



LAW JOURNAL
NEWSLETTERS

LAW FIRM PARTNERSHIP & BENEFITS *Report*®

Volume 15, Number 9 • November 2009

A New Leadership Model Is Needed

*The Changes Occurring in
The Profession Require New
Approaches*

By Robert W. Denney

Even though there are signs that the economy is starting to recover, this recession will have a far greater impact on the legal profession than any previous recession in the last 70 years.

With each of the prior recessions (which occurred every 10-15 years) the profession continued pretty much unchanged. Clients raised few, if any, issues and firms continued to operate, more or less, as they had before. Business — and the practice of law — returned to “normal.”

The situation is far different this time. Whether or not the law firm “business model” — whatever that is — is actually broken (as many legal pundits including Richard Susskind declare), there are developments and trends that are raising challenges in the management of law firms. Furthermore, these are challenges firm leaders have not faced before and for which there are few, if any, precedents. This means new approaches are needed. Certainly the historic models for financial planning, firm structure, operations and client service, to name just a few, need to be re-examined. But it is the models for management and leadership that need a major tune-up if not replacement.

WHERE TO BEGIN?

Before firms can address the changes they need to make in their management and leadership,

continued on page 6

Number One Challenge to Lawyers' Efficiency? Too Much Information!

By Sheldon I. Banoff

In the midst of a legal recession, one might assume that lawyers' greatest challenge is to attract and retain clients, increase revenues, control costs, and operate more efficiently. This newsletter's readers who are practicing lawyers and those involved in law firm administration (or both) face numerous challenges to operating efficiently.

We submit, however, that the number one challenge to lawyers' (and administrators') efficiency is in dealing with the ever-increasing barrage of information (online and off) that bombards us day and night. The author claims no expertise in information technology, human resources management, or time efficiency. However, we herein submit to our readers several anecdotal examples, and identify some of the consequences, of information overload, provide some recommendations which may apply to reduce the stress and help us proficiently filter through the info overflow, and invite your thoughts on the topic for a possible future update in *Law Firm Partnership & Benefits Report*.

This author has been a tax law specialist for 35 years, and early on identified and “wrestled” with the challenges of trying to keep up with the plethora of tax regulations, rulings, cases and legislation (and secondary sources) that help create tax advisers' information overflow. See Sheldon I. Banoff, “The Tax Lawyer As Sumo Wrestler,” *TAXES — The Tax Magazine*, Vol. 57, pg. 103 (February 1979). We recently revisited the topic of tax lawyer information overload, and observed that we still crave more and more dissemination of materials, articles and governmental releases, so we can better serve our clients and stay even with our peers (who we must assume are doing the same thing). At the same time, we identified the tax lawyer as “Info Schitzo” — a part of us would be thrilled if there was a moratorium on new developments, guidance and articles until we can catch up on our backlog of law-oriented reading (fat chance of that ever happening!). Sheldon I. Banoff, “The Tax Lawyer as Sumo Wrestler: Sayonara, or See You in 2019?” *Id.*, Vol. 87, pg. 21 (October 2009). The tax law practice is not different from many other law specialties; information overflow is our common enemy.

continued on page 2

In This Issue

Too Much Information	1
A New Leadership Model	1
Contract Attorneys and Insurance	3
A Magic Solution to Training Associates . . .	5

Too Much Information

continued from page 1

TWELVE SIGNS OF INFORMATION OVERLOAD

Readers, do any of the following examples sound familiar to you?

"As a lawyer, I need to be on top of breaking new developments that affect my areas of practice. I try to read everything that comes across my desk or computer screen that may be relevant to my practice."

"I'm in several online chat groups; I can turn to them if I have any questions to ask my colleagues. There's a lot of traffic online. And I've set up automatic e-mail notices whenever these blogs or other Web sites have additions."

"I spend too much time reading unimportant e-mails. And I don't have enough time to read and think through the important e-mails."

"I need to know what the outside world is saying about my firm, so I have Web links I frequently monitor that discuss law firms and the legal practice."

"I am a member of several bar associations and/or industry groups, and I am constantly getting e-mails and solicitations to attend seminars and Webcasts for continuing professional education (CPE) credit."

"Daily, weekly, monthly and quarterly publications, in numerous areas of the law practice, come across my desk in hard-copy form, and I quickly scan the table of contents but read very few articles from beginning to end."

"I need to stay aware of business developments that may affect my clients or me (including, of course, my stock portfolio and 401(k) investment selections)."

"I'd like to go to industry conferences or bar association meetings more frequently, but just can't find the time, and when I do, I feel guilty."

