

THE WOMAN ADVOCATE

SECTION OF LITIGATION

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ARTICLES

A Conversation with the First Women to Lead Two of Delaware's Largest Firms

By Valerie Caras – February 20, 2020

When Kathleen Furey McDonough was elected chair of Potter Anderson and Corroon LLP's executive committee in 2018, she became the first woman to lead a major Delaware firm. Doneene K. Damon, elected president of Richards, Layton, and Finger, P.A., in 2019, became the first African American woman in Delaware to serve in that role. Neither thought they would pursue or achieve those milestones when they joined their respective firms. According to Damon, "Even a decade ago, no one would have thought that would have been a possibility." McDonough agrees: "That's right—let alone 34 years ago!"

And yet, here they are, leading two of Delaware's largest firms.

Both natives of Philadelphia, McDonough and Damon came to Delaware—a state where everyone tends to know everyone else—without any personal connections. "There's a half of a degree separating everyone in Delaware," joked Damon, who said that she didn't know anyone in Delaware when she started practicing. "I didn't even have a third cousin twice-removed living here," McDonough quipped. "I hope that the fact that we have been able to succeed in this realm is encouraging to others because we didn't have any particular leg-up."

When McDonough joined Potter in 1985, she was one of only three female attorneys employed by the firm. Similarly, when Damon joined Richards in 1992, only 2 of 31 partners were female. While rising through the ranks of a male-dominated legal world, both recall the successful women they worked with and learned from. McDonough explains that one of her fellow female associates, Mary Copper, eventually became Potter's first female partner. At Richards, "the fact that there were only two female partners, Anne Foster and Cindy Kaiser, was always a topic of conversation among young women lawyers," Damon explained. "We looked to their example. We watched when Lisa Schmidt was elevated to the partnership, because you try to emulate those who have gone before you. We wondered whether there was a path for us."

Embracing Creative Paths to Success

Although McDonough and Damon found their paths to success, they emphasize that not all paths should look alike. They agree that firms must make clear to women there is no one way to succeed.

Damon: “Statistics show that at a certain point in a young woman’s career, many of them choose to opt out because they don’t necessarily see a path forward. So my perspective is, ‘How can I help clearly identify what a path forward for a young woman might look like so she doesn’t think about opting out?’ It’s extremely difficult to manage a professional life with a personal life—but it’s doable. We’ve done it, women before us have done it, and women after us continue to do it.”

McDonough: “I agree. In the past, firms were led by lawyers who were male and who primarily took one path to success. They likely had spouses who didn’t work, who raised children, and who took care of all of the family’s personal and social obligations. That path should no longer be the only path to success. What firms have to do across the spectrum of size is identify equally contributory paths for women and show that success doesn’t look one way. In that respect, helping women succeed is 100 percent about retention. And that’s clearly where law firms have failed. We have a situation where more than 50 percent of students coming out of law school are women but only roughly 20 percent of equity partners are women.”

Damon: “Yes, that disconnect is huge. And to think about the sheer numbers of women who choose to opt out because they don’t know the various paths that are available to them.”

McDonough: “If you have someone making her own path, you need to have people who are receptive, saying, ‘That can work.’ Every client will tell you that the best lawyers are the ones who say, ‘You can’t do that because this is what will happen, but I can get you to where you want to be if you take this other route.’ Lawyers who just say ‘No’ aren’t very good lawyers at all. Great lawyers are creative. Great leaders should be as well, saying, ‘I need to keep you. You’re talented, valuable, and you have a future in this firm. Let me help you figure out a way to get there.’”

Damon: “We have to be open-minded and allow for a level of creativity that didn’t exist before.”

Making the Case for Diversity

Both McDonough and Damon concede that, on occasion, they have encountered colleagues who may not agree with making diversity initiatives firm priorities. When asked how to persuade those colleagues to think differently, they say clients play a huge role.

Damon: “For the people who don’t prioritize gender diversity because it’s fair and equitable, their perspective will start to change when you can explain to them from the business imperative perspective why this is important.”

McDonough: “And that’s where clients come in. When I’ve spoken to clients and at conferences on this topic, I’ve said, ‘In-house lawyers in the room: Don’t let up.’ When our corporate clients advance requirements like the [Intel rule](#), mandating a certain level of diversity from firms that work on that corporation’s matters, firms must respond.”

Damon: “Clients are very much in tune to the benefits of diversity of perspective. For example, we represent large banks who make us report to them on a quarterly basis metrics such as who is working on their matters, how many women, how many minorities, etc. Banks might call and ask questions like ‘Why have there been fewer women working on our matters during the last quarter? What is the rationale? This is important to us. We recognize the significance in having diversity in perspective and that genders bring different viewpoints.’ When clients hold you accountable, the people who don’t necessarily get it for the right reasons, they get it because the clients make it a priority.”

McDonough: “The law firm equity partner track can be among the most challenging legal careers. And there are not insignificant numbers of women who say that they want to practice law but believe that they can balance their lives better if they can take an in-house position. In-house law departments have significant numbers of female lawyers.”

Damon: “And that’s why it’s a client imperative, because the women in these positions are helping to make it a client imperative.”

McDonough: “Exactly. Women are going in-house and saying, ‘Stop running women out of law firms.’”

