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SEIZE THE FUTURE

By Gary A. Munneke

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CRITICAL CONCEPTS FOR SUCCESS IN LAW PRACTICES OF THE FUTURE

During November 4-6, 1999, over 100 lawyers gathered at the Biltmore Resort in Phoenix, Arizona, to contemplate the future of the legal profession at the second Seize the Future conference, sponsored by the ABA Law Practice Management Section and Lotus Development Corporation (now a division of IBM). Seize the Future I in 1997 stimulated participants to continue their exploration of trends in the profession through a follow-up conference.

Leadoff speaker Tom Peters (author of In Search of Excellence and, more recently, Circle of Innovation) dramatically chronicled the waves of change that have swept over the business world. Peters asked participants what they would do if they knew that they were in the midst of a one-in-10,000-year sea change in human existence. In such a world, incremental improvement (something Peters championed in In Search of Excellence) would be of little value; in such a world real innovation would be worth much more.

Innovation derives from wild, crazy ideas that are out of the mainstream. ("Do you want your epitaph to read 'Joe Jones 1936-1999. I would've done some cool stuff, but the boss wouldn't let me'"? Peters asked.) For professional services firms, such as law firms, the problems are immediate. The commoditization and globalization of white collar work will result in a loss of 90 percent of the jobs in America over the next decade, Peters suggested. "Say 'No' to commodity." Create unique value for clients. Look to the Internet: e-commerce is here to stay. Talent is the name of the game. Be willing to risk fantastic failure over mediocre success. In the end, however, Peters opined that "It is a great time to be a lawyer. We have to remake all the rules."

Futurist Peter Bishop, Professor of Human Sciences at the University of Houston--Clear Lake, led a panel discussion with Lotus General Counsel Melinda Brown and Former LPMS Chair Charlie Robinson. Bishop called on participants to ask themselves what they would take back from the conference and what they would do about what they had learned. Brown talked about the need to reinvent the legal service organization by focusing on creative solutions, client service and technology. The new-age firm, she said, will be alert, quick and responsive. Robinson focused on Peters' presentation and asked whether we have the will to reinvent ourselves. The panel discussion also raised questions about the continued vitality of our system of legal education in a world where talent is migrating from law firm to in-house to information services. On the issue of client service, panelists noted that in an "experience economy," lawyers need to do more than meet clients' expectations — they need to create a wildly exciting client experience.

John Landry, vice president of IBM, whose work focuses on ".com businesses," presented a tour de force analysis of e-commerce. Landry boldly announced that the Internet is here to stay as a commercial vehicle, and that it will grow dramatically as cable capabilities (bandwidth) increase.

New e-markets may be either seller- or buyer-driven, but the impact of access to products on-line is commoditization. If a buyer can track all outlets offering the same product simultaneously, no vendor has the upper hand in terms of making the sale. The only thing that matters is price. A variety of Net services now and in the future will help consumers get the best deals on commodities. Competitive differentiation will come from system factors such as user-friendliness, intuitiveness and security.

One major outgrowth of e-commerce, Landry said, will be "disintermediation" — taking out the middle man. If products can be bought and sold in cyberspace, then the agent in the middle (who takes a cut of the action) is no

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longer necessary. Look at stock brokers, travel agents, insurance agents, computer and bookstores, auto dealers. What other businesses are likely targets of disintermediation? Legal services. Traditional intermediaries will be replaced by "infomediaries" whose skill will be navigating the web. As web competition drives down prices and profits, sellers will turn to e-bundling of products and services to hold on to their customers.

Another panel comprised of Seth Earley, president of technical consultants Earley & Associates; Carl Liggio, general counsel and chief financial officer of Tempico, Inc.; and Mike Harnish, chief information officer of Dickenson Wright, PLLC, described the practical side of technology application for law firms. Earley noted that lawyers spend too much time on "administratrivia" and that outdated technology is often a barrier to change.

To illustrate this point, he demonstrated the Notes-based system developed by the Dickenson, Wright law firm in Detroit. The GUI (graphical user interface) allows users easy access (from any place connected to the Internet) into all firm administrative systems, as well as limited access to substantive practice systems. Earley also showed how a loan origination form in the system was sent directly to clients, reducing processing headaches, speeding up the service and dramatically increasing the firm's business.

Law firms must change, asserted Liggio, a general counsel and founding member of the American Corporate Counsel Association, and they must develop a client-centric approach to practice because clients are calling the shots. Since anybody, anywhere with a legal problem will be able to access any lawyer with expertise, clients will no longer be tied to existing law firm relationships. Harnish offered a prescription of sorts for law firms (the business of the profession): work anywhere, any time ("24/7"); make technology disappear; reinvent yourself as a value agent; integrate yourself with clients' businesses. Harnish concluded that if we do not do this, then someone else will. Why shouldn't it be us?

