

# Law Firm Management

## Back to the Future: The Effect Of AI on the Law Firm Model

BY LAWRENCE T. GRESSER AND MARVIN J. LOWENTHAL

Seven Hawking famously said, "The rise of powerful AI will be either the best or the worst thing ever to happen to humanity." Both the practice of law and the business of law will change with the rise of artificial intelligence (AI), and law firms will need to adapt to those changes.

### AI in the Legal Industry

AI has been making inroads in the legal industry for years, with AI tools becoming more effective at handling an ever-expanding set of tasks. Litigators have been using technology to help them review large sets of documents for over a decade, and AI technologies have begun to assist with other tasks as well, including analyzing briefs and memoranda to find additional cases on relevant issues and scanning key documents to help tailor legal research. Companies have even designed tools to predict the outcomes of cases. On the transactional side, some companies have begun to use algorithms to automate the review and management of contracts and to aid in the drafting of some types of contracts.

AI has been shown to produce high-quality results, performing equal to or better than attorneys in many areas. Studies have suggested that technology assisted reviews of documents can identify documents at least as accurately as a team of human reviewers. Maura R. Grossman and Gordon V. Cormack, *Technology-Assisted Review in E-Discovery Can Be More Effective and More Efficient Than Exhaustive Manual Review*, 17 Rich. J.L. & Tech 11 (2011). AI recently outperformed lawyers in predicting the outcome of certain lawsuits involving financial products, *AI Beats Human Lawyers in Case-Crunch Prediction Showdown*, Artificial Lawyer (Oct. 28, 2017), and in identifying the flaws in non-disclosure agreements. Jessica Stillman, *An A.I. Just Outperformed 20 Top Lawyers (and the Lawyers Were Happy)*, Inc. (Nov. 9, 2018). Additionally, AI systems complete tasks in a small fraction of the time.

Given the potential benefits, it is no surprise that legal departments and law firms have been increasingly looking to incorporate AI into their operations. *Bloomberg Law* reported that the teams responsible for IBM's Watson AI system have been engaging in informal discussions with prominent law firms, and that IBM is planning to announce its larger-scale entry into the legal market. Sam Skolnik, *IBM Watson in Quiet Talks with Law Firms to Expand AI Offerings*, Bloomberg

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Law (Jan. 31, 2019). A group of twelve elite law firms also joined a consortium to support Reynen Court, a technology company that plans to make it easier for law firms to utilize new technologies, including AI.

### Impact of AI on Law Firms

Broadly adopting AI across the legal industry is likely to lead to a restructuring of the current law firm model by decreasing the number of lawyers needed to accomplish the same tasks. McKinsey recently estimated that 22% of a lawyer's job and 35% of a law clerk's job

present a case, cleverly structuring transactions, and engaging in oral advocacy. E.g., Gary Marchant and Josh Covey, *Robo-Lawyers: Your New Best Friend or Your Worst Nightmare*, American Bar Association (Fall 2018).

However, if lawyers can suddenly provide legal services 22-35% more efficiently, that means a smaller number of lawyers will be able to handle a larger number of clients. There is no evidence that the legal industry will see a corresponding increase in the volume of legal services sought, so competition for legal jobs will likely intensify as AI is more widely adopted. The cur-

attorneys will be able to do the same amount of work. Unless there is untapped demand for high-end legal services, which seems unlikely, the result will be fewer hours billed by law firms.

**(2) Junior lawyers disproportionately affected.** The reduced billings will likely result in fewer legal jobs, and this effect will be concentrated at the junior level. Higher-level tasks will still need to be performed, but fewer lawyers will be needed to support the senior lawyers performing those tasks.

**(3) Reduced leverage.** The reduced need for junior associates will accelerate the modern



AI has been shown to produce high-quality results, performing equal to or better than attorneys in many areas.

could be automated. McKinsey & Co., *Jobs Lost, Jobs Gained: Workforce Transitions in a Time of Automation* (December 2017). Many articles written on the topic of automation in the legal sector have welcomed the change. These authors predict that lawyers will be able to focus their time on the more engaging and intellectually stimulating aspects of lawyering, such as developing creative ways to

rent imbalance between the number of law school graduates each year and entry-level law positions is therefore likely to widen. But the structural effects of AI are likely to go far beyond the number of lawyers needed to do legal work. What will AI change? In a word: everything.

### Restructuring Law Firms In the Age of Automation

"It is impossible to predict the time and progress of revolution. It is governed by its own more or less mysterious laws." Vladimir Lenin.

Notwithstanding Lenin's warning, we have six very tentative thoughts on how AI might affect the legal profession:

**(1) Lower billings.** Fewer

trend of reducing leverage at law firms. Since 2007, there is evidence that the model of leverage law firms have traditionally employed is facing pressure from technology and in-house legal teams. James Park, *Law Firms in Los Angeles After the Financial Crisis*, Lowell Milken Institute Policy Report (Mar. 2019). As AI increases the efficiency with which junior associates can complete their tasks, even fewer junior lawyers will be needed.

**(4) Ending billable hours.** Increased reliance on AI may hasten the demise of the billable hour. In recent history, clients have been leading the charge for alternative fee arrangements, but with fewer hours required to perform legal services, firms may begin to feel that



## Law Firm Communication And Millennial Attorneys

BY ELIZABETH LAMPERT AND EMILY BROOKS

For decades now, law firms have put significant time and money into various initiatives related to professional development. Today, one of the most critical efforts for law firm management is developing a strategy for communicating with millennial attorneys and creating cultures where this younger generation can be productive and thrive.

### The Millennial Perspective

According to ALM Intelligence, millennials now outnumber attorneys from Generation X at firms in the Am Law 200. They also have the largest presence in the U.S. labor force in general, a presence which will only continue to grow according to the Pew Research Center. This generation will soon hold the majority of leadership and partner positions.

While generational differences can certainly be overemphasized and blown out of proportion, research suggests that some differences may certainly exist. A few key characteristics of the millennial generation are as follows.

### Work-Life Balance

The culture at many law firms may encourage everyone to follow the model of grinding out 80 hours a week. However, millennials—individuals born between 1981 and 1996 (ages 23 to 38 in 2019), according to the Pew Research Center—often place a high value on work-life balance and parental leave policies.

