LEGAL MANAGEMENT

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FINANCIAL MANAGEMENT BY ERIN BRERETON



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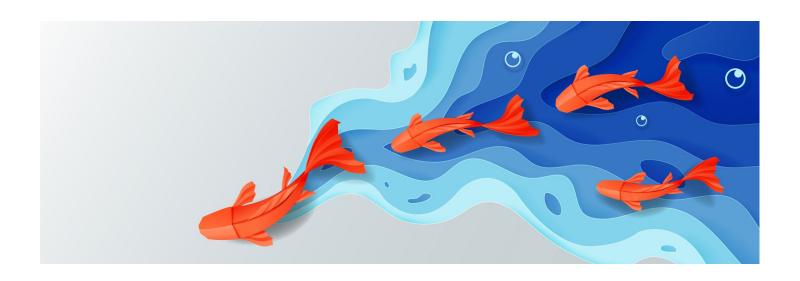
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APRIL L. CAMPBELL, JD *Executive Director Association of Legal Administrators*

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If you are having to wear a costume to an interview, you will find yourself in a role you have to play, merely hoping you can eventually be yourself.

No wonder leading in some environments is so exhausting. **

Being Uniquely You Makes the Best Leader

The subject of leadership has been on my mind a lot lately. There are articles, podcasts, books, workshops and seminars everywhere I look, especially during these times of change and challenge.

I am often asked to describe my own leadership style and whose leadership I emulate. The questions always stop me in my tracks because they are not short answers. Depending on who you ask, my leadership style can be described as chaotic, focused, fun, casual, direct or collaborative. These are not typically words that go together, because they don't usually manifest themselves at the same time.

But I think leadership should be less about whose style you want to imitate and more about what you naturally gravitate to as a leader. With that as your foundation, you can add the components you admire in other leaders, picking up elements that most resonate with you. Of course the other side to this is that you also become aware of the traits you do not wish to carry over into your leadership style.

It is for this reason that I believe volunteer leadership is such a treasure trove for development. At your legal organization, you are likely surrounded by the same leaders every day at your legal organization for years — or maybe you are the only leader on staff. Leadership rotates now and again, but probably not often. In contrast, volunteer leadership, especially at ALA, is a leadership buffet where you can observe many styles and create the plate that suits you best.

This realization did not come to me immediately in my own leadership journey. In fact, it did not occur to me until I served on the ALA Board of Directors under the leadership of ALA Past President Paula Barnes. As she led the Board, I noticed that she did not try to change herself to fit the role — she made the role fit her. She led with all her strengths, the qualities that got her to where she was with the awareness of where she was headed; she intrinsically knew that she was not leading unless others were

following. Paula led with empathy and encouragement, getting tough when it was necessary, but leaving it behind when it was not. She did not try to imitate those who came before her — rather she embraced the qualities that made her unique.

As with most things, once I became aware of this approach to leadership, I noticed it a lot more within ALA. But I also recognized it did not appear in some of my workplaces. In most cases, leaders were still trying to fit in spaces that were not built for them because they were not built by them. These circumstances make it very difficult to succeed. It is also a really uncomfortable place to be authentic. I am a strong supporter of letting your freak flag fly. Heck, it is probably my personal motto. It is also apparent in many of the best leaders I know.

I hear a lot about the importance of authentic leadership, but what does that look like in reality? We talk about different roads to leadership, ideal qualities of leaders and different styles of leadership, but we rarely talk about how to get comfortable leading as ourselves and creating a mold unique to the individual.

As more women take high-profile leadership roles in spaces that were not built with them in mind, we are starting to get a better idea of how molds can be broken. Yes, there are still social media discussions on whether a woman applying for a leadership role can interview in anything other than a suit or even wear a bright color. But think of it this way — if you are having to wear a costume to an interview, you will find yourself in a role you have to play, merely hoping you can eventually be yourself. No wonder leading in some environments is so exhausting.

Different perspectives, diverse opinions and divergent views make all of us better leaders and our organizations stronger. So lead like only you can and be on the lookout for those who lead differently than you, as there is always something for us to learn. Sometimes it feels comfortable and sometimes it does not — but it is always worth trying as an experiment.



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ROB MATTERN President and Founder Mattern, LLC

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As firms analyze the viability of returning to the office, they need to take some permanent steps regarding their back- and middle-office services.**

7 Things Law Firms Should Do Now

As firms analyze the viability of returning to the office, they need to take some permanent steps regarding their back- and middle-office services. The steps outlined below should reduce current costs 25% to 30% and, if done correctly, provide the flexibility needed to move forward.

The key word to keep in mind is flexibility, not only over services but also costs all without losing the superior customer service that end users need and are accustomed to. It is all possible if it is done correctly.

1. RIGHTSIZE YOUR BACK- AND MIDDLE-OFFICE SERVICES

It is gratifying to see how many firms maintained full headcount in their back-office services regardless of whether they were outsourced or in-house. It may be time to review operations and make appropriate adjustments. The volumes are not there and won't be there anytime soon.

Unfortunately/fortunately there is an abundance of talent out there to fill these positions when the need comes back. Another option is to redeploy this staff into an area that should get more focus now, such as digitization of records.

2. RIGHTSIZE OR RENEGOTIATE YOUR CONTRACTS

Some contracts are dependent on service volume and will adjust accordingly in other words, if you don't use it, you are not getting billed. Examples of these contracts are office supplies or overnight shipping. If your volume has stayed steady, it is an excellent time to look at your contract. Service providers are anxious to procure and secure business.

Other contracts, such as off-site records storage, are not volume-dependent — you are paying for those stored cubic feet regardless of the services. It's an excellent time to negotiate. If you don't have the resources in-house due to internal cutbacks, hire an outside consultant.

3. UTILIZE CONSULTANTS TO GET THINGS DONE

As firms cut back on support and professional staff, the most successful will be the ones that leverage the talent of outside consultants to come in and complete projects that deliver results. You may need an information governance policy or retention schedule that will allow you to decrease off-site storage and reduce costs, or an outsourcing request for proposal that will help you trim back-office expense. Think like your clients think when they hire your firm — hire experts to get the job done well.

4. TAKE A HARD LOOK AT IN-HOUSE SERVICES THAT ARE NOT CURRENTLY OUTSOURCED

Now can be a great time to look at outsourcing services that are currently completed in house. Outsourcing, if done right, can be an excellent tool to increase flexibility over the services being performed and the associated costs. It allows you access to talent you may not have had before and should provide an industrywide perspective. The status of current in-house employees must be addressed, and it is critical to build flexibility into these contracts.

