The Wisdom of Yogi for the Business of Law

By Joseph B. Altonji on October 20, 2014

Yogi Berra's playing career with the New York Yankees ended over 50 years ago. He was one of the best catchers in the history of baseball but for many of us today he is far better known for the wisdom he brought to the world in his prolific "Yogiisms", making him a modern American philosopher. Less well considered is what Yogi had to say for the modern business of law. In considering his many memorable words, it turns out he had a lot to say.

"If the world was perfect, it wouldn't be."

Not long ago, easily within the memory of every current law firm leader, the world did seem to be "perfect." It was easy to make money, and clients were clamoring for help. Worrying about costs was the job of "non-lawyers." Law was close to a monopoly. All the leaders needed to do was make sure they kept expanding capacity, and rate increases would take care of everything else. Hire more lawyers; bill lots of hours; raise rates. Rinse and repeat.

Well, it turned out Yogi was right. The world wasn't perfect. There were major underlying client frustrations building, just waiting for a release trigger. There were exorbitant internal pressures on people to perform based on imperfect measurements and shortsighted incentive structures. We lost many disciplines needed to run an effective business, manage costs and innovate rapidly, and cultures were actually built to support the status quo. Well, these pressures finally converged, accelerated by the financial crash and advancing technology. Today, the industry is scrambling to change even while alternative service providers experiment and eat into the domain and market share of "traditional" providers, aka law firms. Whatever happens, the world for lawyers will never be "perfect" again.

"It's like déjà vu all over again."

Over the years we have had the opportunity to work with hundreds of firms, and one of the most notable conclusions from that experience is how often the issues at one firm mirror those at many others. We've seen that one before! Perhaps that isn't surprising, though, given that most firms face similar conditions, with generically similarly constituted groups of individuals. The situation becomes even more dramatic though, when compounded by the historic tendency in law firms to want to emulate each other, often only pursuing approaches that some other firm has found successful in the past.

One of the best results from the past six years is that it has forced the industry to begin to differentiate. Where once you could almost say we had a "one-size-fits-all" approach to the legal business model, today firms are coming to grips with the need to tailor their business models to the specifics of their particular strategic position and goals. In a sense, the lemming effect in the industry is being replaced with a focus on "what's right for us?" Nothing but good can come from that trend. At some point, we may even begin to lose the feeling of déjà vu!

"When you come to a fork in the road, take it."

Clearly the *industry* has recognized its "fork in the road," but as a leader, can you recognize when *your firm* is at a fork in the road? The point where the decision you make will inevitably place you on one track rather than another?

Many law firm strategies fail to recognize the implications of choosing. For example, what choice will be made when it becomes clear that one or more important practices need a radically different platform (e.g. merger) to reach their (high) potential, while others would not benefit and may be disadvantaged in a larger firm? More often than not, the status quo will prevail, but this may freeze the firm's strategic development.

Outside of strategy, other "fork in the road" decisions are no easier to make. What happens when it becomes clear that there is no way two competing, but both extremely important, partners can coexist? There are firms whose fundamental issue is that the partners shouldn't be partners with each other. In smaller to mid-size firms, sooner or later, this issue will result in a crisis, but could it have been avoided by taking the fork in the road earlier? (In larger firms, sooner or later the problem partner(s) will be exorcised by the firm or by their own self-selection.) Similarly, does the firm take action when the real problem is that the long-term leader shouldn't be the leader anymore? We can point to several now-defunct firms where failure to take this fork in the road lead to the entirely predictable result of collapse. When you come to the fork in the road, take it.

"***We have deep depth."***

Depth of practice is critical to high-level success in law. This is intuitively obvious, as firms with tremendous reputations in specific, market-valued practice areas generate higher levels of profitability, while more diffused "full service" firms fall short of achieving the same performance. Whether in M&A, intellectual property litigation, personal injury, specific industries or other areas, the firms who have concentrated resources and built a reputation generally do better, other things being equal. Our client work has demonstrated that, even in today's difficult market, reputational depth in key practices can translate into substantially higher realization rates than achieved at otherwise similar firms. Significant anecdotal evidence also suggests that mergers of firms that create deeper, practice-specific talent pools result in additional opportunities that would not have come to the predecessor firms. No matter the firm size, concentration of resources does result in stronger performance.

Over the years, I have had many experiences with firms that argued that their handful of lawyers in, say, corporate transactional work, were "just as good as" those at some major transactional powerhouse firm. Even if this were true, such firms lack the institutional capability and depth of the firm they are referring to. They might be very good at something else, but, as often as not, their strategy will focus more on building up the weaker areas than on expanding on and building in the areas where they really do have a lead. If more firm strategies really focused on building depth, rather than awarding trophies to everyone (treating all practices alike) they would likely see better results. "Deep depth" gives you a chance at winning performance.

"Half the lies they tell about me aren't true."

Every organization has its own set of myths. Law firms are particularly susceptible to myth building because lawyers tend to avoid dealing with unpleasant personal realities, even when "unpleasant" really only means "less than perfect". Over many years of working with hundreds of law firms, I have only had one experience where the firm's leaders told me "our basic issue is we are mediocre." Invariably, every law firm believes they have "really, really good lawyers." What can that possibly mean if everyone can say the same thing? And where are the "below average lawyers?" Similarly, most firms seem to think they differentiate their firm on "service" but few can point to specific aspects of service that really are fundamentally different from their competitors. On the flip side, most lawyers seem to think the "culture" of their own firm is terrific, but that pretty much every other firm is a horrible place to work – a belief that can't possibly be true, considering how many lawyers happily work at "other" law firms.

