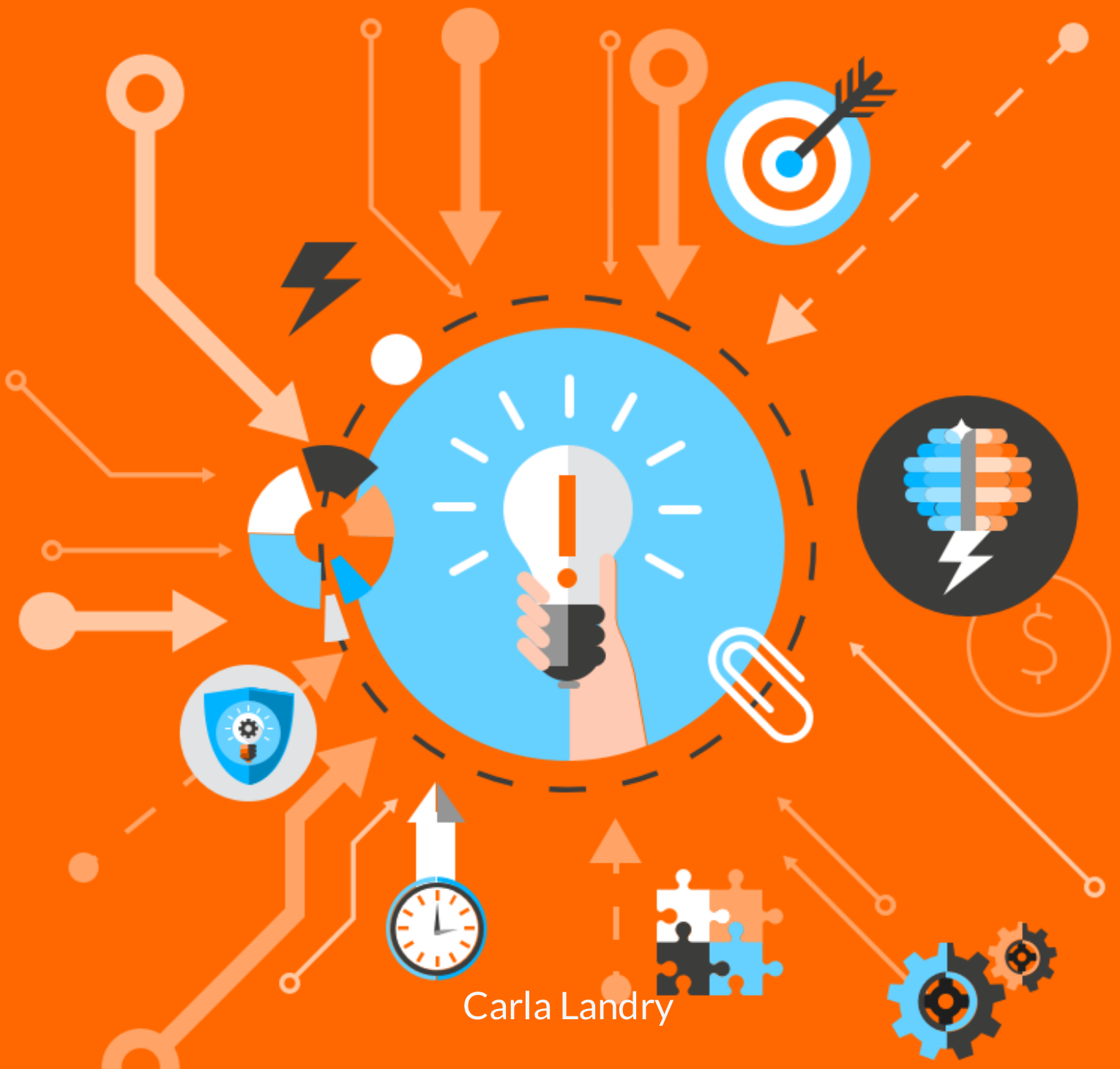


To ALSP or Not: Navigate Through the Noise



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ALSPs: Like Good Hand Hygiene for the Legal Industry

When my son was born, he was only four pounds. So he had to spend a few days in the NICU learning how to breathe, swallow, all of that important baby stuff. Each time I entered the nursery, I had to follow the instructions posted at the handwashing station as carefully as a surgeon preparing to enter the operating room.