Damon: “While clients play a huge role, a number of my male partners’ perspectives have changed since their daughters have entered the workforce. They didn’t see gender diversity in the workplace as being an issue with their wives, who may have made a different life choice.”

McDonough: “Or maybe those wives were forced to make that choice—they wanted to have a career but, for whatever reason, opted out.”

Damon: “Yes. And now, those partners are seeing diversity initiatives in a way that they didn’t before. And that’s human nature. Once something starts to affect you directly, you start to see aspects of it that you never could see previously.”

McDonough: “We shake our heads, but we say, ‘Fine. Took you long enough, but we’ll take it. Now you get it.’”

Recruiting and Retaining Women of Color

Damon and McDonough acknowledge that recruiting and retaining women of color continues to be a particularly difficult challenge, especially given that African Americans hold fewer leadership positions than other underrepresented groups. When Damon joined the Richards partnership in 1999, she was the first African American attorney to make partner at a major Delaware law firm.

Damon: “While there aren’t many women leaders, the percentage of African American leaders is even smaller. From my perspective, I have an obligation to get in front of law students, to sit in the room with the Black Law Students Association, and say, ‘Here’s why the practice of law is so phenomenal. Here’s why you should be considering Delaware.’ And let them see that not only are there successful practitioners in general but there’s an African American woman in one of those spots. Until young people can actually visualize themselves in someone else’s role, it’s difficult for them to see the path from A to Z. I can’t tell you the number of times I’ve sat in a room with young, African American female law students who have said, ‘I’ve never met a black woman partner in a law firm.’ Many of them didn’t even think about law firm partnership as a possibility. How sad is that? So from that perspective, I do feel it as a personal responsibility to get in front of as many women as I can—including African American women—and say, ‘Don’t limit yourself.’”

McDonough: “The more exposure all of us have to diverse individuals across the board, the better that is for the bar. That’s why the [elevation of our newest justice \[Tamika Montgomery-Reeves\] to our state supreme court](#)—and her prior elevation to the Court of Chancery—has so profoundly impacted our profession. These promotions give all of us an opportunity—from the young African American female law student to the white, male, 60-year-old partner—to see that success can look different, and it doesn’t have to look like one thing.”

Damon: “It broadens everyone’s mindset. I’ve made it a priority to get to know as many people in the firm as I can on a personal level. What are your hobbies? What is your family like? The more you can get to know a person, the more your perspectives broaden.”

McDonough: “And for those people in the world for whom being kind to others isn’t enough of an incentive, the fact is the more you get to know the people you work with, the better the chance you have of retaining them.”

Damon: “That’s right. A partner may say, ‘I don’t want to impose on this female associate and ask her to join me on the West Coast for these depositions because I know she has a young child.’ And I can say, ‘Why are you assuming that because she has a young child, she doesn’t want to take this assignment? You may think you’re doing something good for her by not asking her to join you, but what you’re actually doing is depriving her of an opportunity to experience an aspect of her career vital to her professional development. Let her make the choice.’ And I can have those conversations more comfortably when I know the person and have a sense as to her goals.”

Male Allies

McDonough and Damon were quick to praise the men who helped advance their careers, and they acknowledge that equality of opportunity can’t be achieved by underrepresented groups working alone. Relatedly, both McDonough and Damon advise young women to seek mentors with diverse perspectives.

Damon: “My advice to young women seeking to succeed in a law firm is, first, to keep yourself open to opportunities. Don’t close yourself off because you don’t know where opportunities are going to come from. Second, don’t just look for mentors in people who look like you. When I started, my mentors at the firm were older, white males, and they were phenomenal. They took an interest in me, they got to know me, they were focused on my professional development, and I very much credit the two of them with my success at the firm. If I were only looking for women to guide me, I might have had a very different experience.”

McDonough: “Of course there have been men who have been champions of diversity. We couldn’t have succeeded without them. We became partners in our firm not solely on the strength of women who supported us but on men who said, ‘These are great lawyers; we need to make them partners.’ You have to be open to all opportunities. Men don’t always vote for men because they are men, and women don’t vote for women because they are women. That isn’t and shouldn’t be the case. You don’t have to come from a diverse background to be an ally and champion of diversity.”

The Future’s Promise

McDonough: “We’ve come a long way, but we’re not there yet. We should get to the point where we’re not looking at these numbers. It won’t feel like real success until it’s not news that women are leading two of the major Delaware law firms, that firms don’t

have to count whether they're meeting the Intel rule. It's just the status quo. We're not there, and we're looking to the next generation to get us there."

Damon: "No pressure."

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The Thriving Lawyer

By Anne Brafford – July/August 2019

I'll confess: When I sat down to write this, I was feeling a bit intimidated. Launching the new The Thriving Lawyer column in the illustrious Big Ideas edition seemed pretty weighty. Shouldn't I try to say something significant and *meaningful*? Then a lightbulb went on. Of course! My question was my answer. My big idea for thriving lawyers is—drum roll, please—*meaningful work*.

Because work is such a dominant aspect of our lives, many of us seek to build meaningful lives through our work. Most people identify having important and meaningful work as the most valued job feature. When work is meaningful, we are motivated to fully invest ourselves in it. The results are, for example, better job performance; higher job and life satisfaction; cohesion with colleagues; work engagement; persistence; and lower stress, anxiety and depression, to name a few.

