

# law practice management

newsletter

Volume 5 Number 3

Print Post Approved 255003/05838

## Your personal action plan for 2006

Karen MacKay

EDGE INTERNATIONAL

Information contained in this  
newsletter is current as at  
February 2006

## contents

33

Your personal action plan  
for 2006

35

Practice development counsel:  
*Marketing mindset — a constant*

36

Dear Duncan ...  
*Retreat(s) — could Napoleon have  
avoided his?*

38

Letter from London:  
*Tackling compliance and introducing  
matter-centric systems at  
Allen & Overy*

40

Insights from ALPMA:  
*Finders keepers: reward, retention  
and succession*

46

Recent publications

As Osler's co-chairman, Brian Levitt, said in an article in the Canadian *Globe and Mail* on 18 January 2006, 'It is not strategies that matter — it is execution'; and on the subject of 'execution' is John Hancock Field's well known quote: 'All worthwhile men have good thoughts, good ideas, and good intentions, but precious few of them ever translate those into action'. Echoing both of these quotes, the title of this article has been carefully chosen. What a difference there is in one's mindset — from thinking to doing!

Looking ahead to the rest of 2006, think what you can actually *do* to make a difference in how you feel about your career and how your clients and colleagues view you. You might aspire to many things, but what can you *do*?

### Start small

Visualise a bucket in the middle of your desk and put slips of paper in it representing five to seven areas of your life and your practice that need a little discipline. Separate the slips of paper to allow you to play with them until you get them in the right order in terms of your own priorities. It is truly fascinating how everything in our lives is connected. For example, growing a practice means getting in front of people — new people; and getting in front of new people means networking in order to meet them. So often I hear things like, 'I can't do that because I'm uncomfortable picking up the phone'; even worse, 'I can't talk to people because I don't want to meet them until I get a haircut and lose the 20 pounds that I put on during 2005'; or, 'I should write something for an industry publication that my clients might read, but I can't think of a topic, and when I do I think it is boring or it's been done before — so I don't write at all — besides, they probably have lots of articles and my offer would be rejected and I don't like rejection'. Who does?

The haircut or anything else along that spectrum is easy — make appointments today for the balance of the year. With respect to the 20 pounds, walk and take the stairs every chance you get and forget about dessert — it will be gone before you know it.

### What have you accomplished?

You have taken small achievable actions on the personal things so you can tackle the business priorities with a new level of confidence.

### Networking

There is probably no other profession where networking is more important; however, for many lawyers networking goes against type. According to a study done of over 3000 practicing lawyers in the American Bar Association in 1993, almost 60 per cent were introverts. In Canada, that percentage would be closer to 70 per cent because Canadians are more introverted as a culture than Americans.

If your personal execution plan means increasing your visibility, networking is a good place to begin. If you contact one new person per week — just one — you will have called about 47 new people in 2006. If you actually build a relationship with 17 of them, that is 17 new people who might be sources of new and/or better work. They may be potential referral sources or potential clients. In order to move from a phone call to building a relationship you need to make contact at least three times, otherwise the shelf life of the contact expires. You might share some information, meet them at a conference or a Bar Association event, or send them an article from the newspaper or some information about the location of a holiday they are planning.

### **What have you accomplished?**

You've taken small achievable actions that will add a few new people to your network. You will also raise your profile with a few new people. If you actually have lunch with some of these people and get out of your office you will have added a little balance to your life — the world is a better place from a patio in the summer.

### **Focus your discretionary time**

The primary resource lawyers have with which to improve their future is non-billable time. For a practising lawyer without management responsibilities, the non-billable expectation typically is about 200 hours per year. Start small — break it down — that is 50 hours per quarter, 17 hours per month or four hours per week. What can you do with four hours per week for the next four weeks? You could do the following.

- Dig through the business cards you collected at the last conference you attended and call one person each week — spend 15 minutes with each of them (one hour).
- Write one good article for an industry publication or firm newsletter (three hours).
- Spend 30 minutes per week for the next four weeks with your most promising associate or junior counsel — building that relationship and showing that you care. They need to know that you care before they care

about what you know (two hours).

- Visit four existing clients — one per week on your way into the office or on your way home. Find out how things are going in their world. Ask them some good questions about their industry, their company or themselves. Let them talk — you listen (four hours).
- Read a business book over the next four weeks— something your clients read — it will give you something to talk about when you call them (four hours).
- Attend a Bar Association event — network with your colleagues who are in private practice and those who are inhouse — stay on their radar and get those colleagues on yours (two hours).

### **What have you accomplished?**

You will have shown your most promising associate that you care and you will have increased their knowledge. You will have broadened your mind to the business issues faced by your clients and prospective clients. You will have raised your profile. You will have increased your network. Most of all, you will have joined that small group of people that have actually *translated good thoughts, good ideas and good intentions into action.* ●



*Karen MacKay,  
Principal,  
Edge International,  
Canada,  
<mackay@edge.ai>.*

*This is an edited version of Karen's article which originally appeared in the 6 February 2006 edition of the Canadian issue of Lawyers Weekly, a LexisNexis Canada publication.*

*Karen's current practice concentrates on three key areas — professional talent, administrative management and leadership. She provides counsel on strategic growth, development frameworks, mentoring, evaluation, compensation and termination for law firm professionals. Karen also provides administrative management reviews for many firms as they face the challenges of adjusting administration to meet the ever changing needs of growing firms.*

# practice



DEVELOPMENT COUNSEL

Linda Julian JULIAN MIDWINTER &amp; ASSOCIATES PTY LTD

## Marketing mindset — a constant

Too often, marketing is the province of a ‘department’ subdivided into a series of programs, tasks and tools. But the most effective business development often comes from having a ‘marketing mindset’.

### Being in the marketing mindset

A marketing mindset is the difference between a lawyer saying: ‘You’re asking me to do something more? How can I be expected to do that as well as get my work done?’ and ‘Every time I interact with a client, I know it’s a marketing moment.’

Marketing and business development are not:

- an ‘extra’ layer of work;
- just one more ‘thing to do’;
- an unreasonable imposition by management; or
- a purely optional extra-curricular activity.

True, there is plenty of pressure on fee earners — especially in early and mid-career stages — to bill their time. But it’s marketing quality rather than quantity that yields impressive business development outcomes. Effective marketing is about lawyer behaviours and quality interactions with clients.

Indeed, the best marketers are doing it all the time — it informs their every contact with clients and deeply imbues their professional personas.

### A positive frame

Being in the marketing mindset says: ‘Every time I’m in contact with a client, I’m out to build our relationship and secure a stream of valuable work for our firm.’

‘Marketing moments? They’re every day — all day some days. You never know when opportunities will arise or who will refer work.’

‘Marketing mindset? That’s “thinking client”, and thinking!’

Professional opportunism isn’t nasty pushiness. It’s:

- being truly attuned to the issues that matter to clients;
- constantly adding value;
- being genuinely interested;
- taking time to recognise people who support and help you along the way;
- saying a sincere ‘thank you’ — better still, lots of them; and
- incorporating positive business development behaviours into your everyday work.

Rewards of the marketing mindset go well beyond making a few sales of your services. Almost certainly, professional practice is more satisfying — you’ll build better client relationships, enjoy a higher profile and become a ‘hot commodity’ with lots more control over your professional destiny.

### A mind to benefits

Investing mental energy and a small amount of time in doing the ‘little extras’ over the long run will:

- increase client satisfaction;
- encourage more work;
- yield referrals; and
- cement valuable and satisfying relationships.

