



David J. Bilinsky

# 10 critical issues

## facing the legal profession



*I've been taking care of business, it's all mine  
Taking care of business and working overtime*

*– Randy Bachman*



The legal profession stands at a unique time. The rate of change both in and outside the profession is unprecedented. In a short 100-year time span we have progressed from traveling by horse to meet a client to meeting them on the web; from court filings being documents laboriously copied by hand to filing hypertext-linked arguments containing all facts, documents, argument and the law burned onto a shiny silver disk that can only be read on a computer screen; and from producing discovery in large paper

stacks to producing e-documents such as databases that have no paper equivalent.

Many of these changes have – or will – profoundly affect legal practice. This article is one writer's view of the 10 critical issues facing the legal profession. This list is neither inclusive nor scientific – and you may disagree with the issues cited and/or point to other issues as your "top 10" (being named Dave has given me this hankering towards Top 10 Lists...but I digress...). So here are my thoughts:

*To expand on and supplement this article, we have canvassed several subject matter experts to provide in-depth commentaries on some of Dave's topics, both in sidebars to this article, and in even more detail in papers that are available for download at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues). We also reference past articles of LAWPRO Magazine that cover these topics. These papers and articles provide you with practical advice on how you and your firm can respond to these issues and exploit them as opportunities to grow more successful practices.*

## 1. Changing demographics

Courtesy of the baby boom, society in general – and the legal profession in particular – is facing the imminent retirement of the largest group of lawyers in practice. The effects of this demographic shift will be felt in many ways. Most law firms were predicated on a 'pyramid' – a small number of partners supported by a large number of associates and staff. Today, most smaller to mid-size firms resemble a pyramid turned upside down – a large number of partners with a smaller number of associates and staff.

If the partners have not already made plans for their retirement (and that time is on them now), then financing the retirement of so many lawyers will place a burden on firms trying to bring in associates. After all, the cost of setting up a new office will be, in most cases, less than the retirement buy-out requested by the retiring lawyers.

On top of this, firms in smaller communities are having difficulty recruiting lawyers – a trend that will become even more acute as the existing lawyers ease out of practice. Furthermore, the new generation of lawyers is seeking changes to the economic basis of practice: They are less willing to work 1,800 plus billable hours a year only to see those profits flow into someone else's retirement.

### More on demographics

See the articles on changing demographics in the Winter 2007 issue of LAWPRO Magazine at [www.practicepro.ca/elderlaw](http://www.practicepro.ca/elderlaw).

## 2. Gender and generational differences

Catalyst, an independent and non-profit organization, published a report on Canadian law firms in 2005 titled: *Beyond a Reasonable Doubt: Building the Business Case for Flexibility*. The key findings in the chapter: Making the Link – Work-life Balance and Associates' Intentions to Stay were that:

- Sixty-two per cent of female associates and 47 per cent of male associates intend to stay with their firms for five years or less.
- Women and men report the same top factors as important to consider if they were to change firms: an environment more supportive of family and personal commitments, and more control over work schedules.
- Associates with positive perceptions of their firms' work-life cultures intend to stay with their firms for a longer period of time.

The profession is under pressure to accommodate a new economic model – one that is premised on lower billable hours for associates and a greater amount of time spent on non-office activities. These changes are being advocated by younger men and women alike who have differing views towards work from those held by the boomers.

Other factors are also at work. Since more than 50 per cent of graduates from law schools today are female, law firms cannot afford to lose the female members of the current generation in the same numbers as in the past. Associates are looking for mentoring, for flexibility in how they work and for greater time spent with their families. Associates also recognize that the current economic model is based on 'churn' – and in many cases, they peremptorily leave the firm as they recognize that the partnership carrot is too uncertain and has too great a personal

cost. If the baby-boomer partners wish to attract younger associates to their firm (and thereby pay for their retirement buy-out packages), they are going to have to change to meet the needs of the younger generation or face the bottom dropping out of their firms as the younger members leave.

### More on differences

See the Finding and keeping good lawyers article in the Summer 2007 issue of LAWPRO Magazine at [www.practicepro.ca/magazinearchives](http://www.practicepro.ca/magazinearchives).

## 3. Innovation and innovative leadership

Lawyers have traditionally been servants – knights in shining armour – in the service of their client. But today, a new breed of lawyer is required. They need to be willing to blaze new trails and strike out in new directions.

