

Taking care of our people

– summary, comments, and references to the presentation made at
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Winning the intensified war on talent

Indeed, the vast majority of large firms appear to follow a nearly identical model based upon the same narrow tranche of information: limit the hiring pool to the most academically qualified graduates from the most prestigious law schools and offer jobs to those who can make contact with the softball questions tossed during the interview process...

Beyond sheer tradition, law firms' rigid adherence to academic credentials may be based on the belief of law partners that law school ranking plus grades provide the greatest likelihood of hiring the most analytically gifted students. Furthermore, these partners may believe that analytical reasoning may be the most useful and reliable predictor of future performance. The academic literature, however, provides no support for this view.

- Professor William Henderson¹

A powerful way of enhancing the traditional attracting-recruiting-retaining

I don't think the most sensible conclusion from the criticisms cited above is to scrap the current recruiting profile, nor do I expect anyone would even consider it. But in many firms, the process may be drastically boosted by adding the element of a mentorship program. By doing so, law firms can reach deeper into the pool of talent in law school, vet the truly best candidates with greater precision, and enhance the employer branding in a tangible way. This is done by getting to know that candidate better – and to allow the candidate to connect with, and get to know, the law firm better. That will allow for a mutual decision process that is better informed, that is affords a better match.

¹ (2010), *Studies in Law, Politics, and Society*, in Austin Sarat (ed.) *Special Issue Law Firms, Legal Culture, and Legal Practice (Studies in Law, Politics and Society, Volume 52)* Emerald Group Publishing Limited

Current top concerns for law students applying for law firms are long hours, poor work/life balance, and toxic work culture.² Many law firms can offer an illustrious career for the right candidate. Few firms can effectively instill trust, which would counteract these top-rated doubts. By creating a mentorship program, a firm may be able to reach earlier into the law school, offering students ample time to get to know the firm. It also offers an opportunity for the law firm to offer training in stress and time management already in law school—which is sorely needed. Perhaps even more importantly, the law students will get to know representatives of the firm (notably the mentors), allowing them to make *a personal connection*. This will instill the trust that I think will be an important differentiator when the student is choosing an employer. Conversely, it also provides the firm the opportunity to get to know the law students much more thoroughly and authentically than that which can be afforded in a recruiting process.

Here are some concrete examples that I have personally witnessed in mentorship programs:

- A female top student saying “I never thought I had a chance [of getting hired] at this firm, but by a fluke applied to the mentorship program anyway. Now I have been offered a job, which I will happily accept.” Poor self-esteem prevented this candidate from considering applying. Once the firm spotted as the hidden star she was, they could confirm to her that she was indeed right for them.
- A law student who was aiming for a job offer at a Big Four accounting firm decided to switch to the firm in the mentorship program. He didn’t think he was cut out for work in a law firm, but realized that he was after all.
- The male law student who thought he wanted to go into business law, but discovered he would feel much more at home with family law. This prevented a substantial cost for both the firm and the student alike.
- The firm which was able to spot (and recruit) a student with a serious interest in a particular practice area in which they had great difficulties finding a candidate.

A gold standard mentorship program is of course an investment. But this has to be weighed against the cost of recruiting, training – and maybe losing – an associate. It takes years before an associate becomes truly profitable, and the cost has been estimated at \$315,000 CAD or 150-200% of annual salary.³ By comparison, it could well be argued that a successful mentorship program will yield a vastly greater ROI than competing by offering a higher starting salary.

So who should mentor the adepts? Junior Associates. In my experience, Junior Associates are supremely qualified and motivated to act as mentors. They are young enough to be able to relate to the students. They need to reflect on their role, work, and considerations. They are to start training in leadership, professional conversations, and in providing feedback. If properly trained, a mentoring program will provide real-life training opportunities for just those skills..

² Näsström, Jens. 2021. *Study of law students under the pandemic*. Unpublished.

³ Project for Attorney Retention, Press Release, “D.C. Law Firms to Get Help Retaining Attorneys,” June 1, 2000. Accessed 01/02/2013 at http://www.attorneyretention.org/PressReleases/Jun_1_2000.shtml.

