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Clients and Lawyers Unite: The Dysfunction of Law Firm Teams Need a Cure

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CLIENTS AND LAWYERS UNITE: THE DYSFUNCTION OF LAW FIRM TEAMS NEEDS A CURE

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Abstract

Attorneys and clients have made clear: Dysfunctional law firm teams are not working. Gone are the days when lawyers had to quietly endure poor management, poor planning, and all-around poor work dynamics. Growing pressure on lawyers to get more efficient and produce more value—and a welcome focus on lawyer wellbeing—means that law firms can no longer ignore their responsibility to cultivate better workplaces.

It is no secret that law firm lawyers consistently rank as among the least happy workers in the world. And team dynamics—how attorneys and other legal professionals work together—may be a bigger piece of that puzzle than you think. In study after study, researchers have found that the quality of our work relationships powerfully implicates productivity, work fulfillment, and wellbeing. In other words, our team relationships have a lot to do with how happy and productive we are.

The good news is that investing in healthy team practices pays off not just for attorneys, but for the firm, too. More good news: A growing body of research offers concrete tools for building better teams. This Article collects some of the most data-backed tools, explaining why they work and how they can best be deployed in the modern legal workplace.

This Article's authors combine their expertise to bring an interdisciplinary approach to the legal teams problem. One author formerly practiced at several large law firms and now works extensively with legal organizations across the nation as a consultant and trainer. The other author brings his expertise in industrial-organization psychology, the study of scientifically-based solutions to human problems in work and other organizational settings. The authors identify the principal problems facing law firm teams now and in the future, as well as simple, concrete solutions to make legal teams work

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better.

I. LAW FIRM TEAMS NEED HELP.

Law firms have always been bad at teamwork. We blame several factors: outdated leadership practices, a lack of procedure, little transparency in decision-making, hands-off treatment of junior attorneys, a lack of fair accountability, poor communication training, poor conflict resolution training, and the list goes on.[1] It is no secret that law firm lawyers consistently rank as among the least happy workers in the world.[2] And team dynamics—how attorneys and other legal professionals work together—may be a bigger piece of that puzzle than you think. In study after study, researchers have found that the quality of working relationships is a powerful indicator of productivity, work fulfillment, and well-being.[3] In other words, our work

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[1] *See* Deena Shanker, *Why Are Lawyers Such Terrible Managers?*, FORBES (Jan. 11, 2013, 9:20 AM), https://fortune.com/2013/01/11/why-are-lawyers-such-terrible-managers/ (offering the common perspective that law firms "suffer from notoriously busy revolving doors" and that the main factor is "poor management").

[2] Connie J.A. Beck et al., *Lawyer Distress: Alcohol-Related Problems and Other Psychological Concerns Among a Sample of Practicing Lawyers*, 10 J.L. & HEALTH 1, 2 (1995-1996).

[3] *See* Michael A. West, EFFECTIVE TEAMWORK: PRACTICAL LESSONS FROM ORGANIZATIONAL RESEARCH 6–7 (2012); *see also* Shawn W. Cutler & David A. Daigle, *Using Business Methods in the Law: The Value of Teamwork Among Lawyers*, 25 T. JEFFERSON L. REV. 195, 210–11, 213 (2002)

relationships, especially on teams, have a lot to do with how happy and productive we are.[4]

Luckily, law firms realize that they can no longer ignore good team hygiene. With clients taking an ever-increasing interest in how law firms do business—demanding the same sort of efficiency and transparency that the client's other service providers offer—dysfunctional teams are no longer under the radar.[5] That is good news for attorneys because better team dynamics translates into a more fulfilling work life.[6]

This Article's authors combine their expertise to bring an interdisciplinary approach to the legal teams problem. One author formerly practiced at several large law firms and now works extensively with firms across the nation as a consultant and trainer. The other author brings his expertise in industrial-organization psychology, the study of scientifically-based solutions to human problems in work and other organizational settings.[7] The authors identify the principal problems facing law firm teams now and in the future, as well as simple, concrete solutions to make legal teams work better.

This Article proceeds in two major parts. First, Sections II, III, and IV identify the major challenges that face legal teams today. A nuanced understanding of these problems is helpful on its own when practitioners seek solutions. Even if the solutions offered in this Article are not the right ones for a particular legal team, understanding the pitfalls in teams will help stakeholders develop better practices. These Sections dive deeply into social science research, especially from the field of industrial-organization psychology, and adds to the growing legal scholarship in this area. These Sections conclude that lawyers face many team difficulties compounded by shifting market and technological factors.[8]

The second major part, Sections V and VI, sifts through the research and offers concrete suggestions for better managing legal teams. These insights are valuable for anyone working on a legal team, not just firm leaders. These Sections conclude with a final list of best practices that legal practitioners and leaders can begin implementing immediately. The hope is that these solutions can be further studied in follow-up research to determine

("[T]eams are widely acclaimed by many as increasing employee satisfaction, lowering absenteeism, and improving the levels of production and quality.").

[4] *See* Cutler & Daigle, *supra* note 3, at 213.

[5] *See* RICHARD SUSSKIND, TOMORROW'S LAWYERS: AN INTRODUCTION TO YOUR FUTURE 34 (Oxford Univ. Press 2013); *see also* John C. Coates et al., *Hiring Teams, Firms, and Lawyers: Evidence of the Evolving Relationships in the Corporate Legal Market*, 36 LAW & SOC. INQUIRY 999, 999–1000 (2011) ("[C]lients focus not only on law firms and individual lawyers, but also on the qualit[y] of teams . . . .").

[6] *See infra* Section IV.

[7] *I/O Psychology Provides Workplace Solutions*, AM. PSYCH. ASS'N (2013), https://www.apa.org/education-career/guide/subfields/organizational.

[8] *See infra* Sections II–IV.

their efficacy in the legal field.

II. A CHAT WITH THE AVERAGE LAW FIRM ATTORNEY

As an anecdotal supplement to the research collected in Sections III and IV, we interviewed dozens of attorneys about teamwork while working on this Article.[9] To our surprise, we often heard the same reports. We took these anecdotal interviews and stitched them together into the exemplar narrative below. The consistent experiences we heard about in our interviews informed this narrative. Our hope is that this account can provide some perspective to the research that follows.

> Our Associate is called into a partner's office and asked to join a case—in other words, *a new team.* Because that is what every matter is: a team.
>
> This team will need to work closely together to make tricky strategic decisions. They need to communicate well and deal with conflict productively. The team will need to figure out how to finish hundreds of tasks, big and small, on tight deadlines (many of which are mandated by courts or clients). They need to build out detailed workflows and assign responsibilities to ensure that every task gets the attention it needs. The team will need to update each other regularly so that work is not repeated, everyone has guidance and support, and myriad tasks, big and small, are finished by those deadlines. In short, running a legal team should require extensive planning, coordination, and wide-open and supportive communication channels.
>
> But, as we will see, what unfolds for our Associate is something else.
>
> Associate is sent an email with a dozen documents attached, and a curt message to "read the attached and get up to speed." Associate opens the first attachment, perhaps the complaint, and gets a few pages in when the slew of follow-up emails start. "Here's some more background information to review." Then, a few moments later: "And some more." Then another message: "You probably want to research these cases." An hour later, just as Associate is sifting through all the messages, another email notification: "Here are a few more to read."

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[9] We do not rely on any of this interview data for substantive purposes in this article. Our interviewees were from a mix of big firms and small firms, regional and national. We also spoke with a range of attorneys, from first-year associates to seasoned partners. Surprisingly, even the partners tended to agree that there are significant team dynamic challenges rampant in their firms—at both the associate and partner levels. *See also* Heidi K. Gardner, *The Collaboration Imperative for Today's Law Firms: Leading High-Performance Teamwork for Maximum Benefit*, HARV. CTR. LEGAL PRO. (2013) 1, 8, 12–13, 20 (offering similar accountancy of attorney attitudes towards teams).

Our Associate is now officially overwhelmed. She has not even been told what role she has on the case, much less any specific tasks she should plan for. All she has is a load of information and stream-of-thought ideas from another attorney.

Over the next day, Associate tries to keep up with the emails and background documents but, before she can wrap her ahead around anything, more confusing directives pile on. "Research whether the first claim has any precedent in our jurisdiction." Then: "Add to your list a summary of all the new documents we received last week."

Associate does her best. She tries to piece together what the partner needs from the ambiguous emails. She starts researching. She puts together an email relaying what she has found so far and sends it off. Minutes later she gets a reply from the partner: "No, this is not helpful. We already had another attorney find these cases. Focus on cases where the defendant won and look at other jurisdictions."

So, our Associate starts over with these very different instructions.

A week letter, the onslaught escalates. The partner emails the group working on the case: "I have had an urgent matter come up and won't be able to complete the reply brief, so someone else needs to take that over." The partner adds that our Associate should "add this reply" to everything else she is working on and to turn it around "ASAP."

Associate is now fed up. She barely knows what she is working on, much less what others are doing. She has already repeated work others did, and now she is supposed to draft a document with no guidance and a deadline of "ASAP." Does that mean she should do it before all the other tasks she was given?

Then the real challenges begin. Associate works hard on a first draft of the reply just to be shot down in a series of emails: "This is far off what we need—did you look at prior replies we've drafted in this case?"

"No, we need much better caselaw than this."

"I don't follow any of the second section."

"Why isn't this done already?"

Associate has been the one doing most of the research, and she has good ideas for how she thinks this reply should be drafted, but some of those ideas contradict the partner. She tried to meet and bring up her positions, but she is shut out at every corner.

"I told you how I wanted this reply drafted. Get it done."

> On and on, more is thrown at our Associate—but no one stops to ask whether she has time for it. No one asks whether others on the team are better suited for these tasks. No one plans what needs to be done to meet deadlines. No one asks our Associate what her ideas are now that she has done all the research. No one checks in with our Associate to make sure she has what she needs to produce good work. No one gives her guidance that would drastically cut down the time she wasted on all these false starts.

Our interviews were full of stories like this one. Some attorneys shared how common it was for two attorneys on the team to have done the same thing because neither talked to the other.[10] Some shared the mysterious directives they often receive from more senior attorneys, and the failure of these senior attorneys to be available for follow-up questions and guidance.[11] And perhaps worst of all: We consistently heard that attorneys were not always comfortable sharing opinions that contradicted others on their teams.[12]

III. THE PAST CHALLENGES FACED BY LAW FIRM TEAMS

A. Some Obvious Problems with Law-Firm Teams

Team problems start at the beginning: with legal education. "[M]uch of legal training, with its emphasis on individual work and achievement, is an impediment to developing effective team players. As the awareness of the power of teamwork grows in the legal community, we can expect greater appreciation of the need to teach teamwork skills in law school."[13] If we do not train lawyers to work well with others in law school, it is hard to imagine how they will easily pick those skills up in the much trickier law firm environment.[14] After all, good teamwork is not always intuitive or easy.[15]

Another part of the challenge is that law firm work is hard and often even harder as a team. Lawyers make a host of tough decisions when putting

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[10] See interviews on file with authors.

