Continued on page 3

Emma Seppälä, Ph.D., is Science Director of Stanford University’s Center for Compassion and Altruism Research and Education. Her areas of research include positive organizational psychology, health psychology, cultural psychology, well-being, and resilience. She consults with Fortune 500 leaders and employees on building a positive organization and the author of the upcoming book on the science of success, The Happiness Track, published by HarperOne in January 2016.

KS: Your book called The Happiness Track came out at the beginning of this year. An assertion of the book is that being happier can lead to career success, and that some of what we think of as drivers of success are actually false. Can you explain more about that?

ES: We have the misconception that in order to be successful we have to postpone our happiness, but when we look at the research we see that by taking care of ourselves and being happier and more fulfilled, we can actually be more successful. A lot of people live thinking about the future and their next goal or achievement, but research shows that being able to stay more in the present makes people more productive, makes their cognitive skills sharper, and creates better connections with others, in essence making them more charismatic and better leaders.

Another misconception is that we think that stress is essential for success so we live in a state of self-fueled overdrive and high adrenaline. Stress in small doses can help to get things done, but chronic stress is burning us out, resulting in 80 percent of doctor visits. We live in one of the busiest times in human civilization and we can’t change work and life demands, but we can train our nervous systems to be more resilient. We need to be able to turn off our sympathetic or “fight or flight” nervous system in order to enable our parasympathetic or “rest and digest” nervous system, which helps us calm down to restore our bodies, and to sleep. Breath training can help to trigger the calming reflexes of the body and it can be done at any stressful point in your day to immediately calm you.
In Pursuit of Organic Growth: Conducting an Effective Go-to-Market Analysis
By Marcie Borgal Shunk
A sophisticated go-to-market strategy can help take the guesswork out of planning, increasing chances for success and reduces risk to the firm.

Innovation in Serving Those With Modest Means
By Sheldon Krantz and Jean O’Grady
DLA Piper and Arent Fox forged an innovative partnership with Georgetown University Law Center to build a new kind of nonprofit law firm to serve a population largely ignored until now.

Performance Reviews are Getting a Makeover in Many Large Companies—Is it Time for Law Firms to Follow Suit?
By Kathy Skinner
Many companies have determined that in order to better manage performance and match the heightened pace and changing demographics of the workplace, they need to overhaul their performance management systems.

Champion for the Attorney: Law Firms’ Role in Supporting Their Professionals
By Jean O’Grady
Championing the attorney is a new role for law firms, one that requires understanding their unique needs and providing the support necessary for their success.

Chief Content Conductor: The New Role for Legal Marketers
By Adam L. Stock
In a world that values good information, law firms and lawyers have advantages over other industries, but the role of legal marketers has become more technical as a result. It has shifted from crafting messages to ensuring that information is created and delivered to target audiences.

Investing In Your High Potentials: Coaching Circles
By Jane DiRenzo Pigott
Retaining budding mid-level and senior associates has again become a strategy for law firms. Firms can gain an edge by investing in retaining high performing associates.

Innovation in Serving Those With Modest Means
By Sheldon Krantz and Jean O’Grady
DLA Piper and Arent Fox forged an innovative partnership with Georgetown University Law Center to build a new kind of nonprofit law firm to serve a population largely ignored until now.

In This Issue
How Being Happier Contributes to Career Success: An Interview with Dr. Emma Seppälä
By Kathy Skinner
Interview with Emma Seppälä, Ph.D., Science Director of Stanford University’s Center for Compassion and Altruism Research and Education about her book, The Happiness Track.

In Pursuit of Organic Growth: Conducting an Effective Go-to-Market Analysis
By Marcie Borgal Shunk
A sophisticated go-to-market strategy can help take the guesswork out of planning, increasing chances for success and reduces risk to the firm.

Performance Reviews are Getting a Makeover in Many Large Companies—Is it Time for Law Firms to Follow Suit?
By Kathy Skinner
Many companies have determined that in order to better manage performance and match the heightened pace and changing demographics of the workplace, they need to overhaul their performance management systems.

Chief Content Conductor: The New Role for Legal Marketers
By Adam L. Stock
In a world that values good information, law firms and lawyers have advantages over other industries, but the role of legal marketers has become more technical as a result. It has shifted from crafting messages to ensuring that information is created and delivered to target audiences.

Innovation in Serving Those With Modest Means
By Sheldon Krantz and Jean O’Grady
DLA Piper and Arent Fox forged an innovative partnership with Georgetown University Law Center to build a new kind of nonprofit law firm to serve a population largely ignored until now.

Please direct any comments or questions to either of the editors in chief:

William Scarbrough
Chief Operating Officer
Bodman PLC
Detroit, MI

Lisa Kellar Gianakos
Director of Knowledge Management
Pillsbury Winthrop Shaw Pittman LLP
Washington, DC

Sharon Meit Abrahams, Ed.D.
National Director of Professional Development
Foley & Lardner LLP
Miami, FL

Toby Brown
Chief Practice Officer
Akin Gump Strauss Hauer & Feld LLP
Houston, TX

Silvia Coulter
Principal
LawVision Group
Boston, MA

Elaine Egan
Head of Research & Information Services - Americas
Shearman & Sterling LLP
New York, NY

Jean O’Grady
Director of Research Services
DLA Piper, US, LLP
Washington, DC

Don Philmlee
Legal Technology Consultant
Washington, DC

Kathleen Skinner
Director of Research Services
Morrison & Foerster LLP
San Francisco, CA
KS: In particular, one of the false theories you mention is to “play to your strengths,” which seems like it would align with happiness. Can you provide more detail on that?