A mentorship program can be a relatively straightforward affair, but it can also be a very complex and powerful process. For instance, the easiest way to set up a cohort is to review the CVs and grades of applicants. After the program, you then maintain contact with and try to sign the strongest adepts. But you can't sign them until they have completed any psychometric testing you may have.

The high-powered approach:

1. Take many students (2-5 applicants for each seat in the program)
2. Have them fill out the psychometric testing first, because filtering is quickest to administrate
3. Review CVs and grades

This ensures that each adept in the program is already fulfilling all the criteria before they go into the mentorship program. Sounds great, but it is not simple. First you must attract enough students, then have them submit their grades and CVs, distribute the testing, and administrate this process in a GDPR compliant way (if your firm operates in such a jurisdiction).

Either way, I expect this kind of mentorship program to spread like wildfire. I ran a pilot in the Fall of 2021. The first copycats in Sweden (law firms I don't work with that have copied the concept including keywords used in my packaging) appeared in early 2022. I signed five law firms in the Spring, and will double or triple that number in the Spring.

The problem of competing aggressively with higher hiring salaries

When demand exceeds supply, prices rise. When the demand for top law students is high, hiring salaries increase. But there is also another, darker, side to the issue of high hiring salaries: motivation, which can be divided into outer (extrinsic) and inner (intrinsic) motivation. The former means being driven by tangible rewards, notably salary, while the latter reflects being motivated by work because of interests, enjoyment, and values. In lawyers, inner motivation has a very powerful positive correlation with well-being and a substantial negative correlation with depression. It is decidedly more impactful on well-being than class rank and income.

However, we should be careful when drawing conclusions, as Krieger and Sheldon incisively observes: *Here it is important to keep in mind the distinction that extrinsic values are not problematic by themselves. However, when these values 'dominate and displace intrinsic values, however, negative effects occur'.*⁴

They go on to state "that the most prominent study of human needs to date found an inverse correlation between well-being and the emphasis that subjects placed on high earnings as a source of satisfaction."⁵ Either way, well-being is directly linked to performance – one of the dimensions of Maslach's model for

⁴ Lawrence S. Krieger with Kennon M. Sheldon, [What Makes Lawyers Happy?: A DataDriven Prescription to Redefine Professional Success](#), 83 G.W. L. Rev. 554 (2015).

⁵ *Ibid.*

burnout is decreased performance, for instance – but also to engagement and staff turnover. Given the high levels of stress, burnout, and depression among lawyers, this is not a small issue.

You don't want to hire someone who actually would prefer to do service work, but is applying to your firm because of the pressure of high student loans. Instead, you want to hire someone who actually enjoys the work – that will make them more resilient, and which will sustain their performance. While this may seem self-evident, the high-starting salary approach to hiring may pull the recruiting process in another direction, and the issue of inner motivation is here an important factor to heed; while not necessarily easy to measure.

Personally, I think a mentorship program is better-spent money.

The traditional recruiting process very poorly identifies the most resilient candidates – which is critical for reducing the attrition rate

*In a perfect world, firms would invest some more time and energy in looking for the traits in young lawyers that they think will make them successful in their firm, rather than relying on overwhelmingly the school the student went to and the grades the student received.*⁶

- David N. Yellen, dean of Loyola University of Chicago School of Law

*Despite the importance of resilience for attorneys and clients, lawyers have notoriously low levels of resilience. Larry Richard, a psychologist and former trial lawyer who has studied attorney personality traits extensively, reports that 90% of attorneys score below average in resilience.*⁷

– Randall Kiser

Resilience and grit are key in the post-pandemic workplace. In the recruitment process itself, it is absolutely vital to give more weight to resilience and grit than that which traditionally has been done in the traditional recruiting profile. This is, by far, the easiest and most cost effective way of reducing stress and burnout levels – and staff turnover rates. *You cannot win the war on talent unless you stop the excessive hemorrhaging of talent (the high staff turnover).*

But how misleading can it be to place too much emphasis on grades?