Almost 75 percent of millennial lawyers said they would exchange part of their compensation for work schedule flexibility, increased time off or a reduction in billable hours, a recent study found. With more than 17 million millennial mothers as of 2016, accounting for 82 percent of U.S. births that year alone, parental leave policies are also important. And firms are taking notice that parental leave is valued by the whole family, not just mothers. Some firms have

significantly expanded their policies, making them gender neutral and offering the same leave to all parents, no longer differentiating between primary and secondary caregivers.

### Flexibility

It's well documented that many millennials prefer non-traditional work schedules and flexible hours. For example, a recent Deloitte study found that millennials whose employers offer flexible work schedules and

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locations are more likely to stay with the company longer—55 percent of millennials who plan to remain at a company for at least five years say flexibility in these areas have increased over the last three years, while among those planning to leave in the next two years, only 35 percent reported an increase in flexibility at their workplace.

### Collaboration, Impact And Responsibility

Millennials also have a strong desire to be heard and communicate with decision-makers, researchers have suggested (including in a 2010 paper *Millennials in the Workplace: A Communication Perspective on Millennials' Organizational Relationships and Performance* by Karen K. Myers and Kamyab Sadaghiani and a 2012 paper *Reverse Mentoring at Work: Fostering Cross-Generational Learning and Developing Millennial Leaders* by Wendy Marcinkus Murphy). They want open communication across all organizational levels, wishing to be included in critical conversations. Millennials also want opportunities to contribute meaningfully to important projects and to be seen as valued team members.

Given this information, law firms must consider whether they have a progressive internal communications strategy in place to deal with this changing playing field. Law firms that do not close the potential gap

## Managing Toward Career Satisfaction, Professional Development and Client Service

BY ERIC L. LEWIS

Much is written about law firm management, but there is little consideration of the objectives toward which you are trying to manage. That is not as straightforward a question as it may seem.

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Where once clients had continuity with law firms from generation to generation, the name of the game today is business generation and individual partners are compensated accordingly.

vate law firms are, of course, businesses and an important purpose of any business is to generate profit. But if you are practicing law just to make money, you are in the wrong business. Become an investment banker or run a hedge fund. When I graduated from law school, law was still a profession more than a business. Lawyers earned good incomes but did not earn like rock stars or professional athletes. Things have changed over the years, certainly in terms of the economics of the

profession, but in many ways, we have lost many of the aspects of law practice that made for more satisfying careers, professional development and client service. I view a central goal of law firm management as managing to preserve many of those values for my colleagues as well as my clients.

When I began practicing law, big law firms in major cities might have had 150 or so lawyers. Medium size law firms were around 50 or 60 and there were plenty of top quality-law firms that had 15 or

20 lawyers. Law firms in smaller cities were generally smaller. Most law firms had one office, or possibly a home city office and an office in Washington, D.C. A few had small offices in London or Paris, where the senior partners loved to have a week or two during good weather months. If matters were based out of town or overseas, law firms would engage firms in those places, sometimes developing "best friends" relationships. Most lawyers knew everyone or virtually everyone in the firm. Lateral moves were rare, and the expectation was that a lawyer would spend his or her (mainly his, to be sure) career with the people with whom he began his career, perhaps with a stint in public service. Teams on a case consisted of two or

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In an increasingly technological world, how can law firms use technology to facilitate human interaction? Many firms are experiencing national and international growth, but are uncertain how to manage a firm spanning hundreds or thousands of miles and sometimes even time zones. Some would argue that the use of technology in a more “human” manner is necessary to keep modern firms connected and unified.

Certainly, companies like Google and Facebook have led the charge in creating workplaces that are both synergistic and technologically sophisticated—even going so far as to implement open office plans without assigned offices. While this particular type of design plan is not feasible for many law firms, having a technologically robust collaborative space is valuable in both fostering a positive work environment and managing a growing firm.

Lippes Mathias Wexler Friedman has experienced the type of growth that raises some strategic and management challenges. Just five years ago, our firm had one office with 49 attorneys; today, we have seven offices across the United States and Canada, and almost 110 attorneys, policy advisors, and consultants. One of the greatest challenges faced by any firm experiencing this type of growth is maintaining a close-knit, positive work culture focused on collegiality and inclusion—which requires an intentional and considered focus on building human connections. To that end, our firm recently built a large collaboration space with different seating configurations that can accommodate between 60-100 people. The room is equipped with two 90-inch monitors, two robotic cameras allowing for both audience and presenter views, technology systems to allow multi-user video conferencing and the transmittal and coordination of all desktop applications in real time, specialized lighting and room darkening features, as well as a state-of-the-art audio and microphone system. This collaboration room also contains a full kitchen and bar area that is used when the firm hosts clients, CLE programs or social functions.

A high-tech collaborative space of this nature provides the opportunity to communicate “face-to-face” despite the firm’s growing geographical footprint. The impor-

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## The Importance of Technology In a Growing Law Firm

ance of live, visual interactions should not be overlooked. Countless studies stress the importance of non-verbal communication, such as posture, hand gestures, eye contact or avoidance, etc. in human interaction. Anyone who has misinterpreted the tone of a text message or email can understand how nonverbal communication affects the context of words.

Non-verbal communication in the workplace is just as important at work as it is in one’s personal life. For example, Alex Pentland, a professor at MIT, has found success predicting the outcome of salary negotiations and business plan “pitches” in the office setting based off non-verbal behaviors. His research revealed that “people have a second channel of communication that revolves not around words but around social relations. This social channel profoundly influences major decisions in our lives even though we are largely unaware of it.” Alex Pentland, “Understanding ‘Honest Signals’ in Business,” MIT Sloan Management Review (Fall 2008).

Researchers have also found that when physical presence is impossible, audio visual technol-

ogy can be a valuable alternative. See generally Jon Denstadli, et al., “Videoconferencing as a Mode of Communication: A Comparative Study of the Use of Videoconferencing and Face-to-Face Meetings,” *Journal of Business and Technical*

Law firms can utilize collaborative space and technology to foster firm culture and the exchange of ideas.

