

Lawyers and Change: Why is it so Hard?

Tim Pratt

“Change is great, so long as it doesn’t change the way we have always done things” Anonymous Cynic

What is it about lawyers and change? When you read about the mindset of great corporations, you hear things like: “They have a vision of the future;” “they see around corners;” “they embrace change;” “they never stand still;” “they are never afraid to take risks.” Things like that. Remaining dormant in the free market will leave you behind. It was Jack Welch, CEO of General Electric, who said: “Change before you have to.” Successful businesses are those that not only adapt to change, but also anticipate change, lead change, beat others to the punch. They move not just incrementally, but seismically. They dare. They are courageous.

When is the last time these mindsets were attributed to lawyers and law firms? We lawyers love the status quo. It has served us well. We bunker down to preserve it. It gives us comfort. Rocking the boat is risky because, well, you might fall out. Lawyers are not well-trained on strategic change management. You certainly don’t learn that in law school. Few have business experience. Once in the practice of law, you focus on what will make you succeed in the practice of law—becoming more skilled, acquiring business, winning cases. And, rather than being taught to be forward-looking and innovative, we are trained the opposite way. For lawyers, we find guidance and answers in the past. We are instructed by that time-honored principle called stare decisis, which is Latin for “to stand by things decided.” We look back over two hundred years of case law to answer pressing legal problems of today. We are admonished, through the power of precedent, not to undo things that have been decided. We learn how to try cases from people who have tried them in the past. We join law firms that have used the same business model for decades. Finding answers in the past is not the glide path to success. As the leadership guru, Peter Drucker, says: “The greatest danger in times of turbulence is not the turbulence – it is to act with yesterday’s logic.”

Don't be disheartened. "Hope springs eternal," as 18th century poet Alexander Pope famously wrote in his Essay on Man. But it takes more than hope. It requires, at first, a commitment to drive change, followed by a dedicated execution strategy.

"Look Inside Yourself"

The key to leadership is knowing who you are, what you want, how you set your priorities and what makes you, you. Determining whether you can be a change agent requires a decent dose of introspection, a look at whether you have the right stuff to be THAT person. I'm not talking about a passing glance or shallow analysis. I'm talking about digging deeply, beneath the veneer of what you want others to see, and candidly exploring whether you have what it takes to move stubborn mountains. Some don't. Some remain enamored with the status quo and, though they may gripe about it endlessly, they don't want to rattle it. And they don't want to change themselves. If you are one of those people, go back to your desk and stop complaining about things you are unwilling to change. If, though, you are willing to dismantle things, be the point of the spear, show fearlessness in facing risk of failure and endure the pressure and potential enmity of being in the minority, then read on.

"Envision a Broad Landscape of Options"

Driving change requires more than just wanting things to change. Tackling problems without an array of solutions is folly. Solutions require a vision, one that is as broad as your wildest imagination. You have to see before you act. If your vision is as narrow as a peephole, you will never get credit for being a mountain-mover. Leaders and change agents are visionaries, and they see things not just outside the box but in places where the box cannot be seen. In my first year of law school, I took a class called "Jurisprudence." One day the professor hypothesized a situation where a neighbor's tree was extending over your property and creating all sorts of horticultural problems. He asked: "what options are available to the landowner?" The gunners—those people who sit in front of the classroom and raise their hands with all the answers despite the derision of the backbenchers like me—started spouting all sorts of things: "Cut the tree down." "Cut the limbs extending on your property." "Call the authorities." "Threaten the tree owner." "Plant your own tree." "Build a 50-foot fence." And on and on. My rigid political science mind was appalled. What a stupid waste of time, I thought. Yet, as time has passed in my legal

career, I saw the genius in what the professor was doing. Thinking like a lawyer requires one to explore ALL options, even stupid ones raised by the arm-waving know-it-alls. There will be time to dismiss the silly ones, but it is in the exploration of the extreme ideas where nuggets can be found. Think broadly. Be an arm-waver. Don't be afraid to appear stupid.

“Narrow Down the Options Using Wisdom and Courage”

Now comes the tough part. Even if you are blessed with resourcefulness and vision, here is where you can trip up. It's a pivotal point because possibilities remain just that until you pick the best one and move on it. Reducing the options from many to a few, maybe one, requires good research, careful analysis, open discussions with diverse stakeholders, candor, decisiveness and one other thing—courage. It's easy to talk yourself out of a course of action based on a host of perceived and hypothetical downsides. I'm not saying one should ignore the downsides. The risks have to be evaluated and factored into the decision. But as you evaluate the perceived and hypothetical downsides, be sure to balance them against the perceived and hypothetical upsides. Listen to others, but don't readily give up that feeling in your gut. Don't rush to judgment, but also don't always assume that more time will provide more clarity. That's the mantra of procrastinator, and procrastinators are rarely change agents. In sum, this process requires what I call “collaborative courage.” You need to engage and influence others in a collaborative way. But you can't simply try to keep everyone happy. Leaders and change agents are more than weather vanes, shifting with the winds and nature. The good ones come to know what they want, and they are willing to find that thing inside themselves to nudge others to that outcome. There may be opposition, threats, cries that Armageddon is upon us, and claims that you are losing your mind. But the true leader endures all of that and takes the time to convince others and bring them along. If you are wrong, there will be some “I told you so's,” but that should not deter. It should motivate. It should invigorate. Selecting the best options and convincing others is not the end of the battle; it is only the beginning.

