



Collaboration: Challenges, Benefits, and Best Practices

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If you think high-functioning collaborative relationships in the legal profession are rare, you're right. Most lawyers have seen the research demonstrating that the profession attracts introverts, and the traditional law firm structure only serves to underscore those tendencies. Most lawyers also know, however, that the legal industry's landscape has changed. Many commentators point to the recession that began in 2008 as the tipping point, but there is no question that lawyers – both in-house and outside counsel – are under pressure to find new ways to do more with less.¹ Clients are looking for *value*, which is different than *low-cost*, and includes efficiency, transparency, and trust.² Enter the concept of collaboration: lawyers working together to share knowledge and expertise to create the best possible outcome for clients. This paper will explore the barriers to collaboration, why it is increasingly necessary for success, and best practices for creating collaborative teams and environments.

What do we mean by “collaboration”?

In order to analyze how collaboration can help, it is important to understand the concept. For example, what distinguishes collaboration from other kinds of teamwork? The goal is something more than individual work on pieces of a project that is later assembled together, which is what Heidi K. Gardner calls “assembly” in her paper titled *The Collaboration Imperative for Today's Law*

¹ See Mark A. Cohen, *How Important is Collaboration for Lawyers?*, LEGAL MOSAIC (May 18, 2015), <https://legalmosaic.com/2015/05/18/how-important-is-collaboration-for-lawyers/>.

² See *id.*

Firms.³ Assembly is where each expert does his piece and then someone assembles it.⁴ Gardner also distinguishes collaboration from sequential, but interdependent work, where each step of a project is handled independently although it may build on what came before.⁵ A truly collaborative outcome involves multiple interactions over a course of time, where the product evolves through input from a variety of sources.⁶ This requires trust, not only that the other team members are competent, but also that each is placing the best interest of the project ahead of her own interest.⁷ In other words, you must trust that your teammates have the required skills and that they have the shared value of serving the client's needs first, as opposed to working for their own self-interest (e.g., trying to steal your clients).⁸ This trust is hard to come by in an industry that has seen more individual mobility than ever before.⁹

Both Nature and Nurture work against a collaborative environment in the legal industry.

Why is working together hard for lawyers? For starters, the profession seems to attract people who are, by their very nature, ill-suited for team work. Research supports that lawyers are generally naturally introverted, highly skeptical and

³ Gardner, *supra* note 3, at 3.

⁴ *Id.*

⁵ *Id.* at 3-4.

⁶ *Id.* at 4.

⁷ *Id.* at 3.

⁸ *See id.*

⁹ *Id.* at 5.

suspicious and have low resilience.¹⁰ For someone who is skeptical, other people's ideas are met first with suspicion until they are proven. A person with low resiliency tends to stop sharing ideas if they are easily rejected. This combination is obviously not conducive to creating a collaborative environment. Furthermore, lawyers naturally have a higher "predisposition toward autonomy rather than teamwork."¹¹ Hence, a lawyer's general nature must be overcome to be successful.

The "nurture" side of the equation does not offer any solutions. Once a future lawyer decides to enter law school, the stereotypical in-class use of the Socratic method "reinforce[s] the adversarial nature of the legal process."¹² Once a lawyer enters into the practice of law, things do not improve. The rules of professional responsibility requires "zealous" representation of clients, whether in the courtroom or in a negotiation.¹³ The business of law, at least for outside counsel, often rewards origination - you "eat what you kill", not what you share. In addition, private practice has moved toward practice area specialization over the last decade.¹⁴ For collaboration to work, you not only have to have the right specialist, you have to find one who is willing to work on a team. For in-house counsel, lawyers can fall into silos, playing a specialized role for a certain business unit, which is comfortable and often effective, but can become

¹⁰ Heidi K. Gardner, *The Collaboration Imperative for Today's Law Firms: Leading High-Performance Teamwork for Maximum Benefit 7* (Harvard Bus. Sch., Working Paper 2013), <https://www.hbs.edu/faculty/Pages/item.aspx?num=45696>.

¹¹ *Id.*

¹² See Cohen, *supra* note 1.

¹³ See *id.*

¹⁴ *Id.* at 2.

damaging to a lawyer's professional growth.¹⁵ Thus, it is not surprising that the traditional legal industry is not currently a model for collaborative working environments.