It never occurred to me to question the process. I simply followed it. My only goal was to pass through the doors that led past babies the size of small bread loaves, to my son's side. As a new mother, that checklist of handwashing steps gave my postpartum brain one less thing to think about. The process was efficient, effective, and, if one can be considered proficient at handwashing, I earned a gold star. I never had to think about whether I had used enough soap, scrubbed the folds of my knuckles, or touched anything I shouldn't.

I've thought about that handwashing process throughout the pandemic. It's a simple process. Yet research suggests that we are surprisingly casual about hand hygiene. So, if during the Covid-19 crisis, global agencies like the CDC and experts like Dr. Sanjay Gupta, felt it was beneficial to break down the handwashing steps for us, they had good reason. We had enough on our minds. And most of us simply followed the guidelines.

What does handwashing have to do with law firms? Not much. But it does provide a gentle segue into a process discussion. Phrases like process improvement can send a shiver of revulsion through the most valiant of attorneys. Of course, some people are fond of processes. Many lawyers and other professionals, however, believe they don't need to be told how to perform their jobs. Great...then we're on the same page because legal training isn't the goal of process improvement.

To understand better how this discussion is relevant to the practice of law we can look at ALSPs. Currently, there seems to be a lot of noise surrounding ALSPs. Why all the fuss? They have found a better, faster way to provide some types of legal services. Clients appreciate that. ALSPs are increasingly encroaching upon the space that was once the exclusive domain of lawyers, including Big Law.

Here's why: Everything is a process.

A process is simply the steps and the actions we take to get things done. Not every process is created equally. Some are more artsy and nuanced. Others require a great deal of expertise. But they are processes nevertheless. The process is never the end goal. Rather, processes provide the means to an end. Once you break work into processes, those processes can be improved. Improve the process and you save your mental energy for those actions that require legal and professional expertise.

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The thing that makes ALSPs work is that they have mastered the art of effective and efficient processes, even for some of the more challenging legal work. Law firms aren't ALSPs. But they can learn from the process model. However, it's easier said than done. The business model is different. The incentives are different. You can have world-class processes and find that not everyone is motivated to follow them.

When my son was born, I had to go through that handwashing process every time I entered the doors of the NICU. So as I happily stood at the hospital sink singing the Alphabet Song to myself and floating on puffy clouds of baby love, I didn't need to think about anything else. Just my kid.

When process improvement is introduced to a firm, it's not about the process. It's about focusing on the end goal. So, how do you get all cats herded in the same direction?

Herding Cats: Focus on the End Game

Law firms don't really have a choice. They used to. When markets were stable and profits were rising across the industry, it was difficult to make a compelling case for change. Never mind that many that did are in enviable positions right now. In the current destabilized economy, the need for process reform is more urgent than ever. Yet, even in the midst of the pandemic, there is and will continue to be significant resistance among lawyers to changing from what some corporate minds refer to as the cost-plus business model.

Firms are no longer able to just cut expenses on their way to profitability, if they ever could. It's not a sustainable model. So something's got to give. The answer lies in improving processes. We've been counting down from three for many years, but we really, really mean it this time. The case is clear. Now the only question is: How do we herd the cats in the same direction?

Remember, processes simplify life. Hand washing wasn't about the NICU process; it was about my son. Not everyone can be giddy about processes. Even as a process guru, I understand that there are quite a few things more exciting than process. But now is the time to stifle that yawn and tackle those processes anyway. Legal Process Improvement (LPI) is about delivering value to clients. In the end, value drives profit.

In the past, I've talked about resistance to LPI either because, in addition to being overwhelmed by the thought of all those processes, lawyers can be a troublesome lot when it comes to change.

That brings us to herding cats. Lawyers have some unique personality traits in common, as revealed by Dr. Larry Richard, in his research using the Caliper Profile. Lawyers aren't like everyone else. Surprise. In order to get each one of these highly analytical and independent thinkers going in the same direction, you'll need to **start** by laying the foundation behind the scenes. You'll need to create buy-in.

