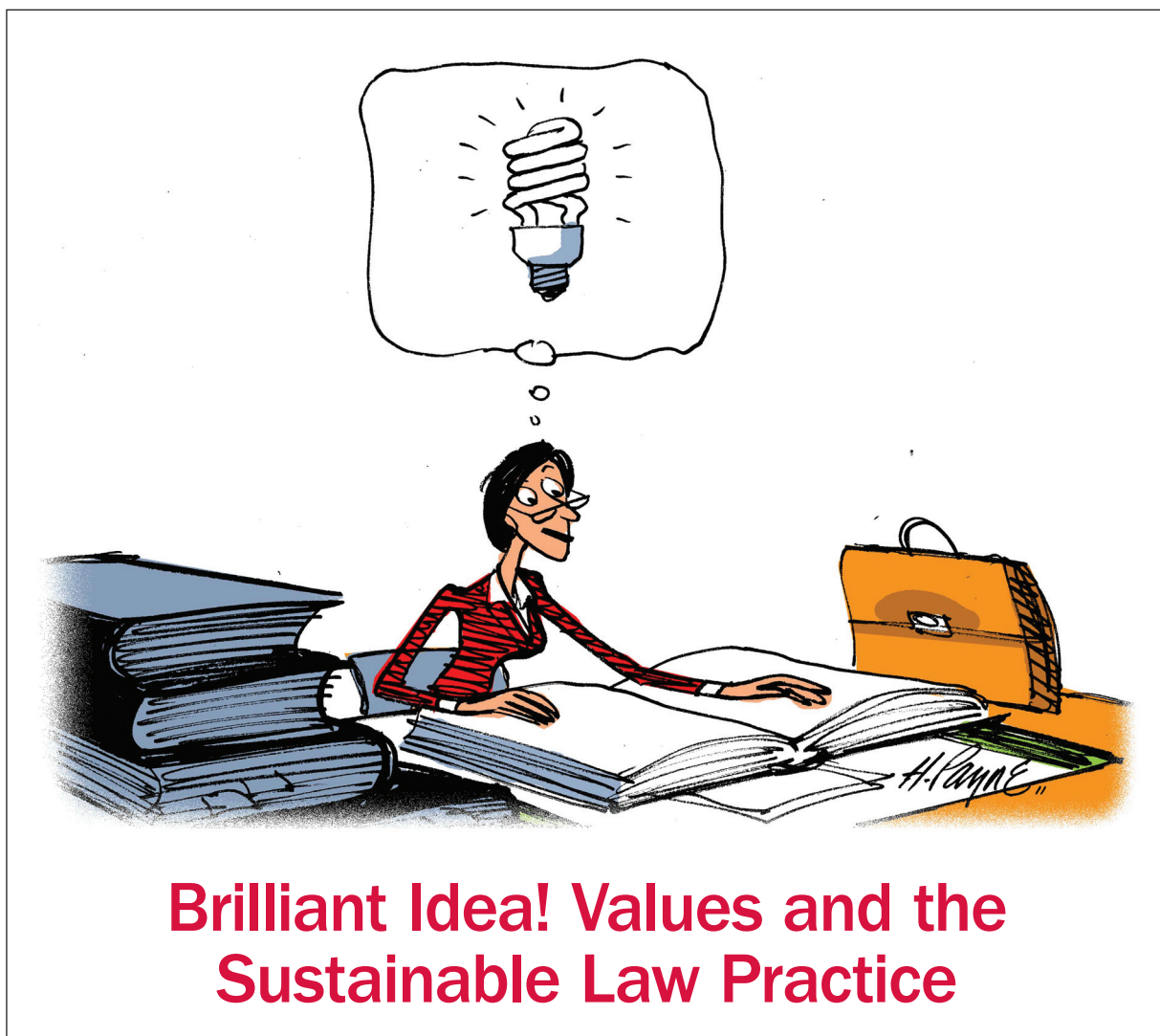


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# The Sustainability Strategy

*How law firms are not only surviving tough times but prospering through values-based management*



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**I**t's not your grandfather's law firm any more," says Bryan I. Schwartz, chairman of Levenfeld Pearlstein, a 54-attorney group located in Chicago. He is referring to the growing number of firms that are adopting a new model of governance to prosper in good times and bad, one based on sustainability. No, this is not a concept that just promotes energy conservation and other environmental benefits, but a broader one about nurturing the long term well being of organizations through values-based management. It is an approach that begins with a strong ethical commitment to "corporate social responsibility" and the "triple bottom line" of sustainability: economic, social, and environmental responsibility. Adding in financial responsibility is an essential piece of the values concept, experts say, because, after all, employing people is a firm's most important social obligation, and without financial success no other good works can be done.