What is Meaningful Work?

Focusing specifically on work engagement, meaningfulness is indispensable. Multiple studies have found that meaningful work is the biggest driver of work engagement, which is a form of workplace thriving in which people feel energetic, resilient, a sense of meaning and purpose, optimally challenged and absorbed in their work tasks. High engagement contributes to many organizational (e.g., client satisfaction, productivity, profitability, retention) and individual (e.g., better mental health, job satisfaction, job performance, reduced stress and burnout) outcomes that lawyers and law firms care about.

After all that, you may be asking what the definition is of this vital resource called “meaningful work.” You might worry it's out of reach for you. Since we can't all be legal aid lawyers, does that mean the rest of us are doomed to gloom? Not at all. Meaningful work means our work has significance, contributes to the greater good and facilitates personal growth—all of which describe lawyers' work.

Meaningfulness is created (or not) in an ongoing dynamic process and is not context-specific—which means that anyone can work on creating more of it in any type of job. Whether we experience our work as meaningful is impacted by, for example, the work we do, our perceptions of the importance of our work in the wider world, social interactions that give us a sense of belonging, feeling that we have a positive impact on others and having a sense of fit with our firm's values and mission. Other people have a big impact on whether we experience work as meaningful—in the way they treat us, how they frame our work (e.g., as helping our clients versus fulfilling billable hour targets), the articulation of firm values and more. Through

our own daily behaviors that are big or small, conscious or unconscious, each of us has a huge impact on ourselves, each other and whether meaningfulness is enhanced or diminished. Meaning-creation is a team sport.

The Lack of Well-Being in Some Law Firms

While the scientific consensus is that meaningful work matters, many firms haven't gotten the memo. In part this may be because our humanity too often has been overlooked in a profession that narrowly favors rationality and logic. Perhaps more than other professions, we're trained to ignore parts of our humanity, such as connection with others, meaning and values. This blind spot to the full scope of well-being may help explain why many lawyers experience ambivalence about their work and are not fully thriving.

Whatever the full explanation, many firms' dominant focus is on profitability, which stokes toxic work cultures. Research shows that, when people are encouraged to focus on money, they switch to a so-called calculative mindset, which has been shown through multiple studies to damage benevolence (including empathy and caring) and trigger selfish behavior and cheating. This means that firm members' empathy will decline as their attention is continually pulled into a calculative mindset about, for example, billable hours, revenue, profits, realization rates and the like. Similarly, a focus on competition and power "turns off" our ability to behave with benevolence, such as building relationships and showing kindness.

It probably goes without saying that toxic work cultures drained of kindness and meaningfulness can devastate lawyer well-being. A large body of research has found that an excessive focus on extrinsic aspirations (e.g., money-making, fame, social recognition) is associated with depression and other signs of poor well-being, while intrinsic aspirations (e.g., personal growth, close relationships, helping make the world better, being healthy) are tied to psychological health and high-quality motivation. One law firm study, for example, found that an excessive focus on the bottom line and a competitive work environment were related to lawyers' depressive symptoms and anxiety.

Balance is Needed for Well-Being

Before the chief financial officers and similar types in our audience get too annoyed with me, please let me underscore that I am *not* saying that profitability isn't important. Lawyers work hard and want to earn a nice living. But, in many firms, the balance between people and profits has gotten out of whack. And the harm is not only to lawyer well-being—it also undercuts law firms' diversity initiatives. Research has shown that, compared with men, women are more attracted to intrinsic aspirations and are more likely to leave when their work is not meaningful, when they do not feel valued and when high-quality relationships are not a priority. These findings are so consistent, across so many studies, that there is a movement in workplaces and

academic institutions in the male-dominated STEM fields to cultivate a more communal environment and reputation. The legal profession might learn from these promising efforts.

If more law firms accept the challenge to foster a greater sense of meaningfulness in their workplaces, lawyers will have a greater chance to thrive. They will be more likely to be healthy, energized and enabled to be their best selves for their clients, colleagues, communities and families. Perhaps the current cliché that, on their deathbeds, people never wish that they had worked more eventually will give way to physicist Stephen Hawking's view that "[w]ork gives you meaning and purpose, and life is empty without it."

Anne Brafford is a former BigLaw partner and the founder of Aspire, an educational and consultancy firm for the legal profession. She is a doctoral student in positive organizational psychology and is involved in multiple national-level initiatives focused on lawyer well-being. She is the author of Positive Professionals, which provides science-based guidance to aspiring positive law firms. ambrafford@gmail.com

A Big Business Development Idea: Give Authentically Without Keeping Track

By Lindsay Breedlove – February 20, 2020

Like many other lawyers in private practice, I experience quite a bit of discomfort when I think about developing business as “selling” my or my firm’s services. I became a lawyer after testing the industry as a paralegal; when entering law school, I already knew I liked the factual investigations, legal research and writing, and the advocacy associated with litigating cases. Even in my early twenties, as I tested the legal industry, I knew that sales would not be my fallback. Being a salesperson wasn’t for me.

