

The Business of Lawyering

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Janis M. Meyer (jmeyer@deweyleboeuf.com or jmeyerage@gmail.com)

WELCOME TO BIGBY & BULL LLP

Bigby & Bull LLP ("B&B") was founded in 1920 as Bigby, Bull & Bean by Horatio Bigby, Robert Bull, and Joseph Bean. It originally concentrated on advising investment and commercial banks on corporate and securities law issues but over the years has developed a full-service legal practice. Bigby & Bull has always prided itself on the excellence of its lawyers' work, its blue chip client base, its lawyers' integrity and devotion to public service, and its strong pro bono efforts. Joseph Bean served as a U.S. Supreme Court Justice and a number of other B&B attorneys have served on the bench or in government positions. B&B is now a 500-attorney firm headquartered in New York with offices in Washington, DC, Silicon Valley, London, Paris, and Shanghai. B&B's client base draws from the Fortune 500 and major multi-national corporations but, like most firms, B&B has found the competition for these clients' work to be increasingly fierce. Thus, it is constantly alert for ways to increase its business footprint.

Bigby & Bull has hired a class of 24 new associates who will start on August 22. Welcome. You are those associates and are expected to arrive ready for work. Please make sure that you have reviewed the course overview on the website and the first week's reading (below) before the first class.

Class Schedule and Assignments

The following is a schedule of classes and a list of reading assignments for the first four classes. Reading assignments may be added, but I will try to give you adequate notice. Most of the reading is available on the internet or in the library. I will email you any material that may be difficult to find. **Please send me your email address as soon as possible.**

Familiarity with the assigned reading, which is in some respects different from standard law school reading, is expected. Reading assignments under each date are expected to be completed prior to that day's class.

Class Schedule

August 22 – Your First Day at Work

You are expected to show up ready for your first day at Bigby & Bull. The class will include a brief orientation and your first challenge: meeting the lawyer you will be working with and receiving your first individual assignment.

Reading to be completed prior to class

"Herding Cats", Dr. Larry R. Richard (posted behind this document)

"The Last Days of Big Law," The New Republic, July 21, 2013. Can be found at www.newrepublic.com/allcontents. Has been reprinted in numerous outlets so should not be hard to locate.

"Don't Bury Big Law Just Yet," www.amlaw.com, July 24, 2013.

August 29 – "Client Contact" – Part I

The class will cover basics relating to a lawyer's most important assets, her clients. In particular, we will cover meeting with clients, understanding their concerns, and making them want to hire you.

We will also discuss the preparation of client "pitches". You and a teammate will be assigned a "client" to "pitch" at the next class.

Reading to be completed prior to class

The Curmudgeon's Guide to Practising Law
("The Curmudgeon") Ch. 2

Brady & Kanarek, "Managing Your Career",
New York City Bar Association (**will be emailed**)

September 12 – The Client "Pitch"

Working with information you have prepared, in teams of two, you will meet with a client to persuade the client to hire B&B. Each "pitch" will be done in class and discussed afterward.

Reading to be completed prior to class

Green, "When to Ditch the Elevator Speech and Take the Escalator or the Stairs,"
www.trustedadvisor.com/articles (February 25, 2011).

September 19 - Ethical Behavior as a Key to Successful Lawyering

Reading to be assigned/emailed.



Herding Cats: The Lawyer Personality Revealed

"Managing lawyers is like herding cats." It turns out that the old saying is based on fact. I've been studying the personality traits of lawyers for the past twenty years, and have measured dozens of traits among thousands of lawyers. Research confirms that not only are lawyers highly autonomous, but they share quite a number of personality traits that distinguish them from the general public.

These "lawyer personality traits" have broad implications for the management of lawyers, the cultivation of rainmakers, the retention of associates and a range of other critical issues in the day-to-day practice of law. In this article, I will explain how lawyers differ from the lay public—in some cases significantly—and how rainmakers differ from other lawyers. I'll then discuss how such personality data can be used to improve hiring and management.

