

People, ideas, machines — in that order

A book review of “The Real Deal: Law Firm Leadership That Works”
by Paul Smith and Sally Dyson.

By Patrick Dransfield, In-House Community

Paul Smith in London — photo by Patrick Dransfield

Lawyers generally have an inbuilt scepticism regarding any form of coaching, which imposes a high bar on authors targeting an audience of busy managing partners. The *Real Deal: Law Firm Leadership That Works* by Paul Smith and Sally Dyson vaults over that bar with consummate ease and is an invaluable contribution to the sparse literature surrounding the business of law.

As David Tang, Asia managing partner for K&L Gates, has long maintained, “the law is a mature profession and an immature business”. To bring your own legal practice up to snuff you need to get a copy of this book. The *Real Deal* is a must-read for any managing partner who genuinely wants to lead her firm to greater glory – or to steer it to calmer waters to simply survive. But more than that, the book is important reading for any stakeholder involved in the business of law. To ascertain the viability of a firm, the book should be read by accountants, human resources, marketing and business development professionals, as well as clients (and in-house counsel especially). As the demise of Coudert and also Dewey LeBoeuf testify, the disruption to a major client when a law firm goes down can be very significant indeed.

Taking a lead from Thomson Reuters’ 2018 Report on the state of the US legal market, the book puts firms into two categories: “static firms” and “dynamic firms”. However, the *Real Deal* goes beyond the report to flesh out these definitions and thereby help the reader determine whether their firm is heading for the rocks or likely to survive and

even prosper in the coming decade.

“‘Dynamic’ firms had proactively addressed the needs of their clients by adopting more flexible pricing models, using innovative technologies, having flexible staffing models and implementing improvements in work process,” write Smith and Dyson.

Interestingly, on the question of marketing, dynamic firms increased their marketing and business development costs by 4.8 percent, while static firms increased their marketing costs by just 1.8 percent. Dynamic firms reported increased expenditure on facilitating more client meetings and on coaching lawyers in business development and brand development also. Therefore, a sure sign of your management’s re-arranging of deck chairs on the Titanic is the moment that your firm decides to cut its marketing budget and client-development spend.

So far so good, but analysis of research by Thomson Reuters only gets you so far. Where the book really scores highly in my opinion is the sections marked with Smith and Dyson’s personal perspectives. In these sections, Smith especially establishes the credentials that furnished him with the ability to lead Eversheds Sutherland so successfully and provides often humorous and always straightforward and practical advice for the managing partner faced with any particular dilemma (and every day a managing partner is faced with a particular dilemma). We have asked him to provide an exclusive box-out on the crucial topic of sustainable, profitable growth for Asian-mena Counsel (see below):

Paul’s Perspectives: the exponential growth of Eversheds with an eye on profitability

I left Freshfields and joined a small firm in Leeds with 15 partners, which joined embryonic national firm Eversheds and grew through 65 mergers to become what it is today. I was on the board and latterly chairman for most of this time, guiding the change. In the early days, profitability was poor but it improved by various means. The mergers enabled substantial economies of scale, taking out duplicate services and support functions. The number of equity partners sharing in the profit was reduced considerably over time. This is the key driver of profit per equity partner. We were early adopters of project management and the use of process in handling client matters, billing and reporting, which improved efficiency, client satisfaction and profitability. We also realised early on that the UK market was very competitive and that we needed to grow internationally. I pushed this hard at a time when the firm was not receptive. Most of the growth now comes from the international offices. There was also a concentrated move to reduce the number of clients we acted for and to concentrate on the clients that would be profitable and which would fit in with our strategic aims of greater international coverage and expansion. I also expanded our services, setting up a consulting arm that is now a very profitable part of the business. As chairman I concentrated on what I called the little data, looking at profitability and utilisation across the firm to get deep information on comparative performance between practice groups and teams. Monitoring cash flow daily and input of hours worked is key. The basic disciplines of billing the work and collecting the cash as soon as possible is fundamental. Double counting is an issue. Practice groups that are client focused and sector groups will claim the same revenue. This also applies with global clients where credit is claimed for the same revenue by various offices.

An example from the book of Paul's Perspectives relate to a previous chief executive of Eversheds, David Gray, and the manner by which even as early as 2006 he established the ground work and strategy that enabled Eversheds to grow from its northern England origins to a billion dollar business with 69 offices in 34 countries. The example holds some very valuable perspectives – especially for some of the major regional law firms in China as they contemplate local and international expansion. These perspectives include:

1. A clear goal: “making Eversheds the most client-centred international law firm”;
2. Consultation with stakeholders to agree a set of values;
3. Consistency in the implementation of those values; the key words of which included: client-focused; straightforward; team work; mutual respect; accountability; and continual improvement;
4. Implementation through a “vision and value committee”;
5. A profitability scheme that tied adherence to the Eversheds values to financial rewards; and
6. Zero tolerance for ‘un-Eversheds’ behaviour such as unnecessary rudeness.