ES: There is nothing wrong with playing to your strengths, but the belief that one can only be good at what one is already good at is tied to depression and anxiety. It results in making one less likely to develop other skills and prevents the growth that comes from learning from mistakes and learning new skills.

KS: You work with a lot of technology companies and you also use social media and other technology such as meditation apps in your work. It seems that technology and social media, in particular, can be a double-edged sword in that they can foster a 24/7 work culture, as well as feelings of failure, competition, or inadequacy. How do you suggest that people use technology effectively to foster rather than reduce happiness?

ES: Regarding Facebook, scrolling through posts is linked to negative emotions, but using Facebook to share information or encourage or uplift others is beneficial. Research shows that loneliness is often correlated with a lot of social media use.

Regarding technology, in general, there need to be more boundaries created with technology in our lives. Work and family life have become completely intertwined, and it’s actually in the best interest of employers to encourage employees to create boundaries between their work and home lives because research shows that employees who take time off do better in their work. Recovery and work engagement reinforce each other. Only two out of three American employees use all of their vacation days. Taking time for reading outside of your field, diversifying your interests, and doing things that make you feel better also make you more charismatic and effective in the workplace.

KS: Using a metric called the Caliper Profile, attorneys rank higher than the average population on skepticism, autonomy, abstract reasoning, and urgency, and lower than the average population on sociability and resilience. Given these characteristics and their likely effects on the law firm workplace, are there some industries, like law, that are better or less suited to adopting principles of altruism and compassion, and are there some strategies for adopting these principles in workplaces that may be more challenging, in particular those that are highly deadline driven, like law firms?

ES: I’ve written about this a lot in the Harvard Business Review. Research suggests that it doesn’t matter how intense the environment is, your reactions can still be compassionate. If the human touch doesn’t exist in a workplace, people will burn out and leave. Small shifts in interaction and empathy make a huge difference to loyalty, commitment, and engagement. Niceness, however, shouldn’t interfere with frankness and being candid, and one can be candid without being cruel. If you ever had a mentor who cared about you, do you remember how much you would want to put out for that person? And contrast that with the person who didn’t establish that connection, who you don’t care if you ever see again.

KS: How would you address the perception that being compassionate could be damaging to career success or be a sign of weakness in an often adversarial profession like the law? What are your recommendations when one is inclined towards responding in kind to workplace slights or insulting behavior?

ES: In the book I give an example of an investment banker who, in spite of working in an overall vicious culture at his particular firm, treated his associates well and created his own culture of civility and compassion. As a result, junior people lined up to work for him and some of the best deals came his way. You do what you can to create the culture that you want to be in. It’s fine to be self-interested and consider how this benefits you. Anger is bad for your health, so to the extent that you don’t engage in it, you are helping yourself.

KS: How do you suggest people respond to bullying or toxic bosses? Should they get out in order to preserve their own health, or are there strategies that you recommend?

ES: My Harvard Business Review articles also discuss this. You should not stay in a toxic environment that puts your health at risk. But even if you cannot change your environment, you still have the ability to build resilience from within. Make sure that you have the ability to contribute to other’s lives with kindness and compassion, in part because that will be in your self-interest. The secret of happiness is to make others happy no matter what the environment.

Additional Resources


Retaining budding mid-level and senior associates has again become a strategy for law firms, but the market is tight due to the lower hiring rates following the 2008–09 economic recession. Recruiters and even firm clients are plucking associates with experience and expertise. Further, a 2015 American Lawyer mid-level associate survey indicates a strong attrition rate within this group when their expectations are not being met. Millennials value transparency in expectations and effective hands-on mentoring. Firms can gain an edge by investing in building these skills within partner ranks, in order to retain their investment and retention of these high performing associates.

Retention of high potential associates has become a strategic business choice for law firms. The market for talent has gotten more robust and associates are getting calls from search professionals and clients about other opportunities. The 2015 American Lawyer mid-level associate survey indicates a large pent up attrition among mid-level associates at law firms. The market for mid-level and senior associates with experience and expertise is tight because of the low hiring firms after the 2008–09 economic recession. Millennials (born 1980–2000) are a driven generation who value transparent expectations and effective hands-on mentoring. For all of these reasons, law firms need to make a strategic investment in that group in order to retain their high potential associates.

Benefits of Coaching
For any organization, there are a large number of benefits to providing coaching. There are two benefits, however, which specifically address generational disconnects that are rampant in the law firm workplace and have a direct causation impact on retention. First, the “rules” in law firms are not transparent and they are in a constant state of flux. Millennials are a generation who are used to concrete transparency. For example, when they were given an assignment in school, even college and law school, they received a rubric which contained a description of how every point could be obtained or lost. The lack of transparency of expectations in law firms is both confusing and frustrating to this generation. Second, Millennials have helicopter or snow plow parents who take an active role in their children's path and progress. This generation enters the legal workplace not only looking for mentoring, but feeling that they are entitled to an active participant in their success. Coaching circles allow for each of these generational disconnects to be addressed in a manner that Millennials find satisfying and empowering.