While the approach is new, its foundations are not. Some of the oldest firms in the country credit their values-based culture as a major contributor to their longevity. This includes Ballard Spahr (115 years), Pepper Hamilton (120 years), Nixon Peabody (135 years) and Porter Wright Morris & Arthur (165 years). These firms have all taken their legacy seriously, demonstrating a strong sense of duty to community work and pro bono legal service. The new incarnation of this approach builds on this foundation to also embrace a more participative management style, greater work flexibility, and demonstrated commitments to diversity and the environment. "Given our culture, it was a natural transition to add these initiatives over the years," observes Karen Greenbaum, chief operating officer at Nixon Peabody. Committed firms understand this is not just a collection of good practices. "Sustainability is not just about recycling," said Levenfeld Pearlstein's Schwartz. "You can't recycle your way to longevity. No, it's more a governance tool that gives us an organizational culture, identity, and values."

Sustainability also supports the firm brand at Ballard Spahr, a point made clear from its values statement called The Ballard Way: "Humanity underpins our culture. . . . We lead and manage with a sense of fair play. . . . We believe and integrate the principles of sustainability in our work lives." Nixon Peabody has taken a similar approach, launching its Legally Green initiative to communicate its

unique combination of experience, thought leadership, and responsible citizenship. “At Nixon, we want a culture of nice people, not just a hotel for lawyers,” adds Greenbaum, “and as we grow, institutionalizing sustainability into our organization is one way we try to keep a sense of caring, a sense of family at our firm.”

Indeed institutionalizing sustainability — integrating it into all aspects of the firm — is the essence of the new approach. “The economic downturn has forced more firms to re-evaluate their business models and begin to undertake systematic change,” notes Angela Hickey, executive manager at Levenfeld Pearlstein. “Like us, a number of them are turning to more modern models that have proven effective in the business world. . . . We connect the sustainability dots in our strategic planning. It’s infused in everything — recruiting and retention, legal services, business growth, marketing, philanthropy.”

“We have had a long-standing commitment to justice, diversity, and community service and are making significant strides in addressing our environmental impacts,” says Robert (Buzz) Trafford, managing partner at Porter Wright. “We found the adoption of a formal policy to be an important foundation for continued progress on all these fronts.” Adds Schwartz: “Our sustainability policy is our constitution; it is the set of values that guide us.”

While sustainability may be new to many law firms, it has been a familiar theme among leading businesses for years. Corporations like Aveda, Patagonia, Ben & Jerry’s, and Seventh Generation were created by founders inspired with a social and environmental passion. Wal-Mart has asked suppliers to help it become more sustainable. General Electric built a whole marketing campaign around Ecomagination, focused on everything from compact fluorescent light bulbs to energy efficient locomotives. Some 5,000 businesses subscribe to the United Nations Global Compact, a statement of environmental and social principles. Thousands of companies, including two thirds of the top 100 U.S.

businesses, report publicly on their economic, social, and environmental performance, many following the Global Reporting Initiative’s Sustainability Reporting Guidelines. Sustainability has burst on the scene at campuses, too, with some 500 universities and colleges now supporting STARS — the Sustainability Tracking, Assessment and Rating System for schools. Likewise for cities: The 1000-member ICLEI-Local Governments for Sustainability has joined with the U.S. Green Building Council and others in proposing a new STAR Community Index defining economic, social, and environmental responsibility for cities. These developments have not been lost on sustainability-oriented law firms.



