

Roundtable Discussion on Core Competencies for Effective Lawyers

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In today’s “New Normal,” the legal services industry must grapple with questions of how and when lawyers are able to provide valuable services to increasingly sophisticated clients. Compared to other industries, the legal services industry has fallen behind in building sophistication in determining which competencies are important and how to evaluate and develop them. Following up on a [prior conversation](#) on how law schools can work to develop and identify important competencies in their students, this roundtable brought together a range of legal employers—general counsels, public defenders, law firm partners, government attorneys, and public service lawyers (as listed in Appendix A)—to focus on how they currently use competency models to determine hiring and promotion. Colorado Law Dean Phil Weiser moderated the three hour discussion under “Chatham House Rules,” meaning that no participant would be quoted without his or her permission.

Identifying Competencies

Although there was no consensus on which exact competencies are most important, roundtable participants agreed that successful attorneys must have strong legal skills and good character. Several of the important competencies identified at the roundtable focused on traditional legal skills: oral and written communication, analytical abilities, and research skills. Legal employers have historically valued and sought after attorneys with this skill set. Nonetheless, many of the most important competencies identified related to an individual’s character and professionalism: work ethic, judgment, emotional intelligence, maturity, resilience, charisma, and personal energy. The discussion made it clear that such attributes are universally valued by employers across fields. As the Roundtable participants emphasized, however, identifying, assessing, and developing these characteristics remains a challenge.

Figure 1. Important Competencies Identified at Roundtable

Legal Skills	Professional Competencies
<ul style="list-style-type: none"> •Written communication •Oral communication •Analytical abilities •Research Skills •Domain knowledge 	<ul style="list-style-type: none"> •Work ethic •Judgment •Emotional intelligence •Maturity •Resilience •Charisma •Personal energy •Leadership •Self-awareness •Passion •Innovative •Adaptable

Innovative techniques in hiring

Though legal employers have not traditionally identified and evaluated specific competencies systematically, the New Normal is prompting many employers to think differently. For example, legal employers are realizing the value of tailoring hiring based on the needs and abilities of the organization. For some, this means hiring attorneys who are already competent in the areas where the organization's ability to train is limited. It also could mean hiring staff with the ability to adapt to specific clients. Additionally, many legal employers have looked to other industries that have already established sophisticated processes for identifying, assessing, and developing important competencies in their workers.

Recognizing that such competencies are important to success, some legal employers have found creative ways to assess competencies in hiring. For some, using internships and externships as three-month long trial periods are the easiest way to determine if someone has both the skills and character necessary for success. COPIC General Counsel Mark Fogg reported that he has used a collaborative interview, where the interviewee is asked to work on a group problem with other current employees, to assess how the applicant responded when faced with a real-life problem. In addition, some legal employers have begun to use personality tests and behavioral interview questions to gauge a candidate's competencies. Several had found particular success in asking candidates to describe a time when they dealt with failure to gauge an applicant's risk-taking, judgment, and resilience.

Building better feedback systems

Law firm partners have not traditionally provided much feedback to their junior attorneys on their progress in developing competencies. "It used to be that the managing partner gave you feedback on a sticky note and if you billed a lot of hours you thought you were a superstar. Then when you first start with a real mentor and getting developmental feedback, it is a real shock," described Fiona Arnold, former Vail Resorts General Counsel. At Vail, Arnold, along with her team, changed this approach by developing a sophisticated method for assessing competencies and providing regular feedback. They developed a checklist specific to the legal group, listing all of the important legal and personal competencies and what that competency should look like at the different, graded levels. Each attorney did his or her own assessment and then walked through it with a manager to put together goals for the rest of the year and a development plan. Lawyers and managers then met every other week to discuss progress. This way the attorney and their manager are in sync about the development plan and progress and when the year-end formal review came up there were no surprises.

In general, most legal employers have a long way to go. Participants at the roundtable suggested that there are several challenges to open communication between lawyers and managers in assessing and developing competencies, including a need for a common language and understanding about what competencies are important and how to measure them. Additionally, there must be buy-in from both sides. Young lawyers must take responsibility to ask for feedback on how they can be better and managing attorneys must be willing to give constructive criticism. The current law firm structure, which rewards seniority over competence, does not properly incentivize young lawyers to push to be better. A model that favored competency-based pay could help align incentives to promote self-awareness. Additionally, the legal industry could look to other industries that face this same incentive misalignment

such as the medical industry, where doctors such as Dr. Atul Gawande have evaluated what pushes medical professionals to be better when money alone is not an incentive.

