

# LM LEGAL MANAGEMENT LM

## #MeToo

### AND ITS **Impact** ON THE Legal Industry

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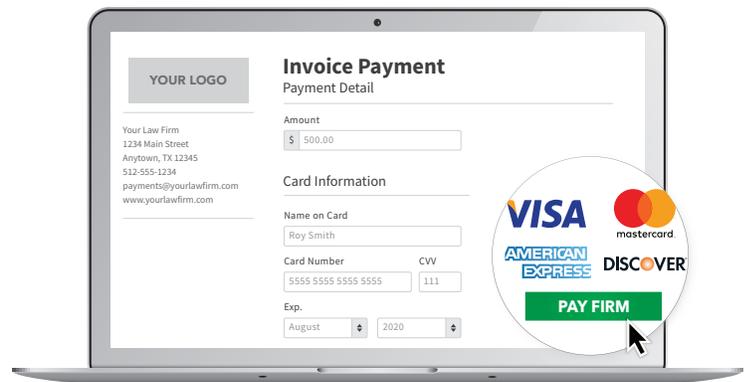
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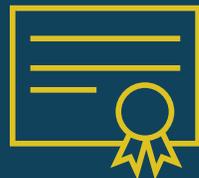
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## CONTINUING EDUCATION



Handling trust accounts is a complex process. This course outlines best practices for proper use.

**15** | CONTINUING EDUCATION COURSE



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**Welcome to the second edition of the annual print version of *Legal Management* magazine!** We started this endeavor last summer, with the goal of showcasing some of the best content that you might have missed in our digital version.

This year, I'm pleased to report that with the exception of the continuing education (CE) course on trust accounts (which you can take and earn one credit hour for!), all the content you see in this issue was written just for this issue. We hope you enjoy the "bonus" content and that you find an article or two that helps you improve your skills as a legal management professional.

Back in the first phase of our strategic plan (2013-2016), one of the goals was to move from a print version of *Legal Management* into a digital one. Like any change, this transition caused a few hiccups along the way. However, we stuck with this decision, knowing that going digital would enable us to bring you more content, while also allowing us to easily share it with a wider audience, further pushing us out into the legal conscious as an industry thought-leader.

Additionally, we kept making improvements to *legalmanagement.org*, and I'm happy to report the efforts are paying off. We are experiencing the highest traffic to our *Legal Management* webpages that we've had since we relaunched it in 2015. Our page views for our March issue were nearly 7,000. In our April issue, we had 10 advertisers, which was also a record for the digital edition. Last year when we opened access to the current issue, our goal was to reach a broader audience by sharing content on social media. As I write this column in mid-May, last week's Twitter impressions for @LegalMgmt were nearly 1,200. We are hitting that goal of bringing awareness of our Association and enhancing our thought leadership in doing so. Also, for those who still prefer a paper copy, we created a fully designed PDF that you can print! (We average 300 downloads an issue.)

It's a good reminder as we try to be agents of change in our own firms. It's not always easy and there will undoubtedly be challenges, but in the end, pushing our firms in a direction that might bring a bit of discomfort elevates us all.

Speaking of strategic goals, one of ours for 2017-2020 is to advance professional development. As such, we're striving to keep bringing you more ways to earn CE credit by providing you with CE courses in *Legal Management*. For just \$49, members can take a 10-question test and earn one credit hour. The one featured in this issue is all about trust accounts.

We hope you enjoy the content we've provided in this issue! As always, we welcome your feedback on our strategic plan and goals. Please feel free to reach out to me or any other board members.

Enjoy the issue!



# The Identity Theft Risk to Your Law Firm

by James Harrison, Founder and Chief Executive Officer, INVISUS

**Most attorneys and legal management professionals are well aware of the identity theft epidemic.** What they may not be sufficiently aware of is the risk to employees, partners and the firm itself. Business identity theft is big business for identity thieves — and it costs businesses billions every year in damages and lost productivity. Here's what you need to know.

## **YOUR FIRM ITSELF IS AT RISK**

Criminals use Federal Employer Identification Numbers (EINs) and other publicly available information about businesses to open new lines of credit, mirror electronic payroll runs, redirect electronic funds transfers (EFTs), create bogus W-2 employee filings, and file fraudulent business tax returns.

Business identity theft is one of the fastest areas of growth in white-collar crime today. In July 2017, the IRS reported a 250 percent jump in business identity theft cases compared to the year before, with damages skyrocketing to \$137 million during the six-month period.

A stolen business identity with a trail of fraud and crime can quickly destroy a company's reputation, credit rating and financial well-being. The risk here to your firm is no different than any other company. If your firm currently does not have a business identity theft protection plan, you should seriously consider it.

## **PARTNERS, STAKEHOLDERS ARE TARGETED**

Your firm's partners and other key stakeholders or executives are at risk of having their personal information used to commit

“As many as one in four people are currently dealing with banking, medical, tax return, Social Security, criminal record or other types of identity theft. This means 25 percent of your current staff is likely suffering with the financial, emotional and mental stress that comes with this crime.”

business fraud in your firm's name. Fraudsters can use a partner's or stakeholder's personal information to establish bogus credit accounts and act as a signatory or guarantor on leases, equipment purchases, investments, bank transfers and more — all big dollar business transactions that have the potential to hurt your firm.

When a business owner's or stakeholder's identity is stolen, it creates a direct risk to the business. These individuals need specialized protection against identity theft that includes coverage for business fraud. It is important to note that typical consumer identity theft protection plans do not cover business identity fraud problems.

#### 1 IN 4 EMPLOYEES AFFECTED BY IDENTITY FRAUD

With the recent Equifax data breach alone, 147 million Americans had their Social Security number, date of birth, credit profile and other personal information exposed to the criminal underworld. Add to that the more than 15 million Americans who actually reported becoming victims of identity fraud in 2017 before the Equifax breach, and that means virtually all adults in the United States were impacted and could become victims of identity theft at some point in the future.

Several reports indicate that as many as one in four people are currently dealing with banking, medical, tax return, Social Security, criminal record or other types of identity theft. This means 25 percent of your current staff is likely suffering with the financial, emotional and mental stress that comes with this crime. Without proper monitoring and expert recovery help, the identity theft victim will spend seemingly endless hours and thousands of dollars fighting to defend her identity and clear her name.

#### PROTECT THE FIRM BY PROTECTING YOUR EMPLOYEES

An attorney or staff member who becomes a victim of identity theft can put the whole firm at risk. Today's cybercriminal can quickly leap from an individual to their family and then to their employer. Employees who are suffering from cybercrime and identity fraud at home can be a back door for the criminal into a much larger payday: your firm and your clients.

With so many people working from home and on the road and connecting through computers, smartphones and social media,

protecting your employees is a smart layer of defense against the growing identity theft and cybercrime problem facing all businesses.

Data breaches, cybercrime and identity fraud are not going away anytime soon. Employers have begun offering identity protection to all personnel as an inexpensive way to protect the business — and as a hot new employee benefit. This employee perk has quickly become a part of the core benefits offered by businesses to provide security and peace of mind to current personnel. It's also become a great way to help attract and retain the best and brightest talent.

To protect your business, align your firm with a professional identity theft protection service that provides business entity coverage, specialized coverage for business owners and officers, and a solid employee benefit plan. In addition to robust monitoring and identity restoration services, be sure to look for programs that provide social media monitoring, and computer and mobile device security protections that round out a balanced identity theft protection strategy for your people and your business. 🛡️



#### ABOUT THE AUTHOR

*James Harrison is the Founder and Chief Executive Officer of INVISUS. He is the market strategist and product visionary for INVISUS, responsible for the development of the company's identity theft, cybercrime, and information security compliance product lineup. As an industry expert, Harrison regularly speaks and trains at various industry and trade conferences including recent national conferences for ALA. INVISUS has partnered with ALA VIP<sup>SM</sup> Cyber Risk Management Business Partner BreachPro to provide ALA member firms access to the iDefend and InfoSafe programs.*

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# The “I” Word Almost All Law Firms Fear: Innovation

But being truly innovative requires a firmwide effort and adaptation — and it’s an area where many firms lag behind.

*by Teresa J. Walker, Law Firm Management Guru, Waller Lansden Dortch & Davis, LLP*

**Let’s face it: innovation is hard, time-consuming work.** And in our field, it can cause trepidation because it requires investment of resources, including people who devote their working hours to looking for problems — related to how we conduct and deliver legal services — in need of solving. And any kind of additional investment can be a hard slog for law firm leaders to make a financial priority.