Finally, as noted above, building the required trusting relationships take time. It is easy to conclude that it is faster to work alone – how many times have we thought, “I will just do it myself.” Plus, in spite of the rise in alternative billing arrangements, most lawyers still bill by the hour. Relationship building is not billable. Convincing lawyers that collaboration is worth the time is a big hurdle.

The cost benefit analysis favors collaboration.

Having established that it is not easy, it is worth it? Research supports that the benefits of collaboration do outweigh the challenges, and that the personality traits described above and the tendency toward autonomy can be overcome as people gain experience in working together.¹⁶ Gardner's research showed specific benefits for both the individual lawyer and the firms in which they practice when collaborative teams are implemented.¹⁷

Benefits to Law Firms

Firms have a lot to gain by fostering collaborative environments. The most measurable firm-wide benefit of involving more practice area professionals in a

¹⁵ See *id.* at 4.

¹⁶ *Id.* at 7 (citing Ruth Wageman & Frederick M. Gordon, *As the Twig is Bent: How Group Values Shape Emergent Task Interdependence in Groups*, 16.6 ORGANIZATION SCIENCE 563, 687-700 (2005)).

¹⁷ *Id.* at 10; see also *generally id.* at 9-14.

client relationship is that it leads to more business for the firm.¹⁸ Gardner's research showed a correlation between inter-disciplinary practices being involved with a client relationship and the revenues generated from the client.¹⁹ The results were not explained away by simple cross-selling.²⁰ Instead, Gardner opined that the results are explained by two factors: (a) the creation of higher-value work as perceived by the client and (b) the increased retention of clients and professionals.²¹ The client's perception that the work they are getting is of higher value resulted from the "greater availability of intelligence," better issue spotting, and a better understanding of the client's issue from multiple perspectives.²² A multi-disciplinary approach allows the team to tackle more complex matters which are less likely to be commoditized, and as the client relationship develops, better outcomes that are more innovative.²³

All of this leads to a second benefit to law firms, which is retention of both clients and talent. Multiple touch points within a firm institutionalize the client relationship so it is less likely to be impacted by a key lawyer's departure or retirement.²⁴ Further, working in teams leads the lawyers to feel more connected to the firm, and even results in greater investment in firm-building exercises like associate mentoring and training, thereby reducing turnover.²⁵

¹⁸ *Id.* at 10.

¹⁹ *Id.* at 10-11.

²⁰ *Id.* at 11.

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.* at 11-12.

²⁵ *See id.* at 12.

Benefits to Lawyers

Individually, lawyers also benefit. Gardner analyzed the “what’s in it for me?” question and found that working with a wider group of partners resulted in more in-bound work for the lawyer as a working attorney in the following year. She attributed this to the trust and reputation building that working collaboratively builds.²⁶ The same was true in the reverse. The more work a partner shared with others, the greater her book of business in the following year.²⁷ Gardner notes that some of this is explained by cross-selling, but much of the increase in business arose from having a team of trusted professionals to perform high quality work, which lead to more confidence and energy to make additional pitches for business, which in turn resulted in increased revenue.²⁸

Benefits to the Client

In the end, the client’s voice is the one that must be heard. Regardless of the incentives to the law firm or the individual lawyer, clients demand value. Value means that there is a relationship between the cost, the quality of the result, and importantly, what non-monetary effort it took to get there.²⁹ A matter that has a lower significance to the client must be handled with greater efficiency and lower cost in order to retain the business.³⁰ It should also be handled such that it does not require a significant amount of the in-house lawyer or client’s time. Building a trusting, collaborative relationship requires less oversight of outside counsel,

²⁶ *Id.* at 12-13.

²⁷ *Id.* at 14.

²⁸ *Id.*

²⁹ Cohen, *supra* note 1.

³⁰ *Id.*

saving the in-house counsel time and hence adding value. Conversely, a matter with greater significance might require a greater monetary investment, clients benefit by working with firms who have developed teams that know the client's business. This knowledge adds value because there is less ramp-up time and better issue-spotting. Even if a valued legal expert – a top-notch trial lawyer, for example - is unfamiliar with a client's particular industry, the client gets greater value and better solutions when it works with legal experts who are both willing to and capable of working alongside an industry expert to bring the industry insight.³¹ Clients also benefit by working with law firms that leverage technology, such as collaboration software or technology that streamlines case administration (e.g., billing software), bring additional value to clients.³²

In her Chapter entitled *Smart collaboration: The role of practice group leaders*, Heidi Gardner states that clients increasingly describe their legal and business problems as “VUCA”: volatile, uncertain, complex and ambiguous.³³ In this environment, the problems are so complicated that only a team of experts can solve them. Law firms that continue to operate as highly specialized silos cannot solve these VUCA issues. Clients benefit when the experts can collaborate to combine different people's information, perspectives and expertise.³⁴

Best Practices: So how do you do it?