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There are many ways to approach this challenge, but you'll have the best chance for success if you build an alliance. Once you have support from a few, it will be easier to garner support from the masses. Laying the foundation is a three-step process (there's that word again), which like most other three-step processes, requires a fair amount of planning:

1. Start by finding the lawyers who wield the most influence. This does not simply mean equity partners. It also does not mean just the rainmakers. You will likely find that the influencers are both rainmakers as well as other lawyers who lead, both formally and informally. Don't shun the latter group of informal leaders. And don't select your influencers based solely on their ability to bring in business. Any of your firm leaders can be equally effective in proselytizing for the cause.
2. Hold private discussions with each influencer to explain the overall vision and goals. Start with the need to solve a specific problem framed in terms that the influencer understands. *Is it profit? Is it time? Is it disliking being told what to do?* You're seeking buy-in to new ways of getting work done. This isn't a discussion about process. Stay out of the weeds for now.
3. Confirm that you have buy-in. You cannot assume that because you thoroughly explained your position and you're getting affirmative "I hear you" signals that you have agreement. Buy-in is more than a head nod. If the response is less than enthusiastic, you haven't closed the deal. Address the issues that prevent buy-in. Unless you have wholehearted agreement among the influencers, you're unlikely to get the group to go along. Rethink how you've presented the case for change.

Once you have a few good champions who have influence within the group, you are ready to spread the word. Understanding lawyer personalities can help you determine how to craft your messages. One size won't fit all. But we can leverage what we know about the personality similarities among lawyers to increase the odds of getting all cats moving in the same direction. These common traits can help you tailor your strategies to be most effective while you groom the influencers who can make change happen.

Empowering Lawyer Personalities for Successful Legal Process Improvement

People really crave normalcy right now. Yet, here you come with a new initiative. But despite everything, this may be the perfect opportunity for your firm to take a different approach. If you have a strong sense of purpose and a solid plan, they may overlook the fact that your initiative comes with a healthy dose of change. Indeed, the evolving competitive landscape underscores the need to adapt your strategies to a new reality.

We've talked about process improvement. As ALSPs increasingly cross over into coveted law firm territory, they are doing many of the things that law firms have traditionally done, only faster and cheaper. We've discussed how to create momentum for your process initiative by building an army of influencers. These influencers are evangelists for the cause, ready to make change happen among a group of highly intelligent lawyer types, each intent on going their own direction.

Although we've used the term herding cats, lawyers may not be as challenging as you believe. In actuality, they have a number of key attributes in common. Lucky you to be working with a professional group that is so clearly delineated by a cluster of personality traits you can use to create success for your initiative.

Do lawyers have the characteristics to support change? Conventional wisdom tells us they may resist movement away from the status quo. But, then, change is a challenge for most people.

It turns out that lawyers as a group share a number of personality traits in common. We don't assign judgement to these traits: Any trait, whether good or not, can be problematic when carried to extremes. Rather, we seek to use the knowledge that we have gained over the years. Embedded in this knowledge of how lawyers are generally wired is a treasure trove of information on motivating people and building the buy-in for change.

Our friend and colleague Dr. Larry Richard has used the Caliper Profile over a period of more than two decades. According to his research, lawyers are differentiated from the general population on some key measures. So, just what do we know about lawyers and how can this knowledge help build further buy-in for change? Think in terms of customizing strategies that take into consideration these unique personality characteristics and help ensure the success of your initiative.

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Stubborn Bank Customers

Some of you may remember a time when you had to actually go into the bank. Getting customers to use ATMs wasn't easy back in the 80s. Customers didn't know anything about the clunky new technology and, besides, the tellers gave out lollipops to the kids. For some, the messaging seemed obvious. It was much easier to get \$100 from a curbside machine than to enter the bank, stand in line and deal with the teller. The ATM was open 24/7. Easy right? Not so fast. For a large group of relationship-oriented people, there was a stubborn and persistent pull to go inside. So the messaging needed to be different. It all comes down to personality characteristics and personal motivation.

Lawyer Personality Traits

So what does this have to do with your lawyers? Plenty. Dr. Richard identified unique personality characteristics that you can use to better understand the messaging that resonates with your firm. A few of them can directly impact your ability to propel your process improvement initiative forward: They are autonomy, skepticism, urgency and abstract reasoning.

Autonomy

In the book *Drive: The Surprising Truth About What Motivates Us* by Daniel H. Pink, autonomy is described as the desire to direct our own lives. As a group, lawyers are high in autonomy. This isn't the same as lonesome cowboy independence. Autonomy and interdependence are not mutually exclusive. They can coexist. Rather, the lawyer brand of autonomy is an innate capacity for self-direction. It's about empowerment. Lawyers who are high in autonomy prefer to act with choice. You're speaking their language when you give more control rather than take it away.