My anecdotal experience suggests that women experience this sales-related discomfort at a higher rate than their male counterparts. Perhaps this explains why [LinkedIn data](#) show that women make up only 39 percent of the workforce in sales and why only 21 percent of vice presidents in sales are female. For me, as someone who frequently networks and builds professional friendships with other women, the other side of the equation is just as interesting and important: [Research shows](#) that women on the “customer” side of a sales pitch from friends are just as unhappy with the interaction. Mallun Yen, cofounder of [ChIPsNetwork.org](#), which seeks to connect women in technology, law, and policy for the purpose of business development, [studied](#) why women were so hesitant to ask other women for business. The interviews she conducted revealed that “[w]omen who received an ask from a friend said they didn’t expect their friends to hit them up for business and when they did, it sometimes caused an unspoken tension that dampened their enthusiasm for the relationship.”

As a result of my experience and the research that confirms I’m not alone or worried without justification, I began looking for alternative ways to think about developing business. The more I explored, the more enamored I became of the idea that I might find comfort and meet more success if I shifted my perspective on business development, thinking about it not as a series of short-term sales pitches but, instead, as long-term giving-oriented engagement. This isn’t *my* idea by any stretch. The list of thinkers and authors who have written about the giving-oriented approach is too long to mention and the idea’s roots too hard to trace. However, in the sea of resources to choose from, I recommend two books, *The Go-Giver* and *Give and Take*, which approach this idea from very different angles.

The Go-Giver, by Bob Burg and John David Mann, is a parable about a young man named Joe who works at an accounting or consulting firm and who is consistently failing to meet his sales targets, notwithstanding substantial effort. Joe’s initial approach is very transactional. The first few pages of the book include a description of a call to a broker in which Joe asks the broker to give him work because the broker owes him one. Through a contrived set of circumstances, Joe meets a very successful businessman who teaches Joe the “Five Laws of Stratospheric Success.”

(Candidly, that language and other phrases throughout the book made me roll my eyes—but stay with me).

The five laws boil down to a worldview associated with creating value for other people by giving authentically without thinking about what you may get in return. They are as follows:

1. The Law of Value: Your true worth is determined by how much more you give in value than you take in payment.
2. The Law of Compensation: Your income is determined by how many people you serve and how well you serve them.
3. The Law of Influence: Your influence is determined by how abundantly you place other people's interests first.
4. The Law of Authenticity: The most valuable gift you have to offer is yourself.
5. The Law of Receptivity: The key to effective giving is to stay open to receiving.

Joe learns one law every day from his new life coach and is required to apply each law as he learns it, which provides readers with somewhat plausible real-life examples. Less plausible is the ending, which predictably includes tremendous success for Joe after only five days.

This book, first published in 2007, has garnered quite a following, generating some real-life examples that the authors include in the introduction to the 2015 edition. It is rife with claims like the following: “Business owners told us the book helped them make their businesses more successful,” and “[i]n some cases, struggling businesses experienced a complete turnaround after implementing” the five “laws.” I remained skeptical until people I know and trust told me firsthand about their colleagues and friends who had applied these laws with similar success.

If social science and hard evidence align better with your learning style than a parable, Adam Grant's *Give and Take* is a better fit. Grant, an organizational psychologist who teaches at Wharton, marshals evidence about the ways that a person's reciprocity style correlates with his or her success. There are three categories of reciprocity styles: Takers like to get more than they receive and are typically willing to help others only when they expect the benefit they receive will outweigh the personal costs of helping. Matchers keep track of who gives and receives, and they prefer an equal balance of giving and getting. They help others when they owe a favor or when they may want to call in a favor in the future. Givers prefer focusing on others as a genuine way of approaching the world, giving more than they receive and helping whenever the benefits to others outweigh the personal costs of helping.

Grant's evidence yields a more nuanced picture than *The Go-Giver* provides. Grant quips that "you might predict that givers achieve the worst result, and you'd be right." But that is only half the story, because while some givers find themselves at the bottom, givers also enjoy more success than takers and matchers, who are most likely to land in the middle. What's the difference between the givers who skyrocket and those who hit rock bottom? Grant explained in an [article](#) for the *Independent* that "failed givers are too altruistic: they sacrifice themselves to the point of burning out and allowing takers to use them. Successful givers put other people first most of the time, but they focus on helping in ways that are not at odds with their own interests." While that sounds like a great strategy in principle, Grant also provides specific examples of how this works in action. Successful givers

- specialize in five-minute favors, looking for ways to offer a high benefit to others at a low personal cost;
- ask the people they mentor to "pay it forward," expanding their giving to a broader audience; and
- are much more cautious when dealing with takers, who have no intention of reciprocating.

Being a smart giver is especially important for women, who "help more but benefit less from it." Grant and *Lean In*'s Sheryl Sandberg jointly wrote a *New York Times* series that explored the intersection of Grant's work and gender dynamics. They [recounted](#) a study by New York University psychologist Madeline Heilman, which found that men were rated 14 percent more favorably for staying late to help prepare colleagues for an important meeting than their female counterparts who did the same. That said, Heilman also reported that women often face a catch-22: When both men and women declined to offer the help, women received performance reviews 12 percent lower than men. Until this dynamic changes, women will have to carefully evaluate whether and how to help to reap the benefits of smart giving. Importantly, however, the giving must be authentic, even if somewhat calculated. Grant explains that emulating giving behaviors for the purpose of achieving success "probably won't work."