Many outsourcing providers will try to include nonsolicitation or severance clauses into the agreements that hinder your ability to manage the costs. Be sure to have contractual terms that allow 100% flexibility over the status of the personnel.

5. OUTPUT (MFDS AND PRINTERS)

Chances are you entered the pandemic overequipped, and now your firm is way overequipped. Look at reducing units, speed and capacity to match your projected reduced volume. This is another area you should build flexibility into — so if volumes change in the future, units can be upgraded, rightsized or deleted as you see fit.

6. MAXIMIZE SERVICES FOR THE WFH SEGMENT OF YOUR POPULATION

Work from home (WFH) is here to stay. Make sure you have plans in place to provide maintenance on firm-provided equipment, supplies and access to overnight services.



7. ACCELERATE THE DIGITIZATION OF RECORDS

If there is one area where it makes sense to spend money, it is in digitizing current records. It does not mean going into your offsite records storage vendors and permanently withdrawing boxes to scan. Instead, consider the records that are not active but still on-site. You will need processes — an information governance policy and associated retention schedules — in place to support this initiative, but if you are looking to retain or redeploy personnel, this is the area to do it.

The successful law firm will be the one that adapts to their current environment in a way that allows for the flexibility the future will demand. Setting up your contracts correctly, utilizing expertise where needed and making the tough decisions when required will position your firm well.

ABOUT THE AUTHOR -

Rob Mattern is President and Founder of Mattern, LLC. Mattern has been widely published, including recently in the The Wall Street Journal, Law Technology News and Legal Management magazine and is an editorial board member of Law Journal Newsletters' Accounting Financial Planning for Law Firms.



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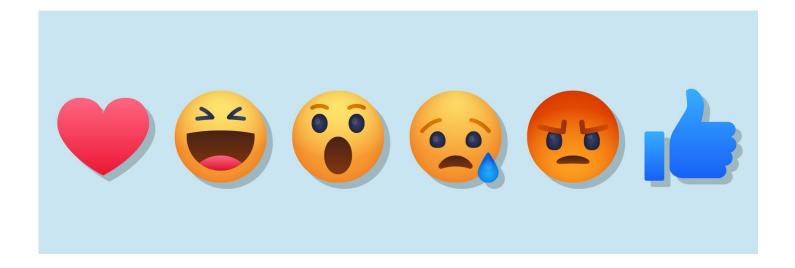
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MATT MAHON National eDiscovery Sales Manager Ricoh eDiscovery

Emoji use and the potential for misuse in the workplace represents potential liability and should be considered from legal, governance, risk and compliance perspectives."

Emoji: What Do You Mean by That?

The New York Museum of Modern Art (MoMA) houses a permanent collection of 176 sketches by Japanese artist Shigetaka Kurita. They were created for the Japanese mobile platform DOCOMO in 1996.

As one author notes in a Wired article, "Kurita wanted to design an attractive interface to convey information in a simple, succinct way." To say Shigetaka Kurita succeeded would be the ultimate in understatements. His sketches, which were converted into 12x12 pixel images used on DOCOMO mobile phones, were the invention of what we call emoji. Emoji have literally (or should I say illustratively?) changed the way we communicate. Entire sentences are written using strings of emoji that replace the text entirely. No longer just a supplement adding emotional nuance or a bit of fun, emoji have become the sole content. Emoji are language.

And like any language, its use — or misuse — can get you in trouble.

FROM PIXELS TO PROSECUTION

We have all seen how damaging the misuse use of emoji — however unintentional in social communications can be: friends lost, reputations damaged, careers forfeited, even near-total social ostracization. However, the inappropriate use of emoji in the workplace (the definition of inappropriate is itself a moving target) not only carries potential social repercussions; it can also create legal liabilities.

In fact, there is rapidly growing civil and criminal caselaw involving emoji. Eric Goldman, a professor at Santa Clara University School of Law and recognized expert, "found 101 cases in 2019 that referenced 'emoji' or 'emoticon.'" As emoji are not yet searchable as a concept (or by specific emoji type) in legal research tools, it is reasonable to conclude that there are more cases than Goldman found in which emoji are relevant.

RISK MANAGEMENT

Emoji use and the potential for misuse in the workplace represents potential liability and should be considered from legal, governance, risk and compliance perspectives.

For example, legal and compliance departments need to consider policies and protocols governing the use of emoji by employees. Policies governing what emoji can be used and the types of communications they are allowed in should be established to mitigate risk and avoid potential liability.

For attorneys and those supporting litigations and investigations, understanding emoji is as necessary as understanding written and spoken language: a single emoji may prove or disprove a hypothesis. This means that legal technology needs to comprehend emoji as well — not as a graphic file, but as content. This also means training your document review staff on the meaning of emoji and their potential relevance to the matter under review.

E-discovery is just beginning to address the requirements of processing and rendering emoji as they appear in messaging. In 2019, fully 20 years on from the introduction of emoji, industry stalwart Relativity™ added the Relativity Short Message Format (RSMF) that includes the processing and analysis of the emojis in the text, including searchability.

NO EASY TASK

Artist Shigetaka Kurita's goal was to convey information succinctly, and today Merriam-Webster defines emoji in part as used to "convey information succinctly."

However, according to The Wall Street Journal, Slack contains 26 million (yes, million) emoji and notes that just one corporate client of Slack has created more than 50,000 custom emoji alone. And "for the 13 million daily active users of Microsoft Corp.'s Teams, emoji use is basically universal, [according to a] spokeswoman for Microsoft."

This does not seem terribly succinct. And one can readily imagine the complications and challenges this portends. The need for standards is clear. As an article from Zendesk notes: "The trouble is that emoji are open to interpretation, and the context in which they are used matters."

It is easy to see the potential liability. One can hear the argument over meaning with the defense claiming innocent use, while plaintiff argues a nefarious and legally problematic one. On what basis is this decided — particularly if there is no case law relevant to the emoji use at controversy (assuming you could find it)?

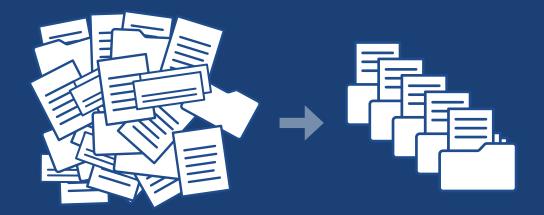
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ERIN BRERETONOwner
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If [funds] are really good,
I pay bonuses to the other
attorney and myself; if the
money is not there, I can sit
on [my] check or exclude
myself from that payroll.
Particularly last year, when
cash flow was sometimes
pretty weird, there were
times when I ran [payroll]
but would exclude myself.
I can run an extra payroll
and catch up later."