[11] See interviews on file with authors.

[12] *See also* Gardner, *supra* note 9, at 24; Laura Delizonna, *High-Performing Teams Need Psychological Safety: Here's How to Create It*, HARV. BUS. REV. (Aug. 24, 2017), https://hbr.org/2017/08/high-performing-teams-need-psychological-safety-heres-how-to-create-it (discussing the lack of psychological safety and the resulting chill on idea sharing).

[13] Janet Weinstein et. al., *Teaching Teamwork to Law Students*, 63 J. LEGAL EDUC. 36, 41 (2013).

[14] Julia Hayhoe & Larry Richard, *The Secret Lives of Teams; Like Gangly Adolescents, Groups Must Pass Through Predictable Stages Before Reaching Productive Adulthood; Management*, 28 THE AM. LAW. 97 (2009); Mark Curriden, *Future of Law Panel: Change with the Times or Find Another Line of Business*, A.B.A. J. (Feb. 13, 2011), https://www.abajournal.com/news/article/future_of_law_panel_change_with_the_times_or_find_another_line_of_busines ("William Henderson, director of the Center on the Global Legal Profession at Indiana University-Bloomington, said law schools need to adjust their curriculum to better equip students to the changing world. The key is to give them better training in communication skills and working together in a more collaborative environment.").

[15] *See* Christine Parker et al., *The Ethical Infrastructure of Legal Practice in Larger Law Firms: Values, Policy and Behaviour*, 31 U. NEW S. WALES L.J. 158, 165 (2008).

together any written document or client project.[16] This is why clients are still willing to pay lawyers for quality representation. At the same time, the difficulty that brings clients back also makes teamwork harder.[17] This is because making hard decisions by group is harder than making them as an individual.[18] Lawyers need solid tools for dealing with disagreements, they need communication skills, and they need tools for handling the sheer scale of tasks and work that comes with legal projects.[19] Writing—what all lawyers do constantly—is particularly hard to do in teams because, on top of strategic disagreements, lawyers are likely to have strong preferences about how the writing should go.[20]

Other existing factors contribute to the lack of team hygiene in modern law firms, including the structure and nature of the law firm business.[21] Law firms are historically divided internally, with little organizational thought given to creating healthy and productive teams.[22] As one scholar describes it, most law firms consist of a "group of separate fiefdoms under one house . . . without any real central leadership that has power to influence change in behavior."[23]

Another important factor is that partners run many law firms, and the partnership model does not always motivate good teamwork.[24] "[I]n the law partner world, power and the ability to influence is associated with revenue."[25] And "law firm management has not yet tied compensation to work that does not immediately generate revenue."[26] This translates into many firms failing to give shrift to efficiency- and environment-boosting practices.

Law firm scholar Michele DeStefano points out that modern law firms are quick to claim they are "collegial" and have a positive culture.[27] In reality, this may translate into "be nice but keep doing things the same."[28]

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[16] *See* Alexander Scherr, *Lawyers and Decisions: A Model of Practical Judgment*, 47 VILL. L. REV. 161, 163–64, 175–76 (2002).

[17] Gardner, *supra* note 9, at 5–6.

[18] Kathleen L. Mosier & Ute M. Fischer, *Judgment and Decision Making by Individuals and Teams: Issues, Models, and Applications*, 6 REVS. HUM. FACTORS & ERGONOMICS 198, 220 (2010).

[19] *See id.* at 224, 242; *see also* Gardner, *supra* note 9, at 5 (discussing how the growing complexity of client issues demands collaboration).

[20] John C. Gooch, *The Dynamics and Challenges of Interdisciplinary Collaboration: A Case Study of "Cortical Depth of Bench" in Group Proposal Writing*, 48 IEEE TRANSACTIONS ON PRO. COMMC'N, 177, 177–179 (2005) (discussing challenges of collaboration on writing).

[21] Michele DeStefano, *An Excerpt from Chapter 3 of Legal Upheaval: A Guide to Creativity, Collaboration, and Innovation in Law*, 27 U. MIAMI BUS. L. REV. v, xv (2018).

[22] *Id.* at xvi.

[23] *Id.* at xv.

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.* at xvii.

[28] *Id.* "[E]ven partners who want to create change are limited in large part to the lawyers and staff in their own practice area, which in turn[] limits the potential for real change given that the people within the same practice . . . tend to lack the requisite diversity and be like-minded and similarly situated." *Id.* at xv.

One attorney that DeStefano interviewed explained:

> I think it has to do with a culture and a fear. The firm values the 'friendly be nice' culture above all else. . . . It's a culture of non-confrontation because you have to be nice. Nice is everything. If you draw criticism from anyone, then people want to put you through a fire squad. You can not perform . . . but if you are nice? [A]ll of that is absolutely fine.[29]

Thus, firms may exhibit "insular thinking that [encourages] no fresh ideas and no one to challenge tradition."[30]

Indeed, dysfunctional teams may have benefited partners in the past.[31] Dysfunctional teams take longer to finish tasks, and more time equals more money in the traditional law firm billing model.[32] The billable hour has reigned for decades, and it persists in most firms.[33] Duplicative efforts, inefficient team practices, and overall confusion means more money when you are charging by the hour.[34] Further, many senior lawyers in U.S. law firms "are at a stage of their careers where they are considered to be 'coasting into retirement' so their incentives to learn" new ways of doing things, including better team practices, is slim.[35] Ultimately, unlike business leaders in other industries, the partners with the power to institute better teamwork practices are not trained (or necessarily skilled) in management, leadership, and other skills that might lead them to invest in team building.[36] Good teamwork requires skill to deploy and foster across an organization.[37]

B. The Organizational-Psychology Problems at Play

It is not a surprise that the above factors have led to poor team dynamics at many firms. Organizational psychology may help tell us why. The organizational psychology literature explores the many challenges teams face in reaching better decisions and performance.[38] Understanding these challenges can equip us to develop better and more creative solutions.

Strategic decision-making teams (like law firm teams) are well

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[29] *Id.* at xvi–xvii.

[30] *See* Karen MacKay, *Shared Experiences Engender Insular Thinking*, 44 LAW PRAC. 76, 76 (2018).

[31] Susan Saab Fortney, *Soul for Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements*, 69 UMKC L. REV. 239, 292–293 (2000).

[32] *Id.* at 246.

[33] William Kummel, *A Market Approach to Law Firm Economics: A New Model for Pricing, Billing, Compensation and Ownership in Corporate Legal Services*, 1996 COLUM. BUS. L. REV. 379, 384 (1996).

[34] Fortney, *supra* note 31, at 277–78.

[35] *See* Donald J. Polden, *Lawyers, Leadership, and Innovation*, 58 SANTA CLARA L. REV. 427, 442 (2019).

[36] *See* Allen M. Terrell, Jr., *Managing the Big Firm*, 19 DEL. LAW. 24, 24–26 (2001). "Rarely have managing partners been trained in management or in business. In a sense, law firms worth millions of dollars are managed by amateurs." *Id.* at 24.

[37] *See* Weinstein et al., *supra* note 13, at 48–53.

[38] *See infra* notes 39–44 and accompanying text.

studied.[39] The nature of these teams is that strategic decisions are vague, complex and non-routine, making conflict a more frequent byproduct.[40] These decision-making teams suffer from both "cognitive conflict" and "affective conflict."[41] Cognitive conflict is a disagreement about substance, like a difference in viewpoint or idea.[42] Affective conflict arises from interpersonal tensions and is largely emotional.[43] Research has shown that while cognitive conflict can lead to better results, affective conflict is dysfunctional.[44] Many of our anecdotal interviews confirmed that affective conflict, conflict on legal teams based on interpersonal tensions, is closer to the norm than the exception.

Likewise, psychologists have studied how teams can exacerbate errors and problems through the phenomena called "cascading."[45] This "cascade" refers to team members following the statements and actions of those who spoke first or hold the most authority, even if those first-movers are dead wrong.[46] The team can thus empower bad ideas through cascading (as well as through the general groupthink problems discussed later).[47] In other words, the research suggests that poorly managed teams can result in members' errors being *amplified*.[48] Other examples of these amplifications relevant to legal teams include:

- Team members can "become polarized and take up positions more extreme than those they held before deliberations;" and,
- Members "can become focused on what everybody already knows and therefore fail to assess and evaluate critical insights and information held by a few."[49]

Incongruous knowledge among team members is also a prevalent problem for legal teams. In one popular study, executives gave far less

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[39] *See, e.g.*, Kathleen M. Eisenhardt & Mark J. Zbaracki, *Strategic Decision Making*, 13 STRATEGIC MGMT. J. 17, 17 (1992); Donald C. Hambrick, Theresa Seung Cho & Ming-Jer Chen, *The Influence of Top Management Team Heterogeneity on Firms' Competitive Moves*, 41 ADMIN. SCI. Q. 659, 659 (1996); Charles R. Schwenk, *Simplification Processes in Strategic Decision-Making*, 5 STRATEGIC MGMT. J. 111, 111 (1984).

[40] *See, e.g.*, Eisenhardt & Zbaracki, *supra* note 39, at 18, 23; Hambrick et. al., *supra* note 39, at 662, 665; Allen C. Amason & Harry J. Sapienza, *The Effects of Top Management Team Size and Interaction Norms on Cognitive and Affective Conflict*, 23 J. OF MGMT. 495, 495–96 (1997).

[41] *See* Amason & Sapienza, *supra* note 40, at 495.

[42] *See id.* at 495.

[43] *See id.* at 495–96.

[44] *See id.* at 496.

[45] *See, e.g.*, Steven H. Woolf et al., *A String of Mistakes: The Importance of Cascade Analysis in Describing, Counting, and Preventing Medical Errors*, 2 ANNALS OF FAM. MED. 317, 318 (2004).

[46] *See id.* at 318 (defining a cascade as one error causing multiple errors).