What has prompted this shift? The unrelenting economic pressures on lawyers and law firms in the information age, where technology has driven down costs, increased efficiencies, prompted instant messaging and e-mail, and introduced so many new ways of doing things.

Lawyers and law firms need to change from a precedent-based "what is everyone else doing?" approach to an innovative business model that embraces change and identifies a new competitive edge – since the competition today is no longer just lawyers. Indeed, this entire article is aimed at being a catalyst for change, for encouraging innovative thought and new models of law firm leadership.

### More on leadership

See Dick Potter's article on page 25 for more thoughts on innovative leadership and leadership in innovation.

## 4. Focusing on the law as a business

Five years ago, any discussion of law firm profitability would quickly move to a discussion of billings, rates and collections – "top line" metrics (meaning these are measures of income before expenses).

Today, it is quite common for managing partners, administrators and CFO's to discuss how to measure profitability in a firm (effective hourly rates, return on investment, profits per partner) and use that information to focus the firm on strategic objectives, emerging markets, most profitable clients and measurable profitability goals. This information is used to drive firm strategy, partnership advancement and retirement models, compensation, practice group objectives and associate recruitment and advancement. More discussion focuses on moving to alternative billing strategies rather than simply just billing by the hour – and that discussion often is prompted by the clients themselves. This indicates that law firm management has entered a new plane – where the business side of the practice is not only acknowledged but is given weight equal to the professional side of the practice.

### More on metrics

How does your firm measure up? See Dave Bilinsky's sidebar for the financial numbers you need to be looking at on page 26.

## 5. Technology – the continuing challenge

The rate of change in the practice of law has been unequalled when considering the impact of technology. Although the thought processes of the practice of law have not changed since the days of Socrates, the ways of practising law are as different now as night and day. Since we live in the beginning of the Information Age, it is a given that changes yet to come will make the recent past look like the Stone Age to us.

One of the most promising new technologies to emerge falls under the name Web 2.0 (pronounced “web-two-point-oh”). This name symbolizes the interactive web – where collaboration, cooperation and jointly working with clients on projects is the norm. Contrast this with the image of the traditional lawyer – working quietly away in his/her office in seclusion.

Today, the web offers the ability to create an extranet – a secure, protected area on the web where a lawyer, client and experts can come together to share documents, information, ideas and strategy and work jointly on a file. As they say, the whole is greater than the sum of the parts.

Some lawyers will flee from this concept. Others will realize that this offers an unprecedented ability to ‘bind’ with your client and create a strategic advantage over their competition.

Web technologies also offer new approaches to knowledge management and tapping into the stored knowledge inside everyone in the firm. Studies have shown that firms who have implemented Microsoft’s *Sharepoint Services* and other similar extranet technologies have seen collaboration and knowledge sharing both within their firms and with firm clients.

### **More on Web 2.0**

*Are you and your firm Web 2.0 savvy? Read Steve Matthews’ article on page 27 to find out how you can use the web to deepen your relationships with your clients, attract the types of clients that you desire to your firm and reach out and build a community around your firm on the web.*

### **More on knowledge management technologies**

*Technology is enabling – to the winners come the spoils, and Connie Crosby in her article shows how knowledge management technologies not only bring younger lawyers up to speed, but also generate a new firm culture based on collaboration, breaking down silos and fostering client teams (à la Dick Potter’s article on leadership and innovation). See page 28.*

## 6. Physical and virtual mobility

Traditionally, lawyers were geographically tied to one location. They served clients in a distinct physical area – whether that was a city, a town or a region. Now, courtesy of the Internet and the National Practice Protocol, a lawyer can build a niche practice from anywhere in Canada and literally market it to the country and to the world. The Internet has eliminated the geographically localized law practice.

For example, Donna Seale has launched a practice (and associated blog) *Human Rights in the Workplace* (<http://donnasealeconsulting.typepad.com>) from small-town Manitoba. But she has a country-wide perspective and ambitions – for good reason. She has realized the power of the Internet in

being able to reach out to her clients based on her expertise and not her physical location.

Courtesy of the Internet, lawyers in Canada can look for emerging markets within and without Canada – and use the power of the web to reach out to those clients in ways that are effective, efficient and low-cost.

Moreover, the mobile web allows you to work from virtually anywhere you can obtain an Internet connection. Not only can you market yourself to the world, you can also attract clients from around the world and bring them to you. Someone once said, “Build a better mouse trap and the world will beat a path to your door.” The challenge for the rest of us is to embrace the changing landscape and see the new possibilities in the same manner.