Why Don’t Partners Sponsor, Mentor, or Coach?
Most partners in law firms are not active or effective sponsors, mentors or coaches. Why? First, billable hour demands have increased on partners. Second, non-billable hour demands have increased on partners. Third,
the firm does not pay them for mentoring, only for bringing in business and billing hours. Fourth, associate attrition is high and they feel that they are investing in someone who will leave anyway. Fifth, mentoring, sponsoring, and/or coaching across differences in gender, ethnicity/race, and sexual orientation is risky for partner who do not “look” like the “best and the brightest” coming out of law schools these days. Lastly, there are generational disconnects at play which result in material frustration when mentoring across generation.

Mentoring and its corollary versions, sponsorship and coaching, have a positive impact on retention, development and promotion in a talent-based business. Yet law firms cannot rely on their partners to invest appropriately and strategically in the associates they should seek to retain. As a result, looking outside to fill the gap becomes necessary.

**Essential Elements of Circles**

Coaching circles have a number of essential elements:

1. The coach should be external to the firm, and focused on delivering individualized coaching to each participant. Many of the high-potential participants will have colleagues who they consider to be mentors at the firm. It is essential for them to also have someone they don’t work with, but who is familiar with how the firm works and the relevant criteria for success for each participant.

2. The circle should be small, ideally between four and six participants. It is essential that trust relationships are created between the coach and each participant, for the group to leverage the results that each individual could achieve on his/her own. Given the size and geographic breadth of most law firms, associates do not know each other so an added benefit for both the participants and firms, is the creation of trust relationships.

Both will benefit from the social capital created in terms of future leadership collaboration, business generation, and cross-selling to existing clients.

3. The coach should have a conversation with each of the attorneys “responsible” for each participant. Every firm has a different system and the “responsible” attorneys may be, for example, the practice group leader, mentor, partner for whom the participant works, or a partner who will participate in the firm’s evaluation or promotion committee. The purpose of the meeting is for the coach to hear from someone in a supervisory role, where the participant is doing well and what the participant needs to either do differently or additionally to remain a “superstar” and “on track” for partnership. The conversations with the coach should be direct and honest, even if such a conversation has not yet been had with the participant.

4. The circle should meet monthly as a group. Participants need to prioritize attendance at the meetings. The agenda for the meetings should be set initially based upon the feedback received from the “responsible” attorneys. Agendas for the subsequent meetings should be set by the circle with strong input from the coach.

5. Each participant should also meet individually with the coach each month. The agenda for these meetings may be the one established by the conversation with the “responsible” attorneys or it may be established by the participant. As with any coaching session, the participant should expect to leave with action items and to be held accountable for the completion of these action items. It may be necessary for the participant to seek guidance from the circle and solicit their assistance with implementation of these action items.

6. The confidentiality of what is said in both the individual coaching sessions and the circle should be owned by the participants.

7. The circle is a “push,” not a “pull” opportunity. The firm will provide the resources of the circle as a “push” toward continued success at the firm. Any participant who needs to be cajoled and policed into taking advantage of the opportunity is a waste of a space in a circle. Self-motivation, business savvy, and the maturity to understand the value of this self-investment is necessary for participants to be successful.

8. There should be a mechanism to hold the circle accountable. This may take a number of forms, for example, a quarterly report to someone in an oversight or management role at the firm that, without breaching the confidentiality of the circle, discloses participation, engagement and satisfaction levels. Participants should also develop a communication plan about the circle for the “responsible” attorney(s) who invested in him/her, as part an action item during individual coaching sessions.

**Return on Investment**

The return on investment from coaching circles is two-fold. First, the firm strategically invests in high potential associates at a point in their career that is pivotal for both them and the firm. No matter how intelligent and hardworking these associates are, they cannot succeed in law firms without someone, in addition to themselves, investing in their development. What makes a “superstar”
mid-level associate is not what it takes to make partner. There is no transparent roadmap they can implement on their own. If a firm’s culture doesn’t result in naturally forming relationships that include the elements of effective sponsorship, the firm needs to acknowledge that deficit and rectify it. Doing so allows these high potentials to be retained, developed and promoted as they understand and meet all of the requisite criteria. Secondly, even if a high potential associate chooses to seek opportunities elsewhere, they leave feeling invested in and loyal to the law firm. Since the 2008–09 economic crisis, this type of investment has been one of the best tools to generate new business as the associates who leave become clients of the firm.
Ah, the annual performance review, a longstanding subject of controversy and anxiety. In recent years, criticism of forced rankings and annual reviews has escalated, with reports that not only is it cumbersome, time consuming, and expensive for companies to administer, but also that it may actually be counterproductive in that it can inhibit collaboration and damage morale. Some neuroscientists claim performance reviews and associated rankings trigger a “fight or flight” response in employees, preventing them from truly hearing or reflecting on the feedback. In addition, the business world has sped up to the extent that nothing happens on an annual cycle anymore, there is a need to develop people faster, and waiting a year to provide feedback designed to improve an employee’s performance now is “too little, too late.” This is especially true for the Millennials who desire ongoing feedback and coaching to help them advance in their careers.

