategy (for example "improving customer service"), then make the link explicit. If you don't mention it, don't assume others will make the link.
- Be sure to show how your idea will create more value than it costs. I leave the details of this open to your interpretation, but if this argument cannot be made, chances are that the idea is not a good one.
- List the top three benefits and then zip it. For some reason, people struggle to remember more than three, so if you keep going they may remember some minor items at the expense of your key messages.

STRUCTURE YOUR POINTS IN THE RIGHT ORDER

Have you ever listened to someone's pitch and then wondered what they actually wanted from you? Alternatively, can you recall someone giving you a pitch and after their first sentence you decided that the idea was a crock? It is important to create a good flow when pitching ideas to others. For example:

- Start with something that catches their attention – something you saw or heard.
- Before stating what you want, explain the problem.
- Only after explaining the problem, tell them what you are suggesting.
- Be sure to explain the benefits of what you are proposing.
- Be proactive about communicating the possible downsides of what you are proposing, and what you think can be done to mitigate them.
- If you want them to do something differently, make it clear and don't assume that they will magically know what you expected of them.

Russel Horwitz is a Principal with Kwela Leadership and Talent Management, where his focus is leadership development, training and professional coaching. He can be contacted at (604) 839-8916 or russelh@kwelaleadership.com

Synergy, Through Technology and Team Work
BCLMA 2016 Conference

Lifen Lee, Office Manager of Hastings Labour Law Office LLP

I have been a member of BCLMA for quite a few years but this was the first BCLMA conference I have attended. I work in a small firm (10-15 lawyer firms) which has historically made it difficult for me to get away. But with smartphones today, we can be reached by text, e-mail and voice so I was able to make my escape!

I ventured off to my first conference and what a fantastic conference it was! Located at the River Rock Casino, the venue was great, easy to get to and provided free parking. The conference began on Wednesday evening and ended with a wrap up dinner on Thursday evening.

The Conference Committee was great. They e-mailed us at the beginning of the week to download the Mobile Conference App onto our phones so anything we needed to know about the conference was right in palm of our hand. There was a fun Instagram Scavenger Hunt which forced me to actually use Instagram after downloading it at the BCLMA Instagram Twitter 101 session in January.

On Wednesday evening, I walked into the conference centre for the kickoff reception. I expected the usual drinks, food and networking with our sponsors and vendors but I was in for a very pleasant surprise – an interactive event! Around the room, easels were set up at various stations along with paint, brushes, aprons and of course, clean up materials. The evening theme was centred on group painting and coming up with various ways to express synergy and teamwork (hey, aren't those the themes for the conference?). The group painting was fun, instructional and provided the perfect excuse to wander around and talk to each of the groups. The food and drinks were a delicious bonus.

Bright eyed and bushy tailed on Thursday morning, we started off the morning with a hearty breakfast including a wide enough variety of breakfast items to satisfy any picky eater.

After breakfast, it was off to our first session. Each of the three trainers throughout the day echoed the same message but each had great insights and suggestions on how we, as the conduits of change, can manage, encourage and inspire teamwork going forward.

Our first session in the morning was with Casey Flaherty. Casey was totally engaging and entertaining, making the first two hours of the day fly by. He gave us some background on the evolution of technology and spoke on how we all have these powerful tools but may not be utilizing them to the full extent. Casey spoke about how we should educate ourselves and learn to use the tools we have in order to work smarter, not harder.

Casey's example of this was completely on point. In his presentation, he demonstrated how a draft legal document with numbered clauses including references would be affected by simply inserting one new clause. This would change all of the numbering and cross referencing. Without using the correct technology, this change would take hours to fix manually and would require scrolling through the document. But with the right use of technology, it is literally a few clicks of the mouse. Technology to the rescue!

Casey also mentioned that technology training and education is a hard sell to lawyers and staff because it takes time and the benefits may not be seen right away. But after Casey's session, I really believe it is beneficial to invest the time to test our technology knowledge and then take the time to upgrade our skills as necessary..