But being truly innovative requires a firmwide effort and adaptation — and it’s an area where many firms lag behind.

Altman Weil’s 2017 Law Firms in Transition Survey reported that, of the 386 participating firms of 50 attorneys or more, 64 percent are totally unaware of what’s going on with artificial

intelligence, machine learning and cognitive computing work within our industry. So much of this has the potential to impact our firms, and firms that are ignoring these trends risk being left behind as clients demand efficiency.

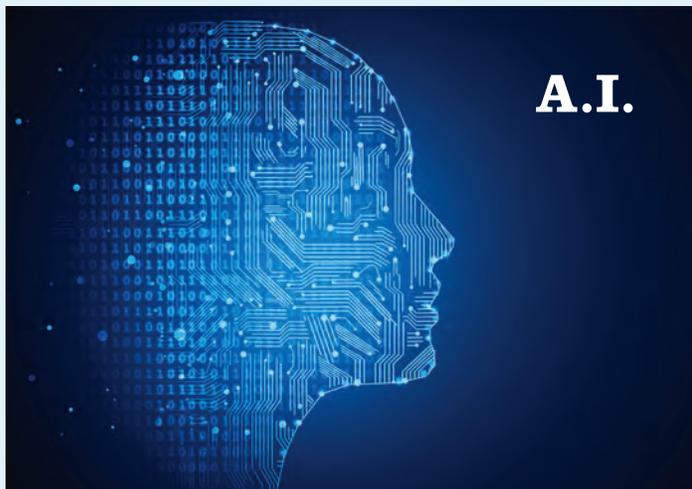
When most think innovation, they equate it with technology. However, this limits our understanding of what really defines innovation. For this brief read, we’re going to focus on a variety of newer technologies that have been or will soon be pushing their way into the law firm and legal operations arenas. Following is an overview of innovations that have arrived — as well as one that has the potential to impact our firms.

““ Of the 386 firms of 50 attorneys or more responding to the survey, 64 percent are totally unaware of what’s going on with artificial intelligence, machine learning and cognitive computing work within our industry.””

**THE AI IMPACT**

You’re likely aware of artificial intelligence (AI). These systems are designed to simulate human intelligence, and they are often used for such tasks as speech recognition (Alexa, Siri); creating expert partners (IBM Watson, ROSS Intelligence and Eva, ROSS’s newer, free product); data analytics (Kira Systems, LawGeex); and back-office automation (Blue Prism). The more data AI products process, the “smarter” they become.

Firms are not only using AI to deliver legal services to clients but also, in some instances, to serve as client-facing applications, such as Littler’s Healthcare Reform Advisor 5.0 or Akerman’s data breach expert system — a 24/7 service that leads clients through questions to produce detailed, documented answers. Others, such as Lex Machina’s Legal Analytics Platform, use predictive coding to generate data that can be used for all sorts of analyses, such as predicting opposing counsel’s likelihood of winning or losing a case.



**BLOCKCHAIN: DON’T STOP READING, PLEASE!**

First, blockchain is not a cryptocurrency like Bitcoin, Ethereum or any of more than a thousand other digital currencies that are creating a new economy of sorts luring risk takers. While in the future there may be some real uses for cryptos in the legal industry — buying/selling real estate, for example — we’ll save that discussion for another day. The financial services industry and the Securities and Exchange Commission (SEC) are all over it for now.

A relatively new platform, blockchain allows digital data to be distributed across a network so that all parties have an exact copy stored in a database (or ledger) that’s only accessible through very secure methods. For the purposes of this article, the terms blockchain and distributed ledger technology are used interchangeably. It uses a complex algorithm-solving process called hashing that creates data that cannot be changed in any way once it is deemed valid through consensus of all the network participants. Once it’s approved, a new block containing the hashed data is added to the last block on the chain, creating immutable blocks of data that are linked together into an endless chain of validated data — hence the term blockchain. Any attempt to change the data contained in a block would require that the entire hashing process start over, which would create a new block of data. In other words, you can’t “save it as a new version,” as we love to do in the legal industry.

There are **public blockchains** — such as Bitcoin and Ethereum — where anyone can participate in the network by downloading the necessary software, doing the work to create and approve new blocks, and seeing what happens next.

In some industries — particularly financial — various networks of participants have formed consortiums to create **private blockchains**. Because private blockchains are created by groups

who know and trust one another, they are able to operate much faster. Also, permission to access various info on the chain can be granted or denied. Private blockchains typically require much less time to get approval (or consensus) to create a new block on their chains; it takes many times less than a millisecond as opposed to minutes on some public blockchains. A good example of a private blockchain is Corda, which was created by the R3 consortium — besides the R3 technology firm, its members include 80 of the world’s largest banks.

A number of initiatives are underway through consortiums to develop standards for creating a blockchain in the legal industry, including the Global Legal Blockchain Consortium (ALA was the first Association to join), created by Integra Inc., and the Accord Project, created by Clause.io, Monax and Clio. Several law firms are participating in these initiatives to define standards that dictate how applications can be built to make use of a blockchain’s speed, security and features. One such application could be smart contracts. Smart contracts combine legal contractual requirements with software technology to create self-executing contracts. The Ethereum blockchain platform has the ability to run smart contracts.



**QUANTUM COMPUTING — NOT THAT FAR-FETCHED**

Quantum computing has the potential to disrupt a bit of everything, including what law firms do and their clients’ businesses. Who knows if it will develop as quickly as needed to manage the amount of digital data being created around the world each second.

According to Big Data Facts reported by *AnalyticsWeek* in March 2017, by 2020, data is projected to grow at a rate of 1.7 megabytes of *new* information every second for every human on the planet. Google already uses distributed computing every day to involve

“By 2020, data is projected to grow at a rate of 1.7 megabytes of new information every second for every human on the planet.”

about 1,000 computers to answer a single search query in about 0.2 seconds. As data grows, more computing power will be required. The processing components making up today’s computers are just about as small and as fast as we can create.

The theory of quantum computing is not new, but the work of moving from theory to reality has been underway for a few years. Quantum computing uses the laws of physics to create computing power. Instead of bits and bytes of data that today’s computers process, quantum computing will process qubits (quantum bits, or units of quantum information) of data stored on atoms.

I know this likely sounds far-fetched, but in the United States alone, researchers and scientists at MIT, Microsoft and Google — to name a few — are already deep into this work and developing products that may make quantum computing possible. Google announced early in 2018 the development of a processing array that handles 72 qubits of data. And who knows what our friends in China, Russia and other technologically advanced countries are working on.

Needless to say, it’s easy to see how quantum computing could accelerate the use of blockchain technology. With AI and blockchain already being developed and utilized in our industry, it may be that the reality of quantum computing will be the next technology to change our industry in the years and decades ahead. And I’m betting it won’t take decades. 🙄



**ABOUT THE AUTHOR**

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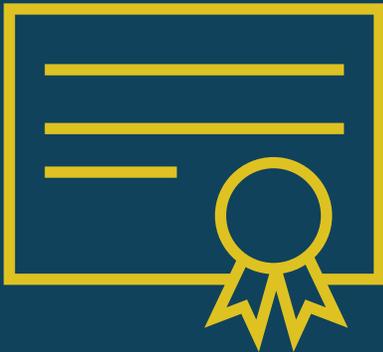
# How to Ethically Oversee Trust Accounts

This CE course will provide an overview of what your firm needs to know about the trust accounting process.

*by Richard Dippel, JD, MBA, CPA*

*Associate Professor of Accounting, George Herbert Walker School of Business and Technology*





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### **COURSE DESCRIPTION**

This course is intended to acquaint legal management professionals and staff with the proper use of trust accounts.

### **COURSE OBJECTIVES**

- Identify governing authorities for law firm trust accounts.
- Examine the type and function of trust accounts.
- Outline the trust account processes.
- Explain trust account records and retention.
- Summarize monthly trial balances and quarterly reconciliations.
- Discuss internal controls and separation of duties.
- Identify warning signs of improper trust account activities.
- Review procedure for handling disputed funds.
- Review procedures upon sale or dissolution of firm.

Guided by the *American Bar Association (ABA) Model Rules*, this overview outlines proper processes, recordkeeping and internal controls that involve law office personnel and trust accounts. Since lawyers are licensed by the individual states, they are required to follow the rules of the state in which they are licensed, including those rules that apply to the use of trust accounts.

When looking for guidance on how to handle a particular situation, review the applicable state law, but since many states use the *ABA Model Rules* as guidance in creating their state rules, in many cases, the rules will be the same. Where state law is unclear, the *ABA Model Rules* may help in choosing a course of action. However, it is state law and the courts in the particular state that will make the ultimate determination in the handling of trust account issues.