“Create an Executable, Urgent and Documentable Plan of Action”

Great ideas don't bloom spontaneously. Someone needs to watch over them, nurture them, bring them to fruition. There are many steps to this process. You must select an “accountable owner,” who will monitor, report and

lead from beginning to end. Identify the manageable steps that need to be taken, and be sure all team members know them. Create timelines so everyone knows what needs to be done by when, and accept excuses grudgingly. Communicate generously. Celebrate successes. Get more help if you need it, from inside or outside the organization. Be reasonably adaptable because unexpected things will always happen, but don't lose confidence in the mission. Rid yourself of the laggards and naysayers. Don't let them suck the energy out of the room. Lead. Inspire. Deliver. It's in the delivery of outcomes, especially the difficult ones, where true leaders surface, thrive and excel.

"Avoid the Eight Errors"

In his classic book "Leading Change," John Kotter identifies the eight common errors that business make. And because law firms are businesses, here are the eight common errors that law firms make:

Error #1—Allowing too much complacency

Error #2—Failing to create a sufficiently powerful guiding coalition

Error #3—Underestimating the power of vision

Error #4—Undercommunicating the vision by a factor of 10, or 100

Error #5—Permitting obstacles to block the new vision

Error #6—Failing to create short-term wins

Error #7—Declaring victory too soon

Error #8—Neglecting to anchor changes firmly in the culture

Identifying the potential missteps is critical to avoiding them. Anticipate things you need to do to accomplish your vision. Then go forth and avoid the potholes.

"Accomplish Things the Right Way, with Ethics, Professionalism and Compassion"

The practice of law is difficult and stressful. Just surviving it can be an ordeal. If you are leading a tectonic change project, the stress is magnified. When you are in the midst of that pressure-packed situation—and you are trying to manage people, schedules, expectations, pitfalls, disappointments, delays and all else—you might get tempted to do things that you surmise might make things better, or easier. Pernicious things. A corner cut just a little. Exaggerating things a bit beyond the truth. Being a little less transparent, or

being less honest with others. Becoming more autocratic. Displaying less patience.

No. No. No. Do not succumb. First of all, doing the right thing in the right way makes us feel better about ourselves. If your moral compass becomes misaligned and you lose the ability to see or follow the right path, you are lost. Yes, as lawyers, we are guided by a plethora of ethical rules, and opinions that interpret them. To be ethically-abiding, you don't need to remember every rule or advisory opinion. Just remember the foundation of those rules, which are really the things we learned in kindergarten—be honest, don't cheat, play fair, admit mistakes, don't exaggerate, treat others nicely, make friends, be a friend, respect authority. Things like that. Honor those lessons of life taught to us by those who cared for, and loved us. If those things still mean something, and they should, doing violence to them no matter the circumstances should leave us feeling empty, dishonest, a little dirty. That is not a recipe for happiness, fulfillment or a good night's sleep. Do the right thing because it will make you feel better about yourself and make your mom proud.

Secondly, treating others appropriately even in the direst of circumstances implicates something that we as lawyers are duty-bound to do. It's called civility and professionalism. Virtually every state and local bar association has Tenets of Professionalism. They take many forms but have common themes—conduct yourself so as to bring respect to our profession, honor agreements, don't lie, treat fellow lawyers civilly and professionally. We often think that these principles apply only to opposing counsel. Indeed, they do not. They apply to every lawyer with whom we interact, including the lawyers in your law firm. Think about that as you are trying to lead change, and perhaps move people where they don't want to go. Even if emotions escalate, and the challenges become suffocatingly stressful, always remember that everyone is entitled to be treated with respect, transparency and honesty. Hopefully, that is a habit and is not difficult. If it is not a habit, take another look inside yourself and figure out how to fix that flaw, fast. Being civil should be in every lawyer's DNA. If it is not, get another job.

Finally, how you handle yourself during the change process will define you as a leader. It is axiomatic that effective leaders need to feel and display compassion. Much has been written about compassionate leadership. There

should be little surprise there. Good people don't like being led by jerks and tyrants. They want to follow those who display calm in crisis, feel empathy, give rather than take credit, trust others, put team first, bring optimism into the room and, generally, make others feel good about being on the team. If you do that, you increase your chances of succeeding, over and over again. You increase your chances of having the best players on your team. And you will retain them. There is nothing more critical to leading and success. Be compassionate, and others will pay it forward and back.

There you go. Do things the right and professional way. It's our duty as lawyers. It makes for effective leadership. And we will sleep better at night and hold our heads high.

Now, back to where we started. If you think you cannot be a change agent, you might be right unless you change the way you think. I'm encouraging you not to think that way. Once you start thinking that all things are possible, they become possible, and possible becomes probable, and probable becomes reality. So go forth and get real.

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