Facing Your Firm's Biggest Financial Roadblocks

Revisiting firm financial processes can help prevent them from breaking down—and potentially protect overall profitability.

From law firm billing to budgeting, effective internal financial practices can help ensure ample funds flow in and out the door — yet some firms struggle in this area.

The involved operational tasks can be time-consuming — a daunting prospect when legal work deadlines are looming. For instance, 60% of firms need a week or more just to process and publish client invoices, according to an Aderant survey. Even with firm members' best efforts, payment isn't guaranteed.

Law firms' realization rate fell 10% between 2005 and 2015 and had decreased further by 2018, found a report from Thomson Reuters and the Georgetown University Law Center. The lengthening collection cycle, according to Citi Private Bank data, strained law firm revenue growth in 2019. Although a surge in unbilled time was a factor, the rise in outstanding invoices was partially due to an accounts receivable increase — which was largely the result of clients delaying paying their bills.

Some law firms experienced a similar scenario last year amid the COVID-19 pandemic, according to Chris Ryan, Vice President of Client Development at HBR Consulting, when companies in hard-hit industries said they anticipated having some fulfillment issues.

"It showed a bit of exposure, or risk, [with] the fundamentals of law firm financials — such as their cash position and how they distribute profits and maintain cash and credit throughout the year," Ryan says. "Law firms have realized, 'We'd better get ourselves in order and be more methodical with our collections.' Breaking down the revenue cycle to determine where you can improve processes will improve both the bottom line and clients' experience."

Without fine-tuning, financial procedures can certainly present delays and other costly issues. Some firms have found success with the following financial management approaches.

CAREFULLY CONTROLLING CASH MANAGEMENT

In the past, K&L Gates' international offices had to alert the firm if they thought they'd need cash. Aside from contacting the individual banks where it had accounts or checking its general ledger, which typically didn't contain the most current information, the firm didn't have an easy way to assess resource status across the organization, according to Chief Financial Officer Chuck Hokanson.

The 45-office firm, though, has since consolidated the number of banks it uses to help centralize its monetary resources. K&L Gates also implemented software, Hokanson says, that provides day-to-day visibility for its various bank account balances.

"When we're looking at things from a treasury and cash management perspective, we can see where a particular office or location stands on cash and what their needs are going to be — and can do high-level forecasting to see if we need to move cash from one location to another," he says. "It helped us manage things better; everything is visible."

Instead of reconciling the total amount received from periodic draws with whatever is available for distribution at the end of the year, Michael Downey, Managing Member at the two-attorney Downey Law Group LLC in St. Louis, Missouri, opts to pay himself every two weeks as an S corporation W-2 employee. This helps him avoid the guesswork involved in estimated taxes and allows for adjustments to maintain cash flow throughout the year.

"It simplifies things," Downey says. "If [funds] are really good, I pay bonuses to the other attorney and myself; if the money is not there, I can sit on [my] check or exclude myself from that payroll. Particularly last year, when cash flow was sometimes pretty weird, there were times when I ran [payroll] but would exclude myself. I can run an extra payroll and catch up later."

AUTOMATING THE ACCOUNTS PAYABLE PROCESS

In K&L Gates' U.S. offices, software scans individual invoices vendors submit for payment. In using document data such as vendor name, number or logo, the tool will automatically prepopulate the general ledger coding, route the invoice to the correct individual for review and approval, and then store an electronic image of it in the system.

"Not only did clients appreciate [the flat-fee model] because it's a lot more predictable — it helps clients know how much to expect to budget — it definitely makes things a lot quicker and more efficient [for us], just to not have to worry about contacting people after the fact for payments. It's a benefit for everybody involved."

The firm uses a similar application for lawyer and employee expense reports. Requests for reimbursement can be sent via a mobile device with a photo of the receipt. Hokanson says this the information can easily be accessed if a client has a question about a billable expense.

"It takes a lot of data entry [firm members] would have had to do and stores it electronically, allowing them to get the money quicker — and also provides consistency," he says. "If an expense winds up on client invoice, we know we have access to the right information so we can go back quickly, look and inform the client about what the particular items were."

STRFAMI INING BILLING

K&L Gates also uses a lockbox system, which interprets data from both electronic client payments and scanned hard-copy checks to help process payments quickly. The functionality will automatically apply a payment to a client invoice in the accounts receivable system if it detects recognizable aspects such as client name, number and invoice value. The process has reduced the firm's cash application group needs, Hokanson says, allowing it to centrally locate the team, which had previously been housed in different places.

"The number of people involved is less than half what it was just a few years ago," he says. "In that particular area, it's been providing a real efficiency that allowed us to reduce our staffing and handle the same or increased levels of activity."

Washington, D.C.-based Goldman Law Group switched to a flat-fee model around 2010, and then incorporated a pay-as-you-go system where clients are billed for legal work in phases. This has helped speed up its payment time period and prevent the firm from having to deal with collections work, according to William Scott Goldman, Founder and Managing Attorney.

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"Attorneys [before] would send emails basically politely reminding them to move forward with the balance due," Goldman says. "Not only did clients appreciate [the flat-fee model] because it's a lot more predictable — it helps clients know how much to expect to budget — it definitely makes things a lot guicker and more efficient [for us], just to not have to worry about contacting people after the fact for payments. It's a benefit for everybody involved."

FACILITATE CLIENT FUND OVERSIGHT

Some law firm-specific practice management products allow firms to manage their trust account activities through the software — which can be a plus, since attorneys don't always do a great job maintaining trust account-related recordkeeping on their own, according to Downey, who's defended lawyers in bar complaints relating to trust activities. He also recommends using a credit card processing company that offers services specifically designed for lawyers.

"There are processors that, if you receive an advance on your fees, that money would be deposited in your trust account," Downey says. "But the charges relating to it, and also any chargebacks or canceled payments, come out of your operating account to avoid your trust account getting overdrawn."

SIMPLIFYING TAX PREPERATION PRACTICES

Goldman has found putting most of the firm's expenses on a corporate credit card has helped the firm track expenses. It's generally able to just pull year-end accounting reports and credit card statements to compile most of the documentation that's sent to the firm's accountant.

"By going back to the credit card records, you can see all the expenses from the past year more efficiently," Goldman says. "With receivables, just about everybody is paying by credit card these days; it's enough to pull reports of incoming transfers. It used to take a lot more time having to extract data from a number of sources. Instead of the process taking two to three weeks, now it can be done in about [a] week to 10 days, tops."