³¹ *See id.*

³² Olga V. Mack & Katia Bloom, *The Power of Collaboration*, ABOVE THE LAW (Apr. 3, 2017), <https://abovethelaw.com/2017/04/the-power-of-collaboration/>.

³³ Heidi K. Gardner, *Smart collaboration: The role of practice group leaders*, in EFFECTIVE PRACTICE GROUP LEADERSHIP 65, 65 (Laura Armentano ed., 2016).

³⁴ *Id.*

Having made the case for why investing in building collaborative teams is a worthwhile effort, here are some of the ways that successful collaborative teams operate to bring the greatest amount of value.

Don't Skip the Kick-Off Meeting

First, take the time to understand the “why” before getting to the “how”. Start with a clear goal for the project, and a common understanding of what needs to be accomplished and what success will look like.³⁵ This likely requires a kick-off meeting in some form or fashion, even for established teams, to make sure the goals are clear.³⁶ Even if the meeting is a very short, 15 minute check-in, the initial communication is important.³⁷

It Starts at the Top

Leadership is critically important, and creating a culture of collaboration starts at the top.³⁸ If the project team or firm leaders are not using collaborative tools and strategies, then why should the team? Gratton and Erickson's work in, *Eight Ways to Build Collaborative Teams*, Nov. 2007, reported that in every case where they found high-functioning, complex collaborative teams, the company's top executives had invested in building and maintaining social relationships that lead to trust-building.³⁹ While many invest through face-to-face interactions, the

³⁵ See Gardner, *supra* note 3, at p. 19.

³⁶ See *id.*

³⁷ See *id.*

³⁸ See Lynda Gratton & Tamara J. Erickson, *Eight Ways to Build Collaborative Teams*, HARVARD BUS. REV. (Nov. 2007), <https://hbr.org/2007/11/eight-ways-to-build-collaborative-teams>.

³⁹ *Id.*

use of mobile conferencing can be very effective as well.⁴⁰ In fact, mobile conferencing, such as Face Time, is often more reliable, more accessible and less expensive than expensive video conferencing that requires the team to assemble at a particular location.⁴¹

Gardner also stressed the importance of leadership in her writings on smart collaboration, specifically practice group leaders.⁴² She notes that leaders drive collaboration, rather than managers. Leaders define strategy, while managers keep the budget. Leaders motivate team members and work to gain commitment, while managers address staffing, hiring and promotions. Yet in many firms, practice group leaders are burdened with managerial tasks. Gardner's research supports that collaboration is most likely to succeed when the leaders are focused on developing and communicating client-focused strategy that keeps the team engaged and motivated toward a common goal.⁴³

Provide Training

Although collaboration may come naturally to some, other lawyers simply never learned how to work well in teams. This is particularly true of more seasoned lawyers. However, Gardner's research showed that even those lawyers with a preference for autonomy and working alone can and do learn to do interdependent work, which results in those preferences fading.⁴⁴ Thus,

⁴⁰ Ajay Kaul, *4 Best Practices for Real-Time Collaboration and Communication*, CMS WIRE (Jul. 15, 2016), <https://www.cmswire.com/digital-workplace/4-best-practices-for-real-time-collaboration-and-communication/>.

⁴¹ *See id.*

⁴² Gardner, *supra* note 33, at 70.

⁴³ *Id.*

⁴⁴ Gardner, *supra* note 3, at 16.

collaborative skills can be learned, but are likely not self-taught. Providing training in soft skills, such as showing appreciation, conflict resolution, and program management, may be required.⁴⁵ PricewaterhouseCoopers has been cited as having particularly strong training programs in skills critical to collaboration, with modules in teamwork, emotional intelligence, networking, holding difficult conversations, and communicating the firm's strategy and shared values, to name a few.⁴⁶

Utilize Non-Lawyers with Specialized Skills

There are courses in business school on project-management that are not included in the law school curriculum. Team leaders should take note of this. For complex projects, such as discovery management or large due diligence work, many successful teams utilize non-legal team members to manage the process and find efficiencies.⁴⁷ This is often best be done by non-lawyers trained in project-management.⁴⁸ Developing relationships with these professionals – either through resources internal or external to the firm – is worth the investment.