Gray was not creating a firm of clone warriors however. As a successful managing partner he recognised the need to balance the majority of conservative souls within a law firm with the self-confessed mavericks such as Smith, who by the nature of law and successful client relationships (and material reward) are drawn to the profession. Balancing the dynamic relationship between the core and the outliers within the firm is the magic sauce that managing partners need to attempt to conjure. When the mavericks take over the asylum, the firm can very quickly spiral out of control. Examples of this are legion, and if one wanted to read an exhaustive (and exhausting) case study, then look no further than the New Yorker account of the demise of Dewey Leboeuf (“The Collapse – How a top legal firm destroyed itself”, by James Stewart, October 2013).

I had always assumed that Eversheds was shaped by the Tyco experience as recorded in two books by the EMEA general counsel, Trevor Faure. Reading Smith's account, I learned that Gray enshrined the principle of continuous improvement at Eversheds in 2006 – several years before the Tyco mandate. This was something of a revelation to me. Evidently, Gray had the qualities that make a great leader and proved a great mentor to Smith.



Paul Smith in London — photo by Patrick Dransfield

Smith and Dyson conclude that what makes a great law firm leader is the same as what makes any great management leader. It is just that, as most law firm leaders are lawyers, they invariably have a number of inherent character traits to overcome to get to that promised land. The key components of an emotionally intelligent leader are self-awareness, self-management, empathy and social skills. Based on the work of Jim Kouzes and Barry Posner of Santa Clara University, Smith and Dyson translate this into a few tips for effective law firm leadership:

- Set a good example;
- Inspire a shared vision to evoke an emotional response;
- Take risks and learn from mistakes;
- Enable others by fostering collaboration, building

- a climate of trust, cementing relationships and removing obstacles; and
- Show respect and offer appropriate reward.

The general characteristics of lawyers as defined by Dyson and Smith also has validity as, of course, they are both lawyers themselves. These characteristics certainly ring true to me: during an over-ambitious training session for the entire partnership of one law firm (more than 500), the valiant trainer wrote the word ‘Empathy’ on the projected board and at least a quarter of those present wrote the word down as though it was an alien concept. Drawing on the work of Larry Richard, Smith and Dyson note that the general characteristics of lawyers are:

- Scepticism;
- Task-focused rather than people focused;
- Intolerance of any form of bureaucracy;
- Low in psychological resilience;
- ‘Needy’ for feedback and validation; and
- Likely to repeat behaviour that created previous success, no matter how inappropriate to present situation.

I have to admit that when scanning the list of chapters my eye was immediately drawn to the chapter titled Disasters – with subheadings such as Under Attack and Lessons From The Fallen – and naturally read this chapter first. What emerged from these pages is rather different from the prevailing doom and gloom peddled by non-managing partner legal media pundits (mea culpa, such as myself) and is a testament to the wide scope, unprejudiced and refreshing perspective of Smith and Dyson. For example, the high-street solicitors of England and Wales, far from being in terminal decline, are thriving.

Reading the Preface last, it was interesting for me personally to consider that the book was inspired by Richard Susskind. And as it was the In-House Community that brought Smith and Susskind together in 2014 on the Macau ferry heading towards our executive lawyers’ retreat, we can lay claim to some credit ourselves. Many partners in the industry, with the casual arrogance of not having bent the spine of any of Susskind’s books, have labelled him as a prophet of doom. Interesting then that Smith is on the whole very optimistic for the general prospects of the law firm model. Why? In my opinion this is not just the Pollyanna mixture of optimism and madness essential in the make-up of any prospective and ex-managing partner (only the mad would want to do this job, anyway). Smith’s optimism is born of real

and practical experience. He quite correctly parses the partnership structure from the billable hour. One is sustainable, the other (apart from perhaps North America) surely not.

According to Thomson Reuters Peer Monitor there is an annual 10 percent differential between ‘worked’ and ‘collected’ billable time and shows, according to Faure in his book Smarter Law, “increasing client pushback to rate increases and suggests that realisation rates must be declining”. For “static” firms whose only solution to the profitability conundrum is to increase their hourly rates annually, the future is in my opinion bleak indeed.