### Ideas to get your team started

You’ve just concluded a major project, transaction or case — do the following:

- immediately send out an appropriately crafted client satisfaction survey;
- suggest a project review;
- list key issues, potential ramifications and learnings;
- jot down some ideas to avoid angst and do it even better next time — circulate it to your client and other selected key advisors;
- send a card with a small gift (a bottle of wine, small hamper, business

book, bunch of flowers) as a tangible ‘thank you’;

- follow up on any offers or promises you’ve made along the way — introductions to other experts, copies of articles and so on;
- identify useful documents and materials for the future, burn a CD for your client and dispatch it with a friendly note; and
- put a reminder into your calendar to follow up in a couple of months to see how things are going.

Total marketing time: two to three hours.

Likely return on investment: excellent.

You need a lengthy personal meeting with your business client:

- schedule it to conclude so you can invite your client for a quick lunch or drinks;
- offer a car space or voucher for local parking;
- conduct it on your client’s premises and look over their facilities while you’re there;
- include another lawyer from your firm — clearly at ‘no charge’ — so your colleague can learn about the client, add value and showcase his or her skills.

Total marketing time: one to two hours.

Likely return on investment: very good.

You’re reading an industry or professional journal: find an article of relevance to a client, contact or referral source — copy and send it with a short, handwritten note.

- Constantly ask yourself:
  - how does this issue/development affect my clients?
  - how does it change their competitive landscape?
  - what business risks does it present?
  - how can I help them deal with these challenges?
  - have I followed up?

- If there's an issue or item to which you can add professional value, write a short article, commentary or letter and send it to the editor.
- Add selected contributing authors to your industry contacts database.
- Check that the publication is on your list to receive relevant media releases.

Total marketing time: one to four hours.  
Likely return on investment: good.

These few situations illustrate marketing mindedness in action. Instead of just sitting at your desk and ploughing through the files, look for opportunities to be

marketing minded. Small investments of time can produce worthwhile returns. ●



Linda Julian,  
Consulting Director,  
Julian Midwinter &  
Associates Pty Ltd,  
<[www.julianmidwinter.com.au](http://www.julianmidwinter.com.au)>.



## dear duncan ...

Comment by Duncan Hart

### Retreat(s) — could Napoleon have avoided his?

Picking my way carefully through the snow in Tiananmen Square a couple of weeks ago, I could not help thinking about Napoleon's ill fated retreat from Moscow in the winter of 1812. The Chinese firm for which I had just completed a retreat had had that type of retreat in mind when I discussed the project with its partners some weeks earlier. They did not want a 'retreat' — quite the opposite, they told me! Far from being a withdrawal in the face of opposing superior forces, I explained a retreat was more a time for reflection, discussion and informed strategic planning. It was, in fact, a process which was designed to avoid strategic errors and, hence, retreats of the Napoleon variety with which they were concerned. They reminded me that their own Mao Zedong had undertaken a similar exercise in the face of superior forces, which became known as the 'Long March'.

There is little enough opportunity to reflect or discuss, let alone plan, in the average day of a busy law firm partner. Nor is it sufficient if responsibility for 'strategy' remains in the hands of one or two partners, or even a board. Partners generally see their role as much greater than mere employees, and rightly so. With that broader role, however, comes the need to participate actively and critically in the formation

of the firm's strategy. Not only does strategy need to be understood and formed, the steps (financial and otherwise) need to be crafted to implement that strategy.

#### Creating the opportunity for a retreat

How then does a firm best create the opportunity for a successful retreat and manage it? In my view the process of undertaking the exercise is almost as important as the outcomes that are expected.

#### Timing is important

Any retreat needs to be held in reasonable proximity to the formation of the firm's budget — this is often overlooked by firms — but how a budget can be framed without being informed by the outcomes of a retreat is beyond me. Surely, strategic objectives and their likely costs and benefits will have a budgetary impact — if not, it is difficult to see how they can be said to be of strategic importance. More often, I suspect, the retreat is not used as a strategic tool at all and critical questions are not addressed — hence they have little impact on the budget!

#### Timetable for preparing a retreat

Diagram 1 outlines my preferred timetable for preparing and holding a

retreat, which leads directly into the budget cycle. The suggested steps are:

- identify 'issues' and get papers prepared which will inform discussion;
- settle the agenda for the retreat — restrict it to the number of items that can be sensibly managed;
- hold the retreat — consider outside assistance;
- document outcomes and revise the strategic plan;
- ensure that the team and individual plans incorporate the new/revised strategy;
- ensure that HR/IT/finance and marketing are also aware of the firm's new strategic imperatives (hopefully they will also have had some input to the issues); and
- ensure any financial consequences are incorporated into the new budget.

#### Consulting

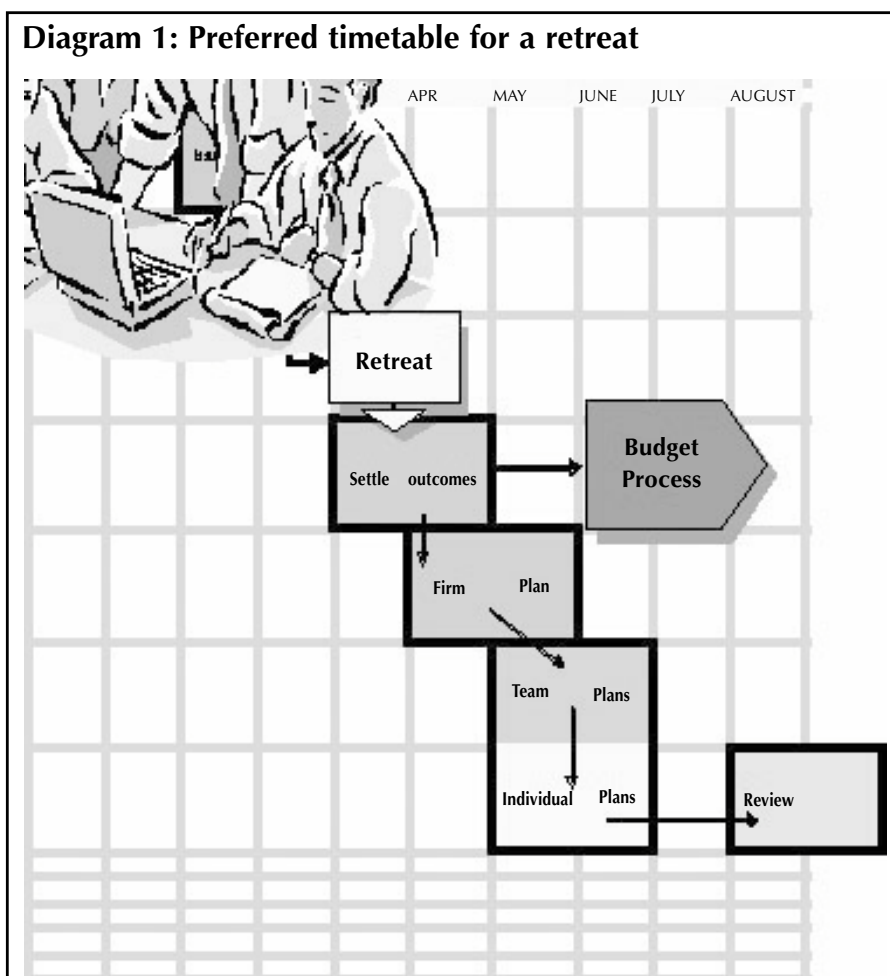
You would expect me to suggest the use of an outside facilitator in ensuring the necessary steps are followed and the discussion that eventually takes place is useful and productive — and I do! All of the steps outlined above will benefit from outside assistance and perspective. In my opinion, having been a managing partner and also a consultant, it is of great benefit to have the load of preparation, analysis and documentation taken from your shoulders. The managing partner

should not bear the load of always promoting this or that approach — let them be a part of the audience for once and take a full part in the debate. Further, with outside help, care can also be taken in developing the issues and settling the agenda. Topics that may well be of vital importance to the firm are sometimes only discovered through such external assistance. Finally, pick the right consultant and you get an Australian and international perspective to assist your deliberations.