Sheldon I. Banoff, P.C., a member of this newsletter's Board of Editors, is a partner in the Chicago Office of Katten Muchin Rosenman LLP. His expertise includes general tax and partnership matters, and counseling professional firms. He can be reached at 312-902-5256 or sheldon.banoff@kattenlaw.com.

"I find myself reading things that don't directly affect me, but may affect my partners' practice or clients, and sometimes I forward things on, for their information."

"Unfortunately, sometimes my partners return the favor and send me articles from sources that I may or may not have already seen. And the articles usually aren't very useful."

"I've got all the 'toys' that a lawyer (or administrator) needs in today's fast-paced world — my laptop, PDA, Blackberry, smart phone, cell phone, the newest apps, you name it — but find I'm constantly distracting myself while I check them for ... the latest everything."

"When I'm on phone calls at my desk I find myself scrolling through my e-mail and responding, even though I should be focusing on the call."

WHAT INFORMATION OVERLOAD IS DOING TO US

The human mind can absorb only so much (alas, much of mine is filled with music trivia, sports statistics and IRS revenue ruling citations!). But the speed with which our business (and the rendering of legal advice) is conducted continues to accelerate. New technology tools undoubtedly are perceived to enhance productivity and communication — but not without costs. "On vacation" and "available 24/7" are no longer mutually exclusive terms; even when you're out of the office you're never (completely) out of touch with your clients, computer files, online legal services, governmental agency or courts' Web sites and other invaluable sources. In an informative April 2009 study examining technology in the legal workplace (LexisNexis® Technology Gap Survey by WorldOne Research (the "L-N Technology Survey")), 74% of those legal sector respondents agreed that personal devices (such as those described above) mean "I never really get to 'switch off' my work responsibilities after hours." Moreover, it is the "Baby Boomer" generation of lawyers that is the largest percentage (47%) who believe that communications software, including e-mail and instant messaging, is creating information overload

continued on page 7

LAW FIRM PARTNERSHIP & BENEFITS Report®

EXECUTIVE EDITOR.....	Silvia L. Coulter
	Vice President Hildebrandt International Boston
EDITOR-IN-CHIEF	Louise E. Rothery
	Association of Corporate Counsel Northeast Region
EDITORIAL DIRECTOR	Wendy Kaplan Stavinoha
MARKETING DIRECTOR	Jeanine Kennedy
GRAPHIC DESIGNER	Louis F. Bartella
BOARD OF EDITORS	
SHARON MEIT	
ABRAHAMS	Foley & Lardner LLP Miami
JEFFREY P. AYRES.....	Venable, Baetjer & Howard Baltimore
SHELDON I. BANOFF.....	Katten Muchin Rosenman LLP Chicago
KAREN CACACE.....	Vladeck, Waldman, Elias & Engelhard, P.C. New York
PAULA CAMPBELL.....	Jones Day Los Angeles
WILLIAM C. COBB.....	Cobb Consulting Houston
LESLIE D. CORWIN.....	Greenberg Traurig, LLP New York
ROBERT W. DENNEY.....	Robert Denney Associates, Inc. Wayne, PA
DEBRA FORMAN.....	Pinstripe Coaching Toronto, Ont., Canada
PHYLLIS WEISS HASEROT	Practice Development Counsel New York
LEONARD S. HIRSH	Ernst & Young New York
BRUCE JACKSON.....	Arnall Golden Gregory LLP Atlanta
JONATHAN LINDSEY.....	Major, Lindsey & Africa New York
BRUCE MARCUS	The Marcus Letter Easton, CT
KARL NELSON.....	Gibson, Dunn & Crutcher LLP Dallas
WAYNE N. OUTTEN.....	Outten & Golden LLP New York
JOEL A. ROSE.....	Joel A. Rose & Associates Inc. Cherry Hill, NJ
ERIC SEEGER.....	Altman Weil, Inc. Newtown Square, PA
RICHARD H. STIEGLITZ.....	Anchin, Block & Anchin LLP New York
ELIZABETH ANNE	
"BETTYAN" TURSI.....	Editor-in-Chief Marketing the Law Firm New York
MARCIA S. WAGNER.....	The Wagner Law Group Boston
RICHARD ZIELINSKI.....	Goulston & Storrs Boston

Law Firm Partnership & Benefits Report® (ISSN 1061-9410) is published by Law Journal Newsletters, a division of ALM. © 2009 ALM Media, LLC. All rights reserved. No reproduction of any portion of this issue is allowed without written permission from the publisher.