In our second session, Doug Mollenhauer was the speaker and he left us with this simple and valuable acronym:

P Purpose (what impact you make in the world; purpose statement)

I Involvement (do you believe in the purpose?)

C Commitment (commit phase; involves trust, accountability and culture)

S Share (what you have achieved; share the results)

One of Doug's closing remarks was "everyone cares; it's getting people to demonstrate they care" – great food for thought.

Our final session was presented by Judy Hissong. She is an alumni speaker and it is easy to see why. She has so much energy and is incredibly fast-paced. You can see her message resonating with the audience throughout her talk. As part of her presentation, Judy had all members (our highest turn out of over 100 including many of our out of town members) participate in a group exercise to demonstrate her teachings on synergy through teamwork.

Each member was given a coloured card with a picture on one side. We had one rule – don't show anyone your picture. We then broke into three groups according to the colour of our card. The object of this exercise was to put all of the group's pictures into chronological order. Within each of the three groups, we began to break into smaller groups according to how each person described their picture. After much conversation, organization and yes, teamwork, the end result was we were able to work together and come up with the "big" picture.

After the last session everyone headed to the Market Place to mingle with the sponsors and vendors. Delegates were anxiously working on completing their conference passports for the draw prizes before heading to the buffet dinner. The prizes donated by the sponsors were just phenomenal – iPad mini, Go-Pro Camera, Canucks tickets, signed Canucks jersey and Keg gift certificates were just a few of the prizes.

Initially, I thought this conference would be similar to attending a monthly subsection meeting. Not true! This conference was so much more valuable – the people we met, vendors and members alike, the opportunity to chit chat and pick each other's brains, compare practices and get to know each other better. This conference provided so much opportunity to learn, engage and simply get to know each other.

Kudos to the Conference Committee for organizing this event! As a first time attendee, this was a wonderful experience and I would highly recommend all members attend the next one!!

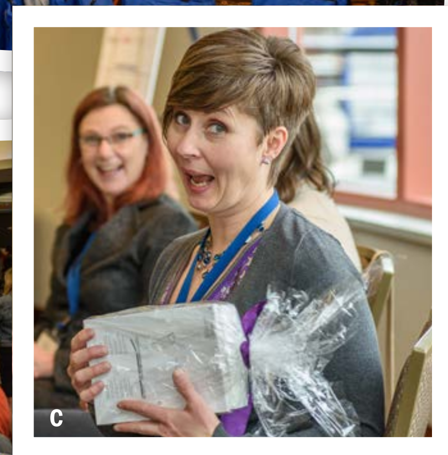
Lifen Lee is the Office Manager of Hastings Labour Law Office LLP. She can be reached at ll@hllo.ca.

Call for Submissions

Do you have an idea for an article that you think would benefit BCLMA members? Are you itching to put pen to paper (or more likely fingers to keyboard) or do you have an article that you have already written that you'd like to share? We are always looking for submissions!

If you have an article or story idea you would like to submit, please email Sunita March at smarch@cfmlawyers.ca. Please note that our prescribed article length is 750 words. All submissions will be subject to review by the editorial board.

SYNERGY THROUGH LEADERSHIP



Photos by Anna Beaudry

A. *Conference committee members & volunteers wearing matching coral (not orange!) sweaters were easy to spot throughout the conference. Helen Lam, Sheh Shojaee, Kristi Smitas, Bibi Bijsterveld, & Chelsea Dunbar.*

B. *Committee Members Stephen, Lorraine, Kristi & Bibi enthusiastically handing out bags of goodies to delegates.*

C. *Daphane Nelson of Cates Ford Oien Epp in Kamloops won the conference Early Bird Draw Prize, an iPad Mini.*

D. *Members received tips on how to use Instagram and the conference app from BCLMA Social Media experts.*

E. *Conference Kick Off Event "Cocktails, Conversation & Creativity" had the room alive with would-be Picassos.*

F. *Out of Town Delegates, Barb, Val, Jennifer and Beverley representing Kelowna, Kamloops and Vernon reunite at the conference.*

G. *After some canapes and a Synergy Sling, creativity was abound and even our sponsors were keen participants.*

SYNERGY THROUGH LEADERSHIP

Express yourself! A multitude of ways to express what "synergy" means – each one unique in its own way.