Whether you prefer parable or social science research, the lesson is the same: Giving authentically and smartly can yield professional success. Applying this lesson to business development in the legal profession has allowed me to embrace networking and "pitching" in a much more comfortable and natural way. I strive to grow my reputation by giving to the profession, through volunteer work with the ABA, for example. I add value for my professional and personal friends by making connections and introductions for them, which is both a very helpful and a very easy thing to do. I attempt to stand out by being particularly client-focused, thinking through carefully how I can make my clients' business more successful by proposing to apply the lessons we learn in litigation to minimize unnecessary risk inherent in various business

practices. Just as important, I work to make my in-house counsel's lives easier, with helpful tracking tools or by, for example, ensuring that a woman who is breastfeeding can pump and participate in a hearing at the same time. Even in a true pitch, I learn about the issue that a potential client is facing and then authentically frame the services I or my firm can provide as an offer to help. Being authentic in this regard means acknowledging that sometimes you won't be the right helper for the job. When you are the right fit, though, providing quality legal services by being client-centered aligns with the giving nature that both *The Go-Giver* and *Give and Take* endorse.

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Supreme Example: An Interview with the Chief Justice of the Michigan Supreme Court

By Emily Wessel Farr – February 20, 2020

The Honorable Bridget Mary McCormack is the chief justice of the Michigan Supreme Court, a position she has held since January 9, 2019, after serving on the Michigan Supreme Court since 2013. Since 1998, she has taught at the University of Michigan Law School, where she was named the associate dean of clinical affairs in 2002. Chief Justice McCormack cofounded the Michigan Innocence Clinic in 2008 and has won numerous awards for her efforts to improve the justice system. Last month, she received the American Board of Trial Advocates Judicial Lifetime Achievement Award, and her former student Emily Wessel Farr interviewed her about her path to success.

I read that your father served in the Marines, and your mom served this country too, as a social worker. It struck me that your career blends the disciplines of both and I'm wondering what impact your parents have had on your career.

That's such an interesting question. I never thought of it that way, but I think there is a lot to it. My parents were kind of different from one another, but both pretty strong forces in their kids' lives. My dad is pretty much a law-and-order, right-and-wrong kind of guy. He has a strong sense of justice. My mom was the kind of person who would bring home somebody who lost their home and all of a sudden there would be another person living in our house. I think we learned a lot from their example and their values, which were actually far more consistent than inconsistent, just sort of expressed differently.

Before you were chief justice of the Michigan Supreme Court, before you were justice, before you were a law professor, you worked as an attorney in the Office of the Appellate Defender in the Criminal Defense Division of the Legal Aid Society. What drew you to criminal law?

Most lawyers practice on the civil side, though in recent years there are more and more law students interested in being public defenders and there has been a little bit of an uptick in the interest in the criminal justice system and the new and innovative ideas around it. I did a little bit of work in college with juveniles in the juvenile detention center in Hartford, Connecticut. The idea of 13-, 14-, 15-year-olds being incarcerated had a big impact on me at that time. And so, when I went to law school, I spent my summers working in criminal law settings. I spent my first summer at a small firm in San Francisco that did criminal defense as well as some civil rights work. I spent my second summer as a public defender in Harlem. Those experiences

hooked me. I thought it's super-interesting, super-important, super-hard, and I thought I might be able to make a difference. I never thought much about any other option, to be honest.

When we first met, you had four young kids. When you look back on those years, do you consider your life to have been balanced—which is an overused term—crazy, or something in between?

If it's a scale, closer to crazy than balanced. But I would say I feel like the whole work-life-balance metric is a trap. First, nobody asked my husband that question. Over the course of my career, there were definitely times where my career demanded more of me and my kids got a little less, and there were times when my kids demanded a little more of me and I think my career got a little less. My oldest kid had epilepsy and was hospitalized a lot when he was in fourth and fifth grades. I spent a lot of time at the University of Michigan Hospital during that time. My colleagues covered for me in the clinic, and I think I was probably a less good law professor that year. And the year I was running for statewide office, I was a less present mom. But I hope, over the course of my career, I've been pretty good at whatever work I was doing and a pretty good mom. I hope it balances out over the whole big picture. If you are trying to figure it out in the day-to-day or even the week-to-week or year to year, you can drive yourself crazy.

What lessons do you take from parenthood and apply in your career, either as a judge or as a professor, or both?

That's a good question too. I feel like your relationship with your kids is wonderful for your career because nobody has the ability to push you and test you like your kids do. It's hard to figure out how to give them what they need to make them thrive and then ultimately leave you. A parent's job is interesting: Love this person more than anyone else you love in the world with the goal of hoping he leaves you one day, right? If you are successful as a parent, your kids will grow up and leave you. It's the weirdest relationship. But it's true of students too. I feel like that also with law clerks. When I have mentor relationships with law students or law clerks, the goal is to, hopefully, grow their skills and values and set them off to do great things. I feel like that's one of the lucky things I have going for me in all of my jobs. I get to work with a lot of super-talented, smart young people who are going to go do good things and I hope I have a little bit of influence on them. And I think I have a little bit on my kids. I think they seem to be doing all right.

You joined the Michigan Supreme Court in January of 2013 and in 2019 became the chief justice. What has the transition been like from a member to the leader of the court?