### **More on mobility**

*See Dominic Jaar’s sidebar for advice on how you can take your practice with you (page 29) and Steve Matthew’s article on how you can leverage the power of the Internet to take your practice to the world (page 27).*

## 7. The new economics of law

When goods and services are bought and sold in a free market, buyers seek out lower costs. This applies equally to clients buying legal services from lawyers, and to firms looking to engage other lawyers. At the present time many factors are fundamentally changing the economics of the practice of law.

Outsourcing has burst onto the legal scene. Using part-time lawyers allows you to reduce your costs by hiring a “temp” lawyer for short-term assignments, or even a single task. And, the major difference in the cost of legal expertise in India and other common-law jurisdictions compared to North America is spawning a whole industry, namely the outsourcing of legal work to lower-cost jurisdictions. Some law firms and in-house corporate counsel are currently experimenting with sending work directly to lawyers in these jurisdictions, and the real entrepreneurs are already actively doing it.

This is just *one* indicator that the legal profession is under unprecedented economic attack. Another indicator is the growth of paralegals and notaries (who are seeking to enlarge their mandate in provinces that allow such activity). Other economic factors are a renewed interest in alternative billing, the growth of alternate dispute resolution methods (using lawyers and even non-lawyers as mediators and arbitrators) and of course, the emerging field of online dispute resolution (for example, see: [www.smartsettle.com](http://www.smartsettle.com)).

### **More on outsourcing**

*See Simon Chester’s sidebar on page 30 for more insights on alternative billing and how the economics of law is changing.*

## 8. Need for standardization of laws

This is not an issue that has been traditionally discussed in terms of critical issues facing the profession. However, the patchwork of laws and regulations across the country (and indeed, across the world) has its own cost in terms of regulation and compliance.

It is a given that we live in a global economy. The differences in laws across jurisdictions have many consequences: they increase costs, the risk of error and the complexity of trying to carry on business across differing jurisdictions. This is being addressed in some areas. The work of the Uniform Law Conference of Canada, in particular the Commercial Law Strategy, is to be commended in this regard.

Lawyers (and clients) would be better served if laws could be made more consistent if for no other reason than to encourage the development of substantive technological practice systems in discrete areas of the law that could be marketed across Canada. DIVORCEmate® and ChildView® software are good examples: A sufficient user base across Canada merits the investment to build, market and support these practice systems.

But for certain areas of practice (wills and estates, for example) no national provider has built a product that assists lawyers to practice in this area in each province and territory. Standardizing laws would: encourage development of substantive practice support systems that would raise the bar in terms of quality and consistency of practice; allow lawyers to build a true national niche practice; help smaller practitioners access practice systems that would be cost-prohibitive otherwise; and advance access to justice.

## 9. Deregulation

Economics tells us that innovation rarely occurs in a tightly-regulated market. Some may say that innovation is not what is wanted or needed in the legal profession. However, in other jurisdictions – England and Australia in particular – others have looked at the legal profession and pronounced that there is a need to increase the level of competition and tear down some of the traditional walls surrounding the provision of legal services.

A good example is the Australian firm of Slater & Gordon. The 140-lawyer firm is the first law firm in the world to go public through an Initial Public Offering. As a result, the seven senior partners will each end up owning stakes of between \$2 million (US) and \$8.5 million (US). The new firm will have a market capitalization of roughly \$89.7 million (US) (as per [law.com](#)). The theory is that greater access to capital markets will allow law firms to invest in greater innovation (R&D).

(See: [tinyurl.com/59l27w](http://tinyurl.com/59l27w) for the Australian Security Exchange listing on S&G.)

The UK is looking at the Clementi Report and the Legal Services Bill (see [www.legal-services-review.org.uk/content/report](http://www.legal-services-review.org.uk/content/report)). The proposed changes to the practice of law in the UK go much further than just opening up law firms to ownership by non-lawyers. The proposed changes are designed to provide the capital for and foster the development and innovation of legal services and products. Increased efficiency and lower costs are two stated goals in the report.

There are two ways this change can happen: Either it occurs from within the legal profession or it can be thrust on lawyers by outside forces. As we are a self-governing profession (at least at this

time), in my opinion, the preferred route is for lawyers to embrace greater change themselves – and examine ways and means to allow this to happen – before it is too late.

