

Dion Christopher Accoto LLB.; GDLP.

Candidate - Doctor of Business Leadership Degree,
Torrens University Australia

Retired Barrister-at-Law
Currently holding a practising certificate as a legal practitioner from
the Law Society of New South Wales – Solicitor & Barrister
Solicitor Director of DA Amaton Lawyers – Sydney Australia

Prepared for the Doctorate of Business Leadership
Torrens University Australia

Dion Accoto - Tel: 0437 333 333 email: info@dionaccoto.com

The Good Shepherd

*'I am the good shepherd. The good shepherd lays down his life for
the sheep.'*

John 10:11

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CERTIFICATE OF AUTHORSHIP

I hereby declare that this submission is my own work and that, to the best of my knowledge and belief, it contains no material previously published or written by another person nor material which to a substantial extent has been accepted for the award of any other degree or diploma at any educational institution, except where due acknowledgment is made in the portfolio. Any contribution made to the research by colleagues with whom I have worked during my candidature is fully acknowledged. I agree that this portfolio be accessible for the purpose of study and research in accordance with the normal conditions established by the Library Services or nominee, for the care, loan and reproduction of such documents.

Dedication

I dedicate this thesis to my wife Shadia, without whom, this thesis would not be possible. It is her inspiration that has guided and grounded me, not only to become a better professional, humbled and human, but a better person, hoping to make the lives of those I encounter, just that little bit better. To my children, never forget who you are; it is not what you become. The world needs leadership. To my parents, God Bless you both. You sacrificed for me.

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To my guiders in leadership. Professor Ramzi Fayed and Professor Stan Glaser. They have shepherded me through a difficult, but rewarding, eye opening, and life changing experience. In truth, it has changed the way I view the world; through the spectacles of empathy. I thank all those who participated in interviews, without whom, the research conducted would have been an impossibility. Without naming you, I thank you, and thank you for giving up the valuable time required, which is always limited. I hope that you read my dissertation, perhaps consider it a thank you on my part, and in further respectful hope, that it assists you in some way.

Glossary of Key Terms

Associate: a lawyer having progressed to the next level in a law firm, above that of solicitor.

Barrister: a lawyer external to the law firm specialising in advocacy.

Judge: a Judicial Officer presiding in the District Court and above.

Lawyer/Solicitor: a lawyer with at least two years of experience.

Leadership: a process whereby I attempt to influence/persuade individuals within a context to a common aim or goal.

Personal Contingent Leadership Paradigm: *my* theories coupled with *my* values – together forming the foundation and underpin the framework and guidelines which govern and assist how I understand and respond to challenges in leadership.

Registrar: The Chief Executive Officer of a judicial forum, in charge of the entire registry of the department.

Senior Associate: a lawyer one step higher than an associate.

Senior Partner: a lawyer having equity in a law firm.

Special Counsel: a lawyer having progressed to a higher level within a law firm.

Young Lawyer/Solicitor: a lawyer admitted to practice for a period of less than two years.

Disciplines: Law, Business, Leadership & all Humanitarian Causes.

Critique Overview – Extended Abstract

‘And now here is my secret, a very simple secret: It is only with the heart that one can see rightly; what is essential is invisible to the eye.’ (de Saint-Exupéry, 1943 p. 21).

Although this thesis will explore leadership in the legal profession as a whole, this critique will demonstrate the impact of the research and analysis, on my personal contingent approach to leadership. It is contended that leadership within the legal profession has been lacking, at least over the past two to three decades. A career in the law is hard enough without having to navigate one’s way through a minefield, hoodwinked and stripped of all armoury.

Young people finish law school, with a euphoric expectation and enthusiasm that they will *get a job* in a law firm. Regrettably that is not always so. It seems that the norm is that they do not land that job the universities often promise them. The big oak doors of the traditional law firm do not always open so easily, and when they do, it is often to have young lawyers work for free.

Leadership plays an essential part in the continued development of the profession – although many would say the profession has dropped the ball in providing *effective* leadership. Embodied within a general autocratically styled behavioural theory, there is an additional disquiet; a culture of bullying and harassment (sexual and otherwise) in the

workplace, that a large part of the profession regrettably buries. This stems from poor leadership. Additionally, there is an element of discrimination. Discrimination against women, non-Anglo-Saxon persons, and persons of a younger age. A further reason that the law has become the way that it has, is the corporatisation of the profession. That is, that the law has become a business. What may have been considered a vocation, or at the very least a profession, has evolved into a commercially operated enterprise where the main justification for breathing, is to make money. Law firms are, from my observations purely for profit. Whatever happened to the crusader who had a genuine interest in protecting the rights of the underprivileged. The reason you need such a high mark to gain entry into law school is simple; supply and demand. It is in such high demand because people think they will make their fortune in the law.

The greatest hypocrisy is that when one speaks to persons very senior in the profession, the ones that consider themselves leaders, the bulk of them are in denial, seemingly oblivious to the lack of leadership in the law. They do not accept the problem really exists. They are the traditional autocratic boss that essentially tells the employees what to do, of whom the employees are fearful. One explanation for this is personal confirmation bias. People are inclined to deny errors and justify actions in order to protect themselves and their viewpoints.

What emerges from an autocratic leadership style in an environment where the most important stakeholder one has, the employee, is viewed as disposable, (as I will contend is the view held by many in the profession), is that lawyers become disillusioned, resort to alcohol abuse, drug use, and many suffer at the hands of the wretched diseases defined within mental health. That at first glance seems like a quantum leap. Having a bad boss causes mental health? Well people didn't believe cigarettes caused cancer either.

This thesis proposes and justifies a personal contingent leadership paradigm capable of providing guidance in dealing with leadership challenges specifically within the context of law firms in Sydney, Australia. That is not to say that this thesis will not apply in many respects to law firms across the globe. I do not propose to provide a complete set of rules so as to comprise a perfect personal contingent leadership paradigm, (which I contend can never exist in finality nor, given the notion of equifinality that suggests that the same destination can be arrived at many different ways). What I do propose is a reflective observation and critique of what has worked, and indeed what has failed in my journey thus far. It is what I have seen in my 27 years in the profession, and what I have not seen, which forms the foundation stone of this work. From that platform I propose to ultimately evolve my personal contingent leadership paradigm with the benefit of not only hindsight, (not that I see fit to devalue hindsight), but hindsight coupled with the theoretical knowledge acquired in the

process of my research. This thesis aims to provide assistance to all lawyers, whether equity partners, employed lawyers, or soon to be lawyers. It is intended that this thesis will provide suggestions for a richer, more stable and inviting environment for lawyers to work within, whilst permitting the delivery of legal services in a sustainable, ethical, and profitable manner, enriched with effective leadership. I hope this thesis adds some value to the profession, and indeed assists in reducing the casualties.

The conceptual framework of this thesis includes the structural dynamics of the relationships between lawyers at all levels; both internal and external to the firm. That is, an examination of both the inner workings of the traditional law firm, and the independent private Bar briefed by law firms.

One cannot forget, and it would be remiss of this thesis (personified as it will speak for itself as a completed work), to fail to acknowledge that without the right people on the 'law train', we are destined for a disastrous verdict. A judgemental observation perhaps, from my perspective, having lived the law for almost three decades. The right people, inclusive leadership, focused on the genuine interests of the firm's greatest stakeholders, its people, not its clients. I will revisit this claim later. Little more justification is needed when one pauses, takes time to reflect and comes to realise that a law firm is an empty office on level 25 without leadership that embraces its people.

My personal contingent leadership paradigm proposes to remove the autocracy out of the traditional law firm. I propose to lead a culture of lawyers who do not need to be in the palatial Sydney CBD offices on level 25. I propose to lead virtual teams. Modern technology has not been properly embraced by lawyers. Simply having the latest MacBook sitting on one's leather green top desk is not embracing technology, but merely giving the appearance of a firm that is embracing technology. There is a fundamental difference. *Bosses* (not leaders) believe they need to be standing over the employed lawyers cracking the whip, watching their every move so as to ensure that they are billing time and not stealing time. This does not lead to satisfied employees. It leads to people who hate waking up in the morning and going to work in an office environment resembling a dictatorship, with the traditional law firm autocratic leader. I have already started to implement my personal contingent leadership paradigm of leading virtual teams in the law, and I will in the course of this thesis call upon a few employees to give their perspective on how they see me and the environment in which we function. Dare I say that I am pushing the boundaries and, to use that fashionable management word, "disrupting" the profession. That is precisely what I am doing, and in the process making the law more accessible to all. I will set out my model below in great detail so as to share my personal contingent leadership paradigm in the hope that others may embark upon the way of the future in the law. 'We' will pioneer a new way. We are not concerned about others copying our model, in fact for the

better good of the legal profession, the community, and hopefully one day on an international level, we encourage others to copy our system. Regrettably, the leadership issues being faced in the law are many; but the most important is ensuring that staff are satisfied. Young lawyers coming out of university are extremely tech savvy. They know that there is absolutely no need for them to be travelling into the concrete metropolis every day to carry out their job. They feel as though they are untrusted by not being permitted to work from home. Many people want to work from home – for a number of reasons. Time, convenience, cost, and most recently, fear of terrorism. These are all valid factors, and I am embracing the staff desire to work from home. But accommodating this desire comes with its own leadership issues: fostering and retaining a culture, maintaining morale and motivation, having to inspire remotely. It makes it difficult for staff to depend on other staff members, it restricts the building of strong relationships and friendships, and it does not always create a sense of belonging. These are all issues I must deal with if my personal contingent leadership paradigm is to continue to flourish and be capable of being handed down to the next generation of lawyers when I am no longer for this world.

Without the appropriate leadership, we are only left with the consequences of that failing which I address below, together with what I hope is a remedy to a longstanding problem. I make this scholarly contribution as a person who is willing to speak out after 27

years of being immersed in the legal profession. I have lived the legal profession, breathed it, adored and hated it. The legal profession has consumed me. I have let it do so, because I have always been, and remain, passionate about it. A profession which to the uninitiated has an appearance of greatness; using its magnetism to attract the masses, giving them hope and aspiration of a fulfilling career. This thesis is not so much an exposé, but a reminder of what it is we endure in the legal profession and how we do not need to continue to endure it, simply because it has been this way for 200 years. It could be a wonderful profession that, if corrected, could assist in the provision of peace and harmony in the world, not just in New South Wales, Australia. It has the power to solve many of the current problems across the globe.

As a caveat to the above, I recognise that there are some law firms who are attempting to introduce flexible working hours, teleconferences, and the like. For the most part, my investigation of such firms is that such offerings are precisely that – offerings. They are not the norm, and not the only manner of delivering legal services by those firms. One view is that firms that make such offerings are perhaps doing so for appearances sake and not for the betterment of the profession.

Chapter 1
WHAT DRIVES MY LEADERSHIP AMBITION
Overview of the research context
Context in which my experience as a leader has evolved over
the past ten years
A Summary of My Leadership Journey

Why People ‘Act’ the Way They Do.

When we examine the broader, contextual and social science underpinnings of the legal profession, for example the dynamics of interpersonal relationships as described by Heider (1958) and try to capture the forces and changes of the environment, we begin to see the foundations for the problems the legal profession is experiencing.

‘Lawyers are caricatured, not without some truth, as dispassionate, argumentative, outcome-oriented, rule-following agents skilled in operating the technical machinery of the minutiae of law to achieve a definite end. This comes at the expense of compassion, empathy, creativity and other qualities derogatorily reduced to ‘soft skills’. Yet such ‘thinking like a lawyer’ is usually what is taught and modelled in law school, both intentionally and implicitly.’ (Tang & Foley, 2014, 1199).

It is my contention that the profession is regrettably laden with such personalities, as it is those types of personalities which are attracted to the professional practice of law. This point will be developed later.

Attribution theory helps us to understand the effect that lawyers' personal characteristics have on the profession. It is a theory that explains how people make sense of the social interactions in which they engage, the processes they are involved in, and how they deal with those matters. Fritz Heider (1958) is the founder of attribution theory. According to him, there are two types of attribution. First, internal attribution – being the way the person exposed to the environment reacts as a result of their personality traits. Second, environment attribution - being the way environmental factors, rather than personality, causes a person's behaviour. Heider suggests that personal responsibility 'varies with the relative contribution of environmental factors to the action outcome; in general, the more they are felt to influence the action, the less the person is held responsible.' He states that 'one may consider the different forms in which the concept of responsibility has been used as successive stages in which attribution to the person decreases and attribution to the environment increases' (Heider, F. 1958, p. 113).

This helps us to understand some of the reasons leaders in the legal profession act in the way that they do. Part of the problem is the individual lawyers themselves and the personality traits that people who become lawyers tend to display. Another obvious factor is the environment in which they work. The pressures of the modern commercial law firm are clearly in part, responsible for the autocratic style of leadership that is so common in the profession. Recognising

the source of the leadership problem in the law is a crucial step in analysing and addressing it.

Additionally, Heider's work also shows that people have preconceived ideas of how a particular person, or titleholder, should act. A police officer should be strong; a car dealer untrustworthy; a lawyer a money hungry vulture, commonly referred to as one step away from a car dealer. This is what Heider referred to as dispositional attribution. Heider described dispositional properties as 'the invariances that make possible a more or less stable, predictable, and controllable world. They refer to the relatively unchanging structures and processes that characterize or underlie phenomena.' (Heider, 1958, p. 80). Accordingly, preconceived ideas about particular people, or classes of people, are the dispositional factors that give meaning to experience and are precipitated as the reality of the environment in which the person reacts (Heider, 1958 p. 81).

'When people observe others, they bring to this observation 'a general set of beliefs about how people typically behave in such situations ... and these beliefs constitute expectations (although not necessarily conscious expectations) for the behaviour of the particular actor.' (Gilbert & Malone, 1995, p. 25).

All such theories are with merit, but many are proffered in a vacuum or partial vacuum from the reality of the legal profession. Generally, people tend to place great significance on the personal attributes of others, such as their age, gender or ethnicity, when drawing inferences about their behaviour. Gilbert and Malone explain that the ‘correspondence bias’ is a fundamental phenomenon in social psychology and occurs where people place too much emphasis on personal dispositions rather than situational factors (Gilbert and Malone, 1995, p. 22). This lends significant weight to how things happen in the real world, and how people are treated and mistreated in all walks of life, not solely in the legal profession. It may perhaps be more evident in the legal profession which has been predominantly filled with men from ‘better to do’, wealthier families, more so in the past than present day. MJJ a former Justice of the High Court of Australia speaks of this very issue in an interview with him referred to later in this thesis. *“I think it's a long-term problem. It arises from the somewhat elite backgrounds of most lawyers.” (MJJ Interview 2017).*

Those attracted to the practice of law have personalities that are inconsistent with great leadership. According to Larry Richard, Introverted-Sensing-Thinking-Judging (ISTJ) Myers-Briggs Test Personality Types, are the majority personality type in the legal profession. (Richards, 1993). Although those involved in management tend to also have such personalities, it is not management which I contend is lacking in the profession.

Management and leadership are not interchangeable. Those attracted to the law lacking leadership skills, do extremely well in careers that require them to think critically about a set of data and then subsequently consider the implications of that data. 'ISTJs' tend to see the world as black or white. There is a very strong sense of right and wrong. There is a sense of ownership in their area of interest. Such personality types portray an image of unapproachability, ever present in the legal profession. They are not egalitarian, they are not warming and fail to appreciate the concept of empathy.

When one then looks at Heider's theory, and the personality types Richards refers to, it helps us to understand the psychology behind some of the discriminatory behaviour that occurs in law firms. Preconceived notions of human behaviour based on attributes such as ethnicity or gender can be very damaging for people who do not fit the traditional archetype of the successful lawyer. Most, if not all, people hold these subconscious correspondence biases, but recognising and addressing them is the only way to help overcome discrimination both personally and systemically.

My Experience of The Law as a Business

The legal profession is for all appearances a noble profession. It is a profession that was once revered and admired by the general public; at least lawyers like to think so. The general public rarely have an opportunity to see what goes on behind the closed, large oak doors of

the traditional law firm. The difficulty that the profession faces on a micro and macro level is that the law has become a business as opposed to a vocation or even a profession. What I mean by the expression that the law has become a business, is that it is no different to any other commercial enterprise, wherein the aim is to make a profit. I of course do not speak ill of anyone wanting to make a profit. One needs to make a profit to keep the doors open. The pure definition of not being insolvent is being able to make a profit and pay one's debt as and when they fall due. The difficulty in the legal profession having become a business, is that the most important stakeholder in any legal organisation, namely staff members, have become to a very large extent disposable.

The various stakeholders in the legal profession are, the employees, the clients, the shareholders given firms can now incorporate, partners in traditional partnership firms, the Law Society and Bar Association which govern the legal profession, and universities who supply law firms with who I argue are the most important stakeholders, staff. They are all important, but staff I contend take first place.

Without the employee, a law firm is but nothing. The employee is the most important influencer of the client, and not the product that the employee produces. An unhappy employee will lead to unhappy clients. An unhappy employee will help breed a toxic culture, which means one will have lost a critical competitive advantage. Without

that, growth is thwarted. The employees are the vehicles through which legal services are delivered. The employees are therefore critical stakeholders. Clients are extremely important stakeholders as without them, the firm cannot make a profit. There cannot be a shortage of clients if the employees behave in the manner referred to above. Lawyers do not take their orders from clients. They take their instructions from clients. The client is in need of the lawyer. The firm is also in need of the lawyer, a highly skilled professional to deliver the service. Where does the intellectual capital sit? With the employees. They have the most influence on the quality of the service we provide. Likewise, the employees are the ones that deal with the client in good times and in bad. Employees bring fresh ideas to the table which they collect from the profession at large. They are the ones that talk to their family, friends and colleagues about the firm on a daily basis. I strive to employ the best possible employee, and not compromise in that respect. It comes as no surprise that some law firms spend tens of thousands of dollars on recruiters to find the very best employees. Law firms set up information stands at university career days to poach the best of the best graduates. One must remember that the client wants the very best. Like a person in need of heart surgery wanting the very best surgeon, the client staring down the barrel of prison time wants the very best. I therefore contend that the employee is by far the most important stakeholder. Finding the top of the tree and retaining them is absolutely essential. I do not ignore our governing bodies, both the Law Society and Bar Association. They

issue the licence to practice law and can bring a practice tumbling down when appropriate. It is important that one recognises the professional, ethical obligations one must adhere to.

'A contented workforce is strongly related to happy customers and suppliers'. (Glaser & Halliday 1999 p.105)

There are subtle management implications in choosing staff as the most important stakeholder. This is recently (April, 2018) highlighted in the testimony given in the Banking Royal Commission. AMP were criticised for being more concerned with their shareholders rather than their customers when they imposed unjustified charges on their clients. Marketing specialists would, of course, argue that the customers' needs should always take precedence in any business and this logic certainly has a record of commercial success. So, while there is some evidence that a primary concern with staff has an economic payoff the strategic decision to concentrate on one stakeholder is, at heart, a reflection of the values held by management.

There are many reasons why staff have become disposable. The first of those reasons is that the number of lawyers and lawyers-to-be has increased dramatically. The Law Society data has shown growth rates over the last 20 years published by the Legal Practitioners' Admission

Board, also outlining the many law schools which have emerged not only in New South Wales, but in Australia.

According to the NSW Law Society's Profile of Solicitors 2016 the number of admitted solicitors in NSW has more than doubled between 1996 and 2016 from approximately 13,000 to approximately 30,000. (Law Society of New South Wales, 2016, p. 3). In 2015 there were almost 3,000 law graduates in NSW alone and the Law Society of NSW has observed "decreasing percentages of law graduates finding full time employment six months after graduation and law graduates starting salaries regressing closer to the graduate mean" (Law Society of NSW, 2016, pp. 8–9). Even more strikingly, a Harvard study published in 2010 revealed that Australia had 357 lawyers per 100,000 people. This is almost 30% more lawyers per capita than the United Kingdom and only marginally fewer than the USA. Dramatically, Australia has over ten times more lawyers per capita than Japan or Canada (Ramseyer & Rasmusen, 2010, p. 5). The Legal Practitioners' Admission Board has stated that, apart from the Legal Practitioners' Admission Board's diploma in law, there are 13 universities in NSW that offer accredited law courses (Law Society of New South Wales 2016, p. 8).

When one looks at the method in which one became a lawyer in the 1970s and 80s there were four law schools in New South Wales. These law schools were at the University of Sydney (1855), the

University of New South Wales (1971), The University of Technology Sydney (1975), Macquarie University (1972), (Legal Practitioners Admission Board, 2016, p. 8). Today, there are law schools popping up all over the state, and on the last count there were 38 in Australia, some of which offer online study. Some of these law schools allow you to complete your entire degree online. Barker has described this process as 'an avalanche of law schools', described as 'third wave law schools' which met 'the exploding market for legal education' (Barker, 2013). The impact upon pedagogy has been stark.

'Small-group teaching, a corollary of the liberal law school of the 1970s and 80s facilitated interrogation and critique of legal knowledge. This is now deemed to be a dispensable luxury' (Thornton, 2011 p.1).

If a classical view of education is acknowledged, that education is about dialogue and discovery as reflected in the world of Socrates, current practices have forsaken this in pursuit of efficiency. As many have commented, universities and their law schools have begun a race to the bottom. Given that some of the individual qualities that lead to professional competence, such as verbal fluency, reasonably high general intelligence etcetera. are normally distributed, lowering the entry requirements into law will inevitably mean that people without these attributes will join the profession. (This is not an argument in favour of snobbery. It simply means that the spatial and motor

abilities needed for plumbing competence are not a sine qua non for effective legal skills). Universities are pursuing educational practices that have a low delivery cost and can be mass marketed while retaining relatively high prices. It becomes impossible to maintain 'quality'. The consequence of the oversupply of lawyers is that employers are treating their employees as disposable, knowing that there are many others waiting in the wings to fill the shoes of an employee who is not willing to work under the difficult conditions imposed by many law firms today.

When I refer to difficult conditions, and by way of anecdotal example, I recall a colleague telling me a true story of a young lawyer who went to work at 8:30am every morning, and at 6:00pm would depart the office to catch the bus back to his home where he lived with his mother and father. He received an email from one of the senior partners, who said, 'You do realise that when you applied for this job, that it was not a part-time job?' Anecdotal perhaps, but nevertheless a true story. Some of the big firms now require that solicitors come to work on a Saturday. Not so long ago I heard of a firm who has a requirement that lawyers work on Saturdays between 11:00 am and 7:00 pm. I could but will not name the firm. Lawyers have a terrible habit of suing in defamation. Needless to say, truth is a complete defence.

The additional difficulty that law firms face is that with the many more lawyers available to the public, there is an oversupply to meet the

demand of all persons needing the legal services of lawyers. The consequence of that is that law firms have to operate more efficiently so as to maintain their profit. That of course means overworking lawyers to generate a profit on the work in progress. There other ways, but lawyers are not embracing those ways. They are ignoring them, not changing the broken system and simply asking more and more of their employees. The flavour of Marxian economics in these relationships brings an ironic sheen to the legal profession.

When one looks historically (or perhaps anthropologically) at the way in which young lawyers were mentored in the 1980s and 1990s, it was a system wherein the principal solicitor, or master solicitor, as he, (and I say he, as the majority of the profession were males at that time), the master solicitor would take the new solicitor under his wing, and teach him in a very similar fashion to an apprentice carpenter. The master solicitor would spend time on a daily basis training the apprentice to sharpen his skills with the view of that apprentice lawyer, one day blossoming into a lawyer capable of perhaps establishing his own law firm, or perhaps taking over the law firm of the master solicitor. That system worked very well in days gone by, where and when there were far fewer lawyers available to the general public. It was a nurturing role that senior lawyers played; they had a genuine interest in their employees. Lawyers had more time to dedicate to their apprentice lawyers, partly because the method in which legal services

were delivered in decades gone by were very different to the way in which legal services are delivered today.