[47] *See* Bradford S. Bell & Steve W. J. Kozlowski, *Collective Failure: The Emergence, Consequences, and Management of Errors in Teams* 1, 29 (2011), https://ecommons.cornell.edu/bitstream/handle/1813/75373/Bell90_Collective_failure.pdf?sequence=1&isAllowed=y (discussing how a team's environment–specifically whether team members feel comfortable speaking up–is one cause of cascading errors).

[48] Polden, *supra* note 35, at 440 (discussing team dynamic challenges).

[49] *Id.* (emphasis omitted).

credence to opinions held by small groups than they did to those held by larger groups.[50] The problem is that the individuals in the smaller groups had better information, but the executives ignored them because they were swayed by the group pull.[51] With poor communication and information sharing the norm on legal teams, this pitfall is obvious. These team dynamics can also polarize members, encouraging them to take more extreme and less reasonable positions than they would on their own.[52]

Another challenge is that hiring and promotion norms play a strong role in employee behavior, and law firms have not tied either to how well attorneys perform at soft skills like teamwork.[53] Most attorneys' promotion and hiring is tied directly to how many hours they bill or prestige factors, like where they went to law school, neither of which necessarily encourages skills like teamwork.[54]

Research also shows that ingroup bias is powerful.[55] This means teams are more likely to go along with the group's approach rather than an outsider's view.[56] For lawyers, this is not good. A fundamental part of a lawyer's job is to address counterarguments and predict how outside third parties will look at an issue. Ingroup bias means that lawyers likely have an even harder time reaching good decisions as a team than legal professionals.[57]

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[50] *Cf.* Randy Stein, *The Pull of the Group: Conscious Conflict and the Involuntary Tendency Towards Conformity*, 22 CONSCIOUSNESS & COGNITION 788, 788 (2013). *But see* Stephen La Macchia, *Trusting Groups: Size Matters*, SOC'Y FOR PERSONALITY AND SOC. PSYCH. (Sept. 6, 2016), https://spsp.org/news-center/character-context-blog/trusting-groups-size-matters (citing Stephen La Macchia et al., *In Small We Trust: Lay Theories About Small and Large Groups*, PERSONALITY & SOC. PSYCH. BULL. (2016)).

[51] *See* Martin Hoegl, *Smaller Teams–Better Teamwork: How to Keep Project Teams Small*, 48 BUS. HORIZONS 209, 209 (2005) (explaining that smaller teams demonstrate better team performance than larger teams).

[52] *See* Susan M. Houghton et al., *No Safety in Numbers: Persistence of Biases and Their Effects on Team Risk Perception and Team Decision Making*, 25 GROUP & ORG. MGMT. 325, 326 (2000) ("[T]raditional research on groups has demonstrated the risky shift phenomena; that is, individuals may agree to a more extreme decision after group discussion than they would have a priori."); *cf.* Dongsong Zhang et al., *The Impact of Individualism—Collectivism, Social Presence, and Group Diversity on Group Decision Making Under Majority Influence*, 23 J. OF MGMT. INFO. SYS. 53, 54–55 (2007) ("Majorities can shape not only the judgments and behavior of individual members but also the way they think [], which may result in poor group decisions and unfavorable outcomes.").

[53] *See* Danisha Brar, *Keep the Patels: How Culturally Competent Teamwork Can Alleviate the Law's Diversity Retention Problem*, 25 ASIAN AM. L. J. 123, 137–38 (2018) ("The legal profession needs to take a critical look at how the gap between existing professionalism norms and culturally competent professionalism norms . . . .").

[54] *See generally* Marjorie M. Shultz & Sheldon Zedeck, *Predicting Lawyer Effectiveness: Broadening the Basis for Law School Admission Decisions*, 36 L. & SOC. INQUIRY 620 (2011).

[55] *See, e.g.*, Christopher L. Aberson, *Low Self-Esteem and Ingroup Bias*, 27 SOC. BEHAV. & PERSONALITY 17, 17 (1999).

[56] *Id.*

[57] *See* George Moorhead & John R. Montanari, *An Empirical Investigation of the Groupthink Phenomenon*, 39 HUM. RELS. 399, 399–402 (1986). Groupthink theory emphasizes that pressures to conform and desire to maintain harmony within a group can override the need to critically appraise the relevant facts. *See* GWEN M. WITTENBAUM & GAROLD STASSER, *Management of Information in Small Groups*, *in* WHAT'S SOCIAL ABOUT SOCIAL COGNITION? RESEARCH ON SOCIALLY SHARED COGNITION IN SMALL GROUPS 3 (SAGE Publications, Inc., 1996) (ebook). Teams often focus solely on information that was available to all team members before the project, not information that only one or a few people hold or believe valuable. *Id.*

As humans, we are built to like our own opinions over others, and in legal teams that is a recipe for both conflict and ignoring better ideas espoused by others.[58] Self-affirmation bias, in brief, means that we all prefer to maintain a self-image that is "right."[59] When others threaten that self-image by suggesting we are wrong, we often try to restore our "self-worth" by digging in on our positions.[60] This self-affirmation bias can drive us not only to change our cognitive decisions, but our behavior generally.[61]

Hierarchies also make decision-making more difficult, and most legal teams have a defined hierarchy: support staff, then newer associates, then mid-level and senior associates, and finally partners, who themselves can have additional hierarchies of decision-making.[62] Teams with defined hierarchies put pressure on lower-rung members to stifle their own ideas and go along with the senior folks.[63] Contradicting senior attorneys, particularly on stylistic issues or any issues where the senior attorney is not clearly wrong, can endanger the associate.[64] For example, it can affect discretionary bonuses and promotions which are often based on subjective scoring from senior attorneys. Associates cannot count on being bonused or promoted based on objective criteria and must keep senior attorneys happy, which includes giving overly positive feedback, not challenging ambiguous or stylistic issues, and buying into senior associate advocacy bias.[65]

Growing diversity on legal teams, and poor tools for handling it, may also create challenges. When team members disagree, their conflict resolution preferences can turn not just on factors like hierarchy but also

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[58] *See* DAVID K. SHERMAN & GEOFFREY L. COHEN, *The Psychology of Self-Defense: Self-Affirmation Theory*, *in* 38 ADVANCES IN EXPERIMENTAL SOCIAL PSYCHOLOGY 183, 187–192 (Elsevier Inc., 2006) (ebook).

[59] *Id.* at 185–86.

[60] *Id.* at 186.

[61] *Id.* at 186–87; *see* Leaf Van Boven et al., *Intuitions About Situational Correction in Self and Others*, 85 J. OF PERSONALITY & SOC. PSYCH. 249, 249, 256 (2003); *see* Leaf Van Boven et al., *It Depends: Partisan Evaluation of Conditional Probability Importance*, 188 COGNITION 51, 52–53 (2019); Fieke Harinck & Daniel Druckman, *Values and Interests: Impacts of Affirming the Other and Mediation on Settlements*, 28 GRP. DECISION & NEGOT. 453, 455–56 (2019); Emily Pronin et al., *The Bias Blind Spot: Perceptions of Bias in Self Versus Others*, 28 PERSONALITY & SOC. PSYCH. BULL. 369, 378–80 (2002).

[62] *See* Susan J. Miller, David J. Hickson & David C. Wilson, *Decision-Making in Organizations, in* MANAGING ORGS.: CURRENT ISSUES 43, 43–44 (Stewart R. Clegg et al. eds., SAGE Publications Ltd, 1999) (ebook) (explaining how decision-making in organizations can be seen as a "maelstrom of political activity and sectional conflict" and describing issues that arise with hierarchies, like who is left out of and who may exercise influence over decision-making). *See* Sheila Engelmeier & Sue Fischer, *Improving Law Firm Culture: The Beginning of the Discussion* 1, 2–3, https://www.house.leg.state.mn.us/comm/docs/e96012f9-7f34-4bd6-9279-8e373dbd2670.pdf; *see also* Douglas R. Richmond, *The Partnership Paradigm and Law Firm Non-Equity Partners*, 58 U. KAN. L. REV 507, 508–09 (2010) (describing the hierarchical structure among partners).

[63] Yeliz Cantimur et al., *When and Why Hierarchy Steepness is Related to Team Performance*, 25 EUR. J. OF WORK & ORGANIZATIONAL PSYCH. 658, 658–59 (2016).

[64] *See* Florian Elsinger, *Discretionary Bonus Pools and Employees' Influence Activities: An Experimental Investigation*, SSRN, https://ssrn.com/abstract=3022306 (Dec. 10, 2017) (click "Download This Paper") (discussing how discretionary bonusing incentivizes employees to engage in "influence activities," which implies that not engaging in these activities can have adverse effects on employees).

[65] *See id.*

culture and gender.[66] In one of the largest studies on this topic, researchers found that conflict-resolution preferences varied based on whether a team member was from an individualistic culture versus a collectivistic culture, whether they were male or female, as well as their place in the organizational hierarchy.[67]

Other relevant biases make teamwork tough. As individuals, we have many biases, and through the amplifying effect of team dynamics, they can create big problems. The planning fallacy, for example, leads us to underestimate how much time projects will take and how much money they will cost.[68] Overconfidence leads us to believe that our forecasts are more accurate and precise than in fact they are.[69] The availability heuristic leads us to seize on whatever springs most readily to mind because it is memorable or we recently experienced it.[70] The representativeness heuristic leads us to believe that things, events, or people that are similar in one way are similar in other ways, too.[71] Egocentric bias leads us to exaggerate how much our tastes and preferences are typical.[72] The sunk-cost fallacy leads us to stick with a hopeless project because we have already invested so much in it.[73] "Framing effects influence our decisions according to the semantics of how the options are presented."[74]

There are other organizational problems with legal teams. These include problems created by a lack of clear leadership in teams, a lack of defined roles, a lack of meaningful feedback, generally poor communication skills, and more.[75] But from the research, one of the most fundamental issues is that of voice.[76] The concept of voice in teams is usually defined along two lines, the first being employee speaking-up behavior and the second being employee participation in decision-making.[77] Voice is essential to a

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[66] Jennifer L. Holta & Cynthia James DeVore, *Culture, Gender, Organizational Role, and Styles of Conflict Resolution: A Meta-Analysis*, 29 INT'L J. INTERCULTURAL RELS. 165, 166, 169–70, 172 (2005).

[67] *See generally id.*

[68] *Why Do We Underestimate How Long It Will Take to Complete a Task?*, THE DECISION LAB, https://thedecisionlab.com/biases/planning-fallacy (last visited Oct. 30, 2022).

[69] *Id.*

[70] *Why Do We Tend to Think That Things That Happened Recently Are More Likely to Happen Again?*, THE DECISION LAB, https://thedecisionlab.com/biases/availability-heuristic (last visited Oct. 30, 2022).