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While it may be tempting to view health and wellness as a mere HR cost, new research is showing that now, more than ever, robust wellness initiatives are investments that yield dynamic returns."

Prioritize Employee Health for Your Firm's Financial Wellness

Robust wellness initiatives are investments that yield dynamic returns.

The expansive, devastating impact of COVID-19 has caused organizations across the globe to rethink their approach to protecting and promoting the health and wellness of their employees.

Although many law firms have wellness programs and initiatives in place, the pandemic has demonstrated that, in order to truly support their workforce, firms must take a systematic and robust approach to wellness — one that is focused on prevention and goes beyond the reach of traditional programs and initiatives.

THE COST OF NOT INVESTING IN PREVENTION

For many organizations, the strength of their health and wellness initiatives is directly tied to the perceived bottom-line return on wellness-related investments. And while it may be tempting to view health and wellness as a mere HR cost, new research is showing that now, more than ever, robust wellness initiatives are investments that yield dynamic returns.

A recent report from the McKinsey Global Institute suggests that poor health is responsible for a 15% reduction in global GDP each year. Tying this reduction to a lack of long-term, preventive wellness initiatives inside of companies, the report notes that modern-day work environments are fraught with occupational risks related to poor sleep hygiene, mental health stressors and increasingly high levels of sedentariness. The report also points to research showing that chronic conditions — like low back pain, migraines and mental health issues, among others — can reduce productivity by upwards of 5%.

"The empirical evidence suggests that while practices and policies such as these may initially appear to have a disproportionate impact on a firm's bottom line, in the aggregate they have the potential to lead to a significant return on investment."

This research is in line with scores of other studies that have concluded that employee well-being and workplace wellness have a significant impact on a company's bottom line — influencing everything from turnover to absenteeism to the quality of customer support.

In light of these causal connections between wellness and return on investment, the McKinsey report concluded that a focus on prevention is the key to systemic improvements in employee health. The report found that 70% of the economic benefits could be realized through investment in things like cleaner and safer work environments, promoting the adoption of healthier behaviors, and increased access to preventive therapies and medicines.

In a nutshell: Investment in employee health and wellness has the potential to lead to significant economic returns in the form of increased output and productivity.

A SYSTEMIC SHIFT TO PREVENTION AND PROMOTION

Despite the data, many companies struggle to realize the benefits of investing in health and wellness. For some, they struggle to justify the expense because they have a hard time tracing it to a cognizable ROI. For others, they believe in the power of wellness but the programs and initiatives they have in place do not lead to the type of systemic change they want for their organizations.

When it comes to making successful investments that result in improved health and wellness, the through line appears to be a focus on a long-term, cohesive strategy whose aim is a holistic approach to making employees' lives better.

Stated differently, instead of treating employee wellness programs as a simple HR benefit, legal organizations who seek to make meaningful change must make wellness a strategic, corporate objective that permeates the company's culture — even if that causes disruption to other cultural norms.

"If we truly want to improve the mental and emotional health of lawyers and staff within firms, then firms must be willing to take tangible actions to alter the law firm systems and structures," says Jarrett Green, a well-being, stress resiliency and peak performance consultant to the legal industry. "While it's a wonderful start to provide well-being seminars and CLEs to help navigate the stressors of the environment, it's simply not enough. Real change will only occur when firms have the courage to modify their institutional structures and adopt new policies that may be somewhat unpopular at the partnership level."

In addition to programmatic offerings, firms should focus on implementing structural and policy-level changes. According to Jarrett, example changes could include:

- Providing 25 to 50 billable hour credits per year for firmsponsored well-being programs
- Instituting a systematized "wellness check-in policy" in which supervisors conduct a brief well-being check-in with individuals on their team
- Incorporating emotional intelligence and commitment to well-being as evaluative factors in annual performance reviews
- Creating an anonymous "Well-being Feedback E-Box" in which attorneys and staff can transparently express their needs and concerns to firm management without fear of retaliation (and receive a monthly firmwide response to the key issues raised in the E-Box)

These kinds of changes are of paramount importance at present, as law firms search for ways to support their employees during the pandemic. Firms have a unique opportunity to support their workforce through implementing clear and robust remote work policies, investing in remote resources that build community and culture, and offering stipends that will help employees create a comfortable home-work environment — like standing desks and other wellness-related resources.

Faced with the isolation of working from home, investing in employee resources related to mental health, leadership training, meditation and other mindfulness resources also have the potential to create a major shift.

"An obvious thing firms can do is provide mandatory empathy-based leadership training to all partners, so they can be specifically trained on how to give assignments, deliver constructive feedback, and generally communicate with their teams in ways that carry empathy, sensitivity and emotional intelligence around the unique challenges and stressors folks are facing right now," says Jarrett.

The empirical evidence suggests that while practices and policies such as these may initially appear to have a disproportionate impact on a firm's bottom line, in the aggregate they have the potential to lead to a significant return on investment.

Consider employee turnover, for example. According to Gallup, U.S. employers spend \$1 trillion annually on costs related to turnover, with lost employee costs ranging anywhere from 33% to 150% of an employee's annual salary.

"Setting aside return on investment, discussions around policy change and supporting employee health and wellness raise the question: What kind of firm do you want to be?"

A number of studies have demonstrated a direct link between employee well-being and a reduction in turnover. A 2017 National Survey of Employer-Sponsored Health Plans conducted by Mercer found that employers who created a strong culture of health experienced an average turnover rate of 11 percentage points lower than those who did not.

Similarly, a boost in employee engagement can be directly linked to an increase in well-being policies and initiatives. Research conducted by Limeade and Quantum Workplace suggests that employees who reported high levels of well-being are almost twice as likely to be engaged in and enjoy their work. Gallup also has reported that workplace teams who fall within the top 20% in overall engagement experience a 41% reduction in absenteeism, and 59% less turnover.

WHAT KIND OF FIRM DO YOU WANT TO BE?

Setting aside return on investment, discussions around policy change and supporting employee health and wellness raise the question: What kind of firm do you want to be?

As the COVID-19 pandemic wears on, we are at a crossroads regarding how business is conducted, how companies support their employees, and how organizations want to adapt to meet the needs of a changing economy and workforce.

One way firms can understand how best to support their employees is to give them an opportunity to be heard — and to respond accordingly.

"Firms can conduct a formal survey asking how the firm can be more supportive during this difficult time or what actions the firm can take to make them feel more cared for," says Jarrett. When firms demonstrate that they are willing to listen and



incrementally invest in those suggestions, it goes a long way toward building trust and rapport. "When employees are given a space to express their needs, well-being accelerates, and when a few suggestions are incorporated, well-being will accelerate even more," says Jarrett.