### THE FUNCTIONING OF TRUST ACCOUNTS

Lawyers have a fiduciary responsibility to safeguard the property of their clients, and trust accounts are a means to accomplish this. Law firm managers and staff are important elements to ensure that this responsibility is not breached.

Trust accounts must be kept separate from the operating accounts of the firm to ensure against the accidental use or intentional misuse of client funds. To use a single account for client funds and the general operation of the law firm requires tracking each individual client's funds — revenue, and expenses of the firm, loans, payroll and equity distributions. To attempt to account for those numerous activities with a single account adds several layers of complexity, and invites the misuse of client funds. At the very least, this creates the appearance of impropriety and subjects the lawyer to disciplinary proceedings and possible disbarment. The lawyer, the legal management professional and/or staff member may also be subject to civil and/or criminal liability. Client funds are never to be treated as if they are the funds of the law firm.

There are ordinary trust accounts and what are known as Interest on Lawyers Trust Accounts (IOLTA) trust accounts. An ordinary trust account is a separate bank account with its own separate set of accounting records and identified as a client trust account. An IOLTA account is like an ordinary trust account except that — at no cost to lawyers or their clients — interest from trust accounts is pooled to provide civil legal aid and to support improvements to the justice system.

If there is a large amount of interest, then such interest is paid to the client.

What is considered “large” is a matter of professional judgment. All 50 states, the District of Columbia and the U.S. Virgin Islands have an IOLTA program. Forty-four jurisdictions have mandatory IOLTA programs (requiring attorneys to participate), while six jurisdictions maintain opt out IOLTA programs; participation is voluntary in two other jurisdictions. If an IOLTA account is overdrawn, in some jurisdictions, the bank must report this situation to the appropriate state lawyer licensing authority. It is critical to maintain adequate account oversight to ensure proper recordkeeping and to avoid against overdrawing the account in an ordinary trust account. But with an IOLTA account, the consequences are relatively immediate and unforgiving.

### TRUST ACCOUNT PROCESSES

Upon the creation of a trust account, the lawyer or a person under the direct supervision of the lawyer shall be an authorized signatory or authorize transfers from a client trust account. The best situation is to have only the lawyer as the signatory because it is ultimately the lawyer's responsibility, but depending on the size of the firm, there may be a non-lawyer signatory. Law firm managers and staff who take on the role of a signatory face significant responsibility and potential liability, which should not be taken lightly.

The use of and accounting for a trust account requires that certain procedures be rigidly followed. There should be no split deposits where one portion of the check goes into the trust

“ Lawyers have a fiduciary responsibility to safeguard the property of their clients; and trust accounts are a means to accomplish this. Law firm managers and staff are important elements to ensure that this responsibility is not breached. ”



“It is critical to maintain distance between the trust account funds and all other funds. It is important to keep in mind that the purpose of the trust account is to safeguard client funds.”

account and the remainder into the law office operating account or another account. The reason for this prohibition is that split deposits cloud the accounting for funds and makes it difficult to trace such funds. The complete check must be deposited in the trust account and then distributed. With credit card payments, ABA-approved software solutions that manage split payments are available.

Advanced fees paid by the client or flat fees paid in advanced are deposited in the trust account since — until they are earned — they are the client’s property and not the lawyer/firm property. Such funds are withdrawn from the account when they are earned by the lawyer. If such services are never rendered by the lawyer, then the funds must be paid back to the client. There should be no excess funds in the trust account except that which is necessary to pay any bank service expense. The trust account is for the purpose of holding the client’s funds only and not as an account for the lawyer to hold excess operating or client funds.

Checks deposited in the client’s trust account must clear before the funds are distributed to that client. Otherwise, the funding of such distributions is from another client’s funds, and there is no right to use a client’s funds except on activities of that particular client. Funds held in the trust account and then earned by the lawyer, payments to a client such as settlement proceeds, or refund of expenses incurred on behalf of the client can be paid out of the trust account. General firm operating expenses are paid out of the operating account and not paid out of the trust account.

It is critical to maintain distance between the trust account funds and all other funds. It is important to keep in mind that the purpose of the trust account is to safeguard client funds and not for use of the firm and/or personal expenses of the lawyers of the firm. For convenience, it may make sense to pay firm expenses using the trust account when a lawyer has earned some of the funds, but do not do it!

Keeping clients advised of all the activities is always prudent. Plus, it’s required to report to clients the deposits of their funds into the account; the payment or transfer of funds is required. The failure to keep the client informed of such activities can be an ethical violation and also invites client suspicion of your other activities in the case.

### **TRUST ACCOUNT RECORDS AND RETENTION**

It is critical to strictly account for the inflow and outflow of funds in the trust account. In your accounting system, you must create cash as an asset account and payables as liability account. A liability account is assigned to each client. There should be journal entries where each individual transaction is recorded regarding the receipt of funds and withdrawal of funds from the trust account and any other activities that pertain to the client accounts.

For example, the receipt of cash in connection with the settlement of a lawsuit involves the recording of an increase in cash with a corresponding increase in a liability for the particular client. Using the language of accountants: you debit cash and credit a payable — double-entry accounting.

The journal entries record the individual transactions that impact the trust account. Also, for every receipt into and payment from the trust account the following should be recorded where applicable:

- A.** Identity of the client
- B.** Identity of the payer of the funds
- C.** Reason for the payment
- D.** Reason for holding funds
- E.** Date of the transaction
- F.** Deposit receipt
- G.** Copy of the check or electronic record of the transfer
- H.** Settlement sheet
- I.** Relevant correspondence

The payee must be identified and checks for “cash” or payable to “bearer” are never acceptable because it makes it difficult to trace.

Journal entries are recorded in the ledger identifying each separate trust client or beneficiary. They should show the source of all funds deposited, the names of all persons for whom the funds are or were held, the amount of such funds, the descriptions of deposits or withdrawals, and the name of all persons or entities to which such funds were disbursed. The fund balance is also maintained here.

It is critical to maintain a paper trail so a proper accounting can be made to the client or beneficiary. Though the use of the terms journal and ledger may sound like an old manual accounting system, most law firms, if not all, would use software to record such transactions; however, the concept is the same. When starting a new law firm, it is advisable to consult with an external accounting professional when setting up your trust account system.

Whether electronic or paper, the trust account records must be retained for a period of time. The ABA recommends a period of five years after the termination of representation of the client. However, the state where the office is located determines the period of time for retaining the records.

### **MONTHLY TRIAL BALANCES AND QUARTERLY RECONCILIATIONS**

For a proper accounting of all the funds, a monthly trial balance should be constructed and at least quarterly three-way reconciliations of the trust account should be performed, with the recommendation that the three-way reconciliation is also

monthly. A trial balance requires that the total of all assets recorded in the ledger equal the total of all the liabilities recorded in the ledger. In a three-way reconciliation of the trust account, all the individual client ledger accounts — plus any excess funds in the account that are earmarked for bank service charges — are totaled and compare this total with the total cash balance on your books. You then compare the book cash balance total with the bank cash statement. All three totals should equal. If they do not, you should examine the following:

- A.** Bank statement balance with ledger balances
- B.** Relevant checks and deposit documentation
- C.** Transactions in the journals
- D.** Transactions in ledgers
- E.** Explanations of transactions noted in such documents as correspondence and settlement sheets

This three-way reconciliation ensures that the law firm or the bank did not make any mistakes with respect to the transactions recorded in the trust account.

### **INTERNAL CONTROLS**

In order to protect against improper entries, improper deposits, or distributions and possible misappropriation of the funds in the trust account, a set of internal controls is required. The nature and extent of the internal controls is based on the size of the law firm and the nature of the use of the trust account. Consulting with an external accounting professional for setting up appropriate internal controls is advisable. For example, some effective internal controls include the following elements:

- A.** Segregation of duties
- B.** Mandatory vacations
- C.** Bonding of employees
- D.** Written policies
- E.** Staff training

As further explanation of internal controls, segregation of duties requires that the various processes involved in the receipt and the distribution of funds in the trust account are handled and recorded by different individuals. For example, the person who receives the check should not be the one who records it in the account or the one who disburses the funds — it is harder to misappropriate funds when several people are involved in the process.

### GET HELP STUDYING FOR THE CLM EXAM

Looking for more information to help you master trust accounts? We've got it covered in the *Study Guide for the CLM Exam Practice Questions, Preparation and Reviews* recently published by ALA.

