OF COUNSEL
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In This Issue

Practice Area Portrait …

Claims in a Wide Range of Areas Fuel Class Action Litigation

It seems every time you pick up the newspaper, watch TV news, or visit your favorite online news outlet, you see another headline-making class action lawsuit, often involving a well-known company.

While class actions tend to flow at a fairly constant rate over the years, plaintiffs and defense lawyers in this complex practice area are seeing an uptick these days, particularly with claims in wage-and-hour, workplace discrimination and harassment, securities, antitrust, and privacy/data security matters.

Several recent Supreme Court rulings on class certification matters and lower court actions on those holdings have kept class action attorneys scrambling to track the litigation topography and at times adjust their strategies. "It's been a really interesting time for class action law because there have been a number of decisions from the Supreme Court and a number of different interpretations in various districts in the realm of certifying classes on certain issues,"

Continued on page 2

Wolters Kluwer

says William Warne, partner and chairman of Sacramento's Downey Brand.

Traditionally, certain jurisdictions attract more class action claims than others, and right now Sacramento and the Bay Area are bristling with activity, especially in employment law. "Northern California is probably the epicenter of employment class action suits involving wage-and-hour and EEO (Equal Employment Opportunity] claims," says Charles Thompson, partner and chair of the employment class action practice in the San Francisco office of Kansas City-based Polsinelli. "We're seeing multiple filings every day in the California courts."

Thompson says plaintiffs' attorneys in the Golden State, as well as in other places, have grown increasingly sophisticated, and often set their sights on Silicon Valley employers that are appealing targets given their deep pockets and world-famous brands.

"We also have very sophisticated laws covering wage-and-hour and discrimination classifications," he says, adding that the firm has 12 class action attorneys firm-wide and plans to increase its hiring of experienced partners who can navigate the state's complex laws. "The large technology companies have such big brand names and draw a lot of media attention so they're very attractive to the plaintiffs' bar. And, the reporting on these cases tends to be skewed toward the plaintiffs' side."

Threatening Deportation

Across the country in Greenbelt, Maryland, lawyers at Joseph Greenwald & Laake handle labor and employment and other class action claims on the opposite end of the spectrum, representing plaintiffs. Over the last year, they've seen a significant boost in what are essentially wage theft claims in the construction industry, with employers hiring workers of Hispanic descent and either allegedly underpaying them or simply not paying them at all—hanging the threat of deportation over their heads.

"My clients are mostly Hispanic and for a lot of them English is a second language," says Brian Markowitz, a Joseph Greenwald partner and labor lawyer, adding that these employees often feel vulnerable. "Many construction companies hire them do the work and then flat-out don't pay them. Given the current political climate, a lot of these employers think it's easy to leverage them.

Continued on page 18

OF COUNSEL

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Taylor's Perspective …

Consultancy's Research Shows Clients Often Don't Like Cross-Selling

Picture this: Emily, the real estate practice group leader at a well-regarded firm, talks on the phone with a client she's worked with for about a year—she knows him, they work well together and he likes her but they don't have a long history. In passing, he mentions an issue his development company is having with an employee.

Recalling last month's partner retreat during which the lawyers were encouraged to step up their cross-selling efforts, Emily says, "You know, Paul, my colleague Jason runs our labor and employment practice very well, and he and his team have helped many companies successfully navigate this very issue. I'd be happy to arrange a meeting with him and his top people, if you'd like."

She's met with silence. Then Paul simply says, "We've got an L&E firm we like a lot, thank-you-very-much." The conversation ends shortly after that exchange.

Nice try anyway, Emily.

That scenario plays out more than one might think, given the long tradition of lawyers trying to expand work into their colleagues' areas of expertise, which of course generates more revenue and promotes the idea of "one-stop shopping." This is especially true for high-end work, according to a new "Featured Insight" posting by Fairfax Associates, entitled *Stay in Your Lane: Expanding Client Relationships Is Harder Than It Sounds*. (The consultancy conducts interviews with hundreds of law firm clients to glean deep perspectives on clients' wants, needs, expectations, and other things, and then shares its findings.)

"Most law firms are focused on expanding the work they do for their clients and a key component of many law firm strategies is capturing more of the high-value work for their clients," according to *Stay in Your Lane*. "While this is certainly a desirable goal it is important to understand the client's perspective before counting on increased revenue."

I asked Fairfax consultant Lisa Smith for her takeaway from the conclusions her firm reached based on client interviews. "It's simplistic, in a sense, but it's difficult to cross-sell," she says, adding that many firms know exactly what or, rather, who they want. "Because clients are fairly sophisticated, even relatively small or middle-market companies without huge legal departments, they definitely see and hire firms based on their strengths."

And yes, sometimes clients get annoyed when their lawyers try to push work in other areas to their partners down the hall—just as our fictitious Paul was irritated with Emily. Not all, but some clearly don't like it, no matter how gently the attorney may suggest the referral.

"Certainly there are some general counsel or in-house lawyers who hate to be sold to, and they're pretty adamant about that,"

Smith says. "I think the larger companies are less open to being sold to because they feel like they've got a good process in place and they're working with a lot of firms. So they tend to be more resistant than some of the mid-market companies that are actually looking for more partner relationships with their outside lawyers."

Not All Hope Is Lost

But wait … is that a bit of good news? That is, of course lawyers can still cross-sell to some clients and they can also expand their services within their practice areas vertically. For example, you're a transactional lawyer, and your client hires you and your regional firm to do the $10-million deals but uses a large New York firm for the more complex $100 million deals. The general counsel just feels much more confident with the bigger brand. In part, it's a CYA strategy.

So how do you prove you can handle the higher-end transactions? *Stay in Your Lane* offers this help: "The first step to overcoming these obstacles is to make sure you have a good understanding of the client's perspective, priorities, and view of the firm. Regular discussions with clients, usually by someone other than the relationship partner, can help to identify particular areas of opportunity where the firm can bring value to the client within their framework."

Once you do that you've got to plan your strategy. "This might include building more capacity in a particular area or introducing the client to additional firm lawyers in that practice who can handle their work," states the Fairfax publication.

Many clients are open to meeting more of your partners and associates; they want multiple touch points. It provides backup counsel and different perspectives, and it builds deeper relationships.

"They want to know who's next in line," Smith says. "It can be dangerous for the firm because if the client doesn't perceive that the firm has bench strength behind their primary lawyer, then the client might look elsewhere to have a backup. It institutionalizes the relationship to a degree and provides value to the client to know that there are more people they can call on."

But when you do this you need to be clear that at least initially having a colleague or two involved in a meeting is an investment—you won't bill the client to meet and talk with your fellow partner and your third-year associate. I asked Smith if it's okay to be blunt: We won't be billing you for Susan's and William's time.