## 10. The middle class...the class left behind

No discussion of the legal profession in Canada would be complete without an acknowledgment that the one group in Canada with the greatest distance between themselves and the legal profession is the middle class. Certainly legal aid provides top legal defence to those charged with a crime who are without the economic means to afford a lawyer. We can pride ourselves on the fact that we have a system that provides that no person without means in Canada is convicted simply because he or she could not afford a lawyer.

In theory, those of sufficient economic substance can afford a lawyer to meet their legal needs. However, if a person falls into the middle class, things are different. The average Canadian would pale if forced to initiate a lawsuit to remedy a perceived wrong, especially given the uncertainty, costs and delays inherent in the dispute resolution process. If there is one challenge facing the legal profession, it is to be able to provide cost-effective legal services to all – regardless of means. Henry Ford once had a vision that every employee in his business should be able to afford one of his automobiles. It would be admirable if as lawyers, we could say that every employee of every law firm in Canada should be able to afford to engage a lawyer to meet their legal needs, if the need so requires.

## Looking forward and rising to meet the challenges

These are but one lawyer's views of the challenges facing the legal profession today. Perhaps you agree with them, perhaps you see other challenges. In either case, I think you will agree with my view that we are, as lawyers and a profession, at a critical juncture. We face a period in which there is the potential for unprecedented change in the legal profession. If these changes are not met head-on, the legal profession as we know it will disappear.

I encourage you to be proactive. Read the sidebars and papers that supplement this article so you can recognize and seize the opportunities that these challenges and changes present. By being innovative leaders we can embrace the future and meet these challenges head on. In so doing, we will ensure the self-governing future of the profession and find that our successors down the road are still happily taking care of their business – perhaps even working overtime – because the future of their profession still comfortably rests in their hands.

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# Innovation in leadership and leadership in innovation

By Richard Potter QC



If there is one critical issue on which the others are dependent, it is this one – the symbiotic relationship between leadership and innovation.

Law firms desperately need a modern approach to leadership because their concepts of leadership have not kept pace with changes in their external world, especially in

relationships with clients. Too often the model for firm leadership is based on replicating the mythical ideal of the sole professional: the self-employed, self-made, and highly skilled “best” lawyer in the firm. Although this is indeed one version of “boss-ship”, it does not equate to leadership. In reality, the “best lawyer” model is incapable of producing leadership in a collaborative, networked world of complex relationships.

As argued by management guru Henry Mintzberg, (his book *Managers, Not MBAs* is sub-titled *A hard look at the soft practice of managing and management development*), true innovation derives organically from the bottom of an organization; it does not arrive ordained from the top. The very best managers are those who have learned to become the premier listeners in their organization. They sift information from the front lines, from the people who interact daily with clients, they analyze and synthesize it into a strategic response to the marketplace. They do this not from a misplaced, fuzzy ideal that listening is somehow more “democratic”; it’s because it is far more authentic to discover what is actually going on at the client interface than it is to fashion strategy, and tactics, out of thin air.

For all sizes of firm, the most critical aspect of a new look at leadership is how that new look translates downward into practice management. Since even a 20-lawyer firm is today an organization far too complex to be managed solely by a single managing partner, to survive in the brave new world of e-discovery, podcasts, blawgs and the next big thing, firms must devolve management down to what in the outside world are called “business units” and what we lawyers call practice groups. In medium and large firms these will be organized on the basis of areas of law or, increasingly, on the basis of industry sectors. At the smaller firm level a practice group is effectively the whole firm.

And in firms of all sizes – from the very large to the smallest boutique – services are being delivered by client teams comprising lawyers who make it their business to be completely familiar with all the nuances of their clients’ needs, no matter what the area of law.

Regardless of the type of practice group, we have to apply the same observation about qualities of leadership: These leaders will be chosen for their qualities of management (read “good listening skills”), not necessarily – and certainly not solely – because they are the best lawyers. Their task and the measure of their success will be how well they: discern what innovations at the level of the client interface will differentiate the firm from competitors; respond to and anticipate client needs; and inspire the members of the practice group to want to excel.

Predictably, greater devolution of authority to the practice group level will entail missteps, but if law firms are to have any hope of re-tooling their structure to suit the information age, they must tackle the leadership issue. Real devolution to a practice group unit will include power over expenditures, accountability for revenues, an element of autonomy in hiring and, naturally, mentoring and all the other critical aspects of managing human resources. But managing partners who are comfortable with giving greater autonomy to their lieutenants below quickly discover that lawyers become re-engaged in the firm’s business – and, in this virtuous circle, the more engaged the lawyers become, the more they become the source of innovation. Finally, as a side-effect, this plants the seeds for a natural succession plan, a feature of long-term success that seems to elude most firms, both large and small.