Communication p. 65-91 (2012); G. Bradley Bennet, Richard C. Hatfield, “Staff Auditors’ Proclivity for Computer Mediated Communication with Clients and its Effect on Skeptical Behavior” (January 2016) (noting that, “[o]ur findings suggest that communication mediums with reduced channels (e.g., no audio or visual channels), such as CMC, are less appropriate for complex and unique problem solving tasks.”). Telephone calls, emails, and letters are often insufficient to fully discuss a complex matter. While nothing fully compares to in-person interaction, using video conferencing technology provides a much more holistic communication experience for everyone involved than traditional methods of communication.

Law firms can utilize collaborative space and technology to foster firm culture and the exchange of ideas. For example, at Lippes Mathias, our trusts and estates group spans three offices—Albany, Buffalo and Jacksonville, Fla. As a

result, the group meets regularly using video conferencing to discuss or strategize on issues of importance to their practice.

The use of technology is utilized to facilitate our quarterly partner and associate meetings which involve colleagues in various geographic locations. Video conferencing allows each office, or even those working at home or on the road, to fully participate in discussions, collaborate about firm policy and procedures or discuss the state of the firm. This “face-to-face” interaction can provide a window into the expectations and realities different offices may encounter and allows all participants to feel fully vested in the meeting.

Not only is the technology used

for day-to-day management and legal work, it also advances collegiality and community involvement. For example, the firm’s Women’s Group has used the collaborative space to strategize initiatives to increase diversity and inclusion in our community and firm. This approach allows participants throughout all of the firm’s offices to have a real, valued seat at the table in advancing firm initiatives and contributing to firm success. As a result, participants often feel an increased comfort level with the group, resulting in more honest and open sharing of ideas and opinions.

Collaborative technology also fosters and enriches client relationships. Not only are law firms becoming more technologically sophisticated—so are our clients. Clients have greater expectations that their counsel be readily accessible to address legal concerns as they happen. In June 2017, a *Forbes* article by Mark Cohen titled “Are Law Firms becoming Obsolete?” detailed the seven ways law firms fail to address client challenges. Notably, it listed firm’s “failure to deploy technology to streamline operations and provide

enterprise solutions” above “poor customer service.” Essentially, it addresses a central principal of modern-day law practice: Evolve or become obsolete.

To foster both the integration of technology and foster customer service, the use of collaborative technology can be a step in the right direction. While email is sufficient to provide a quick update, sometimes it is useful to meet more meaningfully, through video conferencing, to develop a solution to a legal problem or maintain and build existing client relationships. The ability to fully discuss the strategy of a case via video conferencing and real-time document review can provide a greater sense of transparency to the client, save a client the cost of attorney travel expenses, and save the attorney his or her most precious commodity—time. In this way, law firms can function more like in-house counsel, namely by lowering costs and interacting contemporaneously to find solutions to client issues.

Another innovative use of a high-tech collaborative space is in human resources, e.g., conducting initial interviews of potential job candidates. Live interviews enable much more effective vetting of candidates than an audio interview, reduce or negate the need for travel, and allow the firm to more accurately assess whether the candidate is suited to the work and culture. On-boarding new hires in offices geographically dispersed from critical team leaders or HR representatives can also be accomplished easily and efficiently via video conferencing, online quizzes and questionnaires and training videos. By connecting a name to a face in the human resources department from the start of the employment relationship, the law firm also builds immediate trust and a connection that allows employees to more comfortably approach management with questions or concerns throughout the employment relationship. This type of communication can make a difference in fostering employee relationships remotely.

Ultimately, the most important benefit of a high-tech collaborative space is its ability to bring people together in a warm and inviting environment to share experiences, bounce ideas off one another and build relationships. At its core, the successful practice of law is based on critical thinking and innovation. Firms and their clients should embrace creative design elements and technology within their firm to make their ideas, communication and solutions more accessible and—ultimately—fundamentally human.

## Do You Trust Your Firm Chairman?

Why it matters more than ever in lateral hiring.

BY KEITH FALL AND ROSS WEIL

As the Am Law 100 firms continue to show strong growth, individual firms are focusing on hiring as one of their top strategies for improving revenue and profitability. The recession hit law firms hard, resulting in over 8,000 job losses among the Am Law 100 firms. Despite improvements in headcount in the last few years, some firms are still hesitant to make significant changes in how they hire. However, lower demand, fee pressures and increased competition mean that firms cannot afford to maintain the status quo. Continuing growth is necessary to assuring clients and attorneys that the firm is positioned to best serve clients’ needs. Today’s legal environment requires that law firm leaders be strategic, proactive and nimble in growing the firm. If they are not doing that, then partners need to take action to change management. Unfortunately, some firms hinder those changes. Trust and accountability are lacking, which is felt in ineffective lateral hiring practices and in turn hurts the firm’s competitive position.

### State of the Legal Market

According to the 2018 Report on the State of the Legal Market, law firms overall are continuing to experience sluggish growth in demand for their services. However, the exception to this are the Am 100 firms who have “significantly outpaced both Am Law Second 100 and Midsize firms in a number of key indicators including percentage growth in demand, worked rates, fees worked, overall revenues, and cash collections.” Notwithstanding these results, the legal market remains challenging for even top firms. Am Law firms are increasingly moving into sec-

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ondary cities like Boston, Philadelphia and Minneapolis to help fuel their growth; in some cases, acquiring regional law firms or practice groups. This in turn is creating more competition and disrupting the legal landscape for local and smaller firms. The smaller firms are competing with top firms not just for clients, but for attorneys. As a result, their recruitment efforts must be particularly effective, and in some cases, they are meeting these challenges by hiring attorneys in new markets drawing them away from top firms.

In addition, while Am Law 100 firms are doing better than other firms, growth is not distributed evenly. As noted by Bruce MacEwen, the President of Adam Smith, Esq., in his analysis of 2017 Am Law 100 data: “[t]he Am Law 100 is not remotely a ‘normal’ distribution; it’s a power curve, with a few big players, a lot more in the middle, and a long tail of smaller fry.” What can firms do to make sure they are among the ones enjoying the improved revenue and profitability?