"Absolutely you can be that blunt," she says. "People can say, 'This will be off the clock' or something along those lines. I think it's totally normal to say that, and it will certainly give the client comfort. We do hear clients complain about the size of teams, and they get concerned about how much they're paying for the number of people in the room or the number of people on a conference call and that sort of thing. So they're very sensitive to firms trying to run up the bill."

Introducing clients to other team members shows confidence, too. Simply put, it demonstrates that you're not afraid that the client might like your partner better than you. "Clients want to see that collaboration, and they want to see that it doesn't matter who they call," Smith adds. "They don't have to worry about sensitivities, they don't have to worry about who's getting the credit. So I think it is important from that perspective to share relationships and show that the firm has the client's interests in mind and not the interests of an individual partner."

And who knows, the more you do that, the more your clients meet your partners and get to know your practice group very well, maybe they'll be more receptive to your efforts of cross-selling across practice areas. Maybe Paul will instead say to Emily, "Sure I'd love to sit down with Jason and his labor and employment team." ■

—Steven T. Taylor

Fit to Practice:

A Guide to Lawyer Well-Being

There's no denying we're in a tough business. We work long hours. We are under pressure to deliver results for our clients and our firms. We must juggle a lot of responsibilities—and we know the penalties for our clients can be dire if we get it wrong.

For young lawyers intent on advancement, the stressors can multiply quickly. As members of the American Bar Association Young Lawyers Division (YLD), we are all too familiar with the limits on personal time, "hot house" working environments, immediate deadlines, billable hour requirements, and the physical and mental health toll all of this takes.

The consequences for some young lawyers can include unbalanced nutrition, lack of sleep, and limited exercise—all of which can seriously reduce a young professional's quality of life. Yet for far too many others, the results have the potential to be much more threatening.

The statistics are staggering, and the threat to the legal profession is writ large, including our collective ability to meet the law's most fundamental responsibilities. Rule 1.1 of the ABA's Model Rules of Professional Conduct requires lawyers to "provide competent representation," Rule 1.3 requires diligence in client representation, and Rule 4.1 through Rule 4.4 regulate working with people other than clients.

In 2016, the American Bar Association (ABA) Commission on Lawyer Assistance Programs and the Hazelden Betty Ford Foundation published a study of nearly 13,000 currently practicing lawyers. It found that between 21 and 36 percent qualify as problem drinkers, and that more than 20 percent are struggling with some level of depression, anxiety, or stress. The parade of difficulties also includes suicide, social alienation, work addiction, sleep deprivation, job dissatisfaction, and complaints of work-life conflict.

Particularly concerning was the finding that younger lawyers in the first 10 years of practice and those working in private firms experience the highest rates of problem drinking and depression.

Making a Difference

To combat this issue, the YLD joined with a host of like-minded organizations to support the August 2017 report titled National Task Force on Lawyer Well-Being, Creating a Movement to Improve Well-Being in the Legal Profession.

Collectively, the recommendations are crafted to provide a foundation for sustained industry-wide improvements to drive better health for lawyers. With a focus on practicable steps that multiple key stakeholders in the industry can take to support colleagues, peers, and employees, this report is an important milestone on the road to helping the legal profession address its health-related shortcomings.

Historically, legal professionals have turned a blind eye to any type of "public" help. Fearful of a stigma that could slow or halt promotion or even admittance to the bar, lawyers have worked to hide their issues, a path that is by no means conducive to treatment and recovery.

There are, however, encouraging signs that change is afoot.

The YLD's Fit2Practice Program, launched in 2014, promotes healthy work environments

for ABA members, firms, and bar associations through policy initiatives, educational programming, and social media campaigns (#Fit2Practice). Fit2Practice focuses on four key pillars: mental health, fitness, nutrition, and sleep.

Mental Health

The YLD has supported ABA policy around #Fit2Pracice goals, including:

- Resolution 102, passed in August 2015, calls for character and fitness questions to address conduct, rather than treatment or diagnoses, when inquiring into a bar applicant's mental health history.
- Resolution 106, passed in February 2017, amended the ABA Model Rule for Minimum Continuing Legal Education to include a requirement for lawyers to receive at least one hour of mental health or substance use disorder programming every three years. It also calls for one hour of diversity and inclusion programming every three years.
- Resolution 105, passed in February 2018, supports the goal of reducing mental health and substance use disorders and improving the well-being of lawyers, judges, and law students. It urges stakeholders within the legal profession to consider the recommendations set out in *The Path to Lawyer Well-Being: Practical Recommendations for Positive Change* from the National Task Force on Lawyer Well-Being.

In the context of #Fit2Practice, we have also confronted the issue of lawyer suicides. Our June 2017 live Twitter Chat sponsored by the ABA Commission on Lawyer Assistance Programs (CoLAP) focused on "Suicide Prevention and Postvention in the Legal Profession." During the event, experts and working lawyers alike discussed the disproportionately high rate of suicides in the legal profession, symptoms, or behaviors that might indicate a person may be considering attempting suicide, how to get help or refer someone else to help, and ways law schools and law firms can better address suicide.

Fitness

When there is barely enough time to get up from your desk, the odds of a regular workout are slim. Still, staying fit isn't an all-or-nothing proposition. Indeed, there is a wide range of activities that lawyers can use to build an achievable fitness routine—and maintain it. Three of the easiest include:

- Stretch breaks during conference calls and regularly during the day.
- Yoga at your desk, and elsewhere. Every year the YLD offers a yoga program as part of its annual conference, and it continues to sell out every year.
- Guided meditation.

Nutrition

By definition, much of a lawyer's work is sedentary. Add the all-too-easy-to-find vending machine and leftover snacks, and it's hard to avoid gaining weight. Fortunately, there are healthy options that include bringing your own natural snacks and increasing your regular water consumption. It takes work, certainly, but, by avoiding the dreaded sugar high, we actually generate more sustained energy throughout the day.

Sleep

Sacrificed too easily by hard-working lawyers, good sleeping patterns are essential. Sleep deprivation has been linked to a multitude of health problems that decay the mind and body, including depression, cognitive impairment, decreased concentration, and burnout.

Cognitive impairment associated with sleep deprivation can be profound. Research on short-term effects of sleep deprivation shows

that, for example, people who average four hours of sleep per night for four or five days develop the same cognitive impairment as if they had been awake for 24 hours—which is the equivalent of being legally drunk.

Looking to the Future

Fit2Practice is all about how lawyers can take care of themselves, balance their lives, and be secure in looking ahead. That's why, as part of the Fit2Practice program, we offer one-on-one financial and/or career and life planning sessions to help lawyers map their next steps.

Our partners at the American Bar Endowment (ABE) play a key role in helping young lawyers acquire this type of peace of mind. For more than the last 60 years, lawyers across the country have trusted the ABE to protect their families and businesses. ABE-sponsored insurance plans provide opportunities for ABA lawyer members to receive quality, affordable group insurance products through New York Life, and simultaneously give back to the legal profession through a donation of any annual dividends (annual dividends are not guaranteed) they might otherwise receive.

