



What follows below is an excerpt from *Finding Bliss: Innovative Legal Models for Happy Clients & Happy Lawyers* (American Bar Association, 2015). The excerpt is taken from the Chapter Introduction. To read advance praise, order the book and learn more, please visit www.blisslawyers.com.

INTRODUCTION

It is not the strongest of the species that survives, nor the most intelligent; it is the one that is most adaptable to change.

—Charles Darwin¹

We know you might be skeptical, picking up a book called *Finding Bliss*, especially given the tumult in the legal profession since 2008. In fact, you may be wondering if the authors of this book are clueless. Well, we want to assure you that — no — we are not naive. We know things have been bleak, and we are well aware of the portended demise of legal services. . . . But even with all of this, we believe that there are real opportunities to be had in the legal profession of the future. And, if you are strategic and creative and willing to take some calculated risks, you will be among those who benefit from them.

Each of the co-authors of this book have decades of experience in the legal profession. We all started our careers conventionally — in federal clerkships and New York City large law firm associate roles. Ultimately, we chose less traditional paths. This book is the story of our lessons learned and our views on how to thrive — not just survive — in today's volatile and changing legal market. We share this knowledge based on our own research and investigation, as well as from our first-hand experience.

In this book, most often, you will hear from a collective voice about the changes in the legal profession and the means to more effectively deliver legal services that better align the skills of the talent pool with the needs of the client. However, each of us has had independent experiences and developed select expertise. Where a view is derived from one of us individually, we single out that voice.

The distinct paths of the three co-authors led to the formation of Bliss Lawyers, a new legal model that hires high-caliber lawyers to work on “secondments” (temporary engagements) in corporate in-house legal departments, as well as law firms. . . . In running this successful new legal model for nearly four years, we have gained insights and a vision about the legal profession that we believe will bring value to share with law students, lawyers, clients, law firms, and other legal service providers.²

Deborah Epstein Henry

Deborah (Debbie) Epstein Henry’s journey to Bliss began in 1999, when she was practicing as a commercial litigator and struggling to figure out how to both play an integral role in her kids’ lives and be on partnership track. She sent out an e-mail to three colleagues and three other lawyers who were similarly situated — lawyers who wanted to be active parents as well as successful professionals —

to start a brown bag lunch group for support and networking. Within a few days, 150 lawyers e-mailed her back in response. As Debbie continued to be flooded with e-mails, she knew she had struck a nerve.

After three years of running pro bono events on work-life balance and women's issues at large law firms, Debbie decided to convert her growing expertise and launched a consulting practice in 2002. She stopped practicing law and began a New York chapter of what became known as Flex-Time Lawyers LLC. Her consulting practice emerged from advising legal employers and lawyers about work/life balance and other issues impeding women's retention and promotion

In 2009, Debbie started researching and writing her first book, *Law & Reorder: Legal Industry Solutions for Restructure, Retention, Promotion & Work/Life Balance* (American Bar Association, 2010). . . . Writing *Law & Reorder*, Debbie recognized that the significant challenges facing women and others in the legal profession were only half the problem. The other half was the legal model —i.e., the existing infrastructure of law firms and in-house legal departments. Thus, with the release of *Law & Reorder*, Debbie's focus expanded. She sought to discover not only what lawyers could do to improve their status but also how legal employment models could be redesigned to better meet client needs and enable everyone in the talent pool to thrive in a profitable business structure.

Garry A. Berger

Garry A. Berger did not know exactly what it meant to be a lawyer. He had the academic credentials, graduating *magna cum laude* from Brandeis University and receiving the designation of Harlan Fiske Stone Scholar at Columbia Law School. After law school graduation, Garry landed a prestigious federal clerkship. While he knew he would begin his career in a large law firm, he also knew he did not see a future for himself there. . . .

After working for several years each as an associate at Weil, Gotshal & Manges LLP and as in-house counsel for The Thomson Corporation (now known as Thomson Reuters), Garry founded his own law firm, Berger Legal LLC, in 2002. His desire to innovate had additional impetuses beyond being raised with entrepreneurship. His son had just been diagnosed with autism, and Garry was looking for more flexibility—he knew the ability to be at home would make a big difference for him in overseeing the care of a special needs child. His previous experience had shown him that one of his strengths was dealing with internal business clients, and the idea of running a virtual law firm crystallized in his mind.