### Reviewing Hiring Practices

Law firms admit that increasing headcount is an important growth strategy for them. An Al-

Today’s legal environment requires that law firm leaders be strategic, proactive and nimble in growing the firm. If they are not doing that, then partners need to take action to change management.

man Weil study from 2017 found that 56 percent of law firm leaders believe headcount growth is a requirement for the firm’s success and two-thirds of respondents planned to add groups of laterals. A recent ALM Intelligence study similarly found that “85 percent of Am Law 200 firms reported that hiring laterals was one of their two most important revenue growth strategies for the coming year.” If firms believe this, then why are so many failing to do it effectively?

Despite many firms’ “commitment” to growth, in our experience, they often put obstacles in the way of effective hiring. The reasons often involve issues of trust and power. Within some firms, partners are reluctant to delegate hiring decisions to management. Instead, they create a bureaucracy where too many partners have a say in hiring which in turn means firms cannot move quickly or be proactive in seeking candidates.

These obstacles also make it difficult for firms to make strategic

hiring decisions. Often individual partners are focused on their own practice group needs and may not have the time to analyze how developing other practices or geographic areas may be a better choice for the firm. In addition, many firms succumb to opportunistic hiring—that is, they see a resume of someone with a big book of business and hire the individual regardless of whether it fits with their hiring strategy. In contrast, a management committee charged with hiring is better able to focus on the needs and priorities of the firm with less interference from partners. They are also better equipped to do the necessary due diligence to ensure the lateral is a good fit and will be a successful hire.

### Changing Management Infrastructure

When firms refuse to delegate decision-making to management, they risk losing out to their competitors. Am Law 100 firms are

to confirm the status quo and trust is cultivated and earned. This enables partners to have a voice in the firm’s management but let’s them feel comfortable delegating every day decisions to trusted leaders. The most successful firms are embracing openness and collaboration with strong leadership focused on strategic growth. Holland & Knight managing partner, Steven Sonberg said it well: “What I’m good at ... is trying to develop collaboration and consensus of ideas, and generally leaving people alone to do things they do well.” Similarly, Ira Coleman, chairman of McDermott Will & Emery, credits the success of the firm in achieving \$1 billion in revenue to an agenda focused on “indispensability to clients; high achievement, productivity and profitability; and a happiness factor” among the firm’s attorneys.

Firms who don’t develop this kind of culture risk losing partners to competitors unless they can demonstrate stellar results in growing the firm. For example, firms like Goulston & Storrs have already benefited from recruiting partners looking for a law firm that encourages collaboration and trust. As noted by Martin Fantozzi, co-managing director of the firm, “The intimacy you can have in this environment and the personal connectedness you can have in this environment is different.” Deborah Manus, managing partner of Nutter McClennen & Fish agrees saying “a lot of people like to work at a place that is a true partnership.”

The reality is that lower demand for legal services and more competition requires that firms look to lateral hiring to increase revenue and profitability. Firms who engage in strategic hiring and adopt a process which centralizes decision-making and provides accountability will be more successful than their competitors. Although many law firm leaders may object to changing their practices, in this business and legal environment, firms who don’t grow will be left behind.



BY MIKE COTE

In the legal industry, attorney-client trust is critical and depends on a law firm's ability to safeguard a client's sensitive information: documents, business dealings and intellectual property. This was a lot easier to do when most documents were on paper and required physical presence to access. Now, most sensitive data has shifted to electronic formats and is stored on computers connected to the Internet.

Information that law firms amass is a veritable treasure trove for hackers and so law firms big and small are quickly becoming attractive targets for cyber attackers. According to the American Bar Association's 2018 study, overall 23% of respondents reported that their firms had experienced a security breach at some point. The highest reported breach rate—42%—is for practices with between 50 and 99 attorneys.

While breaches don't always make national news, attacks are growing in frequency. Hackers know that most law firms usually have less sophisticated security programs, house valuable confidential data including trade secrets, medical documents and financial data, and that they represent a vulnerable entry point into larger targets.

Adding to the cybersecurity challenge facing law firms is the industry trend of mergers and acquisitions. Securing the diverse technology footprints of consolidated law practices is more complicated. Raising all the offices to the same security standards, and operating under the same security umbrella, can be immensely challenging.

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Unfortunately, while law firms are a major target for cyberattacks—they are not prepared. Recent industry reports say more than half of law firms do not have a dedicated information security professional, less than a third have formal cyber security training programs and most don't have formally documented cybersecurity policies.

Poor cybersecurity can potentially result in attorney discipline, legal malpractice allegations, civil litigation or irreparable harm to a firm's reputation—resulting in loss of clients and future business. Now more than ever, law firms need to take action to protect sensitive client and attorney data. At the same time, they need to comply with regulations that govern their clients, as well as state and federal laws.

But while attacks are increasing, law firms' IT staff and their available time hasn't.

Building up an in-house cybersecurity program is becoming increasingly challenging as security technology is becoming more complicated and more expensive, and skilled talent is becoming harder to find. A report from Cybersecurity Ventures predicts 3.5 million cybersecurity jobs will go unfilled worldwide by 2021.

For these reasons, many law firms have turned to Managed Security Service Providers to obtain Security-as-a-Service. The key benefit is that Security-as-a-Service companies can provide law firms immediate access to skilled cybersecurity professionals and field-tested security processes that become an extension of internal IT resources.

**Security-as-a-Service**

A good Security-as-a-Service provider will offer you a combination of four basic elements:

- Instant access to skilled cybersecurity expertise
- Field-tested and mature cybersecurity processes
- Technology that you may be lacking
- 24x7x365 active security coverage

Together, these elements should combine in ways that become an extension of your internal technology and IT team.

The best way to get started with a Security-as-a-Service provider is to make a checklist of

Look for Security-as-a-Service providers who will quickly perform root cause analysis and implement steps to remediate a situation before the damage of a data breach becomes more extensive. Additionally, it's important to note that many security compliance regulations call for system monitoring, incident detection and response capabilities.