The ABE will soon release its young lawyers' e-book, a new online resource to help readers navigate the many insurance options—which, because they are focused exclusively on lawyers, their particular needs, and favorable risk profile, provide a solid offering—available to help them build financial stability.

For more information on the ABE and their young lawyers' e-book, visit www.abendowment.org.

The YLD will continue to take active steps to advance positive, healthy lifestyles for our profession. The tools are there for every stakeholder to educate themselves on the signs and triggers of anxiety and stress, and to then take action before any issues become acute.

While the taboo of discussing mental health in the workplace has not gone away, these issues have moved further into the light as new generations have taken over leadership roles in the industry.

Recently, we were especially encouraged by an article published in the New York Law Journal, written by Quinn Emanuel partner Joe Milowic. His brave articulation of his battle with depression is remarkable in its honesty and helps reduce the stigma around this issue. Mr. Milowic makes it clear that there is a role for all legal industry stakeholders to actively support young professionals and seasoned veterans alike.

We still have a way to go, but we are excited to help lead this vital conversation. ■

—Dana Hrelic and Lacy Durham

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Leadership Transition Misfires:

Why Succession Planning Matters

When a firm leader's departure is predictable, firms need to take appropriate steps to ensure a controlled and effective succession process that minimizes the inevitable disruption likely to occur.

1. Publically Contested Horse-Races Don't Always End Well

Having a contested election isn't necessarily a negative; it only becomes problematic when it becomes public and political. By way of example, I was struck recently by the terms used in the legal press as yet another law firm was characterized as: "set for a contested election," "candidates emerge for contest," and "hats in the ring." In this case, the Chair's role at the Eversheds Sutherland firm was now in the news as "partners are set to go head-to-head" to succeed Paul Smith, the firm's current Chairman. According to (anonymous) partners within the firm, three names have already been announced.

The media are loving it! Here is but one excerpt from some of the legal news coverage of the day:

> *The three candidates have been touring the international firm's network of offices in recent weeks, pitching to partners in a series of one-on-one meetings. In addition to visits to the firm's regional offices, they have also met partners in continental Europe and have spoken over video-link to partners in other regions such as Asia. However, it is still unclear which of the three will clinch the role, as they all* ***command support*** *from sections of the partnership.*
>
> *A former partner said: "They are all extremely good candidates, and I think they would have something different to offer. All of them are top drawer with a lot of experience."*
>
> *When asked this week who he would pick, one partner said he was divided between two of the candidates. "It would be lovely to have Pamela—she is a proper City girl and we have always been run by Northern lads. My gut feeling is that it may go to Rob; there will be a feeling you need a chair who will hold the executive to account and Rob will call a spade a spade—he is not your matey mate."*

And here is where it all begins to go off the rails!

- **These campaigns inevitably become bitter**

It usually begins as these particular articles did with selected but anonymous partners commenting in flattering terms about the various candidates—*"She is well respected, well known in the financial space and the City and well known as a leading woman in the City"* and from another: *"He is extremely popular, a great character, very well known and well liked."*

We are also told, as we were in this case, that *"the election process has not yet kicked off, but it is expected to start in the next few weeks."* Things then begin to heat up as our various candidates move from subtle campaigning to having their friends and followers become more overt in verbally canvassing for their support. Factions develop, emotional discord creeps in, and rivalries become intense.

Here is some excerpted commentary, as reported in the legal media, from yet another contested election. To most readers, this

extract would appear to be from a political campaign of some sort, rather than from the activities within a respectable law firm:

> *Heavyweights prepare to do battle … One partner goes so far as to say it would be "almost impossible" for him to win the vote … Sources point to this candidate's toughness as an "effective task master" and a hard worker, even if he may need to work on staying personable to be successful in the leadership campaign … "At the end of the day, real estate is not a very exciting background for a managing partner to come from" … It seems that no candidate can yet be called the favorite.*

- **What do you suppose the clients think of all this?**

In all likelihood (and I dare you to prove my extensive experience wrong), most clients are first hearing about all this from the media. In all likelihood, the lawyers involved have not deemed it necessary to confer with their clients before any public announcement of their being a potential successor. In all likelihood, the lawyers involved will think that their respective clients are going to be thrilled that they are being considered for firm leadership.

News Flash: Best Case is that your clients don't care. Worst Case: You tried to convince them for years that you aspire to be their "trusted advisor" and now all they really care about is who you are intending to pass their important matters over to.

In one instance I will never forget, the obvious choice within the partnership was an outstanding individual who had literally built one of the firm's most highly profitable groups and was revered by his peers. Before accepting any nomination, this partner had the good sense to meet with a few of his key clients. He reported how he asked his largest client "What would you think if I were to let my name be put forward as a candidate to become the firm's next Chairman?"

He came back to the nominating committee to report that his client's response was "Think again!" This General Counsel was making it very clear to the partner that if he wanted to proceed with becoming the firm's next leader, he would be moving his legal work to some other firm.

- **Lawyers don't like to be publicly humiliated**

In looking at who might be best to assume the leadership mantle, most firms will tend to gravitate to those partners who are among their most legally talented and serve a sizable client base. So, in these kinds of contested situations, a highly valued partner who loses may ultimately take it very personally and decide to leave your firm. It should not be any secret that legal recruiters and headhunters usually swarm whenever firms go through highly public, contested elections because they know that there will inevitably be fallout.

In one of our First 100 Days Masterclasses that I co-facilitate for new firm leaders, we welcomed a Global 20 leader as our luncheon guest speaker who admitted that, after his election and in spite of his very best efforts, every one of the five contestants left the firm within the following year.

A high-profile contested election can also become quite distracting to everyone as it is politicized through continuous hallway speculation and various camps develop. As the competition intensifies, it is not uncommon for partners to take sides for or against particular candidates. That can result in overt behavior that deters teamwork and knowledge-sharing. It is not at all unusual for some of these partners to also leave with the losing candidates following a contested election.

Allowing a publicly contested horse race can make for a very emotional and expensive leadership succession process. When are we going to learn?

2. The Incumbent Doesn't Pick the Best Successor

In a very recent announcement that caught my attention, the world's preeminent consultancy firm, McKinsey, announced that it was commencing its procedure to "elect a new head." To that end, over 500 of McKinsey's partners descended upon the Grosvenor House Hotel in London to begin the process.

Firm insiders quietly reported that McKinsey is caught between pursuing a more entrepreneurial vision that seeks to diversify its business by straying into digital and analytics services, or remain true to its traditional focus on consulting. But, unlike other professional service firms, especially law firms, McKinsey does not allow formal candidates, manifestos, or campaigning for the top role. Instead, partners simply vote for whomever they want to install and names are whittled down in several rounds of voting.