In all firms, a third leadership quality will be highly prized – that is, how well the executive management melds the skills and experience of the non-lawyer staff, the professional-support lawyers and the front-line practising lawyers into a cohesive team in which each understands the others’ roles and is motivated to collaborate and support each other.

In a nutshell, here is the prescription for this critical issue – innovative leaders will be leaders in innovation!

For a more detailed discussion on leadership and innovation read Dick’s paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).

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Richard Potter QC ([www.i-lawmarketing.ca](http://www.i-lawmarketing.ca)) provides strategic advice to professional services firms.

# The financial numbers all lawyers (and managing partners) should be looking at

By David J. Bilinsky



Many lawyers ask for advice on the cheapest accounting system they can buy. I often spend an hour explaining to them that a proper integrated (general, trust and practice management) legal accounting system will pay for itself many times over in just the first year by allowing them to not only report on required

historical results but to also forecast goals in financial terms and track progress in real time. That kind of power is invaluable and can make the difference between being successful and just getting by.

What can a proper financial system tell you? In a nutshell, a good system can provide you with the ability to:

- Set a budget (which is a forecast of your income and expenses) and track your progress towards meeting your goals of keeping expenses in line and achieving your income expectations.
- Determine your cost of providing an hour's worth of services. We all know what hourly rates lawyers are charging; without any analysis of what it costs you to render an hour's worth of services you have no idea of where your break-even point is on a file – and whether or not you can benefit by moving to fixed-fee quotes.
- Determine if your timekeepers are recording their time accurately, writing off excessive amounts of time or achieving a businesslike and acceptable realization rate.
- See if your accounts receivable are ballooning and if so, why.
- Create a good 'dashboard report' that allows you to see the financial workings of your firm and in particular, how the finances of the firm are matching your expectations (see the full article at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues) for a suggested dashboard report). Early warning of a problem(s) can allow you to take action – now – before you are facing a financial crisis.

Once your financial technology and systems are in place, here is a list of the top 10 ways to focus your practice and achieve a greater financial return based on focusing on the financial performance of your firm:

1. Determine your overall profit and loss for last year.
2. Compare your profit and loss against your budget forecast (or draw a budget for this year if you don't already have one).
3. Find out your profit or loss on a file-by-file, client-by-client and practice area-by-practice area basis for the last year.
4. Crunch the numbers and determine your five most profitable (and least profitable) files, clients and practice areas. Think about how to strategically move your firm away from the least-profitable areas.
5. Set your strategic direction, vision and marketing plans to pursue the most profitable files, clients and practice areas (and drop the five least profitable ones from your business plan and from your marketing. After all, you have already shown that your time results in a greater return in other areas.)
6. Set up your annual budget for next year targeting your annual income after expenses, your total expenses and your target gross income. Build in money and time to pursue your target market!
7. Determine if alternative billing arrangements can be used to your advantage and structure your systems accordingly.
8. Tweak your compensation/measurement system so that it supports your strategic plan (and isn't eat what you kill...).
9. Be ruthless on dropping clients and files that do not meet their financial obligations on a continual basis (according to your new written fee agreement).
10. Bill – regularly and often.

The numbers that underlie a law practice are just as important as rendering good service to the client. They ensure that your law practice continues as a business and meets your personal and professional needs in the same way that your services meet the needs of your clients.

For a more detailed review of financial reports and calculations summarized in this article, see Dave's paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).

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# Legal web marketing in a Web 2.0 world

By Steve Matthews



Not more than five years ago, a lawyer's web presence could almost exclusively be found on a firm website. But in recent years, many lawyers and firms have greatly expanded their online presence with a variety of new web tools that help create a more complete online persona and a greater indication of their practice expertise.

Is the firm website still relevant in a Web 2.0 world? Absolutely! The firm website remains an important cog in the business development process – it qualifies the lawyer, establishing trust, experience and expertise. Other Web 2.0 tools may grab the attention, but the firm website establishes credibility.

Think: practice group pages, detailed lawyer profiles, success stories, client lists, transaction lists, speaking engagements, media quotes, publications, and so on. The firm site should: 1) tell the visitor your experience with the issue; 2) show you're good at what you do; and 3) that others have trusted and benefited from your past service. Regardless of how someone arrives at your website, it must close the lead opportunity – convincing him or her to pick up the phone or make e-mail contact.