By way of example, one need not look too far from the personal computer, which did not adorn a lawyer's desk in the 1980s. In the late 1990s, as late as 1999, I did not have a computer on my desk, and my then boss refused to use email. The method of correspondence was telephone (landline on a desk), or dictating a letter to one's secretary, who would then type that letter and physically hand it to the lawyer. The lawyer would then make corrections, hand that letter back to his/her secretary, who would then retype it. The lawyer would then read it one final time, and if no further corrections were required, that letter would go into an envelope, a stamp affixed to its right-hand corner, and into the post box it would go, or via the DX, (the Document Exchange) which were like PO Boxes for lawyers. It would generally take a few days for that letter to be received by, for example, the lawyer for the other party, who then in turn would need to respond in the same fashion. The turnaround time for the two letters would generally be a week. Let us now compare that with the way in which that would happen today. Solicitor 'A' would type an email, which would take all of 35 seconds, and hit the send button. Solicitor 'B' would read that email and respond within a few moments. If Solicitor 'B' did not respond within a few moments, Solicitor 'A' would no doubt be sending a follow up email saying, 'Why didn't you respond to my email?' Or worse, telephone the other lawyer's mobile phone or send a text message. One can very well appreciate that what would

have taken a week, and is now only taking a few moments, has resulted in many more pieces of correspondence being exchanged in a five-day period than what would have been previously. Therefore, it necessarily follows, lawyers are working at a different pace to which they were working thirty years ago. That has caused an additional level of stress for all lawyers and has taken the time away from senior and master lawyers, thereby not allowing them an opportunity to mentor, train, and assist young, apprentice lawyers. Likewise, the young lawyers do not have the time, as they too are caught up in the web of email and constant communication. Some firms now have Skype addresses, Facebook pages and twitter accounts. The lines of communication are many and instantaneous, and 24/7. We never really switch off. The greater concern about it, is that lawyers who are new to the profession, genuinely believe that this is the norm. It is extremely difficult, an observation I make from personal experience, to maintain any form of life outside of the law, whether it be a family life, social life or otherwise, whilst working at the level of intensity most large firms require. New South Wales Police Sergeants were using BlackBerry phones with mobile email, and whilst doing so, there was a noticeable increase in stress leave. (Source former Senior Sergeant of Police, Prosecution Legal Branch, Michael Thurbon). I speak in the past, as there has been a move to remove mobile email from New South Wales Police Officers.

The peculiar thing about it in the law, is that this velocity of business is the expectation of not only the employers, but also the clients, and other lawyers in the profession. The same cannot be said, by way of example, for the police force or medical profession. The public do not expect to be able to contact the Sergeant of Police or their own personal doctor on their mobile number or email and expect an instant response. Likewise, other police officers or doctors do not expect such immediacy amongst themselves. For whatever reason, the law dictates a very different expectation.

A further consequence of the extreme workloads and more so the many number of law students emerging out of law schools is the regime in which lawyers have to complete a minimum number of months as an internship, generally four months, in order to become qualified to practise law. That four-month training is to be conducted under the guidance of a fully-fledged lawyer. In the present day it is almost unheard of for a to-be lawyer to be paid any amount of money for that four-month internship. In the 1980s and 1990s, it was a given that a new lawyer would be paid, albeit not a great amount of money, but nevertheless would be paid an amount of money to at least cover expenses such as travelling to work, buying the appropriate clothing, buying lunch, et cetera. This is but one further example of how the law has become a business, and how lawyers are being used and abused in the legal profession. The New South Wales Bar Association released a memo a few years ago now, wherein it advised that it was

improper, or words to that effect, for barrister to use such students and not pay them.

'It is not uncommon for members of the bar to be approached by law students and recent graduates seeking 'work experience'. Internships or work experience offer genuine learning opportunities. It is not appropriate, however, for members of the Bar to effectively utilise resources without payment for assistance. The PLT programme gives the student the opportunity to gain insight into working in the legal profession. This is not an opportunity to employ the services of students as law graduates or law clerks without providing payment outlined in the appropriate Legal Services Award.'

Phil Boulten SC 20 March 2014 (then President of the NSW Bar Association).

This was an email sent by Boulten SC to all practising barristers. I also received that email. Not that I had cause to employ any such person without paying them. However, a colleague of mine was, at the time of that email, employing four such students, each of whom was unpaid. I promptly ensured he was made aware of that email communication received from the New South Wales Bar Association and encouraged him to pay the four employees that he had working for free between the hours of 7.30am and 7.00pm. Instead, he walked into the small office that the four employees shared and told them they

were no longer required. The four students were relying on completing their four-month internship, and were gladly doing so for free, only to now be told they had to look elsewhere.

There was a report into the prevalence and regulation of unpaid work experience and such internships in Australia, conducted by Adelaide Law School in January 2013. (Stewart & Owens, 2013). That report found that many law firms are choosing to engage unpaid interns to do the work that would ordinarily be carried out by paid employees. The authors surveyed students from three universities, the University of Western Sydney, the University of Adelaide and Queensland University of Technology, predicting that unpaid work for legal businesses would be relatively unusual, at least prior to the work placement that is a typical requirement of the practical legal training course that must be completed in order to gain a practising certificate. They were surprised to find that around half of those surveyed indicated that they had performed unpaid work (other than as a volunteer or as part of their own family member's business) since leaving high school; and for the most part they had not done so for credit towards a degree or qualification. A significant minority had performed extracurricular unpaid work more than once, often for months at a time. (Stewart & Owens, 2013, p. 57).

The press has also given this topic some coverage. An article in *The Australian* stated: 'Some organisations think that you're privileged to be working for them, but if they want you to work for no money, then

that's just exploitation' (Cullen, 8 January 2011, p.1'). To this day, I still see the majority of students undertaking their four-month internships without payment. What message are lawyers sending to society about lawyers? What message are they sending to the new lawyers? Of greater concern, what lawyers are they creating who come to think that this is the norm?

One may ask, why is it that large law firms need to work their lawyers in the fashion that they do, and have interns work for free when they may very well have clients paying substantial fees per hour? Lawyers used to work from relatively humble offices. In more modern times, lawyers have corporatised and occupied many number of floors in some of Sydney's most prestigious buildings. The rental alone for such buildings is exorbitant. It is perhaps a product of having a greater supply of lawyers than in years gone by, that has made lawyers today believe that they need to demonstrate to the world at large that they are a successful law firm because they occupy space in luxurious buildings with large conference rooms and reception areas overlooking the harbour. The premises will also be adorned by floor to ceiling libraries (when in fact all resources are on line, books are historical mementos), and the butler who will walk in to every client meeting and promptly ask whether Sir or Madam would like a cup of tea or coffee, or whether they would like something from the kitchen, which would be prepared by the in-house chef. This is what "major" law firms have become in Sydney today. Counterproductively, lawyers

are struggling to obtain and retain work, so their solution is to spend more money to demonstrate they are doing well. There is nothing modest about that type of behaviour. It is ostentatious, arrogant and conceited. All the qualities I do not admire or aspire to, as they do not make a great leader. The false economy of keeping up appearances looms large in the legal profession. I recognise these first-tier firms may very well have a place at present. That place exists as there is an expectation of some major clientele that successful law firms must portray such power, not only to level some degree of importance to the client, but to serve as an intimidator for the opponent and indeed the opponent's client. My recognition does not in any way support this ideology and it is strongly contended that there needs to be a shift.

Of course, sociologists, such as Thorstein Veblen, remarked on this behaviour many years ago and called it 'conspicuous consumption'. Products and services are put on display to send status messages to other members of society. Karl Marx also identified this tendency in capitalist societies by using the term 'commodity fetishism'.

The New South Wales law firms have simply followed firms from around the globe.

'The profession has largely disintegrated, they say, into a collection of producers of billable hours with no sense of duty to a higher cause. They contend that the demoralization of the legal profession and loss of purpose beyond making money

explains, in part, why so many lawyers are dissatisfied with their work' (Brafford, 2014, p. 25).

Any commercial decision, including of course the decisions made by lawyers and the organisations they represent, can be viewed as having two elements – effectiveness and efficiency. The latter is usually measured by some financial metric e.g. cost, profit, billable hours et cetera. Effectiveness is a longer-term concept, which is more difficult to capture by conventional financial criteria and is often related to corporate goals and strategies. Mission statements, which appear on the websites of most firms, are the public face of effectiveness. The problem is that choosing between effectiveness and efficiency often involves a trade-off which can be difficult to make. In the present environment (2018) of low inflation and economic growth the social choice has been to prefer efficiency over effectiveness, to rein in costs wherever possible and hope effectiveness takes care of itself. We need only look at consumer markets, where low prices are stressed, and the markets for public policy initiatives. For example, the politicians behind the National Broadband Network chose an inferior technology because it was 'cheaper'. The current TAFE imbroglio was also the result of pursuing cost efficiencies at the expense of a generally effective educational system. Of course, the total cost of both will be enormous once the remedial work is undertaken. Hence, my argument is that the law is no different from this broader economic and social dynamic. The internal regulation of the firm is dominated

by cost consideration while the public face projects an air of respectability, serious purpose and effectiveness.

Law Firm Structure

Law firms are structured in a particular way, in my observation, to keep employees there as long as they can, without having to give them an equity partnership and share of the profit. Otherwise if they weren't so structured, people would leave to avoid the mistreatment. Law firms have different levels of professional attainment, and young lawyers in particular are tempted by the carrots that are dangled if these levels are achieved. The ultimate goal of a young, serious, lawyer is to become an equity partner. That means that one becomes a part owner of the firm and shares in the profit. Decades ago, one would work for a law firm with a view of becoming partner after a number of years. Because the law has become a business, firms don't want to award partnerships easily, as it means the equity partners diminish their income. For example, if there are five partners and a firm appoint a sixth, it necessarily follows that the profit is now less per partner. Firms use to have employees, and partners. They were the only two categories. Now there are a variety of categories to keep people on the hook, with the carrot of achieving the next level, for the persons own self-gratification and to demonstrate to others that they are good at what they do, in the hope that one day they will too become an equity partner. It is a wonderfully selfish plan for the equity partners,

and although it has been going on for years, it is short sighted, because people do leave. The levels are:

1. intern graduate
2. employed solicitor
3. associate solicitor
4. senior associate solicitor
5. special counsel
6. salaried partner; and
7. equity partner

Status and financial ladders such as this are typical and symptomatic of large bureaucracies, lending further weight to my argument.

One must therefore climb through six levels of the artificial hierarchy, before equity partnership. If equity partners would be brave enough to break that mould and try something innovative, perhaps in the short term they may lose, but long term they would thrive. My personal contingent leadership paradigm focuses on a completely different way of employee payment and structure. This will be discussed in greater detail later in this thesis when I deal with my personal contingent leadership paradigm and innovative changes to the way legal services can be provided in a sustainable and ethical manner (and without the fancy titles).

Status and titles can create difficulties in the workplace. Popular employees are more likely to get hired, promoted and earn larger

salaries, writes UNC Chapel Hill psychology professor Mitch Prinstein. But some forms of popularity are healthier, and more productive, than others. Prinstein warns against behaviour which is geared towards status seeking. Prinstein says that when employees do this, they do it with a view of gaining attention and social power. Prinstein opines that such behaviour can ultimately lead to loneliness and creates relationship problems. The better approach is to work on one's likeability which comes down to recognising others and making *them* feel valued. When one is well liked, they are less likely to have problems associated with anxiety and depression (Prinstein, 2017, pages unnumbered, final page, part one).

This is undoubtedly a simplistic view of the genesis of anxiety and depression, but it does reinforce the fundamental influence of emotions in shaping an expression of all human behaviour. This was argued by Freud in the 19th century and was elegantly described by William James and systematised by Silvan Tomkins. 'The importance of emotion in directing human behaviour has been compellingly argued by Tomkins'. (Glaser and Halliday, 1999 p102). 'The primary motivational system is the affective system and biological drive have motivational impact only when amplified by the affective system'. (Tomkins, 1962 p 6)

A Personal Digression on My Socio-economic Background – Why Leadership is Important to Me

It is also well known within the legal fraternity, that lawyers who went to the right schools or come from the right family, end up in the right firms, on the fast track to equity partnership. The poor young kid from Mt Druitt who took on the world, became a lawyer, has little to no chance to gain a seat in many such firms. Doubtless many large firms would be quick to criticise and promptly tell us all that employment is solely on merit. That is simply untrue in the law. The reality is people from the right socio-economic class have a better chance. It may be intentional or subconscious, but it happens.

I went to an ordinary, run of the mill Catholic School. I was one of two people who became lawyers in my graduating high school class. The parents of most of the students that I went to school with were tradespeople, teachers, secretaries, and other similar occupations. None that I knew of were doctors, lawyers, or other such 'prestigious' and highly paid occupations. I had few to no contacts that I could rely on in obtaining a job. I applied for many positions in large law firms. I graduated with a distinction average and could not get an interview. I did not come recommended to any of the positions for which I applied. I went to the wrong school. I also had the wrong name, which I deal with further in this thesis. I was considered a "wog" from the poor end of town. That was despite having brilliant grades, and an ability to speak three languages. Others with whom I had gone to university

came from schools on the North Shore, their grades were inferior to mine but were securing jobs in top tier firms. I recall one obtaining a job working for a Judge. It did not hurt that his father was a professional and well connected to the then Prime Minister. It was not my ability, as I have proven that I am a lawyer of great skill and expertise over the years. (Recall, I have been a clerk and practising solicitor and barrister for twenty-seven years). My professional career was strongly influenced by my peers' perception of my socio-economic background. I ended up working for an Italian lawyer on Norton Street Leichhardt, where the lawyers who refused to give me a job no doubt thought that was where I belonged. I am glad that I ultimately proved to them how wrong they were. Not that I mean any disrespect to suburban lawyers; in fact, I value and respect them as better leaders in the legal profession than those in the large city firms, predominantly in my view because they are less focused on profit.

The Private Bar has a different structure but suffers from the same difficulties as larger law firms do. Although all barristers are self-employed, they seek to join chambers that are well known with a strong reputation. Barristers share premises and expenses but not profit. They are each independent. Never the less, to enter the fold of one of the better chambers, one must apply and satisfy those already in those chambers that one is worthy. The selection process is unknown to a large extent; it does however seem that having the appropriate connections does not hurt one in obtaining a place. It

would be difficult to believe a barrister who said they would not prefer to be in the better chambers, if they were given a choice between them. The same dynamic is apparent in the choice for members of the barrister's most exclusive club, the rank of Senior Counsel (SC). When one makes an application for Senior Counsel, an application is to be assessed on the merits of the application. There is no reliable data to establish that being a member of certain chambers assists in becoming Senior Counsel; save to say that many of the successful applicants come from strong, recognised, well established chambers. It must be recognised however that there are many applicants that apply from such chambers and it may be a statistical probability. Most chambers are located at the northern end of the city. There are few chambers 'downtown', and far fewer barristers are appointed to the position of Senior Counsel from 'downtown'. Once more, that may be as a result of the number of barristers applying, but data relating to this is confidential.

My Contention is That Leadership in the Law is Autocratic

Autocratic leadership, commonly referred to as authoritarian leadership, is a style of leadership where one person maintains the control with respect to decisions. There is generally no input from anyone in the law firm. It is not inclusive in any respect. It is not collaborative and is the old command and control style of leadership.

Lawyers adopting this style of leadership, which from my experience, is most lawyers, make decisions based on what they think without consultation with anyone else. Power is with the people in the positions of authority only. Those people maintain ownership of information and do not share it with employees. Rarely will they take any suggestions, and they ultimately tell their employees what has been approved. Lawyers will only allocate time and money, and other resources to a problem when it has been proved that it is required. Lawyers tend to stick to their roles and responsibilities and rarely go outside the box. One often hears the expression of lawyers putting out fires. That applies to clients' problems as well as to the problems within the firm. Lawyers do not look for the root causes of problems. They attack each problem as it arises and put one fire out at a time. Traditionally, this model recognises employees once a year with a pay review. In my view recognition needs to be demonstrated on an ongoing basis. I recognise there are exceptions to this style, but as an observer of some 27 years, the above is prevalent.

Lawyers suffer from the problem of always believing they are right; they hate being told what to do, and hate being told they are wrong. Lawyers live in an adversarial world and fight for a living. They want total control over their employees. It is probably inappropriate to make the following admission, because this is an academic document. But I have few friends who are lawyers. Frankly, I do not like many lawyers. There was a time I did not like myself, and but for the

intervention of my journey in leadership studies, I would to this day, be the undesirable, unlikeable autocrat, cracking the whip.

This type of leadership in a law firm is problematic as it fails to seek input from the employees, with respect to not only the work, but also in the way in which the work is completed. Every legal mind is different, and one may have a better solution to a problem than another. The benefit of having more than one legal mind is lost as a result of the autocratic leadership style.

The 'leader' tells you the answer and expects you to carry out the role of a lawyer on their instructions, on the basis that you are making the firm a profit. It fails to allow employees to contribute and think creatively, which ultimately leads to a lesser final product and lower morale. It suppresses the employees' ability to demonstrate an ability and possibility of doing things in a better way.

This type of leadership in the law does not assist in fostering a comfortable culture as it vitiates any notion of trust. It creates an image of the leader as being a person who dictates to the employees, cracking the whip, and who does not care about the ideas of any employee. It does have a positive side in that things can happen at a faster pace, as the leader tells everyone how to do it and the employees are simply cogs in the machinery.

Despite not being an advocate of the autocratic leadership style, one must recognise that some employed lawyers, not many in my view, will prefer not having to make decisions, particularly in matters where there is a significant amount of money or someone's liberty at stake. This autocratic leadership style can therefore work effectively in so far as legal services can be packaged and mass-produced, so the final product can be of a high standard. This is never the less, not the desired form of leadership, and not the leadership style now adopted by me. But as many people have commented this leads to the reduction of skills and the commoditisation of the law.

Autocratic leadership makes employees feel as though they cannot express their legal opinion to the 'boss', as they are not encouraged to do so. Lawyers in leadership roles, adopting this style of leadership are nothing short of foolish as it is essential to listen to one's employees, in order to appreciate their point of view. They may very well have something invaluable to contribute. How would one know if there is a contribution to be made if they do not listen to them, or worse, not extend an invitation to them to contribute? It is the relationship of master to servant, rather than the many textured interactions of mature people in a democratic workplace.

To be autocratic, and exclusionary, does not allow an opportunity to provide recognition to employees. One cannot provide recognition to one's most important stakeholder if that person is merely a cog in the

machinery. Allowing people to contribute allows those people, those that one works with, an opportunity to shine and naturally fail. It does not require a heavy-handed criticism when they do fail but does allow an opportunity to praise and recognise when they do well. It is part of an ongoing interpersonal dynamic that, I would argue, is far more meaningful and effective than a once a year wage review. 'Performance reviews that are tied to compensation create a blame-oriented culture.' (Di Donato, Tim 2014 p.2)

Despite its prevalence I argue that autocratic leadership has no place in the law, and the time has come to breed it out of the profession. I say 'breed' as it will take some time to see it disappear completely. Realistically, given my hope is to change the way of thinking in the law, it will be a long road. I care for the profession, and I care and worry for the new lawyers emerging out of law schools. It pains me to say that if I had a child at the university age, I could not in good conscience advise them to enter the legal profession in its current state. I would counsel them out of making such a move. It is shameful that one cannot speak highly of his or her own profession. It would however be more shameful if one did not do anything about it, despite the fear of retribution, ridicule and criticism.

What are we to make of this autocratic style of management? Emery (1977, p.91 ff.) has suggested there are two choices managers can make in structuring organisations so as to make them flexible and

reliable. On the one hand there is redundancy of parts, where each part is replaceable and if it fails another part can be slotted into its place. This is the simple logic of the assembly line and mass production. The legal professional has chosen or perhaps simply have thrust upon it, redundancy of parts. When I say thrust upon it, I see the profession as not having made a conscious choice, but that the profession has drifted into this way. Interestingly, the world's most successful company, Google, has opted for redundancy of functions and consciously avoids the redundancy of parts alternative. (Lynch, 2017).

Lawyers and Psychology

In My Experience the Law Is Not Above Sexual Harassment, Discrimination & Bullying

I became a solicitor at a young age and a barrister at the age of 27. One of the youngest, if not the youngest in New South Wales at that time. I was born Spiridione Accoto 46 years ago and over the years the name was split into Spiro Dion Accoto. I found that as a result of my first name, that I was treated very differently by people generally, and in particular by members of the legal profession; most of whom, are white Anglo-Saxon. The reason for that is that the white Anglo-Saxon families could afford to send their children to law school whilst the migrant families could not; at least when I went to law school. MJJ one of Australia's most senior Judges, now retired, said in an interview

conducted by me, in response to a discussion about the lack of equity and empathy in the legal profession:

'I think it's a long-term problem. It arises from the somewhat elite backgrounds of most lawyers. Research that was undertaken by Professor John Goldring of the University of Wollongong showed that the people who enter the legal profession in Australia fairly consistently, and over a series of surveys over decades, are people who come from a background, which is not representative of the whole variety of the clients that lawyers see, still less of the whole variety of our whole community. They tend to be people who have been educated in private schools. They tend to be children of wealthier parents, and they tend to be conservative in their political viewpoint, and all of this makes for a group of people, who enjoy considerable power, because of their role in the legal profession, who may not always be in sympathy with the type of people who have legal problems and who come to them for assistance.'

MJJ is one of Australia's most respected legal minds and known for his impartiality, acceptance, and inclusiveness of all. To receive such an observation from a legal mind with 55 years of experience, speaks volumes. The research demonstrates that one of the fundamental flaws we have in the law, is that lawyers do not come from a cross

section of society. That may be changing now, but not at a rapid rate, when one considers those in positions of power and leadership, came from the elite sector of society.

I did not like feeling as though I was the odd one out. I felt alienated and had to change my name. I was one of the few 'wogs' (as we were referred to) in my age group to be in practice as a barrister. I was always treated as though I was inferior and a consequence, I found it simpler to change my name, and stop associating with the persons who knew me as Spiro. This is not a paranoid reaction to my circumstances, it is simply a statement of fact. I could not rely on my old friends, school friends, colleagues or family to assist me in obtaining work as I was now a "new" person. I had created a new identity, unknown to any of the profession I was trying to have accept me. Even my late father understood and embraced me being called Dion, despite my former name being his father's name. I do however suspect that he never really approved and that it caused him some degree of pain and angst that I cannot forgive myself for having caused him. I still to this day find it extremely painful to say or hear the name Spiro. It causes me great distress and anxiety. The legal profession was not very forgiving, and likewise I will never forgive it for making me change my identity to fit into a system that would otherwise have rejected me in a savage manner. It pains me to include this first-hand experience in this thesis, and great thought was given to excluding it, but for the benefit of all those reading it, despite

it causing me embarrassment and pain, I want it known by all. In particular I want it known by all of the young lawyers named Mohamed who have had to change their names to Michael in the current environment. In 2018 it is outrageous that leaders in the law are not more inclusive. Imagine a world where one could call themselves by the name their parents gave them? The analogy I often give is a plane is at 30,000 feet. The pilot announces there is a bomb on board with one of the passengers. There are two Muslim men with long beards seated in the front row. Who are most passengers, if not all, going to suspect has the bomb?

One of the issues surrounding discrimination is that leaders in the law do not want to be seen to be speaking out. It is almost as if to say, someone else will deal with it. Lawyers like to fly under the radar and not be seen.

In an ABC interview with the President of the Law Council Fiona McLeod, the issue of discrimination and bullying was raised.

'The Law Council of Australia said the recruitment, promotion and allocation of workloads in the legal profession was skewed against women and people from different racial backgrounds... We unconsciously, even contrary to our known commitment to it, look at affiliating ourselves with people who are familiar to us — for example someone of the same gender, race or who has [similar] physical attributes — it's human nature to surround

yourself with people that are alike.' President of the Law Council President Fiona McLeod SC in the article above. (Hart, 2017 p.2).

Statistics on the breakdown of the private bar by nationality are unavailable. This may reflect a lack of ethnic diversity, a disinterest or unwillingness to reflect on ethnic diversity, or both.

In 2006 there were 316 QCs/SCs in practice in New South Wales. 16 were women. Today there are 392 QC's/SC's. 40 are women (New South Wales Bar Association, 2006 and 2017). While the percentage increase is significant (off a tiny base) the question remains why more women are not advancing to these senior roles in the law. Is it as a result of the people making the decisions as to who obtains these roles being men? Or is it because there are simply less women wanting the roles? Gender should not play a role in the allocation of leaders and persons reaching levels of greatness in the law; yet it appears that it does. The numbers do not lie. Gender discrimination has no place in the legal profession or for that matter any workplace.

Likewise, sexual harassment has no place in any workplace, yet it features prominently in the legal profession. Fiona McLeod the President of the Law Council has been an advocate for this cause for many years. In an interview with ABC News she said:

‘Sexual harassment is one of the key reasons women are leaving the law and this needs to be addressed,’

The story also prompted a response from the Law Council of Australia, which said it was working hard to address the endemic problem...on unwanted sexual advances and bullying.... According to the Law Council one in four women in the legal profession and one in 10 men have experienced sexual harassment (Whyte, 2016).

In speaking with lawyers on this issue, Ms McLeod was told:

‘.... One of the partners [of the law firm] asked me at a partnership meeting in front of other partners how often I had sex and where. I left the partnership without any notice two weeks later. I went to lunch one day and just never walked back in the office.’

‘I am a male lawyer and my male boss has been sexually harassing younger junior female lawyers since the day he arrived. He has been confronted at times but is always supported by the hierarchy.’ (Whyte, 2016).

One of Sydney’s most respected employment lawyers, in the article referred to above, said that ‘sexual harassment was common within the law profession’.

A senior lawyer who I interviewed who for the purposes of this thesis did not want to be named, said:

It's been like that forever. The men would chase the women, resulting in cheating on their wives, and in both the private sector and government sector, women would sleep their way up the ladder as they thought they had to. There was almost a pressure put on them to do so, otherwise they would be out. It was just part of the way things were done, and I guess still are. I am not sure I saw it as a problem then Dion.'