I need about five more hours in every day. The court's decision-making function, which is the function most people are familiar with, we do by committee. The seven of us make every decision collectively. But in addition, the administrative role is significant, because in Michigan, the supreme court is charged with administering all of the courts of the state. There are 242 trial courts throughout the state, so we have a large and talented administrative staff that work in the court and report to us. They are all providing support, training, data, and all kinds of tech services to citizens throughout the state, and delivering the promise of equal justice in every community around the state. It's that part I find really, really interesting and satisfying and also overwhelmingly time-consuming. It's on the administrative side of the job that we get to, I think, make really important improvements to the court system.

I've been chairing a task force with the lieutenant governor, which is bipartisan and manned by state and county representatives and law enforcement to figure out why Michigan jail populations are overcrowded and what we're going to do about it. Just today, we took a vote on our recommendations and we have overwhelming support for some really robust changes to the systems that govern our jail populations. It's the administrative part of the job that lets me make what I think are big-picture changes to the system that might make a difference to more people, in a way, than any case we decide. So I love it, even though it's a lot.

I had a bumper sticker in high school: "Women make great leaders. You're following one." Do you think there's something about women that makes them great or just different leaders, or maybe there's no gender difference at all in your experience?

I love all of my male colleagues. They are great. For the first time since I've been on the court, I have two women colleagues; I only had one until this last January, when Justice Megan Cavanagh was elected. I think it might just be my generation and this might change from generation to generation, but women in my generation are especially good at multitasking, managing, and the administrative parts of the job. I find my two women colleagues are extremely effective at getting many different tasks done simultaneously. They are always asking: "What else do you need help with?" "What can we do?" They both manage a lot at home and they are natural collaborators and managers and they're incredibly talented. I'm very grateful to be their colleague.

It's sort of like the adage, if you want something done, ask a busy person. So I find too the busier I am with stuff at home, I'm more efficient at work. It makes you a machine.

Definitely, yes.

Michigan Law's clinical program is exceptional in no small part thanks to you. The Innocence Clinic in particular is a beacon of hope for the wrongfully imprisoned. As chief justice, your

work on behalf of the most vulnerable continues. What are the most effective ways attorneys, on a criminal or civil side, can help to make the system more just?

One of the big projects I spend a lot of time on is to figure out how to meet the demand of the many people who have legal needs but can't afford lawyers. As you know, the Constitution says that people charged with crimes are entitled to lawyers, so the county appoints them or the state appoints them, depending on the system. But frankly that doesn't mean that those lawyers who are appointed aren't overworked and underpaid and that there aren't gaps in that system needing to be filled in by people who are willing to give a little extra time. There are. In fact, I sometimes think it's some of these specialty areas where it would be wonderful to have the help of firms that want to donate some time, lawyers who want to donate some time. For example, lawyers in public defenders' offices often have to confront issues around forensic science, and to do a really effective job on some of those issues would take so many more hours and so many more resources than they probably have in any given case. This is the type of project that would be wonderful for pro bono help to step in on the criminal side.

On the civil side, it is unlimited what we could use help with. I announced the Justice for All Taskforce last spring for Michigan, and right now we are doing a statewide inventory of what resources we have in every pocket of the state for people with civil legal needs who can't afford lawyers. We have great legal services offices here or there, but some of them do only certain cases. We've never done an inventory. We know we have gaps: Eight out of 10 people with legal needs can't afford a lawyer, so we know that lots of people show up to court on very important cases without lawyers. They have to represent themselves. Once we've done that inventory, we want to have a strategic plan in place that, within three years, we can achieve 100 percent access. And by that, I don't mean that everybody gets a lawyer. That's not going to be possible. But I do mean everybody gets either enough information from a self-help website, or perhaps limited legal services, or at least legal counseling or maybe a non-lawyer navigator so that when they have to go to court, they are prepared and can be heard. And when we move forward, we will need the help of many in the profession to achieve our goal. We already have not only lawyers but also some businesses in Michigan stepping up with an interest in funding counsel in eviction cases. For example, Ford is working on funding a right to counsel for eviction cases in Detroit. This is one of the areas where we could do some interesting public-private partnership work to do better by the very many people who have important legal needs and can't afford lawyers.

You're chief justice, you're married, you have four kids. You are still teaching and writing, you are permitting people like me to interview you, and in addition you make a lot of time for community organizations. I always see you championing others on LinkedIn and also marketing what the court is doing on LinkedIn. Do you have any secrets for time management that you can share?

I think one of the great advantages to being lawyers and judges is that we sometimes do have some flexibility. So if there's an important thing that a kid has or a parent has, I can usually figure out how to make time for that, even if it means working in the evening or the weekend. And I'm sure you already know all about that. I do try and keep some habits that feel like they are healthy for me. You know, I need to work out, I need to sweat a little bit, not because I'm any kind of superathlete, but because it's for my mental health.

I have to do a lot of work on the phone and I can do that walking. AirPods are my spirit animal. I get a whole lot done on the phone while just walking and doing a million other things. Whenever I get in sort of bad habits, and if I haven't worked out in a couple days, I see that it costs me in my productivity and I'm not as good at what I do. I have to step back and remind myself that getting a good night's sleep and getting up early and getting on my bike or throwing on my running shoes is going to make me a better judge, a better supervisor, a better colleague, and a better parent for the rest of the day, so I try.