Prizes were awarded for the categories such as:

1. Most memorable - a "unique" interpretation of the theme
2. Most collaborative - best team effort
3. Most artistic - best use of colour & space

■ SYNERGY THROUGH LEADERSHIP ■

H. River Rock Show Theatre's Marquee lights up for our Market Place.

I. Picture of the Whistler room where delegates gathered to hear 3 speakers for a full day of learning.

J. Delegates get a stretch break from the Breakfast room to the meeting room.

K. Job well done! Delegates showed their appreciation for the speakers, committee members and volunteers.

A Big Thank You to our Volunteers!

The BCLMA 2016 biennial conference, Synergy through Leadership and Teamwork, took place on March 2 – 3, 2016, at the River Rock Casino Resort in Richmond (three years running at this location).

102 delegates registered to attend an evening kick-off event plus the one full-day conference, filled with socializing, networking and fun.

Thank you to all those who attended, the delegates and our generous sponsors. A big shout out to those who volunteered many hours of their time planning the conference, securing speakers, organizing the team building events, the Instagram contest, the conference app, coordinating the market place, assisting the vendors and arranging the final dinner event.

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Balancing Deliberate versus Emergent Strategies

Heather Gray-Grant, Law Firm Strategist, Marketing Advisor and Executive Coach

Opportunistic business management of a law firm from time to time is not actually a bad thing. While it shouldn't be the primary mode of management, occasional decision-making by happenstance can be good for business.

This concept is beautifully illustrated in Clayton Christensen's *How Will You Measure Your Life*. In his book, he summarizes Honda's entry into the North American motorcycle marketplace as an example of the difference between deliberate and emergent strategies (or calculated versus opportunistic actions).

Honda started by going head to head with Harley-Davidson Motor Company (Harley) on big bikes. But aside from Honda being seen as the poor man's version of Harley's biking powerhouse, various technical and logistical issues with Honda bikes made it even more difficult to compete.

Simultaneous to their big bike strategy, Honda also shipped smaller bikes (called Super Club) to their sales centre in Los Angeles. Sales of these bikes were moderate; however employees soon began to find the smaller bikes very handy for running errands around town. They also found them to be effective on the local dirt hills, too awkward for the larger, more powerful bikes such as those made by Harley. In time, demand for these new "dirt bikes" forced Honda to ship more of the Super Club bikes to California. Soon, a buyer from Sears noticed the growing popularity of the Super Club and asked if the bikes could be sold through their catalogue.

Eventually, Honda begrudging admitted to themselves that their big bike strategy in North America was not working. Perhaps now was the time to change their focus to these smaller bikes in order to create and capture the "off road" category. Honda went so far as to change the sales venue and started selling their bikes in power equipment and sporting goods stores instead of bike shops.

This shift in strategy led to Honda's impressive foothold in the North American "dirt bike" category. It led to their ability to successfully enter and stay in the North American bike market, at last. Which was their goal all along.

Emergent strategies are opportunities that can't be planned but knock on your door nonetheless. A typical law firm example is the desire for increased revenue, often pursued by seeking to increase the revenue target of each individual lawyer. But the goal might be achieved more effectively by bringing in a powerful new lateral that just had lunch with one of your partners and expressed a desire to move to your firm. The trick to capitalizing on emergent strategies is to recognize them when they occur and to then have the courage to shift from a deliberate strategy into the emergent one.