Bullying also raises its ugly head in the legal profession. It is an abuse of a power relationship, where one person, the one considered subservient or weaker is continuously and deliberately put under great stress. It is not to be confused with colleagues having differences of opinions, but such a circumstance could no doubt be a springboard to bullying. It does require an element of repetition and is behaviour that is offensive, that intimidates or humiliates or perhaps denigrates a person in their workplace. It is, of course, important to note that bullying and harassment is regrettably a part of many industries and professions including medicine and the arts (Field, 2002; Quigg, 2011). But the irony is that lawyers are professionally charged to be equitable. As is well known Lady Justice has, since about the 16th century, been depicted as wearing a blindfold to symbolise the impartial moral force of the legal system (see https://en.wikipedia.org/wiki/Lady_Justice). The fact that bullying amongst lawyers is part of a wider dynamic by no means detracts from

the seriousness the problem, particularly when viewed in light of the uniquely high incidence of mental illness faced by lawyers. I have discussed this below.

At the September 2013/14 International Commission on Occupational Health-Work Organisation and Psychosocial Factors Congress, Australia ranked 6th worst in the 31 countries taking part in the survey. And 'some studies and legal professionals are suggesting that legal workplace bullying is particularly bad' (Schroder, 2014 p.2).

The Law Council of Australia conducted the National Attrition and Re-engagement Study (NARS) research to obtain quantitative data and confirm trends in progression, attrition and re-engagement rates of female lawyers (2013). 'Following collation and analysis of the data, the report has been recently released. While more specific to females within the profession, the report doesn't paint a pretty picture when it comes to bullying' (Schroder, 2014 p.2). For example, the report indicated that one in four women reported experiences of sexual harassment, while 50% of women and 38% of men reported experiences of bullying or intimidation (NARS, 2013, p. 94).

DBA Solicitor (who I interviewed – and refer to later in this thesis) felt that he was bullied in the law so much so, that he left the law to work for Bunnings as a sales person. He has since returned. He said in an interview with him: 'I can tell you that I went to work for a retailer for

about six or seven months, because it was a crossroads in my life. I thought to myself, as a lawyer, the profession wasn't what I expected, and it certainly wasn't giving back to me what I was putting in.'

Judicial bullying regrettably also plays a role in the law. Judges sit in positions of power, and for a young lawyer appearing before them, it can be an exceptionally daunting experience.

'Recent editions of professional journals in Australia and overseas bear witness to the increasing attention to, and concern about, stress, depression and pressure amongst law students and legal practitioners.' (Kirby, 2014, p. 1). Judicial bullying, in whatever form, should not be tolerated or excused on the footing that *'it was ever thus. Nevertheless, at the outset, it is essential to keep the problem in perspective.'* (Kirby, 2014, p. 10).

Judges, and it is conceded not many, can be very difficult with lawyers appearing before them. Not simply difficult with respect to the particular case, but the singling out of a lawyer and treating them less favourable or indeed treating one's opponent more favourably. Judges should not play favourites, but it does happen. The impost on a lawyer's wellbeing can be enormous and debilitating to the point of lawyers wanting to leave the profession. It is a problem not often spoken of.

As Ian Barker QC describes the conduct of two judges towards a barrister as follows:

'The responses of Moffitt P and Reynolds JA to Priestley during argument in the application, that they disqualify themselves, was sarcastic, contemptuous and personally abusive of counsel. As observers saw it, the conduct of the two judges, particularly Moffitt P, was a disgraceful display of judicial savagery.' (Barker, 2009, pp. 464–5).

Likewise, there is an issue of judicial bullying between judges where in a court of more than one judge, one judge may be treated unfavourably on an ongoing basis by another judge or judges. Kirby makes reference to this very issue, speaking of Justice Starke refusing to co-operate in any way with fellow judges in writing joint judgements. 'Judicial officers themselves should discuss the problem of judicial bullying in their conferences. Like the associated problem of stress and depression in legal practice and at law school, the topic should not be off the agenda, as it has tended to be.' (Kirby, 2014, p. 12).

Mental Health

A consequence of poor leadership includes persons suffering from mental health; well recognised by the legal profession. The Law Society has a page dedicated to mental health wherein people can

access all sorts of assistance, including: Beyond Blue, Black Dog Institute, and Lifeline for Lawyers. There is also the lawyers' assistance program and Lawcare. The first study on mental health in the law in New South Wales was conducted in 2009, *Courting the Blues: attitudes towards depression in Australian law students and legal practitioners* was conducted by the Brain & Mind Research Institute of the University of Sydney. It looked at depression and psychological distress in law students, solicitors and barristers. It is remarkable that no one conducted a study on this topic prior to 2009. It seems that lawyers simply do not want to put their necks on the line or are apathetic. The latter is more than likely, and the former is no doubt a contributor.

Some of the general trends arising out of the report were:

There is a high level of psychological distress and risk of depression in law students and practising lawyers. There was a reluctance to seek help for mental health issues. Lawyers might talk to friends and family, but not professionals, on the issue.

The statistics from the research above:

1. Levels of distress

- 21.9% of **law students** reported high levels of distress (compared to 10.2% in the general population) and

13.3% reported levels of very high distress (compared to 3.1% in the general population)

- 22.3% of **solicitors** reported high levels of distress (compared to 9.2% in the general population) and 8.7% reported levels of very high distress (compared to 3.8% in the general population)
- 12.5% of **barristers** reported high levels of distress (compared to 9.2% in the general population) and 4.2% reported levels of very high distress (compared to 3.8% in the general population)

2. Experiences of depression

- 46.9% of law students, 55.7% of solicitors and 52.5% of barristers reported that they had experienced depression
- 67.9% of law students, 70.6% of solicitors and 56.0% of barristers reported that someone close to them had experienced depression
- 14.9% of law students, 26.3% of solicitors and 8.5% of barristers reported that both them and someone close to them had experienced depression

(source the Law Society Website)

The report found that typical behaviours or symptoms exhibited by lawyers with depression, included withdrawal from close family and

friends, having difficulty concentrating, becoming alcohol or drug dependant, relationship issues, suicidal thoughts, a general decline in self-care, and developing new physical health issues.

'The very things that make you a good lawyer also happened to predispose you to developing depressive illness. You combine that with people who are driven, highly competitive, and that, unfortunately, also exacerbates those characteristics'
(Carter, 2015 p.1).

It is clear that people who become lawyers, are of a particular type with particular skills, which regrettably, also make one susceptible to depression. The law attracts a particular type of person.

A survey by consulting firm Urbis for the New South Wales Bar Association, polled barristers as part of the membership renewal process in 2014. The survey revealed that 37% of barristers who responded to the survey (being more than half of the number in practice) admitted they had suffered depression in their career.

Lawyers suffer such depression for a variety of reasons. Heavy workloads, pressures of superiors, and the nature of the work itself.

'Secondary trauma associated with constant exposure to details of crimes, traumatic events, suffering and loss

experienced by clients, especially in criminal and family law cases, was one of the factors behind the high rates of depression reported by members.’ Arthur Moses, SC, senior vice-president of the New South Wales Bar Association and chair of its health and wellbeing committee, speech given on 7 February 2016 (Whitbourn, 2016 - speech).

‘Law Schools are “breeding ground[s] for depression, anxiety and other stress related illnesses” is now widely accepted in Australia and internationally’; and ‘alarming levels of psychological distress experienced by Australian lawyers’ (Parker, 2014, p.1106).

Table 1

Morbidity among lawyers, other professions and general population

Study	Target Population	Number of Respondents and Sample <i>All are voluntary self-complete online or paper surveys</i>	Measure of Psychological Distress	Major Findings about Proportion of Law Students and Lawyers Suffering Psychological Distress and Comparisons
Beaton Study (2007)	Lawyers and ‘professionals’ from nine other occupations	7551 professionals Convenience sample Response rate unknowable Representativeness unknown	DASS-21 Moderate or above depressive symptoms	‘Almost 16%’ of lawyers • Highest ‘professional group’ in survey (6% to 16%) • 6.34% general population

Study	Target Population	Number of Respondents and Sample <i>All are voluntary self-complete online or paper surveys</i>	Measure of Psychological Distress	Major Findings about Proportion of Law Students and Lawyers Suffering Psychological Distress and Comparisons
BMRI Report (2009)	Lawyers and law students	741 students, 924 solicitors, 756 barristers (total: 2421) Convenience sample Response rate unknowable Representativeness unknown (except that females overrepresented)	K-10 High or very high distress	35.4% of law students • 13% of general population aged 18-34 • 18% medical students 31% of solicitors and 16.7% of barristers • 13% general population
University of Adelaide Study (2010)	Students in medicine (all years), psychology (year three), law, mechanical engineering (years two and three)	974 students All students present at certain lectures and tutorials Response rate: 78% (law: 68%)	K-10 High or very high distress ($\geq 22/50$)	58% of law students • 48% of all students surveyed (52% mechanical engineering; 44% medicine; 40% psychology) • 11% in age-matched sample from South Australian population survey
ANU Study (2011)	Two cohorts of first-year law students at end of year; cohort	Cohort 1: 214; Cohort 2: 174 and 81 All first-year students in 2009 and 2010 Response rates not reported; appears to be poor	DASS-21 Moderate or greater depressive, anxiety and stress symptoms	32% depressive; 31% anxiety; 20% stress at end of year • 14%, 27% and 19% at beginning of year

Study	Target Population	Number of Respondents and Sample <i>All are voluntary self-complete online or paper surveys</i>	Measure of Psychological Distress	Major Findings about Proportion of Law Students and Lawyers Suffering Psychological Distress and Comparisons
	2 also surveyed at beginning of year	rate for cohort 2 (second survey) – but reasonable for cohort 1 and cohort 2 (first survey) Some data on sample reported but assessment of representativeness not reported (except that females overrepresented)		• Average scores higher than normative population of 18–24 at end of year (but at beginning of year lower on depression, higher on anxiety and same on stress) Note comment about low response rate for cohort (second survey): ‘This was possibly due to concurrent assessment pressures at this busy time of academic year’
Monash Study (2011)	First year law students at end of year compared with beginning of year	354 students at beginning and 331 at end of year All students in a compulsory first year subject Response rate not reported but appears good; excellent retention rate	DASS (full 42 items) Moderate or Greater depressive symptoms ABS 2007 (ie, clinical interview based on DSM)	15% at end of year • 8.5% at beginning of year • 6.2% in general population

Study	Target Population	Number of Respondents and Sample <i>All are voluntary self-complete online or paper surveys</i>	Measure of Psychological Distress	Major Findings about Proportion of Law Students and Lawyers Suffering Psychological Distress and Comparisons
		Assessment of representativeness not reported		
Bergin and Jimmieson (2013)	Lawyers; Cross-sectional single point in time	384 lawyers Convenience sample Response rate not knowable but appears particularly low Some data on sample reported but assessment of representativeness not reported (except that females overrepresented)	DASS-21 Moderate or greater depressive, anxiety and stress symptoms	37% depressive; 31% anxiety; 49% stress 35% hazardous or harmful drinking (FAST)
Melbourne Law School Study (2013)	Law students (all years in both LLB and JD)	327 students All students 37% response rate JD, fifth-year LLB and female students overrepresented	DASS-21 Moderate or greater depressive, anxiety and stress symptoms	27% depressive; 30% anxiety; 25% stress

Table reproduced from Parker, 2014, pp. 1108–9.

Note DASS is a measure of depression, anxiety and stress. The instrument was developed at the University of New South Wales.

Leaders in the profession need to step up and do something about this very serious problem. While it is difficult to identify a ‘cause’ it is clear the profession is placing a burden on its members. Remedial initiatives are clearly needed.

Lawyers operate in many cases behind a closed door, and despite being employees and told what to do and how to do it, the work remains a product of what they can each produce in their own minds, no one else's. There needs to be a system in place and a recognition that lawyers need assistance in this respect, and it needs to be mandatory. That can only come from the top. No one has taken the reigns to make it happen. It is the poor leadership exhibited in the profession as a whole that has led to the high rates of depression and mental illness and the failure to properly address it.

A Reflection on My Experiences: Why Are Lawyers Bad Leaders?

So many lawyers end up in positions of power and leadership, yet lawyers are inherently bad leaders. Our current Prime Minister is a former barrister, as were many former Prime Ministers. Likewise, Judges all come from the legal profession and sit in positions of leadership.

Lawyers don't put people at the helm with leadership skills. They generally put the person who is the rainmaker. Law has become about the generation of money and nothing more. Judges tend to take appointments to the bench as they have a genuine desire to be Judicial Officers. There is a financial attraction for people to become Judges, namely a significant remuneration package, including an extremely generous pension upon retirement. The Australian

Taxation Office data released in late 2016 listed the highest paying job for women, as a Judge, being paid \$355,844.00 per annum. Judges are appointed as they are recognised by other Judges as possessing great legal skill in their area of expertise; not their ability to be a leader.

Why is it so? It starts with the universities. When one looks at the subjects taught at law school, they have not changed in decades. History of the law is taught, black letter law is taught, advocacy is taught, yet absent from the Australian University law degrees is leadership. It is not to say that the problem would be solved by teaching leadership, but it would be a great start and a step in the right direction to have law students begin to think of the ways in which they can lead, and the expectation they can have of their leaders.

The problem would be less of a problem if legal education focused on skills essential for leaders. But in fact, there is a profound disconnect between what the legal faculties teach and what leaders need.

Let us examine some qualities that make a great leader and cross reference those with a number of Australian University Law School degree syllabuses. Again, these qualities are not empirically derived, they are suggestions founded in my interactions with all segments of the legal profession.

Empathy: most law students will never hear the word at law school, let alone read or study it. In 27 years in the profession, never have I heard the term used in the law in a genuine way.

It is without doubt that lawyers profess to practice empathy, and indeed advertise their services in such a way. It is contended that although such manner of operation is professed, it is not practised. Westaby & Jones opine (relevantly despite being in the UK, having a similar legal system to Australia) 'Despite the increasing usage of the term empathy, it is questionable whether the concept has truly become accepted, much less embedded, as part of legal practice within the UK. This is arguably because, although empathy is not in itself an emotion, it does involve an emotional reaction and traditionally emotions and the affective domain overall have been denied a place in the practice of law'. (Westaby & Jones 2017 p.108).

- Inspiration: Once again, lawyers are not taught how to inspire. As a by-product of reading cases a law student may be inspired by the legal prowess or genius of a lawyer, but never are law students taught how to inspire beyond the notion of being a superstar lawyer.
- Influence: Once again, not taught at law school beyond possibly influencing a Judge or a jury to your way of thinking, but not in the context of leadership in the legal profession as opposed to in a courtroom. Interestingly the importance of rhetoric as a tool of persuasion goes back to the ancient

Greeks. In medieval times it used to be taught in universities. Aristotle considered it an essential ingredient of both politics and logic yet apart from the exposure to moot courts, students have no experience or knowledge of the skills required for effective and persuasive communication.

I have examined the syllabi of various law schools, and these subjects are simply not offered. Australia is not an outlier; the same can be said of law schools in other. There needs to be a re-evaluation of how the law is taught, and what complimentary subjects ought to be made compulsory to stop the long-term problems being faced.

'Lawyers are taught to argue. Lawyers are taught to scrutinise. These are great qualities that a lawyer needs to be a lawyer, but that are counterproductive with respect to becoming a visionary. Lawyers 'tend to be above average in scepticism, competitiveness, "urgency," autonomy, and achievement orientation. Scepticism, the tendency to be argumentative, cynical, and judgmental, can get in the way of inspiration, vision, and training that focuses on "soft skills." '(Rhode, 2011, p. 475).

There is an obvious incompatibility between the skills that require a lawyer to be a lawyer and a lawyer to be a great leader. Lawyers have a tendency to want to be the best in their area of law.

‘Being the “smartest guy in the room,” the quintessential achievement in many law school and practice settings, is not always useful for leadership... The typical leader is only slightly more intelligent than the group he or she leads, and the most intelligent person is not the one most likely to become the group’s leader’ (Rhode, 2011, p. 475).

The additional reason that lawyers do not make great leaders is that the journey of becoming a lawyer is a long road. The destination is the practice of law and to be great at that practice, else one would not aspire to travel down that road. In order for a lawyer to be a good leader, and to create an environment for others to shine, that lawyer who becomes a good leader, may no longer have the resources and time to then shine as a lawyer him or herself, but will shine as a leader instead. It is with regret that I concede that as a lawyer, it is perhaps not possible to wear those two hats at the same time. ‘Their [the leader’s] success is unequivocally derived through others’ those whom they lead’ (Chatman & Kennedy, 2010, pp. 156–7).

Other causes generally why lawyers are not leading effectively

The structure of the law firm is such that there are many heads trying to fit in the one hat. That is, the partners interests may not all be the same. It is not one leader, creating a cohesive inclusive environment. It is a number of equity partners all of whom think they are always

right, and quite often as a result, end up in partnership disputes and breakups.

Partners tend to worry about themselves. It is all about what they can individually achieve, and they often forget about the betterment of the firm. They concentrate heavily on themselves and very little on leadership. There seems to be a degree of ownership of what a partner knows, and they are reluctant to teach their staff, which is counterproductive to the improvement of any organisation. One of my respondent interviewees (DBA) made this very point in his interview. He said his employer had told him:

'If you stick with me, I will teach you everything that I know.' Of course, that wasn't the case, and I found myself at one stage, as I was being let go, where I raised that with this particular practitioner, and that practitioner said to me, "Why should I tell you everything that I've learned?" (Interview DBA 2017)

Likewise, lawyers are not prepared to go out on a limb – or stick their necks out. They simply stick to what they know which is billing and billing and then billing some more.

This is the context that I have encountered over the last few decades in the profession. It is regrettably that I do criticise the very profession that I aspired to become a part of from a young age. It is of concern

that little or nothing is being done to make the profession a more palatable experience, particularly for the new generation of lawyers. I hope that one day, the context which I speak of will evolve, so as to make this research redundant. Making this thesis redundant would be the greatest win of my career.

The Positive By-Product of Being a Minority

I have spoken in detail about the difficulties I faced in the law, feeling isolated, to the point of having to change my name. Likewise, I have spoken about the effects that the law does have on one's mental health, arising out of the system itself, coupled with an environment of sexual harassment, discrimination and bullying. I do however recognise that ethnic minorities have often been innovators in social systems but have had to work extremely hard in that endeavour.

Harry Triguboff, the son of a Russian who came to Australia in 1948, revolutionised the way Australians live. He was born in China to Russian parents who had fled the communist revolution. After some time in the United Kingdom, Israel and South Africa he became involved in the construction industry in Sydney, building apartments. He is now Australia's richest person and a major voice in construction (Bleby, 2017). Frank Lowy, another successful immigrant who spent part of his childhood in a detention camp in Cyprus started Westfield with malls across the globe. Following World War Two, Czechoslovakian born Lowy joined his surviving family in Australia in

1952 and went on to become a giant in Australian business. His projects in London have been lauded for their significant contribution to the UK economy at the time of the Global Financial Crisis (Condon, 2017). Ruslan Kogan moved to Australia in 1989 from Russia and lived in public housing. He started the multi-million-dollar Kogan business from his parents' garage in 2006. He attributes his success to the work ethic he learnt from his migrant parents (Boyd, 2017).

The marginal man is a term used in mixed cultured societies (Park, 1928). I am, on all counts, having regard to the material below, a, marginal man.

Robert E. Park first wrote of the marginal man in 1928, in his work found in the American Journal of Sociology, 'Human Migration and the Marginal Man'. In essence he opined that the first generation of migrants did not fit squarely into their parents' culture nor did they fit into the new environment the parents had emigrated to. 'An individual who lives in two different worlds – and is stranger in both' (Rogers & Steinfatt, 1999, p. 45).

It is no secret having regard to the material above that I felt marginalised. I felt as though I simply did not belong. 'He will become the target of whatever hostile sentiments exist between the parent races. Thus, his problem of adjustment will be made more acute' (Stonequist, 2004, p. 65).

'It is in the mind of the marginal man that the moral turmoil which new cultural contacts occasion manifest itself in the most obvious forms. It is in the mind of the marginal man where the changes and fusions of culture are going on—that we can best study the processes of civilization and of progress' (Park, 1928, p. 893).

Being a marginal man made me fight harder. In the same way the success stories I refer to above, I too felt as though there was a point to prove, and I worked as hard as I had to.

Chapter 2

Leadership literature review

**Justifying my personal contingent leadership paradigm (my
leadership approach)
based on deductions drawn from the literature of leadership**

Fixing it!

The Proper and Forgotten Purpose of a Law Firm

Underlying all cultures is a network of implied and explicit rules. The implicit rules are expressed in courtesies and conventions while the law articulates the explicit ways in which society agrees it should be regulated. The law is integral to the harmonious integration of all the disparate elements of society.

Lawyers are meant to be there to assist people, assist the betterment of the community and help build a stronger nation. Lawyers are a vehicle to help enterprise, large and small, prosper. Lawyers are there to protect those in need. To stand up for the underprivileged and to bring about an outcome which reflects the truth. The difficulty has become that law firms have focused predominantly on making money. They have forgotten their true purpose.

Law firms need to start by considering and caring for their most important stakeholders, their employees.

'How employees feel about their job has an impact on their work experience, but also on tangible business outcomes such as customer satisfaction, sales, and profit... positive changes in employee attitudes lead to positive changes in customer satisfaction.' (Bulgarella, Caterina 2014 p.1).

There is a causal connection between employee happiness and client satisfaction. There is a 'causal impact of employee perceptions on these bottom-line measures'. (Harter, Schmidt, Asplund p.1, 2010)

I am not suggesting that law firms should not consider their clients; a failure to do so would lead to failure. I do however emphasise the need to cater to the clients without it being to the detriment of the employees.

The objective of most law firms is to make great profits. That is not to diminish the good work that is done. However, law firms need to give back to the community. They have a corporate and moral responsibility to do so.

Law firms can act for clients in need on a pro bono basis. Our firm does precisely that. We aim to assist those in need and assess any such matter on its merits. I insist on providing free legal services once satisfied that the person in need merits free representation.

Law firms ought to contribute to the community by providing free legal seminars, sponsorship to schools, and charitable donations. By way of example, a certain percentage of the profit made by our firm goes to a charity of our choice. I prefer not to disclose the amount or charity.

Without breaching the intellectual property rights of another firm, one can only admire and aspire to the “Statement of Firm Principles” adopted by Paul, Weiss, Rifkind, Wharton, & Garrison LLP:

‘It’s themes include interdependence, excellence, close relationships and friendships, democratic values, community involvement, preserving a healthy life, innovation, imagination, wholehearted dedication to the best interests of clients, work performed with care and craftsmanship, integrity, readiness to always help when needed, and building a law firm in which all associated with it take pride.’ (Brafford, 2014, p. 39).

The principles and values I strive to apply are simple. As Collins said, ‘I aim to be the hedgehog and no longer the fox.’ (Collins, 2001, p. 71). That is, take what is complex and simplify it. Make it easy for all. As a leader it is essential that one must direct and in part therefore control. To instil in followers that there is no uncertainty, ‘eliminating uncertainty and dealing with negative deviances.’ (Karp & Helgo, 1990, p. 30). ‘Ultimately the leadership style one adopts springs from one’s core ideas and feelings about the nature of man’. (Covey, 1991,

p. 69). My vision is to provide legal services whilst not stepping all over the employees to satisfy the clients.

My vision is to foster a workplace of friendship, interdependence, democratic values, promoting a healthy life, delivering legal services with the highest level of integrity. To develop an organisation that people want to work with and assist in succeeding. My workplace is different because it recognises that people are people. They are human beings and not cogs in the machinery. It recognises the needs of humans. It recognises the frailties and shortcomings of humans and remains humble and empathetic to the needs that each human has in the course of living life. I fell into the trap of being a lawyer before I was a person. It destroyed me for many years. It made me far from happy. People are people first. They are what they do second.

‘Leaders who can create and then effectively enact such vision are designing their organisations’ futures and are typically seen by organisational members and by outside observers as visionaries.’ (Sashkin, 1989, p.123) The vision is an underpinning bolt of my personal contingent leadership paradigm.

My personal contingent leadership paradigm vision ‘focuses action, provides direction, and inspires... stakeholders in all parts of life to move in a direction [I] choose — ...a compelling image of an achievable future’. (Friedman, 2009 p.1). What does that really mean

in my context? My mission statement is delivering legal services in plain English at a fair price, maintaining highest ethic levels, ensuring that justice is not just seen to be done, but in truth done, putting the interests of the people that I work with, first. That is what I want the organisation to do. But the vision is to have everyone moving in the one direction, with the same goal in mind. The creation of a happy employee which will have the follow-on effect of all other stakeholders being happy.