My final question for you, which you just touched on, is what are the things you enjoy doing just for you?

Exercise is definitely one of them. I really like to ride. I have a stationary bike in the house, but I like to ride my road bike with my husband in west Michigan, and I think I like that more than anything else in the world. The problem with that, of course, is winter. But there really is nothing I like better than being on a road bike in west Michigan for many hours at a time on a Saturday or Sunday morning.

[Emily Wessel Farr](#), who interviewed Chief Justice McCormack for this article, is a partner at Goud and Ratner in Chicago, Illinois.

Four Litigation Lessons from Running Track and Field

By Caroline A. Morgan – February 20, 2020

When I ran track, I never imagined that I would be learning lessons that would one day help me succeed as a lawyer. My event was the mile and I was focusing on getting from point A to point B as quickly and painlessly as possible. Ultimately, I learned that the art of running track is what happens well before you cross the finish line. Similarly, being a good litigator is about effective lawyering throughout the life of a case.

Below are four litigation lessons I learned from running track. Whether you ran track or played another sport, the same concepts likely apply. That is the beauty of sports.

Give Everything You Have, Even If You Are Winning

I once won a race by running just behind the leader and then sprinting at the very end. I could have run much faster throughout the race, but I did only what I had to do to win. I thought my coach would be pleased because I won, but to my surprise, he was not. He told me I should never hold back and that I should give every race my all.

The same holds true for litigation. Whether you are at a preliminary conference or oral argument, good lawyers will take every opportunity to advocate for their client even if the law and the facts are on their client's side. Effective lawyers do not coast through their representation thinking they have a slam-dunk case. The best and most successful lawyers give every case their all.

Pace Yourself

One of the challenges of running the mile is pacing yourself. With four long laps ahead of you, maintaining speed is critical, but so is finishing. I realized how important pacing was when I ran a 100-meter race (one quarter of one lap), which was pure sprinting. Running a race that did not require me to pace myself highlighted the importance of pacing for the mile.

If representing a client were a race, it would surely be the mile, not a sprint. Litigation can take years and an appeal can add more time. Successful attorneys pace themselves throughout the course of a case so that they provide effective lawyering from the initial pleading through trial. Some attorneys put a lot of energy into a case at the beginning and then trail off. Keeping momentum from the inception of the case through its conclusion is valuable, necessary, and important. Pace yourself.

Maintain Good Form

Form is important in track. From how you move your arms to the length of your stride, good form can help you shave critical seconds off your time. On the other hand, bad form can signal to your opponent that you are low on energy, you have all but given up, or worse, that you no longer care if you win.

Form in litigation is also important. A colleague once pointed to a typo on the first page of an opponent's brief and said, "That typo tells me everything I need to know about this lawyer." Although I thought at the time that he was exaggerating, in some ways what he said is true. Sloppy form communicates sloppy lawyering, and it makes it harder for the reader to focus on your message. When a judge sees a brief filled with typos, incorrect citations, or incorrect quotes, he or she will likely perceive that attorney as less credible than if the brief had been error-free. Rather than focusing on the lawyer's legal argument, the judge may be second-guessing the attorney's representations. Using the proper size font is not going to win a case but keeping good form can only help your cause.

Be Yourself, Not Somebody Else

My first year of running track, I knew nothing about the sport. I showed up for my first day of practice with old running shoes from my garage. Jumping hurdles and running a relay race (the baton handoff is trickier than it looks!) were new to me. To bridge what I perceived to be a gap, I copied the best runner on my team. I practiced like her, ate like her, lifted the same weights as her, and so on. I became faster and stronger, but I reached my full potential only when I stopped trying to be like her and homed in on my natural strengths.

There are many styles to litigating. Rather than trying to copy someone else's style, think about the strengths of your own personality. Take what you admire in other attorneys and turn that into your own style. The best and most persuasive attorneys are usually the authentic ones.

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PRACTICE POINTS

Twenty Business Resolutions to Consider in 2020

By Kelsey Heino – December 30, 2019

1. Get active on social media. 366 million new people started using social media in the past year. That's more than a million new people joining social media every single day.
2. Review your employee handbook, or implement one if needed.
3. Join a listserv that gives you quick blurbs relevant to your industry or the country as a whole—think Law360 or theSkimm. Staying up to date in your field puts you on the leading edge, and it's always helpful to have small talk topics!
4. Check out your firm website. Is it time for an update? Is it easily navigable? Is the color scheme outdated?
5. Implement a wellness-incentive program, like Blue Zones.
6. Revisit your subscriptions. Are there better programs out there now? Are there any services you're no longer using?
7. Keep track of your firm's successes monthly. Gather win stories from your attorneys, catalog firm involvement in the community, etc. At the end of the year, you'll have a Year in Review newsletter ready to go!
8. Mentor a fellow small business leader/owner.
9. Give back to your community. Encourage your employees to take an hour or two each month for volunteer work. Consider doing a monthly fundraiser drive for different employee passion projects.
10. Optimize your inter-office communication. Have you considered messaging apps like Slack or Teams? Would a weekly or monthly team huddle be useful?
11. Update your office décor. Whether you're in a corporate space or working from home, adding a new decoration or updating your wall color can provide motivation.
12. Outsource. Small business owners often have difficulty delegating, so force yourself to consider whether you *really* need to be doing it all yourself. Can you hire a temp or part-

time employee to help with bookkeeping? Does your office need a runner or clerk? Find the one part of your job you dislike the most, and if you're able, find someone else to do it for you!