McKinsey's process reminded me that any law firm leadership transition process can also become dysfunctional when either of two specific things are allowed to occur:

In a very recent announcement, we read about the notable achievements of a particular AmLaw 50 firm Chair who has announced that he will be steeping down at year's end. This particular individual has served for over 10 years, is 70 years of age, and has a distinguished legacy of seeing firm revenues double while opening a half-dozen new offices during his tenure. The article is quite lengthy, certainly well deserved, and makes mention of how he intends to recommend one particular partner as his successor when the firm's Board meets in December.

Now, firm chairs and managing partners can and should play a very critical role in identifying and developing leadership talent within their firms, specifically those ready to head up offices, practice groups, and industry teams. But in my experience, there are a number of reasons for caution about having your current firm leader choose his or her successor. There is empirical evidence to show

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that allowing a firm leader, even and perhaps especially a very successful leader such as this one, to choose their successor can bias the selection dynamic.

When the incumbent has accomplished great things for a firm or been in the position for an extended period of time (over 10 years), Boards can often be tempted to anoint a clone. No one will admit that your firm may now need someone with very different skills and competencies, and the Board can't imagine insulting their highly accomplished partner by not accepting his or her choice.

Often, these firm leaders (perhaps unconsciously) are most attracted to that replacement that is a mirror image of themselves. Typically, their choice of a successor is some partner (in this case who is also male) who could be within the same age range and/or has a leadership style, business philosophy, and even personality very similar to the mentor. If the same personality, sensibility, and approach that made your firm what it is today, gets to decide who will lead the firm tomorrow, there will be a very natural human tendency to choose a "mini-me." Then tell me please, where will new innovative ideas come from?

When a firm leader steps down, it can present a sense of uncertainty but it can also serve as a valuable reflective time for your Executive Committee/Board to pause, actively listen, and ponder the answers to such fundamental questions as:

- "What new developments, trends, and changes do we see beginning to affect both our profession and our firm at the moment?"
- "Where does our firm really stand with respect to these changing trends?"
- "Where is our firm heading and is our strategic plan and desired direction still realistic?"
- "What skills and traits will any new firm leader need to have to effectively guide us into the future?"

Finally, if your next firm leader feels in any way that he/she owes their position or is obligated in some way to their predecessor, the predecessor's influence could constrain that new leader from making needed changes. Many observers have been witness to the "meddling syndrome," an affliction that occurs when the former leader stays too close to the circle of power and interferes with the incoming leader's ideas and initiatives.

That consciously or subconsciously undermines all progress. I've known smart departing firm leaders (such as Bob Dell at Lathams) who have taken a long holiday or sabbatical immediately after stepping down in order to give their successor some much-needed maneuvering room.

Allowing an incumbent to pick their successor can make for a very dysfunctional leadership succession process. When are we going to learn?

3. The Folly of Immediate Succession or Waiting Far Too Long

Taking the reins of leadership from a long-serving law firm leader can present an enormous challenge. At some firms, it gets ridiculously difficult when the new leaders have been given only a few weeks or even days to prepare themselves to step into their new role, or when the outgoing, incumbent leader is not fully supportive of the transition.

For some time now, I have been appalled at the incredibly short time period that some firms allow for any incoming firm leader to properly orientate themselves to the magnitude of their new role. There is a very old joke that goes, *"I have met some managing partners who were just unfortunate to be out of the room when the position was filled."* All too often it is as though we met on Saturday to discuss the ongoing management of our firm (perhaps as part of an annual partner retreat), voted for a new leader, and then

informed that lucky individual that they should expect to start in their new role on Monday.

I further believe some of that behavior is stimulated by an expectation that the successor will likely be someone who has some prior experience and so getting themselves prepared to make the shift should be no big deal. Unfortunately, it is a far bigger deal than most might imagine or acknowledge.

As one distinguished firm leader candidly admitted, "New firm leaders mistakenly believe that because they have served as a practice group leader, office managing partner, or on the firm's elected board, they have the necessary background and experience for taking on the role of leading the ENTIRE firm … Not even close!"

There are numerous activities that need your attention during the period from when you are first elected (or selected) to your first official day in office—from preparing your family for the huge time sacrifice that you are about to encounter, to determining how you are going to transition some (or most) of your personal practice and the inherent client relationships and risks.

In my experience, most new firm leaders want to receive guidance and instruction before they assume office, not after they've been dropped into a quick sink-or-swim situation. The kinds of questions that new leaders are often most concerned about include:

- Am I really clear on the reasons why I accepted this position?
- How can I be sure that I have correctly understood what is expected of me?
- Which tasks should be a priority and which can be put on hold?
- With whom am I going to meet first and what am I going to say?
- Have I defined the challenges facing my firm and determined an approach to dealing with them?
- When can I begin to introduce change and what is my initial plan of action?
- How do I make sure that I have the support I need from the partnership?

From everything I've observed and learned, as well as what I have repeatedly been told by those who have successfully transitioned into a law firm leadership role (and notwithstanding the size of firm and whether it is a full-time position or not), the ideal preparation time frame should be no less and rarely much more than about three months.

I remember Carl Leonard, former Chair of Morrison & Foerster, commenting that, following his announced intention to step down, he thought he was doing his firm and his successor a favor by allowing a four-month transition of leadership. He explains, "I could not have been more wrong. The firm drifted. A leadership vacuum ensued. I had the power of the office but, being a lame duck, no one paid any attention to me."

Meanwhile, at the other end of the time spectrum, I continue to be surprised by firms who embrace overly long transition periods. Have they never heard of the "lame duck" syndrome that Leonard mentions, and the kind of internal confusion it creates? Just this past year I was struck by one 500-lawyer firm that announced in June 2017 the name of their new Chair-Elect, who will finally be allowed to take the reins on January 1, 2019 (a full 18 months). That example was only to be surpassed a few months later by a 1,000-lawyer firm announcing in November 2017 their new Chair, who will assume the position in January 2020!

A successful leadership transition requires a clear definition of roles and the predecessor's willingness to let his or her successor lead the firm unimpeded. The primary role for outgoing leaders in the final days is not to become obsessed with micro-managing their successor, or becoming preoccupied with how colleagues see them or what they think their legacy will be. Their primary role now is to help the new leader succeed.

Outgoing firm leaders play an important role in building the foundation upon which their successor can begin their tenure. For example:

- A leadership transition is a good time for the incumbent to deal with those long delayed but annoying operational problems or troublesome personalities, so the new leader can come in and immediately begin to address more important and strategic issues.
- Securing early wins to build momentum is important. As the outgoing leader, you can help your successor identify areas that offer the best opportunity for quick success and highlight potential pitfalls or areas of partner contention.
- I've counseled those retiring from the position to "think about what information you would want at close proximity if you were now about to embark on accepting this leadership position. You owe it to the next leader to provide detailed information about critical tasks and deadlines. And, your potential for being of immeasurable assistance goes well beyond just administrative minutia."