**(2) Responding to Incidents:** Security incidents can take many forms, but, in essence, they're a deviation from the organization's security policy. Examples of secu-

**(4) Patching Systems:** Sophisticated attackers exploit unpatched and misconfigured software every day, which makes patch management a vital part of any cybersecurity program. But, while the rate that patches need to be applied is steadily increasing, lack of time and staff, as well as technical, organizational and process control challenges all contribute to why lean IT teams don't continuously scan for vulnerabilities and regularly patch systems.

A Ponemon Research cybersecurity study found that 57% of breaches were due to an unpatched vulnerability, and that 34% of breached organizations knew they had unpatched vulnerabilities but did nothing. Those breaches could have been prevented with proper patch management.

Security-as-Service providers can help law firms manage a systematic program to scan for vulnerabilities and unpatched or misconfigured software across Windows, Unix, Linux and Mac servers, workstations and laptops—even applications such as Office, Adobe or Java.

Recommended scans include internal, external, authenticated and non-authenticated. These scans will help you see the hackers' view of your internal and external vulnerabilities and help to uncover updates that need to be applied.

But finding vulnerabilities is only half the job. Your service provider should also help locate needed patches and then help with patch deployment. Most importantly, they should give you change control processes to review, approve, schedule, apply, validate, and, if needed, roll-back patches.

Having a good patch management program can make drastic improvements to a law firm's security posture, prevent attackers from exploiting known vulnerabilities and is also key to meeting compliance mandates.

**(5) Compliance:** On top of monitoring and responding to incidents and patching systems, law firms must also make sure they are effectively meeting compliance regulations by following security best practices.

Law firms, now more than ever, are facing increasing cybersecurity obligations from state bars, the ABA, and even from clients. Critically, law firms need to support the compliance mandates that their clients operate under—HIPAA, SOX, CCPA, GDPR etc. Protecting client information and passing client-required security audits and adhering to their client's regulatory compliance mandates, are driving law firms to adopt cybersecurity services. Recent industry reports say almost half of law firms had their data security practices audited by at least one corporate client in the past year.

Compliance can be a major challenge since different industry regulations have specific requirements. Look for Security-as-a-Service providers who will help you with client-requested audits, and that help prepare documents and artifacts to satisfy your compliance requirements.

**Summing Up**

Cybersecurity for law firms of any size can be daunting. The good news is you don't have to do it all yourself. When you can't add headcount—and you don't want to buy or deploy software—Security-as-a-Service can help you increase the quality of your cybersecurity program—across one, or many, locations.

By leveraging Security-as-a-Service as part of your law firm's cybersecurity posture, you can make it more manageable. In the end, everyone's goal is the same—to keep client and attorney data safe and out of the hands of a cyber attacker.

Poor cybersecurity can potentially result in attorney discipline, legal malpractice allegations, civil litigation or irreparable harm to a firm's reputation—resulting in loss of clients and future business.

considerations that are key to your business before having your first meeting. Most importantly, you want to determine which cybersecurity providers can deliver trusted advice when you are working to navigate the constantly changing cybersecurity landscape. They should become an extension of your IT team and become familiar with your business processes, compliance requirements and security goals.

Here are five ways law firms can use Security-as-a-Service to protect themselves and to protect their clients' information:

**(1) Monitoring and Hunting for Threats:** Law firms need to be proactive and continuously look for threats to ensure their firm isn't breached. The challenge is that IT teams at many firms lack the time—and sometimes lack the skills—to properly investigate the security alerts that their technology provides. A good Security-as-a-Service provider will pick up the slack and triage alarms for you, letting you know about what's important.

ity incidents are unusual traffic on an unsanctioned port, unauthorized access to a specific file share, or a range of other activities that violate an organization's acceptable standards.

Risk is best mitigated by acting quickly. Without the right technology or processes in place that generate alerts when systems are compromised, the scope of an incident will grow and ultimately can result in a catastrophic business impact or even regulatory fines.

**(3) Maturing Security Processes:** It's important to have solid, tested and repeatable processes in place when incidents arise. But most law firms lack the skills to develop—or the time to constantly update—security processes that stay up-to-date with their evolving business systems and evolving threat vectors. Security-as-a-Service providers can give you immediate access to field-tested processes that are the product of thousands of hours of work based on knowledge gained from hundreds of customer environments.

## Midsize Firm Success:

# Six Tips That Run Counter to Big Law Management Trends

BY FREDERICK R. CUMMINGS JR.

Remaining competitive as a midsize law firm in New York City has its challenges. There are those irksome difficulties faced by most firms, such as making sure that everyone's time gets recorded daily and bills get sent out monthly. But there are other aspects to achieving success that include a willingness and ability to be nimble and to adopt strategies that run counter to management trends followed by Big Law. Here are a few suggestions I would offer based on my experience:

**Seize Opportunities in New Practice Areas When They Arise.** One advantage we have over larger firms is that we are able to carve out niche practices that larger firms might not be willing to enter.

Under the leadership of the chair of our matrimonial department, we have developed a significant practice, which not only handles a broad range of complex matrimonial and family law cases, but also has been a leader in the establishment of rights for the LGBTQ community. Our firm played a key role in redefining the definition of "parent" under New York law, which we undertook on a pro bono basis. We also have been on the cutting edge of the law in our Title IX practice, which is based on the proposition that all individuals in educational settings, particularly in cases of alleged sexual assault, are entitled to due process. The chair of that practice group was just selected for Crain's "40 Under 40" list for 2019—

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an extraordinary accomplishment and a great honor for her and our firm. These initiatives are by no means a substitute for strengthening our core practice areas but they are important in distinguishing the firm as one that embraces innovation and entrepreneurship.

**Plan for Succession.**

Firms our size disappear on a regular basis. They fail, they merge or sometimes the owners just decide to fold them. The disappearance of these firms often coincides with their lease expiration and results from the failure of those responsible for managing the firm to establish and implement a plan for who will assume those responsibilities when the current leaders no longer are willing or able to do so. With our lease coming up for renewal later this year, we focused our energies over at least the past five years in attracting and retaining younger attorneys who would form the core group of future leaders who would eventually inherit the firm. We have made some of them equity partners with representation on our Management Committee. Our new 15-year lease in modern space positions us to continue on this path intended for smooth transition of leadership in the coming years.