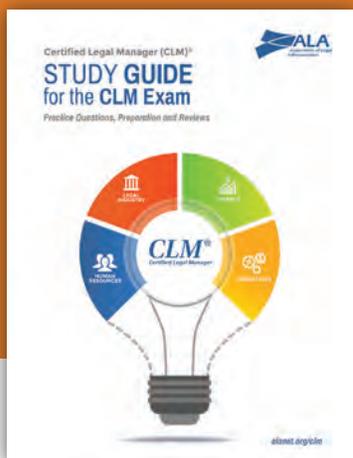
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Many conspiracies tend to break down over time due to greed, over-confidence and jealousy. In smaller firms, the segregation of duties may be difficult or perhaps impossible to achieve. In such firms, the lawyer must more closely supervise the activities in order to compensate for the inability to separate the duties.

There are some other internal controls you can take. For example, mandatory vacations for an extended period is another element of such controls. A staff member on vacation will be unable to conceal any misdeeds.

Another internal control is to require the staff to be bonded. Bonding can protect the firm against losses incurred due to the improper activities of the staff.

Written policies to guide the operations and training of staff concerning such policies serve to enforce the controls. The greatest set of controls are ineffective if they are disregarded by the law firm staff.

#### WARNING SIGNS OF IMPROPER TRUST ACCOUNTING

Despite the controls in place and an ethical law firm staff, no system is perfect. Therefore, here are warning signs that may indicate problems with the trust account:

- Checks and deposit slips that are incomplete
- Incomplete accounting records
- Missing checks or checks that are out of sequence
- Numerous voided checks
- Checks returned due to insufficient funds
- Employees who are defensive about disclosure of the financial records
- Failure to perform the basic accounting functions, such as creating trial balances and doing reconciliations of the trust account
- Lawyers or employees with personal or financial problems, or who seem to be living outside their means

There may be a legitimate reason for some of these discrepancies, but they certainly merit investigation. At the very least, they warn of lax accounting procedures, which signals a cause for concern. Whether any indications of problems or not, an annual review of the trust accounting procedures and practices is advisable.

#### PROCEDURES FOR HANDLING DISPUTED FUNDS

In cases where there is a dispute about the ownership and disposition of certain funds in the trust account, the funds must remain separate until the dispute is resolved. If the law firm

is involved in the dispute, such funds may be transferred to a disinterested third party. The resolution of the dispute may involve the agreement of all parties or it may require a judicial determination.

### PROCEDURES UPON THE SALE OR DISSOLUTION OF THE FIRM

Upon the dissolution of the firm or sale of law practice, reasonable arrangements must be made for the maintenance of client trust account records in accordance with the trust account rules in the appropriate jurisdiction. Client permission is necessary and a responsible lawyer must be secured to take control of the funds.

In all cases, it is the lawyer's duty to ensure fiduciary responsibilities are carried out. 🗨️

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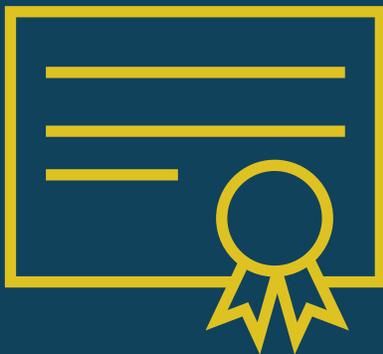
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# #MeToo and Its Impact on Legal Industry

As women feel more empowered in the workplace to report sexual harassment, is your firm prepared to support these employees — and protect its reputation?

by Valerie A. Danner

Managing Editor, Legal Management

**“I was early in my career; I didn’t want to say anything that would cause me to get fired. I really needed the job.”**

“The partner was one of the biggest rainmakers. Reporting him would have made for a difficult work situation for me.”

“I’ve tried to bring up the sexual jokes one of the partners makes, and I was told ‘that’s just how he is.’”

Though fictitious, these scenarios aren’t uncommon and, to many reading this, not unfamiliar. And while many law firms think it doesn’t happen within their walls, they may need to re-evaluate their positions.

ALA recently conducted a survey with Mell Consulting, LLC, which found that 75 percent of respondents have been personally

harassed during their careers; 67 percent reported that it has happened more than once. Furthermore, the Equal Employment Opportunity Commission (EEOC) estimates that most people, male or female, who have experienced harassment (more than 80 percent) never file a formal complaint about it.

Until recently, many women\* found themselves in these situations and felt paralyzed to act. But last fall, that started to seismically shift as *The New York Times* and *The New Yorker* uncovered pervasive sexual crimes and cover-ups related to Hollywood producer Harvey Weinstein, sparking the #MeToo movement. Since then, it seems as though one story after another continues to make headlines about abuses of power. And that is why Michael Cohen, JD, a Partner with Duane Morris in

\*For this article, we are going to use she/her pronouns. While men are not immune to harassment, women are overwhelmingly more likely to experience it.



Philadelphia who speaks regularly on human resources issues, believes more firms are rethinking their policies on dealing with sexual harassment. It's a shift he welcomes.

"Some firms have been historically good, but some have not been," Cohen says. "They are finally starting to get it — it's gratifying and nice to see."

Since January 2 of this year, Cohen says (as of May) he's done 140 talks related to harassment in the workplace — 50 percent of those were presentations to law firms. During a normal year, he gives 140-180 talks throughout the entire year. Right now, he's on pace to surpass that by midyear.

So as the fears of retaliation are slowly lessening and women feel more empowered to speak up about harassment in the workplace, are firms prepared to support their employees and protect their firms?

#### **THE INHERENT POWER DISCREPANCY IN FIRMS**

To start the conversation, it helps to understand that sexual harassment isn't typically happening because of sex per se — it's more about ego, says Cohen. "In my experience, it usually doesn't have to do with sex; it's a power dynamic — the ego and

the abuse of power that comes from that ego. That is not absent in law firms. The power dynamic between a senior partner in the firm and the paralegal is massively different."

He says in the 20 years he's been doing these trainings, he has not seen the level of demand for trainings from firms like he has in the last 9 to 12 months. "When [firms] see examples like Weinstein and Congress, there is clear recognition that a similar power dynamic exists in law firms."

That's an issue firms can tackle immediately by making sure their policy handbooks reflect the issues for a 2018 workforce. (For suggestions on what should be in your policy, see the sidebar on page 25.) But the policy is only part of the equation.

The policy will mean little if you don't provide substantive training for all employees. "They need a very intense understanding of what they can and cannot do ... this is the kind of conduct you can't engage in and understand what the complaint procedure is," says Cohen.

In fact, ALA survey respondents believe that training on this issue (and other skills/behaviors) is greatly needed and that the need is for recurring/regular training, not just upon arrival/hiring and then never again thereafter. Ninety percent of respondents

**“If you only have one constituency in the room, it's easier for bad behavior to continue. The more diversity in the room, the harder it is to make sexist and racist comments.”**

“The Equal Employment Opportunity Commission (EEOC) estimates that most people, male or female, who have experienced harassment (**more than 80 percent**) never file a formal complaint about it.”

reported that their firms have written policies. But it's the communication of said policies that needs tweaking — only 75 percent believe their policies are well communicated.

Elizabeth Mell, the consultant who conducted the survey, says that's a figure that could change. “Many ALA members are currently setting up training or have it as a high priority on their list; ALA members are highly in favor of more training in every area,” according to the survey, she says.

Some firm managers have asked Cohen if doing such trainings will only create claims. He always has the same response: No.

“If a training is done the right way, employees will have a far better understanding based on protected classes,” says Cohen. “Over the last 10 years, I've done between 1,300 and 1,400 trainings, more than half of which were harassment training. No one has ever said ‘I wish we hadn't done that training.’”

#### TIME TO RETHINK YOUR FIRM RETREATS?

As you review your policies, it might be worth examining how your firm conducts its retreats. While they can be great for team building, they can also serve as backdrops for a plethora of inappropriate work behavior.

“You don't want to send fun to die,” says Natasha Innocenti, a Partner at Mlegal Group in San Francisco, a firm that specializes in helping women advance their legal careers. “It is important to get time together. But just have a policy in place that recognizes that nothing good happens after midnight. Know when to call it.”

As a counsel to many firms, Cohen is constantly inundated with stories and questions of how to “fix” things that happen at these events, incidents that are often fueled by alcohol. Inhibitions get lowered, and, while it's not all sexual in nature, oftentimes the resulting problems are. “Firms need to have a better grasp of what goes on at these retreats.”