I asked 800+ Swedish law students in Spring 2021 how many hours they study per week. I then took the students with absolute top grades (“AB” in the Swedish university system, 282 students in this survey), and divided them into four groups, with an equal number of students in each group.

Number of hours studied per week among Swedish top students

4th quartile	3rd quartile	2nd quartile	1st quartile
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⁶ https://www.youtube.com/watch?time_continue=588&v=CbQIKFge5kg

⁷ Kiser, R. (2017). *Soft skills for the effective lawyer*. Cambridge University Press. Page 92.

39-60 hours	30-38 hours	25-30 hours	12-24 hours
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The fourth quartile is already stressed out in law school, struggling with work-life balance (or rather, study-life balance) and poor mental health, long before entering the law firm.

I asked a colleague, Nick Hobson (PhD in Behavioral and Brain Sciences, Lecturer, University of Toronto), to look at some of my data. This is what he told me:

For hiring Junior Associates, 1 in 4 new hires are high-risk for burnout.

The anxious over-achiever will sneak by on their admirable traits, which our data has shown is the case, especially among a large proportion of Junior Associates across major law firms.

Currently, there's reason to believe that this covert personality style isn't being tracked or accounted for in hiring/talent decisions.

Thus, many top students lack resilience. And many associates lack resilience. Once you connect those two dots and give weight to resilience in the recruiting process, stress, burnout and staff turnover will be reduced at a minimal cost and no further effort. Naturally, much more must be done to combat stress and burnout, but this is to my mind the lowest-hanging fruit.

I am only aware of two effective, empirically validated ways of doing so for law students: structured behavioral interview and assessing for maladaptive perfectionism through psychometric surveying. Big Five does predict stress and burnout by assessing Neuroticism/Emotional stability, but is not nearly accurate enough – as evidenced by the poor resilience in law firms relying on Big Five-type psychometric testing for this purpose.

Training for sustainable top performance

There is a gap between law school and law firm that leaves associates undertrained in many of the skills that research has identified as the most important for success in lawyers. Without enough of these soft skills, also called business or facilitation skills (being the skills that facilitate the legal work), the full potential of well-being and efficacy will not be capitalized on.

1. Use the appendix as a map for training. Prioritize the skills and plan for training accordingly – I strongly suggest starting with time and stress management.
2. Traditional one-way teaching-style group training is not the most effective. Consider small, interactive group training. Gold standard is individual coaching. Costly yes, but if you can keep just one associate per year, the ROI will be great.
3. Vet coaches, lectures etc. thoroughly. If they don't understand the lawyering world, it is unlikely they will be very successful.

4. Early on, provide truly effective training in time management, stress management, self-leadership and other core skills that really help the associates uphold the top performance long-term. This, in turn, will improve the working culture over time in which working *smarter* instead of just working *harder* will be more appreciated.
5. Find a coach who understands law firms. Or train a lawyer with an interest in coaching. Use the coach extensively and systematically, which should allow you to negotiate a financially viable long term contract.

Cracking the legal leadership code

*Several decades of research have found that attorneys' distinctive personality traits can pose a challenge for them as leaders. For example, attorneys tend to be above average in skepticism, competitiveness, 'urgency', autonomy, and achievement orientation... which can make lawyers self-absorbed, controlling, combative, and difficult to manage.*⁸

- Deborah Rhode

This is a tough one. Law firms have grown rapidly in size in the past 35 years, a growth driven by an increase in ratio of total lawyers to equity partners (leverage) in the top fifty Am Law 100: from 1.76 in 1988, to 4.47 in 2018.⁹ And before the arrival of the PC, many business law firms had a ratio 1-1: a single associate for each partner. Thus, legal leadership in the sense of “one leading many,” is a relatively new phenomenon. But legal leadership has not developed in parallel to the expanding pyramid growth pattern in law firms. Many lawyers simply lack interest and/or the talent for leadership, but make partner by virtue of their excellent legal skills and/or rainmaking. Once they become partners, they are “producing leaders,” meaning they share their time between leading and producing legal work. In many non-legal corporations, being promoted to leadership positions means you stop producing. You just simply focus on leadership, and partake of leadership training to a much greater extent than that which is seen in law firms. While it does make perfect sense to have leaders in business law that actually understand the subject matter, the current state of affairs glosses over just how much leadership is involved in everyday work in a law firm.