This is difficult for law firms as – by nature – we are risk adverse. We under-predict revenue so we won't be seen to fall short of a financial target. We hold onto unsuccessful new hires because we don't want to admit a mistake. We doggedly embrace business strategies that aren't working because leadership doesn't want to be seen as weak. But no one in a law firm has a crystal ball. Strong leadership is that which can read and adjust to the marketplace, always seeking to move closer to accomplishing the firm's big-picture objectives.

There is no shame in having executed a plan, only to realize it isn't working, and instead embrace a side-bar initiative that may have a better chance of success.

Think of emergent strategies as the lottery tickets you might buy each week. They are a possibility on which you do not initially depend. For example, you wouldn't quit your job on the assumption that one of those tickets was a winner but by the same token, if you suddenly won the lottery, you wouldn't beat yourself up for having had a job all of these years.

Still nervous? Firms can start to pursue emergent strategies while still pursuing their deliberate strategies until they know which will be the more successful. Christensen calls this the balance between calculation and serendipity.

A word of warning: your business operations should not be made up entirely of emerging strategies – in which case they aren't emerging or strategic. It's simply management by happenstance. Emerging strategies must emerge from something. You cannot see if you are going in a straight line without some form of reference. You cannot accomplish a goal without having clearly set one. Further, years of market research have identified that firms with strong business strategies and brilliant execution will outperform those without every time. But business strategy is not etched in stone - it is constantly evolving with the marketplace. Firms should always begin with clear targets and should pursue them with vigour.

But if your plan is less successful than anticipated and the marketplace is suggesting strong opportunities in a slightly different direction, you might just go further if you switch how you ride your bike.

Heather Gray-Grant works with small to medium sized law firms providing strategic planning, marketing advice and executive coaching. She can be reached at heather@heathergraygrant.com

Tips & Guidance For Navigating Employment Terminations

Preston Parsons, Associate at Overholt Law

Despite the fact that many lawyers – litigators in particular – deal with navigating a high degree of conflict throughout their day jobs, interpersonal conflict within law firms often strikes too close to home and is uncomfortable to manage. This is never more evident than when it comes time to sever employment relationships and say goodbye to members of the firm, regardless of their title.

In the event that your firm decides to show a member of the team to the door, the following are four points to remember:

1. BE HONEST

Sugar-coating reasons for termination of employment rarely does anyone any good. The departing employee loses an opportunity to learn and develop, and it puts the employer in a difficult position if the termination is challenged and the employer raises issues of concern not already provided to the employee while attempting to defend its reason for termination. These situations may be precipitated by not giving critical feedback to the employee at an earlier stage, leading to an accumulation of "little things" that become a pile considered too large to correct. Remember that an employer has a duty to be honest and forthright with an employee at the time of termination. This is made much easier if the employee receives feedback and constructive criticism during employment, rather than on their last day at the office.

2. "NEAR CAUSE" DOESN'T EXIST

Employment law in Canada does not recognize the concept of "near cause." Raising performance issues at the time of termination or thereafter, typically because of a divergence in views between the firm and the outgoing employee around the appropriate amount of notice or severance, is often viewed as a bad-faith move, however subtle. In essence, the firm either has just cause to terminate employment, or it does not. Trying to blend the two concepts to validate giving an outgoing employee less notice or severance is not justifiable.

3. ASK FOR A RELEASE ONLY WHERE YOU ARE PROVIDING ADDITIONAL CONSIDERATION THAN REQUIRED BY STATUTE AND/OR CONTRACT

It is inappropriate to require an outgoing employee to sign a release before receiving notice or payment in lieu of notice which that employee is contractually entitled to receive, or that the employer is statutorily obligated to provide. If the firm is offering to pay out severance or a combination of notice and severance in excess of what they are obligated to provide by statute or contract, requiring a release for the excess amount is appropriate.