Personality exerts a potent influence on virtually all aspects of law firm life. In recent years, managing partners, especially in larger firms, have come to appreciate the importance of understanding these factors, an understanding fostered in large part by practical needs. For example, Lloyd Semple, managing partner of Dykema Gossett, based in Detroit, reports that "while I was initially somewhat skeptical about the value of the process, we have recently used personality information obtained from the Caliper [Profile] to our great benefit. Our leadership group used the profile to better understand our respective strengths and weaknesses, which improved our working relationships. And recently the partners in one of our regional offices used the Caliper's information to assist them in several leadership and organizational decisions."

The test that Lloyd Semple referred to, the Caliper Profile, has been in use for over 35 years. Over 1 million professionals, business managers, sales people and other executive level individuals have been profiled with this tool. Over the past few years, it's become the test I rely on most frequently in helping lawyers understand the personality forces at work in their firms. At this point, I've profiled over 1000 lawyers with the Caliper Profile—mostly in senior management positions in law firms and corporate law departments—and I can report several patterns that may surprise and interest you.

Rainmaking

Perhaps the most intriguing data has to do with the personality traits of successful rainmakers. Harold Weinstein, Chief Operating Officer of Caliper Corporation, notes that "over the years our research has shown that there's a strong correlation between performance and motivation. People who are working in roles that are consistent with their personality, values and interpersonal characteristics generally outperform those who are less well matched—by a ratio of two-to-one. Nowhere is this pattern more consistent than in the role of selling or 'rainmaking'."

Professionals who successfully sell their services score considerably higher in three traits than their less successful counterparts. Most important is Ego Drive, the desire to persuade others for the sheer sake of persuasion itself (and not necessarily because the person believes the underlying point that he or she is advocating.) People with high Ego Drive scores love to persuade because when they get someone else to agree with them, it validates their identity or "Ego". Successful rainmakers have lots of Ego Drive.

The second trait that Caliper found is Empathy, an interest in shifting perspective and stepping into the shoes of the other person to understand the world as seen through their eyes. Successful sales professionals have higher than average levels of Empathy.

The third trait that Caliper found is Ego Strength or "Resilience", the ability to bounce back from criticism or rejection. Successful sales professionals score higher on Ego Strength. When a prospect says "no", it just makes the sales person hungrier to try harder, whereas those with low Ego Strength tend to take the rejection personally, feel rejected, and quickly lose their interest in selling.

In a study jointly conducted by Caliper and Altman Weil in 1998, we looked at a group of 95 lawyers judged by their peers to be "excellent lawyers." The group was divided into two subgroups: successful rainmakers and "service partners". The former were in the top echelon in terms of developing new business; the latter were in the bottom echelon, despite their other standout qualities. The average Ego Drive score for the rainmakers was 60 (on a scale of 0 to 100) compared to only 38 for the service partners.

The average Ego Strength score for the rainmakers was 63 compared to only 43 for the service partners.

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And the average Empathy score for rainmakers was 75 compared to only 65 for the service partners. (This difference was not statistically significant, but will likely turn out to be so with a larger sample size. Lawyers across the board tend to score a bit above average in empathy.)

In short, the Caliper Profile clearly differentiates between those with the personality profile frequently associated with successful selling and those who are not very successful. Does this mean that if you don't have a "rainmaker's personality" that you can't originate business? Of course not. But it does suggest that some people, by virtue of their personality, are much more comfortable in the rainmaking role and can't "not" make rain, whereas for the rest of us it may be a struggle. Since rainmaking is an important function in any law firm, many lawyers with lower scores on the key rainmaking traits will nevertheless make an effort to originate business, and some will succeed. However, as a general rule, they will find it much less comfortable, much harder to do, and less rewarding than it is for the classical rainmaker.

One other key implication of these data is that since personality traits like these tend to remain fairly stable over time, there is some degree of predictability possible. So, for example, if you are hiring a lateral associate and you want to increase the odds of hiring an individual who will become a strong business generator as a partner, you can gather data using the Caliper Profile that will increase your odds of hiring an associate with rainmaking potential.

By the way, the three classical "sales" traits were not the only distinctions we found in our research. Successful rainmakers also scored more assertive, sociable, risk-taking and confident, and significantly less cautious (less perfectionistic) and less skeptical (more trusting), than the service partners.