Detractors of the annual performance review will be pleased to learn that over 70 percent of companies, including Accenture, Deloitte, Gap, Adobe, and the company most known for its “rank and yank” forced rankings system, GE, are reconsidering or have overhauled their performance review and rating systems to address many of these criticisms and concerns. Now that these and other large companies have moved towards ongoing feedback, conversations, and coaching in lieu of the annual performance review, more companies are expected to follow in their wake.

Although an informal survey of large law firms didn’t indicate that law firms are following suit in a big way yet by ditching annual reviews and rankings, there appears to be some movement in that direction, and many firms are encouraging more frequent check-ins with employees, and providing feedback “as it happens,” as opposed to holding it for an annual review. Salina Hanson, Head of Talent Development at Morrison & Foerster, reports,

“We are starting our path of transforming performance management by laying the foundation of coaching as a critical skill. We are training every manager in the firm on how to have a performance coaching conversation. Building this competency into our culture will be essential for evolving our current performance management process.”

A goal common to many of the new evaluation and feedback systems is to use the tool to foster teamwork and collaboration rather than contribute to the zero-sum
Performance Reviews are Getting a Makeover in Many Large Companies—Is it Time for Law Firms to Follow Suit?

Performance reviews are getting a makeover in many large companies. They are expected to either defend their actions or change performance or projects that don’t get done. Recipients of feedback are expected to move to a nimbler, real-time, and more individualized way of assessing performance. Management realized the need to align with the objectives of driving employee engagement and focus on growth and learning rather than just output.

According to researchers at the NeuroLeadership Institute, the fact that social threats and rewards involving status and perceptions of fairness activate intense reaction networks in the brain, explains employee reactions to being assessed on a ratings scale, and points to ways of designing better systems. These researchers recommend that companies replace a ranking system with either structured conversations about employee performance, focused on themes like collaboration or innovation, or guided conversations focused on realistic goals, in order to encourage development of a growth mindset.

There is widespread agreement that the human resources function will become more data-driven over time, fueled by feedback tools developed by a growing number of companies. Kanjoya produces a tool called Perception used to understand emotion and intent in email and other workplace communication. BetterWorks, a Silicon Valley start-up, has created a program that enables employees to post their goals publicly and also to “nudge” or “cheer” their coworkers. Workday has developed a feedback and communication tool called Collaborative Anytime Feedback. These tools are designed to improve efficiency and transparency, in part by regularly measuring the pulse of teams, mirroring fitness trackers and other technology tools that have become a part of our daily lives. Given the trend toward flatter company structures with fewer managers, these technologies can help to leverage management time and resources. The faster the feedback, the more impact it can have on improving performance, and electronic data facilitates immediate feedback.

Of course there are risks and potential dangers associated with relying on real-time apps for feedback, including “feedback fatigue,” or even the potential to use the tool to sabotage other employees, as was reported in a recent New York Times article about Amazon.com. On a related note, a number of companies have started using feedback technology to practice “radical candor,” or “front stabbing” when providing employee feedback. The rationale is that it’s better to create hurt feelings than allow poor performance or projects that don’t get done. Recipients are expected to either defend their actions or change them going forward.

Neuroscientists would argue that an effective performance management system must go further than implementing an app. It requires moving away from a mindset that talent is fixed or innate, and helping employees to develop “self-efficacy” or the belief in one’s abilities to succeed at something. To develop resilient workers with a growth mindset, managers and employees should participate in ongoing conversations that praise effort vs. innate talent, and focus on growth and learning rather than just output.

According to researchers at the NeuroLeadership Institute, the fact that social threats and rewards involving status and perceptions of fairness activate intense reaction networks in the brain, explains employee reactions to being assessed on a ratings scale, and points to ways of designing better systems. These researchers recommend that companies replace a ranking system with either structured conversations about employee performance, focused on themes like collaboration or innovation, or guided conversations focused on realistic goals, in order to encourage development of a growth mindset.

Reportedly, after companies removed rankings, communication regarding development increased. GE strongly identified with “rank and yank” ratings in which the lowest 10 percent of the workforce was routinely terminated under Jack Welch’s leadership. It is one of the leaders in the change away from traditional performance reviews and stacked rankings. The company has transitioned from annual reviews to an app called PD@GE, which stands for “performance development at GE.” As noted by Susan Peters, GE’s head of human resources, “The world isn’t really on an annual cycle anymore for anything.” Each employee has near term goals or “priorities,” and managers are expected to have frequent discussions, or “touch points,” on progress toward those goals. Employees can provide or request feedback, even beyond their group or division, using a feature called “insights.” The focus is on coaching and constant improvement, and the app forces users to categorize feedback according to whether the recipient should keep doing something or consider changing something. Despite GE’s transition to the PD@GE app and its commitment to providing more frequent feedback, Peters says that GE “will maintain our culture of meritocracy and differentiation.”

Deloitte is another company which is transforming its performance management system, saying that in spite of the fact that it was spending 2 million hours a year on evaluations, the company realized that the process did not align with the objectives of driving employee engagement and high performance. Management realized the need to move to a nimble, real-time, and more individualized
Performance Reviews are Getting a Makeover in Many Large Companies—Is it Time for Law Firms to Follow Suit?

approach that prioritizes direct conversations with employees about their performance and careers. Under the new system, team leaders are expected to check in with each team member once a week to talk about workload and manage priorities. These conversations are often initiated by the team member rather than the team leader. In addition, team members use a self-assessment tool which enables them to explore their strengths and present them to others on their team and in the organization.