According to a study by The Conference Board, an association of large U.S. businesses, the leading reason major companies have been moving toward sustainability is to respond to customer and other stakeholder demand. While activist stakeholders are not targeting the legal profession on social or environmental matters, corporate clients are inquiring

about law firm sustainability programs, partly in response to stakeholders who want those corporations to influence their supply chains. Over the past two years, Ballard Spahr counted over 30 requests for proposal asking about its sustainability policy. Porter Wright, Nixon Peabody, and Pepper Hamilton have all also reported being regularly questioned by clients about their sustainability initiatives.

Similar inquiries have also been made to Manko Gold Katcher & Fox, a small energy and environmental law firm based in Pennsylvania. “Many of our clients have European operations and bring their European concepts of sustainability with them,” observes Joseph Manko, a founding partner of the firm. “They take a great interest in this.” A growing number of countries, including the United Kingdom, France, Denmark and Sweden, are requiring major corporations to include environmental and social performance information in their public financial reports. Freshfields Bruckhaus

Deringer, headquartered in London and comprising 2,500 lawyers in offices spread around the world, has followed the practices of leading businesses by endorsing the UN Global Compact and issuing its own extensive sustainability report prepared according to the GRI guidelines and verified by a third-party expert.

But it's not just about responding to client inquiries. Client interests and relationships are served through values-based initiatives in a number of other ways. Take diversity, for example. Smart firms understand that it is not just a moral imperative, but essential to keep pace with shifting client demographics. The Census Bureau projects that by 2042 the United States will be a "majority minority" country. Commenting on the diversity program at Holland & Knight, the firm's director of personnel, Andrew Peterson, says, "We believe our clients receive the highest quality service when their legal teams are drawn from professionals mirroring the increasing diversity of the marketplace." Companies like DuPont and Microsoft have offered financial incentives for retained firms based on diversity results. The diversity partner at Nixon Peabody, Kendal Tyre, has a job responsibility focused not only on recruiting and retention, but business development. Ballard Spahr helped cement relationships with client DuPont by coordinating its minority lawyer job fair.

Environmental lawyers have gained valuable insights from the development of internal green programs, which have been useful with clients too. Nixon Peabody has secured green building certifications for several of its offices under the Leadership in Energy and Environmental Design program of the U.S. Green Building Council and has been able to use that experience in counseling clients. It's no surprise that internal environmental initiatives at Pepper Hamilton, Ballard Spahr, and Porter Wright are all guided by partners who do environmental work.

Like their corporate brethren, law organizations are creating structures and policies to institutionalize their values-based management. Freshfields named a senior partner as chair of its corporate social responsibility strategy group, chair of its community and pro bono committee, and co-chair of its diversity working group. Nixon Peabody appointed a full time chief sustainability officer. The CSO is primarily responsible for using sustainability to strengthen the firm's brand for recruiting, retention, and client development, and for improving efficiency through waste reduction and employee well-being.

Besides having someone to coordinate the multi-disciplinary, multi-functional sustainability initiative, key individuals are often identified to lead and coordinate the efforts on each of the major values-based programs. These programs commonly include the environment, pro bono services, diversity, and recruitment and personnel matters. Large firms typically have lawyers focusing full time on pro bono services and a lawyer or administrative person addressing diversity on a full-time basis too.

Also following the lead of major corporations, a number of firms have recognized that the best way to deal with the multidimensional aspects of sustainability is through multi-functional, multi-specialty teams. In the business world, such teams generally oversee sustainability planning, coordination, and implementation. Ballard Spahr's sustainability committee comprises the chair of its climate change and sustainability practice, the director of diversity, the director of pro bono programs, and the building managers from each site. The committee develops policies, goals, and priorities for firm approval and coordinates communications on the firm's collection of sustainability programs.

Firm-wide teams are also used to plan and oversee environmental and diversity efforts. Nixon Peabody has a Green Operations Steering Committee consisting of the CSO, the chief administrative officer, and purchasing, office administration, information technology, and finance representatives. It focuses on green construction, procurement practices, paper, waste, and energy reduction, travel reduction, energy conservation, and education and outreach. Porter Wright also has a firm-wide green team co-chaired by two partners and aided by the firm's IT and facilities managers. Again mirroring corporate practice, voluntary "affinity groups" of firm attorneys and staff are sometimes used at larger firms to aid in the recruiting, mentoring, and retention of various categories of diverse people, and to evaluate related business opportunities.