13. Bookend. Schedule time at the beginning of your day or week to plan ahead. Then, at the end of the day/week, review your priorities and prepare for the next.
14. Be SMART with your goals. Make your goals for the next week/month/year
 1. Specific (simple, sensible, significant);
 2. Measurable (meaningful, motivating);
 3. Achievable (agreed, attainable);
 4. Relevant (reasonable, realistic and resourced, results-based); and
 5. Time bound (time-based, time limited, time/cost limited, timely, time-sensitive).
15. Crunch the numbers. If you're a contingent-fee firm or have difficulties collecting your AR, there are going to be lean months. Figure out if there are ways to give your firm a cushion so you never have to worry about making payroll.
16. Review your rates and salaries for market competitiveness.
17. Train early and often. If you have employees, you have potential HR nightmares—it's a sad truth! Providing regular and preventative training on issues like sexual harassment and race discrimination can not only act as a CYA move, but it can also help prevent issues from arising in the first place. Consider implementing a bystander intervention or civility training policy.
18. Let go. Maybe you started an unlimited PTO program and have realized *nobody* is taking as much vacation as they should. Maybe you dove into a new practice area and are beginning to realize it's not for you. Whatever it is that is having a negative impact on your bottom line or firm morale, get rid of it!
19. Focus on your clients. It is significantly easier to get business from people and businesses who already know and trust your brand. Think about starting a regular contact system—whether that be making quarterly calls to your top clients or starting a firm newsletter for broader reach. Focus 90 percent of your time and energy on those clients that bring you 90 percent of your work, but don't forget the little guy.
20. Reflect. It's so easy to get caught up in planning for the future and forget what you've already accomplished. If you don't already do it, begin keeping track of your firm's successes and changes on a monthly or annual basis. This timeline can be your

motivation if you hit a slump!

It's a new year and a great time to improve your business. Not every change has to be monumental; just get started and see where it can take you. Don't catch yourself saying "hindsight is 2020" next year!

[Kelsey Heino](#) is an employment litigation attorney at Woods Aitken, LLP, in Omaha , Nebraska.

How to Develop Your Brand

By Taylor Anderson – December 31, 2019

As technology advances and more connections are made via the internet, the personal interactions that people have are exponentially more important than they used to be. Therefore, it is an essential element of a successful career to have a clear understanding of your personal brand.

In a recent [article](#) entitled “Build Your Personal Brand in 30 Seconds,” author Mary Chung poses a question to her audience. She asks, “What if you only had 30 seconds to make a personal impression that impacted your entire professional life, including your career advancement, your compensation, and what your superiors thought about your personality and your career objectives?” This question is not far from the reality of the modern workplace. Studies show that it can take as little as 30 seconds for someone to make a lasting first impression. Therefore, Chung argues, it is essential that you take steps to make sure the impression is a positive one, especially in a corporate work environment.

Chung identifies three key elements that are factored into a first impression: (1) appearance, (2) gravitas, and (3) connection. It is important to note that Chung does not mean appearance in the traditional sense. Rather, appearance in the workplace goes beyond aesthetics. A person must create a clean, polished look that is safe for all interactions that might be had in a day. A polished appearance is critical because if someone does not think you look professional, it is less likely that they will be receptive to the information you are delivering, no matter how well presented.

These factors apply to every workplace interaction, big and small. Two very different experiences had by Nicole Sherrod, managing director of active trading at TD Ameritrade, illustrate this point. In the article, Sherrod describes a time when she was a young professional and made a negative first impression. Upon running into a senior executive in the office kitchen, the executive asked about her weekend. In response, Sherrod gushed about how she had just gotten engaged and then delved into the details of the proposal. Instantly, the executive wrote Sherrod off as someone who cared more about her personal life than her career. This interaction changed the course of how senior management viewed Sherrod and limited the opportunities she received.

By contrast, Sherrod details an important moment later in her career when, by taking a risk, she made a positive first impression that helped advance her career. Sherrod was working on Wall Street and presenting at a meeting where she knew she would be the only woman in the room. Upon entering, she began singing the popular song, “It’s Raining Men.” To her surprise, the joke

broke the ice and made her seem more accessible to the men. Perhaps more importantly, Sherrod felt that the group was more receptive to her presentation because she had conveyed her authenticity and confidence. Thus, Sherrod echoes Chung's belief in the importance of being consistently authentic when forming a personal brand.

Finally, Chung discusses the importance of taking action after a meeting. The right action can help maintain a positive first impression or enhance an already good first impression. For example, sending a thank you card with contact information can turn a forgettable encounter into a memorable one and create a resource for the future.

Sherrod's stories—and the other stories shared by the women featured in Chung's article—provide sound guidance for women in the workplace of how to create your own personal brand and further convey that brand “at first sight.” While creating a personal brand is important for everyone, it is especially important for women in corporate or male-dominated work environments. When women have to work harder than their male counterparts to earn respect in the workplace, a great first impression secured by a strong personal brand can be a valuable tool to level the playing field.

For more help on creating or building a personal brand, this [article](#) details a step-by-step approach.

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