Accordingly, the outgoing leader must agree to allow the incoming leader to run things, even when they might be in stark contrast with one of his or her previous initiatives, or convey a complete change in the firm's strategic direction. Outgoing leaders need to be highly sensitive to the influence they still have and the ways they can inadvertently undermine their successors' efforts.

Allowing either grossly inadequate or far too much time for a leadership transition can contribute to unproductive internal confusion. When are we going to learn? ■

—Patrick J. McKenna

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TeamPath:

Chaotic, Messy, Loud—and Beloved by Clients

Editor's Note: Allan Colman, Closers Group and Mike O'Horo, RainmakerVT have been friendly competitors for several years. They have often shared experiences and ideas for improving law firm abilities to accelerate revenue. This new approach is intended to solidify firms' efforts into a truly successful approach to growing business and partnering with their clients.

The law profession has become Darwinian. Each year those deemed "fittest" in the context of business acquisition and retention are in greater demand. They exert greater control over their income, influence, and freedom. As a result, everyone wants to be able to put a more emphatic check mark in that column, but usually see no way to get adequately prepared to do so. So far, law firms' attempts to exert greater control over their income, influence, and freedom have been, at best, demonstrable failures and, at worst, cynical Band-Aids or black holes of endless expense.

Certainly, recent evolutionary attempts by law firms to increase revenues, and only secondarily provide service to clients, continue piling up with the latest pollenization including client teams, CRM (which most attorneys abhor), AFAs, industry teams, client teams, project management, MDPs, KPIs, major account management, professional sales teams, etc.

This "craze adoption" is all too focused on selling a firm's offerings—not the client's needs and concerns. Quoting Robert Denney in his December 2017 "What's Hot and What's Not in the Legal Profession, "… there are so many strategies and activities, old and new, proven and unproven, and so much written about them that … we feel it is redundant to discuss or list them here."

As one General Counsel stated, "Most of these efforts are defined and managed to serve the firm's interests. To us they are nothing more than thinly veiled sales campaigns." A confirming viewpoint was expressed by Useem as, "The boss who assumes that workers' interests are purely mercenary will end up with a group of mercenaries."

A New Approach—TeamPath

TeamPath breaks all the law firm rules. It creates more rain, not more rainmakers.

For those who sincerely wish to help grow business and assure a professional and economic future, we present an innovative process that will allow predictable growth by strategic intent rather than serendipity. This process will not require a firm or an individual attorney to transform themselves or become something they are not. It does allow the application of existing strengths to fulfill an important functional role, each of which is critical to accomplishing bold goals, the contributions to which are recognized and valued.

TeamPath uses proven processes that will result in a goal-driven, self-directed team in which each person can contribute meaningfully, irrespective of seniority, seasoning, title, or expertise, and where the team makes the decisions. Over time, individual team members may evolve through many or perhaps all of the defined roles. In fact, new, unanticipated roles are frequently defined. Ultimately, the team members learn how to generate business by doing it, not by hearing about it or reading about it. They gain necessary skills but, more importantly, they gain direct experience.

Before describing TeamPath elements, we have selected Client Service Teams as an example of cross-pollinization that has very mixed results and opportunities to refine and repurpose.

Difficulties Instituting Successful Client Service Teams

"80 percent of law firms have client team programs, but just 39 percent grade them as successful." (Legal Sales and Service Organization)

The concept of client teams is often poorly understood. Some firms create teams simply because it's the technique du jour. Few team members understand the team's purpose and fewer still understand the performance measurement criteria or reward system. Is it any surprise, then, that so many teams fail? They fall short of their modest, often vague goals. More importantly, they fail to achieve the much loftier results that are actually available with their most strategic clients.

Too many law firm client teams are declared into existence by partner or executive committee fiat, assembled rather than designed. Populated by lawyers who are existential members, that is, they are on the team simply because they are on the team, they lack what one astute Marketing Partner called "goal clarity and role clarity." Too many are not led, but dominated, by the relationship partner. The results are what the same Marketing Partner called a "Mom and the kids" scenario where everybody waits for the relationship partner ("Mom") to tell them what to do. They are reduced to talk-implementing robots.

Why wouldn't team members lose interest and become unwilling to devote time to the team? This is partially due to the relatively new use of teams in law firms, so the concept, therefore, is often misunderstood. As a result, a firm's expectations of teams tend to be unclear, and many aspects are more tacit than expressed.

Team members really aren't sure why they're on the team. Some join simply because they belong to a practice group or bill hours to a particular client and feel some sense of obligation to participate. Others didn't know exactly what saying "yes" meant (in practical terms) and, once they realize what's entailed, they opt out. Some are not invested at all, having been assigned to the team, or they join because they perceive that it would be impolitic not to align with an important client, team, or leader.

Few team members understand the team's purpose. They don't know what's expected of them, the nature of the specific duties they are to perform, the magnitude and distribution of the time commitment, or the requisite skills. Still fewer understand the performance measurement criteria or reward system.

Team leaders experience the same uncertainty faced by their team members, and usually have additional responsibility without any additional means to fulfill it, for example, skills, guidance, and resources. In truth, they must lead rather than manage or direct. These are different skill sets. At the outset, team leaders may have limited instruction or experience as leaders. Few will know reliable processes for achieving team member alignment or buy-in. Under such circumstances, is it any surprise that so many teams not only fall short of their modest, often vague goals but, more importantly, fail to achieve the much loftier results available?

To conclude with a guess, we'll bet that many of the 39 percent who graded their client team programs as successful either didn't really know or were fudging.

Facing a Shrinking Market

The concerns faced by law firms in generating new business are numerous and include:

- Ever-changing corporate needs
- Secondary law firms ready to win lost business
- In-house counsel significantly reducing their longstanding relationships
- A few rainmakers are the major source of business
- The hunt for rainmaking-laterals continues to expand
- Full-service competitors
- Cost of training and developing rainmakers—prohibitive
- Procurement Departments managing the decision-making process.

Enough about the problem. Let's offer our recommended action.

TeamPath—A Truly Audacious and Noble Mission

"Creating success for all stakeholders inside the client creates success for the firm and team members."

According to "Why Dream Teams Fail" (Colvin), most of what you read about teamwork is bunk. That's because teamwork is a practice. "Becoming skilled at doing more with others may be the single most important thing you can do to increase your value—regardless of your level of authority" (Avery).

TeamPath is based on a philosophy that people perform best when their duties align with their strengths, skills, and interests. Rather than try to "fix" people by training them to do things they are not good at, successful organizations focus on what people do best and arrange for them to do more of that. This approach, validated in a breakthrough study by the Gallup Organization among one million employees—and described in the best-selling book, *First Break All the Rules*—showed that the most successful teams align members' jobs with their existing strengths and interests. This alignment requires a division of labor and specialization that allows each person to succeed immediately. And, it reduces the firm's burdens in management, training, and motivation.