4. BE AWARE OF OBLIGATIONS UNDER HUMAN RIGHTS LAW

An unfortunately frequent, thorny issue is the termination of an employee who is soon to be returning from maternity or paternal leave. The reason for the termination of employment cannot be related at all, even in part, to the employee's leave, and a firm that makes a decision to terminate an employee on maternity leave may find themselves on the opposite side of a human rights complaint if the reason for the termination is not clearly defensible and the matter is not handled with extraordinary sensitivity.

Where your firm has any doubt about how to handle a termination of employment, including on the evaluation of proper notice periods and severance amounts, seeking some summary advice from an employment lawyer may help avoid problems down the road.

Preston Parsons is an associate lawyer at Overholt Law, practicing in the areas of employment and labour relations, human rights and privacy law. Overholt Law is a boutique employment and labour relations firm located in downtown Vancouver, British Columbia. For more information regarding Overholt Law, please visit www.overholtlawyers.com.

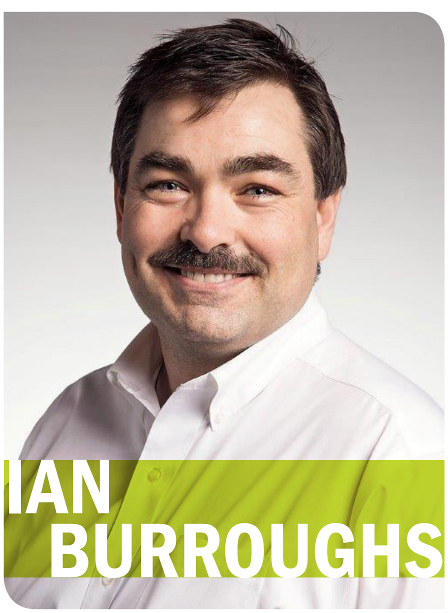
MEMBER SNAPSHOTS

How long have you been a member of BCLMA? 3.5 years
Where do you work?
Morelli Chertkow LLP in Kamloops
Last place you vacationed? Oregon
Where were you raised? North Vancouver
Have you ever lived abroad?
Yes, Europe (UK, Germany, Greece) for a year
Favourite wine under $20?
Smoking Loon Cabernet Sauvignon and Fullglass Wines Skulls Shiraz
Favourite BC day trip location?
In the wilderness anywhere in BC
Favourite lunch spot during the work week? The Brownstone
Favourite movie? Any Wes Anderson movie

Something not many people would know about you?
I'm a first generation Canadian; my parents immigrated to Canada with me in utero
What are you reading? Medicine Walk by Richard Wagamese (if I ever get any time)
How do you spend spare time?
Mountain bike, ski, paddle-board, etc. with my family and friends
What do you enjoy most about working in the legal industry? That the essential goal is to help people with their legal needs and we are all contributing to that goal.
What movie title describes your life?
Bring It On!

How long have you been a member of BCLMA? One year
Where do you work?
HR Assistant at Borden Ladner Gervais LLP
Last place you vacationed? LA
Where were you raised?
I grew up in South Surrey
Have you ever lived abroad? I haven't but it has always been a dream of mine
Favourite wine under $20?
Red- Italia Roscato
Favourite BC day trip location? Whistler
Favourite restaurant?
New York New York (in Surrey)
Most recent movie you've seen? *Deadpool*
Something not many people would know about you? I am an incredibly shy person

Reading recommendation?
I am currently reading *The Girl on the Train*
How do you spend spare time?
Spend time with friends and my dog, go to the gym, do my nails
What do you enjoy most about working in the legal industry?
I like working in a professional environment and having the opportunity to gain a more thorough understanding and exposure to the different functions of HR due to the size of BLG.
What movie title describes your life?
Catch Me If You Can