Like Debbie, Garry found that a lot of women, in particular those who worked in large law firms, needed more and different opportunities. Many wanted to work virtually with flexible hours and could do so while producing an excellent work product. For the first six years of running Berger Legal, Garry felt the stigma against a law practice being operated virtually. . . . Around the time of the economic downturn, however, all of that changed — the fact that his virtual team of lawyers allowed him to charge less to his Fortune 500 clients for the same or better quality work became a distinct selling point.

Suzanne Scanlon Rabinowitz

Suzie began her career working for two different large New York City law firms after graduating Fordham Law School at the top of her class — a fact that she attributes to requiring less sleep in her youth than any other law student in New York City. She quickly realized, however, that the traditional law firm was not her ideal career path when she was warehoused in a conference room in San Francisco, looking for negative covenants in investment advisor agreements for days on end.

Wanting to start a family, Suzie exited the practice of law entirely for five years. Once Suzie's children attended pre-school, however, she again found herself needing intellectual stimulation and adult engagement. So she volunteered for everything she thought worthwhile . . . [and] [t]hrough Suzie's extensive volunteer work and leadership in her kids' school, she met Garry who had a son attending the same school. When Suzie learned about the virtual firm Garry had recently launched and his need for lawyers to work on a flexible basis, she decided to join him, handling corporate transactional work and

intellectual property agreements—the deal-making, non-confrontational aspects of lawyering that she enjoyed the most.

As the needs of Berger Legal clients shifted, so did Suzie’s work; one client asked her to come work in-house on a sensitive project. This made her, in essence, Berger Legal’s first seconded lawyer. This experience helped Suzie understand the importance of relationship building with her clients and the value of developing creative solutions to manage legal workflows. It also ultimately showed Suzie the true value of secondments first hand. All the while, Suzie remained active in her kids’ lives and in the volunteer work of her community — not only a silver lining of the virtual law firm job but also a flexibility and lifestyle requirement.

Finding Bliss

The founding of Bliss Lawyers brought Debbie, Garry, and Suzie together into a dynamic partnership, made official in 2011 but with its roots in 2008. While Debbie was promoting her first book, *Law & Reorder*, which was released in late 2010, she held events in 13 major markets, with prominent panels of household name general counsel What struck her was that every high-profile general counsel participant, regardless of industry or geography, said the same thing: They were getting pressure to reduce their outside counsel budget and do more work internally — yet they were not getting authorization to increase headcount. They had much less certainty about their staffing needs and, in turn, their companies were seeking greater staffing flexibility by engaging highly skilled lawyers for temporary assignments. Rather than always hiring an outside law firm, these general counsel were increasingly turning to secondment firms — at about one-third to one-half of the price of a conventional law firm — to perform some of the traditional law firm work. These general counsel also expressed a frustration about having to absorb the real estate costs of their outside law firms, knowing that part of the basis for these law firms’ high rates was their overhead.

As Debbie’s visibility grew . . . , Flex-Time Lawyers grew from those first 150 e-mail contacts to a network that today boasts over 10,000 lawyers across the country. Beginning in 2003, Debbie naturally became a recruiting go-to for legal employers and lawyers. In 2008, Debbie and Garry reconnected, 15 years after they were summer associates together at Weil, Gotshal. Berger Legal’s impressive roster of corporate clients kept asking to borrow the firm’s lawyers, and they no longer had enough lawyers to lend from the virtual law firm. Yet Garry did not want to disappoint his clients for fear that they would go elsewhere.

Garry and Suzie turned to Debbie, knowing she had amassed a vast network of well-credentialed lawyers who were seeking an alternative to the 2,400 billable-hours track. Thus, beginning in 2008, the three began to fill secondments together through Berger Legal. In 2011, when the demand became so great, Debbie, Garry, and Suzie decided to merge their networks of lawyers and clients to create a secondment firm that gave both clients and attorneys a new way of working together.

Deliberately, they chose not to house their internal operations in a bricks and mortar office. Instead, they elected to build the business infrastructure virtually, leveraging the virtual platform that was a significant factor in growing Berger Legal. This was a means to provide more competitive pricing to clients while being able to still provide generous compensation and benefits packages to lawyers. The goal was to be the first thriving business founded on merging two innovations — the secondment and the virtual firm.