The following list reflects a sampling of the more popular techniques for marketing a modern legal practice online:

- **Law blogs** – Personal blog commentary can be used for an infinite number of reasons, but for lawyers, the goals are: crafting an image of expertise, networking, and increased exposure. Blogging is an easy way for lawyers to rapidly expand their web presence. Regular posts can position a lawyer for mainstream media quotes, referral network expansion, and increased exposure in the search engines. Leveraged properly, the value of incoming blog-to-blog links can also be passed to the firm website, ensuring the firm is found for its core areas of expertise.
- **LinkedIn** ([www.linkedin.com](http://www.linkedin.com)) – LinkedIn is a social networking site developed exclusively for business professionals (unlike Facebook). It's widely used by the Fortune 500, and currently lists more than 216,000 lawyers. The value proposition of LinkedIn is putting your formal CV online where it can easily be found by other business professionals.
- **Facebook** – ([www.facebook.com](http://www.facebook.com)) Larger firms are blocking Facebook access in the name of business productivity. Justifiable? Perhaps. But for solos and small firms this also represents an opportunity. Identifying and targeting relationships with key industry decision makers, especially when a younger and less formal demographic is involved, can be good for business.
- **Wikis** – Most people have heard of Wikipedia these days, but the exciting part of wiki technology is what's going on with closed groups collaborating in a public way. Expect to see more firms developing industry based wikis, or using wikis to collaborate with clients.
- **YouTube** ([www.youtube.com](http://www.youtube.com)) – In the next year or two internet video will be the next big thing. You can expect video based blogs, web-based TV programs, video whiteboard discussions and other video genres. For the incredibly persuasive lawyer or 'the storyteller' in your firm – it might be a perfect match.
- **Lawyer specific social networking sites:** Legal Onramp ([www.legalonramp.com](http://www.legalonramp.com)) and JD Supra ([www.jdsupra.com](http://www.jdsupra.com)) are examples of legal community-specific social networking sites.
- **Twitter** ([twitter.com](http://twitter.com)): The newest and hottest Web 2.0 tool of influence is Twitter. Sometimes called "micro-blogging", the big selling point of Twitter is that it captures human reaction. News stories are reported before media outlets can respond, and discussion between groups – including lawyers – can provide candid and quotable commentary. But, with entries capped at 140 characters – about one sentence – brevity is both desired and required.

Bringing it all together is Search Engine Optimization (SEO). Search engines are still a big part of the digital lifestyle. With all the talk of blogs, wikis and social networks, it's easy to forget that search is the number one tool available to drive new readership. Lawyers who employ SEO tactics actively market and position their content at the top of the search results – thus driving increased volume and the potential for leads. SEO is also about employing an overall strategy that makes the collection of web tools mentioned in this article work together.

For a more detailed discussion on Web 2.0 and SEO read Steve's paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).

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# Using knowledge management for collaboration and team building

By Connie Crosby



There was a time, not so long ago, when a lawyer would spend his or her entire working life with the same firm, from articling student right through to retirement. But, times have changed. Partners and associates are much more likely to make lateral moves to other firms or to the corporate world as in-house counsel.

Meanwhile, senior partners are also retiring in record numbers. The departure of a lawyer is both disruptive and very costly. Proactive law firms are using knowledge management tools to capture and keep the knowledge that might otherwise leave a firm when a lawyer walks out the door.

Knowledge management (commonly referred to as KM) is a business management strategy that has been around for well over a decade. Developed to improve efficiency, KM programs were initially used to capture and reuse information and knowledge created inside a firm. Early KM programs collected firm work product such as research memoranda, factums, model language for agreements, and other precedents. Early KM programs were usually run by law firm librarians. As they evolved and became more specialized, many larger firms hired dedicated KM Directors, and sometimes support staff, to administer and develop these programs further.

The information and knowledge that new associates can access within KM programs can help them integrate into their practice group more quickly, reducing the time partners need to spend on initiating new associates into the ways of their firms.

For knowledge management programs to work well, everyone at a firm needs to participate. There must be a culture of sharing and learning. For firms where individual lawyers develop their own precedents and are not used to making them available to others, this may demand a real shift in both individual work style and firm culture.