[71] *Why Do We Use Similarity to Gauge Statistical Probability?*, THE DECISION LAB, https://thedecisionlab.com/biases/representativeness-heuristic (last visited Oct. 24, 2022).

[72] *The Egocentric Bias: Why It's Hard to See Things from a Different Perspective*, EFFECTIVIOLOGY, https://effectiviology.com/egocentric-bias/ (last visited Oct. 24, 2022).

[73] *Why Are We Likely to Continue with an Investment Even if It Would Be Rational to Give It Up?*, THE DECISION LAB, https://thedecisionlab.com/biases/the-sunk-cost-fallacy (last visited Oct. 24, 2022).

[74] Cass R. Sunstein & Reid Hastie, *Making Dumb Groups Smarter*, HARV. BUS. REV. (Dec. 2014) (emphasis omitted), https://hbr.org/2014/12/making-dumb-groups-smarter.

[75] *Cf.* Ryan Matthews & Jason McLees, *Building Effective Projects Teams and Teamwork*, 6 J. INFO. TECH. & ECON. DEV. 20, 20 (2015) (evaluating team aspects, like motivating leadership, defining roles as "task-oriented" and "relationship-building," and giving helpful feedback, as key parts of building effective teams, which suggests that lacking these team qualities leads to organizational problems).

[76] Linn Van Dyne et al., *Conceptualizing Employee Silence and Employee Voice as Multidimensional Constructs*, 40 J. MGMT. STUD. 1359, 1369 (2003).

[77] *Id.*

functioning team, but in the legal context, there are rarely steps taken to ensure that attorneys are encouraged to speak up when they disagree or participate in firm decision-making.[78]

IV. MARKET, GENERATIONAL, AND TECHNOLOGICAL CHANGES WILL CONTINUE CREATING NEED FOR BETTER TEAM SKILLS

Take the traditional law firm dynamics and the psychological challenges facing teams generally, then add in the quagmire of modern market, technological, and generational complexities, and you will see the breadth of challenges law firm teams face today. The elephant in the room is technology. Legal teams no longer need to pick up a phone, much less meet in person.[79] Communication largely happens by email.[80] That said, this sort of communication comes with team challenges.[81] For one thing, team members cannot use body language and other cues to help interpret messages and interpersonal dynamics.[82] For another, differing abilities for using technology can create rifts in legal teams. In our anecdotal interviews, attorneys reported frustration about colleagues who could not use basic technology, which often translated into certain team members doing more than their fair share of the work, as well as other inefficiencies.[83]

Client pressures have also shifted in recent years and much of that pressure touches on legal teams.[84] "Increasingly, clients expect firms to work effectively across departments, offices, and even jurisdictions" as a team.[85] One piece of this puzzle is that alternative legal service providers (ALSPs) now offer basic legal services, legal advice, and legal transaction work at a fraction of the cost of traditional firms.[86] ALSPs achieve this affordability by offering more efficient work, often from teams integrating lawyers and non-

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[78] *See How to Foster Collaboration in Law Firms While Working Remotely*, AMICUS ATT'Y, https://www.amicusattorney.com/blog/how-to-foster-collaboration-in-law-firms-while-working-remotely/ (last visited Oct. 29, 2022).

[79] Wendell Jisa, *The Zoom Boom in Law: The Good, the Bad, & the Data*, BUS. L. TODAY (Jan. 14, 2022), https://businesslawtoday.org/2022/01/the-zoom-boom-in-law-the-good-the-bad-the-data/.

[80] Jordan Rothman, *Lawyers Should Call Each Other More Often Instead of Emailing*, ABOVE THE L. (July 28, 2021, 11:47 AM), https://abovethelaw.com/2021/07/lawyers-should-call-each-other-more-often-instead-of-emailing/.

[81] *Id.*

[82] *See* Melinda Fouts, *Body Language in a Virtual World: How to Communicate Your Message Effectively*, FORBES, https://www.forbes.com/sites/forbescoachescouncil/2021/09/30/body-language-in-a-virtual-world-how-to-communicate-your-message-effectively/?sh=61789c0c4964 (last visited Oct. 24, 2022) ("[M]oving into the virtual world has brought new challenges in communication especially when it comes to reading nonverbal cues.").

[83] *See* Likoebe M. Maruping & Rita Agarwal, *Managing Team Interpersonal Processes through Technology: A Task-Technology Fit Perspective*, 89 J. APPLIED PSYCH. 975 (2004).

[84] *See* Polden, *supra* note 35, at 432.

[85] Weinstein et. al., *supra* note 13, at 40–41.

[86] *Alternative Legal Service Providers 2019: Fast Growth, Expanding Use and Increasing Opportunity*, THOMSON REUTERS (2019), https://legal.thomsonreuters.com/content/dam/ewp-m/documents/legal/en/pdf/reports/alsp-report-final.pdf (detailing the growing role of ALSPs).

lawyers along with technology solutions.[87]

These ALSPs do legal research, document review, compliance work, as well as litigation and investigation support, all without the trappings of a traditional law firm.[88] ALSPs are coming for firms: "In just two years, revenues for alternative legal services providers have grown from $8.4 billion in 2015 to about $10.7 billion in 2017. This represents a compound annual growth rate of 12.9% over that period."[89] Setting aside ALSPs, law firm clients have become savvier, demanding from law firms what companies demand from their other service providers: transparent, value-based services that are efficient.[90] The Firms in Transition Report is considered the leading report on shifting client demands on law firms.[91] It depicts an industry in turmoil, facing disruptive influences from several directions.[92] Most importantly, clients want to see better collaboration and team efficiency in practice—not sound bites.[93]

Technology plays another significant role on the client side; clients want their lawyers to use technology. Clients have learned that technology (as well as related innovations like project management processes) translates into cost savings.[94] Clients now expect outside law firms to use a host of technology solutions to provide better and cheaper legal services.[95] On top of this, there is less demand from clients for billable-hour legal services generally, and thus it becomes obvious why law firms need to play catch up on team practices.[96]

Generational differences also create challenges for legal teams today, and they will continue to do so. Millennials now make up nearly half of the workforce.[97] Research shows they do not do well with authority.[98] They grew up in an economy and social life built on the sharing of music, cars, homes, and work.[99] Neil Howe, who coined the term "millennials," explains that "[t]hey are accustomed to having their opinions taken seriously by older people—and are baffled by the brusque 'you're-too-young-to-count' attitude that prevails in many corporate suites."[100] When millennials are placed on

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[87] *Id.*
[88] *Id.*
[89] *Id.*
[90] *2019 Law Firms in Transition: An Altman Weil Flash Survey*, ALTMAN WEIL (2019), http://www.altmanweil.com/LFiT2019/ (discussing the drastic changes in law-firm client demands).
[91] *Id.* at i.
[92] *Id.* at ii..
[93] *Id.* at x.
[94] *Id.* at vii.
[95] *Id.* at x.
[96] *Id.* at i.
[97] JP Box, *Millennials in the Law: How to Motivate and Retain Your Firm's Young Associates*, 45 COLO. L. 55, 55 (2016).
[98] *Id.* at 56.
[99] *Id.*
[100] *Id.*

teams with members from other generations there are obvious challenges, particularly when it comes to the decision hierarchy.

Likewise, the need to work on multidisciplinary teams will take on a much greater significance soon, creating additional challenges.[101] As mentioned above, ALSPs and efficient legal service providers are swallowing up the market for simple, formulaic legal work.[102] "Big data and A.I. will make Legal Tech solutions more effective, networked, and intelligent."[103] Traditional work like contract drafting, legal risk management, and dispute resolution is increasingly going to the robots.[104] Lawyers and legal advisors will increasingly assume the role of project managers and business advisors.[105] This means that, to be successful, sophisticated law firms are increasingly taking on complex, nonstandard legal work that bridges different business and organizational roles.[106] Lawyers will work with an array of team members like engineers, designers, and architects.[107] This creates even greater challenges for legal teams, which struggle with defining roles and goals as is.

Ultimately, the challenges facing law firms require investment into better team practices. The old way of building teams, randomly assigning lawyers and support staff to work together with little active interaction, cannot survive the times.[108] Law firms will extract the efficiency and productivity they need only by building teams that can better leverage technology, processes, and dynamic practices. The good news is that both science and practice show that better teams will bring more success for firms.[109] Law firms will be successful if they can embrace that "[e]ffective teamwork is

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[101] *See* Mark Fenwick et. al., *Legal Education in the Blockchain Revolution*, 20 VAND. J. ENT. & TECH. L.
351, 380–82 (2017).

[102] *See supra* note 89 and accompanying text.

[103] *See* Fenwick et. al., *supra note* 101, at 381.

[104] *See* Dana Remus & Frank Levy, *Can Robots Be Lawyers?: Computers, Lawyers, and the Practice of Law*, 30 GEO. J. LEGAL ETHICS 501, 503, 512–13, 514 (2017); Jeff Bennion, *Are Robots Going to Take Our Legal Jobs?*, ABOVE THE L. (June 21, 2016, 2:02 PM), http://abovethelaw.com/2016/06/are-robots-going-to-take-our-legal-jobs/; Michael Cross, *Role of Artificial Intelligence in Law*, RACONTEUR (Feb. 19, 2015), https://www.raconteur.net/business/time-for-technology-to-take-over.

[105] *See* Remus & Levy, *supra* note 104, at 514–15.

[106] *See id.* at 529.

[107] *See* Laura Shin, *As Bitcoin Technology Makes Inroads, One Law Firm Launches Multidisciplinary Blockchain Practice*, FORBES (Aug. 9, 2016, 8:00 AM), https://www.forbes.com/sites/laurashin/2016/08/09/as-bitcoin-technology-makes-inroads-one-law-firm-launches-multidisciplinary-blockchain-practice/#41044fc42dab.

[108] *See generally* Carrie J. Menkel-Meadow, *When Winning Isn't Everything: The Lawyer As Problem Solver*, 28 HOFSTRA L. REV. 905 (2000) (discussing the win-or-lose world that litigation creates for lawyers and related problem solving challenges).