Deloitte distilled employee assessment, called a performance snapshot, down to four future-focused statements, which team leaders make at the end of every project. These are designed to identify what they would do with a team member rather than what they think of that individual.

It seems clear that “more feedback more often” is the trend that is replacing the often dreaded performance review, and technology tools are helping to facilitate that transition. It’s important for performance systems to be dynamic in order to reflect changing demographics and what the company wants to achieve. Systems that worked well in the past may grow stale and need to be refreshed or overhauled over time. Is it time for law firms to join the trend and embrace new ways of managing employee performance? Salina Hanson, Senior Firmwide Staff Recruiter at Morrison & Foerster, recommends that law firms considering a move away from rankings and annual performance reviews consider the following:

1. Do your homework and use the research available to design a customized system. Share this data with your firm to get the organization ready for a change. (Recommended reading: Mindset by Dr. Carol Dweck)

2. Build a strategy for encouraging frequent and effective coaching between a leader and his or her direct reports in your firm. This may require improving the coaching skills of those leading others.

3. Rebrand your performance management system to reflect the outcomes you are looking to achieve.

Sources


In the past, the role of marketers was to make people aware of a company’s products or services through well placed messages which usually took the form of advertising. Today, as customers are exposed to countless marketing messages employing more media channels than ever before, marketers must focus on customer engagement. The marketing clutter of the Internet (websites, social media, and email) and traditional media (TV, radio, and print) has shifted marketers’ roles from crafting messages to orchestrating content that prospects and customers will engage with. Like a conductor leading an orchestra, the today’s marketer must think through how to most effectively approach content that delivers the greatest impact in getting customers to engage.

Ad Recall Stays the Same
We are exposed to more marketing messages than ever before, but ad recall stays the same. According to a 2014 study of media usage and ad exposure by Media Dynamics, Inc., a typical adult’s daily media consumption has grown from 5.2 hours in 1945 to 9.8 hours (or 590 minutes). But the study also found, that ad recall and retention has stayed nearly the same. Today’s customer has more avoidance options like remote controls and DVRs, and many more channels to choose from. Or, as in the case of the Internet, customers determine where they go and what they view.

The Shift to Content Marketing
With ads becoming less effective, marketers are concentrating on the stuff that people want to engage with—the content—rather than the ads, which are perceived to be interruptions. This kind of marketing, called content marketing, is a strategic approach focused on creating and distributing valuable, relevant, and consistent content to attract and retain a clearly-defined audience—and, ultimately, to drive profitable customer action.

Content marketing, which many believe is the future of marketing, is the technique of communicating regularly with your customers and prospects without selling. Instead of pitching your services, you deliver information that educates your customer. Underlying content marketing is the belief that if we, as businesses, deliver consistent, ongoing valuable information to buyers, they ultimately reward us with their business and loyalty.
Content Marketing Gives Law Firms an Edge
In most marketing domains, law firms aren’t leaders. More often we take up the rear. But law firms have engaged in content marketing, and are naturally suited to be successful at it. For years, law firms have created Legal Alerts, timely advisories informing their clients and prospects of important changes to the law and their effects. Law firms have well-developed mailing lists and, in many instances, also produce regularly scheduled informational newsletters and blogs. Law, compared with other industries, has an edge. The law has important insights, that are (a) valuable, (b) communicated articulately, and (c) released on a regular basis.

Many consumer companies employ content marketing, but the content only tangentially relates to their product offerings, whereas law firm content has direct relevance to the legal services. Compare a funny movie that Coca-Cola releases on social media with a well-written legal alert. The funny movie tangentially relates to the soft drink, but the legal alert directly demonstrates the kind of insight one would experience by engaging with a law firm.

High Trust Gives Law Firms an Edge
Because of information overload we have become very adept at filtering information. While the number of messages we get continues to increase, our ability to process them hasn’t changed. We, therefore, use filtering techniques to determine what we will spend time on. Law firm emails have consistently had higher “open rates” than those of other industries because law firms have higher trust levels. Simply put: if your law firm sends you an email, you are more likely to open it and read it. Because most law firm content is high quality—relevant and well written—the industry is likely to maintain this edge.

Law Firms Have Embraced Content Marketing
According to the 2015 State of Digital & Content Marketing Survey by Greentarget and Zeughauser Group, 98 percent of law firm Chief Marketing Officers surveyed actively engage in content marketing, and 87 percent expected to produce more content in 2015 than 2014. Furthermore, content marketing appears to be effective as reported in the 2015 Digital Marketing Survey which reports “In House Counsels find traditional client alerts and practice group newsletters to be the most valuable types of law-firm-generated content.”

Social Networks Amplify Good Content
One of the most important filters we use is whether we recognize and trust the sender. Social networks provide a valuable way to amplify content as members of our networks share good information within them. People who may not have read the original content may read it, when shared by a trusted source.

Social Networks and Content Marketing Enhance Lawyer Branding.
Most clients state that they hire the lawyer first and the law firm second. But law firm marketing has favored promoting the law firm brand and not the individual attorney. Part of the challenge is that law firms have so many lawyers that it is impractical to promote each one individually. When attorneys share relevant content on social media—whether or not it is content that they authored—it enhances their brand as an expert in that domain. Social networks provide a practical way to market the lawyer first, then the law firm.