According to Steve Hoskins, Managing Partner of McCarter & English in Newark, New Jersey, whose firm has utilized the Caliper to help develop success in rainmaking, "After you explained it all to us, it all fell into place.... A number of the traits that you identified were traits that we recognized in people but I don't think we grasped how that impacted those individuals' ability to be rainmakers. [The testing] helped us to identify some people who could benefit by training and some hands-on development, people who, with further training, might really be able to develop their rainmaking skills."

"It's fun to take these tests, it's educational and rewarding to have the results explained. The challenge is going to be putting together what the individuals learned with some training to develop their rainmaking skills."

Herding Cats

Since our 1998 research, we have profiled several hundred more lawyers and have observed some distinct and persistent patterns that may offer insight to frustrated managing partners about why it's sometimes difficult to get your partners to go along with even seemingly simple management decisions.

Let's start with a trait called "Skepticism". People who score high on this trait tend to be skeptical, even cynical, judgmental, questioning, argumentative and somewhat self-protective. People who score low tend to be accepting of others, trusting, and give others the benefit of the doubt.

In larger firms that we have profiled, the trait known as Skepticism is consistently the highest scoring trait among lawyers, averaging around the 90th percentile!

These high levels of Skepticism explain many of the oddities and frustrations encountered in trying to manage lawyers. First, it's likely that high levels of this trait are important for success as a lawyer in many areas of practice such as litigation, tax or M&A work. Second, the average person tends to use his or her stronger personality traits across all situations, rather than turning them on and off at will. Thus, if the profession attracts highly skeptical individuals, these skeptical lawyers will be skeptical not only when they're representing a client but in other roles which might actually require lower levels of skepticism. In other words, the skeptical litigator may be well suited for adversarial encounters, but this same litigator will maintain the skeptical stance in partnership meetings, while mentoring younger lawyers, or in heading up a committee despite the fact that these situations may all be performed more effectively in a climate of trust, acceptance and collaboration.

Bart Winokur, Managing Partner of Dechert, a Philadelphia-based firm with over 600 lawyers around the U.S. and Europe, says that "When you see a high Skepticism score for the firm, it confirms what you knew. It makes it more acceptable. It enables people to accept that they have the trait and to put their Skepticism into perspective when they need to get something done. [When I helped some partners deal with a slightly dissatisfied client,] if I had said what I said without the test, it would have come across as criticism. But with the test, it says you are what you are. It's neither bad nor good.... Once you tell people they have high Skepticism and you tell them it's an obstacle, it's easier to deal with them."

Another trait that distinguishes lawyers from the general public is their higher Urgency scores. A high score on Urgency is characterized by impatience, a need to get things done, a sense of immediacy. Low scorers tend to be patient,

contemplative, measured, in no particular rush. The excellent lawyers in our study scored roughly twenty per cent higher on this trait than the general public. Awareness about one's own level of Urgency can immediately improve one's effectiveness with others. According to Dean Salter, immediate past managing partner of Holme Roberts in Denver, "[The feedback] helped me to realize that I was operating at a different pace than other people, and that I needed to accommodate to the differing personalities."

Urgent people charge around like they are on their way to a fire. They may finish others' sentences, jump to conclusions, be impulsive. There is an intensity to their behavioral style, since they are results-oriented. They seek efficiency and economy in everything from conversations to case management to relationships. While clients certainly reward many lawyers for moving their matters along, Urgency can have a negative side as well. Urgent people are sometimes brusque, poor listeners, and can be annoying to many people. This can add a level of tension to meetings, a level of frustration to mentor/mentee relationships, and a sense of oppression to lawyer/secretary interactions.

The potential downside of this trait emerges most significantly in interpersonal relationships. Urgent lawyers who try to be "efficient in relationships" may eventually realize how oxymoronic this idea is.

This may also explain why lawyers also differ from the general population so dramatically in the next trait—Sociability. The excellent lawyers in the Caliper/Altman Weil study had an average Sociability score of only 12.8%, compared to an average of 50% for the general public.