Define the Roles For, But Not the Manner of, Implementation

A good collaborative environment still allows for continued autonomy. According to Gratton and Erickson's work in, *Eight Ways to Build Collaborative Teams*, Nov. 2007, the advice of Harvard Business Review experts is to spend time defining

⁴⁵ Gratton & Erickson, *supra* note 35.

⁴⁶ *Id.*

⁴⁷ See Cohen, *supra* note 1

⁴⁸ See Gratton & Erickson, *supra* note 35.

the roles for each team member but allow for the role players to have flexibility in how they contribute to the whole.⁴⁹ This concept is referred to as “role clarity and task ambiguity.”⁵⁰ This maximizes the creative contributions of the team to allow each person to bring his strengths and expertise, while staying within his designated lane or role.⁵¹ This role definition may need to be client-driven. If a client is comfortable that a particular outside counsel has the specific skill set to play a specific role, then that instruction needs to be communicated clearly.

Good working relationships often exist across firms on a single matter when roles are clearly defined.⁵² There are many instances where all of the right experts do not exist in one law firm. Focusing on role definition and routine communication is the key to making collaborative efforts across law firms successful.

Know Your Team and Each One’s Strengths

Having the right people in each of the roles is critical, and that requires an honest assessment of who is the best person for a particular matter. This requires an assessment of legal expertise, personality traits, and the ability to work with others. Some lawyers are excellent implementers. Some have good ideas, but fall short on follow through. Perhaps you need a particular tax expertise that can best be obtained outside your own firm. As stated above, consider whether the administrative pieces can be more efficiently handled by a non-lawyer project

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *See id.*

⁵² *See id.*

manager.⁵³ Getting the right staffing in place requires an investment in professional development, both formal and informal, but brings the benefit of adding great value to clients, and great job satisfaction to team members who are being called upon to play to their strengths.⁵⁴

Be Willing to Change Course

Although there may have been a great deal of thought and strategy that went into an original plan, when you see that things are not working, you have to be willing to adapt and evolve the strategy. First, collaboration requires listening to team members as the project unfolds to identify problems and make quick course corrections before things go too far. Second, the sooner you can identify a process improvement, an upgrade, or a broken process, the sooner you can implement a fix. In his 2010 TED talk, Tom Wujec studied how different groups of people performed on the “Marshmallow Challenge,” a collaboration exercise aimed at seeing how groups collaborate to complete the task of building the highest possible tower out of tape and dry spaghetti to hold a marshmallow in an 18-minute time period.⁵⁵ Wujec’s experience with this challenge in a number of different settings reveals a variety of insights, but a major take away was that Kindergarteners actually performed better than many groups of adults at this task.⁵⁶ The reason is that the kids would start with the marshmallow and build the tower underneath it – allowing them to determine very quickly if the tower

⁵³ See Cohen, *supra* note 1

⁵⁴ See Gratton & Erickson, *supra* note 35.

⁵⁵ Tom Wujec, *Build a tower, build a team*, TED2010 (Feb. 2010), https://www.ted.com/talks/tom_wujec_build_a_tower.

⁵⁶ *Id.*

would hold the marshmallow's weight.⁵⁷ Adults tended to spend more of the 18 minutes designing and building the tower, and only place the marshmallow on top at the last moment when time was running out and it was too late to make corrections.⁵⁸ Wujec's insight from this was that it is more effective to use an iterative process when collaborating to find a solution, so that changes can be made along the way before it is too late.⁵⁹

Conclusion

Embarking on a collaboration strategy may seem daunting, but research supports that the investment will pay off for law firms and clients alike. Not only is the investment lucrative for law firms and lawyers, it leads to more rewarding working experiences and better retention of talent. More importantly, clients are demanding it. Problems that can only be solved by collaborative efforts are ever present for clients, and the law firms that can deliver set themselves apart. Keeping these best practices in mind can help to create the collaborative environment needed to support growth and maintain relationships in the competitive legal industry that exists today.

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ *Id.*