Firms with values-based management often have policies on pro bono and community services, diversity, and the environment. But more and more of these firms are issuing a concise sustainability policy covering all these areas and more, under a commitment to economic, social, and environmental responsibility. Altogether 14 firms, both big and small, representing over 85 offices have adopted the model policy put forward by the American Bar Association's Section of Environment, Energy

& Resources, or a tailored variation of it. SEER's model policy along with implementing guidelines and references to other resources — packaged as the Sustainability Framework — has been formally supported by the CERES organization, an influential network of pension funds and social and environmental organizations.

While a policy statement or commitment provides a good framework for moving forward, the question remains: What practices should be adopted to implement it? Fortunately for the legal profession, there is a wide range of resources aimed at law firms and other similar commercial, office-based businesses. The ABA itself offers a broad selection of tools for firms on management practices, business development, professional responsibility, lawyer assistance programs, work-life balance, pro bono legal services, and diversity. It also has a number of environmental programs for firms, including the popular ABA-EPA Climate Challenge initiative. State and local bars have also been active in developing tools and best practices, especially on the environmental and pro bono fronts. The California, Massachusetts, and Columbus, Ohio, bars all have identified practices for green law offices, and the Texas and Oregon bars are developing their own.

Other characteristics of the new values-based management are workforce participation and empowerment, flexible work arrangements, transparency, and teamwork. At Porter Wright, where many values-based initiatives are planned, implemented, and managed through teams, partners elect the managing partner. The chairman and board are also elected at Ballard Spahr. There, many issues are put to a vote and the firm tries to act through consensus. Strategic planning is shared openly. Besides the routine meetings of each practice group, an annual state-of-the-firm meeting is held for everyone.

Levenfeld Pearlstein takes transparency a step farther than most firms: They require all attorneys to share their database of contacts with each other. "We want our lawyers competing as a team, not competing with each other," says Angela Hickey. "We want to bring a whole set of solutions to the client in a collaborative way."

Engagement of the workforce is another hallmark of sustainability oriented law firms. Attorneys and staff are surveyed annually at Levenfeld Pearlstein and Nixon Peabody. One result of a recent survey at Nixon was the creation of wellness rooms for working mothers with babies. In response to associates' request for a clarification of the firm's expectations,

Nixon engaged 75 associates and partners to develop a set of core competencies.

Of course, one of the biggest concerns of law firm employees is how to balance the demands of the workplace with those of the home. Manko Gold Katcher & Fox has gone as far as any firm in addressing this. The office practices what they call "customized employment." Four of the five female partners at the firm work part time, as does one of the five female associates, and nine of the firm's 26 non-attorney staff. Professional staff have the option to work from home as part of their regular schedule, which not only adds flexibility for them, but with fewer trips to the office, the firm reduces its carbon footprint. "By working with our employees to achieve a mutually acceptable work-life balance in these and other ways, we believe we are best able to attract and retain top talent," says Manko. "The approach is more feasible than most people think. And it works for us!"

Indeed, firms adopting values-based management often find they can accomplish great things on the social and environmental front while continuing to provide excellent service to their clients and income for the firm. Pepper Hamilton now contributes over \$1 million in pro bono services per year. Nixon Peabody has exceeded its goal of providing over 60 hours of pro bono services per year per attorney. Over two-thirds of its most recent summer associate class consisted of minorities and women. The firm provides benefits for green travel practices and only pays for parking for those commuting employees who don't have reasonable access to mass transit or other green travel alternatives.

Ballard Spahr performed more than 38,000 hours of pro bono services last year. It adopted an inner city school for job shadowing, mentoring, mock trials, and a scholarship program, and even hosted the school prom. Its Wilmington, Delaware, office is managed by a minority woman and three-fourths of the partners there are female. Porter Wright's bike-to-work participants raised \$60,000 for cancer research through a community biking event. Levenfeld Pearlstein contributes a set percentage of its revenues to charity annually in good times and bad, which amounted to \$83,000 for the small firm in 2009.