My general advice is that leadership training should start earlier than that which is standard practice today—much earlier. I have already mentioned that a mentorship program provides Junior Associates with an excellent first opportunity as leaders. There are several reasons for starting leadership training earlier. The more you advance on the career path of a business lawyer, the busier you will be. You will also become more set in your ways, and therefore more difficult to train. Furthermore, business lawyering entails leadership relatively early – such as when you, as a Junior Associate, delegate to an assistant. Ideally, the fundamental training in leadership should be completed while still on the partner track. Once you make partner, the motivation for leadership training seems to drop significantly.

⁸ Rhode, Deborah. (2013). *Lawyers as Leaders*.

⁹ Reich, Jarrod F. (2019). *Capitalizing on Healthy Lawyers: The Business Case for Law Firms to Promote and Prioritize Lawyer Well-Being*.

<https://scholarship.law.georgetown.edu/cgi/viewcontent.cgi?article=3211&context=facpub>

Question to 800+ Swedish law students (Spring 2021)

Do you want to become a partner/manager/leader:

Definitely	32,5%
Probably	38,1%
Not sure	22,0%
Don't know	5,0%
No	2,4%

There is clearly motivation in the upcoming generation for leadership, which should be capitalized on.

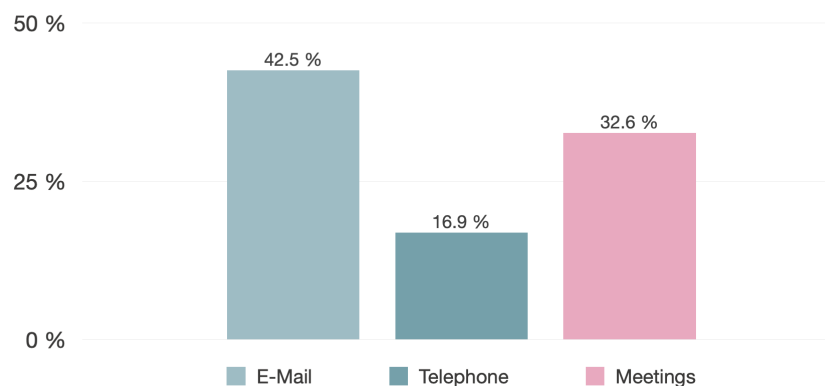
The price of poor legal leadership might be somewhat buried in stress, attrition rate, low efficacy, frustration among associates – to name just a few examples – but it is staggering, nonetheless.

Legal leadership in practice: delegation

Few businesses rely so much on delegation in sophisticated knowledge work as law firms. It is the backbone of legal leadership and everyday work. Competence, responsibility, and the organization are all integral elements of the firm's hierarchy. Many cases and projects are highly complex, involving many individuals, and with an extremely low tolerance for mistakes.

So how do lawyers organize delegation? Which means are used to manage projects?

Means of delegation among 505 Swedish lawyers (2021)



Projects in business law can be quite complex, involving many different parties, and have a low tolerance for mistakes. Not having a trusted system in 2021 for task coordination simply does not cut it. Other

professional services subsectors have used digitized project management and delegation for a good decade.

In fact, the quality of delegation (i.e., providing clarity, structure, and an advance planning that maximizes the time available for the tasks) also meaningfully reflects the following in a practice group: supervisor support (.58), engagement (.49), teamwork (.49), communication (.47), leadership (.46), self-efficacy (.45), organizational identification (.42), social support at work (.39), quality of relations at work (.35), vigor (.33), and well-being (.32).