"To encourage any type of innovation, including the 'humdrum' kind, law firms must simultaneously empower their professionals to make decisions, incorporate voices from outside the firm and acknowledge and reward incremental improvements," writes Marcie Borgal Shunk in *American Lawyer*, December 8, 2017. She goes on to say, "Yet despite their investments, the trajectory of the industry as a whole seems to have remained largely unchanged."

TeamPath provides a structure and framework in support of the team's mission, which you'll recall as:

- Deliver the work product in a way that keeps the client loyal
- Grow the practice strategically and economically
- Prepare for the client's and the firm's future.

TeamPath breaks all the law firm rules! "It creates more rain, not more rainmakers." The differences between our TeamPath system and other approaches include:

The team includes the client. Yes, the client. Outside and inside counsel share the same challenge and the same opportunity in making a difference with the business client.

We're talking about reallocating and refocusing rather than expanding a workload.

Because the team is self-directed and self-organizing, it offers absolute autonomy.

Since everyone starts at the same level of ignorance, there are plenty of mistakes to make and lessons to learn en route to mastery.

Takes advantage of individual inherent strengths. Opens up to all firm

members (attorneys, paralegals, librarians, IT, accounting, etc.) who want to help and can be accountable.

"Most importantly, firm Chief Marketing and Business Development Officers will recognize that those participants who are self-motivated may be the same people who are open to working with marketing to enhance their business development program."

Break All the Rules

Teams are supposed to improve client satisfaction and loyalty. However, as one General Counsel observed, "Nobody is doing it. I have 105 law firms in the stable. Nobody is thinking about our business." Law firms are skeptical too. A survey by the Legal Sales and Service Organization, as previously cited, revealed that "80% of law firms have client team programs, but just 39% grade them as successful." Again, do the 39 percent really know?

Most partners think their clients are happy. Studies show that's not true, and typical teams are not helping. The current dysfunctional team features wasted hours, high attrition rates, and limited accomplishments. So, should we do away with client teams? No. Relevant, client-centric teams are not optional, but they need to be run very differently. To do that, you'll have to turn your expensive talent loose and free your leaders of a parental role that no one wants.

Three things that law firms are often not good at are motivating, training, and managing. What if, instead of struggling to get better at these, you eliminated the need to do them at all?

Remember, the team is based on the fact that people perform best when their duties align with their strengths, skills, and interests. Rather than "fix" people by training them to do things they are not good at, successful teams align members' roles with existing strengths and interests. This results in specialization and division of labor that lets each person succeed immediately and virtually eliminates the firm's burdens in management, training, and motivating. Contributions are valued without regard to contributors' status in the firm.

Because the team is goal-driven, self-directed, and self-managing, with the team making all decisions, team members grow dramatically. They gain skills, earn client loyalty, and generate new business through direct experience. This shrinks the firm's future business-development training cost. And, most critically, the client is involved every step of the way, which assures success. ■

—Allan Colman and Mike O'Horo

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Continued from page 2

They say, 'If you sue me, I'll have you deported.' They make that threat whether the workers are here illegally or not. And unions are in decline so they're not protecting people as much."

Markowitz says the increase in these class action claims coincides with the rise of the current administration and its controversial rhetoric and actions. "The employers are committing wage theft and that started increasing ever since Trump ran for president," he says. "This industry has always been bad, but it's gotten worse, and the threats have gotten worse, and they're very chilling. To me, it's racist."

Securities-Related Suits

The securities class action arena has also been very busy, with a significant rise in the number of filings in federal court, which corresponds with the increase in merger and acquisition activity. "It's typical when a company announces that it's going to be acquired that shareholders will sue, mostly because they feel they're not getting enough disclosure about the transaction to enable them to vote [with sufficient information]," says Howard Suskin who co-chairs both the securities litigation and class actions groups at Chicago-based Jenner & Block. "Sometimes they'll sue because they feel the price isn't adequate."

More and more securities-related class actions are filed in federal jurisdictions. This recent trend has emerged as Delaware—of course, a business-friendly state and a jurisdiction that's home to a lot of litigation—has become much less receptive to those types of actions.

"So plaintiffs' firms are migrating to federal court," Suskin says. "In Delaware, the courts have said they will no longer allow these cases to settle on a class-wide basis for relatively modest disclosures. They don't want absent class members to these settlements unless it's really meaningful in terms of what's being disclosed."

Another category of claims that keep teams like Suskin's busy is generated by corporate bad news. For example, when a pharmaceutical company announces that a clinical trial failed and/or the FDA denied approval on a product, stocks often drop dramatically, sometimes as much as 50 percent. "We call these 'event-driven' class actions," Suskin says. "For publicly held companies almost always there will be shareholder lawsuits, claiming that the company knew about the bad news sooner or was overly optimistic in terms of the projections for a clinical test."

But another trend in the securities class action space has caused a fall-off in particular types of claims in accounting fraud. Typically, when a company's stock takes a big hit, plaintiffs will look for opportunities to file claims that the company failed to make sufficient disclosures and then, when the truth comes out, the stock drops. In the last year or so, there have been fewer of these claims. "The companies are getting better at internal controls on accounting so there aren't as many suits," Suskin says.

More on the Horizon

Class action litigation is also on the upswing in antitrust areas, with filings slamming high-tech firms on claims of labor collusion agreements. The San Francisco-based plaintiffs' firm Joseph Saveri Law recently won a landscape-changing case for class members in a suit against Apple, Google, Intel, Adobe Systems, Pixar, Lucasfilm, and other technology companies for illegally agreeing not to recruit each other's highly trained employees, in an effort to depress wages.

"We're talking about engineers, who tend to be highly compensated so there's a lot of money involved—the damages can really add up," says Joe Saveri, adding that more of these cases are looming on the horizon. "In the wake of that case the DOJ has looked at these and concluded that these are serious violations of the antitrust laws. They discovered that there are a lot more agreements out there than anyone thought."

Antitrust class actions are hot right now for another reason. "The antitrust space has been very busy and continues to be that way, driven in part by a DOJ amnesty program," Saveri says. "It says that if you tell the Antitrust Division of DOJ, 'We're aware of violations at our company; we've been a participant' then you get incentives like reduced criminal and/or civil liability." As a consequence, Justice has identified a number of price-fixing cartels, he adds, triggering the filing of several class action cases.

But in some areas in the class action arena plaintiffs have run up against impediments involving arbitration agreements. Saveri explains: "For a lot of consumer products, you're supposed to sign an arbitration agreement or class action waver when you buy that product. Those have been upheld and lawyers who handle a lot of consumer cases have been limited."