Leadership ought not be mistaken for management. My personal contingent leadership paradigm does not see fit to micro manage individuals. My leadership is, as the word connotes, to lead my people. 'No one has yet figured out how to manage people effectively into battle; they must be led.' (Kotter, 1990, p. 104). I want a culture of discipline. It is no use having a leader that imposes discipline. It is short sighted to simply be telling people what to do. That may very well serve its purpose in the short term, but what happens when I leave? The discipline disappears with me. That is hardly visionary and hardly leadership. The culture of discipline survives the leader leaving the organisation and that leader becomes replaceable. The terminology 'culture of discipline' is easily misunderstood. I do not use those word to depict a regimented workforce, rather a group of humans who are happy, genuinely wanting to be in the role they are in, and genuinely wanting to do the right thing, by the firm for which they work, and the clients whom they serve.

‘The stakeholders do not suffer as a result of the leader leaving his or her office.’ (Caulkins, 2008, p. 218). Stakeholders – How do I ensure that my staff, being the most important stakeholders, don’t leave? Remembering that the first thing one must do is to have the right people on the bus so as to create a culture of discipline. (Caulkins, 2008, p. 219). If one’s house is not in order, with satisfied employees, it can never focus on those external to the firm.

There is no long-term benefit in *pushing* people in the right direction. No one wants to be told what to do. I propose to adopt the Kotter approach. (Kotter, 1990, p. 107). As a leader I must satisfy peoples’ needs of achievement, provide them with a sense of belonging, recognition, self-esteem, give them a sense of having control over their lives, whilst allowing them to live up to their ideals. People respond to this. I explore this further in my thesis with an interview with former CEO and founder of Hungry House UK, Tony William Charles.

Australian leaders are said to be more egalitarian than leaders from the United States of America. (Parry, 1996, p. 2). This is premised on Australians as a whole being more egalitarian. That being the case, Australian leaders need to recognise that this has become an expectation of stakeholders. As a leader I need to be ever mindful of this live issue, given that most of the research conducted on leadership stems from either the United States of America or the

United Kingdom. I believe in the equality of people and that must be evident to the stakeholders. 'The difference between a boss and a leader: a boss says, 'Go!' - a leader says, 'Let's go!' (Kelly, 1995, p. 1). That is the style that Australians are accustomed to. A good leader will always say 'we' rather than refer to himself as 'I' (Drucker, 2004, p. 2).

Leadership requires embracing change and being ready for change and being able to cope with change. (Kotter 1990 p. 104). Kotter opined in 1990 that there were faster changes in technology – the speed of the changes he referred to has multiplied exponentially since then. International competition has spiked as a result, with the world becoming a stage for more players, from all parts of the globe. The lawyer sitting on an island off the coast of Vanuatu, can advise an Australian client as if he were sitting in George Street Sydney. The deregulation or effective deregulation of markets is ongoing. Look at the price of taxi plates since Uber emerged. The point is that change is constant, and one must be accepting of it as sure as death and be ready to cope with change as a leader.

When I combine all of the above factors into my melting pot, particularly with level 5 leadership (expanded upon below) and a culture of discipline, I progress one step closer to going from good to great. A personal contingent leadership paradigm that is centred

around people. (Caulkins, 2008, p. 218-19). Caulkins was of course referring to Jim Collins' work.

When I say level 5 leadership I refer to a number of matters. Firstly, being humble, but having the pedal power and desire to put into motion and keep in motion the delivery of our vision. The right people will allow me to retain a culture of discipline. We have disciplined thought in so far as there being no bureaucracy or hierarchy. The actions are also disciplined by each and every person work with, thereby eliminating the need for excessive controls.

The justification for my paradigm is simple; without an egalitarian approach, the systemic problems in the legal profession will continue to resound. Without an inclusiveness, the dictatorial autocratic style will continue to foster a culture that is toxic, leading to disenfranchised employees, and dissatisfied clients. There must be change. Without that change, the profession will become transient in that lawyers will leave; lawyers will leave the profession in the pursuit of other careers, as without change, a career in the law will lose longevity.

This may be familiar to some readers as a reinterpretation of the concept of democratised workplaces. This is well known. The Tavistock Institute in London provided theoretical and operational justification for the effectiveness of such workplaces, starting in the 1950s. The interested reader can follow this history in the following

link.

<http://journals.sagepub.com/doi/abs/10.1177/001872677803101204>.

The question that now presents itself is why, in the 21st century, have I sought to resurrect the lessons that Tavistock brought to the industrial world? The simple answer is because modern commerce seems to have forgotten the historical lessons of workplace organisation. To some extent this is understandable as technological changes have altered the nature of the old industrial production system. Secondly, services have taken a new prominence in today's economy, one which was not anticipated as the world emerged from the great war. However, my belief is that these democratic initiatives need to be reasserted, particularly in my vocation, the law. The old command and control philosophies, together with the hierarchical leucocratic functioning, need to be reimagined.

Hedgehog Concept

Isaiah Berlin in his work *The Hedgehog and the Fox*, focuses on the idea that thinkers are divided into two groups, namely the hedgehog is great at one thing, and the fox that knows a little about a lot. I appreciate that is a very simplistic view of that work. I contend that one must be the best at what they do. In my case, being the best leader of a law firm, a firm that delivers legal services at a fixed fee, not only in New South Wales, but across the globe. It matters not that I am not a Hong Kong lawyer, or a New York lawyer, the system is the

system; the skill set may need some change. That is, we will need local lawyers suitably qualified in those jurisdictions. We are not the best now, but the law is what I do, and what I have done for a very long time, an ability that put simply, just exists and works. There is a need to keep working at it, and I will learn and develop along the way, to becoming number one.

The law has been and continues to be my life. I do make and must continue to make my income from it. It is how I feed my children. There is no use pursuing the delivery of legal services in any model if I cannot make a living from it. A business must make a profit. I have proven that I can, and using my new firm, adopting my personal contingent leadership paradigm, I am proud to say that it is more profitable now, than it has ever been in almost two decades of self-employment. It has taken a very long time to realise I was doing it wrong and had the wrong people on the bus.

I have been passionate about the law for a very long time. One cannot wake up every morning and do something they are not passionate about. It is short lived.

Duality or Something Else?

I have adopted a concept of duality in my personal contingent leadership paradigm which is different to the traditional concept of duality. I refer to it as 'simultaneous duality'. Like playing a game of

chess against oneself. It is not as simple as there being black, and therefore white; there are shades of grey. I prefer to see the duality as dark or light. By that I mean that there is no need for a leader to take sides. I do not need to be on one side. I can state my preference and do so on the basis of what I am passionate about, what I believe in.

Modesty

Although this thesis speaks with some gusto about me, that is the purpose of this work. I am a humble person and do not speak of myself with any airs and graces. I am down to earth. I don't wear a suit. I don't use a Mont Blanc \$1000 pen. I don't meet clients or staff with a Rolex adorning my wrist. I don't drive a Porsche; rather a little Fiat 500 which is kind to our environment.

When I speak of what we do, it is what 'we' do. I speak of the others that work with me. I do not speak of me. The ambition that our firm has is not mine. It is everyone's. I want those that succeed me to *succeed* in a greater way than we have to date. Those that work with me aspire to greatness as I inspire them to deliver legal services at the highest possible standard with a view of becoming number one in the world.

That modesty extends to a sense of humility, and having respect for not only each other, but all those we encounter.

I lead by example, with a constant desire to be different. Not simply for the sake of being different but because to simply stay still, means a failure to recognise change, and the need to adapt with it.

‘In the end, all leadership is about the establishment and maintenance of a successful productive community of individuals who recognize and respect their mutual need for each other’ (Gini & Green, 2013, p. 3).

Within the context of contemporary leadership discussion, this resonates with the concept of authentic leadership. However, my orientation is to see this mutuality as a profound quality of human interaction. As such it is reflected in most world religions and much of what is written in contemporary psychology and the philosophy of ‘self’. Again, this is not new, but I argue that the growth of legal practice has simply overwhelmed this fundamental aspect of human behaviour.

Values

These are in essence the fundamental beliefs of our firm.

Legal Profession Leadership, Integrity, Honesty, Transparency & Love.

Legal Profession Leadership & Courage: The law has constantly been delivered to the end user in the same fashion since it arrived on

the Australian shores. The only thing that has changed is that a lawyer could have provided his or her services from a park bench with a pencil and notepad, whereas in present days, although that could still be viable, the large firms have taken the view they need palatial offices to impress - thereby adding cost to the delivery of legal services. Someone is paying for the view of the Sydney Harbour Bridge. Not much has changed in the way in which legal services are delivered in terms of the actual delivery. Every other profession, from banking to medicine are embracing technology. One can transfer a million dollars using a smart phone. Patients are being diagnosed over the internet for eye disease. (Waters, 2016). We are moving the goal posts. We are not afraid to make the changes that are so long overdue. We have the courage to stand tall and do what we know is right. 'We cannot become what we need to become by remaining what we are.' (De Pree, 1989).

Integrity and Honesty: Legal services are being provided to the client at a reasonable price. That is what we are doing, on a fixed fee basis. That does not involve gouging clients for exorbitant fees. Just because a lawyer went to university for a number of years and traditionally sits in her or his ivory tower, does not give them the right to gouge clients when it comes to fees. The profession was a noble one; I emphasise was. Now it simply seems to be about the bottom line. The firm I lead maintains a distinct level of integrity and honesty; there is an absolute truth and nothing less. This is our absolute truth,

because the notion of truth has become somewhat staged. Truth is like being pregnant. You can't be half pregnant. People have over time come to view truth as something you can be part time about.

We do not omit information, or simply ignore providing the clients with all of their options. A client may think they want something, when in truth it is only because they do not know about their other, and possibly less expensive, options. Likewise, if a client has a matter that we know there is nothing that can be done to assist, we do not make a time to conference them and charge them. This is an ethical dilemma for many lawyers, in that they need to consider whether to line their own pockets or put the client first. In my view, a lawyer has a conflict of interest in every matter as the advice they give may determine how much money they make out of the matter on which they are advising.

We tell clients frankly, over the telephone, we do not want to take your money for no good reason. Regrettably there is nothing that can be done for you. 'We don't want to take your money, we are not in the business of ripping people off.' They are the words we use. Colourful and effective. That client then thanks us, and in time either returns or refers someone else to us. Remembering that we are a referral business where 99% of our work is word of mouth. Most people think lawyers are all about money and my experience suggests there is a factual basis for this assertion. Interestingly. this seems to be more

characteristic of solicitors than barristers. I cannot speculate why this is the case.

One needs to remember that the client is an extremely important stakeholder, and no one likes to be *ripped off* in any circumstances. The expectation of the client is that they will be treated fairly and with respect. In order to achieve that, I must demonstrate to my staff the notion of integrity and honesty as their leader. Monkey see, monkey do. I am a relaxed and approachable leader, but that does not mean that I am relaxed about doing the right thing. I am honest in my dealings with everyone. Whether it be the suppliers of services to our firm, down to my dealings with the local café, I always prize the honour of integrity and honesty over rank and fortune. My staff see that. My staff like that about me because it makes me a 'good bloke'. My staff then emulate that as that is the culture of the firm. We are a warm and fuzzy firm that genuinely helps people, without ripping them off, whilst making a profit. We are turning the delivery of legal services into a feel-good product.

'...the leader is the soul of the organization. The leader's vision inspires and articulates the organization's mission; provides the basis for the organization's objectives and goals; communicates the beliefs and values that influence and shape the organization's culture and behavioural norms; and lays the foundation for organizational strategies, policies, and

procedures. However, it is the leader's moral principles and integrity that give legitimacy and credibility to the vision and sustain it.' (Mendonca & Kanungo, 2007, p.3).

Transparency: It is essential that when a client engages our firm, that it is clear what our engagement will cost. No one wants to receive a bill that takes them by surprise. The telecommunication companies were quick to fix that by providing fixed fee telephone plans. That worked very well. Surprisingly, lawyers cannot see that is the future. Builders pretend to provide fixed fees, but then vary their contracts to charge that little more. Lawyers tend to do the same. We do not. We provide a clear picture of what things will cost, and where possible (in most cases) try to do things on a fixed fee basis. That way, the client knows precisely what to expect. We don't have any nasty surprises in our costings. Most firms have shied away from fixed fees and continue to bill by 6-minute increments. Our fee estimate is precisely what we say it will be or less, at times. Clients are not only surprised but form a view about our ethics when they are given money back from what they originally paid us. It speaks volumes that you pay for something, and then the seller contacts you and says, by the way we were able to do it for less, and here is some money back. Once again as a referral business, clients come to see that we are a genuine, wholesome firm. Once more the expectation of the client is met. For too long the legal profession has been focused on telling the client that 'I charge \$400 per hour, and it's \$1 per page to copy the contract.'

Lawyers almost wear it as a badge of honour. The more one charges, the better he or she must be. Totally unnecessary – and designed to elevate the lawyer over and above the client. The client has no interest in inflating a lawyer's ego or how many stripes he or she has on their shoulders. The client simply wants to know whether you can help them with their problem, how long it is likely to take, and how much it will cost. They do not care if you are a Rhodes Scholar. That is the expectation. It is not difficult yet most overlook it. We don't. It also assists the employees as they do not end up in awkward discussions with the clients about additional costs. It lets everyone get on with the job. There can be no hidden mystery of cost. Ethics in any business demands transparency with respect to costs.

Love: We care. We care for our clients. We care for each other. As the leader of our firm, I care for my staff. I am passionate about what we do. I love what we do. I take every case to heart. I take my work wherever I go. I encourage clients to call me at any time (within reason) on my mobile if they have any issue, because I genuinely care. I do not want to see an injustice. Likewise, I truly care about the people I work with. I take steps to ensure that they are well physically, and mentally, and I encourage them to come and talk to me whenever they want. I also encourage them to talk to each other, and be leaders in themselves, to ensure that their colleagues are also ok.

Beyond the four walls of our firm, I encourage all those I work with to extend that notion to other members of the profession who aren't part of our firm. Love is infectious and if we all took a little more time to care for one another, every workplace, and indeed the world would be a much more desirable place, filled with ornaments, and not pretentious people. I do not believe this to be an expectation of clients, or employees. However, it is always received with thanks. Everyone wants to feel important and cared about and made to feel important. 'John Dewy, one of America's most profound philosophers said the deepest urge in human nature is the desire to be important.' (Carnegie, 1936, p.17). 'Our core emotional need is to feel valued. Without a stable sense of value, we don't know who we are and we don't feel safe in the world.' (Schwartz, 2011, p.2).

Esoteric Conclusion – Directed to Lawyers

Mussolini 'il Duce' translates to 'the Leader', whether one likes him or not, proved to be a leader of great power, in so far as being able to influence his people and have them deliver his vision. I do not make any comment with respect to whether I agree or disagree with Mussolini's view, as that is not only beyond the scope of this work, but irrelevant for my purposes. I do however assert that racism, religious prejudice, and any form of discrimination has no place in my personal contingent leadership paradigm, and I do not accept these views in any form or respect. Likewise, my personal contingent leadership paradigm has a democratic flavour with no pretensions of a dictatorial

style. In particular, I take this opportunity to remember those who lost their lives in World War II in particular the many Jews who suffered.

The purpose of referring to Mussolini is to demonstrate that leaders must be able to persuade their people to do that which they require them to do, so as to have their vision delivered. Having formed the National Fascist Party, it grew at a rapid rate because Mussolini instilled confidence in his followers. He led the Italians to believe that he could fix all of Italy's problems. In 1921 he was recognised as the leader of the Fascist party. He was oppressive but efficient and led as a dictator. He was well liked, and people listened to him.

Once again, I repeat that my personal contingent leadership paradigm is democratically based, but I examine why he was so persuasive. I have a personal connection to one such example of Mussolini's persuasion. One of the things that Mussolini did during the war effort, was to call upon all Italians, not only those in Italy, but those abroad, and have them donate their gold wedding bands to the war effort. In exchange for their gold, the Italians would be given metal wedding bands with the inscription 'oro alla patria', translated, gold to the fatherland. My grandparents each donated their rings. It is remarkable that such a person had such an influence over so many people – and I am cautious yet bold enough to say that he was a psychopath.

Mussolini used intimidation and force and providing people with hope in times of need.

Gunther called him "easily the best educated and most sophisticated of the dictators", and the only national leader of 1940 who was an intellectual. (Gunther 1940 p236)

Once you remove such a leader from his position, the entire system collapses. Indeed, it did. The dictator goes, and so does the so-called leadership. I take nothing from Mussolini except that, despite his tyrannical views, never the less, a leader must be able to persuade so well, that he or she can convince you to trade your gold for tin. But one need not be a dictator to do so.

Chapter 3
Evolution of the personal contingent leadership paradigm
How my personal contingent leadership approach evolved in
the past 10 years
and how it relates to the development of the paradigm during
my leadership studies

I did not know what a personal contingent leadership paradigm was before I began my journey into the study of leadership. Frankly, I was not quite sure what to expect. I knew that I had not been doing it right. I knew that the legal profession in New South Wales had not been doing it right for a long, long time. I was aware of change being ever present but not so aware that one must anticipate change and be able to adapt with it in a chameleon like fashion. The legal profession is draped in tradition and most do not want to see it change. The difficulty is that there is no control over change and factors external to the profession are changing thereby necessitating change amongst us. The external factors cannot be controlled by the profession, despite the profession being well entrenched in its ways. The same way the taxi industry could not stop Uber, and taxis have had to rethink their delivery, the legal profession will need to consider its position to ensure that it is not left behind by a failure to anticipate change.

When I try to distil what I have learnt thus far, and to relate these lessons to my leadership approach the following conclusions present themselves.

Asymmetric social relationships need to be replaced with two-way, symmetrical, models. By this I mean the traditional “top down” flows of communication and influence – where $A \rightarrow B$, $B \rightarrow C$, $C \rightarrow D$ etc - should be replaced with $A \leftrightarrow B$, $B \leftrightarrow C$, $C \leftrightarrow A$ etcetera. This implies that the traditional hierarchical design outlined in Chapter 1 (“Law Firm Structure”) needs to be abandoned.

The consequence of abandoning the hierarchical design is to bring about a sense of democracy into the functioning of the organisation and overturn the old autocratic model. At the emotional level, people need to be given a certain ‘permission’ to act in ways that can express their freedom and integrity. As Erich Fromm pointed out in his “Fear of Freedom” (1941) “freedom from” needs to be replaced by “freedom to.” Given the traditional old school nature of the profession, this will be an extremely difficult task. However, if I am to be true to my leadership ambitions, and practise the leadership I have embraced, it is my responsibility to implement these changes. It is perhaps a trivial observation but at the heart of leadership is effective action. Leadership is not possible if I sit on my hands.

And finally, the environment in which people work (and perhaps live) needs to be designed to facilitate these changes.

It is my hope that all these changes will lead to an organisation that has a positive emotional tone. It is difficult to describe this in concrete

terms apart from noting a phenomenon that is apparent to most people when they walk into a workplace. It is generally easy to tell, after a few minutes, whether it is a 'happy' place or not; whether people come to work willingly or are dragged there by necessity. It will not be an environment of bullies and bosses.

An issue that I experienced during the earlier half of my leadership studies and journey was that staff wanted to work from home. The modern era is such that if one has an internet connection and a laptop, then one can literally work from anywhere. Why should one be forced to travel into an office to sit at a cubicle and carry out their tasks? There seems little sense in that for some. All files are stored in the cloud and accessible by all staff. Telephone calls to the PABX systems are now cloud based and need not be at a physical location. Talented reception staff answer calls and connect those calls to any line one wants, anywhere in the world. We utilise the services of a serviced office company with locations throughout Australia and across the globe. In fact, 3000 locations worldwide in 120 countries, with 29 locations in Greater Sydney alone. We are able to rent conference rooms by the hour in any location to see clients, and that means that we can see the clients at a location convenient to them. Staff do not want to travel to town, and neither do clients. Many staff have commitments with children and allowing them the luxury to work from home is well received and that luxury is favourably reciprocated. It is a question however of having the right staff. If one does not have

the right staff, which I did not have when I first embarked upon my leadership journey, so I got rid of them. Get rid of the dead wood. Start again. I had a co-director and staff that were simply the wrong people. As a result of my studies in leadership, I had an epiphany whilst sitting overseas, preparing for my leadership studies presentation. It was simple; the only way I could achieve my empathetic leadership styled firm, was to let everyone go, including my business partner and start again. I would never have done this but for the studies that I was undertaking at the time, namely my first trimester of my Doctorate in Business Leadership at Torrens University Australia. My studies in leadership caused me to shut down the firm that I was in and start again. I took the drastic measure as I was sure then, that without the right people, it was never going to work. If it is not working, throw it out the window and start again. Employ the right people. Problem solved. Could it be that simple? I have said in my earlier work that the implication of my proposed personal contingent leadership paradigm would be simple if I were to have the right people to start. If I simply terminated the non-disciplined employees, and only employ people that are disciplined, and I embrace them in the fashion set out in my personal contingent leadership paradigm, then it will not matter where they work from. They could work from the boot of their car or a beach on the French Riviera. I had previously said in my earlier part of this journey that it simply will not matter. I was right. This has been in place for a 12-month period now, and no firm I have ever been involved in, has ever functioned as well as this one. Like-minded people who

share in my vision and genuinely want to build on my vision will succeed and will not need supervision. As long as I am doing my job; that is, ensuring they understand the vision. The rest falls into place with the right people on board. Quite frankly, I will embrace and am embracing people wanting to work from home as it does make them happier. They want it for a reason. The right person will want it for all the right reasons and not sheer laziness. For example, some might find it a total waste of time travelling 90 minutes to work and 90 minutes home. Others may have a genuine commitment with their children that will not negatively interfere with their work but will in fact have the converse effect. Happy employees are more productive. The organisation prospers and in turn the employees become happier than they were to begin with. It is perpetual. 'People in high performing organisations tend to be much healthier and happier. Because they are treated as the most valuable resource of the organisation, they assist each other in making quantum leaps in quality and productivity.' (Covey, 1991, p. 72).

There are challenges. I am not suggesting that there is a perfect personal contingent leadership paradigm; in fact, I contend that one should always work on their personal contingent leadership paradigm given that change is ever present. It should for all intents and purposes be a work in progress. People are people and there will always be challenges. What is the answer to these challenges? One must firstly acknowledge that people like to feel important; not once

or twice, but always. The autocratic yearly salary review is not enough. That needs to be at the forefront of every leaders' mind. That, coupled with the fact that the only constant in life is change. One must embrace change in an evolving context whilst never losing sight of the single most important stakeholders – employees; even when those employees are not all sitting in the same office on level 25 of the palatial offices in the centre of the CBD.

Virtual Teams

I am leading virtual teams, and despite being challenged by some as to the viability of this approach, it is working efficiently and contently. Virtual teams consist of individuals who work from different locations but are connected via email, phone, video calls, access to common data such as cloud storage of files and resource material, such as precedents. Likewise, the library of legislation and cases which once adorned my office walls, are now all online.

The immediate upside is that I can extend my working day by 3 to 4 hours in so far as the client is concerned given that Perth, Western Australia has a time difference with Sydney, New South Wales, and the law is essentially the same in New South Wales as it is in Western Australia. I propose to expand this further, and ultimately have teams working overseas as there are aspects of the law that can be carried out in a process-style work fashion. The added advantage is the bringing together of diverse cultures and skill sets. This is something

which has been overlooked for too long, given that lawyers have traditionally come from white, Anglo-Saxon, wealthier families. Having a mix, a diversity, adds flavour and importantly brings a broader view to the working table. Why one would limit this, stands only to defy logic and imposes an embargo on intelligence from a variety of sources.

Lawyers Working in their Pyjamas

In so far as lawyers working from home, it means that our reach is greater to clients as we have lawyers available to see them at a serviced office closer to the client's home. Our reach is far wider, and it also means that staff do not need to travel into the traditional Sydney CBD offices to see a client. Staff travel to the office location best suited to the client. It may be further at times than the Sydney CBD but staff never the less prefer not having to travel into the Sydney CBD. Naturally there are issues surrounding not being in one location. Fostering and maintaining a culture, the development of relationships and friendships amongst colleagues, and most of all the ability to rely on one another and work collaboratively. The way I begin in leading such teams is to be clear from the outset in so far as the what is expected. That is, identifying the role to be undertaken by the staff member and then training them on the execution and delivery of that role from a remote location.

I repeat, that having the right people for the defined purpose is an essential element of the virtual team environment. It all begins with and relies heavily upon having the right people.

Many have tried using teleconferencing over the years, and that has worked to a limited extent when used in isolation. There needs to be face to face contact with clients so as to avoid a loss in confidence. Not having full time office space and using shared space cures that difficulty. Clients know there is a bricks and mortar location where they can meet when needed as opposed to simply hearing a voice on the other end of a phone. Shared office space in New York by way of example has boomed. Why have a boardroom twenty-four hours a day when one may need it one hour a day? New York City's SoHo neighbourhood, fast-growing *WeWork* is now the second-biggest private office tenant in Manhattan. It provides shared office services. (<https://www.recode.net/2018/3/22/17119012/wework-massive-growth-second-biggest-office-tenant-new-york-city-manchattan-cowork-space-real-estate>) (By Rani Molla and Shirin Ghaffary 2018). Lawyers in Australia need to embrace this as a concept.