How long have you been a member of BCLMA? June 2013
Where do you work? Kerfoot Burroughs LLP
Last place you vacationed? Tofino, BC
Where were you raised? Vancouver
Have you ever lived abroad?
Victoria. Although I have worked & travelled extensively in NZ and Australia in my younger, care free days.
Favourite wine under $20? Sauvignon Blanc - Matua Hawkes Bay (NZ) as recommended by my most wonderful Conveyancer – Alex Corbett
Favourite BC day trip location?
Long Island, Harrison Lake, BC
Favourite lunch spot during the work week? Granville Island
Favourite restaurant?
Assaggio Ristorante, Seattle, WA

Something not many people would know about you? I used to be a Commercial Fisherman during the summers. I worked as a deckhand on a Freezer Troller/Longliner named the Pacific Hunter. I've also been a Wedding DJ, Security Guard and Line Cook.
Favourite movie? *Alexander and the Terrible, Horrible, No Good, Very Bad Day*
What are you reading? *The Book of Forgiving* – Desmond Tutu and Mpho Tutu
How do you spend spare time? Do crafts/school projects/play with my kids
What do you enjoy most about working in the legal industry? Helping others succeed and helping those that can't help themselves
What movie title describes your life?
The Good, the Bad & the TBA

Knowledge Management: Show Me the Money

Euan Sinclair, Director of Knowledge Management at Lawson Lundell LLP

Lawyers who have experience of working in a firm with a Knowledge Management system will probably be convinced of the value of KM. They appreciate that their KM and Lawyer colleagues have devoted time to removing the pain points from their transactions or cases with an array of precedents, samples, practice notes, checklists, databases etc, all in the house style and written by colleagues they know and trust.

On the other hand, lawyers who have not enjoyed the benefit of working in a firm with a KM system may need to convinced of the benefits. Let's be clear: the primary purpose of a law firm is to generate profits for the partners of that firm by offering clients an efficient and effective solution to their legal issues. In this environment, any project that not only consumes firm resources that will ultimately come from the partners' own pocketbooks but also diverts billable time from revenue-generating lawyers will need to have a compelling business case to stand any chance of success.

WHAT GETS MEASURED

Therefore, in order to make the case for KM, the proposal should show a positive financial impact on the firm's bottom line. The universally accepted standard for measuring a firm's bottom line is to calculate the Profit Per Partner (PPP) ratio. To show a bottom line impact, the KM proposal should therefore calculate the difference made to PPP.

The PPP ratio is: PPP = (R x ARR x L x M x U)
Where:

R	= Realization Rate	= Actual Revenues ÷ Standard Rate Revenues
ARR	= Average Realization Rate	= Standard Rate Revenues ÷ Hours Billed
L	= Leverage	= Number of Lawyers ÷ Number of Partners
M	= Margin	= (Revenues – Expenses) ÷ Revenues
U	= Utilization	= Total Hours Billed Annually ÷ Number of Timekeepers

We will now look at three hypotheses of how the application of KM can improve a law firm's bottom line. You will see how some small changes at the top line can make a significant difference to the bottom line.

To keep things simple for illustration, we will assume that the hypothetical law firm in question is a 60 lawyer firm, with 30 partners and 30 associates. The partners' average annual billings are 1500 hours at an average rate of $500 per hour. The associates' average annual billings are 1700 hours at an average rate of $350 per hour. The write-off rate is 5% for partners and 10% for associates, which is 75 hours and 170 hours respectively. The margin is a respectable 29.71% and PPP is $399,583.33.

1: USING KM TO IMPROVE EFFICIENCY

By targeting KM efficiencies to reduce write-offs by half, and assuming that the lawyers can use this time to bill other clients, the average annual number of hours that the partners now bill has increased 37.5 (an extra week!), while for associates that number has increased to 85 hours.

A KM Lawyer has been employed, who receives an associate's salary, but does not bill. In this hypothesis, the hourly rates remain the same although the firm's costs have increased. In reality, any addition to costs would be reflected in the hourly rate. ARR and leverage are practically unaffected but the margin has decreased by 0.5% to 29.22% reflect the cost of employing the KM lawyer.