Bottom line for the highly autonomous: Your highest performing lawyers do not want to be driven by process. Make sure that your lawyers are involved in designing processes that give them greater control, rather than take it away.

Skepticism

Skepticism is defined as having an air of doubt or incredulity. Psychologists generally agree that healthy skepticism is a good thing. It may be particularly beneficial for lawyers because they have it in large supply. It's part of what makes them good lawyers. Skeptics ask the questions that drive new thought processes and inspire next-generation thinking. But the problem is that highly skeptical people challenge pretty much everything. Innovators? Agents of change? Probably not what comes to mind when you think of skeptical lawyers. But your skeptics are a valuable source of institutional knowledge. They can drive you to distraction... and success.

Bottom line for the highly skeptical: You cannot be too realistic for skeptics. Don't repress the outlier opinions or try to silence the opposition. Provide a way to voice dissent by setting the ground rules upfront for how you'll disagree.

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Urgency

Urgency, as a personality trait, is the strong desire to resolve issues. That's great news, right? After all, one of the basic tenets of change management is the need to create a sense of urgency. Urgency is the oil that moves the machinery of change initiatives. It prods people from things-are-fine complacency to get-'er-done crusaders for the cause.

So, how does urgency manifest in the legal environment? Admittedly, it can include overly-aggressive behavior and a low threshold for frustration. When lawyers come across as impatient, they may be unwittingly exhibiting the dark side of the sense of urgency. Yet, urgency, when correctly channeled can be quite positive. After all, absent a sense of urgency, nothing happens. People with a high sense of urgency have an inherent need to rack up the maximum number of accomplishments in minimal time. They get stuff done.

However, this doesn't mean that the things that get done are optimized. Urgent lawyers are not inclined to look at the process. After all, that would require taking time away from the actual doing. Urgent people, however, are predisposed to want to use efficient processes. Once you channel this urgency into your initiative, you can sit back and watch change happen.

In order to do this, though, you'll need to keep in mind the following:

- Build your change initiative with plenty of milestones that signal progress and satisfy the need to accomplish.
- Show urgent lawyers how the proposed change will help them get what they want... faster and better, leading to happier clients.
- Reflect an attitude of urgency back at them in your speech, your actions, and even in your body language.
- Go into overdrive to remove the obstacles to their success.
- Trumpet successes and outline their achievements at every opportunity.

Abstract Reasoning

Lawyers typically also have in abundance, another useful personality trait, abstract reasoning. Abstract reasoning includes the ability to analyze disparate bits of information, finding patterns and relationships that facilitate the solving of complex problems. Lawyers who are highest in this trait can be a huge asset to your practice group. They bring strong problem-solving abilities and they can help you think more creatively about solutions.

Abstract reasoners can play the role of devil's advocate to perfection. Of course, you already know that such advocacy is often punctuated by the need to question everything. You can, however, put this creative energy to good use by charging your abstract reasoners with finding answers for the thought-provoking questions they raise. This not only builds engagement, but it also increases advocacy within the practice group.

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Remember that abstract reasoners will not find exciting the step-by-step systems that can be the outcome of a process improvement effort. But also remember that as the once time-sucking routine work becomes increasingly efficient, creative lawyers are afforded more opportunities to do what they do best: practice law.

What will you do to combine what you know about lawyer personalities and the individual practitioners in your firm to put together strategies that resonate with your group?

Use What You Know

It's true that many process improvement efforts never gain traction. But the reasons are predictable. You can ignore concerns and anxieties, but that doesn't mean they go away. They simply resurface as the eventual reversion to old behaviors. You will have the greatest chance of success if you give lawyers the opportunity to be heard. This will help you anticipate obstacles along the way.

This isn't uncharted territory for law firms. At the end of the day, it's a matter of tailoring your messages to appeal to your audience. To the extent that you understand your lawyers and what they need to thrive, you can make a difference in your firm's profitability.

To ALSP or Not. It's Just Part of the Question

Everything is a process, even, as the pandemic reminds us, hand hygiene. We use a myriad of processes in our work, some good, some not so good. The best processes are efficient, predictable, even lucrative. The worst? They create problems for clients and drain the coffers of law firms.