The Culture

Creating and maintaining the culture of the firm is challenging when every team member is at a different location. Once more, the view and strategy I have adopted is to look for people with the same ideals.

Having the same ideals is not to be confused with not having a team inclusive of diversity. The same ideals, such as a having a genuine commitment, being reliable, adapting quickly, and allowing others to rely on them, and in turn being prepared to rely on others (without being too proud to do so), whilst always providing recognition to one another. My firm is more like a family, not a corporate hierarchy with ladders to climb. There are no ladders.

The Little Drummer Boy

This is a story I have told on many occasions, as it happened to me at a very young age, and I carry it with me wherever I go. As a child I learnt to play the drums. I went to a wedding at the age of about ten. I asked my father if I could play one song with the band. He asked them. They laughed. They said yes. They asked me what I could play. In response I bravely said, 'whatever you can play, I can play!' They laughed louder. Soon enough they realised that I could really play – as good as, if not better than their regular drummer. I ended up playing for about an hour. The band leader asked my father whether I could join them at future weddings. My father quickly replied 'no, my son is to be in the crowd enjoying himself!' The band director, an elderly gentleman said: 'son, one day you'll be in a band. Don't worry about members' abilities. Make sure you all get along. Make sure you are all similar. The players can always improve'. I have never forgotten that advice. It has formed the basis of the leadership style I have tried to

adopt over recent years. Egalitarianism perhaps? Looking back, I wish I had had a leader like that band leader in my journey in the law.

Identifying as a Team

I accept that a shortcoming can still be the issue of the team not being able to identify as a team, but each member merely as a cog who works for the company. That can be a recipe for disaster. The first thing I do is when a new person starts, I have all team members meet for a social gathering, including me, at the expense of the firm. Members are encouraged to come to know each other a little more, and those who are able to, to meet regularly. Apart from meeting socially I meet with each employee face to face once per week, and at times have a meeting with two employees at once, not to save time, but to create that sense of belonging. I encourage face to face contact at the financial expense of the firm for staff members to meet and discuss matters they are working on. Collaboration is extremely important. I speak to every staff member every single work day. Everyone is supplied with a company mobile telephone and every staff member has everyone else's number. It is accepted that there is free communication between all, with an open-door policy, but respecting boundaries and times. Video calling is also encouraged with everyone having access to Skype. Likewise email contact is available. However, there is an email policy to assist the people I work with, not becoming overworked. No email is to be sent after 6pm at night. That is time for people to spend with their families and friends.

Work cannot occupy one's life 24 hours a day. That is short lived. I worry about and consider the welfare of those that work with me.

Empathy – Who?

Empathy. I cannot stress the importance of the word, which in truth I practised almost never prior to embarking upon my leadership journey. I only started to practise empathy when I finished the first trimester of my Doctorate of Business Leadership. I did not see the importance of it prior to that time, and it was the epiphany that I spoke of above that allowed me the courage to cut loose those who I worked with, including a business partner who I did not view as empathetic or allowing me to practice empathy. Surrounded by autocracy suppressed my true nature of practising empathy.

Being aware and having an understanding of another's position and really being able to communicate to them that you know how they feel is the golden rule of leadership.

In order for that to be possible, the starting point is that I must listen to employees and they must know that I am listening to them. I often repeat to them what they have said to me, so as to assure them that I have listened and understood. I then take on board entirely what they have said and give them all the time that is needed to work through whatever the issue is. I have taken a back seat and am not hands on doing the legal work anymore, as I take the view that a leader needs

to inspire, motivate, and have the time for their people, be available to their people and if they are not, they fail to demonstrate empathy; and that is how they will be perceived by their staff, as if they do not care. Perception is important as it is the way in which the people who count most, see you as their leader. It is what is absorbed through *their* eyes with respect to the way their leader treats them.

This system is working and will continue to work. It is an inclusive cohesive way of working. The autocratic style I once adopted failed. We see young lawyers change jobs frequently. It seems no one stays with an organisation long enough to even remotely use the long-lost term 'long service leave' anymore. Regrettably I have been an autocratic leader to keep young lawyers in line and ensure they do not make mistakes. That was an extremely short-sighted way of approaching new lawyers. I am also aware that many young lawyers have side line jobs. It is so easy to build a website and sell wedding invitations; the availability of product from Asia from websites such as aliexpress.com and dhgate.com, and the ease of advertising through social media means young lawyers are not always focused on being a lawyer when they are occupied in a side line enterprise. In a newspaper article as recently as 6 June 2016, Miranda Gillespie (commercial lawyer) is featured as having a side business selling second hand designer handbags (McCauley, 2016).

The implications of putting my proposed personal contingent leadership paradigm into practice has raised some eyebrows. I have been met with some degree of suspicion. I have had to earn my stakeholders' trust. With the passage of time, and an ongoing egalitarian styled personal contingent leadership paradigm as outlined above, I genuinely believe that employees will not want to leave me, that they will not want to venture off to do other things, and indeed as the word spreads, many more young lawyers will be knocking down the door wanting to work for the firm that treats its employees as its most important asset – because they are.

Destroying Depression, Bullying and Harassment

I see systemic problems in the nature of bullying and harassment disappearing as a result of what will be a harmonious workplace, both in a traditional office setting and the non-traditional style with people working remotely. That will be as a direct result of having the right people, disciplined, sharing in one vision. Maintaining the harmony will require a culture of ongoing recognition, both by me as the leader, and by others both within and external to the organisation, to one another. The hope being that instilled in every single stakeholder will be the notion that they are each a leader in their own respect, fostering leaders and not followers.

The issue of depression is one that I have been monitoring since adopting my new found egalitarian style. Having been in the

profession for many years, I am able to comment on my observations of what appears to have depressed colleagues, depressed me, and the consequences of that depression.

I contend that we were not hardwired to fight every day. A lawyer, more so a litigation lawyer, is juggling fifty files, wherein he or she is fighting on behalf of their client. In order to simultaneously have that many fights, most lawyers need to work eighty hours per week including at least one day on the weekend. Many lawyers work most Sundays to prepare for the week.

There is an expectation that lawyers will bill 7 hours work per day. My experience is that in order to bill 7 hours, one must work 12-13 hours a day.

Coupled with long hours, extreme workloads, and the stress of having to fight daily, is the employee needing to answer to their boss, who in my experience is as overworked as the employee and as irritable as the employee.

The combination of the above causes an enormous amount of stress, additional stress at home resulting from the long hours, and the nature of the work itself and the vicarious trauma that attaches to it, for example in dealing with criminals or family breakdowns. From my own personal experience, sitting in a room, at Goulburn prison, with a

person who has murdered someone in cold blood, or watching a mother or father lose their children, stays with you. It matters not how many years one is doing this type of work, we are not immune. Lawyers become depressed. They resort to alcohol to self-medicate, and many use illegal drugs.

I have taken steps to ensure that the people I work with do not suffer this fate. They are remunerated on a percentage basis, which means they can make reasonable remuneration without working one hundred hours a week. I insist on not working beyond 6pm. I encourage all to work from home, thereby saving the additional travel time, which means people can have some additional family time. No one is to work weekends unless it is an emergency. In addition, I speak to the people I work with as often as I can, and I often call them to simply ask how they are. I encourage yoga classes and meditation classes at the company's expense. I also encourage attending a gym at the company's expense. No one deserves to live life depressed. It is a wretched disease that I have experienced. I encourage all people I work with to talk to me about anything and everything. We deliver our vision united, and as a leader, one must ensure that people are happy and healthy.

Staff Outside Our Four Walls

When I speak of people that we work with outside of our firm, I speak of barristers. Barristers are at the private bar and we call upon them

as experts to assist in difficult cases. The relationship is a personal relationship between the lawyer engaging the barrister and the barrister. It is not a relationship between the client and the barrister. I adopt the same approach with barristers external to the firm, to persons working with me in house. If they do not fit the model, if they are not disciplined and do not share in the vision, despite not being employees, I will simply not utilise their services. I mean no disrespect to any barrister. I am driving the bus, and ironically, I will decide who gets on, and who gets off. I need to be clear sighted in that decision-making process, in order to create a non-autocratic environment. I was in a QC's chambers some time ago. He called his secretary into his chambers and asked her to type a document he had dictated. She typed it and returned it to him promptly. He examined the document and, in my presence, and the presence of my client yelled at her that she had made errors. She promptly returned to her desk and made her corrections. She handed the document to the QC once more, he read it and found an error. He scrunched up the paper, and threw it at her head, telling her to get out and fix it. If I was not there, I would never have believed that could happen. But it did, before my eyes. I stood up for that lady and although I was merely a junior barrister at the time, I reprimanded the QC, in the presence of the client. Perhaps I erred in doing so, but his conduct was inexcusable. I never utilised his services again, and never will. Thankfully he is no longer a barrister.

Who Makes the Decisions?

The effect of my proposed personal contingent leadership paradigm on my decision making is evident and resulting directly from the aforementioned stakeholder collaboration. I have already made the decision to rid myself of the “wrong” people, partner included, and have the right people on board. From there, the ongoing decision-making process becomes a self-fulfilling prophesy in that my stakeholders will be making decisions with me, and indeed without me. They will be of the same mind and travelling along the same path guided by a uniform vision.

I have changed my attitude toward staff. I have stopped being the stuffy autocrat and become one of them. I am no longer focused on being the dictator, but the person who inspires my followers to achieve our common purpose. I have removed the barriers *to* me. That is an aspect of leadership I thought I would struggle with, but I have not. Staff can reach me freely. They each have my personal mobile number, my home number and have all been to my house.

I am *there* for staff and not ‘there because I have staff’. There is an enormous difference. I no longer see the utility in standing over staff. If I need to stand over staff, it means I have the wrong staff. Get the right staff, make sure they understand where we are headed, and let them be. Essential to this paradigm is therefore communication with stakeholders. Getting the right staff poses a plethora of problems,

and advertising is not the cure. Word of mouth, or simply knowing those that I approach is the best approach. Ensuring that future staff will fit in; they do not need to be legal geniuses. One can improve technical skill.

I need to keep my employee stakeholders engaged. That is different to educating them as to my vision. That is, I need to keep them involved, appreciated and part of the team, I must return to part of the advice given to me by Mr Robert Ansett in an interview I conducted in earlier leadership studies as part of this doctoral work. Communicate well. Be passionate. Have energy. Lead by example. Express and recognise followers – be generous with recognition. Recognition can take many forms. A simple thank you. A pair of tickets to a show, or a day at the races. Recognition is a small price to pay when you consider what value it provides to the stakeholder. The value is immeasurable. I note that Robert Ansett had to sell the business due to significant macro-economic changes, but that sale did not reflect on his success in inspiring his organisation.

I have thrown my autocratic hat out the window. Autocratic leadership is a thing of the far gone past, and to effectively lead, people need to let go of that antiquated notion. The way I behave as a leader and the vision that I set, will reflect upon the way my stakeholders behave and perform.

To be an effective leader I must embrace change. Therefore, a leadership paradigm is never perfect. It is always imperfect as it must always be capable of change. It is like the everlasting rough ashlar that will never be chiselled into a perfect stone. The chameleon is the best analogy I can draw to describe the ever-changing style of my personal contingent leadership paradigm. Tony William Charles the former CEO of Hungry House UK (now known as the app Delivery Hero). With respect to change he said:

'Unless you are ready to embrace and accept change, both on a human interactive level, and I speak mainly of staff, as well as with technology, and being able to have your staff fluidly adapt to the change, then any organisation will suffer a foregone conclusion – insolvency. Start-up companies have an advantage as the founders have the confidence to undo things in their business as they put them there in the first place. They are more willing to make changes. Look at Steve Jobs, he changed Apple a few times. We had things that weren't working so we threw them out the window. I encourage people to throw away the past and start again if it doesn't work. Embrace change. I am not afraid of change. This helped retain staff. When we relocated from Prague to Berlin, more than half our staff followed. It was a democracy. I cared about each person.'

(Interview with Tony William Charles 8 July 2016, Sydney Australia).

My paradigm embraces diversity. Leadership, to be effective must recognise that people come from different walks of life; different beliefs and backgrounds – a diversity which brings into the mix (or my melting pot) a better organisation. The leadership must be ever conscious of that diversity.

What we do is simple. We deliver legal services. What I have failed to touch upon is why we do it, and how I will best communicate the ‘why’, to my stakeholders and to the world at large. I know why I do what I do, and perhaps why the firm does what the firm does. It is not just about making money. It is about providing legal services to make a difference to those who need them, and to make the experience of having to see a lawyer as pleasurable as possible, in most cases, in difficult circumstances. Basically, taking the sting out of having to go to the lawyer’s office and making it as palatable as it possibly can be.

Together with those that work with me, both within the firm and external to it, we deliver what we believe in, in a friendly, open, egalitarian environment where the client is well looked after, and the people that work with me come first.

Chapter 4

Research methodology and research questions/propositions An Explanation and Justification of my Research Methodology

There is no literature that speaks of leadership in the legal profession in New South Wales in any depth. I suspect this is for one of two reasons. It has either never been thought of, or people are just not prepared to put their necks on the line and speak on an issue which could offend, and indeed criticise. Consequently, the method of research adopted by me has been qualitative – unstructured interviews, using pseudonyms to identify my respondents. This has been the method adopted as it was hoped that people would speak frankly, unfettered and provide a valuable insight into what is happening behind the closed doors of the law. It is intended that this research will provide objective material that will impact on my personal contingent approach to leadership.

I adopted a (quasi) '*constructivism*' paradigmatic approach; that is the way in which people obtain knowledge. The way that they learn. It is experiential in that we have a tendency to learn, create a knowledge bank from our accumulated experiences. I seek to rely on the experiences of those that I have interviewed; remembering that many have had careers in the law spanning 50 years or more. (Former Judge MJJ who I interviewed has over 55 years in the law).

Labelling my approach is of limited assistance, and results are primarily the product of an observation of human behaviour and interaction. The issue then becomes the manner in which those observations, and collection of information is interpreted so as to record it in an accurate fashion and to do justice to this research, and the many questions arising which are calling out to be answered. I am treating my interviews and observations of the profession as a case study. However, there can be a combination of both deductive and inductive reasoning. By deductive I mean a top down approach, wherein I identify a theory and work through a hypothesis, observation and then confirm the position, whereas inductively it is in reverse. Observation working up to the theory, requiring an in-depth examination and analysis of the conduct first.

One must be conscious of the fact that constructivism sees fit to create 'a' reality. A reality is a position which one person perceives, but that reality may have different perspective. Hence it be one reality, but perceived through different lenses, that reality could mean one thing to one person, and something completely different to another. The way a junior lawyer perceives the state of leadership in the law in New South Wales may well be, and no doubt is, very different to the way in which a forty-year veteran of the law who carries the post nominals QC. We all interpret things differently, based on our experiences and our perception.

To reconcile the possible differences, I critique based on my knowledge and experience to the extent that I can, using others knowledge and experience, together with the views obtained from conducting the various interviews and the collection of data from various authors, texts, papers, articles and interviews conducted by others.

Some may argue, why does it matter that there are differing perspectives and views, if in the end, the result is unchanged, that is, the legal services are delivered to the client. Leaders arrived at their destination – however each got there a different way. Each have had their successes despite their differences in leadership styles and their dissimilar personal contingent leadership paradigms. The principle of equifinality generally refers to this phenomenon, that is recognising that the same end state may be achieved via many different paths. ‘The idea of equifinality suggests that similar results may be achieved with different initial conditions and in many different ways.’ (Cummings & Worley, 2005, p. 86).

The significance of equifinality in the context of the legal profession is that if the end goal of service provision can be achieved in a myriad of ways, it is the responsibility of leaders in the law to consciously choose the path that also provides the best outcomes for staff. Acknowledging that law firms can be managed through a variety of different models, it is crucial for leaders to prioritise the wellbeing of

their people. The reality of equifinality in delivering legal services means that flexibility is inherent, and lawyer's need to be receptive to change; embracing, rather than resisting, changes that could improve the lives of their staff without significantly impacting on the quality of work or client outcomes. A clear example of this is the way that technology could be integrated into law firms to allow staff to work remotely and thereby eliminate unnecessary time wasted commuting. I will talk more about the importance of embracing technology below.

Despite having gone to great lengths to consider the differences of opinions and viewpoints of members of the legal profession, the question I now pose, not solely for this work, but in the context of my own Personal Contingent Leadership Paradigm is, *does it matter how the grass got greener on the other side, as long as it did?* Perhaps prior to conducting the research I *may* have said it does not matter. That would have been an error of great magnitude. It does matter, because what we fail to consider is that the way in which people get to their destination has an effect on the people they deal with along the way. Therefore, although we may all arrive at the same place, some may have stepped all over people in a Welchian way, (Jack Welch was a great leader for General Electric, but he was hardly egalitarian) and others may have had a far more empathetic approach to arriving at that destination. The longevity of the latter empathetic approach cannot be ignored, in contrast to the short life of the former Welchian way, and the damage and destruction that the former

creates, most of which goes unnoticed and unspoken of, some of which has been brought to the surface by the interviews I have conducted.

Up to this point the argument is that the legal profession is dysfunctional. In particular, I have asserted that it is too focused on maximising financial returns, ignores the needs of junior staff, drives people to states of despair, is rigid and too rule driven, avoids innovation, is misogynistic, ethnocentric, bureaucratic and finally, lacks leadership if not actively discouraging it. What is the evidence for these conclusions?

It is good social science practice to provide either quantitative and/or qualitative data to support one's arguments. In some cases, as in the morbidity figures that have been quoted, this data has been available. But in many other instances I have relied on my long experience in the law, as a participant observer. As a data gathering method this has a long and distinguished history in the social sciences. For example, much of what we know in comparative anthropology has used the method. However, it has been open to abuse (see the controversy between Margaret Mead and Derek Freeman), so it is quite legitimate to say that such observations are subjective and could obviously be open to bias.

Before proceeding to the task of gathering the evidence it is important to clearly state the purpose of the evidence, the research question.

This is to establish:

Research Question 1: What are the attitudes and emotions of lawyers in New South Wales about their profession?

Research Question 1(a): Is leadership in the profession an issue for lawyers and, if so, what are their concerns?

Given the scope of this thesis it is not possible to use the armoury of social science research technology to answer these questions but simply to obtain some indication of the views of lawyers. Thus, the research approach is exploratory, using established qualitative data gathering and analytic methods.

A small sample of lawyers was chosen to reflect the population i.e. judges, solicitors, barristers etcetera. The sample size was thirteen and all participated in a long (forty-five minutes to two hours) semi structured interview in their office.

Prior to the interview an interview guide was prepared which simply listed the range of issues that the interview would hopefully traverse. The intention of the guide was to prompt the interviewer to visit these

issues in case they were not addressed by the respondent. The approach used in the interviews was non-directive. That is, after the initial cueing question ‘What issues do you currently see in the legal profession?’ Respondents were free to raise whatever issues and questions that came into their heads. Typically, in response to the interviewer’s opening probe the respondent would say something like “What matters do you see as an issue in the profession” to which the interviewer would respond with “Whatever you like, it’s up to you. I’m interested in whatever you have to say.” This approach was quite foreign to the interviewer who, being a lawyer, employs directed, cross examination techniques for a forensic purpose. Obviously, the objective here is not judicial but to understand the constructs operating in the respondent’s world of meaning. In a sense it is like discovering a geography, to recognise that there is a mountain of passion over there, a sea of ignorance here and so on. The height of the mountain is a quantitative question that the research does not seek to answer (hence it is qualitative), its purpose is to understand the terrain. It could be likened to an underground map of the respondent’s beliefs, feelings and so on.

The analysis of the qualitative data was at three levels. Firstly, there is the ostensive level of literal interpretation. Secondly, the analysis tries to establish why the respondent is holding those views. It attempts to provide socio-psychological interpretations of the

respondent's view of their world. And thirdly the data are subjected to an "arm's length" analysis using the Leximancer software.

Leximancer

Leximancer automatically analyses your text documents to identify the high-level concepts in your text documents, delivering the key ideas and actionable insights you need with powerful interactive visualisations and data exports. (Leximancer.com)

NVivo assists one to manage and analyse text, audio, video, emails, images, spreadsheets, online surveys, web content and social media. (<https://www.qsrinternational.com/nvivo/home>)

"Leximancer is considered a more objective analytic tool as the researcher bias, coder reliability and subjectivity are removed. A key consideration when using NVivo is that the analysis can be subject to researcher bias occurring in the manual coding process. Hence, it could be argued that due to researcher intervention, the findings from NVivo are questionable unless trustworthiness and credibility of coding are offered." (Popi Sotiriadou, Jessie Brouwers & Tuan-Anh Le 2014 p.13)

Accordingly, a decision was made to use Leximancer as opposed to NVivo.

The Interviews

For the sake of completeness, I provide a list of the names of the persons as pseudonyms so as to not identify them. I am referring to Senior Counsel and Queen's Counsel all as Queen's Counsel to further disguise their true identity.

1. IJM QC Barrister / Queen's Counsel
2. DBA suburban lawyer
3. Registrar of the Court DPU
4. MMF Family Lawyer Solicitor
5. Magistrate SEN
6. Judge RIT QC
7. GHM QC Barrister / Queen's Counsel
8. ILM Government Lawyer
9. Hon MJJ former High Court Justice
10. Judge PED QC
11. CIC QC Barrister / Queen's Counsel
12. BCC In House Counsel / Lawyers
13. Litigation Solicitor PBX

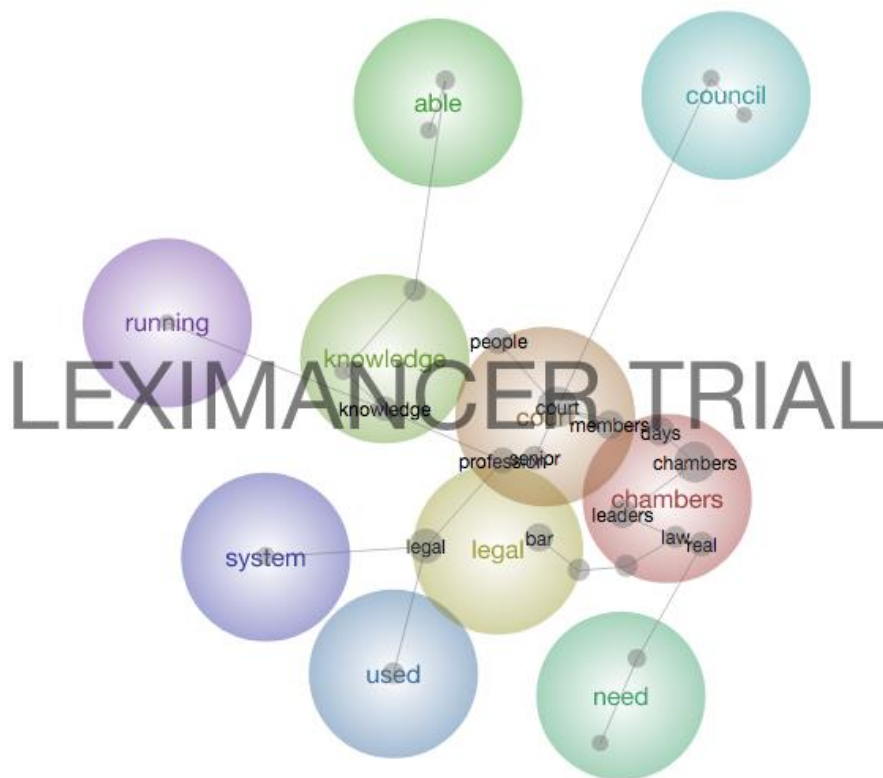
Leximancer produced the following results:

When one examines the individual map results, there is some diversity.

If we look at the maps / results for BCC and PED it shows that, the former has a strong emphasis on people and leadership whilst the latter focuses more on the systems and processes of the law.



Leximancer results of BCC In-House Counsel / Lawyers



Leximancer results of Judge PED QC

Judge PED's results show a focus on the mechanics of the law, with few references to people, staff or stakeholders. This reflects his interview which focused on the structure of the profession, and of the bar. He examines, for example, the way technology has changed the work environment and workplace practices.

BCC's results, on the other hand, show a far greater emphasis on people and connections. By contrast his interview focused on the challenges facing young lawyers, such as mental health, disillusionment, and disposability. He focuses on the importance of

co-operation and building strong relationships between leaders and their employees.

These two distinct approaches are clearly reflected, at a very high level, in the Leximancer results, showing the value this tool can have when considered in light of its limitations.

Interview Summaries

I have provided a snapshot of each interview, setting out in brief what each person contributed. I will then draw upon each interview in greater detail throughout this thesis. The purpose of the thumbnail description below, is to provide an initial insight on the types of persons interviewed and their initial views, so as to provide the reader of this work some familiarity before examining the interviews in greater depth.

1. Interview with IJM QC

IJM QC is an eminent Queen's Counsel having been in practice in NSW since the 1970's. He also practices in jurisdictions outside of the Commonwealth of Australia.