Telephone: (877) 256-2472,

Editorial e-mail: jgromer@alm.com

Circulation e-mail: customercare@alm.com

Reprints: www.almreprints.com

Law Firm Partnership & Benefits Report 023147

Periodicals Postage Pending at Philadelphia, PA

POSTMASTER: Send address changes to:

ALM

120 Broadway, New York, NY 10271

Published Monthly by:

Law Journal Newsletters

1617 JFK Boulevard, Suite 1750, Philadelphia, PA 19103

www.ljonline.com



Too Much Information

continued from page 2

(with the Generation Y legal professionals close behind at 44%), according to the L-N Technology Survey.

We suspect that this leads to increased stress and lack of focus on matters at hand. We make hundreds of decisions in connection with the information explosion each day. What do we read, save, file, act on, delete or temporarily skip (hopefully to return to, when time permits, which it rarely does)?

A recent study of 100 students concluded that people who are regularly bombarded with several streams of electronic information do not pay attention, control their memory or switch from one job to another as well as those who prefer to complete one task at a time. The heavy multi-taskers couldn't help thinking about the tasks they weren't doing. These high multi-taskers are always drawing from all the information in front of them. They can't keep things separate in their minds. One researcher reportedly stated that heavy multi-taskers are "suckers for irrelevancy. Everything distracts them." See Adam Gorlick and Jack Hubbard, "Media Multitaskers Pay Mental Price, Stanford Study Shows," *Stanford Report*, Aug. 24, 2009, <http://news.stanford.edu/news/2009/august24/multitask-research-study-082409.html>. There's little reason to believe that legal professionals who are bombarded by electronic information overflow are any different.

In the (relatively) good old days, one would hear stories of senior partners who would close their doors for two hours every morning from 10 a.m. to noon while they focused on reviewing documents or thinking through complex client problems, and none dare disturb them during this "quiet time." In today's fast-paced world of 15-second sound bites, we typically spend less than five seconds deciding whether a factoid (e-mail, ad, solicitation, invitation, table of contents listing, blog, etc.) is worthy of our greater attention.

Similarly, we communicate with our fellow professionals on a much more abbreviated basis. We use the e-

mail route as a substitute for picking up the phone and discussing matters. Often, e-mailing is more efficient, creates a lasting record (which can be electronically retained) and permits multiple parties to be informed and partake in the discussion at once. In other situations, this route results in more grist for the information overload mill, as some parties who are copied have little reason to read the e-mails, and don't know if they need to act or respond in kind, and so inquire (adding to the info overflow). Moreover, e-mails can result in a thread or chain which, for legal, confidentiality, attorney-client privilege or other reasons, would be better off not memorialized electronically. The L-N Technology Survey reports that 73% of legal professionals surveyed believe that new technologies can compromise the confidentiality and security of the legal profession. Moreover, we have all sent e-mails we have regretted or were deeply embarrassed to have sent, or have sent them to the wrong persons; our attempts to operate efficiently can lead to pushing the "send" or "reply to all" buttons too hastily. (Just last week, I received an e-mail from Carol, and replied back, "Louise, thanks." I was multi-tasking; Carol was concluding I am either a total idiot or getting forgetful (or both).) The L-N Technology Survey found that 54% of those responding in the legal sector believe personal devices such as Blackberries encourage too much multi-tasking.

And let's not underestimate the sheer number of e-mails assaulting us daily. The L-N Technology Survey reports that legal sector personnel receive on average 65 e-mails per working day. (That is roughly 15,000 per year — and we don't know if that figure includes those thousands more that are trapped in our spam filters, which we sporadically review and eradicate!)

CONTROLLING THE INFORMATION OVERFLOW

What can lawyers and administrators do to better deal with (if not control) the information overflow? There obviously is no single solution that works for all or even many. We have some random thoughts for our readers' consideration:

Identify What You Need to Read To Succeed

Is *The Wall Street Journal*, a daily newspaper or other business periodical (online or hard copy) sufficient, necessary, or supplemental to what you need in your daily arsenal? How many blogs, chat groups, Web sites, etc., do you need to review daily, hourly or even more frequently? Can you get by looking at them "after hours" (e.g., perhaps on the train or bus ride home, if you are a commuter)?

Do You Have a Team Approach To Dealing with Info Overflow?

Can you divide responsibilities with your peers or associates with respect to monitoring subspecialties of the law, or do you all need to see the same things at approximately the same time?

How Accessible Do You Need to Be?

Must you take all calls and respond to all e-mails when they come in, or can your secretary or assistant screen them? Should or would you give your assistant rights to read, delete or organize your e-mails, junk mail, charity solicitations, etc.?

Where Are You Most Efficient?

In your work office? In the law firm library? In an unused conference room? At home? At your nearby coffee shop? At any place that has wi-fi? Can you shelter (or minimize) your exposure to information overflow in any of those places?