While it may not be what your lawyers want to hear, consider placing a limit on the amount of alcohol served, or build the retreat around activities that don't involve a drink in hand. “Often what happens at these meetings that is wildly inappropriate is related to the drinking and [the attitude of] ‘leave the bar open as long as we can.’ It's inviting trouble,” says Cohen. He adds that while you do want to be able to have a

good time, firms need to emphasize that they are still employees at a firm-sponsored event.

Any irresponsible actions or words that can't be taken back can happen in a moment and can't always be undone. “As human beings, we can't turn off what we know on Monday morning,” Cohen says. “On the best day, that person has lost credibility; on the worst day, it's part of something bigger.”

“It's hard to impose a policy to remind partners to be grown-ups and model the behavior that you want your firm to adopt,” says Innocenti. But firms that are serious about taking a closer look at policies should be examining how they conduct their retreats.

#### CLIENTS ARE WATCHING YOUR FIRM'S IDEALS

In the survey comments, Mell notes there were a few recurring themes — namely, that a firm's track record indicates they aren't taking the issue seriously. “Many firms have a prevailing history letting things happen without proper recourse or addressing the problem for any type of issue that comes up (behavioral, performance, etc.), so there was no great expectation about big change,” she says.

Another common thread was that respondents believe a rainmaker would be allowed to get away with much more at the

“As human beings, we can't turn off what we know on Monday morning. On the best day, that person has lost credibility; on the worst day, it's part of something bigger.”

firm. “A real rainmaking partner is never going to be admonished, suspended or terminated,” says Mell. “While there might be some informal reprimand and instruction to stay away from any staff alleging harassment, the staffer would ultimately be the one who'd suffer from speaking out even if that only meant a promising career turns dead-end at that firm.”

## TIPS FOR A 2018 EMPLOYEE POLICY

As you re-examine your employee policies, there are several things it must include. Though not an exhaustive list, Cohen suggests the following are a good place to start:

- 1. Detail harassing and discriminatory behavior.** Don't just make it about the right way to address it — describe what's appropriate vs. inappropriate and, therefore, prohibited. It should include a subsection that deals specifically with sexual harassment — don't just provide a textbook definition.
- 2. Spell out why these issues matter to the firm.** Make it clear to anyone who is reading it understands that these issues do matter to your firm.
- 3. Separate other types of harassment.** You should have a policy that represents members of any protected class, including gender, race, religion, national origin and/or sexual orientation.
- 4. Have a stand-alone antiretaliation policy.** Make it clear that the firm will not tolerate anything that even smells like unlawful retaliation. Cohen says to have language in there that makes this policy clear and details what is involved if someone feels it was violated.
- 5. Define who the policy applies to.** Does it include nonemployees you do business with? (Although the ALA survey on harassment did not ask about interaction with vendors, many respondents reported incidents between vendors and staff had occurred and the vendor companies were fired. "To me, this speaks to the boldness in the corporate workplace in general," Mell says. "Of course, vendors are easier to fire than equity partners.")
- 6. Explain what is both restricted and protected by the policy.** Does it apply to off-site events like retreats? What about application to emails, texts, social media, etc.?
- 7. Outline the complaint policy.** Have procedures in place that not only set forth what the process is, but also list the people employees can complain to — and it shouldn't be just one person. "There needs to be a diversity not only in number, but in gender, age, race, sexual orientation — as much diversity as you possibly can to who someone can make a complaint," says Cohen.
- 8. Detail the sanctions for violating the policies.** What will happen with the investigation? What is the action you'll take when necessary? How will you handle confidentiality? Include the reasonable accommodations in this section so that employees see it's not just a process in place for complaints. Make sure it's an appeal that sends the message that this issue matters to your firm. Even consider an anonymous hotline, Cohen says.
- 9. You must outline policies on intimate relationships in the workplace.** What is the firm's stance on this? Can people date? "People fall in love in many places," notes Cohen, but there should be something in your policy that details relationships where one person has supervisory authority over the other.

If you see that happening at your firm, it's time to reflect on the policies. "Ask yourself what kind of firm you want to be," says Innocenti. "You need policies that not only require an investigation for any kind of harassment claim, but also policies that don't keep such behavior hushed up which lets that person go on and continue that behavior."

Cohen agrees. "To me, it's just about just being a decent human on the planet — how can we be OK letting people be subject to this? But if you take the right thing and the wrong thing out of it, there's a productivity component to this — it selfishly impacts productivity. And by the way, as law firms, we are duty-bound to follow the law, which is to say there is very little to make better copy or video from a PR standpoint."

Innocenti notes firms are being asked by their clients to do better. They aren't looking to do business with firms that are in the press for enabling or covering up a culture of harassment. While she's hearing fewer horrifying stories from corporate America than 5 to 10 years ago, she says law firms are still slower to make change, noting firms' structures and decision-making processes make it harder to change the culture. But this is something firms should not sit idly on.

One thing she suggests is to move away from the "boys' club culture," instead hiring a diverse group of employees with different life experiences. "If you only have one constituency in the room, it's easier for bad behavior to continue," she says. "The more diversity in the room, the harder it is to make sexist and racist comments."

Which leads to this insightful stat from the survey: When it came to the question of firm leaders recognizing the problem but failing to address it, the answers were split by gender:

- Of the males, 50 percent disagreed their firm had a problem with harassment, and *50 percent said they were sure the firm would address it if there was a problem.*
- Of the females, 50 percent disagreed their firm had a problem with harassment, but the other *50 percent said they were unsure if the firm would address it.*

A more diverse group of leadership can open the door for employees to feel more comfortable about bringing issues forward.

Mell also emphasizes how important it is for law firm leaders to hire legitimately trained and empowered HR professionals. "They must be ready to hear stories about experiences in the office that are different from their own," she says. "I once worked at a firm where harassment was taking place and the designated person to receive complaints was very cozy with management and not trusted to keep confidences or handle

the issue appropriately, so frustration festered and we lost good talent. It was a running joke at the firm. Leadership told themselves that employees (staff and associates) left for more money — which wasn't necessarily true."

“Over the last 10 years, I’ve done between 1,300 and 1,400 trainings, more than half of which were harassment training. No one has ever said ‘I wish we hadn’t done that training.’”

#### REASON TO HOPE

Nobody really believes this is going to go away entirely, notes Mell, although many say it's not as bad now as it used to be. "Overall the behavior is still there, ongoing from a privileged few," she says. "The legal industry in the U.S. is as old as the country itself so culture is embedded. But on the bright side, law firm staff seem more empowered now to deal with it and that others in their firm's leadership will support," says Mell.

Although she notes there is no data in the non-legal industry to support the idea that younger men or Millennials don't engage in this behavior, Cohen says the upcoming generations give him hope.

With his own kids and their peers, he says he sees an intolerance for intolerance. "They just understand things so much better than we do. Adults need to get there faster." 🙌



#### ABOUT THE AUTHOR

Valerie A. Danner is Managing Editor of Legal Management. She has a BA in journalism and has been writing and editing for various publications for nearly 20 years.