The Importance of Social Networks is Growing
The relative importance of marketing online, and especially through social networks, will continue to grow. It has often been argued that the primary customers for legal services are not active on social networks, but as attorneys who grew up with social media attain positions of importance in companies, social media will take on a more prominent role. According to the 2015 Digital Marketing Survey, 68 percent of respondents said they used LinkedIn in the last week, compared with 62 percent in 2014.

Marketing Can be Measured Effectively
Marketing pioneer John Wanamaker famously said, “Half the money I spend on advertising is wasted; the trouble is, I don't know which half.” This is not true in the age of online marketing. Today, every click on our website, in our emails and on our blogs can be tracked. We can measure who engages with us, in what media, and what information they are interested in.

When we analyze these data points we can be quite effective, as reported in the 2012 Forbes article, “How Target Figured Out A Teen Girl Was Pregnant Before Her Father Did.” Target statisticians figured out that when their female customers in certain age ranges buy certain products like unscented lotions and vitamin supplements in higher quantities, there’s a high probability that the customer is pregnant. While law firms are not nearly advanced as Target, the information they possess about their clients provides a wealth of opportunities for uncovering latent legal needs.

How does this affect legal marketing? With the shifts in marketing online and towards content marketing, legal marketers must focus on client and prospect engagement. This role spans both the creative and
the technical. Not only must the strategy be executed, but every time content is created, its effectiveness must be measured to refine the strategy. Some of the considerations include:

Audience
• What audience are we trying to reach and what action do we want them to take?
• How frequently do we need to communicate with them?

Message
• What is the message and the “call to action” for any specific content?
• What messages are target clients most interested in engaging with?

Medium and Distribution
• What medium will be most effective: email, video, newsletter, blog post, etc.?
• What is the most effective way of amplifying our content—traditional media, LinkedIn, Twitter, syndicators, etc.?

Content marketing and the changing way that we engage in a deluge of communications provides advantage to law firms, as well-written, valuable information from trusted sources is more important than ever before. The role of the legal marketer is shifting from that of a crafter of messages to a conductor, ensuring that information is delivered to the intended audience though a wide range of traditional and online channels. To accomplish this goal, marketers must have a much more technical understanding of online marketing.
In Pursuit of Organic Growth: Conducting an Effective Go-to-Market Analysis

Organic growth through new markets, ancillary services and innovative product offerings is an attractive long-term strategy for law firms, yet few approach this growth in a concerted and systematic manner. A sophisticated go-to-market strategy can help take the guesswork out of planning, increasing chances for success and reduces risk to the firm.

As we prepared for a panel discussion last month, a KPMG partner and I were comparing notes about our respective industries. As I described the legal sector—the near-flat growth, consolidation, industry disruption, newfound focus on profitability, changing talent models, etc.—she remarked astutely, “well it sounds like law firms have to get used to competing in a low-growth market just like us.” The trick is, competing in a low-growth market demands different tools and approaches than the ones to which most law firms are accustomed.

The low-hanging fruit to propel growth, of course, is acquisition. Last year saw near-record levels of law firm mergers in the U.S. Like the accounting firms before them, law firms are using consolidation as the “easy access” way to expand their client base and talent pool in an effort to compete more effectively, yet bigger isn’t always better. Of the 17 major mergers between AmLaw 200 firms that took place between 2003 and 2013, just 6—or 35.3 percent—resulted in firms that grew faster than the market in the third year after the merger, according to LawVision’s MergerCounsel. Moreover, 2 of the combinations failed completely (i.e., the firms ultimately dissolved).

The Organic Growth Challenge

The alternative to acquisitive growth is organic growth. Organic growth presents a more nuanced approach to topline growth—more akin to a blitz. Organic growth is an approach that demands investment, patience and diligence, alongside a tolerance for risk and a willingness to take the long-view. Accounting firms have mastered the formula for evaluating, pursuing, and perpetuating a form of organic growth. They do this specifically through ancillary service offerings and in adjacent spaces. Virtually all major accounting firms are aligned by verticals (client industries), have robust client-facing programs to drive loyalty, cultivate strong alumni networks, invest routinely in thought-leadership and innovation, and rely on metrics to systematically and effectively measure performance. A new opportunity is assessed by how it will contribute to these efforts, support the firm’s overarching strategy, and drive long-term goals.

For law firms, particularly those whose strategic goals are not as concrete or who lack internal resources to drive the analytical process, taking a more aggressive stance on organic growth can be daunting. Though many have experienced “one-off” success, hiring small lateral groups or bootstrapping a new effort, far fewer have approached this challenge in a concerted and systematic manner. Even fewer have entered a new market, business, or service offering in a manner that realizes the true potential of the opportunity.
In Pursuit of Organic Growth: Conducting an Effective Go-to-Market Analysis

The Solution
Fortunately, there is a tried-and-true formula to help transform an idea into a revenue stream. A well-designed go-to-market strategy will:

1. Evaluate alignment with the firm’s strategic objectives
2. Define the specific client or market need it seeks to address
3. Establish criteria and metrics against which to measure progress
4. Assess risk factors to the firm and to the effort, including a critical evaluation of the firm’s internal capabilities, financial resources, and talent
5. Include a list of critical success factors (what will it take to be successful)
6. Project a timeline and investment of resources required

Developing a Go-to-Market Strategy
A go-to-market strategy is the result of a dedicated effort combining analysis of internal and external data with input and feedback from firm leadership, practice heads and other stakeholders. In the absence of either external or internal data, a go-to-market strategy risks missing the mark entirely, whether because there is no actual need, too many entrenched competitors, or lackluster financial opportunity. Conversely, without the perspectives of leaders and other firm constituents, the strategy may be sound analytically but void of the “human element”—the direction, passion or motivation required to act on the recommendations. The process, therefore, is an iterative one that involves interjecting periods of research with the development of analytical frameworks, brainstorming exercises, and group discussions.