**Leave the Mandatory Retirement Policies to the Large Firms.**

This may seem to contradict the previous suggestion regarding planning for succession by the next generation. It doesn't. In firms our size, there is room for attorneys of all ages so long as they are productive and make a meaningful contribution. I have always been against mandatory retirement. A

brother-in-law of mine was forced to retire from a large Manhattan firm. I would watch him do the Times crossword puzzle—the Saturday puzzle, not the Monday puzzle—answering each clue from 1 to 124 methodically and correctly from start to finish. While I have nothing against crosswords, I couldn't help thinking that a guy who was still at the top of his game should be doing something more productive and meaningful with his time and intellect. I understand that mandatory retirement

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is a necessary byproduct of the business model that large firms apparently must adopt to stay as profitable as they are. Smaller firms like ours don't need to force older lawyers to retire to make room for their younger colleagues. In fact, the mandatory retirement policies of large firms have served as a windfall for us, allowing us to hire partners who at age 65 or 70 still have many productive years ahead of them, combined with a book of business and relationships developed over a career of successful work for their clients.

**Vetting of Lateral Partners.**

While growth from within is one path to greater profitability, hiring laterals is for most firms also a necessary component of their growth strategy. The best laterals are often the ones who approach the firm because they know and

respect the judgment of one or more of your partners. From the firm's standpoint, the risk of making a hiring mistake is significantly reduced if one or more of your partners has worked with the person on the same or the opposite side of a matter. Your partners can tell you firsthand whether the individual is a good lawyer, whether that person relates well to colleagues and staff on a day to day basis, has a strong work ethic and an entrepreneurial outlook or other talents that could benefit

the firm. We also deal with many recruiters and value their services since we have had many successes with their candidates. The benefit of our being approached directly by the lateral who has prior relationships with your partners is not so much about saving a fee as it is about getting a known commodity. You do your best in the interview process to try to ferret out the possible problems you might have after the person arrives. With candidates always on their best behavior when interviewing, asking the tough questions is an essential part of your due diligence. Mistakes sometimes might cost you financially, but always will cost you in terms of the time they consume. It's almost always far more complicated extricating yourself from these relationships than it was entering into them—the divorce can be a lot tougher than the marriage.

**Be as Transparent as Possible With Your Partners.**

One essential message you need to convey to your partners is that all of you are in this together—everyone has a stake, and everyone has a responsibility to the group. A necessary predicate to this type of engagement is to convey as much information to your partners as possible so that everyone understands that there are no secrets here. At our firm, the equity partners get a full report each month covering every significant piece of financial data ranging from current and year-to-date billable and non-billable hours of each timekeeper, to billings, collections, receivables and work in process of each attorney, to hours spent by each attorney broken down by which attorney originated the matter. Each of them also gets a report each day of all of receipts, upcoming expenses and cash balance. The non-equity partners don't get the same scope of information but do get more than enough information to manage their practice. Besides supplying current financial data, we hold a monthly meeting for the equity partners at which everything of significance is discussed based on my detailed agenda. This venue, as well as our bi-weekly management committee meetings also provide valuable feedback for the decisions I need to make.

**Managing a Midsize Firm Is an Incredibly Complicated But Fulfilling Job.**

Firms of our size can't afford a large overhead structure. The people who support you in office administration, accounting, IT, and records management, all need to be prepared to give

110% effort. Slackers need not apply. I insist that they each keep a "to do" list in the same way that I keep one for myself, while being careful how I allocate and prioritize my own time since there are always dozens of tasks on the list. But the challenge is not just about what you must do—it's also about who you must be. It is often said that one big difference between practicing law at a large firm versus a small firm is that at a large firm, the lawyer has the luxury of being able to focus on a narrow specialty whereas at a small firm, the lawyer must be able to handle a wide variety of legal problems to satisfy the clients' needs. That principle applies tenfold when it comes to managing the firm. Be prepared on any given day to act as mentor, counsellor, motivator, arbitrator, strategist, planner, organizer, hirer, firer, evaluator, damage controller, enforcer promoter, confessor, therapist and shrink. And that doesn't even begin to cover the roles you will need to play the following day, not to mention the legal work you are still expected to perform for the firm's clients. The job does have its satisfactions. Not only are you responsible for providing top flight legal services to your clients and reasonable rates, you also are providing gainful and meaningful employment for dozens of people—no small accomplishment in today's world. If you ever experience boredom, you are probably doing something wrong and should start thinking about getting another job. With apologies to Samuel Johnson and his beloved London, it's a bit extreme to say when you're tired of being managing partner, you're tired of life. But then, maybe it's at least time to start thinking about retirement.

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## Law Firm Management

## Millennial

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between the values, perspectives and communication approaches of millennials and earlier generations will be at a distinct competitive disadvantage when it comes to attracting talent and increasing efficiencies.

Here are some tips for communicating and working effectively with all generations of associates and partners:

**(1) Know your audience.** Knowing whom you are communicating with makes all the difference. Does he or she prefer phone calls, emails, memos, or in-person meetings? Understand the strengths that each generation brings and educate all employees about ways in which different generations may respond differently.

Regarding the common perception that millennials tend to prefer written, rather than spoken communication, a recent study indicates that when it comes to work communication, preference for face-to-face communication does indeed decline with age: Of those 35 and over—an age range which includes the oldest millennials, along with Gen X and Boomers—36 percent identified face-to-face as their favorite medium for work communication, compared to 23 percent of 25-34 year-olds (those squarely in the millennial generation), and 19 percent of 18-24 year-olds (younger millennials and some Gen Z individuals).

Overall, older employees (35+) have a much stronger consensus around their #1 preferred work communication method, both in general and for specific work situations like delivering feedback, asking a brief question or quitting one's job. Younger employees, many of whom fall in the millennial generation, display greater diversity in communication preferences. For example, the vast majority (68%) of those 35 and over identified face-to-face conversations or email as their preferred method of work communication in general, while only half of those squarely in the millennial generation identified one of these two methods as their favored form of communication.

As a result, at the macro level, firms should ensure that multiple forms of communication are available and respected. And in individual interactions, people should be conscious about determining which method each individual prefers—it never hurts to ask, and to be flexible. This applies for client interactions, as well as colleague interactions.