As the book ably points out, the actual business of law is quite simple and “managing cash flow is the key to financial success ensuring that there is money there to meet liabilities as they arise”. Smith and Dyson observe that it is “surprising how many law firm leaders have a limited understanding of law firm economics”. Perhaps it is less surprising that multinational clients are more attuned and keenly focused on the bottom line, especially as procurement departments are becoming more involved in both the assessment of pricing of legal services, and also the process by which external law firms are hired. Truly international law firm billing rates are a relatively new phenomena and a growing trend to watch will be how multinational companies look at the macro trends of billing. Discounts and fixed fees that were wrangled from the emerging market offices of international law firms are increasingly being re-exported to home cities in the US, for example. Therefore, a consistent and seamless approach to global billing is likely to move from being the exception to becoming the rule. As Eversheds Sutherland has been a pioneer in the internationalisation of client billing, the practical advice provided by The Real Deal is important for future-proofing the international law firm.

On the crucial area of law firm governance, The Real Deal’s practical and level-headed approach really rings true. Defining the business of a law firm in relatively simple terms and talking about viable margins of profitability, Smith and Dyson provide practical pointers to the everyday headaches that besiege managing partners. Some of these are merely irritating but others can potentially destroy the whole firm.

“Not hiring jerks” should be a mantra placed firmly above every managing partner’s head and is quoted in one of the early chapters. After all, why add to your headaches by importing in another psychopath? But what to do about the jerks that you

already have working within the firm? The experience of Dewey LeBoeuf's former chairman Steven Davis boils down to his deteriorating relationship with 10 super jerks as he sold the firm's considerable silver to keep them temporarily satisfied. If you are indeed looking for an array of solutions to this perennial problem, I urge you to buy a copy of the book and find out. My experience of working within law firms tallies with Smith and Dyson in that they are not, nor should they be, democratic institutions. Indeed, the nearest that I have come to regarding precedents for running a law firm previous to *The Real Deal* comes from Mao Tse Tung and his musings on democratic centralism: "Education in democracy must be carried on within the Party so that members can understand the meaning of democratic life, the meaning of the relationship between democracy and centralism, and the way in which democratic centralism should be put into practice. Only in this way can we really extend democracy within the Party and at the same time avoid ultra-democracy and the laissez-faire that destroys discipline."

The brass plate on the door may be uniform, but the structures of governance that lie behind it are myriad. They range from the sole (usually male) boss – the (one hopes) enlightened and virtuous emperor, to firms run by quite large executive committees. But curiously, very little has been written about law firm governance, so Smith and Dyson's contribution is invaluable.

"Managing partners are well aware that they lead by the consent of their partners and are accountable to those partners and that edicts issued from on high are likely to be ignored if insufficient preparatory groundwork has been undertaken," they write.

Apart from providing an almost blueprint definition of Mao's democratic centralism, Smith and Dyson provide a principal that should be tacked above the heads of even the most dictatorial of managing partners, as even in the most compliant of institutions partners can and often do vote with their feet. The question of what constitutes a partner is another question – it seems to be a given in the book that a partner is an equity partner and therefore by definition has a monetary stake in the law firm. Actually, business cards can be misleading and the term "partner" can mean anything from equity partner to local partner (having no stake in the law firm so not really a partner at all). One very large firm's managing partner has individual employment contracts with each senior lawyer in the firm, which is a situation that goes beyond definition. The whole question gets fudged to the

point of mendacity for the benefit of those AmLaw 100 tables of course – a metric that obsessed Dewey LeBoeuf's Davis, for one. An increasing problem for firms that promise an international full service is the disparity between the value ascribed by clients to litigation to that ascribed to employment, for example. On a lock-step basis, this may prove unsustainable – at least for the top earners – for firms in excess of 150 partners. Being clear about who you are and what you deliver is therefore essential for the managing partner to grasp if the firm is going to survive and prosper.

Expert witnesses

The book also features box-outs where Smith and Dyson open up to other experts to share their insights. These can be partners, managing partners and other professionals in the field of legal business. One of the most useful is taken from a headhunter who goes into some detail regarding the best way to set about hiring lateral partners. Remembering the maxim 'don't hire jerks' that opens the chapter, the box-out systematically explores the mistakes associated with such lateral hires and sets out some useful tips on how to bring in new talent without upsetting the fabric of the firm. As most law firms are very poor at correctly evaluating the value-add and potential cultural misfit of lateral partners, this section alone is worth the price of the book.

In conclusion, the Eversheds Sutherland mission of putting the client first was surely right and accords with management guru Peter Drucker's analysis of a viable business model. However, equally important in Evershed-Sutherland's continuing success (and also a tenet of Drucker's) is the laser-like focus on cash flow and profitability – an area that allows for no complacency but a lesson for us all. Watching out for hubris, and not believing too much in the legal media's rankings, is also an important criteria for continuing success. Don't believe your own press!



The Real Deal: Law Firm Leadership that Works by Paul Smith and Sally Dyson is published by Sweet & Maxwell and is available to order online at www.sweetandmaxwell.co.uk.