Quality of delegation matters and is a great, concrete focal point when developing legal leadership. Not having any system and consistently doing it through emails, in meetings, or over the phone is an obsolete way of carrying out legal work. You need to know yourself (what your delegation style is, especially under stress?), the one you are delegating to (current workload? previous experience of this kind of task?), the timeline, and any crucial particulars of the task/project/client.

(The number within brackets indicates the strength of correlation, where 0.30 or more could be considered a strong correlation, 0.50 would be a powerful correlation.)

Legal work redesign

(In this section, I will be referring to hybrid work, by which in this context I mean "a more flexible working arrangement in an organization than 2019." That is, I assume that even in law firms that have chosen to go back to the office, there is an accepted increase in flexibility – formally or informally – regarding where and when legal work can be carried out.)

The development of several of the fundamentals of work in law firms has been lagging behind for years. After the pandemic and under the intensifying war on talent, it is simply time to catch up. Humanly, culturally, and financially, the price is just too high to continue pushing on without adapting.

By and large, the law firm sector was fundamentally wrong prior to the pandemic when it was assumed that a fair-sized law firm could not close down the office in 72 hours and effectively continue to deliver excellent legal services in remote mode for almost two years.

The crucial question is now, what other fundamental assumptions are the industry wrong about? More specifically, what aspects of the current mindset of law firm management are obsolete? This question of course, addresses all phases of talent management – talent acquisition, training, retention, and leadership.

In hybrid working, the best practice is *work redesign*. This is a recognition that the relocation to the remote mode for law firms during the pandemic was primarily a change of the parameters of space where work was carried out. By and large, it was an accommodation following the path of least resistance to adapting. This made sense during stressful and dire circumstances, but it did not minimize

the drawbacks or capitalize on the advantages of the new flexible working arrangements. As of now, we must bring *legal work redesign* to the forefront; we must question the status quo and question "this is the way we have always worked." By doing that, we do not seek to uproot, or revolutionize, by implementing something which shakes the foundations of the workflow. On the contrary, we aim to identify the easiest possible changes that yield the greatest returns. What changes can be accommodated with a minimum of disruption and a maximum of adoption?

Here, changes can be considered first on a strategic level and then on a tactical level.

The strategic level could involve appointing a *Work Flow Officer*, whose task is to evaluate the processes of work at the firm continuously. When appropriate, the WFO will suggest improvements – which will be taken most seriously by the MP/CEO and the partnership.

Here are a couple of initial challenges:

- How can it be ensured that lawyers are both fully contactable in case of an emergency and be able to relax without having to check their email several times per hour? (The solution does not have to be implementing a new app but rather having clear "rules of engagement.")
- What protocol or platform should be used for delegation? How can I see the status of a given delegation? How can I receive reminders when a deadline is looming?
- How can the number of emails be reduced? And the quality of them increased?

Few things ought to bring more ROI to a law firm than optimizing the workflow; the cognitive ergonomics of everyday work.

Next, we have of course, a *Head of Innovation & Legal Tech*, which could be the same person as the WFO – or someone else. This person should function as a legal tech scout, systematically and continuously scanning the legal tech landscape. This person will update the partnership, voice concerns, and point towards opportunities and threatening competition on a regular basis.

The tactical level can involve exploratory dialogues in practice groups and individual reflection (self-leadership). A standard format is a 60-minute meeting every 6-8 weeks, in which questions such as the following are discussed:

- How could we work more effectively? What are the bottlenecks?
- What is going well?
- What can be done in terms of nudging? That is, what are really small changes that could yield disproportionately positive results?

The "location" of these discussions should be really close to the ground, to the people that work together. The goal is to discover methods of working, collaborating but also to effectively taktaking time off. In short, that which enhances well-being *and* performance. Hybrid work can facilitate that to a greater extent than the traditional "one size fits all" approach to work arrangements. When individuals can customize their schedule just a little bit on the margin, it can pay huge dividends. Suddenly, there is a

greater – though still marginal – opportunity to make the family schedule flow better, work really early (or really late), and keep that hobby that regenerates you. You, your lifestyle, your housing situation, family situation, etc., is yours, and when you can make your personal and professional life have a snugger fit, then there is a win-win outcome. The guiding principle here is *results* and *freedom* through *self-leadership* that partners and colleagues support.