**(2) Create space for collaboration, but also set boundaries.** A significant source of intergenerational conflict in the workplace can arise from the perceived frequency with which millennials ask questions, raise concerns and want to talk through workplace issues. This can create a dynamic where senior generations are expected to respond to frequent inquiries from younger employees, while workplace leaders wonder why millennials are not figuring things out for themselves.

However, recent IBM research suggests that millennials are no more likely to ask for advice at work than their Gen X colleagues. A majority both of millennials (more than half) and Gen X (two-thirds) say they make better business decisions when a number of people provide input, and similar percentages value group consensus. Granted, Boomers report a lower value of both these areas (39 percent and 41 percent respectively), so there is a generational gap there.

Since both millennials and Gen X seem to value collaborative cul-

tures that emphasize consensus-building, they may clash somewhat with the Boomers' more independent approach. Given these potential differences, firms leaders should create space for collaboration and consensus-building while also establishing clear boundaries to ensure maximum productivity and efficiency.

**(3) Welcome insight from all levels of the organization.** The most junior associate in your group has a fresh idea? Listen to it. Establishing procedures to encourage employees to share ideas and suggestions can be a powerful gesture as workplaces often ignore ideas offered by younger employees—provided this input is taken seriously and acted upon when it makes sense.

Some steps law firms have recently taken to give millennial lawyers a voice include town hall meetings with two-way feedback sessions and forming a group of junior partners tasked with developing suggestions for how the firm should operate in 2022. Other strategies may include the development of a forum to discuss the pros and cons of a proposed strategic choice, the appointment of a task force to investigate suggested technological improvements, or other programs that demonstrate an interest in new ideas.

By proactively soliciting input throughout the firm, you are sending an important signal that new ways of solving problems are always welcome. Additionally, people who are given the opportunity to help shape the firm or contribute meaningfully to a specific initiative, may become more invested in the organization. To create a culture that encourages sharing of ideas at all levels, firms must demonstrate that they are serious about considering and acting on good ideas, rather than just collecting to them.

**(4) Give feedback freely, but also empower individuals to ask for it.** Millennials want meaningful feedback and a clear understanding of their career path within the firm. A recent Gallup study indicates that 55 percent of millennials are not engaged at work, leading to turnover that costs the U.S. economy \$30.5 billion annually.

A few factors that influence engagement include regular feedback, assistance setting performance goals, and consistent meetings with managers, the Gallup study found. For example, 72 percent of millennials who strongly agree that their manager works with them to establish performance goals were engaged. However, it appears millennials may also be reticent to ask for feedback: Only 15 percent strongly agree that they routinely solicit feedback about their work.

Firm leadership and senior partners should seek to both give frequent feedback, and also encourage millennials to ask for it, creating a space where they feel safe and empowered to do so. Useful feedback is a tool that develops the next generation of leaders.

**(5) Leverage social media.** For many firms, social media serves as a core business development tool and 85 percent of lawyers report using it in their marketing strategy. Not having a baseline knowledge of Facebook, Twitter and LinkedIn—and even perhaps Instagram—puts you at a decided disadvantage. As noted above, millennial colleagues (and clients) are likely to be using social media more frequently. Therefore, lawyers of all generations would do well to develop strategies for connecting with the audiences that matter to them on these social platforms.

For example, startup lawyers might consider a Twitter presence to connect with the startup and

venture capital community there. Younger colleagues who may be more social media savvy can provide valuable upward mentorship and help build out and execute their firm's social media strategy, in conjunction with the marketing department. Internally, organizations can also think further about how to leverage other tech-enabled forms of communication in the office from instant messaging to file-sharing and project management tools.

**(6) Establish clear rules for sharing information online.** Despite its many benefits, social media—and online communication in general—also present risks. From tweeting something that offends a client to inadvertently sharing confidential information, there are many pitfalls attorneys must avoid. Firms should have well-crafted policies in place that clearly outline best practices and acceptable behavior.

**(7) Thoughtfully integrate personal and professional communication.** Today more than ever, people must be adept at transitioning between how they communicate personally and how they communicate professionally. While managers may fear that tech-immersed millennials will struggle to do so, research shows that the generations are relatively aligned on the appropriate means of communication for specific work situations.

However, since the integration (and differentiation) of personal and professional spheres has become more complicated and there is the potential for additional blurring, an organization would do well to provide trainings that encourage employees to think through how they'd like to navigate this and any related formal policies the company has. For example, should business conversations be held via text on personal cell phones? What is ok for employees to share on social media? Should you friend a client on Facebook?

**(8) Mentor and be mentored.** Reverse mentoring programs and two-way mentoring relationships offer valuable opportunities for younger employees to contribute in a meaningful way, have their voices heard and feel valued.

In these arrangements, more junior employees can teach more senior employees skills they have deep knowledge of—while also learning from their colleagues' experience in other areas. For example, millennials may offer unique insight in tech-related areas as they've grown up immersed in technology and may be more technologically savvy than some of their older colleagues.

Additionally, typically expected generational differences aside, each person has unique experiences and may have many valuable insights to share with colleagues of all ages. For example, a more junior attorney may have obtained a graduate degree in life sciences before pursuing law or have a passion for blockchain technology and can provide insight to a colleague who may be less familiar with these spaces.

**(9) Understand trends, but also see the individual.** While understanding generational trends and forming thoughtful, data-driven policies based on these trends is valuable, when forming relationships with a colleague, it is important to see them as an individual. Don't assume that someone will behave in a certain manner due to their age, but instead, get to know them personally.

The communication and evolution of the multigenerational workplace and the intersection between technology and ethics continue to evolve. Keep communicating and empower others to do the same.

## Satisfaction

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three lawyers. Leverage was relatively limited. There were exceptions to this model, but it was the general template for the profession.

Then everything changed. To be successful, law firms required critical mass, so minimum head counts went to 500 and then 1,000 and now the 10 largest law firms in the world range in size from approximately 2,000 to 4,700 lawyers. Law firms need to have offices in a number of major cities. DLA Piper is in more than 90 cities. Law firms try to offer "seamless service" across the globe.