Mentorship generally

In his interview IJM QC discusses the oversupply of lawyers and how this has led to a lack of mentorship as a result of time constraints. He also observes the shift from direct mentorship under the system of

articles (a lawyer's apprenticeship) which existed in the 1980's, to indirect mentorship through programs like the practical legal training, being the internships to which I refer above.

The law is a business

IJM QC remarks on the way that the legal profession has shifted to become more of a business, with a greater emphasis on profit. He links this shift with a general decrease in the morale of lawyers.

Leadership is autocratic

IJM QC describes leadership styles within the legal profession as hands-off, with a lack of personal involvement and connection. He suggests that as a result, mentorship has become very selective and that senior lawyers play favourites when providing support and guidance. IJM QC also believes that technology has reduced the amount of interaction between lawyers which has corresponded with the removal of spaces in which lawyers could come together to mingle, communicate and share ideas – such as the Downing Centre ground floor coffee shop. This was the coffee shop on the ground floor of the busiest court complex in New South Wales on Elizabeth Street Sydney. (Note the comments that Judge PED QC makes about this too)

IJM QC also reflects on issues with leadership amongst the judiciary, with judges having little concern for supporting lawyers. He remarks that in his experience female judges are amongst the most

professional and hardworking and provide the best mentors to younger members of the profession.

How to Improve

IJM QC concludes by stating that there is a need to develop some kind of leadership selection and training program.

2. Interview with DBA suburban solicitor

DBA is a suburban solicitor in practice since 2008.

Mentorship generally

In his interview DBA remarks on the lack of early mentorship and preparation in the legal profession, with an expectation that young lawyers will be self-sufficient when they graduate and begin work. This is a problem because there is a disconnect between what law students learn at university and what they are expected to do in practice. He remarks that there is an element of chance in finding someone who is willing to be a mentor, and that he was very fortunate in finding someone who would mentor him (eventually following a terrible experience).

Leadership is autocratic

DBA comments that there is often a closed-door policy in firms which leads to a lack of interpersonal involvement. He suggests that the culture of a firm is very important in this respect. In describing good leadership, he suggests that senior lawyers should take the burden

off young lawyers and allow them to learn. He fondly describes his own mentor as having done just that.

The law is a business

DBA, speaking partly from personal experience, comments on the reasons for low morale of young lawyers. One factor he suggests is the lack of appropriate remuneration. This may be linked to his comment that in some firms, clients are considered to be more important than staff. These are among the reasons why law firms have a very high turnover rate.

3. Interview with DPU Registrar of the Local Court New South Wales

DPU is a Registrar of the Local Court New South Wales and has been involved in the Local Court system for decades.

The law is a business

In his interview, Registrar DPU discusses how the firm's see their duty to their clients as of utmost importance, rather than a duty to the Court or the profession. He explained that in his experience young lawyers lack respect for the Court and for senior practitioners. He also indicated that as universities focus more on profit they see law schools as money-makers and an easy way to charge significant amounts whilst bearing minimal costs for staff and resources. These changes have led to an oversupply of law students – meaning jobs are highly competitive and young lawyers are taken advantage of.

Mentorship generally

Registrar DPU suggests that law firms expect their lawyers to be self-sufficient as soon as they leave university. The absence of a clearly defined mentoring role means that often mentorship is neglected and finding a good mentor is a matter of luck.

Mental health

Registrar DPU also discusses the importance of mental health and how this is a big issue for the profession. In particular, he describes the macho culture of the profession as being harmful. Registrar DPU suggests that it is important for firms to place people before profit in order to ensure that firm culture and lawyer morale are improved.

4. MMF suburban solicitor – family law

MMF is a family law solicitor who has been in practice since 2011.

Mental health

MMF discusses the issues with mental health in the profession and links this to a high staff turnover. She says that technology does not allow lawyers to switch off and that this has an impact on mental wellbeing. MMF also suggests that clients are put before staff and that this has a negative effect on mental health.

Leadership is autocratic

MMF suggests that mentors in the legal profession take a very deep-end style approach to mentoring. This approach is very hands off and

does not provide sufficient support and guidance. She suggests that there is a need to value staff and to invest in them.

The law is a business

MMF reflects on how competitive the profession has become and how difficult graduates find it to get a job. She suggests that law schools are churning out too many graduates. These factors have led to a lack of adequate remuneration.

How to improve

MMF suggests that one way to improve might be to incorporate leadership training into CLEs. (CLE's are continuing legal education which is mandatory for all lawyers, 10 hours per year)

5. Interview with Magistrate SEN.

His Honour SEN is a Magistrate and former Barrister

Mentorship Generally

Magistrate SEN comments on the lack of direct mentorship and practical training in the profession. He also suggests that lawyers are expected to be fully trained as soon as they graduate and begin work. He also discusses the skills involved in being a good lawyer.

Leadership is autocratic

Magistrate SEN discusses his own leadership strategies and how they involve connecting with staff personally. Interesting to note the relationship between his own leadership role and not seeing a problem. (not that I suggest there is a problem – he is on any view a good leader).

6. Interview with Judge RIT QC

His Honour RIT QC is a District Court Judge and former Barrister and Queen's Counsel.

Mentorship Generally

Judge RIT QC's interview indicates that he doesn't see a problem with the legal profession and he discusses his positive experiences of leadership. Interesting to note the relationship between his own leadership role and not seeing a problem. Once again, I am not suggesting there is a problem with his leadership.

7. Interview with GHM QC

GHM QC is a former barrister and Queen's Counsel.

Mentorship generally

Again, GHM QC also appears to deny there are any issues of leadership or judicial bullying and perhaps this is related to his own position. In particular his attitudes toward mental health, respectfully

appear a little dated and perhaps feed into the problems that exist in the profession.

8. Interview with ILM government lawyer.

ILM is a local government lawyer.

The law is a business

ILM comments on the nature of partnerships as money-hungry and expecting young lawyers to work incredibly hard for minimal pay. Law firms see profit and billing as the most important thing.

Leadership is autocratic

ILM comments that partners become leaders without much, or any leadership or mentoring training. Good leaders should get to know the people who work for them and what brings out the best in them.

How to improve

ILM concludes with some comments about how leadership training might help address these issues.

9. Interview with the Hon MJJ former High Court Justice.

The Hon MJJ former High Court Justice of Australia

The law is a business

The Hon MJJ accepts that law firms have become much more business-like and profit focused.

However, generally The Hon MJJ doesn't see a problem with mentorship in law firms. Again, perhaps related to his position of leadership.

He does comment with some vigour on how law firms today operate out of palatial premises at a great cost.

10. Interview with Judge PED QC Judge of the District Court of New South Wales

Judge PED QC is a Judge and former barrister and Queen's Counsel.

Technology

Judge PED QC comments on the way that barristers are increasingly working out of chambers, in isolated spaces, and that this is causing a breakdown in areas of the profession.

11. Interview with CIC QC

CIC QC is a former barrister and Senior Counsel in practice since the 1970's.

Mental health

CIC QC comments on the effect that being a barrister can have on mental health. He also comments on judges being bullies.

Discrimination

CIC QC makes mention of women in the legal profession and the difficulties of fitting in family commitments at the bar.

Generally, CIC QC talks about how to best run a barristers' chambers and about issues affecting barristers generally. He does make some concluding remarks on leadership.

12. Interview with BCC

BCC is a Solicitor and in-house counsel in practice since 2006

Mentorship generally

BCC comments on how difficult it is to come out of university with no experience and be thrown into a very competitive environment. He comments on how he was fortunate to find a good mentor but that not everyone has that good luck.

Leadership is autocratic

BCC suggests that firms need to be more collaborative in their approach to work. Leaders need to listen and make sure that everyone has a voice, and it is important to display empathy.

How to improve

BCC refers to leadership courses at law school in the United States and how we could benefit from incorporating similar courses in our law degrees.

Mental health

BCC reflects on young lawyers who have become disillusioned and burnt out and left the profession as a result.

The law is a business

BCC suggests that in the private sector retention of staff is at about 50% or less. The industry has a “burn-and-churn” attitude that doesn’t value employees.

13. Interview with Litigation Solicitor PBX

PBX says that the business model of lawyers is flawed because it is in essence all about making money.

A brief comparison and summary of the interviews

The law is a business

IJM QC and DBA note that the law has become more of a business, leading to lower morale. DBA and MMF also suggest that remuneration is too low. BDA, ILM, BCC and Registrar DPU are of the view that there is a tendency to put clients before staff, with DPU also being of the view that the duty to the client is seen as paramount by

lawyers, to any duty to the Court or respect for more senior practitioners. Registrar DPU also states that universities act like businesses and this is part of the problem, leading to an oversupply of lawyers as also noted by IJM QC and MMF. DBA, BCC and MMF are vocal on the high turnover rate of young lawyers. The Hon MJJ also agrees that law firms have become more like businesses.

Leadership is Autocratic

IJM QC, MMF and DBA reflect on the hands-off, top-down nature of leadership in law firms that involves little interpersonal interaction, with IJM QC describing the favouritism that occurs. This echoes in the comments by BDA and BCC that finding a good mentor is a matter of luck. IJM QC also comments on the lack of interaction caused by technology and the closure of spaces for interaction between members of the profession. IJM also reflects on the lack of leadership training for partners in law firms, and how good leaders need to be concerned with the people in their teams, which is a sentiment that BCC agrees with, urging leaders to be more collaborative. IJM QC sees that judicial leadership is part of the problem and that judges do not provide appropriate support.

Leaders are in denial

This can be evidenced from the responses of the Hon MJJ, Judge PED, GHM QC, Judge RIT QC and Magistrate SEN which do not

appear to describe any lack of leadership in the profession. This appears to correlate at least partially with their own roles as leaders.

Mental health

Registrar DPU discusses the issue of mental health and the macho culture of the legal profession, with MMF adding that technology has exacerbated the problems. MMF suggests that failing to put staff before clients has a negative effect on the mental health of lawyers. CIC QC sees that the role of barristers can be detrimental to mental health and that bullying judges are part of the problem. BCC comments that lawyers get burnt out and leave the profession which mirrors DAB's experience.

GHM QC conversely denies any issue of mental health and suggests that lawyers are being coddled and that mental health and bullying are buzzwords being used unjustifiably.

Discrimination

Largely the interviewees do not reflect on discrimination, although The Hon MJJ makes some passing references to his experiences – relegating them to the past rather than reflecting on discrimination as a current issue. CIC QC refers briefly to the issues women face at the Bar trying to balance family commitments with work.

How to improve

ILM, MMF, BCC and IJM QC all believe that some kind of training, whether in law school or CLEs would be beneficial.

Other Matters of Interest Raised by the Interviewees

A number of the lawyers including IJM QC and Registrar DPU comment on the shift away from articles (the old legal apprenticeship) to less direct mentorship.

DBA, Magistrate SEN and Registrar DPU reflect on the expectation that lawyers will be self-sufficient upon graduating.

Judge PED QC and MMF also make some comment about the impact of technology on the profession.

The Questions Posed for this Dissertation

I have posed various questions to assist in this research. I deal with those questions in turn.

Examine the concept of leadership within the legal profession. How does the profession see leadership? (general question to be expanded upon after initial enquiry)

The older practitioners, (older in terms of time in practice) seemingly do not think there is a problem in the legal profession with respect to leadership. The obvious reason for that denial is that the longer a person has been a lawyer, the more that person considers themselves a leader in the legal profession. That is because everyone likes to think that they are important. Dale Carnegie identifies the feeling of self-importance of one of humanity's universal desires. Carnegie argues that this desire is not only universal, but also fundamental. Drawing on American philosopher John Dewey, he suggests that the desire to feel important is 'the deepest urge in human nature' (Carnegie, 1936). Therefore, it is unsurprising that senior members of the legal profession are reticent to admit that there is a crisis of leadership. Further, human nature is such that no one likes to admit that they have made a mistake or have failed in any respect. No one wants to admit they are wrong and are very quick to blame someone else. Carnegie suggests that this too is universally human. Drawing on a number of examples of criminals and wrongdoers denying their errors, he states that this is 'human nature in action, wrongdoers, blaming everybody but themselves. We are all like that' (Carnegie, 1936).

This thesis does not seek to single out any individual. The questions raised at the beginning of this doctoral work are addressed below with the benefit of the research detailed above.

Is there any consensus in the profession?

There is no consensus in the profession with respect to leadership. There never can be as there is a have and have nots environment. Those in long standing well established positions hold all the cards, whilst the new lawyer is beholden to the autocrat who dictates the not only the game, but the rules that it must be played by. The 'leaders' in the law, are those that have been there the longest. That is the requisite qualification. The partners of firms and senior members of the Bar, for the most part, view the problem through a different set of glasses than the newest members of the profession.

The members of the legal profession who have had long standing careers in the law, consider themselves to be leaders in the profession. The profession has never had designated leaders. The way in which one became a leader in the profession was to become great at what they did as a lawyer. Not what they did as a person, as a motivator, or influencer. Therefore, a barrister who became a QC or SC is now perceived by the profession and by themselves, a leader. I do not seek to criticise by that observation. The Solicitor who has attained the level of partner, is likewise seen by the profession and themselves as a leader. The profession therefore equates greatness as a lawyer with being a leader. Therein is the first problem with leadership that the research has shown. It is the widely accepted norm, that senior lawyers are leaders.

That is the view of most lawyers, both senior and junior. However, the label 'leader' when used with respect to such person is with respect a misnomer. Such senior lawyers are without a doubt brilliant at what they do as lawyers, and are persons to whom the junior profession look to for legal knowledge and technical assistance, but they are not necessarily the people that junior members of the profession look to for guidance in attaining the values of 'interdependence, excellence, close relationships and friendships, democratic values, community involvement, preserving a healthy life, innovation, imagination, wholehearted dedication to the best interests of clients, work performed with care and craftsmanship, integrity, readiness to always help when needed, and building a law firm in which all associated with it take pride.' (Brafford, 2014, p. 39). It is trite of me to say that not all current leaders in the law fail to possess these attributes as *some* do possess some of those attributes.

In terms of context, both junior and senior lawyers see leaders as those who have excelled. The two contexts of the junior profession and senior profession however provide opposed views on whether leadership is lacking in the legal profession in New South Wales. The research is not entirely consistent with this conclusion.

The upper echelon of the legal profession, (the Senior Counsel, the Judges et cetera) continue, for the main part to maintain that there is not a leadership problem or fail to refer to there being a problem.

There is a difference in not acknowledging the existence of the problem and failing to recognise one at all. I am yet to determine which is worse. The interviews were unscripted, and the open-ended style of questioning was used, forming an inquiry with respect to any issues the interview participant saw with the legal profession.

The Interviews

GHM QC

GHM QC describes leadership as ‘assisting other people who perhaps are junior to you, or to me in achieving goals and in running their own cases I suppose and conducting themselves generally in the context of the law.... [Leadership] tends to organically develop...with one; experience, two; reputation, and three; perception I suppose. With the people that see themselves as being leaders.’

GHM QC speaks of one developing as a lawyer, becoming good at what they do as a result of experience, building their reputation so as to have others in the profession perceive them as a leader. The notion of leadership continues to become confused in the law with becoming a great lawyer. They are two very different things that most lawyers are failing to distinguish between. Toward the end of the interview with GHM QC I said:

Accoto: 'What I've gauged from your responses thus far is that you don't see an absence of leadership in the law from your perspective in the New South Wales bar.'

GHM QC: 'No. And I think everybody in the New South Wales bar would be fairly regarded as a leader in some way, shape or form because of the nature of the job. In other words, a client comes to them and asks for advice. That's giving people a lead on something. It's an application of expertise.'

There fails to exist a true culture of a persuader, or innovator, and most lawyers are typically selfish and just do what they need to do for themselves and worry only about themselves. GQHM C said: 'I did my own thing in one sense. If some people followed, then some people followed. If others didn't follow, then I did it anyway because it was what I was encouraged to do.'

GHM QC is very transparent about how a person becomes a leader, for example as a leader of a set of chambers, with some 40 barristers. He says: 'Then there's a democratic process gone through, usually the oldest or most experienced or both, becomes the Floor Leader or the Chairman of the Floor.' It seems that by the attrition of time, one simply falls into the role of leader. The leader is not recruited. The leader is not qualified to lead. The leader is, as GHM QC frankly puts it, the oldest or most experienced or both. A great lawyer perhaps, but not necessarily a scintilla of leadership experience.

Further, GHM QC expresses a view that people who become barristers are leaders in any event. That people become barristers because the legal profession attracts people who are natural leaders. There seems to remain this egotistical view by lawyers, of lawyers, that they are better than the rest of society. I have to concede that at one point, I felt that very way. Lawyers have this mentality of superiority, and although that is an enormous generalisation, the research produced in this thesis is entirely consistent with that view. GHM QC said:

'Leaders in the law tend to attract people who think not necessarily everything they do is a good thing, but will follow ... It goes back to what I said before that the law, particularly the Bar, attracts people who are natural leaders in any event. So, the leaders of the Bar will tend to follow ... Will tend to have people who will follow the ideas that they think are good ideas and because of the leadership of the Bar, the people will just refuse to follow things that they don't think are good ideas.'

The topic of bullying arose in my interview with GHM QC. I had hoped this was an opportunity for Senior Counsel to provide some valuable insight on bullying in the law; GHM QC was unable to shed any real light on the topic. He failed to acknowledge the presence of judicial bullying in recent times. I mean no disrespect to Senior Counsel, and it may be, in fairness to him, that what he reports is in fact his recent

experience or that he has become immune to it. GHM QC did say 'but after 30 years I think I'm a bit immune to it' referring to being, using his words, 'kicked around' by Judges.

GHM QC expressed the view that people are hypersensitive to criticism and that is not in truth bullying. 'Judges are much more empathetic, and the result is that by and large it's fine. But from time to time, some people are just hypersensitive, and they can't take criticism at all. And they define that as bullying and people start waving their arms around whereas a judge isn't necessarily bullying them. He or she is just simply pointing out to them that there are some problems with the logic in their argument. It may not be done in the nicest possible way, but the judges are under some time pressure. They can't spend their lives mollicoddling everybody. But that's it. There can be some problems... People are using it as an excuse of being bullied, whereas the root cause can often be the person themselves rather than the source of the criticism. And that's not to say that some people don't have a legitimate grievance. It's just that some people.. are hypersensitive.'

GHM QC is a very experienced and well-liked Queen's Counsel. I hypothesise using his very words, that he has become immune to bullying, and perhaps simply immune to other such matters within the profession, having simply accepted them as being the way that they are done. In the same way GHM QC accepts that the leader of a set

of chambers is so placed because he is the oldest or most experienced, or both, GHM QC appears to accept that the way things happen in a court room are perfectly acceptable. I do not for a moment suggest that GHM QC is pretending there is no problem, *if* he thought there was. It appears on the available evidence that he simply does not believe there is an issue. Further GHM QC is not of the view that it can be improved. 'Frankly, I just can't think of a way to make it better because of the nature and structure of it.'

Judge RIT QC

His Honour RIT QC a former leading Queen's Counsel and now Judge of the District Court of New South Wales.

In conducting an interview with Judge RIT QC, it became apparent that he saw the role of the leader in the law as someone who could impart legal knowledge on followers. Sadly, the notion of inspiring a vision of the future and motivating and inspiring others to engage in that vision, so as to ensure that vision is achieved, did not seem to form part of the definition within Judge RIT QC's mind.

Surprisingly and uninvited by me to comment upon, Judge RIT QC volunteered that he thought that Judges could not provide some sort of assistance or feedback.

He said: *'certainly, I think the notion that judicial officers could somehow be providing a helpline, or something is ... not something that I see any real logic to.'*

This is demonstrative of the old school traditional ways of the law; I appreciate the law is draped in tradition and that must be respected and remembered, but if something is capable of being improved and needs change as a result of change, then perhaps tradition ought to take a back seat for the better good of the profession.

Respectfully, I do not see lawyers appreciating what leadership is. When I asked Judge RIT QC:

Accoto: *Is it possible that some of these advocates are not in an environment, which is providing leadership?*

His response was not responsive to the aspect of leadership but focused on the ability of such advocates as lawyers. He said:

RIT: *'I don't know, for example, what feedback there is in relation to, for argument's sake, employed solicitors within various of the institutional representation facilities, such as Aboriginal Legal Service, Legal Aid, the state Crown, the DPP. I would have to say, as a broad generalisation, that the people who I have seen and who I know, who have been through the Aboriginal Legal Service in the main, seem to be pretty decent*

advocates... as to whether a solicitor or advocate or a solicitor from the Crown is not performing up to scratch, I don't know whether there's any form of peer review.'

Further I put the proposition to Judge RIT QC that 'there is a strong element of leadership in those [law firms] circles.' Once again, his response related to the ability of employees as lawyers, and not leadership, further demonstrating the lack of knowledge and leadership in the law.

He said: 'There's certainly, in the two firms that I've got in mind, there is, but that's also because they might put up with nonsense, and if somebody's not performing to a certain standard, they're not going to last there.'

When I asked Judge RIT QC about how he found himself as a leader in the capacity of a Judicial Officer, he once again responded in terms of the ability he has as a lawyer. I am unable to provide the precise conversation of what was said, as it will identify the Judicial Officer in question. Suffice to say he said, in response to my question, 'how do you find yourself as a leader in your new role as a Judge?' the response was words to the effect, '*very comfortable as I had a trial in an area of law I was very familiar with to start.*' Clearly lawyers are either not understanding the concept of leadership or they are equating it with the ability of one to be a lawyer. That in itself demonstrates the lack of leadership the legal profession is facing,

when lawyers do not understand what leadership is. If the profession does not understand it, and has simply overlooked it, then it is difficult for it, in fairness, to identify that it is missing.

Judge PED QC

His Honour was a former Queen's Counsel and Senior Judge of the District Court.

A similar theme emerged in conducting interviews with the more senior lawyers, whether they were Judges, Queen's Counsel or otherwise. The continuing reference to seniority and experience as a lawyer as equating to leadership. This was once again evident when I asked Judge PED QC 'What is of your view of leadership as a concept in the profession?' his response was:

'When you're talking about the bar, well, then, my view about leadership has always been about the more senior members of the bar and the knowledge and experience that they can help impart to the more junior members of the bar so far as what their responsibilities are to the Court. So, these days, I see it quite a bit in that there's a lack of influence of the senior members of the bar these days on the bar generally.'

Judge PED QC went on to provide some basis for why he thought there were issues with lawyers at present. Namely that they were no

longer all working from the traditional chambers that they once did. He said:

'I think we're seeing more and more persons practising out of the structure of chambers, and most of them are really a law unto themselves. So, I see there being a real breakdown with ... Coming as a result of the structure that had always been part and parcel of the bar with chambers, head of chambers. That's broken down now, and I think that that's causing a real problem.'

My personal contingent leadership paradigm is centred around people not working from traditional offices. Naturally the interview with such a senior ranking Judge who started to make such comments was of great interest to me. I took the opportunity to ask him:

Accoto: *'What are the main things that you think people are missing out on when they work in that arrangement [remotely]?'*

I wanted to learn what pitfalls I would need to avoid in my personal contingent leadership paradigm.

His response was mainly centred around the inability to seek advice from others:

'Well, they don't have that vast reservoir of experience to be able to call on a case-by-case basis often enough. My

experience has always been, no matter where I've worked, I've never, whether that be ... Years ago, I was with the DPP's office, and whether it be, well, I came on to the bench. I've never been somebody who will sit back and think, "Well, I know it all." In fact, I've always avowed myself of running things by other practitioners, or indeed other judges, and I think that's vital. Now, if you're in a situation where you don't have that ability to able to readily do that, well, I think there's going to be problems. People are just running off at their own tangents, and you've seen ... I see it in court a lot these days, whereas you've only got to pose a few questions to these people.'

From this response I was reminded to ensure that my personal contingent leadership paradigm includes a manner of having all staff, despite working remotely, being able to depend on one another, and reach each other by the use of modern technology and face to face meetings. Interdependency is an essential aspect of my personal contingent leadership paradigm. Being able to reach out and rely on each other. There is no need for any person I work with to ever feel as though they are alone and carry the weight of the world on their shoulders alone.

I concluded my interview with Judge PED QC by asking him what makes a good leader. Once again, the response was centred around

legal knowledge. He said: 'I think your willingness to impart knowledge.'

CIC QC

CIC QC is a respected Queen's Counsel.

I asked CIC QC what issues he saw with the legal profession. CIC QC expressed concerns about the existence of the Bar at all in time to come. He said by way of example:

'Do you take a lease for 15 years for your chambers or is it possible that in 15 years' time the Bar will have been abolished or so transmogrified that we'll be no longer needing chambers. This is an institution that's been around for 300 years, but which has a lot of people now reflecting upon whether it's going to last another 30, let alone another 300.'

CIC QC was referring to the possibility of the private Bar (barristers) being deconstructed and being subsumed into law firms.