The legal industry as a whole — which has been traditionally slow to adopt change — has a unique opportunity to meet the moment by going above and beyond the minimal CLE requirements and HR benefits. Leadership at the HR, professional development and executive levels can work in unison to map out a broader vision for change that recognizes the need for a cohesive business strategy around health and wellness.

Investing in a systematic and culture-focused approach to health and wellness has the potential to inspire pride and a sense of shared responsibility around the well-being of individuals, teams and the firm as a whole.

ABOUT THE AUTHOR

Drew Amoroso is an Attorney, Public Speaker and Founder of DueCourse, a mobile application that helps professionals strengthen their workday mindset and show up at their best at work.



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Continue the Conversation

Krista Hart, Firm Administrator at Panitch Schwarze Belisario & Nadel, recently chatted with *Legal Management Talk* about how and why she established a wellness program for staff and attorneys. Listen to the episode at *alanet.org/resources/publications/podcasts/establishing-and-maintaining-a-wellness-program-with-krista-hart* and read her recent article about the program: *legalmanagement.org/2020/september/columns/how-one-firm-encourages-employee-wellness.*





ERIC BUTTERMAN
Freelance Writer

I don't think we will know certain answers for quite some time. It's critical to be open-minded and to stay up to date on information."

Financial Leadership in Uncertain Times

Now more than ever, financial leadership at your legal organization is vital.

The financial status of a law firm can often be precarious. From staying on top of billable hours to a changing economy, it has always been a challenge — and then the coronavirus pandemic happened. Suddenly, many legal organizations were facing decreased business and/or delayed cases.

Now more than ever, your firm can benefit from strong financial leadership. Here's how you can best contribute to it.

STAYING ON TOP OF CHANGES

One particular challenge is the fluid legislation landscape, as a new Congress and presidential administration work to pass further efforts to ease the financial fallout from the pandemic.

The Paycheck Protection Program (PPP) "came into existence as an easy source of funds for many firms, but that was just the beginning. You needed to constantly monitor the developing regulatory application of the act in terms of loan forgiveness and taxable income," says Brian P. Gilman, CLM, Chief Operating Officer of Smith Debnam in Raleigh, North Carolina. He also serves on the ALA Board of Directors. "In addition to managing increased operational challenges related to the pandemic, now you need to be particularly mindful of what is coming out of Washington with regard to coronavirus-related assistance, and be ready to act quickly to take advantage."

Travis C. Armstrong, CLM, CPA, Chief Operating Officer of English Lucas Priest & Owsley, LLP, in Bowling Green, Kentucky, says it comes back to having ongoing open conversations with your tax advisers. "Every few days with interpretations and lobbying, there is much to consider," he says. "And I don't think we will know certain answers for quite some time. It's critical to be open-minded and to stay up to date on information."

INITIATING IN UNCERTAIN TIMES

No matter where a firm shakes out on loans and other backing, key questions remain on financial leadership in terms of deciding how to spend. One difficult decision can be in the area of training.

"I think you need to consider investing for the team," Armstrong says. "It will boost morale and show there is a commitment to employees. It says you're trying to weather this storm for them and address concerns they may have about layoffs. They see instead you're investing in them."

Gilman says that he understands the tendency for firms to be on the defense during uncertain times but that such practices can actually hurt revenues in the long run. When employees at Smith Debnam found themselves in a holding pattern due to the pandemic, training became a priority.

"Our perspective was to look for ways to productively use that extra time. Personal development and enhancement of technical skills are often put to the side when work is plentiful," Gilman says. "Trying not to be reactionary and taking a longer view, we recognized one opportunity was in the area of training, with the objective to emerge from this period better positioned to move forward."

He also notes that a real financial leader doesn't just automatically hoard the money saved from other places. "It's important to consider the impacts on all budget areas, not just the top line," he says. "Reductions in variable costs are also occurring; for example, spend drops off on things like sporting events, flying people to conferences and general marketing, even reduced demand for catering and other internal office costs. But these gave way to supporting work-from-home and Zoom. Being nimble and shifting resources in times of changes is obviously an important element of effective management."

Though the pandemic has shown firms the merit of working from home, no one should automatically expect that being a good financial steward means closing company offices.

"There are still operational realities and client expectations that won't completely go away — things like depositions, mediations and client meetings," Gilman says. "Most firms had already begun to at least look at their investment in square footage as somewhat of a cultural relic. Because we had previously shifted our space strategy toward smaller office footprints, remote work technology, electronic records storage and similar tactics that optimized our square feet per employee, the pandemic has not triggered a sense that we need to cut back dramatically on office space. Firms that

"Trying not to be reactionary and taking a longer view, we recognized one opportunity was in the area of training, with the objective to emerge from this period better positioned to move forward."

had yet to culturally embrace these and similar shifts may be taking a harder look at how much space they really need going forward."

Culhane Meadows is a completely cloud-based firm, so the initial lockdowns and work-from-home issues that many firms faced weren't an issue for them. "It's possible this could become more of the future because of the numbers firms like us are putting up," says James Meadows, Founding Partner and Chief Financial Officer of Culhane Meadows.

But that doesn't mean they balk at all expenses. Beyond a strong investment in areas such as back office and IT, they also attended the National Association of Minority and Women Owned Law Firms (NAMWOLF) conference. "It's virtual, but they added the ability to do one-on-one interviews with inhouse counsel with some of the most recognized places," Meadows says. "We ended up with 60 interviews — in terms of money well spent, that exposure wouldn't have happened with an in-person conference. We would have missed out if we were just looking to avoid costs. Being cloud-based doesn't mean just cut everything."



YOU CAN'T PUT A PRICE ON CALM

As uncertainty looms ahead, all agree that financial leadership's job is to help provide calm to the workforce.

"People need reassurance, and our folks were very gracious and grateful for our response and not laying anyone off or reducing anyone's hours," Armstrong says. "It's also recognizing value can be had in different ways. It doesn't have to be 9-to-5. Employees have children at home during this time and other issues. Firms can be flexible."

And communicate — frequently. "The worst approach is not talking to the employees and letting their minds go to the dark corners of what could happen," says Armstrong. "We

managed this area both with financial and human resources they're very closely related and need to work together."

And all are also thankful to report confidence heading into the new year. "We felt we had an advantage with our mode, and it proved out with the numbers," Meadows says. "We're going to get through this. You have to take a breath and keep moving forward."