Sociability is described as a desire to interact with people, especially a comfort level in initiating new, intimate connections with others. Low scorers are not necessarily anti-social. Rather, they simply find it uncomfortable to initiate intimate relationships and so are more likely to rely on relationships that already exist, relationships in which they've already done the hard "getting-to-know-you" part, such as their spouses, friends and family members. What this also means is that at work, low scorers are less inclined to enjoy interacting with others, may prefer to spend more time dealing with information, the intellect, or interactions that emphasize the mind rather than the heart.

Is it any wonder that lawyers score low on this trait? The law is a profession devoted to logic and the intellect. Almost every law firm has standards of intellectual rigor which can be seen in their hiring processes and in the adulation paid to intellectually superior lawyers. Yet it's hard to find a law firm that pays equal attention to the importance of relationships, that rewards and supports the cultivation of "quality time" among its professional personnel or in any way measures one's people skills.

Low Sociability scores have broad implications for many aspects of law firm management—mentoring, teamwork, practice group leadership, client retention, support staff turnover, and rainmaking. In our Caliper/Altman Weil study, rainmakers scored nearly three and a half times higher on Sociability than the service partners!

Another important trait on which lawyers depart from the general norm is Resilience or Ego Strength, which we touched on briefly under *Rainmaking* above. People who are low on Resilience tend to be defensive, resist taking in feedback, and can be hypersensitive to criticism. In the hundreds of cases we've gathered, nearly all of the lawyers we've profiled (90% of them) score in the lower half of this trait, with the average being 30%. The range is quite wide, with quite a number of lawyers scoring in the bottom tenth percentile.

What does this tell us? Despite the outward confidence and even boldness that characterizes most lawyers, we may be a bit more sensitive under the surface. These lower scores suggest a self-protective quality. This may explain why so many partners' meetings get sidetracked into defensive exchanges and why a simple request to turn in timesheets is often met with a defensive tirade.

Finally, let's look at the "herding cats" trait itself—Autonomy. Our most recent data, principally from larger firms, suggests that lawyers' Autonomy scores generally average at the 89th percentile. In other words, it's common for lawyers to resist being managed, to bridle at being told what to do, and to prize their independence.

Management and Leadership Applications

Now that we know some of the ways that lawyers collectively differ from other folks, what can you, the reader, do to capitalize on these differences to make your firm more effective?

To answer this question, we'll need to turn to the recent research on emotional intelligence. According to Dr. Daniel Goleman, author of the best-selling book *Emotional Intelligence* (1995), "emotional self-awareness" is the single most important emotional competency. That is, people who regularly and consistently spend time trying to understand themselves, seek feedback about themselves, and gain insight into their own inner emotional life, are more successful in

their lives by any of the common ways that we measure success. Goleman's research indicates that this generalization applies with even greater force to those in leadership positions. In fact, emotional self-awareness is the single most important quality of effective leaders.

For this reason, in our own leadership training program for managing partners, and for that matter, in every one of the top leadership training programs in this country of which I'm aware, a significant amount of time is devoted to testing participants and providing them with feedback about their personality traits, leadership style, and other aspects of their individual functioning.

For anyone in a leadership position in a law firm—managing partners, heads of practice groups, members of management or executive committees, heads of branch offices—it is vital that you learn about your own personality traits and that you understand how they compare to the averages for the general population, the averages for lawyers, and the averages for your own firm. Alan Brown, immediate past Managing Partner at Locke Reynolds in Indianapolis, concedes that "It is an understatement to say I was skeptical, but now I'm a believer in this test. It was extremely valuable to help me understand my strengths and weaknesses and how personality shapes those qualities. Now when I work in a group, I have a much better sense of where I can make my greatest contributions and where tasks are better left to others."

It is also helpful to profile all the lawyers in the firm, or at least all the owners. This not only gives valuable feedback to each individual, but it also provides everyone with aggregate data about the personality contours of the firm. Are there blind spots? Are there large clusters of individuals with extreme scores on a particular trait? Are there personality "factions", i.e., one cluster of individuals with low scores on a particular trait and another cluster of individuals with a high score on that trait? The aggregate distribution of certain personality traits in a firm helps to shape the culture of the firm. This culture-shaping process is usually invisible and goes on outside of our conscious awareness, but through effective use of testing, the curtain can be pulled back. Armed with this information, the lawyers in a firm can develop a greater sense of their strengths, more consciously build a firm culture, evolve a clearer marketing strategy, hire more intelligently, and cultivate business development in a more sensible fashion than requiring every partner to become a rainmaker.