If the process is managed correctly, the chances of a successful outcome and, even more importantly, successful implementation of those outcomes, increases enormously.

The retreat and its outcomes should not be ‘lost’, as is often the case if they are ‘hard wired’ into the firm’s plan, team and individual plans and the budget. All of these should be the subject of regular review, and in many firms form the basis of partner compensation. Cascaded through the organisation, they should also be found in individual appraisal outcomes and plans.

The retreat and its outcomes therefore become a very significant event in the yearly cycle of the firm’s activities. Certainly, my Chinese clients seemed excited at the outcome of their retreat and were keen to test their implementation



© 2005 Duncan Hart

skills. After all, they reminded me politely, they are conquering the world of manufacturing and their sights are set equally high in the services sector. They are keen to learn our skills — skills which we often undervalue and fail to

exercise even to our own advantage. ●

*Duncan S Hart LLB MBA, Principal,  
Duncan Hart Consulting,  
<dh@duncanhartconsulting.com>,  
<www.duncanhartconsulting.com>.*

## calendar

### The Australian Legal Practice Management Association (ALPMA) National Professional Development Program

#### Revenue = Relationships x Referrals x Rates

Speaker, Mark Vincent, is a principal of Insight Plus and specialises in facilitation and executive development services.

A firm’s revenue and profits are driven by positive word of mouth. The three factors that most influence or rely on positive word of mouth are: Relationships, referrals and revenue.

This workshop has been designed to cover these crucial areas from two perspectives:

- the mechanics that underpin these activities; and
- how to ensure the skills implicit in those activities are embedded and used daily throughout the firm. ●

#### Time and place

Adelaide: Thursday 23 February  
Melbourne: Friday 24 February  
Sydney: Wednesday 1 March  
Brisbane: Tuesday 7 March (9:00am to 12:45pm)

For more details phone 03 9432-0335, visit <www.alpma.com.au> or email <k.billings@alpma.com.au>



# Letter from London

CO-ORDINATED BY

**Caroline Poynton**

EDITOR MANAGING PARTNER LONDON

## Tackling compliance and introducing matter-centric systems at Allen & Overy

**Dave Burwell**

ALLEN & OVERY LLP

Allen & Overy LLP (A&O) has tackled a broad range of technology issues in the recent past, and has further plans for 2006 and beyond. The following provides an overview of the firm's strategies to tackle compliance, introduce matter-centric systems and address other key issues facing large law firms.

### Compliance

As an international legal practice, A&O has for some time been putting particular focus on compliance and risk management from a number of points of view. These include conformance with regulations such as the US *Sarbanes-Oxley Act* of 2002; the EU Market Abuse Directive and Money Laundering Regulations; avoidance of conflicts; and meeting clients' expectations in terms of confidentiality and proper handling of market sensitive data.

Compliance is currently on the agenda for most of the major firms, some of which are grappling with the issue of open access systems. Such systems can make compliance with legislation a challenge, to put it mildly. (For practical purposes, compliance requires price sensitive information to be restricted to those involved in the matter.)

The reason why some of the major firms may be struggling to implement change is partly due to partner drag, but also because they are not sure how to put the processes in place which will enable them to lock down access to

information and make it stick. We have both the working practices in place and the required systems, such as workflow based matter inception, matter maintenance and matter closing.

This is not a sexy area but one that is vital if we are to meet our clients' expectations and comply with the burgeoning array of regulations in the post Enron/WorldCom world. The booby prize for failing to recognise this — which could be to follow Andersen into extinction — may be awarded to a law firm in the not too distant future.

### Matter-centric systems

A&O has probably been the lead exponent of matter-centric virtual files for the past three years and we have now truly realised our intent through our latest version of Omnia. This allows us not only to make all documentation (emails, documents, scanned documents, faxes, PDFs and so on) available to those people who need to see them (and unavailable to those who do not), but also ensures we meet the requirements of compliance and risk management outlined above. Omnia's key role is to be the electronic tool which supports a highly developed set of working practices. These, in turn, help us to be consistent, conformant and informed, and to handle clients' information securely. In recognition of the security of our document management capability, A&O has just been awarded BS7799 accreditation, the first major international law firm to be so recognised.

## E-business

We now have a number of fee based products in our Derivative Services LLP venture which are returning on our investment. They extract data from both the ISDA netting and collateral opinions and provide guidance on the enforceability of close-out netting and collateral arrangements. These are just two of a number of cross-border advice systems which are greatly valued by clients. So, although there was a flurry of e-business activity at the beginning of the decade and then the market went fairly quiet, we are beginning to see a resurgence of cross-jurisdictional advice and risk management systems that help clients make informed decisions about the risks they are likely to face in various jurisdictions.

## Know-how

Know-how is an area which has perhaps gone rather quiet in the legal industry. In systems terms, we have focused on two aspects: integrating and codifying all our know-how and making it easy to access through a simplified, unified interface. We are also making it much simpler for fee earners to submit know-how during, or at the end of, a matter, and we are investigating some of the newer web developments, such as blogs and wikis to find ways of better sharing mainly tacit knowledge.

## Mobility

There is an ever increasing demand for lawyers to be able to work wherever they are. The BlackBerry is now pretty much ubiquitous in law firms and provides access to emails in many parts of the world. However, I find from talking to fellow IT directors that relatively few firms are paying attention to other ways of keeping in touch.

Thanks to the application of Citrix technology in A&O worldwide, our staff are now able to work on all our core applications on a standard PC when they are away from the office. Thus, from their home, while in a hotel, a client's offices or an airline lounge, they can securely access documents held in the office and work on them as if they were in the office. Staff who work in more remote parts of the world

without access to the internet for periods of time can readily make extracts of their matter information and take it securely with them on their laptops while travelling.

We have equipped our laptop users with all manner of connectivity aids — wired and wireless broadband access; 3G access; dial-up access; and hot-spot access — so they can be connected pretty much wherever they are. We have also made sure that clients visiting our offices can connect to their systems through wired or wireless services.

## Under the covers

The demand for continuous, high quality service 24 hours a day, seven days a week, seems to increase year on

(ERP) style solutions or customer relationship management (CRM) technologies at the moment, they are likely to be the major area of focus in the future — not just for A&O but for many, if not most, major law firms.

## ERP systems

Few firms can justify the level of investment needed to put in place a full blown ERP system such as SAP. I think a key demand from ERP systems in the future is likely to be increasingly sophisticated management information, so that firms can understand where the profit is really being made and adjust their approach to clients accordingly. Compared with corporates, law firms

I think a key demand from ERP systems in the future is likely to be increasingly sophisticated management information, so that firms can understand where the profit is really being made and adjust their approach to clients accordingly.

year, and this has implications for staffing and for the types of technologies we use. Most law firms are investing heavily in storage area networks which provide high levels of resilience. There is an increasing move towards clustered (active-active and active-passive) environments to increase availability. Furthermore, the introduction of multi-level, load-balanced server architecture has increased resilience but has also increased the complexity of managing this type of environment.

It is fine when it works as intended, but can be problematical to trouble shoot and fix when things go wrong. A number of firms (ourselves and Linklaters, for example) are moving to very high specification (Tier III/IV) data centres to meet the need for very high availability. It is not acceptable to have long downtime windows now given the demands of deals which can close at any time.

## Trends for 2006 and beyond

Although we are not investing heavily in either enterprise resource planning

take a relatively simple approach to financial data analysis. This will change as margins become thinner and the competition from international (especially US based) firms hots up.