- ABOUT THE AUTHOR -

Eric Butterman has written for more than 50 publications, including Glamour and Men's Journal.



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Meet Your Peers Online

Face-to-face networking is occasional. ALA's Online Community, while helpful, can feel less personal. Enter a happy medium: virtual meetups! Legal management professionals get several monthly opportunities to join videoconferences to discuss trending topics, best practices or whatever happens to be on their mind.



ALA Roundtables

Complete with a facilitator, these structured discussions focus on a single topic based on member needs — announced beforehand and aim to offer takeaways that participants can put into practice at their workplace.



The flexibility of virtual meetups allow ALA to schedule discussions as the need arises.



ALA Hangouts

For a much more informal option, try a Hangout. Each session's ad hoc agenda is fueled by lively member sharing and interaction.



Small Firm Meetups



alanet.org/networking/virtual-member-meetups





BILL & PHIL
William Ramsey, Partner,
Neal & Harwell

Phil Hampton, Consulting President, LogicForce

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While there are many new features and options in the iPhone 12, there are some throwbacks to older days.²²

iPhone 12: Back to the Future Phone?

If you have been obsessing over COVID-19 or if you have been living under a rock, you might not know that Apple released the 12 Series for the iPhones — the iPhone 12 Mini, the iPhone 12, the iPhone 12 Pro and the iPhone 12 Pro Max in late 2020. (The Mini and the Max were released a bit later, but all were announced on October 13, 2020.)

Of course, Bill could not wait. He bought the iPhone 12 as soon as possible. Phil kept his money in his pocket and held on to his Samsung Galaxy Note20.

While there are many new features and options in the iPhone 12 line — such as magnetic charging, 5G, more camera improvements, a faster processor, a brighter display, a glass screen that is supposedly harder to break — there are some throwbacks to older days. They include:

- A return to flat sides, making the Mini and the 12 look and feel like an iPhone 4 or 5 in your hand
- The "notch" at the top of the screen, which other smartphone makers have abandoned
- The old lightning port (while other makers have switched to USB-C)
- Of course, a high price as costly as a nice laptop computer

And don't let the pricing fool you: the 12 starts at \$799, but it only has 64 GB of storage and no charger, no headphones and no case. All will cost you extra, and you will soon be at the \$1,000 mark.

Nevertheless, spendthrift Bill bought the 12, with 256 GB, the new MagSafe charger (\$39) and the compatible case (\$49), putting him well over the \$1,000 mark. The Mini

will cost you \$100 less. The Pro will cost you \$200 more, and the Pro Max will cost you \$300 more. If you go whole hog with the Pro Max, you will be near the \$1,500 mark. Bill showed some restraint, because he says all you really get with the Pro models is a better camera and Lidar (which allows the camera to work better and can measure distances and height of objects up to 5 meters away).

BUT HOW DOFS IT WORK?

Bill loves the look and feel of his new iPhone 12. He bought one in the blue color, which he thinks makes him hip, cool and savvy. He thinks the square, stainless-steel edges make it easier for his old hands to hang on to his prize, and he is reminded of when he bought the iPhone 4 in 2010 (when he was 10 years younger). Even Phil admits the 12 is a good-looking phone — the finishes don't capture as many fingerprints and the blue color looks nice to him as well.

Apple's new A14 processor makes the phone very fast — noticeably faster than previous models. The display is also brighter, so with the improved speed and delay, Bill is able to watch his favorite Road Runner cartoons without any skipping or screen "hiccups."

Speaking of speed, we must note that Bill is disappointed in the 5G behavior of his AT&T iPhone 12. He could see no improvement over 4G in areas where AT&T says it has 5G. Hopefully, that will change before Bill buys his next iPhone.

Bill also loves the iPhone 12 camera. He can take beautiful, clear and sharp pictures of his garden and pet cattle, even at night.

His pictures of his cattle at night are especially sharp with the new Night Mode and Night Portrait Mode.

Now to the charging and battery issues. Bill has noticed that the iPhone 12 battery lasts much longer than the batteries on his previous iPhones. (Benchmarking by techno geeks has confirmed his observation. The extra life is fueled primarily by more efficient screens and the new A14 chip that uses less power.) Of course, in all likelihood, the performance of the battery will degrade over time. All batteries do this. Time will tell.

Finally, contrary to the mixed reviews of the new MagSafe charger, Bill loves his charger and compatible MagSafe case. Some reviewers have suggested MagSafe charging is slower than plugging in the phone with a lightning cable. The MagSafe charger's magnetic disc securely attaches to the back of the iPhone 12 (or the phone's MagSafe-compatible cover). Bill likes any kind of new, funky gadget, and MagSafe is no exception. But Phil and Bill agree the setup is pretty handy and foolproof.

The bottom line is that Phil thinks Bill has, yet again, wasted his money, but predicably, Bill is happy as a lark clinging to his "Back to the Future" iPhone 12.

- ABOUT THE AUTHORS -

William Ramsey, Partner at Neal & Harwell, and **Phil Hampton**, Consulting President of LogicForce, are best known for *The Bill and Phil Show*.



twitter.com/BillandPhil







SASCHA MEHLHASE Vice President, Products and Innovation ABC Legal Services

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Finding impactful ways to incorporate technology in the legal process will be key to not only providing access but also making the process feel accessible and comfortable for legal clients.**

Tackling the Question of Non-Law Ownership with Regulatory Sandboxes

An ideal justice system is one that is accessible to everyone. Proponents of access to justice believe that people should have equal rights to courts and representation. At the very least, they should be entitled to information and services to be able to make informed decisions around court processes. Technology has helped the industry make headway around physical and informational access to courts, but there are other roadblocks.

Equal access to representation faces a different problem. For example, there are many individuals who have the information they need and live near courts but are deterred from using the systems in place because they cannot afford them. The current scaffolding in the legal industry's pricing and organizational structures creates a barrier to entry that the average person struggles to cross. One solution to this problem is breaking the traditional exclusivity around having only lawyers in law firms and settings where legal processes are created.

HOW DOES NON-LAW OWNERSHIP AFFECT ACCESS?

Non-law ownership of legal companies and their participation in "the practice of law" has traditionally been frowned upon. This is partly due to fears that nonlegal leadership and partnerships could cause biases to form that would hinder fair judgment or encourage non-lawyers to practice law. The American Bar Association refers to this as the "professional independence of a lawyer" (Rule 5.4 in the *Model Rules of Professional Conduct*) and constrains financial relationships in law practices.