Dean Salter again: "Unlike our counterparts in business, lawyers have traditionally avoided this kind of assessment. Obtaining Caliper feedback provided helpful insight into how we can work better and more effectively together and strengthen the dynamics of our management committee. The data we received helped us understand and appreciate positions that our partners may take as well as our reactions to those positions."

It's important to note that "rainmaking" skills are useful not only in private practice but in an in-house environment as well. Lisa Snow, Chief Counsel for Corporate Law at TIAA-CREF, whose law department has provided Caliper feedback to all of its lawyers, notes that "The Caliper has been helpful to us in developing client relationships and identifying your own comfort levels with internal clients. Your personality style may be very different than that of clients. Recognizing this helps interact with them."

In a corporate law department, the Caliper Profile can also help foster teambuilding among the managers. It can also help management to coach individuals in their strengths and blind spots. Finally, many at TIAA-CREF told me that the feedback makes it easier to see how people with different personalities can complement each other, producing an overall "whole-is-greater-than-the-sum-of-the-parts" synergy.

Hiring and Selection

Let's turn our attention to the hiring process. The Caliper Profile was originally designed as a selection tool. Over time it's also emerged as an excellent tool for coaching, development, leadership training and other internal applications, but its greatest strength is still its ability to help an employer reduce the risk of making a hiring mistake by helping to create a job match. A candidate can be matched to (a) a job; (b) a person; or (c) a group or organization. By far the most common is job matching. First, the firm develops a job description, listing key tasks and competencies that will be required for the job, as well as desirable and undesirable personal traits. Then potential candidates in the "finalist pool" are tested. The resulting personality profile can then be compared to the job requirements to see how well a particular candidate fits.

The same kind of comparison can be made between a job candidate and an individual with whom they might be working. Likewise, if you know the aggregate strengths and weaknesses of a partnership, you can seek a candidate that fills a gap or rounds out your resource roster. Bear in mind that greater diversity is almost always an advantage when it comes to personality. The key is understanding how to build a big tent while at the same time creating a culture in which differences are valued rather than becoming fuel for conflict. A diverse firm, with a culture that truly values diversity, will provide a greater competitive advantage than a firm filled with one basic personality style.

One important clarification is in order here. Some lawyers are critical of personality testing (I told you they were skeptical). But they often misunderstand the proper use of such testing, mistakenly assuming that the test will be used as a cutoff tool much in the way that a typing test might screen out any candidate for a secretarial job who can't exceed 75 words per minute. Properly utilized, personality testing should never be used as a cutoff tool. It is much more effective and appropriate when used to confirm, clarify or uncover. "I was pretty skeptical [with] the idea of personality testing, but we've

come to rely on it in our hiring process," concludes Joe Harenza, managing partner of Stevens & Lee, headquartered in Reading, PA.

Proper testing is always done after the candidate has survived at least an initial round of interviews. At this point, the lawyers who have conducted the interviews have formed some informal and unscientific opinions about a candidate's strengths, weaknesses, attractiveness, qualifications, etc. A good psychological test can help add insight to what the interviewers have discerned, confirming their hunches and adding more objective support to the mix. Objectivity in hiring reduces the firm's vulnerability to EEOC challenges. For example, if all the interviewers describe a candidate as warm, likeable and friendly, then added reassurance comes from seeing a set of Callper scores showing higher than average Sociability, high Gregariousness, moderate to high Accommodation and lower than average Skepticism. If a candidate had a consistent cluster of scores like these, it goes a long way to confirm the subjective impressions of the interviewers.

Let's say that half the interviewers came away with the impression that the candidate was pretty detail-oriented, while the other half of the interview team came away convinced that the candidate was a "big-picture" person. By one version of common sense, these divergent impressions are incompatible. A person is either detail-oriented or big-picture but not both.