## CRM

Generally, law firms do not make nearly as much, nor as effective, use of CRM data and systems as their larger cousins in the consultancy sector. Partly this is due to a lack of discipline in capturing data and partly it is a lack of clarity on who — business development, fee earners or both — is responsible for all this. All firms are now talking avidly about being client facing, but many have a long way to go to develop the right approaches to clients. I feel that when they do, the systems side will fall into place. Any approach which is principally systems led is likely to fail. ●



Dave Burwell,  
Chief Information Officer,  
Allen & Overy LLP,  
<dave.burwell@  
allenoverly.com>.



Jonathan Gill

CICERO CORPORATION PTY LTD

## Finders keepers: reward, retention and succession

At the ALPMA conference on 21–22 October 2005 it was interesting to note that all the speakers referred, at some stage, to difficulties firms are currently having recruiting and keeping talented staff.

In this article I will review where we are in ‘the war for talent’ and suggest some actions to take. I hope to challenge some assumptions, dearly held by most people, by drawing on research conducted by Jim Collins while preparing his book *Good to Great: Why Some Companies Make the Leap ... and Others Don't* (*Good to Great*). I will provide my ‘top tips’ for rewarding and retaining staff — this will hopefully act as a checklist against current policies and procedures at your firm. Finally, I will look at capacity and capability planning, which is the cutting edge of offshore HR staffing policies and now starting to be seen in Australia.

### The war for talent — how is it going?

‘The war for talent’ is a term that has featured regularly in newspaper and magazine articles, and by external recruiters of law firms. The scarcity of true talent and the demand for it are as bad as I have seen it in my almost two decades in legal recruitment.

Facts most definitely support this, and include:

- a falling unemployment rate for university law graduates, which is down from 3.1 per cent in 2004 to 2.4 per cent in 2005;
- an increase in cost per hire which, despite better use of technology and the use of fewer and less expensive contractors, has crept up every year since 2001 according to Staffing.org; and

- recruiting conferences expose the common and constantly repeated theme about how few good candidates there are.

The Australian legal industry is suffering an increased ‘brain drain’ offshore. Australians have always been good travellers and the internet has blown open the industry by offering global employment prospects at the touch of a button to staff that Australian law firms have trained.

Australia is again being viewed as a source market for UK firms. We speak the language, are hardworking, our legal systems come from the same root, and in world terms we are cheap!

Also, with clients becoming loyal to individuals rather than firms, the opportunity exists to expand your client base through the strategic poaching of competitors, and for your clients to leave you if a partner decides to move.

### How can you win the war?

No General will enter a war with only an offensive strategy, they will also have put in place plans to counter the enemy’s attacks. This has seen retention become the new battleground in the war for talent. But I am constantly surprised at how few law firms in Australia have a defined strategy for attracting and retaining staff.

We are not alone. A report from the consulting firm Watson Wyatt investigates what recruiting managers are doing in the area of strategy. The survey, deployed electronically to more than 7000 global participants in March 2005, produced results that shocked even the most vocal of HR critics. Over the course of just 10 days more than 840 companies, ranging in size from 25 employees to well over

one million, reported the existence and use of a strategy in their recruiting efforts. Some 96 per cent of the firms responding to the survey had plans to hire either new or replacement staff during the 2005 calendar year and 26 per cent had plans for growth.

If a strategy is a systematic plan of action aimed at accomplishing a goal, then with 96 per cent of firms indicating that they planned to hire new staff, you would think it logical that a majority of firms would have a strategy in place that outlined the actions that would be taken to accomplish the task of recruiting.

To Watson Wyatt’s surprise, only 42 per cent of the participating firms had developed such a strategy. This response alone reveals that a majority of practitioners, while they claim a desire to work strategically, often do not.

Of the 353 organisations that stated they had a strategy, only 154 bothered to communicate the key points of the strategy to all internal parties involved with recruiting and retaining staff (only 18 per cent of the total survey population). Even worse, only 148 of the 353 organisations with a recruiting strategy used it as a decision filter when executing recruitment or retention actions. Some 50 per cent of the respondents stated that they were ‘occasionally’ consulted, and 7 per cent said they were never consulted post development.

The core questions were basic, the answers were easy to identify with and the results were clear. Ninety-three per cent of the survey respondents (782 organisations) believed that a staffing strategy played an important role in the organisation’s success or failure, yet only 18 per cent develop and consistently use such a strategy. According to the survey respondents, the content of most strategies has little relevance to strategy and focuses much more on operational processes.

A huge competitive advantage exists for law firms with a staffing strategy in a talent short market. It does not take long to devise and it is not costly to implement. Utilising a staffing recruitment and retention strategy will put you ahead of many competitors.

**Challenging assumptions**

Periodically, you read something that shakes the foundation of what you have come to believe. Arguably, one such book is *Good to Great*.

The old adage ‘people are your most important asset’ turns out to be wrong. People are not your most important asset. The *right* people are.

It is with this simple opening shot that the book delves into what it takes to turn a company from good or mediocre to enduring greatness.

Over a five-year period, Collins and his team of researchers meticulously analysed decades of business history, looking for the identifying characteristics of 11 companies that over 15-year periods outperformed the market by 700 per cent.

Many factors could have been responsible — a function of market conditions, innovation, radical restructuring or technology. However, the actual reason was great talent. In order to be great, some of our most closely held assumptions about staffing need to be challenged.

**Great leadership**

The era of the ‘celebrity’ CEO may be over, according to Collins. He describes five levels of leadership in which the top ‘Level 5’ leadership, the level which drives the greatest sustained results, is not the highly visible type CEO we can often associate with greatness. While highly ambitious, Level 5 leaders sacrifice their own profiles and channel their energies into ambition for their organisations. They blend humility and modesty instead of personal flair, often deflecting any talk of their own responsibility for the company’s success, instead pointing to their great staff, market conditions or even dumb luck.

Most importantly, Level 5 CEOs set up their organisations for continued success after they leave. They do a much better job of surrounding themselves with future leaders, whereas good or mediocre companies often follow a ‘genius with a thousand helpers’ model.

**‘First Who, then What?’**

Jim Collins’s ‘First Who, then What’ concept defies almost every process, structure and technology built into the HR functions of today: ‘The executives who ignited the transformations from good to great did not first figure out where to drive the bus and then get people to take it

A huge competitive advantage exists for law firms with a staffing strategy in a talent short market. It does not take long to devise and it is not costly to implement. Utilising a staffing recruitment and retention strategy will put you ahead of many competitors.

there. No, they first got the right people on the bus (and the wrong people off the bus) and then figured out where to drive it.’

Many of the ‘good to great’ companies did not take a requisition driven approach to finding the best people; instead, they attempted to ‘inject an endless stream of talent’ into their organisations, sometimes without a job in mind.

As former Wells Fargo CEO Dick Coolley stated, ‘That’s how you build the future. If I’m not smart enough to see the changes coming, they will. And they’ll be flexible enough to deal with them.’ The concept of the ‘opportunity hire’ seems lost in this age of assessment testing, skills based profiles and pre-screening of staff.

A key part of Jim Collins’s ‘get the right people on the bus approach’ is not selling a set vision to potential candidates — it’s getting people to join because of the other people who are on the bus and letting them solve the challenges on the road ahead.

**Common hiring measures are unhelpful**

The following lessons from *Good to Great* seem to undermine fundamental assumptions about great staffing strategies, execution and measurement, and may greatly upset individuals wearing a ‘procurement hat’.

‘Low cost per hire’, ‘time to fill’ and other efficiency measures are not the hallmarks of great staffing.

Of the great talent principles Collins uncovers, he leads with, ‘when in doubt, don’t hire. Keep looking’. All 11 of the great companies profiled in the book, including Gillette and

Kimberly Clark, actively embraced this principal, deciding to wait to find the best person before filling even their most critical openings.

The best people are worth digging for.

One of the good to great CEOs highlighted the fact that he spent 80 per cent of his time finding the right people and ensuring they were in the best roles for them.