Knowledge management is tied closely to a firm's technology, whether it's library databases or robust systems employed by larger firms such as:

- document management system (DMS) – used to organize and track client documents;
- content management system (CMS) – used to manage content on an intranet, extranet or website;

- customer relationship management system (CRM) – used to manage a firm's clients and other contacts and track the interactions;
- intranet – a series of secure web pages inside the firm providing information and news, pulling together both private and public sources;
- portal – similar to an intranet, but is the only platform used inside the firm and includes access to all software; usually allows the individual to customize the homepage; or
- extranet – a secure website, often part of the intranet, in which someone from outside the firm (such as a client or firm alumnus), can view private information and collaborate with those inside the firm.

Some firms are now on their second, third or even fourth generation of these systems. Meanwhile, smaller firms often have not put any of these into place largely because of the time and cost that is often necessary to implement them.

This is rapidly changing with the rise of Open Source (OS) and Web 2.0 technologies. OS, such as the CMS Drupal or the DMS Alfresco, is free software developed by large numbers of enthusiasts. Installing and using OS technology requires technical expertise which can either be in-house or hired. As well, newer Web 2.0 technologies – notably wikis – are relatively inexpensive and can be quickly implemented inside the firm to provide easy-to-edit web pages and space for collaboration. With these newer technologies, smaller firms and solo lawyers can develop their own knowledge management programs and thereby catch up with the perceived advantage previously held by larger firms.

At the individual level, many lawyers today are struggling with information overload. "Personal KM" strategies can help them cope. Capturing key pieces of information and thoughts that may be reused later should be part of the natural work-flow. Many practitioners rely on sending and filing e-mail for this, but e-mail is not always efficient. The trick is finding a set of tools that are easy to use and allow for easy retrieval of past collected thoughts and information.

*For a more detailed discussion of how KM can help your firm capture and share knowledge while building a more collaborative culture read Connie's paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).*

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*Connie Crosby of Crosby Group Consulting ([www.crosbygroup.ca](http://www.crosbygroup.ca)) advises on Web 2.0 and knowledge management strategy for organizations and individuals.*

# Physical and virtual mobility – client service anywhere at anytime

By Dominic Jaar



The laptop was the first technology that enabled lawyers to be truly mobile. But even with laptops lawyers were limited: They worked in isolation as they didn't have wireless internet access. To compensate for this, communication with the outside world required access to a telephone

unless you had a five-pound cellular phone (which on top of the 20-pound laptop was a bit much).

But oh, how times have changed with the advent of the Internet. If you have the right tools, you can access almost everything from almost anywhere. Laptops are lighter than those first cellular phones, and Smartphones are smaller than ever and just as powerful as desktop computers. These tools allow you to provide seamless 24/7 client service – clients will love you.

But, 24/7 client service has some potential downsides. Remember when leaving the office meant that you had time off? You would just close the door, and unless someone was running after you, your day or your week was over. You would go home and relax. Wow! It seems like a century ago now. Today, leaving the office with a Blackberry or laptop means you can work while you commute, at night and over the weekend. You have the ability to work or socialize from anywhere at anytime. The trick, for you and your clients, is finding the right balance.

When 24/7 client service is a necessity, consider the following tips for putting your Smartphone to work (beyond using the classic features that everyone knows about: e-mail, calendar, phone and contacts):

- You can use your Smartphone as a modem to access the Internet. By using, normally free, software provided by your cellular phone provider and by connecting your Smartphone to your computer via either a USB cable or Bluetooth, you can access the Internet even if there is no wifi cloud where you are. We also talk about tethering if you use an air card for connectivity. This solution might

reduce your expenses to connect to paying wifi networks in hotels, airport or coffee shops which generally goes for around \$10.

- **Google:** Big Brother now offers most of its Internet solutions and webapps for free on your mobile device, thanks to [GoogleMoTethering:bile](#). Therefore, you can receive your e-mails from your [Gmail accounts](#), synchronize your calendar with your [GAgenda](#), get access to your documents on [GoogleDocs](#), share your pictures on [Picasa](#) and even watch [Youtube!](#)

**Document edition:** Everyone knows it is possible to receive and send documents from a Smartphone but few are aware of the ability to create and edit documents as if you were sitting at your desk in front of your computer. Many third parties offer solutions for Blackberry, Palm, iPhone or pure cell phones to create and edit Word documents, PowerPoint presentations, excel spreadsheets, etc. I use Dynoplex's eOffice suite which also provides you with a fax and printer, an online document store, a password manager and remote access software. However, mind your corporate policies as many of these features require full rights on your Smartphone.