[109] There are several examples of teamwork leading to success in the legal workplace. *See, e.g.*, John D. Russell, *Yikes! (Times Five)*, OR. STATE BAR (2007), https://www.osbar.org/publications/bulletin/07febmar/lawlife.html. Further, the effects of teamwork have been shown to increase time management and workplace enthusiasm. *See, e.g.*, Dolly M. Garlo, *Creating a Collaborative Law Office*, 64 TEX. BAR J. 904 (2001).

critical to law firms."[110]

V. BUILDING BETTER LAW FIRM TEAMS

We aim to bring some of the leading team-based approaches to the law firm environment.[111] The research in this area has shown that law firms that invest in better teams and collaboration see the payoff.[112] For example, an empirical study by Dr. Heidi Gardner at the Harvard Business School shows that better teamwork led to better performing lawyers, more sophisticated and "'higher-value work,' 'reduce[d] professional turnover,' 'pro-social firm-building activities,' improved mentoring of associates, enhanced client 'satisfaction and repeat business,' and increased overall firm revenues."[113] So how do you make these changes on your team? Existing research suggests several tactics.

A. A No-Brainer: Psychological Safety.

Google hosted a fascinating project recently: Project Aristotle.[114] The project consisted of two years of team research and represents one of the largest and most relevant studies on what makes a good team.[115] The project followed 180 teams, conducted 200 interviews, and measured over 250 attributes to figure out what makes good teams tick.[116] Despite a richness of data that could probably spawn dozens of papers, Google found nothing the first time around.[117] No patterns were common to teams that performed well or poorly.[118] While failure is always a possibility in research, a well-designed study should not fail so spectacularly. Though their initial preparation involved a literature review, the first time around they did not review the constructs that became significant the second time.[119] These concepts were structure and clarity, and psychological safety, with the latter being most significant.[120]

In the second study, Google discovered some powerful results for

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[110] *See* Weinstein et. al., *supra* note 13, at 40–41.

[111] *See* Amy C. Edmondson, et al., *Three Perspectives on Team Learning: Outcome Improvement, Task Mastery, and Group Process*, 2007 ACAD. MGMT. ANNALS 269.

[112] *See, e.g.*, Mark Sophir, *Enhancing Your Legal Practice Through Conscious Collaboration*, 72 J. MO. BAR 304, 305 (2016).

[113] *Id.* (emphasis removed); *see also* Gardner *supra* note 9, at 11.

[114] Charles Duhigg, *What Google Learned from its Quest to Build the Perfect Team*, N.Y. TIMES (Feb. 25, 2016), https://www.nytimes.com/2016/02/28/magazine/what-google-learned-from-its-quest-to-build-the-perfect-team.html.

[115] Michael Schneider, *Google Spent 2 Years Studying 180 Teams. The Most Successful Ones Shared These 5 Traits*, Inc. (July 19, 2017), https://www.inc.com/michael-schneider/google-thought-they-knew-how-to-create-the-perfect.html.

[116] *Id.*

[117] *Id.*

[118] *See* Duhigg, *supra* note 114.

[119] *See id.*

[120] *Id.*; *see also* Schneider, *supra* note 115 (noting the researcher's findings that five characteristics, including structure and clarity and psychological safety, enhanced teams).

those interested in building better teams. It found that the keys to a successful team were:

- The dependability of each member;
- whether there is a clear structure around what each member's roles were (and the expectations for each);
- meaningful work;
- impactful work; and
- psychological safety.[121]

Psychological safety stood out. Psychological safety describes one's "perceptions of the consequences of taking interpersonal risks in . . . [the] workplace."[122] In other words, how comfortable do folks feel in taking risks when voicing new ideas, disagreeing with others, and so on?

It turns out that achieving this psychological safety made a big difference to Google teams, and a greater body of research suggests that it is important, too.[123] Indeed, if there is one thing that will combat many challenges facing legal teams, it is achieving psychological safety. Psychological safety results in more productive and successful teams.[124] Employees who feel psychologically safe end up pushing back on bad ideas, coming up with more innovative ones, and doing better work.[125]

B. Team and Firm Leadership

How can law firm teams cultivate this perception of safety? The research suggests a few ways. To achieve a perception of psychological safety, words must be combined with deeds to foster a true sense of psychological safety in an organization.[126] Cultivating psychological safety comes down to the folks leading teams and organizations. One of the key points from the research is the importance of picking (or training) the right leaders.[127]

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[121] Schneider, *supra* note 115.

[122] Amy C. Edmondson & Zhike Lei, *Psychological Safety: The History, Renaissance, and Future of an Interpersonal Construct*, 1 ANN. REV. ORGANIZATIONAL PSYCH. & ORGANIZATIONAL BEHAV. 23, 24 (2014).

[123] *See* Delizonna, *supra* note 12; *see* Bret H. Bradley et al., *Reaping the Benefits of Task Conflict in Teams: The Critical Role of Team Psychological Safety Climate*, 97 J. APPLIED PSYCH. 151, 152–53 (2012) (citing numerous studies that found positive relationships between psychological safety and effective teams).

[124] *See* Delizonna, *supra* note 12.

[125] *See id.* ("Studies show that psychological safety allows for moderate risk-taking, speaking your mind, creativity, and sticking your neck out without fear of having it cut off — just the types of behavior that lead to market breakthroughs.").

[126] Ingrid M. Nembhard & Amy C. Edmondson, *Making It Safe: The Effects of Leader Inclusiveness and Professional Status on Psychological Safety and Improvement Efforts in Health Care Teams*, 27 J. ORGANIZATIONAL BEHAV. 941, 958 (2006).

[127] *See id.*

Leaders who are conscientious and agreeable tend to be the kind of ethical leaders who naturally foster psychological safety.[128] The research has shown that training leaders to overtly invite comments and to voice appreciation is instrumental to improving team dynamics.[129] This is a general theme that is often ignored. Just as the best athletes do not always make the best coaches, a good lawyer does not immediately make a great partner as for leading. But training is an effective method of turning a good lawyer into a great partner..[130]

Leader inclusiveness is one way to promote proactive contributions and more safety, especially in teams of varying status.[131] Tested within the healthcare field (where strict hierarchies and professional status differences between doctors and others is common), purposeful inclusiveness practices work.[132] In general, psychological safety improves with status, so a doctor (or a senior attorney) is likely to feel safer speaking up than a support professional (or junior attorney).[133] By valuing and encouraging leaders to regularly use words and actions that encourage inclusiveness, the natural distance can be overcome.[134]

But leaders can do a lot more to promote better teams. First, aggressive leaders are often to blame for many of the team dynamic issues we have already discussed.[135] Training leaders to silence themselves can therefore go a long way.[136] Leaders often express their own views early and forcefully, leading to the team's hesitation to disagree.[137] By refusing to take a firm position at the start, leaders can create a more open space for the team to share ideas.[138]

Next, leaders should be sensitive to encouraging participation and supporting members with the most barriers to participating in the team. Studies have confirmed that members of disadvantaged groups—including less-educated people, African Americans, and sometimes women—are more likely to remain silent.[139] Leaders must encourage and support individuals

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[128] Fred O. Walumbwa & John Schaubroeck, *Leader Personality Traits and Employee Voice Behavior: Mediating Roles of Ethical Leadership and Work Group Psychological Safety*, 94 J. APPLIED PSYCH. 1275, 1275 (2009).

[129] *Id.* at 1276.

[130] *See* Sian Beilock, *The Best Players Rarely Make the Best Coaches*, Psych. Today (August 16, 2010), https://www.psychologytoday.com/us/blog/choke/201008/the-best-players-rarely-make-the-best-coaches; *see also* Yuliya Laroe, *People-Management Skills for New Law Firm Partners*, ABA (June 15, 2020), https://www.lawpracticetoday.org/article/people-management-skills-new-law-firm-partners/.

[131] Nembhard & Edmondson, *supra* note 126, at 949.

[132] *Id.*

[133] *Id.*

[134] *Id.*

[135] *See* Sunstein & Hastie, *supra* note 74.

[136] *Id.*

[137] *Id.*

[138] *Id.*

[139] *See* Dinora R. Fitzgerald et al., *Differences in the Way We Decide: The Effect of Decision Style Diversity on Process Conflict in Design Teams*, 104 PERSONALITY & INDIVIDUAL DIFFERENCES 339, 340,

who need it most to balance participation.

C. Choosing the Right Team Members

Law firms often assemble teams to work on matters by haphazardly throwing together whoever is at hand, those who have worked together in the past, or whoever they can find with bandwidth. But the research suggests that assembling teams purposefully will pay off.[140] Experts often refer to this process of choosing team members based on different factors as "role composition."[141] Role composition can be broken down into surface-level composition and deep-level composition.[142] Surface-level composition is, as its name implies, a team composed of members with salient differences like gender, ethnicity, age, and so on.[143] It can also refer to a cross-functional team composed of members from different professional backgrounds and disciplines, such as creating a team composed of engineers, social scientists, MBAs, and so on.[144] Deep-level composition is what Google tried to achieve by mixing certain roles and backgrounds with "extroverts," tapping into the idea that the other roles might not have the people skills but an extrovert might take charge and get things moving along.[145]

1. Surface-Level Composition: Increase Diversity, Create Positive Conflict, and See Results

In terms of surface-level composition, diversity on teams has been shown to increase performance. Age diversity has been shown to increase innovation and productivity in an organization.[146] "[R]acial diversity is associated with increased [] revenue, more customers, greater market share, and greater relative profits. Gender diversity is associated with increased sales revenue, more customers, and greater relative profits."[147] Although law

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343 (2017) (discussing how one of the most common forms of team decision-making, majority rule, where the final decision is based on the majority's preferences, can silence minority members' input); *see also* Elizabeth Wolfe Morrison & Frances J. Milliken, *Speaking Up, Remaining Silent: The Dynamics of Voice and Silence in Organizations*, 40 J. MGMT. STUD. 1353, 1355 (2003) ("Fearing isolation, employees will not be open and honest about their opinions when they perceive that they hold a minority viewpoint.").

[140] Suzanne T. Bell, *Deep-Level Composition Variables as Predictors of Team Performance: A Meta-Analysis*, 92 J. APPLIED PSYCH. 595, 595 (2007).

[141] *Id.*

[142] *Id.* at 596.

[143] *Id.*; Duhigg, *supra* note 114.

[144] *See* Bell, *supra* note 140, at 596.

[145] Duhigg, *supra* note 114.

[146] Uschi Backes-Gellner & Stephan Veen, *Positive Effects of Ageing and Age Diversity in Innovative Companies – Large-Scale Empirical Evidence on Company Productivity*, 23 HUM. RES. MGMT. J. 279, 281 (2013); *see also* Lisa Hope Pelled, *Demographic Diversity, Conflict, and Work Group Outcomes: An Intervening Process Theory*, 7 ORG. SCI. 615, 616 (1996); Dean Tjosvold, *The Conflict-Positive Organization: It Depends upon Us*, 29 J. ORGANIZATIONAL BEHAV. 19, 21 (2008); Dean Tjosvold et al., *Constructively Managing Conflicts in Organizations*, ANN. REV. ORGANIZATIONAL PSYCH. AND ORGANIZATIONAL BEHAV. 2014 545, 546 (2014).