Meanwhile, his main competitor (which started off on equal footing) spent most of its time determining which stores to buy versus which people to hire or keep.

Not all turnover is bad.

The early days of nearly every good to great transformation was characterised by high initial turnover, which really represented the wrong people getting off the bus before it left the station.

According to Collins, ‘People either stayed on the bus for a long time, or

got off in a hurry. In other words, the good to great companies did not churn more, they churned better.'

- The right person is not always the person you expect.

Whether someone is the right person 'has more to do with character traits and innate capabilities than with specific knowledge, background and skills', according to Collins. He highlights several examples in which star employees with no previous experience in a specific area were assigned to critical opportunities — and ran circles around the people who had much more 'relevant' experience.

In law also, the highest billing partners, the ones with the really loyal clients, are not always the best technical experts in their field. The most important first step in your retention strategy must be to identify the so-called soft skills these partners possess that make them so successful in your culture. You then need to identify who else has these skills within your firm. These are the people that you focus on retaining. These are the people you ask to drive the bus at all levels within the firm.

## **So, are law firms screening for the right things?**

Not every company can be, or even aspires to be, great. But truly great staffing means thinking about how to get the absolute best people on the bus and keep them there for the ride. It means occasionally hiring someone great who isn't an exact fit for one of your openings. And it requires a radical focus on measuring and improving quality.

## **Rewarding staff**

Countless surveys in 2004 and 2005 agree on what drives retention. What staff are looking for in return for their loyalty is:

- opportunities for growth and development;
- strong, ethical leadership;
- a support for work/life balance; and
- a team based environment.

Interestingly, on average money came in seventh, and in no survey have I observed it enter the top three.

Many books are being written about

retention. Fears are growing that employees will soon begin leaving in much greater numbers than they have over the past few years. But remember, good people (and bad) tend to stay where they are unless there are reasons to move. What is more difficult is knowing who to focus on keeping and who not to.

Good people are never easy to satisfy, and for the best people employment is more about relationships and opportunities than it is about pay or security. What we often fail to recognise is that individuals have changing needs. As their knowledge and intellectual capital accumulate, they need challenges, stimulation, excitement and change to stay productive and engaged.

To maintain the employment relationship, employers have a huge responsibility. They need to clearly know who their best employees are, keep them informed, help them maintain and develop skills, encourage internal movement and change, and help them to build networks and internal relationships.

None of these things costs much compared to the cost of recruiting and developing new employees, and none of them is really very hard to do. However, to put them in place does require a change of mindset and a willingness to break (or at least stretch) the usual policies and rules that exist in many organisations. After all, good HR and good retention are all about treating people fairly — but not necessarily the same.

So, what are the important factors which build lasting loyalty and strong employee/employer relationships in your firm?

Manage performance, not time.

You need to have a performance management system that works. A major reason for employee unease and anger is insecurity over how their performance and promotion prospects will be assessed. Employees want to know what good performance looks like, and more and more they expect to be rewarded (not necessarily financially) for achieving it.

Those who you want on the bus

should always know exactly how they are perceived as performing. They need specific goals to accomplish, deadlines to achieve or clients to satisfy.

Every quality individual I have ever talked to on the subject dislikes the idea that people get paid simply for showing up on time and filling in timesheets.

We need to be on guard in the professional services environment that high performance is emphasised more than time is managed and accounted for.

Keep employees informed.

Silence is the greatest enemy of retention. When management does not update employees on the financial and business state of the company, or any potential merger discussions, and when rumours can be counted by the minute, turnover goes up and productivity goes down. While some people (usually the weaker members of staff) hunker down and hide away, the best ones start looking.

Many excellent employees who are highly valued have left their employers because of business uncertainty. No one expects assurances or guarantees, but what most at least hope for is an understanding of the state of play. Relationships thrive on the exchange of information. Two-way communication between employer and employees is as critical as is performance management.

Educate to retain.

Education and development are the cheapest retention tools in your arsenal. It is an irony that to keep the best staff, you need to upskill them to a point where they can leave your firm at any time. Your best staff demand constant employability.

Locking promising people into degree or certificate programs is almost a guarantee that they will remain with your firm until they complete the program. Most will be loyal and thankful. All of them will be better educated and hopefully more productive employees.

However, if we think about our own learning, most of us will agree that the really useful things have been acquired in an informal way. We learn from

peers, bosses, friends and our own experiences. Formal education may lay the foundation, but we build on it by doing, failing and trying again. This is why we should encourage people to take on jobs that are 'over their heads'. The best will quickly learn on the job and through their informal networks and conversations.

Many employees who leave organisations are simply looking for a bigger challenge or the opportunity to use a new skill or degree. Smart organisations will encourage this and motivate managers to source and hire internally whenever possible — even if it will require a bit of training.

Help every employee build a social network.

Employees are frequently devoted to fellow employees and feel strong attachments to them. This is what keeps many people from job hopping. Networks are extremely powerful. Companies that actively promote employee interaction and teamwork have less discontent and turnover than those that keep employees apart or at odds. Clubs and social groups within an organisation can be extremely beneficial.

New graduates should be put in touch with their university alumni within their first week to help them become oriented to the firm and meet other new hires. This tends to raise the level of commitment they have to the organisation and reduces turnover. Internal networks are powerful binding devices.

Get your employees to 'fall in love' with your organisation.

How? Communicate your vision in a compelling way. Show everyone the role they have to contribute to this vision.

Give people the freedom to fail, reduce bureaucracy and encourage them to challenge the status quo. Let them drive the bus and breathe life into your organisation. Do not let your employees stagnate.

Retention is much more effective when you put the right person into the right job. Know the job. Know the employee and their motivations.

In the US, half of the Fortune 500 companies are now using assessments to more fully understand each job and the soft skills that are required for top production within their specific company culture. These benchmarked skills are then compared against qualified applicants to help determine who will be successful in the position and fit well within their company's culture. These assessments are also used as a powerful professional development tool to enhance the training of continuous lifelong learning (which is another powerful retention strategy).

Solicit feedback.

Employee committees to help develop retention strategies are an effective strategy. Seek input. Ask what do people like about working here? What would they like changed to make the company a better place to work? However, if you get feedback you must act on it, even if you question its benefit. Asking for help and then ignoring what comes your way is a sure-fire way of disenfranchising your staff.

Leadership must be deeply invested in retention.

Management and partners must be skilful in communicating company policies in a way that creates 'buy in' from staff. They must be able to engage with staff at an emotional level.

Recognition, in various forms, is a powerful retention strategy.

This is certainly one of the cheapest weapons in your armoury. It doesn't cost a lot and yet one recent survey in the US suggested 46 per cent of people leave their jobs because they feel unappreciated.

This could be fixed by simple strategies, such as noting and thanking employees who stay back late on deals. Ensure you give them days off in lieu of constant late nights and encourage them to leave on time when you are between matters.

Pass on all client feedback and celebrate the successes within the team. Be thoughtful and polite.

Remember that the 'fun factor' is very important to many employees.

Retention is often related to interpersonal connections and the amount of fun within work teams. The fun factor is important in highly charged production environments, such as the legal profession, where long hours are required. Encourage such things for interpersonal interaction, fun and stress management. Though not everyone can participate in physical activities, this sets the tone for a culture based on competition, health/wellbeing and interactions that are inclusive beyond work.

Employment branding.

Employment branding is a long term strategy that will offer any organisation that commits to it a real advantage. Elevating the exposure of your organisation as an employer of choice is necessary to succeed in an environment that is increasingly more employee favourable.

