



# AND THE ART OF LEGAL NETWORKING

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INSIGHTS & COMMENTARY ON  
*Relationship Building  
within the International  
Lawyers Network*

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## What's Holding us Back from Real Change in Legal?

BY LINDSAY GRIFFITHS ON JULY 18, 2017



“Change or die.”

How many times have you heard that over the last eight years?

A friend of mine in the legal industry pointed that out to me recently, along with commenting that it always sounds so dire. And it *does* sound dire.

But after the statistics that we covered in [a recent post](#) (1/3 of clients are openly dissatisfied with their outside counsel, chief legal officers rank firms at a 3 on a 1 to 10 scale for commitment to change, and clients

are moving their legal work to other firms or to non-firm vendors), it would seem that we should be properly incentivized to speed up the pace of change. From the [Peer Monitor/Georgetown 2016 Report on the State of the Legal Market](#), which cautioned BigLaw against a “Kodak moment”

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**[A]s in the case of Kodak, the challenge is that firms are choosing not to act in response to the threat, even though they are fully aware of its ramifications.”**

So what’s holding us back?

I could opine on this myself, but in doing some research on the topic, it turns out that [D. Casey Flaherty](#) has already written extensively (and more eloquently) on some of what may be holding back the pace of change. These are long reads (a writer after my own heart), but worth the time investment. In his several part series, Flaherty (who we’ve referenced and [interviewed](#) here at Zen before) mentions a few key factors that stand in the way of change at law firms:

- [Law firm leadership understands the need for change](#), but is pessimistic about their firms’ abilities to adapt (we referred to this in the above-mentioned post, based on the data from [Altman Weil’s study](#) of firm leaders). Flaherty says: “In 2011, the MPs were were fully convinced change was needed. By 2016, they realized just how hard real change is.”
- He posits that powerful partners within firms use their [success as justification](#) for refusing to change. There is so much from this post that I’d love to quote and share, but rather than doing so, I encourage you to run, not walk, to read this one (in order in the series of course – they build on each other). From his follow up post, a great summary line:

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**The pain just isn’t that acute for most rainmakers who can point to decades of empirical evidence that suggests they will be just fine. Given their stature, relationships, and time horizons, many of them are probably right.”**

- Instead of speaking up and asking for changes, [clients simply leave](#) – this is another point we addressed in that post (remember that surplus of lawyers we talked about?). Flaherty quotes Connie Brenton of NetApp/CLOC from a co-authored piece, in which she observed,

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**Client preference for exit over voice has much to do with resource constraints. We need results now, innovation now, efficiencies now. We haven't the time to wait for our firms to catch up. There are also an increasing multitude of accessible alternative solutions and technologies that were not previously available, making the exit not only easy but the responsible decision for our businesses.”**

Some great discussion occurs in the comments of this post as well, which leads into the follow up from Flaherty.

- Like in some personal relationships, in-house counsel can often leave the attorney/client relationship incrementally, and this slow burn isn't enough incentive for firms to change. Flaherty explains why clients speaking up can increase the pace of change to a more palatable level for clients (and why that's often a better choice than the exit).
- It's possible that on both sides, lawyers don't know what they don't know. Flaherty discusses the tendency of many outside lawyers and their clients to focus on the legal issues at hand, and to flounder when it comes to the business issues:

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**Most lawyers don't often pay a penalty for their lack of curiosity in these areas. And when they do, it is not obvious, especially to them. They can still be wildly successful themselves and make invaluable contributions to the success of their clients. Lack of broader interest in the process, technology, and business of law (T-shaped) rarely makes them bad lawyers. It just limits their effectiveness when more lawyering is not the optimal solution to a particular problem.”**

- Flaherty rounds up the series with some additional thoughts on the role that in-house lawyers can and should play.

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**Law departments should pursue concentrated, calculated, and and clearly articulated change initiatives supported by sustained attention (not the same as constant attention). Even then, some efforts will still fail. Such is the nature of experimentation. If guaranteed results are more important to you than improved results, keep doing the same thing you've always done for as long as it is sustainable, at which point you will have no option but to experiment and far less room for error...I**

**submit that it is the responsibility of the legal department as a whole to behave like sophisticated consumers of legal services. The fact remains that ours is a buyers' market, and the buyers cannot abdicate responsibility for how legal services are delivered. Silence is taken as assent to the status quo."**

For context: D. Casey Flaherty is a legal operations consultant and the founder of [Procertas](#). He is Of Counsel and Director of Client Value at Haight Brown & Bonesteel. He serves on the advisory board of [Nextlaw Labs](#). He is the primary author of [Unless You Ask: A Guide for Law Departments to Get More from External Relationships](#), written and published in partnership with the ACC Legal Operations Section. Find more of his writing [here](#). Connect with Casey on [Twitter](#) and [LinkedIn](#). Or email [casey@procertas.com](mailto:casey@procertas.com).

Now that you've taken some time to delve into the whys behind the slow pace of change in the industry (and perhaps within your own firm), what can we do about it? I'd love to hear some concrete examples and suggestions for what firms are doing to be truly innovative in the face of this real demand for change.