[147] Cedric Herring, *Does Diversity Pay?: Race, Gender, and the Business Case for Diversity*, 74 AM. SOCIO. REV. 208, 208 (2009); *see also* Sigal Alon & Marta Tienda, *Diversity, Opportunity, and the Shifting Meritocracy in Higher Education*, 72 AM. SOCIO. REV. 487 (2007).

firms are historically bad at encouraging team diversity, that is thankfully changing—opening up the opportunity to leverage this tool more and more in the legal industry.[148]

But the power of surface-level diversity in teams will depend largely on the other efforts firms make to support positive team practices. Without those efforts, diversity does not always make teams work better.[149] One key is ensuring there are strong conflict management practices within the team so that members can share their unique perspectives and insights safely.[150] That is, diversity's power may be unlocked only when the team (and especially leaders) have created an environment where constructive conflict is supported.[151] We will return to constructive conflict later because the benefits of that practice go beyond diverse teams.

Another key factor is training teammates to be better at cross-cultural competencies: "Focusing on a team-based approach will naturally increase the need to infuse cultural competency training as a means of developing stronger, more effective teams."[152] Finally, encouraging constructive conflict and psychological safety will help firms realize the benefit of surface-level diverse teams.

2. Deep-Level Composition

Beyond the surface is deep-level compositional differences. These refer to the realm of psychometric differences in personality traits such as the "Big 5": openness to experience, conscientiousness, extraversion, agreeableness, and emotional stability.[153]

In the end, research shows that firms would benefit from valuing certain traits in their attorneys. This is because certain traits lead to overall better team performance.[154] Just by increasing the overall net amount of these positive team traits, performance can increase.[155] Thus, if a team is short on

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[148] *See* Michael M. Boone & Terry W. Conner, *Change, Change, and More Change: The Challenge Facing Law Firms*, 63 TEX. BAR J. 18, 24 (2000) ("[L]aw firms composed of monochrome lawyers will be displaced by diverse organizations that can offer a wider array of skill sets by virtue of education, race, gender, language capabilities, and technical background. In that regard, having strong women and ethnic minority lawyers will be a key factor in competing in a global economy. To compete for global business, successful law firms will find it necessary to attract and retain personnel that reflect their global clients. Women and ethnic minorities will increasingly emerge as law firm leaders.").

[149] Elaine D. Pulakos & Neal Schmitt, *An Evaluation of Two Strategies for Reducing Adverse Impact and Their Effects on Criterion-Related Validity*, 9 HUM. PERFORMANCE 241, 242–43, 254–57 (1996); Aparna Joshi, et al., *Cross-Level Effects of Workplace Diversity on Sales Performance and Pay*, 49 ACAD. OF MGMT. J 459, 460, 474 (2006); Backes-Gellner & Veen, *supra* note 150, at 279, 281, 283–84.

[150] Tjosvold et al., *supra* note 146, at 546, 555–58.

[151] *Id.* at 558–59.

[152] Brar, *supra* note 53, at 141 n.86.

[153] *See* Bell, *supra* note 140, at 597.

[154] Annelies E.M. van Vianen & Carsten K.W. De Dreu, *Personality in Teams: Its Relationship to Social Cohesion, Task Cohesion, and Team Performance*, 10 EUR. J. WORK AND ORGANIZATIONAL PSYCH. 97, 113, 118 (2001).

[155] *Id.*

these key traits, adding folks to the team that have them can help.

What do those traits look like? Four primary traits do a lot of work. First, extraversion: "being sociable, assertive, and talkative."[156] The second is agreeableness: "being good-natured, cooperative, and tolerant."[157] The third is conscientiousness: "being careful, responsible, and organized."[158] The fourth is emotional stability: "not being anxious, depressed, worried, and insecure."[159] Fifth and finally, "*openness to experience*, defined as curious, original, and broad-minded."[160]

Two of the main traits firms should value are conscientiousness and agreeableness, which both consistently contribute positively to team performance.[161] Also notable are that levels of extraversion and emotional stability are key factors of a member's performance, and the higher a team's average level of these traits, the better the team performs.[162]

Another powerful deep-level composition difference to consider is simply how varied team members are in terms of their approaches to legal work, problem-solving, and perspective.[163] A slew of research suggests that mixing in people with different opinions and perspectives leads to better results, but more on that later.[164]

D. Cultivating Constructive Conflict and Deviance.

One of the key insights in team research is that, to produce quality work for dynamic teams like legal ones, constructive conflict is key. Despite all the pressures to agree in law firms, it is disagreement that leads to innovative ideas, balanced decisions, and quality performance.[165] But disagreement can easily backfire if it is not maintained in a positive way.[166]

Perhaps the most important theme in conflict research is that conflict is often conflated with competition, and conflict arising from competition is detrimental because it fosters resentment from the perceived loser of a debate.[167] Lawyers are no strangers to competition, after all.[168] Competitive conflict leads to avoidance behaviors that create a cycle where teamwork is

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[156] *Id.* at 98.
[157] *Id.*
[158] *Id.*
[159] *Id.*
[160] *Id.* (emphasis in original).
[161] *Id.* at 118.
[162] *Id.* at 102.
[163] *See supra* Section V.C.
[164] *See infra* Section V.D.
[165] *See supra* Sections II–IV.
[166] Tjosvold et al., *supra* note 146, at 549.
[167] *Id.* at 547.
[168] *See* Bryant G. Garth, *Crises, Crisis Rhetoric, and Competition in Legal Education: A Sociological Perspective on the (Latest) Crisis of the Legal Profession and Legal Education*, 24 STAN. L. & POL'Y REV. 503, 506 (2013).

inhibited.[169]

One way to improve the function of teams and avoid groupthink is to formalize dissent by assigning someone to the role of deviant.[170] That is, assign someone on your team with the role of meaningfully disagreeing with the dominant ideas or positions. By being transparent about who is tasked with dissenting, a team can be more comfortable handling the resulting conflict. Several empirical studies have highlighted that this sort of devil's advocacy facilitates the quality of group decisions.[171] These studies consistently demonstrated that the groups using devil's advocacy made decisions of higher quality than the consensus groups did.[172]

Assigning deviants is not always required, though. Teams that have authentic dissenters who are comfortable disagreeing often work better.[173] Authentic dissent motivates reconsideration, better information processing, and better decision-making.[174] By mixing in individuals who genuinely disagree with others' positions, you can improve the performance of teams (like another deep-level composition strategy).

For example, research shows that teams with a higher level of differing preferences and judgments show less overconfidence, are less likely to underestimate risks, have more accurate judgment, generate better theories, exchange more information, and produce better solutions.[175] Researchers have consistently shown that members of groups with conflicting individual positions are more open-minded and produce better results.[176] Assigned

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[169] Dean Tjosvold et al., *Effectiveness of Chinese Teams: The Role of Conflict Types and Conflict Management Approaches*, 2 MGMT. & ORG. REV. 231, 232 (2006).

[170] *See generally* John D. Stanley, *Dissent in Organizations*, 6 ACAD. MGMT. REV. 13 (1981).

[171] *See generally* David M. Schweiger et al., *Group Approaches For Improving Strategic Decision Making: A Comparative Analysis of Dialectical Inquiry, Devil's Advocacy, and Consensus*, 29 ACAD. MGMT. J. 51 (1986); Joseph Valacich & Charles Schwenk, *Devil's Advocacy and Dialectical Inquiry Effects on Face-To-Face and Computer-Mediated Group Decision Making*, 63 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 158 (1995).

[172] *See* David M. Schweiger et al., *Experiential Effects of Dialectical Inquiry, Devil's Advocacy, and Consensus Approaches to Strategic Decision Making*, 32 ACAD. MGMT. J. 745 (1989).

[173] *See* Charlan Nemeth et al., *Improving Decision Making by Means of Dissent*, 31 J. APPLIED SOC. PSYCH. 48 (2001).

[174] *Id.*

[175] *See, e.g.*, Janet A. Sniezek, *Groups Under Uncertainty: An Examination of Confidence in Group Decision Making*, 52 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 124 (1992); Steve Williams & Robert J. Taormina, *Unanimous Versus Majority Influences on Group Polarization In Business Decision Making*, 133 J. SOC. PSYCH. 199, 203–04. (1993); Janet A. Sniezek & Rebecca A. Henry, *Accuracy and Confidence in Group Judgment*, 43 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 1 (1989); Helmut W. Crott et al., *The Process of Inductive Inference in Groups: The Use of Positive and Negative Hypothesis and Target Testing in Sequential Rule-Discovery Tasks*, 75 J. PERSONALITY & SOC. PSYCH. 938 (1998); Craig D. Parks, & Nicole L. Nelson, *Discussion and Decision: The Interrelationship Between Initial Preference Distribution and Group Discussion Content*, 80 ORGANIZATIONAL BEHAV. & HUM. DECISION PROCESSES 87 (1999); John P. Wanous & Margaret A. Youtz, *Solution Diversity and the Quality of Group Decisions*, 29 ACAD. MGMT. J. 149 (1986).

[176] *See generally* Dean Tjosvold et al., *Effects of Affirmation and Acceptance on Incorporation of Opposing Information in Problem-Solving*, 114 J. SOC. PSYCH. 103, 103–04 (1981).

deviants exhibit many of these characteristics, too, but to a lesser degree.[177]

To foster positive or constructive conflict, it is important to define one's goals. As we discussed earlier, for team dynamics to work, there needs to be a sense of psychological safety.[178] Fostering this leads to the "open-minded discussion" essential to constructive conflict.[179] Psychological safety is as close to a teamwork panacea as one can get, so the first-line suggestion would be to enact policies and trainings to foster psychological safety.[180] This means creating policies and structures to allow coworkers to dissent without consequence, so they learn to speak up. Because of the correlation between professional status and psychological safety, it is recommended to first work on leader inclusiveness.[181] This is a set of leadership behaviors to show appreciation that can increase psychological safety as well as reduce the effect of status in interactions.[182]

The use of a deviant is a formal way to encourage dissent, as well as proof of a lack of consequences. Firms may also create a "right to dissent," which codifies policies for how to go from initial conflict to resolution.[183] These policies should lay out processes for fostering constructive communication.[184]

E. Building Better Feedback

Positive communication practices, especially when it comes to feedback, are essential to well-running teams.[185] Feedback is how members can learn to correct poor behaviors and adopt better ones.[186] Feedback is thus key to improving team performance over time. Whether feedback works is mostly about the psychology of the recipient.[187] Telling folks to fix something is easy. It is even easy for the recipients to work on problems. Even so, that work requires time, investment, and buy-in. To achieve that, the recipient's mindset is everything.