The other goal was to make diversity a signature of their work, and they were able to achieve this by founding a majority women-owned, operated, and controlled business certified by the Women’s Business Enterprise National Council (WBENC). The diversity focus was an obvious one for Debbie, given her longstanding role as an advocate for lawyers including re-entry moms and those with less linear career paths, as well as people of color and lawyers seeking more flexibility. These concerns meshed seamlessly with the socially responsible roles that Suzie and Garry have played in their community and through Berger Legal. A fresh view of the legal talent pool was key to the innovation of this new legal model. Thus was born Bliss Lawyers, a readily accessible bench of A-list talent ready to work for Fortune 500 companies and law firms across industry sectors in a dozen states and counting.

What We Have Learned and What We Want to Share

Our backgrounds are important context for understanding the messages we hope to impart in this book. Our collective experiences have taught us how traditional and new model firms can more effectively deliver legal services and how to align the skills of today's and tomorrow's lawyers to better meet clients' needs. Finding new and successful ways for clients and lawyers to work together is the principal focus of this book. Because we believe that success in the legal profession hinges on the alignment of the employment model and individual talent, each major concept in this book is examined through two lenses: the institutional and the individual. Indeed, we believe future success in the legal profession will require change at both the institutional and individual levels, as the two are inextricably linked.

Traditional and new model firms can more effectively deliver legal services by focusing on seven key concepts: Innovation; Value; Predictability and Trust; Flexibility; Talent Development; Diversity and Inclusion; and Relationship Building. These seven concepts are the means to maximize the talent pool's performance and delivery of legal services. Hence, these are the seven substantive chapters of this book that represent our observations of what needs to be improved, on both an institutional and individual level, as follows:

1. *Innovation.* In today's volatile market, facilitating innovation must be everyone's focus. It is not just about creating new legal models but also about the innovations created from within traditional models by both individual lawyers and employers.
2. *Value.* When we talk about value, we mean three things: how to value a representation for a client; how legal service providers can otherwise provide more value to a client; and how to create multiple valued career paths for lawyers.
3. *Predictability and Trust.* Clients desire more predictability in the fees they can expect, and individual lawyers want more predictability and control in managing their work. All of this is built on trust, not only in the law firm-client relationship but within law firms and in-house legal teams as well.
4. *Flexibility.* Clients need more flexibility in staffing, and individual lawyers need more flexibility in the way in which they work to produce their maximum quality of work — and to enhance their life. Achieving these goals is critical, along with ensuring that business needs are met and colleagues and clients are not negatively impacted by individual needs.
5. *Talent Development.* The salient question is how to most effectively develop and support legal talent during the trajectory of a career — from law student to junior associate to seasoned lawyer to retiring counsel. The answer will hinge on all legal industry stakeholders assuming the time, cost, and responsibility of talent development.
6. *Diversity and Inclusion.* Designing a diverse and inclusive work environment will require an understanding of the contribution of diverse talent as well as the value of diverse choice in legal service providers. Finding new and more effective ways to combat unconscious bias will be instrumental in achieving these goals.
7. *Relationship Building.* Lawyers who are more effective at building a network and community are both more satisfied and more effective in delivering legal services. While the needs of law firm lawyers and clients may vary with respect to relationship building, both need a foundation of support and collegiality to maximize their impact and success.

At the start of each chapter, we include introductions from thought leaders who we call luminaries. They include general counsel, a law firm partner, a law school dean, a law professor and an expert outside of law. The point of these introductions is to establish context and tone by having these visionaries provide their wisdom to frame the conversation. Interspersed in the book, we also include findings from other

individuals — mostly in-house lawyers — who have taught us important lessons about how to be more responsive to client needs and the demands of the market.

Conclusion

In this book, we present the new reality facing law students, lawyers, clients, law schools, and law firms today. While we understand that there are a lot of challenges and legitimate anxieties facing those in the legal profession, our outlook is still positive. Our goal in *Finding Bliss* is to inspire readers like you to break out of traditional roles and thinking. We encourage you to be bold and creative to help ensure both your professional and personal success, and in turn, your happiness.

¹This quotation was originally paraphrased by Leon C. Megginson, Professor of Management and Marketing at Louisiana State University at Baton Rouge from Charles Darwin's *Origin of Species*. Along the way, Megginson's paraphrase was slightly changed and turned into an actual quotation from *Origin*. University of Cambridge, "One Thing Darwin Didn't Say: The Source for the Misquotation." *Darwin Correspondence Project*, last modified 2014, <http://www.darwinproject.ac.uk/one-thing-darwin-didnt-say>.

²Our use of the term "legal service providers" throughout the book is meant to broadly encompass law firms and other companies and firms that provide services in the legal profession to clients including those that practice and do not practice law.