

Lawyers as Members of the New “Creative Class”

By Beth Cody

Are Lawyers And Law Firm Staff Members Part Of The Creative Class?

In *The Rise of the Creative Class: And How It's Transforming Work, Leisure, Community and Everyday Life*, author Richard Florida identifies a growing population of today's working professionals who work smart, work creatively, and who want—and get—a creative lifestyle that goes beyond work.

Dr. Florida, a social scientist and Professor of Public Policy at George Mason University, believes that this creative class is a key driving force for economic development of post-industrial cities. Dr. Florida defines the “Creative Class” as a master class that is comprised of two unique groups: creative professionals and knowledge workers, which has been expanded to include financial planners, doctors and lawyers.

This creative class now comprises about 12 percent of all U.S. jobs. This group contains a huge range of occupations—e.g., architecture, education, sports—with traditionally creative occupations in the arts, design and media making up only a small subset of the new creative class.

Florida's social theories have provoked debate, as his work proposes that an emerging class made up of knowledge workers, intellectuals and various types of artists is a rising economic force that is causing a shift away from traditional agriculture- or industry-based economies. Further, his concept is controversial because it reshapes people's thinking about class.

Lawyers Are Considered “Knowledge Workers” Who Are Working Within The Creative Class.

“Knowledge worker,” a term coined by Peter Drucker in 1959, is one who works primarily with information or one who develops and uses knowledge in the workplace. The increasing need for an academically capable workforce has made it so knowledge workers now outnumber all other workers in North America by at least a four to one margin.

A knowledge worker's benefit to a company could be in the form of developing business intelligence, increasing the value of intellectual capital, gaining insight into customer preferences, or a variety of other important gains in knowledge that aid the business. In return, knowledge workers differ from other types of workers in that they require different management techniques to improve their performance and productivity. They also differ in their motivations, attitudes, and need for autonomy.

Knowledge workers, as members of the larger creative class, are believed to produce more when they are empowered make the most of their deepest skills. Since they can often work on many projects at the same time, they intuitively know how to allocate their time and their efforts are further enhanced through soft factors such as emotional intelligence and trust. Organizations that are designed around the knowledge worker are thought to encourage self-organization, networking, and sharing

of information. Thus, they are not organized around the old “command and control” hierarchy of yesterday’s businesses.

Is The Law Firm Community, By Its Very Nature, Failing To Attract The “Creative Class,” Or Losing It By Virtue Of The Constraints Of Law Firm Life?

Members of the creative class, including knowledge workers, “have a life.” In other words, although its members are project-focused, they do not hesitate to pursue jobs that interest them. They are not afraid to hop around a bit, as they are not looking for a life-long career with a multinational corporation. Instead, they are artists, writers, filmmakers, entertainers, and other creative professionals who work within a wide range of knowledge-intensive industries, such as high-tech sectors, financial services, the health care professions, and business management, and the law.

Florida notes that, “Creative people trade their ideas and energy for money. But they also want the flexibility to pursue things that interest them on terms that fit them. Thus, they trade security for autonomy, and conformity for the freedom to move from job to job and to pursue interesting projects and activities. The shift to self-motivation and personal autonomy in the workplace is bound up with the fact that we no longer take our identity from the company we work for, but find it in the kind of work we do, our profession, our lifestyle interests and the community we live in.”

It is interesting that Florida includes those in the legal profession as members of this

“creative class.” Unlike artists, for instance, who are obviously included, lawyers seem to be included because they work in a knowledge-intensive industry that also requires a great deal of creativity. There is no doubt that lawyers contribute a certain amount of creativity and innovation to the jobs they perform and the clients they serve. However, since attorneys are also knowledge workers, they have many responsibilities to their tasks and to their supervisors that may conflict with their creative nature.

For instance, filling out time sheets and accounting for every six minutes of every work day does not feel, for many members of the knowledge worker or creative class population, like an environment in their talents can flourish. The highly structured environment of most law firms is largely (but not solely) focused on inputs, outputs, efficiency and streamlined costs, not necessarily on key values or achieving the best result. I believe that, in large part, the “billable hour” type of servitude is a drain on the capacity of “creative class” types. I don’t believe that this will necessarily discourage people from going to law school, as most people applying to law school have little clue as to the realities of this “billable hours” lifestyle. But as soon as newly-minted attorneys get a taste of working under a billable hour regime, they will run from law firm life.

When young associates join a firm, they discover that the workload does not decrease as they move up the ranks into partnership. In contrast, they are still under the same pressure to bill hours and yet have the added pressure of bringing in new clients.

This quickly detracts from ability of many young associates to “see themselves” being happy as partners, and causes them to re-focus their direction to considering a career change. At the end of the day, these young people want a life that combines dynamic work with the ability to have a vibrant personal life. The idea of “making partner” is no longer a carrot for the creative class.

To escape the pressure of the billable hour, in the past, many lawyers have sought in-house jobs. These jobs, which once required merely “regular hours,” are now no longer free of the requirement to put in very intense amounts of hours. Many in-house attorneys end up working crazy hours and complain that they still don’t have a life. Despite this, though, they do delight in the freedom that they feel from keeping track of their time. During the mid to late 90’s, some of the best positions for lawyers were in-house counsel jobs in start-up companies. But these jobs are (and always have been) few and far between. They are often held by lawyers with quite an appetite for risk, and many in-house jobs were padded with stock options that never proved to be profitable. While many attorneys who continued to work in the billable-hour environment would dream of these jobs, many wouldn’t leave the security and relative stability of large law firm life to take such a risk.

Conclusion.

It seems to me that it is becoming more common for people with law degrees to choose alternative legal careers. This begs the question: Can lawyers, particularly those

working in law firms, who are really part of the so-called “creative class,” truly thrive and contribute to the best of their abilities given their billable hour quotas? In other words, do the time constraints they face inhibit them from thinking innovatively and creating better ways to add value to their clients? I feel that in law firms—albeit not all law firms—there is an overwhelming tendency to measure and assess performance using the yardstick of billable hours. But by using this method, the traditional law firm could be losing passionate and self-motivated performers who don’t need constant supervision. And this could be providing a disincentive for innovation. The best lawyers seek to strategize and understand the road that a client issue will likely want to take. Then, they look at the cost and strain of litigation—from their own perspective and from the point of view of the client. They also look at the impact that the cost of their services will have on the client. They consider the chances of getting a favorable result, in whatever form that may mean for their client. And they weigh the fact that “winning” on paper is not always winning in terms of getting what is best for the client. In sum, attorneys as members of the creative class ultimately look for a truly favorable result—financially, emotionally, spiritually, and personally, both for themselves and for their clients. They know that their client can “win” in litigation, or get a “good” settlement, or get what any number of lawyers would deem a “favorable result,” and still have paid dearly for the whole process, and still have to face the process of re-building after the process has taken its course. If there is a “creative class” of lawyer, in my opinion,

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these attorneys have much to offer their clients and the legal community at large, but the billable hour requirement does not foster the kind of fluid, open, and supportive environment these attorneys need to rise to become their best selves.