There are two main challenges here. First, traditional legal leadership is typically not well-suited to lead and engage in exploratory, non-hierarchical discussions. Partners are experienced, but sometimes a beginner's mind is what you need to discover new perspectives and possibilities. Second, junior associates and even senior associates are reluctant to speak their minds if they think they will be negatively judged for it. The best legal work redesign discussions are characterized by openness, curiosity, and a welcoming of ideas and solutions that may suit some, but not all, in the group. If an idea only works for one person (without interfering with anyone else), then that dialogue will have served its purpose.

Another way of stimulating legal work redesign is to let Summer Trainees evaluate the workflow and come up with suggestions. (In all honesty, their legal work is not always premium anyway.) Use their fresh outside perspective. It probably will boost the employer branding, too, reflecting a progressive workplace – which is true if you take legal work redesign seriously.

In summary: my take on the trajectory of legal tech and legal work redesign is that they can be made the most of by using the existing IT infrastructure more effectively while adding carefully selected apps and platforms that have a great chance of getting significant adoption rate within the firm. Additionally, by pushing the firm (notably, the partners) to redesign how work is organized and carried out. Not easy, but well worth the effort. And the alternative is not worth contemplating.

Appendix: Lawyering Effectiveness Factors¹⁰

Professional	Analytical	Individual
<i>Problem Solving</i> -effectively identifies problems and derives appropriate solutions.	<i>Ability to use logic and reasoning</i> to approach problems and to formulate conclusions and advice.	<i>Creativity/innovation</i> : thinks “outside the box”, develops innovative approaches and solutions.
<i>Speaking</i> : Orally communicates issues in an articulate manner consistent with issue and audience being addressed.	<i>Fact Finding</i> : Able to identify facts and issues in case.	<i>Practical Judgment</i> : Determines effective and realistic approaches to problems.
<i>Influencing & Advocating</i> : Persuades others of position and wins support.	<i>Researching the Law</i> : Utilizes appropriate sources and strategies to identify issues and derive solutions.	<i>Able to develop relationships with clients</i> that address the client’s needs.
<i>Negotiation Skills</i> : Resolves disputes to the satisfaction of all concerned.	<i>Writing</i> : Writes clearly, efficiently and persuasively.	<i>Organizing and Managing (own) work</i> : Generates well-organized methods and work products.
<i>Strategic Planning</i> : Plans and strategizes to address present and future issues and goals.	<i>Listening</i> : Accurately perceives what is being said both directly and subtly.	<i>Community Involvement and Service</i> : Contributes legal skills to the community.
<i>Organizing and Managing Others</i> : Organizes and manages others work to accomplish goals.	<i>Questioning and Interviewing</i> : Obtains needed information from others to pursue issue/case.	<i>Integrity & Honesty</i> : Has core beliefs and values; acts with integrity and honesty.
<i>Evaluation, Development, and Mentoring</i> : Manages trains and instructs others to realize their full potential.		<i>Stress Management</i> : Effectively manages pressure or stress.
<i>Developing Relationships within the Legal Profession</i> : Establish quality relationships with others to work towards goals.		<i>Passion & Engagement</i> : Demonstrates interest in law for its own merits.

¹⁰ Shultz, Marjorie M. and Zedeck, Sheldon, *Predicting Lawyer Effectiveness: A New Assessment for Use in Law School Admission Decisions* (July 31, 2009). CELS 2009 4th Annual Conference on Empirical Legal Studies Paper. The table in this document was created and edited in this posting: <https://law.utah.edu/lawyering-effectiveness-factors/>

Networking and Business Development: Develops productive business relationships and helps meet the unit's financial goals.

Diligence: Committed to and responsible in achieving goals and completing tasks.

Self-Development: Attends to and initiates self development.

Able to see the World Through the Eyes of Others: Understands positions, views, objectives, and goals of others.