So when ALSPs spotted the opportunity to do processes better, faster, cheaper, they were ready and willing to profit from the work that law firms often fumble. Even after the inroads made by these legal companies, it can be difficult to get lawyers to put energy toward process improvement.

We've talked about all the hoopla surrounding ALSPs. We discussed how to engage lawyers in process improvement initiatives in their own firms as well as how to use the commonalities identified among lawyer personalities to effect change.

Now we'll consider the moose on the table: Should your firm consider working with an ALSP?

Above all, the choice should be a strategic one. Be wary of any shoot-from-the-hip advice that you really should outsource some element of your business. You must examine holistically your work processes. But before you do anything at all, follow a systematic approach to figure out the best course of action.

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Know Your Clients

First, start with your clients. Do not assume that you know what your clients really want. If you asked them a year ago, that's old information. If you asked them five years ago, you're clueless. Push down on the answers they give because your client may not actually know the answer themselves.

You may have assumed your clients are concerned with cost, when what they really want is greater predictability or a higher level of consistency in the outcomes. Or perhaps they just want a little more love, i.e., more face time and better communication, regardless of cost.

Run their responses through additional filters. Be sure that the matter teams understand:

- Who do your clients serve, both internally and externally?
- What pressures do they face?
- What are their pain points?
- What are their price points?
- How has the competitive landscape changed?
- What challenges do they anticipate in the future?

Analyze Your Processes

You may prefer a root canal over root cause analysis of your process inefficiencies. But do it anyway. If you don't figure out where the profitability leaks are, you could be caught in an endless game of Whac-A-Mole: the problem will eventually resurface. Understand what you do best and what you should outsource so that you can use ALSPs strategically rather than as a bandage.

Examine Your Internal Resources

You never want to outsource what you should do in-house. Allocate resources according to your core competencies and your in-house capabilities. If outsourcing undermines your value proposition, you are better served by fixing your internal processes and retaining the work. Make sure that if and when you outsource, you free up your lawyers for the higher value work.

Answer the ALSP Question with Care

If you've looked at your processes and decide that you should go with an ALSP after all, carefully select one that will be an extension of your firm. Enlist input from firm partners and trusted advisors. Your goal is to engage the ALSP in a meaningful way. This means, again, do the process work. Both your lawyers and your clients deserve seamless interoperability so that the day-to-day business continues undisturbed.

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Don't Relinquish Total Control

You must avoid becoming a casualty of delegation as was the case with the now-defunct LeClairRyan. The law firm gave ALSP, UnitedLex, “unprecedented control” over much of its legal operations, according to [bankruptcy trustee Lynn Tavenner](#). The already struggling firm became even more so.

Of course, we hope that your firm is not in Chapter 11. However, this example illustrates that even an established ALSP can misinterpret your vision if you over-delegate. You must be involved and you must understand the work and regularly communicate and manage to your expectations.

The Final Takeaway

Process work is challenging and they don't teach this stuff in law school. But it's necessary before you outsource work. Bring in objective outside resources, if needed. That odd handful of people who enjoy process work really do love it and will give it the attention it requires.

So, here's the bottom line. Do not outsource to get rid of messy processes that you feel you can no longer control. Rather, outsource only if it helps each matter or client team to:

- Focus on its core business;
- Deliver value to its clients;
- Deliver more for less;
- Reduce risk, where possible;
- Manage capacity amidst rising complexities.

Do your due diligence prior to outsourcing the work, and you will greatly increase your control and your law firm's profitability. And, most importantly, likely enhance your client relationships.

About the Author



Carla Landry is a Principal with LawVision where she coaches legal teams on implementing legal project management and legal process improvement techniques into their matters. She leads the LawVision legal process improvement practice. Carla has spent over 25 years working in the legal industry, focused on helping lawyers manage their matters effectively and efficiently to enhance client relationships and improve financial performance. She was an Adjunct Faculty at the George Washington University teaching Economics and Profitability of Law Firms as part of a master's program in law firm management and is an Advisory Board Member of the Legal Project Management Institute. In addition, Carla co-created the first legal project management certification program and launched the first online eLearning courses in legal project management ([LPM LaunchPad Certification](#) and [LPMAware](#)). She also developed two online eLearning courses for the Practising Law Institute (PLI), including a Telly Award winning one on process improvement and another on law firm profitability. Click [here](#) to read more or connect with her on [LinkedIn](#).

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