Another "headwind" plaintiffs face, Saveri says, concerns judicial hostility. "In cases where class members get coupons and it's hard to find a lot of value but the lawyers get paid in cash—well, I think judges are resistant to this type litigation," he says, adding that as a result there's been a decline in these cases.

Privacy Claims Climb

Both defense and plaintiffs' lawyers say privacy/data security class actions will continue to climb, and they are preparing for a lot of activity. "We think there will be an explosion of lawsuits for negligence involving data breaches," Joseph Greenwald's Markovitz says. "There are various state-law statutes that allow people to be what they call 'private attorneys general' where someone who has been hurt by the negligence of a bank, for instance, files suit. It's an up-and-coming area. We are gearing up for that and intend to be on the forefront of it."

Suskin agrees that privacy claims from data breaches will likely increase but that plaintiffs in an increasing number of jurisdictions must show true harm. "The problem is that many courts have been taking the position that just because your data was breached, unless you suffer actual damage, you don't have standing," he says. "The mere fact of a hack isn't enough, and those cases aren't surviving motions to dismiss."

Several attorneys interviewed for this article say they intend to boost their class action ranks. In Sacramento, Warne says Downey Brand benefits from the experience that former federal law clerks bring to the practice and that he and his partners "love" to hire lawyers with this type of hands-on, inside-the-judiciary insight.

"The area of class action law, especially on the federal side, is extremely dynamic right now, and the ability to hire federal law clerks has been very beneficial to our practice on this front," he says. "They've worked with judges, and they participated in decisions that have been coming out involving [class action] cases in the last few years." ■

—Steven T. Taylor

Of Counsel Profile

Continued from page 24

helping firms reap the benefits of recruiting and retaining women.

Innocenti also earns honors for this work and her community service. In March, for example, she was bestowed a 2018 Women of Achievement Award by Legal Momentum, the Women's Legal Defense and Education Fund. The organization supports the legal rights of women through education and advocacy and recognizes women who have achieved distinction in law, business, and public service.

"Natasha's commitment to advancing women in the legal profession and to providing legal services for those most in need is nothing short of inspiring," according to Carol Robles-Román, Legal Momentum's President and CEO. "Her volunteer efforts for Legal Momentum have been invaluable."

Recently *Of Counsel* spoke with Innocenti about an early-career change of course, her occupational arc in the recruitment field, the skills legal recruiters must have to succeed, her work with women and government lawyers, among other topics. What follows is that edited interview.

Making a Change

Of Counsel: Natasha, you earned an undergraduate degree in English literature and philosophy at Mills College and a master's of philosophy at the University of London. How did you migrate from those two areas of study into the legal search profession?

Natasha Innocenti: I was enrolled in a program that was more than a master's but less than a PhD, and my plan was to earn my PhD, go back to the States and teach philosophy. In the first year of that program I got a temp position as a personal assistant, an admin position, at a boutique executive search firm in London. They offered me a full-time job so I continued to study full-time and work a full-time job. I'd never been exposed to the executive search profession—which in this case served CEOs, vice presidents and other C-suite executives—and I fell in love with the business.

Curious about my future, I went to my [academic] advisor and asked her what I should do. She said, "If you get a teaching job at a college in, say, Mississippi for $17,000 a year, that's a home run." That was all I needed to hear. I changed to the master's program, earned my degree and got out. I came back to the United States and took an entry-level executive search job in San Francisco and got paired after a couple of years with the chair of the legal practice at Heidrick & Struggles, and that's when I got exposed to legal search.

OC: Oh, the twists and turns we take. You continued on that career arc and then hooked up with Major, Lindsey & Africa, one of the most prestigious legal search firms in the world.

NI: Yes, I was doing law firm partner search at a different firm and was competing with Major Hagen & Africa, which it was called at the time, and my name kept coming up. Partner placement at the time was a new emerging recruiting area, led by Chuck Fanning, the firm's global practice head for the partner practice, who would eventually become my mentor. Chuck recruited me for more than two years and eventually I joined them. For almost 14 years, I recruited partners for law firms, mostly on the West Coast, and I ran the partnership practice in that office for eight years. It was great experience to have that management role.

OC: Then you left and opened up your own shop. What did you like about owning

and managing your own search firm and what was the real challenge in doing it?

NI: The honest truth is that when I left Major, Lindsey & Africa, I didn't know what I wanted to do. I'd been working very hard for a long time and I continued to consult with them for about a year and then set up my own company. I had the experiences that small business owners have—doing the payroll at midnight and changing the printer cartridge. I felt that almost everything I did was either above my pay grade or below my pay grade [laughter]. I wasn't able to spend as much time actually recruiting as I would have liked.

Embracing Teamwork Again

OC: And then you decided to stop working on your own and soon joined Mlegal.

NI: Yes, I had been primarily placing partners at AmLaw 20 or 25 firms, the top partnerships. On my own I wasn't able to maintain the tempo that's required to play at that level.

OC: That is indeed a high level, and it takes a lot of time and effort to serve those partners well, doesn't it?

NI: Yes, a few weeks ago I had five different partners I was representing who all received verbal offers of over three million dollars from other firms. When you're placing a partner who's making three or four million dollars you can bet that they are the caliber of partners that the firm doesn't want to leave. So, you can't count on those placements actually closing. You need five of them because one of them will end up with a conflict, two will stay at their firms, one will go to a firm where you're not representing them, and you'll place one. But when I was on my own I just couldn't maintain a practice of this scope.

At Mlegal, where I'm surrounded by wildly talented people who have a lot of experience, and where I have a team again, I can play at that level.

OC: What's the most difficult element that comes up when you're working with a partner who's considering making a move?

NI: There are so many ways that a good recruiter adds value. I say "good" because there are a lot of recruiters out there that don't go above and beyond. But I do everything from managing the confidentiality of the process, managing the timing of the process—more and more I find that work gets referred within a practice area, which is particularly true in areas like white collar, antitrust, and corporate. So how a partner comports him- or herself is extremely important. If the person talks to more than one firm, at least one firm is going to be disappointed that they didn't get to hire the person. It's important to manage the situation so that the people in the disappointed firm still feel like they were given a chance to compete, were treated well, and saw your efforts to maintain a good relationship.

OC: So you really have to know the firms quite well. What other traits do you have that make you good at what you do, Natasha?

NI: I've just been doing this for so long that I have a lot of market intelligence about the firms and have a good intuitive sense about what type of firm culture will be a good fit for any kind of person I'm working with, of course depending about what they care about. I also have to be good at prophylactic conflict checks.

Of course, you also get into the mundane and make sure that all of scheduling goes smoothly, and prepare the partners for every interview they'll have, debriefing with them after every interview. I've done things like book travel on my own card to make sure they get to the place they need to get to when there's a problem with the weather or something else causes a change in scheduling.

Because I know the market so well, no one who I represent will be placed at the wrong compensation level. They're not going in too low, and they're not going in too high. And, I'm also surrounded by my colleagues who know what the market is—this is particularly important for government people and women, both of whom, in different ways, suffer from artificially depressed compensation.