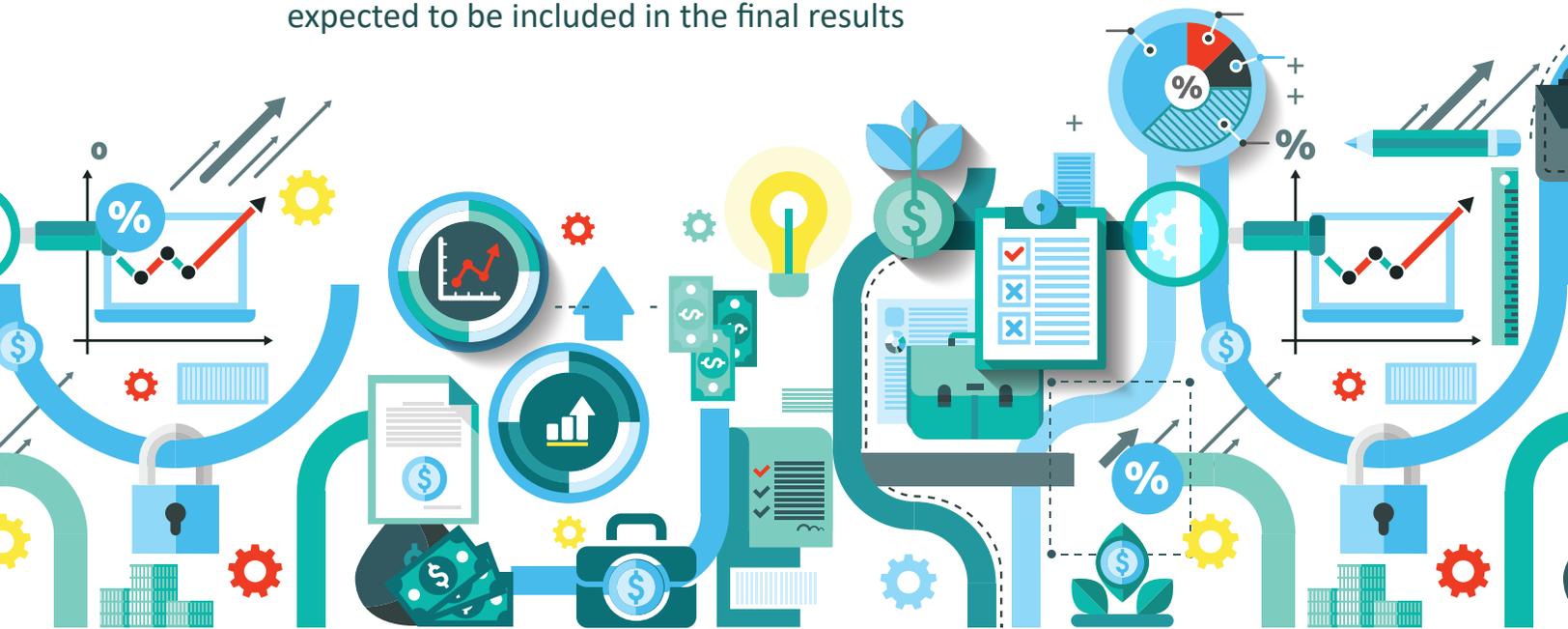
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# Diversity

## Five Steps to Increasing Diversity and Inclusion in Your Organization

*by Michelle Silverthorn, Diversity and Education Director  
Illinois Supreme Court Commission on Professionalism*

**Congratulations! You've been hired as the new diversity manager at your firm.** You've been told that retaining Millennials of color is priority No. 1. You, new diversity professional, need to come up with a step-by-step action plan for increasing diversity, inclusion and representation of women and minorities in your organization. Are you ready to start? Moreover, where do you start?

With the help of various resources (including the National Association for Law Placement's Diversity Best Practices Guide and the National Center for Women & Information

Technology's Strategic Plan), and after speaking with a number of colleagues and reviewing initiatives from different organizations, here is my abbreviated version of how to implement a new diversity and inclusion initiative at your organization.

### **1 GET YOUR PEOPLE TO THE TABLE**

Let's figure out who at your organization is supporting this initiative. First, determine which employees (including leadership) will oversee the planning.

“ You are going to have to spend a great deal of time learning about the organization, building goodwill, creating buy-in, obtaining allies and understanding the politics of your new workplace. ”

Once you have your committee set, it's time to have a serious discussion with them on what diversity and inclusion means generally, what it means to each of them individually, and what it means in the context of your organization. Talk about the differences between increasing diversity (numbers of different groups), representation (whether those different groups are present throughout your organization, including in management) and inclusion (are these groups able to fully participate in your organization?). Talk about what you mean when you say “minorities.” In this piece, I'm using minorities generally, but underrepresented minorities (URMs) is a more specific term that is dependent on your industry. You may or may not all get on the same page, but at least you'll know where your committee members stand.

Now, work with the committee to set the organization's overarching vision for diversity and inclusion (vision statement) and to lay down the core values of the organization as they relate to diversity and inclusion (values statement). Finally, write down the diversity and inclusion goals your organization hopes to achieve. What do you want to see? Increased numbers of women and minorities in supervisory roles? Increased retention rates? Recruitment rates? Fewer harassment and discrimination claims? Improved accessibility? Write them all down. We'll return to them later.

## 2 PERFORM A NEEDS ASSESSMENT

This is vital. In order to figure out where you're going, you need to understand where you are. The needs assessment bridges the gap between the current status of diversity and inclusion in your organization and your desired conditions. How do you start?

**1. Demographics.** List every department in your organization. For each department, determine how women and minorities are represented, at what levels, and their recruiting, hiring and attrition rates.

**2. Teams and Assignments.** What are people working on? Everyone knows there are more desired projects and clients and less desired ones. Check out the types of projects different teams

work on, understand how those teams are formed and analyze the makeup of women and minorities on those teams.

**3. Culture and Perks.** Review building structure, group activities and office perks to determine whether they benefit one group over another or whether they are more appealing to certain demographics than others. This includes but is not limited to accessibility, child care, flex work, sabbaticals, promotion tracks and celebrated holidays.

**4. Mentoring Relationships.** We love mentors — so should you. Determine whether your organization has a formal or informal mentoring program. Figure out how mentoring relationships are formed and who is forming them.

**5. Performance Evaluations and Feedback.** Review the feedback and evaluation system, including the peer review and upward review mechanism. Take a look at feedback and evaluations for women and minorities. And don't forget to review any harassment or discrimination complaints sent to HR from women and minorities, and any past, present or potential unfair termination lawsuits.

**6. Recruitment and Selection.** How are you selecting your people? There are fascinating programs that help reduce bias in the recruitment and hiring process. In the meantime, you can analyze where you stand on hiring and recruiting. Where do you post your jobs? Where are recruiting teams sent? Who's doing your interviewing? Have they been through implicit bias training? Who received offers? And, crucially, when women and minorities exit your organization, what kinds of questions are they asked in their exit interviews, and what kind of follow-up is given to their answers?

**7. Professional Development.** What kind of training programs do you have for your employees? Be expansive: not just diversity programs, but also anything related to people development skills, such as leadership, mentoring, feedback and management. Also, did they complete evaluation forms? Read the feedback — it's going to give you great information on the utility of these programs.

“What kind of training programs do you have for your employees? Be expansive: not just diversity programs, but also anything related to people development skills, such as leadership, mentoring, feedback and management.”

**8. Focus Groups and Interviews.** Finally — and this could be woven throughout or it can be an entirely new step — you need to chat with people in your organization. Do one-on-one interviews, focus groups and even online surveys. This includes, of course, women and minorities. It also includes supervisors, junior and senior employees, human resources, and majority men to obtain their understanding of the inclusion climate and the challenges faced.

### 3 WRITE YOUR SMART GOALS FOR DIVERSITY AND INCLUSION

SMART goals are a precise summary of what you want to achieve: Specific, Measurable, Attainable, Realistic and Timely.

List SMART goals related to your broader diversity and inclusion goals for every group or department in your organization. Then create your measurements and metrics.

Set out where each group currently is, how each will achieve the goal, create a timeline and reporting format, assign leaders to each group who will be responsible for implementing these changes, develop a way for group leaders to compare progress and share ideas, and determine incentives for success and penalties for failure. This last idea will very likely be controversial, but discussing it will provide great insight on how far your organization is willing to go to achieve full inclusion.

### 4 FORM YOUR FIRST DIVERSITY AND INCLUSION COMMITTEE

It's time to say goodbye to being just a planning committee and hello to a brand new directive: Diversity and Inclusion Committee. For each area where your organization wants to change a diversity and inclusion metric, determine the team leaders and managers who are going to help implement, track and be held accountable for change. This new committee will have several of those managers, as well as members of the original planning committee, affinity group leaders and other employees committed to the diversity and inclusion mission.



## 5 IMPLEMENT 10 DAY-ONE SOLUTIONS

This isn't so much a step as a recognition of reality. Steps 1-4 will require significant organization investment, time and resources. You may get leaders to sign on to all of it, some of it or none at all. In the meantime, you are going to have to spend a great deal of time learning about the organization, building goodwill, creating buy-in, obtaining allies and understanding the politics of your new workplace.

Start by drafting day-one solutions that you can achieve while you implement the first four steps. These are hopefully noncontroversial ideas that are relatively easy to implement and can start a dialogue in your organization. Some ideas to start with include offering an implicit bias or conflict-resolution workshop, adding a diversity-related post to an internal newsletter, scheduling affinity group meetups, or planning a diversity reception at a local school. It may not create the systemic change you're looking for, but you have to start somewhere.

So that's my five-step guide to starting a new diversity and inclusion program in your organization. It's not an easy job, and you're going to have a lot of challenges along the way. That said, here's my last piece of advice: Talk to the many, many, many people who have been down this road before. There are a host of options out there for you, so start looking. Having a mentor, sounding board and friend can only help with the long, frustrating and, ultimately, rewarding process. 🙏



### ABOUT THE AUTHOR

*Michelle Silverthorn is the Diversity and Education Director for the Illinois Supreme Court Commission on Professionalism.*

*Through the commission's online platform, 2Civility, Silverthorn works on blog posts, social networking sites and online discussion groups focusing on legal education, diversity and young lawyers. She also works with law schools, law students and other legal groups, developing education courses and workshops.*

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## DID YOU KNOW?