First, working to improve your recipient's mental state will translate into much better outcomes.[188] How can we do that? Set aside some time to

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[177] *See* Nemeth et al., *supra* note 173.

[178] *See* Delizonna, *supra* note 12; *see also infra* Section V.

[179] Tjosvold et al., *supra* note 146, at 555, 558, 560.

[180] *See* Delizonna, *supra* note 12.

[181] Nembhard & Edmondson, *supra* note 126.

[182] *Id.*

[183] Dean Tjosvold, *Rights and Responsibilities of Dissent: Cooperative Conflict*, 4 EMP. RESPS. & RTS. J. 13, 14–15, 22 (1991).

[184] Gilad Chen et al., *A Multilevel Study of Leadership, Empowerment, and Performance in Teams*, 92 J. APPLIED PSYCH. 331, 332–33, 335, 344 (2007).

[185] John R. Hollenbeck et al., *Extending the Multilevel Theory of Team Decision Making: Effects of Feedback and Experience in Hierarchical Teams*, 41 ACAD. MGMT. J. 269, 279 (1998).

[186] *Id.* at 279–80.

[187] *See* DOUGLAS STONE & SHEILA HEEN, THANKS FOR THE FEEDBACK: THE SCIENCE AND ART OF RECEIVING FEEDBACK WELL 5–6 (2014).

[188] *See id.* at 8–9.

discuss the negative feelings that come with corrective feedback. Getting it out in the air can help substantially.

Second, work to normalize corrective feedback.[189] The more you can make feedback feel like a positive experience, the more receptive people are psychologically.[190] The goal is to fight one's negative emotional response as much as possible. You can help normalize corrective feedback by sharing your own weaknesses, current and past, or by asking for feedback in return. Consider giving group feedback so that team members can see others struggling in the same areas. Giving more frequent feedback throughout the weeks and months helps corrective feedback become an everyday practice.

Next, the research shows that accountability and credibility are both key.[191] Individuals need to feel like it is worth investing in your feedback over time, that they will see results, and that you will be keeping track of their progress.[192] They also need to believe in your intentions and the quality of your feedback.[193] For example, take time to keep track of the feedback you give individuals so that, in following meetings, you can fairly track their progress or lack thereof. Explain why you are giving the feedback and focus on the decisions the recipient should make when deciding how to apply it—this is about skills, not following rote instructions.

Finally, the research suggests you need to be extremely specific with feedback.[194] Keep feedback to a manageable amount at any time.[195] This is best accomplished by focusing on very specific aspects of their work and only offering a few pieces of core feedback at a time. So, instead of "write concisely," tell folks to "cut the passive voice in this section." Using

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[189] *See* RAOUL J. BURON & DANA MCDONALD-MANN, GIVING FEEDBACK TO SUBORDINATES (1999) (ebook); *see also* Stone & Heen, *supra* note 192, at 10 (discussing how managers should "model" asking for feedback).

[190] *See* BURON & MCDONALD-MANN, *supra* note 189, at 4 (noting that "regular and timely feedback" builds a trusting environment and relationship between employer and employee); *see also* Nitya Chawla et al., *Feedback Dynamics Are Critical to Improving Performance Management Systems*, 9 INDUS. & ORGANIZATIONAL PSYCH. 260, 260 (2016) ("Studies consistently highlight that continuous feedback is more likely to change employee behaviors . . . .").

[191] Daniel R. Ilgen et al., *Consequences of Individual Feedback on Behavior in Organizations*, 64 J. APPLIED PSYCH. 349, 359 (1979) (explaining how the credibility and power of the person giving feedback impacts the receiver's acceptance of that feedback and willingness to respond); Manuel London et al., *Accountability: The Achilles' Heel of Multisource Feedback*, 22 GRP. & ORG. MGMT. 162, 181 (1997) ("Multisource feedback can be enhanced by establishing sources and mechanisms that facilitate and reinforce accountability to oneself and others.").

[192] *See* Ilgen, *supra* 191, at 350–51.

[193] *See* Chawla, *supra* note 190, at 261, 264.

[194] Pablo Casas-Arce et al., *The Performance Effect of Feedback Frequency and Detail: Evidence from a Field Experiment in Customer Satisfaction*, 55 J. ACCT. RSCH. 1051, 1054–55 (2017); Richard E. Kopelman, *Objective Feedback*, *in* GENERALIZING FROM LABORATORY TO FIELD SETTINGS, 119, 135 (Edwin A. Locke ed., 1986). *But see* Jodi S. Goodman et al., *Feedback Specificity, Exploration, and Learning*, 89 J. APPLIED PSYCH. 248, 249 (2004) (noting a few downsides that come from giving very specific feedback).

[195] *See* Gardiner Morse, *Feedback Backlash*, HARV. BUS. REV. (Oct. 2004), https://hbr.org/2004/10/feedback-backlash.

examples works wonders.[196] Further, give individuals examples of the goal. For instance, if you are giving feedback about writing, provide an example.

F. Tweaking for Virtual Teams

"Virtualness" shapes all teams these days. Computer-Mediated Communication (working with teams digitally) affects teamwork and requires different approaches and skills.[197]

The effect of virtualness depends, somewhat, on the type of task the team is working on. In fact, brainstorming-type tasks operate better through CMC.[198] But negotiation tasks, on the other hand, are performed better in-person.[199] Efficiency and active use of CMC is also a factor.[200] Many downsides in virtual teamwork come from delays in communication, which may make information, questions, and directives stale.[201]

Another factor in effective virtual teams is trust and the knowledge-sharing fostered by trust.[202] More trust leads to more knowledge-sharing, and virtual teams do better in this respect.[203] This effect can be seen in fully virtual teams, hybrid teams, and completely local teams. This effect is negatively related to task interdependence, indicating that trust is more important in looser team structures.[204]

Another tip, perhaps the most important one, is time. In looking at 80 studies of virtual team effectiveness, the immediate pattern seems to be that virtual teams were lower performing.[205] This is true in the short term, but researchers found that the negative effects disappeared over time.[206] This indicates that, whenever evaluating virtual teams, one must not rush to judgment.[207] This applies when management is evaluating work output of virtual teams, if there is a local (in-person) comparison to be made, as well as when an employee has been working locally and needs time to adjust.[208] Thus, virtual teams cannot be a short term strategy; firms must invest and support virtual teams for a long time span before evaluating their efficacy.

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[196] *See* Kopelman, *supra* note 194, at 135–36.

[197] *See generally* Elena Methawut, The Effect of Computer Mediated Communication to Communication Patterns (June 2004) (M.A. thesis at California State Univ., San Bernardino).

[198] *Id.* at 50–51.

[199] *See* Luis L. Martins et al., *Virtual Teams: What Do We Know and Where Do We Go from Here?*, 30 J. MGMT. 805, 818 (2004).

[200] *See id.* at 814–15.

[201] *See id.* at 817–18.

[202] D. Sandy Staples & Jane Webster, *Exploring the Effects of Trust, Task Interdependence and Virtualness on Knowledge Sharing in Teams*, 18 INF. SYS. J. 617, 617, 630–632 (2008).

[203] *Id.* at 617, 630, 632.

[204] *Id.*

[205] Ana Ortiz de Guinea et al., *A Meta-Analysis of the Consequences of Virtualness on Team Functioning*, 49 INFO. & MGMT. 301, 301, 306 (2012).

[206] *Id.* at 307.

[207] *Id.*

[208] *See generally id.*

In a virtual team, a manager may need to work a little harder to mediate interpersonal interactions between team members.[209] Researchers have found that interpersonal conflict has a more negative effect on team performance as virtualness increases.[210] This is because the lack of physical interaction limits the ability for such conflict to be resolved directly.[211] Being aware of these challenges and planning for them is key.

Finally, research suggests that self-motivation and self-efficacy are among the most important determinants of success on virtual teams.[212] Firms may thus want to prioritize these traits in team members that heavily invest in virtualness.

G. Reward Well and Often

One of the main ways firms can counter the built-in pressures to avoid disagreeing and adding more value to teams is by flipping the reward mechanisms. Rather than rewarding attorneys who just get along with others, rewarding folks for disagreeing, working well together, and more can create a better team environment.

It is key to tie reward systems to positive team outcomes and not just financials like billable hours.[213] A common problem in organizations is that reward structures are often geared solely toward financial ends.[214] For example, the Enron company's incentives were misplaced; as a result, the company inflated their financials, ultimately resulting in the Enron Crisis.[215] Ultimately, if you want positive teamwork, focus on that in your rewards.

Law firms can improve team performance by rewarding helping behaviors. In teams, people should be encouraged to support one another, and firms must do more than just pay lip service. Formalized goals and incentives can go a long way.[216] We do not suggest that firms go crazy here. For example, helping behaviors should not be so overvalued that it leads to adverse incentives. But incorporating teamwork into concrete rewards, bonuses, or other schemes will make a difference.

Another key insight is the value of rewarding teams rather than

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[209] Eric M. Stark & Paul E. Bierly III, *An Analysis of Predictors of Team Satisfaction in Product Development Teams with Differing Levels of Virtualness*, 39 R&D MGMT. 461, 469 (2009).

[210] *Id.*

[211] *Id.*

[212] *See* D. Sandy Staples & Jane Webster, *Exploring Traditional and Virtual Team Members' "Best Practices": A Social Cognitive Theory Perspective*, 38 SMALL GRP. RSCH. 60, 63, 73 (2007).

[213] *See* Steven Kerr, *On the Folly of Rewarding A, while Hoping for B*, 9 ACAD. MGMT. EXEC. 7, 13 (1995).

[214] *Id.*

[215] James Taylor, *Innovation Corrupted: The Origins and Legacy of Enron's Collapse*, 51 BUS. HIST. 298, 298–300 (2009) (book review).