OC: Yes and those two groups represent two of your specialties and I want you to talk more about that in a minute. But first, what's really satisfying about your job?

NI: I love helping law firms build. I love helping them compete and take market share. But mostly, I love working with individuals and solving their problems, whether it's getting additional support for their clients, fair and reasonable market compensation, or a better environment in which to work. Often I work with partners who have considerations driven by their junior teams—junior partners or counsel who didn't get made partner. Helping that group get to a firm that will support them better is an important aspect of my role.

I also like to help firms that are particularly good at diversity get even better at it because maybe, as well as they're doing, they're still not making enough women partners. The firms that are good for women are getting more women partners laterally. I find that very rewarding.

Prepping for Private Practice

OC: Okay now let's talk about your work with government attorneys. What's the challenge in doing that?

NI: First let me say that we represent government attorneys at the top—lawyers in the US Attorney's office, the section chief of the antitrust section at DOJ, the securities commission chief at the regional office. Those are the people we represent, or maybe one step below that, or people who have very particular experience that is desirable in private practice.

Placement of government lawyers requires a very specific skill set and I have it because I was taught by Chuck Fanning. I've been able to place 15 or 20 people out of government and into high-level equity partner positions in AmLaw 50 firms. When you're working with a government lawyer there's a tremendous amount of prep work required—writing a business plan, helping the government lawyer know what the pathway will be for them starting at the law firm from day one and becoming a rainmaker. We both have to be convinced that that path can be traveled and that they understand what's required of them to do so. And we articulate that in very detailed, thoughtful business plans.

We combine all of the representative matters, speaking, writing, and other activities that the lawyer has done. When it's time to consider the market, we have a full package of portfolio material that clearly articulates what the business case is for this person. The feedback we get from law firms is that, when we're representing a government lawyer, they always seriously consider that person because they know we are only representing people who we believe can be successful and will benefit a top law firm and its sophisticated clients.

OC: Recently you won the 2018 Women of Achievement Award by Legal Momentum, and you deserved it because of all the good work you've done in placing and advancing women in the legal profession and for your charity work. Can you talk about how important it is for people like you and others to support women attorneys?

NI: Thank you. As you know, the legal profession is one of the last areas in which women have been successful in penetrating to the top. The legal profession is joined by technology and financial services industries. It's essentially the trifecta of challenge, if you will. First, I love working with women—I love working with men, too, obviously or I wouldn't be working in a male-dominated field—and feel I can add so much value in working with women. Women tend to be less transactional, and they tend to be more loyal, frankly. That

is, they tend to work with me exclusively and not have a bunch of side conversations going at the same time, and I appreciate that loyalty. It creates a deeper trust-base relationship.

Because women are managing their careers more proactively now more than ever, they're starting to move more. What that means is that we have a shot at addressing some of the inequities in compensation. There are a lot of reasons women earn more than men in law firms and one of them is that whenever you have a market that doesn't have lateral movement, it becomes artificially depressed in compensation. Generally speaking, women are also loyal to their law firms and stay with their firm as a way of showing appreciation for the opportunity they've received. And, frankly, they're often too busy to think about compensation because many of them are raising kids, managing their household, serving as a partner at their firm—oh, and by the way, getting placed on virtually every committee.

We all know that women are less quick to advocate for themselves. They also say, "Being a lawyer is not really about the money. Yes, I want to be paid well but I really care about the clients and the work." Now of course that resonates with me because that's why I got involved in the legal profession but that doesn't mean we shouldn't be compensated fairly for our work. There's a fairness issue there that has nothing to do with being loyal. It has to do with equity.

I also think the clients care about this. Corporate America is ahead of us on this, and they're starting to effect real change. They're insisting that their law firms bring diverse teams to their matters and not just trot out associates who then don't get any credit. They want real teams of diverse lawyers who are going to share credit for bringing the work in.

Make It Rain

OC: You have been involved in the Women in Law and Empowerment Forum. What's important about that group?

NI: Yes, Betiayn Tursi founded WILEF, as we call it, in New York, and Ida Abbott and I opened the first non-New York chapter, in the Bay Area, WILEF West. I treasured my time with WILEF and frankly got more out of it than I gave. I liked the organization's focus on the business of law. It wasn't a soft organization focused on work-life balance or getting more services for women in law firms, which are of course important too. It centered on ways to get access to clients, build a book of business, receive fair pay for that work, and advance their careers—for women who want to work hard, want to be successful, and be ambitious leaders in their law firms and companies. There was an alignment there for me that I really enjoyed. I liked taking the top women in these firms and helping them go even higher.

OC: For women to become rainmakers, what's most important?

NI: If I were to give you a headline answer, I'd say: Ask for the business. The number one thing is to ask for the business. To do that you need to be in the room with the client. So you will have needed to meet the client and set up a meeting. Don't just network with the client but ask for the business. You need to understand your client's priorities and always make your client look good in front of their board or CEO or general counsel. You want to take the time to understand their concerns—the timing of their budget cycle, for example.

I think women are really good at the holistic relationship aspects of business development so they can bring that to bear. It's important that women not only ask for the business from their client but they ask for the origination credit because they don't always make sure they get the credit they deserve. And women more often than men are in a position where they have to actually ask for it. It's not assumed that they want it or that they deserve it.

I love helping women lawyers in this and other ways and will continue to support them in the future. ■

—Steven T. Taylor

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Of Counsel Interview …

Recruiter Matches Women & Government Attorneys with the Right Firms

Like other industries, the legal profession experiences cycles when the competition for talent is tight for a few years and then it loosens, with a glut of job-seeking young lawyers and experienced laterals all looking for the right place to land. Leal search firms operate accordingly within these ebb-and-flow sequences but the top-shelf recruiters always seem to stay busy.

Natasha Innocenti epitomizes the "top-shelf" characterization.

Regarded nationwide—and especially on her home turf in the Bar Area—as one of the best in the business, Innocenti matches partners with partnerships and helps some of the largest and most prestigious national firms open offices in the San Francisco region. A partner with the national search firm Mlegal, Innocenti understand, her clients say, the needs of lawyers and law firms that serve a range of industries but has a particular talent for matchmaking in the technology- and life science-related areas.

Yet, Innocenti's occupational passion and skill set lie outside any industry focus and within two specialized groups of attorneys: government lawyers wanting to transfer into private practice and women attorneys. In the public arena, she has years of experience representing high-level government lawyers out of the Department of Justice, the US Attorney's office, and other federal agencies.

Nearly half of Innocenti's practice centers on placing women partners in better-suited work environments. Her strong advocacy for women in the profession—in her recruiting work as well as in her writings and speeches—has earned her a stellar national reputation both for promoting the advancement and empowerment of female lawyers and for

Continued on page 20

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