Allowing non-lawyers to have greater influence and ownership within legal companies could shake up the industry's processes and pricing. Advocates are hopeful this influence in firms would lead to:

- A rise in the adoption of technology to modernize processes, increase productivity and alter communication expectations (combating the recent decrease in law firm productivity)
- An increase in price competition within lighter areas of law, allowing for prices to fall to levels where the average person could afford legal counsel
- An increase in the overall number of people seeking legal services due to the pricing shift (reaching more of the middle class, which seems to be priced out of the current system)
- A filling of the gap between self-serve legal information providers and law firms

The hope is that by allowing greater influence from non-law participants in the legal sector, technological and pricing structures will fluctuate, encouraging previously deterred audiences to engage with the industry.

Some decision-makers in the legal industry are concerned that alternative business structures (ABS) will lower the bar of quality or ethics surrounding practices. However, the benefits associated with adopting these structures have garnered interest in favor of altering the system. So while there is an increased openness (or sense of inevitability) to this change, making the leap and changing the current regulatory structure is still a daunting prospect. Several court systems in the United States are evaluating how to try this approach without making permanent commitments. Hence the increased interest in and adoption of regulatory sandboxes.

REGULATORY SANDBOXES: LEARNING NEW RULES OF PLAY

Rules and regulations are in place to provide structure and order. When assessing large changes, many are reluctant to greatly alter the existing model of regulations because the outcome is unknown. It's like a game of Jenga: The tower is standing now, but if you pull out the wrong piece, it could cause the entire enterprise to collapse. Regulatory sandboxes let you isolate a section of the tower and push and pull without worrying that you'll lose the game at large.

Regulatory sandboxes contain instances and specific sections of a regulation model. For example, a time-, location- and rule-bound "safe space" is created wherein select participants



can test the waters of that system. The rules are outlined according to the proposal behind the sandbox, and the participants operate within the sandbox under the observation of a regulatory authority. That authority watches and evaluates the regulations being tested. At the end of the testing period, the authority may make a recommendation for the new set of regulations to be implemented, for certain existing rules to be altered to align with the tested regulations, or to discourage the changes entirely. Legal sandboxes facilitate a testing period where changes can be made — or a block pushed — without ending the game.

WHO'S CHOOSING TO SET UP REGULATORY SANDBOXES?

Several states have already begun to implement regulatory sandboxes. Utah and California are leading the sandbox initiatives started in 2020 that revolve around non-law ownership. Utah has established an official Utah Legal Sandbox regulated by the Office of Legal Services Innovation. The name selected for the office alone speaks to hope for the potential changes that could be brought about through regulatory sandboxes. California's Task Force on Access Through Innovation of Legal Services appears equally optimistic in name and has developed a plan for the state's regulatory sandbox focusing on increasing court access. Non-lawyer ownership is on the table for them, but it is considered more of a candidate for a solution rather than the endgame of the sandbox. Other courts are starting to look into similar initiatives, though most are still in a preliminary research phase.

Several courts have weighed the risks and, rather than toeing in, made the jump. In August 2020, Arizona began allowing non-lawyer ownership of legal firms. This change is based on recommendations from its Task Force on the Delivery of Legal Services. The Arizona Supreme Court news release for the change declares that they believe it will allow lawyers to fulfill their "ethical obligation" to provide accessible legal services. The release asserts that "if the rules stand in the way of making those services available, the rules should change."

LOOKING FORWARD

The industry will be keeping an eye on these experiments. If one of these sandboxes is in your area, it is important to determine how they might affect your practice. Be sure to investigate their regulations and their goals. Determine if it's something you want to participate in or if companies you interact with will be making a play. Some sandbox initiatives close at the end of a designated time frame; others may be allowed to linger even if the larger initiative fails.

How the regulatory sandboxes fare over the coming months and years will provide a new standard for exploring changes to the legal industry. Low repercussions for outright changes may allow for an increased appetite for change. Successes in the sandboxes could, at the very least, increase an appetite for testing out potential changes. As regulatory sandboxes become more common, perhaps an industry predisposed to be reluctant to change will be better able to grow and adapt.

ABOUT THE AUTHORS -

Sascha Mehlhase is the Vice President of Products and Innovation at ABC Legal Services. He oversees ABC Legal's growing product, marketing and customer experience. With nearly 20 years of product and marketing experience in software and technology, Mehlhase has advanced product strategies and led global teams in a variety of industries. Most recently, as Senior Director of Product Management at Intrado, he oversaw their cloud-based telecom and communications platform as a service business and drove the company's international product expansion into more than 170 countries. Sascha earned an MBA from Loyola University Chicago and a bachelor's in social economics from Hamburg University in Germany.



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JAKE KROCHESKI President Client Connection

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Firm leaders need not only to be able to get attorneys to address collections, but also to understand when additional resources need to be employed to achieve results.²²

Seeing Is Believing When Managing Accounts Receivable the Right Way

Following a difficult 2020, the start of the new year is the right time to candidly assess what your firm is doing right in its approach to managing accounts receivable — and what needs to be improved on — in the coming year. Although law firms differ in size, practice areas, culture and management style, they all share the same priority: getting paid.

Observing how firms have been managing their accounts receivable (AR) this year, we note key areas where firms are making progress and where they still need improvements:

Understanding you can't collect yourselves out of receivable problems. Taking steps to collect aged receivables may help cash flow in the short term, but without fundamental changes, firms are learning that attorneys will return to bad habits. As a result, they'll find themselves once again confronting aged receivables down the road. Legal organizations that are taking steps to successfully manage their accounts receivable are those that regularly review updated information on client payment status so they can act quickly. These firms are not just reading the numbers but also using reporting methods to look behind the numbers to learn why clients are not paying and what needs to be done to get paid as soon as possible. It's as much practice management as it is financial management.

Confronting irrational fears about instituting an AR management program.

Attorneys fear that managing receivables will hurt the client relationship, but we have learned that it will actually strengthen the relationship if it is handled professionally. In today's up-and-down economy — and in the face of changing law firm economics — it has become a best practice to contact clients about unpaid bills sooner rather

than later. Law firms are realizing that they lose clients by doing poor work or by failing to deliver client service, not by asking clients to pay their bills. Attorneys notice that clients are receptive to appropriate contact and that contacting them early in the aging process helps assure clients that their attorneys are engaged with their work.

Not solely relying on history to judge how collections will perform going forward. It has always been helpful to gauge future collections based on experience. Although the past should not be ignored, in these times, firms see that it is less useful as a guide to current payment behavior. The economic climate is vastly different; mindsets have changed and so have business practices. Firms are becoming more realistic about whether they are underachieving in their collection goals and determining earlier whether their clients are having difficulty paying their bills.