The most successful Managing Partners I know are the ones with a clear-eyed, no BS understanding of their own firm, for better or worse. They begin their strategic decision making with a decisive advantage – they know what their firm is capable of, and what it is not. As a result, they tend to make better decisions, which in turn help build their strategic capabilities, putting them in a stronger position on the next cycle. Those that don't are often frustrated by the fact that their efforts don't pan out. Why do some firms seem to attract all the best laterals, while others do not, in spite of getting opportunities? Or worse, why do laterals with excellent track records fail when they get to certain firms? We had a recent experience with a Managing Partner who, in explaining why his firm's economic performance was eroding, noted that the last 26 lateral partners that the firm (he) had hired were all a disaster. For this to occur randomly would have lower odds than winning the lottery, but the Managing Partner couldn't see that conditions at his firm resulted in good lawyers failing.

Clarity around what is, and isn't true at your firm is a critical foundation for strategic and leadership success, no matter what your goals. While half the lies they tell about you aren't true, the other half probably are. Do you know which are which?

"We made too many wrong mistakes."

It seems counter-intuitive, of course, that there could be any "right mistakes" but in fact there are. Thomas Edison once said, "I make more mistakes than anyone else I know, and sooner or later, I patent most of them." Unfortunately, failure is rarely encouraged in law firms, but without accepting the risk of failure, innovation and change are impossible. One of the more compelling talks I have ever heard at a law firm partner meeting was by a wildly successfully firm leader giving his partners permission to fail. This firm will remain successful for some time to come.

Wrong mistakes, conversely, can be fatal. Unfortunately, you do not have to look at the extreme cases, like Dewey, to find cases where firms are making "too many wrong mistakes," nor do mistakes have to be criminal to be "wrong." Most are not. Law firms pile up wrong mistakes with some regularity, and they often compound each other. Wrong mistakes can be strategic (e.g. attempting to move too far up market geographically, forcing downward quality compromises), financial (e.g. utilizing too much debt to fund growth, reasoning that "the benefits will be realized in the future"), cultural (e.g. tolerating wide divergences in performance by concluding that the compensation system will take care of it) or psychological (e.g. hiring a lateral who clearly will be out of sync with the culture, but who has a substantial "book"), or fall into other categories. Most of them may be small, perhaps not even noticeable individually, but over time the wrong mistakes pile up, and the firm's performance gets weaker and weaker, which in turn makes wrong mistakes even more likely. Sometimes the wrong mistake was a failure to act, rather than something specifically done.

There are many firms today lagging behind the pack on performance, or whose futures are slipping away for one reason or another. They don't have a "next generation" or they lack the client development skills needed to prevent gradual client base erosion. Maybe the firm's practice relevance has eroded to the point where clients only trust them with less important matters, with inevitably lower pricing options. The best people cannot help but consider their options. What is the series of actions and non-actions that lead to this situation? How can the firm turn the situation around before it is too late, especially when the decision makers don't recognize their "wrong decisions"? No one decision created the problem, and it will take a series of much better decisions to change the course.

"The future ain't what it used to be."

On one level, it's tempting to say, "Of course its not. Deal with it." Its clearly true that the business of law is harder, less fun, and more routine than most people foresaw a decade or more ago. Its telling that many accomplished lawyers no longer encourage their sons and daughters to go to law school fearing, correctly, that the life they experienced would be far harder to duplicate for their children. Law is not going away, but it's becoming more and more of a business every year, with increased client demands for performance, lower cost, and better service combined with reduced loyalty.

On a deeper level, though, that was always going to be the future. We just got here a little faster than we might otherwise have and yes, it did take some, perhaps many, by surprise. That does not mean, however, that we have not arrived at a place that was always inevitable… always the future. Few of us are truly prophetic, but as the old saying goes, "Hindsight is 20:20." That hindsight should allow you to clearly link the clear tensions in the industry long before the financial crash (note the efforts of the ACC, efforts of LPO's etc.), the experience of other professions such as accounting, advances in technology and the clear predictability of increasing client ability to manage outside vendors such as law firms, with an inevitable convergence of forces forcing the industry into a far more disciplined business model. The current version of the future is continuing to force ever more discipline into the industry, with the result that, while demand for law firms is basically flat, we are seeing wild divergences in performance. The firms that are adapting best to the future are gaining share, at the expense of those who are not. This process will continue for some time to come.

So the future is what it used to be, it just isn't what you thought it would be. In the long run, the future will be good for those who learn to adapt to change, expected or otherwise.

"If you don't know where you are going, you might end up someplace else."

In the legal world, strategic plans are ubiquitous, but strategic clarity is scarce. Some firms go so far as to *avoid* putting down markers on the direction they are heading, for fear of alienating lawyers who might perceive that their practices are less critical (or not critical at all) to the firm's future. Any strategy that can be perceived as threatening to anyone runs serious risk of being diluted and obfuscated, at the expense of strategic clarity. So everyone has a strategic plan, but surprisingly few lawyers understand their firm's strategy.

Where is your firm going? How are you going to get there? Will you recognize it if you end up somewhere else? Firm leaders should be able to clearly articulate their firm's strategy, and inspire the actions needed to drive it. The business of law is challenging but that is no different than any other business. Leaders who set critical goals and focus intently on execution are more likely to end up on the winning side of the industry. The game though, is a long one that must be played continuously. Or as Yogi once said, "*It ain't over till its over."*