When Are You Most Efficient?

Early in the morning, late in the evening, or during office hours? How can you best utilize that time to digest and act upon the information you need (and screen out the information you don't)?

When Do You Get the Info You Need?

If you have a lengthy circulation list (routing) on hard copy materials, is the routing based on seniority or ranking in the law firm (i.e., senior partners first), or on "need to know" (i.e., immediate "need to know" goes first, and those with less urgent needs are down the list, regardless of status in the firm)? Do those at the top of the list meet their responsibility of moving it on ASAP, so others get the information timely? Do those at the top have the express responsibility to bring certain time-sensitive articles or items to the attention of

continued on page 8

Too Much Information

continued from page 7

someone who is down the list (but is affected “dead on” by that article)?

SHARING REVELATIONS

First, our revelations to our readers: We frequently don’t practice

what we preach! We’ve been multitasking too much for too long! But like the tax lawyer who files his own returns late, do as we say, not as we do! Or better yet, do for you what works for you. Readers, we request your revelations: Let us know how you cope with the information

explosion (e-mail: sheldon.banoff@kattenlaw.com). We hope to pass on helpful solutions in a future update. (We promise not to treat your e-mails as info overflow to be discarded upon receipt!)

—♦—

Contract Attorneys

continued from page 4

Not all Other Insurance provisions are created equal, however. Usually a policy whose Other Insurance provision is more specific will apply as excess over a policy whose Other Insurance wording is more general. The best way for the firm to increase the chances that its professional liability insurance will be excess is to make the language of the Other Insurance provision in its own policy as specific as possible when referencing contract attorneys.

Here Today, Gone Tomorrow

Even after insisting that contract attorneys carry their own professional liability insurance, firms should be cautious in placing too much reliance on contract attorneys’ policies when managing their own risks. Most contract attorneys’ insurance will be claims-made policies. If a contract attorney decides not to renew its insurance after the engagement is terminated, *e.g.*, the staffing agency is no longer in business, the policy may not be available to answer to claims.

CONCLUSION

Contract attorneys will continue to perform a substantial amount of work that once would have been handled by the firms themselves. Law firm managers must take steps to not only reduce the liability risks, but also to make sure those risks are covered by their firms’ professional liability insurance. Most issues should be easily resolved with a few changes to the policy, but only if they are recognized before a claim arises.

—♦—

New Leadership Model

continued from page 6

What are some of the characteristics of these leaders who have adopted the new model? The major ones are:

- They have vision.
- They are businessmen and women as well as good lawyers.
- They are supreme but also prudent risk takers.
- They ask questions and are skilled listeners.
- They are excellent communicators, within and outside the firm.
- They delegate both responsibility and authority.
- They have commitment — the catalyst that makes all other leadership qualities a reality.

THE NEW MANAGEMENT MODEL

Although listening to clients is the first step in addressing the challenges that must be met, the process does not end there. Once the needs and demands of the firm’s important clients are identified, there must be a well-crafted system that reviews them and then establishes other strategic programs in order to keep and successfully serve these clients. This will require

identifying the trends, issues and challenges that must be addressed. The list may be long and will often include:

- More effective use of technology in both practice and serving clients.
- Lack of loyalty by partners and associates to their firms.
- The need for sufficient capital (most law firms are under-capitalized).
- Tort reform in many jurisdictions.
- Outsourcing and off-shoring.
- Increased use of contract lawyers.
- Legal services being provided by other than law firms.

To address these challenges will require most firms, even mid-size and smaller, to adopt certain changes in their management model including:

- Developing a job description for the Managing Partner or CEO that focuses on strategic planning, setting the future direction of the firm and cultivating a relationship with major clients.
- Delegating responsibility and authority for managing the non-legal, business operations to a strong Chief Operating Officer or Executive Director who heads a team of non-lawyer, business professionals.

- Raising the position of practice group head to the senior management level and selecting leaders who have the ability and are given the authority to manage their groups.
- In larger firms, de-centralizing management.
- Giving the members of senior management — Managing Partner, Executive Committee, Practice Group Leaders — sufficient non-billable time to effectively fulfill their management responsibilities.
- Compensating the members of senior management for the time they must devote to management and for the results they achieve.

CONCLUSION

Managing any entity is a challenge. Managing and leading a law firm today is a major challenge — some experts would even say it is an impossible one. When approaching these daunting tasks, it may be best to remember the words a young President spoke at his inauguration 48 years ago — “Let us begin.”

—♦—

To order this newsletter, call:
1-877-256-2472

On the Web at:
www.ljnonline.com