From an analytical perspective, the minimum inputs to consider and bring together include:

1. External factors
   a. Clients—direct feedback and input on changing needs and priorities
   b. Market forces—these include industry dynamics, regulatory environment, and other forces that influence clients and prospects
   c. Macro-trends—such as generational shifts, global economics, political winds, disruptive entrants
   d. Area-specific—trends in litigation, billing rates, hiring criteria, M&A activity, private equity deals, etc.

2. Internal factors
   a. Capabilities assessment—what are the strengths of our talent pool, gaps between our talent, and the client/market need(s)
   b. Financial performance—which clients/matters/types of service offerings are most profitable/generate the greatest revenue
   c. Staffing model and approach—do we have the right staffing mix, how are we applying project management

3. Competitive landscape
   a. Differentiation—what are the firm’s competitive characteristics in the eyes of clients and the market, and in the eyes of potential talent?
   b. Barriers to entry (market dominance)—market segmentation of firms already in the space, strengths of incumbents, potential vulnerabilities, or untapped differentiators
   c. Clutter/noise in the market—how crowded is the landscape, are their nonlaw firm alternatives

A Picture is Worth a Thousand Words
The presentation of this data is equally important as (if not more important than) the information itself. First and foremost, acknowledge that this exercise, like almost any nonscientific approach to data analysis, is not foolproof. Data sources have liabilities. The ones we face most regularly in legal is that our data sources are a) not comprehensive, and b) inaccurate representations of larger populations. For instance, we can’t extrapolate middle market spending from an analysis of Fortune 1000 organizations. To transform data into analysis demands a special skillset, one that is rare in many law firms. Consider hiring analytical talent to ensure the firm is accurately portraying and optimizing the data collected. Infographics can be useful tools as can proven analytical frameworks from business such as quadrant charts, “bubble charts,” and other matrices.

Create a Dialogue and Build an Implementation Plan
At the outset of any go-to-market analysis and again at various points throughout the process, bring together those with a vested interest in the outcome e.g., firm leadership, practice heads, those partners whose clients may benefit from the resultant effort. The goal of these facilitated discussions will morph over time. Initially, these meetings will offer guidance and direction to the effort; eventually they will turn into a sounding
board and, then, a catalyst for change. A rough timeline of topics and discussions may look like this:

1. Selection criteria—Devise and prioritize a list of what matters most to the firm.

2. Spit-balling—Create a master list of all the zany ideas that could possibly be of interest to the firm. Ignore practical questions such as cost, implementation, etc. and focus on idea generation.

3. Discuss initial findings and feedback from the analysis—Review opportunity against the criteria set. Isolate areas in need of additional input or data.

4. Define critical success factors—Delineate metrics to evaluate ROI and set targets and expectations for progress.

5. Build out the potential steps—Time to get real and put action steps, timelines, and individuals responsible on paper.

Mastering the process of organic growth will be a competitive differentiator for years to come. The ability to innovate, bring data to bear, identify opportunities with the greatest chance of success, and pursue new markets and services is an essential skill in the “low-growth market” that we may just have to get used to … for now.
Fierce competition is one of the hallmarks among and between AmLaw 100 law firms. But last year DLA and Arent Fox, two of these firms, forged an innovative partnership with Georgetown University Law Center to build a new kind of nonprofit law firm. The law firm serves a population largely ignored until now. These three sponsoring partners created the DC Affordable Law Firm (DCALF) to serve the District of Columbia’s limited means residents.

In a recent survey by the American Bar Foundation, 66 percent of the adult population in a middle-sized city experienced civil justice problems. These include the threat of eviction and foreclosure, loss of child custody, domestic violence, and the threat of deportation. And most of those confronting these crises do so without a lawyer to help them. The sad truth is that the legal profession has largely been missing in action in addressing these concerns.

Washington, D.C., our nation’s capital, provides a good illustration of just how serious this problem is. Based upon 2014 census figures, one out of every three District of Columbia residents—more than 200,000 of the city’s slightly over 600,000 residents—have such low incomes that they should qualify for free civil legal aid. But drastic cutbacks in support for civil legal services have resulted in legal aid agencies being limited to serving a tiny percentage of those who qualify for and need their assistance. Another 20 percent of the population—more than 110,000—have modest incomes, do not qualify for free legal aid, but do not have the means to be able to pay the rates that lawyers normally charge. Given this background, it is not surprising that over 95 percent represent themselves in matters such as eviction, child custody, and domestic violence cases. This is ironic in a city that is estimated to have more than 80,000 lawyers.