CIC QC went on to speak about the many issues he saw for barristers, new ones in particular:

'The first few years at the Bar you may spend weeks with absolutely nothing to do. That is depressing, aside from the fact

that you're not earning money. You've got to be able to cope with the depressing aspects of that existence. On top of that you've got to cope with the stressors of going to court, being treated sometimes in a contemptuous or bullying fashion by judicial officers who are unreasonably intolerant of the fact that young Barristers don't know as much about what they should be doing as experienced Barristers. That's another serious problem. If you're a primary provider of care for young children, which usually, of course, tends to be women in our society, then you've got a huge difficulty about trying to match up the erratic demands of the Bar when you've got a trial on that's all engulfing with the fact that you may have to try to pick up kids from school and stuff like that.'

When I asked CIC QC whether there existed a leader or Steve Jobs type of person at the Bar or in his Chambers, his response was frank, telling and not surprising.

'It's hard to think of there being a single person at the Bar who occupies that kind of CEO type role, but there have been some very influential Barristers at the Bar whose influence has gone way beyond those of their own chambers or the people that they work with. That's to do with the styling of their advocacy in Court, people like Tom Hughes as a courtroom advocate, was a style setter as well as a particularly good advocate. People

like Murray Gleason and stories about Murray Gleason's courtroom style were legend when I was a young Barrister.'

CIC QC went on to say that Barristers' chambers on a micro level have a leader of the floor, and that leadership aspect of being a barrister and leader of the floor is unpaid. That may in part be why some chambers do not necessarily have great leadership.

I concluded by asking CIC QC what he thought made a good leader. I was pleasantly surprised to hear his response, as it related to leadership, and not to the competency of lawyers. It was refreshing to hear this from a senior lawyer. He said:

'My personal view, and of course obviously it does depend a lot on the sort of leadership we're talking about, but let's just talk about leading in professions which is what I'm involved in. I think that it is very important that one doesn't try to rest on authority. That one seeks to build consensus, that one remains sceptical about one's own ideas and open to the possibility that you will be shown to be wrong by others putting forward their thoughts. You've got to be relaxed, you've got to be prepared to tolerate debate and that debate may go on for quite a long time and not attempt to force your views down people's throats. This is the other side of it, there is a stage at which decisions have to be made and you have to drive people to make those

decisions. The best decisions are ones where you can gather together the thoughts that people are having, the ideas that are in their heads and start to put it back to them as, "Well, look, isn't this what we all really need to do?" Have them all say, "Yeah, that's right. That's what we really have to do." Then you have created the consensus. You have created the decision, but you've done it out of, hopefully, the ideas and intentions of the people that you're trying to lead. We had an interesting exercise recently where we were talking about something and there are a couple of people that were expressing very forcefully their views. In the end, I said, "Well, look, let's just go around the table and have everyone talk." Everyone else held almost the opposite view, but they, for whatever reason, were just not keen to have to step forward and express it. They hadn't engaged in arm wrestling with the two vocal proponents.

One might have sat there at the table and got a completely false impression as to what that consensus was. As the other people, as we went around the table, each expressed their view and start to see that they were not alone, the whole atmosphere changed about what the right decision was going to be. On the other hand, my function was to actually run that process and if there had not been someone who had sat back and thought, "Well, gee whiz, let's just make sure that the vocal people are really the consensus of the meeting," and adopted

a procedure and a mechanism, everyone might have just gone along with the two loudest voices. No one would have been happy.'

My faith in there being an understanding in the legal profession of leadership was restored. The above narrative needs to be read by all lawyers. The above quote may appear to the reader to be excessive in length, however it cannot be distilled to anything less; to do so will dilute the true effect of what is being conveyed. The quote resonates with me in that I will incorporate that same thought process into my personal contingent leadership paradigm. It has had an impact on my personal contingent approach to leadership; thankful to the senior lawyer who identified with leadership and demonstrated that some lawyers do appreciate what leadership is, and in fact demonstrate it.

Judge MJJ

Justice MJJ is a former Justice of the High Court of Australia.

MJJ does not see an issue with leadership in the legal profession in New South Wales and has reservations about the notion of leadership.

'Let me start by saying I have reservations about the notion of leadership. My reservations are that obsession about leadership can lead to some pretty unfortunate social experiments. Adolph Hitler was called Der Führer, the leader,

and we all know where that led Germany, so unquestioning leadership for its evaluation upon where it is leading people to, and skills in being a leader have to be subjected to the scrutiny of what the leader is on about, where the leader wants to go. Is that desirable in the interests of the institution, or of society, or have human beings in society? However, having said all that, the way leadership is exhibited in the legal profession depends a lot on the values and experience and education, and personal inclinations of those who are appointed to leadership positions.'

This is an important observation made by one of Australia's most senior Judges, in that it places the focus squarely on who is being appointed to the role of a leader, and more importantly why they are being appointed. Needless to say, caution needs to be taken in the how and who of appointment of leaders, particularly when the research strongly suggests that it is the longest serving and oldest person who generally takes that role. That is not only a product of the research suggesting that; it is also as a result of my personal observations over 27 years in the legal profession. I take from those joint observations the essence of the leadership issue in the law, namely ensuring that at least in my organisation, that people are not appointed to leadership roles on such a non-meritorious basis. It seems an obvious consequence that the law is ignoring the role and position of a leader. If one breaks their arm they go to a Doctor to have

it fixed; they do not attempt to plaster it themselves. Why is then that lawyers think that they can be leaders. It is no different to an electrician taking on the role of a plumber. It beggar's belief that this is what is really happening in such an important profession.

MJJ speaks of lawyers lacking empathy and a cause perhaps being where many lawyers have come from. This is of course of great concern, as my personal contingent leadership paradigm requires a leader to have empathy and diversity. Without each of these, leadership fails.

'They tend to be people who have been educated in private schools. They tend to be children of wealthier parents, and they tend to be conservative in their political viewpoint, and all of this makes for a group of people, who enjoy considerable power, because of their role in the legal profession, who may not always be in sympathy with the type of people who have legal problems and who come to them for assistance.'

This is not a universal rule, and some people who have had wealthy parents and private school education can be quite empathetic, but as a whole, law draws on a rather unrepresentative sample of the population, and it's therefore not entirely surprising that it is made up of, substantially, of

people who have values, which are different from those of the majority of the population.'

MJJ has over 50 years' experience in the law and has held significant positions of leadership. It would be remiss of me not to take heed of his observations, not because he has been doing it for so long, but because he has led with success, and a measure of that success to my mind is whether he is well liked, which indeed he is. His leadership style is one that I am attempting to incorporate into my personal contingent leadership paradigm. He says:

'The way I did that was by running the institutions as a collective. They were all very intelligent, very experienced people, and therefore, they didn't need me, a younger person coming in and bossing them around, and I didn't feel a need to boss them around. I felt a need to secure their trust, and their ideas, and to do so in a way that would be conducive to sharing the effort together. Some people at the time said that my technique was a Soviet type technique. That I believed in engaging with the members...and participating with my colleagues in running the institution together... Law is very hierarchical, but I didn't run my institutions as a hierarchy. That was not comfortable to me as a person, as a human, as a citizen, but it was also not maximising my capacity, which are engagement, participation, consultation, and joint activity.'

MJJ speaks of the changing environment in which legal services are now being delivered. He speaks of the humble offices in which he first started and so many law firms were so placed, to the palatial offices they now occupy.

‘They lack the modesty of the law firms in which I grew up, and they therefore have to charge very considerable bills to cover the rent, and other running costs of a huge enterprise. This is not how it was when I started, and I’m not sure that it’s a good development, because essentially, it’s put the law, even more than it was in my time, out of the reach of ordinary Australians... The nature of the business that big legal firms offer is necessarily going to require that they make a considerable amount of money in order to pay the rent, and to pay for the expensive fit out, the high cost catering and other services one sees in these law firms today, the paintings, and other accoutrements of the law firm today. None of that existed in the law firm of my youth.’

This goes to the nucleus of my personal contingent leadership paradigm and the way in which I am now delivering legal services. I have stripped the expensive premises out of the equation and have all staff work remotely. This has meant that my leadership paradigm permits me the luxury, or perhaps better termed ‘the necessity’ of the time required to lead as a leader should, and not pretend to be a

leader whilst also being a lawyer at the same time. The pressure of having to pay copious sums in rental for offices is off; that means that we as a law firm can concentrate on delivering legal services. It means that I as a leader can concentrate on leading my crew to provide legal services in the way I have envisioned, ethically, and within the reach of every Australian, no matter who, including the indigent client who requires pro bono assistance. As MJJ says: '...voluntary pro-bono work, which some of the firms do, but can only do so much of, because they are businesses, and they've got to make money to cover their overheads.'

We can afford to help those in need and do. Leadership must in my view also include looking after the universe. That is, ensuring that a miscarriage of justice does not occur, which one can appreciate may, where a person is not in a position to afford legal counsel. Leadership must pursue what is right.

Despite all of the criticisms MJJ still did not form the view that leadership was lacking in the law, even when asked the direct question, 'Do you think that we're lacking leadership in the law?' His response was: 'I'm not sure that I would say that. I think there is more discussion today about the issues I've just been addressing than there was in my day.' That seems to be a partial acknowledgement in that there is perhaps a reason things are spoken about more today, and that is that there is more to speak about.

IJM QC

IJM QC who is a senior lawyer, acknowledges that there is an issue with leadership in the legal profession in New South Wales.

In response to a broad question I posed, 'what, if any, do you see as the current problems in the legal profession?' IJM QC responded with specific reference to the lack of leadership. He said:

'I think the legal profession is beset with problems these days in comparison to when I started 40 years ago. Some of the problems stem from there being simply too many lawyers and not enough leadership amongst them.'

What IJM QC speaks of is the very premise upon which I have changed my personal contingent leadership paradigm, so as to create a law firm that can deliver services for less to the consumer, and on a fixed fee arrangement. With the cost of practising law being less, the economies are such that I can in my model afford to employ more people; the delivery of legal services at a lesser and fixed fee means that more clients are wanting to utilise our services. The more clients want to use our services, the more lawyers we can employ, particularly when our payment structure is a percentage of what is charged to the client. We do not have the endemic problem of employing people on impossibly low salaries, which in part caused

bad sentiment and resentment, and leads people to leave. As IJM QC justifiably makes reference to:

'there are thousands of law graduates each year in New South Wales now, but only five to six hundred are able to get jobs. This gives rise to many of those that can't get a good job, going and getting a bad job or a job for little pay in legal firms. When they're there, they didn't get little training and little leadership and the problem is basically self-perpetuating.'

IJM QC spoke of his view about law firms today and in response to my question as to why it was that he held the view that mentoring and leadership was not provided in large firms. His response dovetailed into my personal contingent leadership paradigm and the philosophy that a law firm needs a leader, separate and distinct from a fee earning lawyer. It could be a lawyer, but not one that has to generate fees by the billable hour.

'...it drifted away from a mentoring situation because when a person is mentoring you, it's very difficult to charge the client for that, and of course, why would you want to charge the client for that? I think because firms became driven by fees, the idea of people being professionals was beginning to disappear, remembering that one of the indicium of being a professional, whether it's a lawyer or a doctor or an accountant or et cetera,

is a training role of giving back to those coming up in the ranks, and that took place when I was young, but I just don't see it anymore. I don't see a senior solicitor, a partner in a firm spending a lot of time with the juniors. It just doesn't seem to occur.'

The culture of an organisation is what to a large extent dictates whether people want to be there and whether they want to remain, and travel in the same direction as their leader, empowered to deliver the vision of the leader. That seems to have escaped most large law firms today. IJM QC recounted the culture at one of Australia's largest law firms.

'Well, I'll give you an example. When I was a young lawyer in the mid '70s, there was a famous senior partner of Sydney's then foremost firm, Firm 1-pseudonym, and this legendary senior partner, Robert Roberts-pseudonym was there, and he was quite a charismatic practitioner, also highly competent, and as a young articled clerk and an undergraduate, which wanted to go and work there because they would get effectively, personal hand on hand training by people like Robert Roberts-pseudonym, who was going to teach you the practise of law, and you were learning from a fine mentor. So, people wanted to go to those types of firms because there was hands on training. But I was talking to somebody, a young

lawyer, the other day from Firm 1-pseudonym, and they said that they just hated it because they rarely saw a partner, the partners were busy, they didn't want to speak to the younger lawyers. He said morale was very low, whereas once at those firms, morale was very high.'

The impact of this on my personal contingent leadership paradigm is that I must continue to embrace an inclusive style of leadership, be approachable as a leader, be accessible as a leader, so as to ensure that the people that work with me (and not for me), want to work with me, and are not there simply out of necessity. All staff need to feel as though they are not alone, able to speak with me, and have a sense of reliance on me and others in the firm.

IJM QC having also worked in prosecution, namely a government department (and I cannot name the State or other identifying location of that government department) said he had seen an old law school colleague who had therefore been in practice for decades who worked at the prosecuting body and he asked him about morale:

'I asked him about morale, and he said morale within the office of the Pseudonym prosecution office now is very low. He said [he] himself is isolated, doesn't mix with the others...there's no mentoring, morale's low and apparently the one or two that are mentoring do selective mentoring. They play favourites, and

that's of course the worst thing a leader can do. I think the hallmark of a leader to me, in my 40-year career at the bar has been those who lead by example. Not only extremely competent lawyers, but fairness and affability across the board, and a willingness to mentor others, and it just seems to be disappearing these days.'

IJM QC continues to speak of leading by example, and most relevantly, a leader being fair, and affable, with a willingness to help others. This impacts my approach to leadership, in that it reminds me of the effectiveness of being liked by those with whom one works. This is in my view an essential element to an effective leadership style, as people will not want to travel in the same direction as a person whom they do not like.

Why is it that IJM QC is of this transparent view? How can one reconcile his view as a senior lawyer to the rest? Perhaps the answer lies in the context. IJM QC is a barrister who has a great deal of contact with clients directly, and not only contact with members of the profession. The traditional view of Queen's Counsel and Senior Counsel is that they do not deal with clients, and they deal only with other lawyers, which lawyers then deal with the client. IJM QC is what many in the profession refer to as the people's lawyer. Down to earth, approachable and affable. He comprises elements in his way of

leading, that I hope to osmose into my leadership personal contingent leadership paradigm.

I asked IJM QC how we fix the lack of leadership, and he said: 'I would have thought it would be pretty easy, both for public and private organisations, to identify young managers or those that they think could take a leadership role and give them some training in leadership. I think that that is the way to go for the future.'

Registrar of the Court – DPU

'..they're I think pretty much thrown to the wolves by principals who either aren't aware of it, or haven't got time, or don't care, or don't think it's their responsibility. But yeah, those are certainly some concerns that I'm seeing, and having from what I'm seeing particularly in the more recent years.'

Registrar of the Court speaks animatedly of his observations of young lawyers coming into his Courtroom. The effect that this invaluable evidence has on my leadership paradigm, is to ensure that the system I have now adopted, permits me the time to ensure staff are delivering legal services competently.

The reality is that there are far too many law graduates waiting in the wings to fill a position of a lawyer who is displeased. The effect of that

is that employers are not placing as much emphasis on training employees, fostering a culture, and making their employees their most important stakeholders, because they know they are easily replaced. (at least that is what the current employers believe).

'I suspect the almost cutthroat nature of even getting a job as a lawyer has probably got something to do with it. As far as I can see, law schools are the top money spinners for every university in Australia. They're always in the top thirty, and they don't need to be because you don't need laboratories. You don't need equipment. You don't need anything to run a law school. You don't even need a room half the time now. They're on podcasts and things, so they're incredibly cheap to run, but they're incredibly popular, oversubscribed, so they can charge top dollar for them.'

The attitude of many so-called leaders in the law, perhaps better referred to as bosses, is that if the employee doesn't like it, it matters not, as there is no short supply. This repulsive conduct that the Registrar reminds me of, is disturbing, in that people are being treated as disposable. I gladly am possessed with this knowledge so as to ensure that such conduct has no place in my personal contingent leadership paradigm. An employee is far more important than the client. An employee is more important than any other stakeholder. It is short sighted to build a house with bricks, but lay them incorrectly,

only to have them collapse and crack, with a view of simply saying, well we can get new bricks and build it again. Not only is that disruptive, but it is a complete waste of time. Build the foundations, ensuring staff are included, recognised, and made to feel as though they matter. They are, I repeat the most important stakeholder. Train them. Impart your knowledge upon them. Make them as you are and have them want to deliver your vision – because they want to. This is what I have learnt from the remarks of the Registrar and will ensure I am cognisant of what not to do.

I asked the Registrar how we fix the issues that he speaks of. His answer was quite telling of how serious he perceives the problem to be.

‘Well, you could mandate it I suppose, but most would come to it with great reluctance. Many would come to it with great reluctance. Again, time pressures, what am I paying them [the new lawyers] for? Shouldn't they [the new lawyers] be ready?’

Lawyers clearly need an expectation adjustment and need to employ more empathy particularly with younger lawyers, who in reality know very little when they graduate from university.

In that respect, I questioned whether the culture in the profession, which has been in existence for a long time would accept it. Registrar said:

'Hundreds of years. Yes, and very macho. Very, well, if you can't hack it, good; I'll get your work. Very, well, if you don't like it, go and do something else. Yes, very much, and the adversarial nature of our legal system adds to that.'

I asked the Registrar what made a person a good leader, with reference to those who had led him over his extensive career. He said:

'The best leaders that I've experienced, they had a concern for the person as much as if not more than the process. If it was a factory situation, yes, they were interested in making widgets. They were interested in making good widgets. They were interested in making lots of widgets, but not more than they are having their employee, or their colleague be happy in their work, be fulfilled in their work, be a part of the overall operation.'

I am once again reminded that my personal contingent leadership paradigm must be people focused and my employees must be happy in their work and the most important stakeholder.

Magistrate SEN

Magistrate SEN is senior Judicial Officer who presides in a busy Court. Magistrate SEN described leadership:

'You've got to adopt a style that gets the best of out the batch of the individuals that you're dealing with. Some strong personalities, you've got to try and let them think that they're running the show, when in fact they're not. A slightly different approach to someone who's less sophisticated... sort of in some way, too, the leadership is you're still in charge, but you've got to adopt a flexible approach to get the best out of those personalities. You're not just dealing with one particular person.'

Remembering of course that a judicial officer does not have the ability to choose who appears before them in their Court. Magistrate SEN speaks of the lawyers that are appearing before him.

Magistrate SEN described the difficulties of having young lawyers appear before him and those lawyers not being properly supervised and therefore not knowing what they are doing. Magistrate SEN expressed, almost a moral responsibility not to embarrass those lawyers, and in fact try and assist them, in some way, demonstrative of leadership from the bench. Magistrate SEN said:

'Not being supervised, properly. Not being supervised, properly, and I discussed it with one of my colleagues yesterday afternoon. We get a little tired of doing not only our job, but theirs. Equally, to the point that I appreciate the young lawyers learning, isn't properly supervised. I don't want to send the young lawyer away at the end of the day just saying, "Stuff it. Never going to do it again. I'm so demoralised that I just give up." You know? You still got to give them some hints.'

This insight impacts upon the way in which I lead my young staff, in that it speaks of guiding young lawyers as opposed to simply castigating them, knowing that may simply cause them to leave, dissatisfied as a result of being criticised.

'Criticism is futile because it puts a person on the defensive and usually makes him strive to justify himself. Criticism is dangerous, because it wounds a person's precious pride, hurts his sense of importance, and arouses resentment ... By criticising we do not make lasting changes.' (Carnegie, 1936)

Furthermore, it reminds me that Judicial Officers do not want my employees walking into their courtroom not knowing what they are doing. The implication for me being, that all my staff must be able to approach me when they are not comfortable doing something, and they need to know that it is not only perfectly acceptable but expected

of them that they will approach me. I echo my earlier sentiments, namely that one cannot be a lawyer with carriage of matters and lead a law firm. The lawyers that work with me must never feel afraid to walk into a court room because they do not know what is to come. They will always know, and that is because I will ensure an approachable environment, and one where they can rely not only on me, but on other staff, all of whom are willing to be depended upon. Coincidentally Magistrate SEN took a very similar view with his court staff wherein he said: 'The approach I take is that I want every one of those staff members regardless of who they are to be able to come in here, knock on the door, and talk to me without a problem.'

DBA

A junior lawyer who now operates his own firm was able to provide his firsthand experience and insights on the way in which he was treated as a young lawyer, ultimately leaving the law, and going to work for a retail chain. He ultimately returned to the law. He quite appropriately said:

'It's a very, very big problem in the profession, where you've got solicitors who are supposed to be mentoring the next generation of solicitors, and they haven't been mentored properly themselves.'

DBA expressed concerns that some senior lawyers are not willing to impart their knowledge onto other lawyers. I have touched on this

earlier in this work, in that lawyers are very proprietary and perhaps concerned that if they give away their way of doing things that they are creating competition for themselves. DBA recounted an experience, which I have referred to above, and repeat for the sake of completeness in the summary of interviews:

'I worked in a firm where the principal of the firm said to me, "If you stick with me, I will teach you everything that I know." Of course, that wasn't the case, and I found myself at one stage, as I was being let go, where I raised that with this particular practitioner, and that practitioner said to me, "Why should I tell you everything that I've learned?"... there's also a difficulty in some practitioners wanting to impart knowledge onto their junior practitioners.'

The impact that such a firsthand story has for my leadership paradigm is simple. Be open with staff. It is foolish not to teach them all I know. I want them to become as good as I am, so they can deliver my vision with and for me. I am not fearful that they will leave me and compete with me; if they are going to go, despite my inclusiveness and best of intentions, then the chances are they were going to go anyway. The first step is getting the right people on board, and then treating them almost as family.

DBA expressed concerns of the low level of pay of young lawyers and that they expect far more.

'The expectations I think the junior lawyers coming out of college have when they enter the profession are very, very different to what they actually find when they get into the profession.'

That is not news to me or any other senior lawyer. Young lawyers are not remunerated well, and many will have other jobs on the side, or will always be looking for something better. Staff turnover is disruptive and not conducive to the maintenance of a firm culture. One must, as I do, remunerate appropriately. This type of hard hitting evidence, of people being so disillusioned that they leave the profession has made me change the manner in which I remunerate staff. All staff are now provided with an incentive-based earning capacity. 33% of what they bill is theirs to keep. They can work as much or as little as they want. DBA provided further useful insight to the high turnover of staff.

'I think I can tell you from the time that I spent in that firm, that firm had a very, very, very high turnover rate. A lot of solicitors were coming and going. Whether they were using it perhaps as an intermediate firm until they got where they wanted to go, or whether they had just ended up in my position, that particular firm had a very, very high turnover rate. There is a lot of firms

that I'm aware of, through contemporaries of mine that I went to university with, who are still, ten years in, bouncing from law firm to law firm.'

That is not the culture I have in my firm. That is not the firm I want to lead. People that work with me, do not want to leave.

ILM

ILM, Solicitor in Government, speaks of his experiences in government and many lawyers taking such a role because they could not make it in the private sector. Speaking about the private sector he said:

'I think it's a demanding job. It's a demanding career. It's a difficult industry full of partnerships of narcissistic and money-hungry people. I mean that in the nicest possible way. That's what partnerships are like, particularly for a younger lawyer. Anyone underneath a partnership level is really expected to work very, very, very long hours for pay that's not hugely there. It's an all-consuming lifestyle for 10, 15 years at a minimum before you become a partner. It simply destroys and consumes people that don't have the inner qualities to do that.'

Once again, the research shows a consistent difficulty for young lawyers, being worked hard, and paid very little. I asked ILM whether

the issue may have been a failing on the part of the young lawyers, perhaps in that they may lack the technical skills. ILM's response was telling and had an impact on my ongoing thought processes with respect to my personal contingent leadership paradigm. He said:

'I think it's more the hours. The hours, the pressure, and possibly they lack maybe leadership or mentoring from the top.... You have to know and understand the people that work for you and what motivates them and what it is that gets them as individual people, what brings out the best in them as individual people.'

BCC

In house counsel with an international distribution and retail chain. Similar themes emerged in the interview with BCC.

'You come out straight from university with no experience and you get thrown into the deep end. It's very much a dog eat, dog world, and I found it very difficult to have a mentor or someone to assist with their experience and to guide me through my early stages of my career. A lot of my other colleagues that I went to university with, are no longer in the legal profession mainly due to that fact. They would start out and within six months, leave it, feeling disillusioned because they had no

guidance and they had no leadership, so they changed careers.'

This hard-hitting theme continues to emerge in many interviews. I have to ensure that my leadership paradigm never suffers a lack of the provision of leadership to employees; namely the inclusiveness, approachability and removal of fear, so as to make working with me, a pleasant, enjoyable and comfortable experience. I asked BCC what changes could be made to the legal profession to help with these issues. He thought there could be change in the profession and at a tertiary level.

'To have more of a collaborative based approach with your supervisors...while you're still studying at a university, maybe doing some sort of courses. For example, I have some friends in America where they are taught in college, a leadership style course. Where we don't have that... I think that should be one of the core subjects.'