The legal press breathlessly reports multiple lateral moves every week and which firm has now broken the \$1 billion revenue mark. The inequality coefficient between top earning partners and lowest earning partners has ballooned. Free agency is more active in BigLaw than baseball. Paul, Weiss, Rifkind, Wharton & Garrison reported average profits per partner of \$5 million and recently recruited a partner for \$10 million per year, while William Barr, who spent time at Kirkland between stints as U.S. Attorney General, reported \$1.2 million in annual income plus a \$50,000 bonus. What George Orwell wrote in *Animal Farm* applies to law firms: "All animals are equal, but some are more equal than others."

Where once clients had continuity with law firms from generation to generation, the name of the game today is business generation and individual partners are compensated accordingly. When a law firm has a bad year or two, the top earners often head for the exits and a number of large firms have gone into the death vortex, collapsing in a few months.

Leverage of four to five associates per partner is common. Where once partners had to be home grown, now it is more likely for many big firms to make a partner laterally than vertically. Associates are told they can work from home and need not come into the office, which makes it more likely that the model for legal practice is less col-

laborative and more inbox to out-box. Associate salaries are high, but stints in law firms are shorter. There are still training seminars, but a partner sitting one on one with an associate to teach him or her to write a brief or structure an agreement is far less common. Lawyers at every level report longer hours, more stress, and less in-court experience, autonomy and job satisfaction.

Perhaps this is the way of things and it is anachronistic or quixotic to look toward a different model for running a law firm. Nostalgia is not a business plan. Many fine small law firms have gone out of business or merged into larger law firms. Others have lost their most capable people and our firm has certainly lost people over the years who could not turn down more lucrative opportunities or who wanted more protection against the economic ebb and flow of a small litigation practice. I still maintain, however, that it can be done for the benefit of lawyers, senior and junior, for staff, and, indeed, for the benefit of clients as well.

Managing a small law firm certainly poses particular challenges. One does not have the same economies of scale. Absence of leverage makes it harder to generate profits. Clients hire the firm for its expertise at senior levels, to provide solutions based more on experience and judgment rather than name recognition. The brand is harder to build at least in large domestic markets, especially New York, so we focus on foreign markets with large problems in New York—often with respect to complex financial disputes. We represent hedge funds and individual entrepreneurs and foreign financial institutions and insurers as well as foreign sovereigns and large family conglomerates or trusts. Fortune 500 companies are more reluctant to take a chance with a firm our size, as the general counsel may be on the hook for not hiring a mega-firm if a case goes badly. But there are fortunately quite a few law firms and entities in the Middle East and Latin America and Liquidators or barristers in London that we have worked with over many years and where we are as well-known as the AmLaw 100.

Of course, the key issue for building and preserving a law

firm culture is finding people with shared values who understand and buy into our model. They know that there are tradeoffs. We can't promise 15% year on year profit growth. We have had great, BigLaw-like years and we have had off years. We have some contingent and partial contingent work. That helps us compete for significant cases where other firms may have less flexibility in setting fees. We are happy to work with law firm funders who provide a sober early review of potential cases. Thankfully, they have worked out well, but there is always the chance that there will be a large investment and limited return.

We have had periods during which we have invested huge amounts of time for many years on Guantanamo and death penalty work. We litigated on behalf of hunger strikers at Guantanamo, as well as for journalists who were targeted by drone strikes. We have handled civil rights class actions pro bono. We used our trial and Middle Eastern experience to work with the Federal Public Defender on the case of Abu Khatallah, the Libyan who was grabbed in Benghazi and charged with the murder of our Ambassador and three others. All of this work affects the bottom line. In some years, by a lot. But the satisfaction of getting someone off death row or hugging a client who has been returned to his home country after seeing him for years in shackles in Guantanamo is not something you can quantify.

So, one needs to find lawyers with a real commitment to the values of the institution. That means sharing the work, looking at the work as not only my work but the work of the law firm, and being committed to what we do and how we do it. I have practiced with a number of my partners since I left law school. Some of them were at law school with me. Few people leave or retire, and it is good for both the senior lawyers and the junior lawyers to have lawyers in their 20s interacting with lawyers in their 80s. If people are committed to what they are doing, to doing it at a very high level, are candid with themselves and each other about their contributions, and enjoy their colleagues, the money takes care of itself.

## AI

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billable hours do not adequately compensate them for the value of the work they do. As a result, firms may join clients in pushing for alternative fee arrangements.

**(5) Effects vary by practice area.** Different areas of law may be affected differently by AI. In litigation, AI may play an increasing role in reviewing documents and in allowing clients to more accurately assess legal outcomes, but the outcome of litigation will presumably still be decided by human judges and juries. Even in the areas of law where technology has been implemented to assist judges in making decisions, the judge still retains the full authority and responsibility to issue the decision, only using the algorithm's report as one data point

among many. Ephrat Livni, *In the US, Some Criminal Court Judges Now Use Algorithms to Guide Decisions on Bail*, Quartz (Feb. 28, 2017). This will continue to leave a key role for human advocates in litigation, albeit a role performed with fewer junior associates. Moreover, there may be certain types of litigation which happen so infrequently that AI may not have not have enough available data to accurately assess the outcome. But routine transactional work may well be done in-house thanks to AI, and the definition of "routine" work may become broader as AI improves.

**(6) Changes in training lawyers.** Perhaps most troubling, the traditional model of training attorneys is very much at risk. Attorneys have traditionally been trained by doing routine work while watching more senior attorneys. That model has already been affected by e-discover-

ery, and with AI allowing machines to do more of the routine work, it is at best unclear whether there will be enough billable work for the (diminished) pool of junior lawyers to perform, and likewise unclear how many will receive proper training.

Because lawyers and law firms are vital to the functioning of the modern economy, it is safe to assume that some new system of training and a new balance between clients and lawyers will arise. And it is possible that one effect of AI will be to make the (presumably smaller) firms of the future look and feel a lot like the firms of decades ago, with less leverage, less emphasis on billable hours at the junior level, and more focus on training for training's sake. But it is also safe to assume that every guess about the details of that future—including ours—will be wrong.



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