ALA has many resources to not only help get your diversity and inclusion program off the ground, but also to help you keep it running successfully. Some of the tools you'll find at [alanet.org/about/diversity](http://alanet.org/about/diversity) include:

- Mentoring Guide
- ALA Diversity Toolkit
- Chapter Scorecard
- Law Office Scorecard
- Educational Presentations
- List of Diversity and Inclusion Speakers

Plus, you'll find a plethora of information to help you make the case for this initiative, including how homogeneity may adversely affect behavior. And don't forget to rely on your ALA peers via our Online Community: [community.alanet.org](http://community.alanet.org).

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# AI Aiming to Transform Legal

by Paola Cecchi-Dimeglio, JD, LL.M, PhD

Chair, Executive Leadership Research Initiative for Women and Minority Attorneys  
Center for the Legal Profession, Harvard Law School

**We hear a lot about artificial intelligence (AI) and how it will change business,** including the legal industry. But don't look at it as something that's on its way — AI is transforming legal right now.

Much of what constitutes AI remains somewhat misunderstood by the majority of those people or business entities that would benefit most by its use. Again, that includes the legal industry.

Some of this misunderstanding comes from limited experience with AI and what it can do. That can be a problem, because if AI isn't well understood its benefits will be limited and — worse yet — the help it does provide may be corrupted by our currently existing biases.

The best and simplest way to think of AI is that it is the process that involves a machine that can perform tasks that are characteristic of human intelligence. Under that definition, we have two other categories — General AI and Narrow AI.

General AI is what we call it when a machine or algorithm has the ability to take on characteristics of human intelligence. For example, it could search and sort through data like a human could, only much more quickly and accurately.

Narrow AI is another side of human intelligence, but only covers some facets of it. In fact, narrow AI can do that facet extremely well, but is lacking in others. It is more advanced and sophisticated thinking, which allows a machine to do extremely

well on certain types of tasks, especially those that are very time-consuming — for example, recognizing an image.

At the core of AI, we have what we call “machine learning,” which is, if you put it in very simple terms, a simple way of achieving AI. In fact, machine learning should be seen as a dock on which you rest information, and then you tune the algorithm to find the pattern in it. The idea of machine learning is that the user gives the machine access to the data itself, so the machine will learn by itself. The iterative aspect of machine learning is important because as models are exposed to new data,

“That’s the most important part to remember about AI: It may be able to locate, distill and organize any quantity of data for the needed information, but the interpretation of the information still needs to be done by a human being.”

they are able to independently adapt. They learn from previous computations to produce reliable, repeatable decisions and results.

From there, we get into what we call “deep learning,” which is one of many approaches to machine learning. For instance, this includes decision-tree learning processes, clustering and the inductive logic programming. And this is where we find what we call an artificial neural network where the algorithms try to mimic the biological structure of the brain.

In this way, we could see how AI, machine learning and deep learning could change the ways we behave in every way — not just professionally, but also personally. And I think we don’t fully appreciate how much that is already impacting us and how it is likely to impact our actions and decisions in the future.

#### LEGAL IMPACT

In the legal profession, it could lead to a dramatic reallocation of tasks and an even more specialized way of answering clients and offering strategic solutions to their needs. Indeed, I think this is where we often hear that misconception that AI, machine learning and deep learning will replace human beings — especially lawyers.

Instead, one way to look at it is that AI, machine learning and deep learning will be a way of complementing people’s decision-making, allowing us to make the most interesting work our

priority. We will be able to answer very complicated questions — key strategic questions — and have more fun doing it. Because the tedious work — which until very recently was still done by having 100 lawyers gather in a back room to do document review — is now (at least, in much of the legal industry) being done by programs to provide lawyers with the best outcome or decision.

However, that is far away from having a machine be able to assess everything; in fact, it actually increases the value of the person involved. It allows, basically, the lawyers to focus not on the meaningless part of the task, but on the analysis and strategic thinking part of the tasks. And I think that will also help lawyers, and the overall legal profession, to become even more trusted advisers to their clients.

That’s the most important part to remember about AI: It may be able to locate, distill and organize any quantity of data for the needed information, but the interpretation of the information still needs to be done by a human being.

So the value of what the lawyer provides to his client will even be increased, because AI will supply the speed, accuracy and thoroughness, giving the lawyer the ability to concentrate solely on the analysis.

The major transformation the legal industry will see will be in the distribution of staff, and that will have a big payoff — especially for very large law firms. Overall, AI will reduce the energy and resources put to legal processes, and in turn, reduce the legal cost. However, it will increase the depth, quality and technical value of the advice that lawyers can provide to their clients. And we are already seeing this happen. ☞



#### ABOUT THE AUTHOR

*Paola Cecchi-Dimeglio, JD, LL.M, PhD, is a behavioral scientist and lawyer who writes a monthly column for the Legal Executive Institute blog. Dr. Cecchi-Dimeglio is Chair of the Executive Leadership Research Initiative for Women and Minority Attorneys at the Center for the Legal Profession at Harvard Law School and a Senior Research Fellow, at Harvard Law School and Harvard Kennedy School.*

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# Balancing Service with Budget Sensitivities

How law firms can use cutting-edge technology and techniques to deliver on both.

*by Barry Keno, Founder and President, Keno Kozie Associates*



## **Law has long been a profession built on tradition.**

However, as legal technology rapidly advances into the digital age, new opportunities present themselves to enhance the practice of law and the provision of support to the professionals within a law firm. When it comes to technology and IT support services, doing things the way you've always done them simply doesn't offer the efficiencies and effectiveness needed in today's law firm environment.

One of the biggest challenges in providing support in the legal field has been a long-standing desire for white glove-level service. While organizations in many other industries have found ways to reduce their support costs and keep them low by leveraging self-service and other efficiency-boosting technologies, the legal industry has been reluctant to adopt similar approaches. However, mounting pressures to decrease costs and increase efficiency are starting to force change and an exploration of new service models that enhance the user experience while still being cost-effective. Furthermore, as the population of younger, more tech-savvy lawyers and support staff grows, law firms need new methods.

## **BALANCING POWERFUL SERVICE WITH BUDGET SENSITIVITIES**

Given how quickly technologies advance, law firms need to be adaptive to find better, more innovative solutions while providing excellent support at reasonable costs. A key way to keep support costs under control is to leverage technologies to provide additional options that simplify the support process while providing tangible value to the end user.

That last part is critical — when new technologies, processes or procedures are implemented, the user needs to feel not only that the experience was worthwhile, but also that tasks are easier or better than before. A major way to accomplish that is to build out an infrastructure that supports self-service capabilities.

One challenge that we've seen over the years is that changing user habits is difficult. Ingrained thoughts about how to obtain support need to be carefully updated so that the end users can benefit from newer technologies or methods without feeling uncomfortable with unfamiliar ways of doing things.

Many IT issues boil down to common, straightforward requests — things like replacing printer cartridges or other simple support

services that are challenging because they can't be immediately addressed by a remote help desk. Other common concerns include training, requesting equipment, borrowing loaners and so forth. The good news is that they can be solved by giving users a low-barrier mechanism for requesting assistance, such as automated forms that are submitted to the proper person for quick resolution.

A simple technology called the service book — a catalog of commonly requested support items — has been around for years, but few firms have effectively implemented it. Imagine an actual online catalog of all potential IT service needs, including training classes, new cell phones, knowledge-based articles, etc. End users can access the service book through a portal page and request any available service or component. Adopting such techniques can significantly drive down costs without sacrificing service quality.

The key is making all support services available through one interface, a single place where users can go to request help or access self-help materials. An easily accessible portal that presents everything in a way that's simple to understand is the ideal solution for end users. Enhancements like chat features, the ability to schedule service callbacks at convenient times and simple email interfaces help to further streamline the process. Adding a repository of FAQs, cheat sheets and other common knowledge-based resources will increase users' ability to solve problems on their own.

Beyond mitigating costs, these kinds of features are attractive to younger attorneys coming up through the ranks. They tend to be technologically savvy and often prefer to help themselves rather than working through a traditional support process.