Professor Gary Hamel of the Harvard Business School specializes in the process of change. Hamel suggested that despite dramatic change, most companies are not ready for the revolution. Our companies are on an efficiency death march, with people going to work in white collar factories. The call to "brand yourself" is great in Palo Alto, but not so meaningful in Moline. But today, change is occurring so rapidly that anyone who does not address the issues now will be left behind. Heritage and legacy no longer equal opportunity, but workers in many organizations cannot dream of a better life.

Law firms, Hamel noted, are not immune from these tendencies, living in the age of opportunity but unable to prevent PriceWaterhouseCoopers from becoming the third-largest law firm in the world.

The threat today is not inefficiency, but irrelevancy. Insurance agents deluded themselves into thinking that in-

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surance is such a complex field that people need an agent to make decisions; in fact, a rapidly increasing number of consumers are buying their policies on-line or by phone. What makes lawyers think that they are any different? If law firms look at the future through the eyes of "legacy" — assuming that the future will continue the past — they will be lost. Who is driving the transformation agenda in the legal profession? Who is making the 21st century for lawyers? What are the basic first principles on which the legal profession rests?

For Hamel, strategic innovation is the key: new wealth is created by big, new ideas. Lawyers must envision how the practice of law must change to take advantage of a rapidly changing world. It is essential to build foresight: listen to revolutionaries and new voices, challenge orthodoxies, exploit discontinuities, unleash core competencies, work customer-backwards, find a cause, and be willing to experiment.

Lawyers, Hamel opined, do not sell law; they sell solutions. For lawyers to succeed in the next century, they will have to focus on two things: innovation and relationship. Today, there is more complexity, there are more disputes, and there are more people drowning. Lawyers can help.

Hamel concluded by observing that there is a paradox between the time spent getting better and the time spent looking at the future. We must, he argued, spend some of our energy controlling destiny. If we do not, we will lose control of our lives and our profession.

A panel of Mark Maraia and Mark Powers, both lawyer coaches, described the work of coaching as something between consulting and counseling. A lawyer coach works with an individual lawyer over an extended period of time to improve professional performance and to get control of the lawyer's career and life. Both speakers claimed that these methods work to bring balanced lives to lawyers in these challenging times.

Roberta Katz, former general counsel of Netscape and now CEO of Technology Network, a Silicon Valley lobbying group, spoke over lunch about her book Justice Matters, which raises serious questions about the future of the justice system in our changing times. Katz argues that the present justice system is based upon and grew out of an industrial society. It is not geared for the evolving complex problems of today or the future. Yet, she fears, if the system does not work, it will feed the real revolution — a break-

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down of civilized society itself. And right now it isn't working. Information flowing through the system threatens to overwhelm it, parties manipulate the justice process; in the civil arena, they opt out of the system (through ADR and sealed settlements, for example); they disrespect the system.

The solution, according to Katz, is to adapt courts to the new realities using technology to manage information and processes, rather than letting information impede justice. Lawyers should see themselves as solution-enhancers, rather than problem-solvers. The adversarial market is a liability; we need to stop teaching students that problems are win-lose. Lawyers need to take responsibility for changing the system. The future of the profession — and the world — depends on it.

The final speaker of the conference was a courageous Barry Melancon, CEO of the American Institute of Certified Public Accountants (AICPA), who faced an audience of lawyers seemingly at odds with his profession. Both our professions face common challenges, Melancon began. Lawyers and CPAs both are in the throes of monumental change. What the AICPA did was to invest in the future by creating "The CPA Vision." Committing $20 million to the project, and using an independent research firm to produce it, the AICPA was able to develop a professional vision, and communicate that vision to all members through a CD-ROM and to clients through a sophisticated television ad campaign. The vision says simply that CPAs help people to solve complex business problems, and that they bring together teams of professionals in order to perform this work effectively.

As a result of this effort, the CPA profession is becoming more market-driven. While holding onto and regulating its core audit business, CPAs will find it easier to develop broader professional services in an unregulated environment. The AICPA recognizes that the future success of the profession relies on public perceptions of CPAs and their role. For individual CPAs, specialization is critical. The profession as a whole reaffirmed its core values (competence, integrity, objectivity, continuing education) through the vision process. These core values lead logically to practice competencies and client services.

Melancon pointed out that information is disseminated on a value chain of complexity (with clients willing to pay more for more complex information). The AICPA strategy, it follows, is to work at higher levels of the value chain. It has not been easy sailing. Just as in law, there is considerable, entrenched resistance to change. But the Vision has served as a catalyst for many CPAs and professional service firms.

The final session of the conference was a Town Hall discussion moderated by Bill Cobb. Attendees expressed amazement at the amount of information they had absorbed at the conference. One speaker questioned whether the ABA could ever gain the resolve to take on the future as the AICPA had. Another commentator noted that our system of legal education does not equip lawyers to lead the profession into the future. In a final exercise, the participants met with a buddy to commit to a next step after returning from Phoenix.

Cobb wrapped up the session with his own impression of the change process in the law firm or organization to which participants would return: recognize the urgency, seek a core coalition to support change in your organization, find a clear vision of the future, communicate to clients and the organization a definite course of action, provide short term wins (with no victory celebrations when they come), and weave the organization into the fabric of the future.

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