

Change the Language, Change the Outcome?

By [Joseph B. Altonji](#) on April 1, 2015

It has often been said, “Words have meaning.” The legal profession, more than any other, prides itself on its command of language. Every word in a document, a letter, a motion, or an argument, is finely crafted to convey a particular point, or to prevail over the opposition. We live in an industry built on command of the precise use of language. So what does this say about the language used in the business of law? Are we being as careful in our selection of words? Or are we just inadvertently hurting our businesses through lazy thinking?

Lets start with a favorite – “**Non-lawyer.**” How many times has it been noted in conferences, meetings, and the like that this is the only profession that has “non” anything’s, but we continue to hear this term bandied about in public and private meetings as a shorthand for the large number of critically important people without whom the legal world wouldn’t function. It’s even appended superfluously to positions with perfectly good descriptive titles (“my non-lawyer CFO”). There are multiple issues with this practice, of course, the first of which is that it tends to diminish and demean the people to whom its referring. Most of these “non-lawyers” are highly accomplished professionals with their own skill sets, who expect and deserve to be recognized as such. In a meeting of COO’s and Executive Directors last year, I half jokingly suggested we (I’m also a “non-lawyer”) adopt the title “The Unbarred.” It was a great hit.

Just as importantly, though, clinging to this language tends to slow down the adaptation of the profession to the new realities of the market. As long as we have lawyers and non-lawyers, there is less need to think about different specializations, different capability sets and different service delivery mechanisms. We get to be lazy. We also slow down the adaptation of the profession to different training demands for different legal specialties – the “Unitary Bar” prevails. Breaking down language barriers won’t instantly accelerate new business models, but it does have an impact. Just like the medical profession has surgeons, anesthesiologists, neurologists, and on and on – “doctors,” all – in addition to nurses, nurse practitioners and many other specialists all of whom have different roles, the legal profession will someday get there. “Litigator” may be the only distinguishable variation on the current lawyer-skills pallet; everyone else is an “adjective-modified lawyer” of some type, if not just a “lawyer.” Probably because “litigation lawyer” is hard to say!

Consider another common term we’ve been talking about for years in the industry, “**my client.**” Well-meaning as most lawyers are who use this term, it still has a corrosive impact on internal firm culture. As long as lawyers think about clients as “theirs” they will tend to act accordingly. Everyone knows that “our client” is a much more valuable organizational approach, but the language persists. Language drives thinking patterns, which in turn drive behavior and culture. Change the language, change the culture.

Or consider the related concept of “**origination.**” Although utilized in almost every firm, no one really has a precise definition that strictly reflects the true relationship between “origination” and the “reason(s) the client is actually at the firm.” Hopefully there is a correlation, but its never 100% and often substantially lower. But the language itself creates a problem, in that it can drive some very aggressive and corrosive behaviors. “Origination” tends to be a historical measure of possession, rather than of current or future contribution. So while the underlying behaviors are critically important and should be rewarded, the way we describe those behaviors creates material management and cultural challenges.

What other language in the business of law leads to unintended outcomes? We could probably come up with a lot of candidates. How about “**non-billable time,**” another old discussion? That “non” term again instantly drives a negative

reaction. (Maybe we should just stop saying “non”?) In reality, the limited amount of investment time available to a law firm is the firm’s greatest strategic asset, too often squandered. If we stopped thinking about it in “non” terms, maybe we would do a better job of managing and deploying that time.

We could probably go on, but the message is clear – and not terribly new. Those of us who spend time among many firms can see that the message, though old, has not gotten through. Language does matter, and the industry would be well served to consider the impact of language on culture and outcomes. Our firms would perform better and the industry as a whole would adapt much faster to changing market demands. Who knows, maybe in 10 years this will be a non-issue?