However, the good news is that despite the increased cost, the PPP increases 2% to $407,165.83, or a total of $227,475 per year. The non-material alternative is, of course, to maintain PPP but instead use the time freed up for business development to grow the firm or for leisure.

2: USING KM TO LEVERAGE ASSOCIATES

In this hypothesis, in order to increase the firm's leverage, it is agreed that partners will delegate more senior work to the associates and the firm will also hire five new associates to help with the workload. To facilitate the delegation, half of the partners agree to shift one billable hour per week to KM and training. All associates shift one billable hour per week to be trained. In this way, the rainmaking partners are freed up to cement existing relationships and develop new ones. Apart from time converted towards training that has shifted from billable time to non-billable, it is assumed that all the billing targets (now averaged at 1485 for partners and 1682.5 for associates) will be met. As before, a KM Lawyer has been employed but the billing rates remain the same.

The results this time are that ARR is similar, leverage increases, margin drops to 28.68% to reflect employing a KM Lawyer without increasing rates, and utilization decreases to reflect the hours sacrificed in training. Profit, however, as measured by PPP increases by 3% to $410,190.21, or a total of $318,206.25 for the year.

3: USING KM TO SUPPORT BUSINESS DEVELOPMENT INITIATIVES

In this last scenario, we will look at how KM can make the necessary, but often time consuming, task of responding to RFPs and preparing pitches more efficient. We assume that partner time can be reallocated from RFP responses to billable work by using a matter experience database and by mining pricing and billing data. Partners will continue to be involved, just at a more strategic rather than tactical level.

Let's assume that half the partners can recover two billable hours per week, which can be devoted to new billable work. We will also assume into the cost base not only a KM lawyer, but also around $180,000 the capital cost for new software to be used.

SAVE THE DATE

BCLMA Annual Summer Social Reception
Thursday, June 2, 2016, 5:15 pm – 7:30 pm
Bridges Restaurant, Granville Island

BCLMA Upcoming Survey Schedule
Law Firm Economic Survey
Distribution: April 1, 2016 - Publication: June 17, 2016

Biennial Disbursement Survey
Distribution: April 15, 2016 – Publication: May 13, 2016

Staff Ratio Survey
Distribution: May 2, 2016 – Publication: May 31, 2016

For more information, visit www.bclma.org

RECESS

"I value order above all."

#56561569

The result this time is that the ARR increases above the base case for the first time, leverage remains the same, the margin increases to 29.77%, just over the base case and utilization is also up. In terms of profit, PPP increases by 2% to $407,916.67, or a total of $250,000 for the year, despite adding the cost of a KM Lawyer and a new database.

CONCLUSION

KM might seem an abstract concept to many lawyers, but just reducing the amount of inefficiencies in a law firm can have a significant impact on the firm's bottom line. Even factoring in the employment of a KM lawyer and new software, a well-executed and targeted KM program can yield significant increase in profit for the firm.

Euan Sinclair is Director, Knowledge Management at Lawson Lundell LLP. This article is based on a presentation to the KM subsection "Showing the Positive Financial Impact of KM in Law Firms" by Chris Boyd (Wilson Sonsini) and Jack Bostelman (KM/JD Consulting) on February 27, 2014. The slides for that presentation are posted at http://bit.ly/1T5kAd5

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BCLMA 2016 Schedule of Annual Surveys

Bob Waterman, Chair of BCLMA Survey Committee

Surveys provide valuable data to law firm managers. The more firms that respond, the more accurate the results; we need your input. The BCLMA surveys are distributed throughout the year at times that should work for the majority of participants. Your comments are welcome on any of the surveys. As of May 1st Nancy Sartene will be taking over as chair of the survey committee so please contact her via email: nancy.sartene@blakes.com with any comments.