Actions speaking louder than words. Firms are learning to stop discussing collection strategy endlessly with their attorneys and recognizing that there are times when it is most effective to tell them what needs to be done and timeframes by which collection efforts should be completed.

If your legal organization is still reluctant to make changes, consider the following:

Engage in AR management throughout the year to help achieve revenue goals. Effective receivables management starts from the top. Firm leaders need not only to be able to get attorneys to address collections, but also to understand when additional resources need to be employed to achieve results. They need to take stock of what the firm is doing and why — and evaluate what is and is not working. Assess whether you have the right people, with the right skills, doing the right things that produce right results. Hold attorneys, staff and the entire management team to high standards of accountability to ensure progress is being made.

Roll up your sleeves to get results. Spend less time on creating and revising AR management rules that simply do not work or are too bureaucratic to manage. Focus instead on processes and procedures that will streamline payment results or identify why clients are not paying so you can resolve things as guickly as possible. Often firms permit their attorneys to extend too much professional courtesy, allowing them to make exceptions to the rules that result in clients delaying payment or not paying at all.



Recognize that clients know nothing will happen if **they do not pay.** Your firm is not the only one contacting clients for payment. Institute regular, steady, professional communication about unpaid bills to secure dates when payment can be expected and to help guide future followup. By showing your clients that the firm is regularly contacting them and monitoring their payment status, you let them know you are well aware of their bills and expect payment or need to know if payment will be delayed.

Understand that AR management and collections is a process, both during good and bad times. Even when the economy is healthy and all signs are pointing in the right direction, law firms are still faced with many complicated transactions and relationships that do not lend themselves to black-and-white payment terms. When times are bad, those complex transactions and relationships are still there — but they are magnified, resulting in even more difficult hurdles.

ABOUT THE AUTHOR

Jake Krocheski is President of Client Connection, which assists law firms of all sizes by furnishing accounts receivable management services and developing practical receivable programs.



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Anniversaries, Awards and Appointments

Members on the Move



LaVerne Anenia, SPHR, a member of the Capital Chapter, is now Director of IP Administration at Venable LLP in Washington, D.C.



Sandra D. Haislet, a member of the Arizona Chapter, is now Firm Administrator at Practus. LLP, a virtual law firm.



Nate Benson, a member of the Dallas Chapter, is now Director of Finance at Mayer LLP in Dallas, Texas.



Eva Carter Jaramillo, a member of the New Mexico Chapter, is now Executive Director of Rodey Dickason Sloan Akin & Robb, PA, in Albuquerque, New Mexico.



Paul M. Walker, CPA, MBA, a member of the Utah Chapter, is now Executive Director of Strong & Hanni in Salt Lake City, Utah.



Sharing Our Condolences

Patricia Mortimer Simonet, an early member of ALA, passed away in January. She also served as the 1977-1978 President of the South Florida Chapter. Patty, who spent most of her adult life in Florida, served as Firm Administrator for one of the country's largest law firms and ended her career after many years as Managing Director of a large international legal management consulting firm. Our thoughts are with her family and friends.

ALA is saddened by the death of Past President Paula K. Barnes in January. Paula was a mentor to many, an advocate of ALA and a dedicated volunteer. Her welcoming personality and compassion for others was evident everywhere she went. Paula joined ALA in November 2000 and didn't wait long to begin her extensive and incredible volunteer journey. Eventually, she would serve as President from 2014 to 2015. Her family and friends are planning a streamed memorial and will be posting details about it on CaringBridge. We will keep them in our hearts.

With our apologies for the delay, ALA would like to recognize the passing of Marjorie A. Miller, who served as ALA President from 1980 to 1981. Marjorie died in February 2019 at the age of 83. She was a lifelong resident of Drexel Hill, Pennsylvania, and prior to her retirement worked as Administrator for Philadelphia's Dechert LLP. Donations in her memory can be made to St. Mark Lutheran Church of Clifton Heights, of which she was a longtime, dedicated member. Our sympathies are with her family, friends and past colleagues.

What's Happening at Headquarters

There's always a lot going on at ALA headquarters in Chicago. Here's a snapshot of what's in store for the coming weeks.

A Package of Law Firm Management Essentials (LFME) Education

With the addition of LFME: Operations Management at the end of last year, ALA has now completed the transition of the Law Firm Management Essentials program from in-person conference to self-directed, self-paced e-learning. Like the LFME conference before them, the LFME courses are designed to give students a strong foundation in each of the five main areas of law firm management. You can learn about a whole new discipline — like law firm finance — or get a refresher on the essentials of human resources.

And now that all five courses are available, you can get them all at once in the LFME package. Use this package as an educational stepping-stone to get to the next level of your career. Or put it to work as a professional development tool for staff members who are promising candidates for managerial roles. Whatever you intend for it, purchasing the package costs less than buying the courses individually: alanet.org/elearning.



More Virtual Events on the Docket for 2021

What education does ALA have in store for you this year? We're working on two more virtual conferences. The first, coming in the second quarter, will be a two-day Master Class focusing on diversity, equity, inclusion and accessibility. The second, slated for summer, will involve training on outside counsel guidelines. Watch your email inbox for save-the-date notices!





Share Your Story!

ALA is celebrating its 50th Anniversary as an Association this year, and we're asking members to help us celebrate by submitting their story to be featured in next year's 50 Years, 50 Stories video campaign. Each week we'll be highlighting a member's story on our website and social media. You can find the archive on our YouTube channel: youtube.com/user/assnlegaladmin.

Filming your story is super easy. Follow the instructions on app.videopeel.com/kg80v4k2 to easily record and upload your video. No professional acting experience required! The video will take less than 60 seconds to create and you're free to respond to a prompt or tell your own story. If you have any questions, don't hesitate to reach out to ALAis50@alanet.org.



Upcoming and On-Demand Webinars

Sharon Meit Abrahams, EdD, who authored a feature story in the January issue of this magazine, is back with a practical webinar for members of law firm management. February 24's Every Firm Has It: Here's What You Can Do About Underperforming Partners will help leaders identify underperformers and turn the situation around for the benefit of everyone.

Make sure to regularly browse the list of on-demand webinars — it's full of great opportunities for continuing education that can be watched at your convenience, whenever your busy schedule allows. Our most recent on-demand offering, Changes to the Paycheck Protection Program, Loans and Forgiveness Demystified, will help you figure out if the second round of PPP is right for your small business before the application deadline arrives.

Visit alanet.org/elearning for more detials.



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