## Succession planning

We have seen that internal opportunities head the wish list of your best staff. If you fail to deliver these, you are at risk of losing them to rival firms who are willing to do so. Perhaps the largest sourcing mistake firms make is not to look at existing employees as candidates. There are many reasons for this. Very few HR departments have access to information about employees beyond the CV produced when they joined. Some firms have policies where current employees are not able to apply for roles internally without permission from their supervising partner.

Employees are investors in your organisation and they freely choose to share their expertise and skills with you, or not. Until, and sometimes including, reaching partner status, each employee has a built-in return on investment. As long as employees feel they are gaining, they won't look for a different job and will contribute to the best of their ability within the system. However, whenever the balance shifts even slightly, employees become vulnerable to any offer that may present itself.

Usually, when an employee wants to apply for another position inside the firm, it is because they:

- are looking for a new challenge;
- are not happy with their current team or boss; or
- feel that the new position will offer more of a return on their investment.

To deny them this opportunity and to place some HR policy in their way is a sure way to lose them to someone else. Happy employees who are treated as investors will be unlikely to leave.

The following issues should be looked at by anybody with an interest in keeping their best staff loyal:

All policies should be abolished that limit or control how or when employees apply for positions within an organisation.

Policies should provide development opportunities and encourage partners to let staff leave for new opportunities. Organisations such as Hewlett-Packard, IBM and General Electric have faithfully followed this strategy for decades and believe that it has directly contributed to their financial success. The basic philosophy should be that every employee has the same or better employment opportunities inside the company as exist in the marketplace.

Firms should make it a policy to encourage employees to share expertise and skills broadly.

After all, it is the interconnected network of your employees that adds value to your clients. There is always the need to balance deep functional expertise with broader skills.

Let recruiters work just as freely inside as outside the organisation.

This is contentious. You must have real trust in the ethics of your recruiters. Letting them also work on backfilling positions that may be vacated by an employee who is moving to something else is a just reward. If a recruiter knows that an employee is leaving for a new position internally, they can help the manager find

someone else for the old position at almost the same time. At least allow recruiters to benchmark internal applicants against their own candidates (and you can negotiate a reduced fee for internal appointments).

Create policies that allow employees to try out a new job for a short time to see whether they like it and can do it well.

Let employees share their job with someone else so they can sample more than one kind of work or more than one project. Foster a spirit of sharing experience and skills, not of owning the mind and body of someone.

Develop training programs aimed at providing people for specific and perhaps hard to fill positions.

Cisco did this a few years ago by training people to be HTML programmers in an intensive several week

practices that demonstrate talent management is as much a science as any other management discipline.

At the core of this transformation is the application of 'capability and capacity planning' (CCP) (long used in other areas of the business) to the talent pool that makes up the organisation.

CCP from the talent management perspective is about balancing the 'load' of labour needed by an organisation to meet or exceed its strategic objectives with the optimal mix of 'resources' capable of doing so. CCP is already in use throughout most firms and can be easily identified in the IT function, where CCP looks at the demand for bandwidth that will be placed on the network infrastructure (often referred to as network load) and the mix of hardware components that have the capability (features) and capacity to meet the forecasted demands.

The appearance of CCP in the staffing world is not entirely new, but

## Expanding the scope of CCP to govern all of the interrelated activities that create the inventory and manage the deployment of talent in the organisation brings us to the modern day practice of talent management.

long program. It is often more cost effective to develop the talent you need than to recruit it. A recruiter's job should be partly providing advice on the availability of talent and on whether it would be better to develop it or recruit it. Currently, the shortage of senior, quality corporate and commercial candidates may have to be fixed in this manner.

### **Capacity and capacity planning**

The transformation of traditional staffing into talent management is happening among leading organisations globally. Like many evolutionary changes, this one got off to a slow start, but it is picking up momentum with the realisation by the senior leadership of some organisations that talent, like technology, is the driver capable of increasing or limiting their capability and capacity. Such organisations are going where none have gone before, establishing new

the current scope to which it is being applied is. Many larger firms have used metrics to govern the allocation of the recruiting budget to recruiting sources that have a proven capability of producing hires and a capacity to meet projected headcount needs. For them, CCP is already in use in a limited way.

Such instances are limited in scope, however, and are therefore also limited in impact. Expanding the scope of CCP to govern all of the interrelated activities that create the inventory and manage the deployment of talent in the organisation brings us to the modern day practice of talent management.

The most common pushback.

Every time a conversation turns to managing the inventory of an organisation's talent, someone will undoubtedly speak up and proclaim that people are an asset unlike any other, and

that they cannot be managed using the same approaches that an organisation uses to manage a desktop computer or copy machine. Indeed, the view of HR being a 'warm and fluffy' function needs to be firmly rejected at this point.

While people are individuals and each is unique they, like every other resource in an organisation, have the following characteristics.

- They have a *lifecycle*. Historically it was true that an employee would remain loyal to an organisation throughout their lifetime, however this is no longer the case around the world. Employees, like all assets, have an employment lifecycle which can be forecasted. This lifecycle, like all assets, has a ramp-up period, a period of stable production, a period of declining production and a final period of obsolescence.
- They have *maintenance needs*. Just as printers need servicing throughout the stages of their lifecycle, employees need periodic maintenance to keep their skills in line with the current needs and updates in the employment offer to meet changing life needs.
- They have *defined capacity*. This characteristic more than any other drives the most common pushback that people are not machines, however it is also the one where humans are most like machines. Most mechanical machines cannot be run at maximum output indefinitely without negative impact on their lifecycle. Most employees cannot work a 120 hour week indefinitely, but a number have proven it can be done on a short term basis.
- They have a *defined capability*. A monochrome laser printer cannot print pages in colour, although it can try. Likewise, an associate who is skilled in the area of litigation could not in truth successfully pick up an M&A matter, although they could try. With modification, also known as training, it is possible that at any given time the asset does have a defined capability.

#### Talent resource planning in practice.

With the understanding that talent can be managed on a macro level like any

other asset, let's turn our attention to the leading practice in the area of talent management — 'talent resource planning'. Talent resource planning is the application of CCP to the inventory of talent that comprises the organisation.

The analysis which drives it looks at:

- the capability and capacity of labour needed to achieve the strategic objectives of the organisation;
- the capability and capacity of the current talent inventory;
- the gaps that exist between the two;
- the methods capable of filling the gaps; and
- the disaster plan should any of the methods fail to close the gaps in the time allotted.

As with all CCP analysis, constant attention is paid to maximising benefit while minimising cost. Many organisations miss the maximising benefit part, opting instead to focus solely on cost containment — which is easier.

In the modern organisation, it is essential that it looks at all of the possible resources that can be utilised, hence the inventory is not just comprised of full time permanent employees, but also part time employees, contractors, consultants, outsourcers and strategic partners.

#### Data needed to power/talent resource planning.

Be warned, this is not an easy exercise. Talent resource planning and talent management in general require that functions related to HR co-ordinate and work together at levels few organisations have ever witnessed.

Some of the types of data needed to assist you with a talent resource planning initiative in a firm are:

- a prioritised list of strategic business objectives;
  - market projections associated with each objective;
  - projected monetary impact associated with only partial attainment of objectives or delays in obtaining objectives; and
  - defined capability and capacity of all current strategic business partners.
- Data needed from finance are:
- defined capability and capacity of all the current contractors, consultancies

and outsourced service providers approved for use.

Data needed from HR are:

- projected cycle times to source, screen, offer and hire talent needed according to skill type and mastery level needed;
  - total projected talent acquisition cost according to skill type and mastery level needed; and
  - total compensation expectations according to skill type and mastery level needed.
- Data needed from training and development are:
- cycle time to develop needed skills profile according to skill type and mastery level needed; and
  - cost to develop skills by resource needed.

This is not an altogether simple task, but with so few Australian legal firms really embracing CCP in its entirety, there is a true competitive advantage to be gained, especially within larger firms looking to expand the amount of work generated offshore. Smaller and mid-tier firms could also benefit from embracing the theories behind CCP and incorporating these into staffing policies and procedures.