SURVEY	DISTRIBUTION DATE	REPLY DEADLINE	PUBLICATION DATE	SURVEY CO-ORDINATOR
Associate Salaries	March 1	March 18	April 1	Bob Waterman
Law Firm Economics	April 1	May 2	June 13-17	Sandy Delayen
Biennial Disbursement Survey	April 15	April 29	May 13	Julie Bevan-Pritchard
Staff Ratios	May 2	May 13	May 31	Maggie Edwards
Support Staff Salaries	September 1	October 3	November 1	Raf Sansalone
Billing Rates	September 1	October 3	November 1	Raf Sansalone
Management Staff Salaries	October 3	October 17	November 1	Leslie Morgan

- Note that the Biennial Disbursement Survey has been added this year, and will be done every other year.
- The Law Firm Economic Survey will be compiled by Wolrige Mahon LLP, which has conducted the survey for BCLMA for a number of years.
- The Support Staff Salary Survey will be compiled by Western Compensation & Benefits Consultants and distributed by the CBA with significant input from BCLMA.
- Benefits and Charge-out Rates are part of the Support Staff Salary Survey.

We publish the names of the law firms who participate in the surveys, however, no direct links or references to any of the results are made public, nor are they available for confidential viewing.

— BCLMA Survey Committee

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jub@bht.com

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Direct: 604.646.3368
dcheung@moisolicitors.com

LITIGATION SUPPORT

Shauna Sigurdson, Chair
Lawson Lundell
Direct: 604.408.5307
ssigurdson@lawsonlundell.com

Monique Sever, Co-Chair
Harper Grey
Direct: 604.895.2217
msever@harpergrey.com

KNOWLEDGE MANAGEMENT

Carolyn Petrie, Co-Chair
Bull Housser
Direct: 604.641.4943
cap@bht.com

Sarah Richmond, Co-Chair
Alexander Holburn
Direct: 604.628.2719
srichmond@ahbl.ca

MARKETING

Gwen Pengelly, Chair
Harper Grey
Direct: 604.895.2863
gpengelly@harpergrey.com

HUMAN RESOURCES

Erin Bird, Chair
Fasken Martineau
Direct: 604.631.4875
ebird@fasken.com

Avril Tysoe, Co-Chair
Boughton Law Corporation
Direct: 604.647.4171
atysoe@boughtonlaw.ca

SMALL FIRMS

Natalie Foley, Chair
Miller Titerle
Direct: 604.681.4112
natalie@millertiterle.com

Leslie Green, Co-Chair
DuMoulin Black LLP
Direct: 604.602.6815
lgreen@dumoulinblack.com

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Farris Vaughan Wills
& Murphy LLP
Direct: 604.661.9398
ehandeland@farris.com

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Ken Brennan, Chair
Gowlings
Direct: 604.891.2767
ken.brennan@gowlings.com

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Direct: 604.605.8340
rwalls@boughtonlaw.com

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lmorgan@harpergrey.com

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Direct: 604-676-9071
pdavidson@patentable.com

Leslie Green, Director
DuMoulin Black LLP
Direct: 604.602.6815
lgreen@dumoulinblack.com

Cindy Hildebrandt, Director
Richards Buell Sutton LLP
Direct: 604-661-9267
childebrandt@rbs.ca

Elizabeth Jackson, Director
Farris Vaughan Wills & Murphy LLP
Direct: 604-6619350
ejackson@farris.com

Catharine Rae, Director
& Business Partner Liaison
Borden Ladner Gervais
Direct: 604.632.3423
crae@blg.com

Angela Zarowny, Treasurer
Angela M. Zarowny, CPA, CGA
Accounting Services
Direct: 604.351.0124
azanddz@shaw.ca

ADMINISTRATION

Jane Kennedy,
BCLMA Administrator & Membership Services
Phone: 604.988.1221
Fax: 604.988.1221
info@bclma.org

BCLMA Mail
PO Box 75562,
RPO Edgemont Village
North Vancouver, V7R 4X1