**Remote access:** Even if Smartphones now act as computers, their memory and the number of software packages available are limited. Therefore, I sometimes need to use software on my computer while I am away from the office and not carrying my laptop. In such circumstances, I remotely access my PC from my Blackberry with a little application called [RDM+](#). True, I could use eOffice remote access but I much prefer RDM+'s interface.

**Dictation:** The other must for your Smartphone is a dictaphone that enables you to dictate letters, proceedings, etc. and e-mail the recording to your assistant. I use [VR+](#) which turns your Smartphone into a dictaphone for \$30! I even use it to reply to e-mails as it integrates in your inbox.

*To learn more about how you can use technology to work away from your office read Dominic's paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).*

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# Outsourcing, value billing and key trends in the new economics of law

By Simon Chester



Whenever I read of a coming transformation in the economics of legal practice, I'm reminded of all the previous transformation articles I've read. Prophets such as Dick Reed and Richard Susskind offered extraordinary insights into a new future in which the economics of practising law will be quite different. The slogans are seductive. Value-

billing. Total Quality Management. Leverage through technology. Web-delivered legal services. In a longer article on the website (see [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues)), I discuss what we can still learn from their insights.

In this brief sidebar, I'll focus on the newest candidate for revolutionary impact – the outsourcing of legal services. So what's actually being done in outsourcing of legal services? Remember the line in Thomas Friedman's *The World is Flat*, that "anything that can be digitized will be outsourced eventually?" Did that apocalyptic prophecy come true for law? Not quite.

While outsourcing business processes to India and other sites on the other side of the world has been going on for more than a decade, outsourcing in relation to law firms and legal services is barely four years old. Yet in that time there have been enough examples of outsourcing to show that the phenomenon is here to stay.

The best tracker of legal outsourcing is run by Ron Friedmann (of Integreon and Prism Legal) and veteran legal blogger Joy London. They show more than a hundred examples of legal work being done in India, the Philippines, South Africa, Singapore, Hong Kong, Malaysia, Mauritius, and even Chile, Argentina and Finland.

The indicators are impressive. Clifford Chance in New York, London and its many offices worldwide handle back-office matters in Delhi and Mumbai. Eversheds runs its day-to-day information technology from India. U.S. corporations have substantive legal work in patent drafting, contract drafting and legal research done in South India.

What's caused this? The confluence of four trends:

- high speed secure web access shuttling data around the world;
- the availability of a highly educated, English-speaking, common-law trained, web-savvy legal workforce;
- the rise of energetic entrepreneurs extending the model of business process outsourcing, looking to connect legal demand with service supply; and

- client willingness to consider new ways of getting legal work.

Yes it's true that the relative size of the Canadian market has put us some years behind the U.S. and England in the experience of outsourcing. But there are Canadian firms (such as [Legalwise.ca](http://Legalwise.ca)) which are actively promoting outsourcing of legal services from Canada to India. Legalwise claims it has access to a team of 430 lawyers based in Mumbai and Pune in Maharashtra, each of which is fully trained and qualified in English common law.

What about those who believe that their practices won't be affected by outsourcing or any other economic trends? Think you're immune? Litigation was long thought of as an advocacy area requiring close contact and physical presence. Yet the rapid evolution of outsourcing reveals that even the tasks in litigation can be unpacked. Document review and coding have long been done overseas. But some U.S. firms are doing initial issue brainstorming and drafting of motion materials using teams in India.

Savvy practitioners will take a number of lessons from these developments:

- The definitions of what lawyers do and where the boundaries of protected practice lie are not fixed. If clients are sorting through what lawyers do for them and making decisions about what can be unpacked and done by others, that is a very important insight which applies beyond outsourcing. That same unpacking can be done to justify giving work to paralegals or to sophisticated software.
- Play to your strengths. Focus your energies on where you add value for clients. That's where your focus should be, rather than on lower-value activities of the sort that can be outsourced.
- A practice powered by technology can operate from virtually anywhere, and the threats to your business may come from the other side of the world, or even from a piece of software.
- Collaboration with clients and co-counsel is driven by available technologies.
- Stay close to your clients, and understand their needs and concerns. Client loyalty will be crucial and firms which maintain strong client relationships need not fear for their futures.

For more insights on alternative billing and how the economics of law is changing, read Simon's paper at [www.practicepro.ca/criticalissues](http://www.practicepro.ca/criticalissues).

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