We have reached a point in our history where the legal profession has to become a helping profession and not just for those who can afford to pay lawyers the high rates they charge. One of this article’s coauthors made a number of recommendations for addressing this access to justice crisis in a book he published in 2013 about the failure of the legal profession to address the access to justice gap. One of those recommendations was that the legal profession must devise ways to offer greatly reduced fees for those who are not impoverished but have limited means:

Our rate structure, particularly in BigLaw firms, was designed with larger business interests in mind. It
Innovation in Serving Those With Modest Means

is beyond the reach of virtually everyone else. ... The legal profession is now largely irrelevant to them. ... [T]he legal profession needs to address this gap in legal services more affirmatively. 4

It is encouraging that there is now some movement in that direction. A number of law schools, bar associations, and bar foundations have begun supporting incubator programs within which space, training, and other forms of support are provided to recent law school graduates entering private practice as solo practitioners in return for their commitment to represent clients with modest means. DCALF goes even further because it is organized as a 501(c)(3) tax-exempt charitable entity with a mission to represent those whose incomes fall between 200 to 400 percent of federal poverty level. This translates to between $23,500 to $47,000 for an individual and $48,500 to $97,000 for a family of four. 5

Here is the genesis of DCALF. In August 2014, Georgetown Law Dean William Treanor convened a meeting of Arent Fox, DLA Piper, and Georgetown Law representatives to discuss the “justice gap” in the District of Columbia and the feasibility of creating a “low bono” law firm to help address it. At the meeting were Georgetown Law Professor Peter Edelman and Marc Fleischaker, Arent Fox’s former Chair, who had previously taken the lead in examining possible ways to create such a firm. At the end of the meeting, Dean Treanor tasked coauthor Sheldon Krantz with the responsibility of developing the detailed strategic plan. Six months later, with strong support from each of the sponsoring organizations, DCALF was formed as a District of Columbia nonprofit and it received 501(c)(3) charitable status in June 2015. Krantz agreed to serve as DCALF’s initial executive on a pro bono basis and the firm hired its first group of lawyers—six graduates from Georgetown’s 2015 graduating class. DCALF began taking clients on December 15, 2015 after the six graduates went through 12 weeks of intense apprenticeship training. Heavy emphasis in the training was given to simulation and other forms of experiential learning.

After an assessment of primary areas of need and conferring with the District’s legal aid providers, DCALF decided to give primary emphasis to representing clients in the following practice areas:

• Family law
• Housing
• Immigration
• Small businesses and nonprofits serving distressed communities

Each of the sponsoring organizations has made a major financial and pro bono commitment to DCALF for its initial three years—more than $1 million total per year. Georgetown is paying its graduates 15-month stipends and providing a cost-free LL.M in advocacy. Arent Fox is providing free space and physical and technological support. DLA Piper is taking the lead in training the new lawyers and establishing the firm’s policies and procedures. The DLA Piper Foundation also provided DCALF with initial grant support. Arent Fox and DLA Piper lawyers are, in addition, making a major pro bono mentoring, training, and supervision commitment.

The firm plans to utilize emerging technologies as a means of providing its clients the best and most cost-effective services. It has, for example, developed a client intake app on its www.dcaffordablelaw.org website with assistance from Professor Tanina Rostain—who teaches a course on access to justice apps development at Georgetown—and Neota Logic. This is just the beginning of DCALF’s plans for creating new ways to serve its clients. Also, with support from a Georgetown social scientist, DCALF has formulated plans to conduct careful research on the quality of its training program and the effectiveness of its service to clients. It plans to assess whether its 501(c)(3) nonprofit model—which will be limiting its fees to $75 an hour and comparably low fixed fees—is sustainable and can be replicated elsewhere.

It is the goal of DCALF’s three sponsors to use the “low bono” law firm as an added means for encouraging Georgetown graduates to pursue careers in public service—and particularly to serve the modest means population. Early indications are this goal will likely be realized. Comments by members of the first class demonstrate their level of passion for working in this new type of law firm. Chris Griesedieck, for example, described his position at DCALF as a “dream start” to his interest in serving the vast underserved modest means population. 6 Jessica Berger, another one of DCALF’s new lawyers, commented that having the opportunity to be part of an initiative to seek new ways to serve this population “is incredibly exciting and important.” 7

At the end of their fellowship, along with their months of training, these new lawyers will have something most of their peers lack after only one year of practice—first chair dispute resolution, negotiation and transactional
experience, and the gratitude of clients who would otherwise not have a lawyer to help them with their legal needs.

It is noteworthy that two major law firms and an elite law school have joined forces to create the DC Affordable Law Firm. A similar initiative currently under development in New York, called the Court Square Project, potentially involves the CUNY School of Law, the New York City Bar Association, and 19 law firms. The Court Square Project indicates that the legal profession might finally be giving attention to unmet legal need it has ignored in the past.\(^8\) Let’s hope so.

**Sources**

1. Federal funding for the Legal Services, for example, declined from $420 million to $348 million at a time when poverty levels were increasing to all-time highs. Jim Sandman, the head of the Legal Services Corporation, noted that Americans spend more money on Halloween costumes for their pets than for legal services for the poor.

2. It is true that a large number of attorneys in the District of Columbia work for federal or state government agencies but that does not preclude them from providing pro bono services.


4. Id. At 91.


7. Id.