In an era of true global competition, remaining competitive comes down to managing the capability and capacity of your organisation to meet the demands of your clients and target clients, an activity that is largely dependent upon your ability to recruit, retain, motivate and develop your staff.

Simply put, retention is the battle you have to win in order to win in the war for talent. ●



Jonathan Gill,  
Managing Director,  
Cicero Corporation Pty  
Ltd, <jgill@cicero.com.au>.

*Cicero is a search, selection and training firm that specialises in legal firms. Cicero is committed to helping clients with their employment branding and has consulted to many firms on the subject.*

*For more information regarding the issues discussed in this article, please feel free to call Cicero on 02 8211 0234.*

# recent publications



Colin Fong



FACULTY OF LAW, UNIVERSITY OF NEW SOUTH WALES

**Ackland, R** 'The rise and rise of the predatory lawyer' *Sydney Morning Herald* 18 November 2005 p 15. Discusses court cases which have gone on for long periods of time and incurred enormous legal costs.

*Australian Financial Review* Legal Affairs Partnership survey 16 December 2005 pp 43–46:

- **Priest, M** 'The future belongs to a band of stayers'
- **Drummond, M** 'Waiting for a share of the pie'
- **Schmidt, L** 'Making partner not be all and end all'
- **Towers, K** 'Honey, I shrank the elites — and the profits'
- **Moran, S** 'Candidate shortage leaves tyros calling the shots'
- **Drummond, M** 'Drive and a little luck help'
- **Drummond, M** 'Rapid ascent to the peak'
- **Priest, M** 'Right time, right specialty'
- **Staff reporter** 'Break ignited his passion'

**Breitfuss, A** 'The good word' (2005) 265 *Lawyers Weekly* 16–18. Laments the situation of professional firms which fail to maximise the potential of their referral strategies.

**Buxton, A and Kirby, P** 'Friends?' (Autumn 2005) *Solicitors Journal* Guide to the bar 16; 18. Looks at the need for solicitors and barristers to support and court each other.

**Cameron, M** 'Firms must deal with dead wood' *The Australian* 16 December 2005 p 25. Discusses the reluctance to remove non-performing partners may hold back Australian law firms from competing effectively in the global market.

**Carson, V** 'Litigation lender wins \$1.3m against ex-client' *The Australian* 4 November 2005 p 24. Discusses that

a litigation funder has been awarded \$1.3 million in unpaid fees after it succeeded in a suit against a former client.

**Carson, V** 'Information shutdown damages justice system' *The Australian* 2 December 2005 p 27. Suggests a lack of access to documents and evidence in complex cases is diminishing the notion of open justice.

**Ciolfi, A** 'The legal employment market: determinants of elite firm placement and how law schools stack up' (2005) 45 *Jurimetrics* 413–48. Examines a study whereby quantitative methods were used to identify factors to help explain the variation in a law school's national career placement success at elite law firms.

**Clark, P** 'Individuals at heart of changing times' *The Australian* 9 December 2005 p 25. Discusses the business environment facing top-tier law firms.

**Clark, P** 'Partnerships aren't what they used to be' *The Australian* 16 December 2005 p 25. Reveals that change is coming and life for partners may never be the same. Includes a table of churn rates at the medium to large law firms.

**Clarke, M and Tang, A** 'Partnerships of trusts — an endangered species?' (2005) 79(11) *Law Institute Journal* 54–57. Partnerships of trusts with corporate trustees will no longer be a viable option under the *Legal Profession Act 2004* (Vic), which came into effect on 12 December 2005.

**Corker, J** 'Pro bono work is an obligation' *The Australian* 11 November 2005 p 24. Discusses the view that there is more to a profession than money.

'Crossing over' (Autumn 2005) *Solicitors Journal* Guide to the bar 9–10; 12. Looks at barristers who become solicitors and the solicitors who head to the Bar.

**Drummond, M** 'Conveyancers seek national standard' *Australian Financial Review* 18 November 2005 p 65. Discusses the possibility of harmonising conveyancing law after the Victorian Government initiative of a new pilot e-conveyancing system that could be used nationally.

**Drummond, S** 'A grip for the long haul' (2005) 266 *Lawyers Weekly* 16; 17–18. Assesses public-private partnerships and the associated risks. Examines value for money, picking winners, common approach, bid costs, interactive bidding and deal flow.

**Drummond, S** 'Remote control' (2005) 266 *Lawyers Weekly* 20–21. Examines a medium to small sized firm using a workflow system to link to other systems, such as clients.

'The end of hourly costing' (2005) 264 *Lawyers Weekly* 1; 11. Examines the trend by some professional firms which have ditched billable hours in favour of 'value pricing'.

**Evans, A** 'Teach values, not just rules' (2005) 264 *Lawyers Weekly* 15. Suggests law schools should focus more on personal and professional values and less on rules of conduct.

**Evans, A** 'E-transfers a threat to funding' *The Australian* 25 November 2005 p 24. Discusses some of the pitfalls to electronic conveyancing.

**Fougere, C** 'Where does the workplace end? Vicarious liability for sexual harassment' (2005) 43(10) *Law Society Journal* 47. Reviews a recent Federal Court judgment which provides guidance on the extent to which an

employer may be found to be vicariously liable for acts of sexual harassment by one employee against another in a location away from the workplace.

**Frankel, T** *Trust and Honesty: America's Business Culture at a Crossroad* Oxford University Press, New York, 2006. Queries where were trust and honesty in America in the past, and where are they going? Readers are asked if the direction is wrong — what the reader can do about it.

**Gapper, J** 'Britain's lockstep lawyers falling behind in the world salary stakes' *The Australian* 9 December 2005 p 23. Explains how big firms are losing legal talent due to remuneration of partners by the lockstep method.

**Gibbs, K** 'Mega firms in business imitation' (2005) 264 *Lawyers Weekly* 1; 9. Summarises Bret Walker's 'Lawyers and money' speech given to the St James Ethics Centre.

**Gibbs, K** 'Less hellish views in-house' (2005) 265 *Lawyers Weekly* 1; 6. Compares working in a private law firm compared to working inhouse for a corporation.

**Gibbs, K** "'Fatal flaw" in class action case' (2005) 265 *Lawyers Weekly* 8. Reviews the Federal Court decision in *Dorajay Pty Ltd v Aristocrat Leisure Ltd* whereby the plaintiffs lawyers created an 'opt in' process but in the Federal Court, class actions are run on an opt out basis.

**Harpley, K** 'Live simply' (2005) 264 *Lawyers Weekly* 18–19. Looks at developments in document management software.

**Harpley, K** 'What's your motivation' (2005) 265 *Lawyers Weekly* 20–21; 23. Looks at the personal benefits of postgraduate qualifications to career advancement.

**Holloway, P and Betts, J** 'A forethought for malice' (2005) 264 *Lawyers Weekly* 20–21. Looks at how companies should approach crises, such as malicious tampering and product extortion, and

how lawyers should fit into the strategy.

**Kazi, E** 'Kissing corporate ladder goodbye' *Australian Financial Review* 11 November 2005 p 54. Discusses flexible work practices with an example of a woman who works part time from her Melbourne home.

**Lavarch, M** 'Prospects add up as lawyers multiply' *The Australian* 18 November 2005 p 22. Reveals law graduates are getting jobs in a wide variety of fields.

(2005) 79(11) *Law Institute Journal* Workplace Relations Special issue

— **Molnar, C** 'Adapting to change: reforms to the national workplace relations system'

— **Anaf, L and Kollmorgen, S** 'Has unfair dismissal been dismissed?'