To set up the expectation for feedback at the Public Defenders' Office, every new attorney attends a bootcamp with six other attorneys after their first year. Each brings a case to workshop for six days with two senior "faculty" attorneys. In the bootcamp, students receive instruction and feedback on motions, tactics and trial skills including voir dire, cross examination, as well as opening statement and closing argument. Students' performances are videotaped so that after the program, they have an objective way to compare their written evaluations. Ann Roan, the Director of Training at the Colorado Public Defender's Office, stresses that it is important for employers to recognize that there are two important considerations when developing competencies: mindset and practice. To become competent at a new skill, lawyers must believe they can master the skill and then they must have the chance to work on the skill again and again, whether the skill is written communication or the ability to apply a new holding. For lawyers in the Colorado Public Defender's Office, the bootcamp provides such an opportunity in an environment that is both supportive and consistent with the system's expectation of excellent, ethical criminal defense.

It begins in law school

Many roundtable participants suggested that the ability to self-assess as well as seek out critical feedback is a habit that students should begin to develop in law school. Colorado Law Professor Brad Bernthal emphasized that students can grow through a commitment to "deliberate practice" that begins in law school and continues for years ahead. Deliberate practice is a methodology closely associated with psychologist K. Anders Ericsson, a professor of Psychology at Florida State University. It is a theory concerned with acquisition of expertise. Ericsson observes that across a diverse array of domains, a common thread of the highest performers is that for years they follow practice regimes developed by an expert, marked by high intensity, and accompanied by continuous and on-going feedback. Books such as Atul Gawande's *Better* and Geoffrey Colvin's *Talent is Overrated* highlight this perspective.

Bernthal underscored the need to impress upon law students that professional development is a lifelong journey and that acquisition of expertise hinges upon continued practice, coaching, and the ability to grow from candid feedback. He explained that law schools should give students the space to fail and pick themselves back up, as well as giving students examples of successful lawyers who have come back from failures. In the Entrepreneurial Law Clinic, for example, Professor Bernthal designed an exercise where students were told that they failed by missing a crucial part of a deal. A partner then yells at the student and throws the student out of the office. Students then spend the remainder of the exercise practicing strategies to recover from the mistake, giving the students an opportunity to practice resilience and develop - as Carol Dweck emphasizes in *Mindset* - a "growth mindset."

At Colorado Law, a spring series on professionalism provides students with an opportunity to talk with lawyers about their professional experiences. By giving students the space to be self-critical, to learn what are their weaknesses and their strengths, Colorado Law is seeking to provide students with the opportunity to become more aware of the important competencies that more and more legal employers have begun to value. Over time, as both law schools and employers begin to adopt a focus on seeking critical competencies, the discussion over how they can be identified, developed, and assessed will become better understood and developed.

Appendix A: Roundtable Participants

John Asher, Executive Director, Colorado Legal Services
Fiona Arnold, former General Counsel, Vail Resorts
Brad Bernthal, Associate Professor of Law, Colorado Law
Kristin M. Bronson, Partner, Lewis Roca Rothgerber
Kristen Burke, Counsel to Chief Justice Nancy E. Rice, Colorado Supreme Court
Dana Klapper Cohen, former General Counsel, Lanx
Katie Kramer Custer, Associate, McKenna, Long, & Aldridge LLP
Courtney Dinnel, Colorado Office of Public Defender
Eric Fisher, Partner, Reilly Pozner
Mark Fogg, General Counsel, COPIC
Marci Fulton, Assistant Dean for Outreach, Engagement, and Alumni Relations, Colorado Law
Mekela Goehring, Executive Director, Rocky Mountain Immigrant Advocacy Network
Hugh Gottschalk, Partner and President, Wheeler, Trigg & O'Donnell
Amy Griffin, Student Legal Writing Engagement Coordinator, Colorado Law
Eric Gunning, Assistant General Counsel, Molson Coors Brewing Company
Roxanne Jensen, Managing Director, Catapult Growth Partners
Karen Lockwood, President & Executive Director, National Institute for Trial Advocacy
Jason Lynch, Partner, Reilly Pozner LLP
Michael Platt, Partner, Cooley LLP
Don Quick, Senior Counsel, Beatty & Wozniak, PC
Lee Reichert, Deputy General Counsel, Molson Coors Brewing Company
Ann Roan, Lawyer and State Training Director, Colorado State Public Defender
Kevin Traskos, Assistant U.S. Attorney, District of Colorado
Phil Weiser, Dean, Colorado Law
John Walsh, U.S. Attorney, District of Colorado

Appendix B: Books Referenced

Colvin, Geoff. (2008). *Talent Is Overrated: What Really Separates World-Class Performers from Everybody Else*. New York: Penguin Group
Dweck, Carol. (2008). *Mindset: The New Psychology of Success*. New York: Ballantine Books.
Gawande, Atul. (2008). *Better*. New York: Metropolitan Books.