[216] *Id.*

individuals.[217] "Cascades are far less likely when each individual knows that he has nothing to gain from a correct individual decision and everything to gain from a correct group decision."[218]

H. Planning and Process Matter

Teams make projects more complicated, with more folks interacting, communicating, and updating each other. It should thus be little surprise that process and planning are two key elements of successful teams.[219] The more people working on a team, the more need for transparent plans that include expected milestones and deadlines, and processes for updating and communicating with the team, while addressing common concerns and questions.[220]

At the beginning of a project, clearly establishing the team's expectations in writing can alleviate a lot of the complications in teamwork. Taking a few minutes to brainstorm and write down the practical goals for the project, who is in charge of what, and the expected challenges can all work wonders.[221] This will ensure everyone agrees, balance expectations, and streamline the team's workflow.[222]

Finally, firms would be smart to include process and project management training as a key area of investment for senior attorneys and leadership. Researchers have found that a lack of process training creates some of the most intractable obstacles for problem-solving teams like lawyers.[223] Effective training in process can alleviate many problems legal teams face.

I. Other Team Tricks of the Trade from the Science

In this final Section, we collect additional team best practices supported by the research. Each has real promise for law firm teams. Social

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[217] Joan C. Williams & Veta Richardson, *New Millennium, Same Glass Ceiling? The Impact of Law Firm Compensation Systems on Women*, 62 HASTINGS L. J. 597, 665–66. ("*Reward teams, not individuals.* The point of a law firm is to build teams of lawyers that, together, can serve a client's interests better than a sole practitioner could.") (emphasis in original).

[218] Sunstein & Hastie, *supra* note 74 (emphasis removed).

[219] *See generally* C. DAVIS FOGG, TEAM-BASED STRATEGIC PLANNING: A COMPLETE GUIDE TO STRUCTURING, FACILITATING, AND IMPLEMENTING THE PROCESS (Amacom 2010).

[220] *Id.* at 58–72. Researchers in other contexts have found that process is often a key weakness for problem solving teams and that a "major obstacle" for these teams is a lack of leaders with process training. Annette M. Iverson, *Best Practices in Problem-Solving Team Structure and Process*, *in* BEST PRACTICES IN SCHOOL PSYCHOLOGY IV 657, 668 (2002).

[221] *See generally* Susan Adams, *4 Steps to Successful Brainstorming*, FORBES, (Mar. 5, 2018, 5:38 PM), https://www.forbes.com/sites/susanadams/2013/03/05/4-steps-to-successful-brainstorming/?sh=111b62965992.

[222] *See generally* Zhike Lei et al., *Team Adaptiveness in Dynamic Contexts: Contextualizing the Roles of Interaction Patterns and In-Process Planning*, 41 GRP. & ORG. MGMT. 491, 493–98 (2016) (discussing research on team performance and process in dynamic environments with nonroutine challenges).

[223] *See* Iverson, *supra* note 220, at 657.

scientists have done a lot of work on the importance of "priming"—triggering some mental association so as to affect people's choices and behavior after.[224] This principle applies to teams, too. In other words, we can prime members on a team so that they are better teammates. Researchers have found that we can prime teams by encouraging information sharing and other best practices to begin.[225] For example, setting aside time for a discussion of the ground rules, how the project will work, and even requiring members of the team to agree that they will abide by team best practices have all been shown to help.[226]

Organizations must make high-quality team practices a priority. This includes tasking specific individuals to oversee organizational approaches to teams.[227] Firms can issue a policy and include teamwork best practices in training and other firm materials. If folks see that the firm prioritizes teamwork, then they will understand that it is worth investing in.[228]

Firms can consider making self-affirmance and motivation a part of standard team practices. Researchers have shown that people respond to information in a less defensive and more open-minded way when their self-worth is buttressed first.[229] "Self-affirmed individuals are more likely to accept information that they would otherwise view as threatening, and subsequently to change their beliefs and even their behavior."[230]

Another technique, similar in effect to the deviant and one that involves everyone, is the pre-mortem.[231] Rather than wait until the end of a project to see if it failed, get together before starting and predict all the ways it could fail.[232] Everyone writes down several ways, at least three, that they think the project might fail and then discusses them. Review each identified possibility and brainstorm how it can be addressed or prevented.[233] The simple act of getting these thoughts into the open will create psychological safety as people will be freer to identify the problems if they manifest.[234] The team leader should also combine the lists and periodically check to make sure they do not observe any of the issues. This is a great way to address all the

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[224] Daniel C. Molden, *Understanding Priming Effects in Social Psychology: What Is "Social Priming" and How Does It Occur?*, 32 SOC. COGNITION 1, 1, 3 (2014).

[225] Alan R. Dennis et al., *Sparking Creativity: Improving Electronic Brainstorming with Individual Cognitive Priming*, 29 J. MGMT. INFO. SYS. 195, 210–11 (2013).

[226] *Id.*

[227] Terrell, Jr., *supra* note 36, at 30.

[228] *The Importance of Teamwork in a Modern Law Firm in 2022*, BRESSMAN L. (Jan. 19, 2022), https://www.bressmanlaw.com/blog/importance-of-teamwork-in-modern-law-firm/.

[229] *See* David K. Sherman & Geoffrey L. Cohen, *Accepting Threatening Information: Self-Affirmation and the Reduction of Defensive Biases*, 11 CURRENT DIRECTIONS PSYCH. SCI. 119, 119–20 (2002).

[230] *Id.* at 119.

[231] *See generally* Gary Klein, *Performing a Project Premortem*, HARV. BUS. REV. (Sept. 2007), https://hbr.org/2007/09/performing-a-project-premortem.

[232] *Id.*

[233] *Id.*

[234] *Id.*

potential elephants in the room while they are still mice.

As discussed, to get a team to function well they need to communicate, and to freely communicate there must be psychological safety. This is something that can be trained because it is a process of teamwork, and training works best on processes.[235] Training teams to communicate and coordinate has been shown to increase work output and quality.[236]

We also discussed the importance of leader behaviors in promoting psychological safety and constructive conflict. Research has shown that training team leaders alone leads to significant improvements in team performance.[237] Studies have also confirmed that assigning team members to clear roles, and balancing those roles, pay off in better performance.[238]

When team member perception of a coworker is that they are being treated differently, productivity sharply decreases.[239] For this reason, it is essential that there are clear roles, and that each member is capable of their role. The research confirms that it is important that individual goals and deadlines are aligned with team goals and that all of this is communicated clearly.[240]

Because training content has been shown to be important, it is recommended to create more than one training where possible. One training can focus specifically on leadership behaviors to understand the importance of psychological safety and how to facilitate it.[241] Separate training for subordinates can focus on how constructive conflict works in practice, as well as the values of speaking up and asking for support.[242]

VI. CHECKLIST OF LEGAL TEAM BEST PRACTICES

Stepping back, what does the research suggest legal practitioners should do to cultivate better teams?

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[235] *See generally* Eduardo Salas et al., *Does Team Training Improve Team Performance? A Meta-Analysis*, 50 HUM. FACTORS 903 (2008).

[236] *Id.* at 926.

[237] Ezequiel Fernandez Castelao et al., *Effect of CRM Team Leader Training on Team Performance and Leadership Behavior in Simulated Cardiac Arrest Scenarios: A Prospective, Randomized, Controlled Study*, 15 BMC MED. EDUC. 1, 7 (2015).

[238] *See* Laird Mealiea & Ramon Baltazar, *A Strategic Guide for Building Effective Teams*, 34 PUB. PERS. MGMT. 141, 145 (2005); *see also* Mila Hakanen & Aki Soudunsaari, *Building Trust in High-Performing Teams*, 2012 TECH. INNOVATION MGMT. REV. 38, 40 ("High-performing teams have . . . clarity around individual roles and responsibilities . . . .").

[239] *See generally* Jeffrey A. Lepine & Linn van Dyne, *Peer Responses to Low Performers: An Attributional Model of Helping in the Context of Groups*, 2001 ACAD. MGMT. REV. 67.

[240] Chen et al., *supra* note 184, at 335.

[241] *See generally id.* at 343–44.

[242] *Id.* at 343.

Create psychological safety. Convey to all team members regularly and formally that disagreement is encouraged, that innocent mistakes will not be severely punished, and that generally everyone's input and innovation are welcome. Although not always easy, psychological safety is strongly correlated with better team performance.
Cultivate team and organizational leadership. To affect positive team change, firm leaders must commit to motivating investment into teamwork practices beyond the norm. Team and firm leaders must also exhibit the positive traits of teams, especially inclusiveness.
Team composition. Diversity should be valued, and proper training and processes implemented so that this diversity is successful. Some research suggests that valuing traits like inclusiveness and agreeableness will produce better team results as well.
Support constructive conflict. This is about encouraging non-competitive conflict tied to sharing ideas and disagreeing without fear of reprisal. Leading by example and communicating with the team that disagreement is encouraged will help.
Assign team roles equally and transparently. Make sure that work is as equally distributed as possible so that folks feel invested. Assign roles clearly so that everyone understands who is doing what, making communication and collaboration better.
Devote more resources to quality feedback. Feedback should be a regular, consistent part of team practice—and legal practice. Many legal organizations rely solely on annual feedback, which is not well supported in the research.
Adopt virtual best practices. Strive to maintain connection and communication when using virtual tools.
Reward work well done. There must be time and resources

devoted both to constructive feedback and rewarding work well done. Many legal organizations fail to recognize quality contributions, big and small.
Develop plans and processes. Transparent, written plans and processes will make teams work smoother and more productively. Members will understand the expectations and be able to stay on the same page.
Formalize team policies, invest in teams, and consider innovative tools like post-mortems. Invest in other proven practices, like written team policies, incentives in teamwork results, and experimenting with tools like post-mortems.

V. CONCLUSION

Legal teams face obstacles, now more than ever. Traditional law firm dynamics have not been conducive to positive team practices.[243] Indeed, dysfunctional teams and management have ranked among lawyers' most common complaints for decades.[244] Add to the mix new market and technological factors, and it is no wonder that legal teams continue to struggle.

But there is hope. Although developing team practices is not an easy journey, well-trodden research offers a list of concrete practices that will help. None of these solutions is a one-size-fits-all fix. Legal teams are dynamic, and each team may thrive using different approaches. What works is an investment in legal teams, not just individuals, and an awareness that, when it comes to lawyers, the sum is much more than the parts.

[243] Jeffrey Paulsen, *Why Traditional Law Firms and Company Legal Functions Are Rarely Aligned*, MICH. BUS. (Oct. 2, 2012), https://michbusiness.com/why-traditional-law-firms-and-company-legal-functions-are-rarely-aligned/.

[244] Bill Henderson, *Lawyers and Teamwork, Part I: Motivation (188)*, LEGAL EVOLUTION (Aug. 2, 2020), https://www.legalevolution.org/2020/08/lawyers-and-teamwork-part-i-188/.