Members of values-based firms often take a leadership role in promoting sustainability-related initiatives through bar associations and local organizations. An associate at Ballard Spahr helped form the climate change and sustainable development committee within the National Asian Pacific American Bar Association, and partner Robert McKinstry of the

firm serves as vice chair of a comparable committee at the ABA. Robert Meyer at Porter Wright co-chairs the Columbus Bar Green Initiative, and a partner at the Manko firm co-chairs the Philadelphia mayor's Sustainability Advisory Board.

**M**oving to a values-based sustainability framework and establishing internal programs to support it are not without challenges. "You need to assure attorney buy-in while maintaining a primary focus on client services," notes Jonathan Furr, who helps lead the sustainability programs for Holland & Knight. "This means you must plan and prioritize and secure visible support and recognition from the top." Carolyn Kaplan, the CSO at Nixon Peabody, agrees that programs should be structured so people can volunteer without feeling stretched. To assure initiatives are implemented efficiently and smoothly, she carefully plans them and tests them locally before rolling them out firm-wide with top management's support. Adds Kaplan: "One of the biggest obstacles is changing behavior. While most people are receptive to our initiatives, habits can be difficult to break. You have to focus on education and re-education to be successful," she said. Meyer, who has helped drive environmental programs at Porter Wright, concurred that education is key. "It is essential to communicate about the how and why of these programs in a creative way to gain support," he said.

Other challenges arise with pro bono and diversity programs. For one, how do you encourage participation in pro bono work at the same time you are pressing attorneys to exceed billable-hour goals? Pepper Hamilton and Ballard Spahr have solved this by counting pro bono hours toward billable-hour targets and establishing efficient, focused programs under the oversight of pro bono experts. Both firms say the value of such programs in recruiting, retention, training, client relations, business development, and marketing make the investment in time and money worthwhile. Diversity programs have been viewed similarly, with client demands and expectations reinforcing their importance to business growth. As with pro bono, formal programs under the management of dedicated professionals have helped large firms promote diversity with the greatest efficiency and effectiveness.

Of course one of the biggest challenges for values-based law firms is how to continue to express those values and support their social and environmental

programs when the business economy is suffering. Bryan Schwartz acknowledges, "Keeping a firm true to its values day in and day out is like being a good parent: it's hard work."

Law organizations were definitely tested in 2009 when the nation's top 250 firms shed over 5,000 attorneys and postponed the hiring of many associates. Joseph Manko's environmental and energy law firm, one of the fortunate ones to escape layoffs during the downturn, not only worked collaboratively with clients on fee payments as did most firms, but also helped clients look ahead to opportunities concerning energy savings, government stimulus grants and incentives, the economic benefits of green buildings and green marketing, and other financial benefits from green initiatives. "Staying aware of sustainability trends and programs has positioned us well to weather this economy and grow with the recovery," says Manko.

But it is tough times that underscore the real value of sustainability in values-based management and the balance it demands. Says Schwartz, "We run a meritocracy based on individual responsibility, not seniority. We coach new recruits about what it takes to succeed here and focus them on all aspects of sustainability — economic responsibility to be sure, skills and business growth, but also cultural aspects tied to environmental responsibility and of course social responsibility, including relationships with firm members, clients, and communities." When the firm was forced to do some minor downsizing, these considerations guided them.

So what lies ahead for sustainability and values-based management at law firms? As Schwartz is quick to point out, sustainability is not a fad. Population growth and changing demographics will continue. Globalization will move ahead. Fossil fuel depletion and climate change will not be resolved anytime soon. A water crisis is not that far away in many places. Poverty and disease won't be eradicated tomorrow. Good education will remain out of reach for many. Injustice will abound. And all of these trends will affect and be affected by economic conditions. These challenges will be increasingly filling the agendas of governments, activists, universities, and businesses for the foreseeable future. And the law and lawyers will increasingly be expected by clients to help address these issues and to mirror the economic, social, and environmental responsibility society needs to resolve them. Values-based management framed around sustainability is the future for the legal profession. •