— **Millard, S and Harris, P** 'Union rights of entry to the workplace'

— **Saunders, A** 'OHS: are your clients safe?'

— **Branagan, M** 'Eye spy: life under the lens'

— **Knowles, F and Dedes, P** 'When the Schou doesn't fit: implications for discrimination law after *State of Victoria v Schou*'

**Lo Surdo, A** 'In-house counsel privilege: the tests multiply' (2005) 43(10) *Law Society Journal* 61–63. Discusses whether communications are privileged or not depends on the nature of employment of those giving legal advice, and on whether the common law or the *Evidence Act* applies.

**Mason, A** 'Democracy and the law: the state of the Australian political system' (2005) 43(10) *Law Society Journal* 68–71. Looks at civil rights in an era of economic reform and terrorism. Inquires whether we need a Bill of Rights.

**Merritt, C and Robinson, N** 'Minter caring on sharing' *The Australian* 11 November 2005 p 25. Discusses an example of job-sharing in a large national law firm.

**Merritt, C** 'Why flexibility is the new name of the game' *The Australian*

11 November 2005 p 25.

Discusses flexible work practices and the misconceptions surrounding this.

**Merritt, C** 'The lawyer who bit back' *The Australian* 25 November 2005 p 24. Discusses the background of the Australian Corporate Lawyers Association corporate lawyer of the year.

**Merritt, C** 'Joint project in push for e-transfers' *The Australian* 2 December 2005 p 27. Reports on a joint project that is attempting to take conveyancing online.

**Merritt, C** 'Test case "terrifies" conveyancers' *The Australian* 2 December 2005 p 27. Reports on a test case in which the Law Institute is seeking to define how much conveyancing work is reserved exclusively for solicitors.

**Moran, S** 'Restricted access. Access to justice impaired by personal injury regulation' (2005) 43(10) *Law Society Journal* 72–75. Laments that providing information to the public about rights is inhibited in the case involving personal injury advertising.

**Moran, S** 'Companies luring in-house counsel' *Australian Financial Review* 18 November 2005 p 62. Reveals the earnings of legal counsel who are in the top five earners at S&P/ASX 300 companies.

**Morris, C** 'A "mean hard place"? Law students tell it as it is' (2005) 36 *Victoria University of Wellington Law Review* 197–228. Examines a study carried out at Victoria University of Wellington on whether the influx of female law students in the past 10 years has effected any change in how the law school is experienced.

**Mulheron, R** *The Class Action in Common Law Legal Systems: A Comparative Perspective* Oxford; Portland, Or, Hart, 2004. Looks at the class action procedure in the US, Ontario and Australia.

Nagorcka, F; Stanton, M and Wilson, M 'Stranded between partisanship and the truth? A comparative analysis of legal ethics in the adversarial and inquisitorial systems of justice' (2005) 29 *Melbourne University Law Review* 448-77. Looks at the contrast between legal ethics in the adversarial and inquisitorial systems of justice.

(2005) 155(7196) *New Law Journal* Education and training supplement

- Gerlis, S 'So you want to be a judge?'
- Ronel, L 'On the bench'
- Broomer, S 'Time to take a break?'
- Allen, J 'The in-house lawyer'
- Beaven, J 'Qualification: an alternative option'
- Wright, P 'Dog-eat-dog world'
- Jarred, K 'Making an impression'

Northeast, M 'Incorporation of legal practices — getting one to suit' (2005) 79(11) *Law Institute Journal* 50-53. Reveals that legal practitioners are in a more difficult tax environment than their predecessors and those generations of lawyers to come.

Ooi, T 'It's so long, pardner for young recruits' *The Australian* 18 November 2005 p 23. Reports there is a lot more to a legal career than the path to partnership.

Patrick, N 'New manual helps minimise the cost of litigation' (2005) 43(10) *Law Society Journal* 38-39. Looks at a new manual, *The Court and Tribunal Fee Waiver Manual*, available from the Public Interest Law Clearing House, which minimises the cost of litigation.

Priest, M 'Cheap online conveyancing' *Australian Financial Review* 4 November 2005 p 7.

Priest, M 'Corporate privilege at risk' *Australian Financial Review* 11 November 2005 p 55. Discusses concerns about the erosion of legal professional privilege for corporate counsel.

Priest, M 'A new weapon for litigators' *Australian Financial Review* 18 November 2005 p 63. Discusses the likelihood of legal estimates of companies' potential liability in litigation provided to auditors, being subpoenaed by opponents.

Priest, M 'Clayton Utz elevates pro bono to partner' *Australian Financial Review* 25 November 2005 p 58. Reveals a pro bono lawyer is promoted in a national law firm.

Priest, M 'Private dispute system lacks public support' *Australian Financial Review* 25 November 2005 p 19. Discusses moves to shift employer/employee disputes from the Australian Industrial Relations Commission to private, alternative dispute practitioners.

Purcell, J 'For whose eyes only?' (2005) 264 *Lawyers Weekly* 16. Discusses the ACT Court of Appeal decision in *Vance v McCormack* which looked at the *Evidence Act* test concerning legal professional privilege.

Ross, Y 'Profession needs flex on expulsion' *The Australian* 2 December 2005 p 26. Discusses the issue of

whether lawyers with criminal convictions should be allowed to practise.

Schmidt, L 'Clients cross-examine their service providers' *Australian Financial Review* 25 November 2005 p 59. Discusses the trend by some law firm clients for intimate details of the firm's inner workings.

Schmidt, L and Priest, M 'Partnerships: it's the law of the jungle' *Australian Financial Review* 9 December 2005 pp 1; 51. Reveals changes occurring in law firm partnerships and the ways in which some make it to the top.

Schmidtke, J 'US no longer plaintiffs' paradise' *The Australian* 2 December 2005 p 26. Reveals the US has been undergoing tort reforms and it is becoming increasingly difficult for foreign claimants to pursue claims in the US.

Schmidtke, J 'Women go public on ambition' *The Australian* 16 December 2005 p 24. Reveals many women are abandoning partnership ambitions in middle and top-tier law firms to pursue the personal and professional benefits offered in the public service.

Skene, G R 'The extraterritorial operation of Australian e-commerce legislation' (2005) 13 *Tulane Journal of International and Comparative Law* 219-74. ●

Colin Fong,  
Part time Lecturer, Faculty of Law,  
University of New South Wales,  
<c.fong@unsw.edu.au>.

PUBLISHING EDITOR: Kerrie Tarrant BA, MBA MANAGING EDITOR: Helen McKenzie MA PRODUCTION: Christian Harimanow  
SUBSCRIPTION INCLUDES: 10 issues per year plus binder SYDNEY OFFICE: Locked Bag 2222, Chatswood Delivery Centre NSW 2067 Australia  
TELEPHONE: (02) 9422 2222 FACSIMILE: (02) 9422 2404 DX 29590 Chatswood [www.lexisnexis.com.au](http://www.lexisnexis.com.au) [kerrie.tarrant@lexisnexis.com.au](mailto:kerrie.tarrant@lexisnexis.com.au)

ISSN 1445-7946 Print Post Approved PP 255003/05838 Cite as (2006) 5(3) LPM

This newsletter is intended to keep readers abreast of current developments of interest to law practice managers. It is not, however, to be used or relied upon as a substitute for professional advice. Before acting on any matter in the area, readers should discuss matters with their own professional advisers. This publication is copyright. Except as permitted under the *Copyright Act 1968* (Cth), no part of this publication may be reproduced by any process, electronic or otherwise, without the specific written permission of the copyright owner. Neither may information be stored electronically in any form whatsoever without such permission. Inquiries should be addressed to the publishers.

Printed in Australia © 2006 Reed International Books Australia Pty Limited trading as LexisNexis ABN: 70 001 002 357

LexisNexis<sup>®</sup>  
Butterworths