But human nature is more complex than that, and a good personality test can uncover nuances that make apparent inconsistencies like this make sense. In the Callper Profile, for instance, one could be high on Cautiousness (wanting to make sure that all the "i's" are dotted and the "t's" are crossed before going public with information), yet low on Thoroughness (not wanting to dig into the details, preferring the big picture, approximations). The combination is not all that unusual, and someone with this particular profile might appear to be detail-oriented when providing information that they know others will rely upon, yet be very much a big-picture person when it comes to how they conceptualize problems. If two interview teams asked different kinds of questions, each could elicit a piece of the puzzle, leading to inconsistent impressions which the personality test could easily clarify and harmonize.

Finally, a good test can uncover personality features that might never show up in an interview but which might be vital to know about once the candidate is hired. A case in point: one firm in a recent hiring situation interviewed a candidate who was well suited to the job, and to whom all the interviewers gave high marks. The Callper Profile indicated very clearly that the candidate had a tendency to take criticism personally and sometimes to become overly emotional. This trait could have posed a problem in a high-pressure job. But the employer did the right thing. Instead of using the test information in a vacuum to make a "go/no-go" decision, they arranged for a callback interview with the candidate, and probed further about how the candidate might respond under conditions of stress, criticism, lack of support, inadequate mentoring, and the like. The candidate acknowledged the "emotionality" implied by this trait, indicated that it was a lifelong trait that the candidate had been dealing with for many years, indicated that as a result, several coping strategies had been developed, and otherwise satisfied the interviewers that the candidate's emotionality would not pose a major obstacle to carrying out the job tasks effectively. The candidate was hired.

In other words, by using the test to uncover unseen traits, a firm gives itself a set of objective guidelines that it can then use effectively in a callback interview to probe into areas that were overlooked in the initial interview. If the candidate is hired or not hired, it's not directly because of the test but because of what was learned during the callback interview. The test merely guides you about where to probe.

There is another less obvious benefit to this approach. One recent study suggests that job satisfaction is higher and job turnover is lower among new hires who were given low expectations in the hiring interview than among those to whom a rosy picture was painted. In the example given above, the candidate was in effect given lower expectations—"You might not get the mentoring you need;" "People here can sometimes be quite critical;" "There can be a lot of pressure on this job." These lower expectations in effect inoculated the candidate against later job dissatisfaction.

Another way in which personality data can be quite useful in a law firm is in helping two people who must work closely together to better understand their working relationship. We most commonly run into this situation when a managing partner and a firm's executive director or administrator seek to improve their working relationship, especially when one of them is new to the job. It can be just as effective between two co-chairs of a practice group, members of an executive committee, or a partner mentoring an associate. By understanding areas of natural compatibility and natural friction, and by recognizing synergies and blind spots, the individuals can eliminate a lot of wasted time by eliminating many foreseeable misunderstandings.

The Dysfunctional Law Firm

Finally, personality testing is one of our most effective tools in helping firms, or groups of lawyers within firms, that are dysfunctional. We all know of law firms in which the partners bicker with one another, backbite behind closed doors (or in open meetings), experience high turnover, have lowered morale, or show any of the other classic symptoms of a dysfunctional firm. In almost every case, the understanding gained by profiling the lawyers and explaining their personality differences helps to defuse the conflict and shift from "taking differences personally" to understanding and accepting


differences.

Bear in mind that a dysfunctional firm involves very complex group dynamics, and personality feedback by itself is not a cure-all. But it is one very effective arrow in the quiver of organizational improvement tools. Joe Welty, Managing Partner of Miles & Stockbridge in Baltimore, remembers when we helped his firm several years ago, "I found the personality feedback to be very valuable and very telling about how we interact with each other and almost predictive of how the group will interact in the future and stay together as a group. I really believe in it." In Joe's case, the personality feedback he's referring to came from the Myers-Briggs Type Indicator or MBTI, another widely used personality measure.

In Summary

This article has given you a glimpse into the personality traits of lawyers and provided you with some insight into the ways that personality information can be used to help a law practice operate in a more business-like fashion. Make personality insights part of your repertoire, and you may improve your performance and management.

Associated Consultant Service Areas

Leadership & Organization Development 

For more information please contact:

Dr. Larry R. Richard
lrrichard@hildebrandt.com
+1 (610) 688.7400