### MAXIMIZING YOUR IT RESOURCES

Today's IT departments are typically much leaner than they were in the past. Many firms are turning to outsourcing to handle the costly day-to-day tasks that impede efficiency. By outsourcing routine matters, your internal staff can focus on high-value tasks, continue to provide white-glove service in combination with the outsourced service desk, and prioritize rolling out new technologies that will drive the firm's business. This balance allows firms to provide more comprehensive levels of support across the board without raising costs.

Outsourcing is an effective way to address the long-running struggle to provide the level of round-the-clock service that law firms have long required. Most in-house overnight service solutions, like pager or rotation systems, have proven insufficient and lead to support staff burnout. After-hours, overnight and weekend support is a common starting point for firms looking to test the outsourcing waters.

“By outsourcing routine IT matters, your internal staff can focus on high-value tasks, continue to provide white-glove service in combination with the outsourced service desk.”

Using the leverage of newer technologies and thought processes is critical to cutting costs, but trying to implement a switch on your own is an expensive proposition if you've never tackled such a significant undertaking. Thinking about what needs to change is easy; implementing change is another story. The amount of money and time it requires can quickly interfere with the important work of serving clients. Thankfully, professional service firms can provide the tools and experience to do the heavy lifting for you.

Experts can help determine which solutions will work best for your particular firm and offer real value to your end users. There's no one-size-fits-all answer — all firms have different thresholds for what technologies their users will accept, and solutions should be tailored to meet those needs as efficiently as possible. Vendors can help you find the right comprehensive solution that minimizes cost, time and disruption to your business.

Building out a platform your employees can turn to for all their service needs is the first step. Supplementing the features that are available today with information on what's coming soon will establish a go-to place that makes efficiency and self-service a part of daily firm life and keeps your users engaged. Relieving the IT staff of routine duties allows you to rededicate those expensive resources to high-end work while meeting ever-increasing demands to be more efficient and cost-effective. 🧐

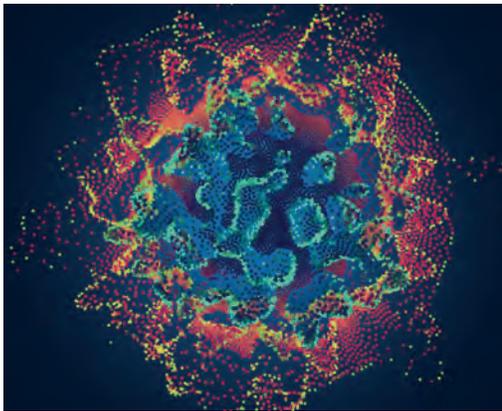


### ABOUT THE AUTHOR

*Barry Keno is the Founder and President of Keno Kozie Associates. He specializes in working with senior members of law firm management on the provision of support service and the application of technology within the law firm environment to ensure the most effective IT environment for the firm's billing professionals.*

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# FACTS & STATS



## BIG DATA GETTING EVEN BIGGER

According to Big Data Facts reported by AnalyticsWeek in March 2017, **by 2020, data is projected to grow at a rate of 1.7 megabytes of new information every second for every human on the planet.**

Google already uses distributed computing every day to involve about 1,000 computers to answer a single search query in about 0.2 seconds. As data grows, more computing power will be required. The processing components making up today's computers are just about as small and as fast as we can create.

Read more in this issue's Innovations column, "The 'I' Word Almost All Law Firms Fear: Innovation," on page 11.



## WARNING SIGNS OF IMPROPER TRUST ACCOUNTING

Despite the controls in place and an ethical law firm staff, no system is perfect. Therefore, here are warning signs that may indicate problems with the trust account:

- Checks and deposit slips that are incomplete
- Incomplete accounting records
- Missing checks or checks that are out of sequence
- Numerous voided checks
- Checks returned due to insufficient funds
- Employees who are defensive about disclosure of the financial records
- Failure to perform the basic accounting functions, such as creating trial balances and doing reconciliations of the trust account
- Lawyers or employees with personal or financial problems, or who seem to be living outside their means

Read more in this issue's Continuing Education feature, "How to Ethically Oversee Trust Accounts," page 15.

**\$221  
BILLION**

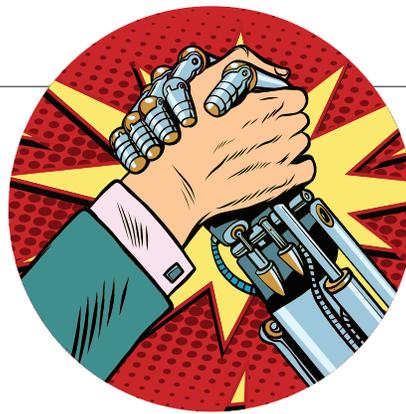
The amount of money that businesses worldwide lose annually to fraud.

Source: [identityhawk.com/identity-theft-risk-statistics-infographic](http://identityhawk.com/identity-theft-risk-statistics-infographic)

## LAW FIRM LEADERSHIP SLOW TO EMBRACE DIVERSITY AND INCLUSION

“Despite two decades of extensive efforts, gender and other diversity at the partner and GC level is essentially unchanged. Female equity partner ranks in Biglaw remains under 20%, and **minority representation in the industry has grown by less than one percentage point since 2000.** And women partners and GCs make demonstrably less than their male counterparts, among other troublesome diversity-related statistics.”

Source: [www.abovethelaw.com/2017/05/diversity-in-the-legal-profession-the-more-things-change-the-more-they-stay-the-same-until-they-dont](http://www.abovethelaw.com/2017/05/diversity-in-the-legal-profession-the-more-things-change-the-more-they-stay-the-same-until-they-dont)



## LAWYERS VERSUS AI: WHAT WERE THE RESULTS?

LawGeex created a challenge whereby lawyers had to go up against its artificial intelligence (AI) to parse 30 provisions in five nondisclosure agreements. Here are the results:

- AI achieved an accuracy rate of 94 percent compared to humans, who achieved a respectable 85 percent.
- The fastest human lawyer completed the task in 51 minutes, and the AI software took only 26 seconds.

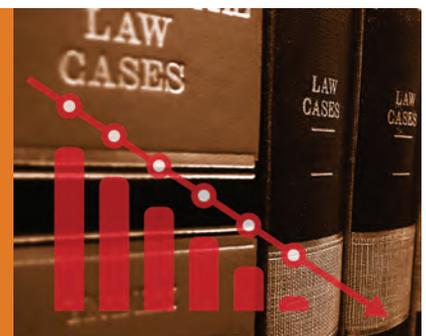
Source: [www.linkedin.com/pulse/how-artificial-intelligence-already-transforming-legal-anurag-harsh](http://www.linkedin.com/pulse/how-artificial-intelligence-already-transforming-legal-anurag-harsh)

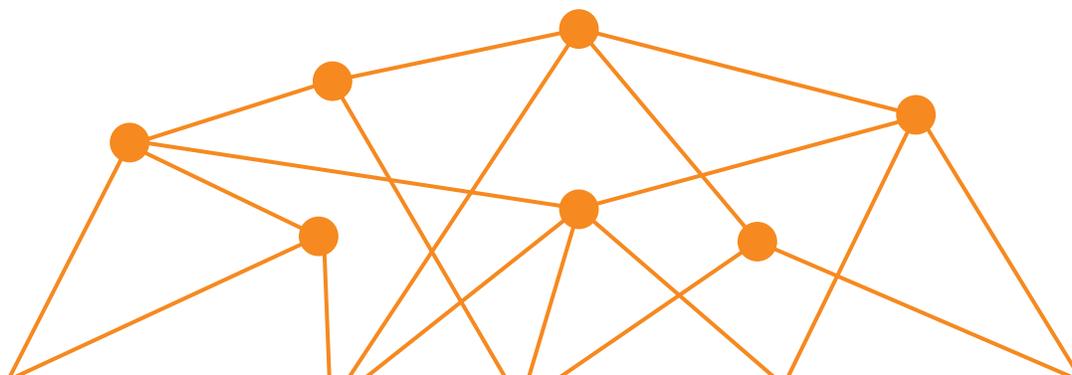
Read more in this issue's Tips and Trends column, "AI Aiming to Transform Legal," page 33.

## DID YOU KNOW?

**“U.S. legal spending directed to law firms is expected to shrink between 2015 and 2025 from \$300 billion to \$265 billion,** while the share of the market for ‘new law’ firms is expected to grow from \$2 billion to \$55 billion, according to a 2016 study by Thomson Reuters and Adam Smith Esq., a law firm consultancy.”

Source: “Law Firms Are Investing in Tech Before It Overtakes Them” by *The American Lawyer*





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