The impact of that research is twofold. There must continue to be a collaborative approach in the workplace, and given that universities are not teaching leadership, that we conduct seminars in-house so as to foster that culture and breed our own leaders.

I asked BCC how he keeps his employees happy. He said: 'listening to what their concerns are and working out a way in which we can go on the journey together and ensure that their outcome is the same as our outcome.' Once again, the collaborative approach proving to be a successful leadership style. I asked what makes a good leader, and the results of that inquiry caused me to check that I am in fact doing the very things BCC speaks of. He said:

'The way I approach being a leader is that I am extremely approachable, and people know that, I suppose, nice vernacular if you want to use it, I'm a good bloke, if you want to use that. The reason why I say that is because people know that they come to me, I'm going to show them empathy. I'm going to listen to them. I'm going to try to put myself in their shoes and then try and work out where they want to be and how we're going to get there. And I think that's why people know they can come and approach me.'

MMF

Now working with me, but previously working for a medium sized firm in family law. MMF raised a concern that the boss would put the client before her.

'Regrettably the boss in the firm doesn't take the same view and tends to always side with the client, and in such situations,

when I have been there, I feel as though I come second to the client. It is as though the boss just doesn't want to give the staff any of his time.'

This response reminded me that staff are without a doubt my most important stakeholder. Remarkably it does not appear to be so across the profession, which gives weight to the many remarks from those interviewed about the way in which staff are treated.

I asked MMF what leaders of firms can do to make life better for employees. She said:

'Firms needs to be able to allow staff to work from home to be able to work hours that suit them. The notion of a 9-5 office job is becoming redundant in a society where emails and mobile phones are available and communication can take place at any time of day or night. If a firm wants to succeed they need to be able to come to a client's place of work or meet them for lunch and discuss matters over coffee too. Flexibility in the workforce is important for not only staff but clients where the lawyer can cater to their needs. Leaders in a firm need to give their junior solicitors that flexibility to be able to meet and greet clients outside the office.'

These are all changes that I had already implemented in my firm, and am continuing to fine tune. Listening to what employees want is an ongoing challenge as a leader. MMF now works with me.

Interview with PBX Litigation Lawyer

'From the top down and supported by regulation, an appalling business model has been developed and one that rewards inefficiencies to the detriment of the client, and to the detriment of obtaining an end result. Hence, the profession becomes perhaps the only profession that exists where the participants are rewarded not by the results that were achieved for their clients, not for the contribution that they made to the community, not for any small increments that in the course of their labours they managed to contribute toward social justice, but rather by the number of hours that were spent participating in the process of the system. Emphasis to reward based outcomes and the focusing of attention on client deliverables and social justice deliverables is actively discouraged by the system and in many other respects outlawed by it, most particularly in the case of success fees which again are able to be charged only on the basis of an uplift on the charge out rate to actual time spent, and again not by any particular reference to the results achieved, but rather by reference to the skills and experience of the persons acting within the system; meaning in

point of fact that it is perhaps desirable to highly experienced persons achieving modest successes within the confines of the system and doing work that those with lesser experience could perhaps achieve, because only through that method is the path to higher remuneration levels achieved.'

PBX speaks critically of a system where it is all about the billable hour and not outcome focused. My personal contingent leadership paradigm attempts to avoid this mindset in that we are not placing employees under the pressures of billing by the hour and keeping track of every moment of their day. Likewise, clients are not concerned about the uncertainty of what their matter is likely to cost. We have avoided this minefield by the implementation of fixed price billing.

I asked two staff members to frankly tell me about me, and how I lead or fail to do so. MST who is employed by me after having worked over 30 years in the public service had this to say about me:

'Leadership qualities you possess are, you trust your staff to make decisions, allowing them to develop a self-belief in their ability. You provide flexibility in working conditions permitting employees to co-ordinate a personal life with work responsibilities, creating a positive environment. This encourages an employee to take responsibility for their own

workload, motivating them to perform at their optimum level as a reciprocal show of appreciation for the trust and generosity you show us. This scenario enhances one's own time management capabilities as we work to a deadline that has to integrate with the company's time restrictions. These are but a few. In short in my experience the environment you provide only encourages someone who may be a poor performing worker to improve.'

MMF said:

'You have innate ability where others follow you rather than you leading them. You instil faith in people and give them the encouragement to believe in themselves and hence inspire people. Although you are the head of your firm, you delegate work with your heart. You do not dictate to your staff but encourage and empower them. You have big dreams for your firm and your visions are dynamic and despite being independent you include your staff in the progression of your firm and 'do' as a natural leader does.'

In summary, doubtless leadership is an issue in the law. The profession at the more senior end, regrettably seems to think that leadership is not a problem. The notion of leadership in the profession seems to be a conjunction of expert knowledge conflated with professional status. The notion of an "other" does not appear to be explicit i.e. it is not a concept that has roots in the interpersonal links

that define the “profession”. The principal problem is that senior members of the profession equate knowledge in the law as what creates a leader. They believe ‘expert knowledge’ makes them a leader. The newer members of the profession are hopeful and view leadership as ‘democratic collaboration’. Both of these diametrically opposed views must be seen, of course, within a context of rapid structural and technological change.

Context

What is the importance of the context? The importance of the context, that is the circumstances and setting the person participating in the interviews conducted is essential in interpreting the results. By that I mean that one needs to understand that although all of the participants are lawyers in the legal profession in New South Wales, they each view that profession as something different. The context is the setting as they perceive it, through their eyes.

Additionally, when we speak of context we do not only speak of the physical context, which I maintain includes the intangible profession as a whole, that is the environment, but we also speak of temporal context. Older lawyers simply expect that things will happen the same way that they have before.

Younger lawyers do not have the same disadvantage of simply expecting that the things will be as they always were, and if ‘it ain’t

broke don't fix it' as one prominent lawyer and former Attorney General said to me in an earlier interview.

The legal profession just like all other professions is going through constant change. What may have worked in one context, may not work in another. It may also be that the context has changed so much over decades that lawyers are unable to behave in the way that they did in decades gone by. For example, it may be that the time restraints placed on lawyers, and the oversupply of lawyers, means lawyers have far less time to contribute towards leadership. It may be that the leadership style used decades ago was appropriate for today's context, but that the context has changed so significantly, that lawyers simply cannot behave the way they once did. It has become increasingly apparent that the role of leaders in the law, must be viewed as distinct from the role of the lawyer and firms must employ a leader to lead. In the same way law firms recognised the need to employ credit controllers to collect their fees, and marketers to increase their work, they need to recognise that there must be a captain steering the ship, or it will not know the iceberg it will encounter that will destroy it.

The ability to succeed in multiple contexts is based on what Warren Bennis and Robert Thomas in *Geeks & Geezers* called *adaptive capacity* — the ability to change one's style and approach to fit the culture, context, or condition of an organisation (Mayo,

2007). According to the leadership model developed by Bennis and Thomas, 'the ability to process new experiences, to find their meaning, and to integrate them into one's life, is the signature skill of leaders' (2002, p. 18). Expressed another way, adaptive capability is 'applied creativity ... the ability to look at a problem or crisis and see an array of unconventional solutions' (Bennis & Thomas, 2002, p. 101). Other characteristics, such as IQ, family wealth, family stability, education, ethnicity, race and gender, are highly variable among successful leaders, but their significant adaptive capacity is a constant and critical trait (Bennis & Thomas, 2002, p. 91). This adaptive capacity has been largely absent in the law.

What does it mean and how does the profession need to behave to adapt?

Leaders need to adapt depending on the situation. This situational approach to understanding leadership was put forward by philosophers such as Hegel and Spencer (Vroom & Jago, 2007, p. 19). They proffered a view that the time and the situation is what creates a leader and not the leader creating the situation. This was later developed into the 'Fiedler contingency theory' which takes into account both situational factors and the leadership traits of the individual (Vroom & Jago, 2007, p. 20). Different situations require different leaders. The legal profession needs to adapt in ensuring it has the appropriate people at the helm. A person who is able to lead,

influence and persuade the organisation to follow and serve the one purpose and goal. Therefore, the person at the helm, needs to adapt, and be moulded and made by the situation. In the legal profession that means a leader who has the courage to say that he or she does not have the time to be a lawyer and a leader at the same time. Most lawyers reading this thesis will disagree and simply say that is a cop out and that the 'boss' can be the leader. That is simply failing to acknowledge the true gravity of the situation and failing to provide a person who can do what a leader does; that person's success will be measured by the success and happiness of the employees of the organisation which he or she leads. There simply is no other way.

The reason I adamantly say there is no other way, is that I am immersed in the law, and have been for 27 years. It is an impossibility to inspire others, lead them, persuade them to have a like mindedness, whilst also trying to be a hands-on lawyer. It would require one person to effectively be doing two jobs.

Situational leadership has two types; one is relationship orientated and the other is task orientated. In the former, the leader maintains good relationships with the employees and it is this role which sees the leader drive the employees and organisation as a whole. Conversely the latter, namely task orientated, is where the leader is carrying out the tasks him or herself. I contend that presently the

profession has a task orientated, autocratic leadership style, when what is actually required is a relationship orientated, egalitarian style.

What does it mean for my personal contingent leadership paradigm and how will I need to behave to develop in this legal context given what my development objectives are.

My development objectives are to continue to lead an ethical and successful law firm, where employees are satisfied, unlikely to want to leave, having created and fostered a culture of employees that work with me and not for me, who are able to deliver legal services in a non-traditional fashion, and be able to adapt quickly to the changing arena in which legal services are delivered, together with transforming or inventing new methods of resolving legal disputes outside of the Court system, on a fixed fee basis, as opposed to billing by the minute. That culture will mean our organisation cannot fail and will ultimately provide a service to clients who will be satisfied and not feel aggrieved as most do with their dealing with the legal profession.

How will this interact with & impact on the client/lawyer relationship?

I need to ensure my action guidelines give me guidance on how to deal with my clients. Clients are already liking the fact that they do not have to travel into the CBD to see us. They are in disbelief that as

a law firm we provide a fixed fee arrangement and do not charge by the minute. The only issue that has arisen is that as I am no longer doing the legal work myself, as I am leading our firm, and some clients are concerned about the quality of the legal services being provided will suffer. Most of the work we do is by word of mouth, and it is referral work to me, Dion Accoto. It is not referral work to the firm. That will change over time. For the interim though, I need to manage clients' expectations as they want me to do the legal work. The easiest way to do so is to be completely transparent and disclose to them that my role in the organisation is to ensure that all of the staff are moving in the right direction to better serve them, the client; naturally, supervised by me.

My Action Guidelines

I have listened carefully to what clients have had to say. They want easy access to legal services, certainty as to cost, and lawyers that will communicate with them. Most clients cannot believe they are given the mobile number of the lawyer handling their matter as well as mine.

I continue to ask clients how we are doing in their eyes and whether there is anything else we can do for them. Whether our new system of delivering legal services is acceptable to them. Thus far, no complaints. I have developed this new way of delivering legal

services by genuinely putting myself in the shoes of the client and asking myself what it is that I would want from a law firm, and what my concerns would be. Access, price, and quality.

I accept that there may be issues that arise from time to time with clients not being content with a lawyer. That is a reality of life. Things do go wrong. Clients are told in writing at the outset that I am the responsible person for their matter, and that should they ever have any grievance or feel the need, they are to immediately contact me.

Client interaction has not decreased. It has simply meant that clients do not always see me – the lawyer that use to be the autocrat, who would see the client and then dictate to an employee. Instead they see me at first instance, (sometimes) with one other lawyer, who then takes over. Sometimes I only speak to them over the telephone and they then meet with another lawyer of the firm. Additionally, we encourage client interaction over the telephone, email, skype et cetera. Lines of communication are very open, and those working with me appreciate the need for lawyers to be accessible.

Chapter 5
Case research analysis and reflections
A detailed analysis and discussion of my significant leadership
development events/stages utilising the research
questions/propositions to focus on the dynamic interplay
between experience based insights and relevant leadership
theory.

My leadership development stages -

'System change requires a transformation in consciousness within leadership' and no organization can organize at a higher stage than this.' (Anderson & Adams, 2015, p. 185). *'Deep systemic change occurs only if we can be the change we want to see.'* (Anderson & Adams, 2015, p. 63). *'System design and effectiveness is interdependent with the Stage of Leadership.'* (Anderson & Adams, 2015, p. 160).

The five stages of leadership referred to in the text above are:

1) Egocentric, 2) Reactive, 3) Creative, 4) Integral and 5) Unitive.

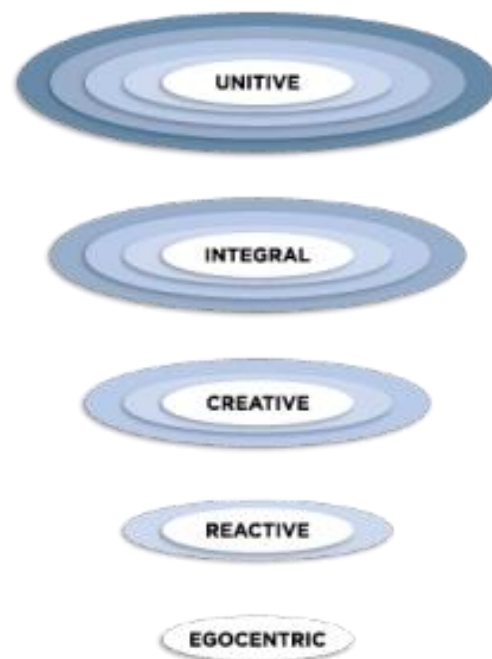


Diagram taken from (Anderson & Adams, 2015, p. 107).

I propose to adopt these stages of leadership and briefly explore how each have applied and will apply to my leadership.

1. ***Egocentric***. This is about the individual doing what he must to meet his or her own needs. It is generally at the expense of other's needs, or at least not noticing the needs of others. This was the stage of leadership that I was at until very recently. Prior to my embarkation on my journey in leadership studies, I was *the* autocratic leader. It was all about me, and dare I say I was not concerned much about those I needed to utilise to meet my needs. It is a selfish, self-centred approach which I eventually realised is destined for failure. I did not start to enhance as a leader until such time that I started to consider what others around me needed. 'It requires defining ourselves co-relationally, such that our primary loyalty is no longer to ourselves, but to the relationship' (Anderson & Adams, 2015, p. 64).

2. ***Reactive***. This is recognising and fulfilling my needs and the needs of others around me at the same time. This level was only reached by me recently. Perhaps as recent as within the last 24 months. I have a genuine liking for my people, and despite at the age of 45 being younger than some of them, I still see myself as a bit of a father figure to them. That is, I consult with them, I ask for their input, but at the end of the day, I make the decision. I speak in the present as I in all likelihood

sit at this level at present. I do not see this stage as being in any way dictatorial. I reach out to employees, and I do so in a mild-mannered fashion. It does never the less have an element of people needing to do as they are told. To that extent, I am perhaps at the tail end of this stage, and hopefully progressing through it.

3. **Creative.** This is the stage where I try to remove the levels, and have staff take ownership.

‘We shed some old assumptions that have been running us all our lives; and we initiate a more authentic version of ourselves.’ (Anderson & Adams, 2015, p. 75). ‘Just as writers must find their voice, so leaders must find an individual and persuasive voice, an authentic version of themselves that engages and recruits others’ (Bennis & Thomas, 2002, p. 137). Up until this stage, I have reached my maximum. Unless I make a change, I cannot grow. I have to change, in order to grow. I have to be the innovator, and not the only decision maker. The system I have had in place is outgrown, and only by making such changes to the culture, can I have a legitimate expectation of growth.

I make the concession that I am not there just yet. I am on the precipice of sharing my leadership, with a view of having all

those that work with me, not for me, share in my vision, and making all of us feel valuable, and attaining a level of fulfilment and satisfaction as a team.

The manner in which I propose to address this, is to learn to let go, and within my personal contingent leadership paradigm have the followers, become leaders of their respective teams. To simply say this in a vacuum means little, and I therefore provide an example. MFF is my senior family lawyer. She has others working with her, but to date, MFF continues to defer to me for the decision-making process. The fact is, MFF is a brilliant family lawyer with a masters in family law. She no doubt, dare I concede, knows more about family law than I do. She needs to be empowered by me and be able to take on the role of the leader of the family law group. I have to provide her with more recognition, so as to ensure that she feels appreciated, and empowered, with the confidence that she needs to lead in her own right. I must create MFF's responsibilities and then measure her successes. I have to lead by example and allow the 'to be' leaders to emulate me. I must encourage MFF to put her own ideas into the general mix and support her in doing so, and permit her an opportunity to back herself, and prove her ideas. Importantly this may involve challenging the way I have done things for some time, and it is essential that MFF know that she can and should challenge

me, otherwise we will never know whether I was right or wrong, and we will never have given MFF an opportunity to flourish and grow as a leader. I need to help her along the way, giving the appropriate feedback. The very same applies to MTS in the criminal law section and to one other in the commercial section. Although I speak of emulating me above, I also want to allow those around me to challenge me. That means that if I have been doing it wrong, or there is a better way, then I am open to not being emulated, but morphed into a new way.

I am almost creating mini law firms of specialty within my law firm, where each leader is given the opportunity to grow my vision with me. This gives the people I work with ownership of something; something they can value, admire and be proud of, as they have nurtured it and propelled it forward with the same shared vision.

4. ***Integral.*** Leading in the midst of complex surroundings. This requires me to not only focus my efforts on the vision of the firm, but on the greater environment in which the firm operates. I have given this an enormous amount of thought over the last year, and it is beyond me at present. It is the natural progression so as to enable me to grow beyond where the firm sits, and have a wider reach, perhaps internationally. It is important that the firm does expand in that fashion, but it must

be done in a way where the firm becomes sustainable long term, with each employee being a genuine stakeholder. 'Integral leaders focus on a vision not only for their organization, but also for the welfare of the larger system in which their organization is embedded.' (Anderson & Adams, 2015, p. 82).

Not only do I seek to expand my firm to create leaders within it, in an ongoing self-perpetuating fashion, I hope to create the industry standard in Australia, for the delivery of legal services, wherein I have vested stakeholders who lead their own teams, and benefit from the work that they do and the work they then inspire others to do within their group – ultimately creating further leaders. This enables the delivery of my vision of legal services at a fixed price to be an available service everywhere in Australia, and then the globe. No doubt people laughed when Uber said it could get people to work from home, replacing taxi drivers, and providing the consumer a similar or better service at the same price. We are the Uber of the legal profession.

5. ***Unitive.***

'Leaders at this level function as global visionaries and enact world service for the universal good.' (Anderson & Adams, 2015, p. 107)

This is beyond the scope of this thesis and beyond the level of leadership within my sights at present. One likes to believe that they can make a difference to the world, and hopefully, one day, I may. It may be that my leadership evolves so as to make the legal system a better place. Where matters do not need to be adversarial and parties are able to look to alternate ways to resolve disputes. The law has for far too long been a forum for fighting. That is what lawyers do. But why is that what lawyers do? Does a client not come to me with a problem with a view of having it resolved? Why must that mean we have to fight? Perhaps the vision in the long term is a system that removes the angst and anxiety out of the legal system in place today. Computer systems that have all the data inputted and provide a result not dissimilar to what a Judge may say.

Chapter 6
Discussion and Conclusions
Proposed paradigm adjustment(s) if any with reasons for these adjustments

The System in a Nutshell

My personal contingent leadership paradigm has all members of my firm, except receptionists, working from home. The structure is a serviced office where all phone calls are answered and transferred to the person the caller requires.

The serviced offices have locations around Sydney, and in fact Australia and the Globe.

Conferences with clients are conducted at any one of the various locations depending on the clients' desires.

Employees are paid a commission of what they earn.

There are no titles such as Special Counsel, or Senior Associate. Your name is your title.

IMPORTANT CHANGE TO MY PERSONAL CONTINGENT LEADERSHIP PARADIGM

I need to ensure that all people working with me are assured that there is true interdependency amongst employees despite not being in the same location. I address in my personal contingent leadership

paradigm below how I propose to make a significant contribution to leadership practice.

Significant Contribution to Leadership Practice

'You want to be a leader? Be authentic, open, honest. Do not compromise on who you are ... because one day the music stops and you still need to go on.' (Pech, 2013, Foreword: unpaginated).

I discuss my personal contingent leadership paradigm and the changes that I have made below. Some of the changes are not a significant contribution to leadership in general but are a contribution in the context of law firms in New South Wales.

Law Firm Shepherd

There is one major contribution that I have made to the leadership practice in the law. That is, I have developed a new role; a new occupation, or title within law firms. One that on all reasonable enquiry does not exist. Law firms have at their head, namely the Senior Partner, Principal, or Director. The title I have bestowed upon myself is Law Firm Shepherd. In the same way that lawyers have come to know the term 'Senior Partner', my hope is that one day, lawyers will want to work with firms who have at their helm a Law Firm Shepherd. This is the title that appears on my business cards. I have chosen this title as I see my role as not being a lawyer ever again, but to lead

lawyers, guide them, and persuade them to deliver legal services in accordance with my vision. I have to give up being a lawyer for the better good of the firm. 'I am the good shepherd. The good shepherd lays down his life for the sheep.' John 10:11. I have recognised that I cannot be on the tools as a lawyer and expect to lead my firm with any success.

In fairness this is nothing new as a concept. It is similar to servant leadership recognised in the literature. The primary focus of such leadership is on the well-being of people, the mass to which those people belong, in my case, my law firm and the legal profession as a whole. That is diametrically opposed to traditional leadership where it is more so focused on for the person at the top.

Servant leadership was coined by Robert K. Greenleaf in *The Servant as Leader*. (Greenleaf, 1977).

'It begins with the natural feeling that one wants to serve, to serve first. Then conscious choice brings one to aspire to lead. That person is sharply different from one who is leader first, perhaps because of the need to assuage an unusual power drive or to acquire material possessions. For such it will be a later choice to serve — after leadership is established. The leader-first and the servant first are two extreme types.

Between them there are shadings and blends that are part of the infinite variety of human nature.' (Greenleaf, 1977, p. 6).

I have served first for 27 years. I have now made that conscious choice to lead.

'The difference manifests itself in the care taken by the servant-first to make sure that other people's highest priority needs are being served. The best test, and difficult to administer, is: Do those served grow as persons? Do they, while being served, become healthier, wiser, freer, more autonomous, more likely themselves to become servants?' (Greenleaf, 1977, p. 6).

Although the type of leadership is well known, it is unknown to the law. I feel as though I am fighting the battle alone in the legal profession.

I have changed my attitude towards staff, and in fact do not like referring to them as staff. I prefer to simply refer to them as the people that I work with. I have stopped being the stuffy autocrat and have become one of them. I tried very hard to focus on not being the dictator, and instead have become the person who inspires my followers (who will become leaders) to achieve our common purpose. I have removed the barriers to me. That is an aspect of leadership I thought I would struggle with. I did at first on my leadership journey. It

took time to adapt to being accessible and I was able to understand the reason why and dealt with it. The notion of being a lawyer and the 'boss' is that you are the best in the firm at what you do, and you don't want to let your walls down, otherwise you lose that air of mystery and seriousness about you – that is what I truly thought. I came to realise that only creates a sense of not being welcomed and wanted by those with whom I work with and I slowly made the change. Everyone I work with knows that they can contact me whenever they want. They have my personal mobile number, not just the mobile number that clients have. They have all been to my house, and I encourage them to come to my house weekly. They all know that they can, and should reach out to me, and they do. This has been a significant change in my leadership style.

This is a significant contribution to leadership practice in the context. Law firms have the 'boss' at a distance in his or her bespoke suite and the young lawyers have a passing hello moment in the corridor terrified that they aren't working hard enough. Being told that when they leave at 6pm that it is not a part time job. Those young lawyers are not serving the purpose that an effective leader ought to advocate. The lawyers that work with me come to my home and see me in shorts and t-shirt with my children running around the house. They see a real person, with all of the human frailties that every other human has. They know that our vision is to provide legal services to all Australians at an affordable fixed price, and that we don't need to make ourselves

out of reach to each other, or the clients to make that happen. In fact, it is the complete opposite. Accessibility to me by those whom I work with is essential as it demonstrates the importance of accessibility for clients to all that work in the firm.

I had proposed in my personal contingent leadership paradigm that I would 'be there for staff' and not 'be there because I have staff'. There is an enormous difference. I no longer see the utility in standing over the people I work with. If I need to stand over people, it means I have the wrong people. I now have the right people. I have ensured they understand where we are headed, and then I let them be. Essential to this paradigm is therefore communication with stakeholders.

I need to keep my stakeholders engaged. That is, I need to keep them involved, appreciated, recognised and part of the team. I have become extremely generous with recognition. I speak to every person that works with me each and every work day. I thank them for what they are doing, in recognition of what they are doing with me. As we grow, I hope to maintain this contact as best one can. Perhaps the leaders I create will follow. They all know that they are highly valued and appreciated and that they own their work. The mere fact that they are entitled to a large percentage (33 per cent) of what they bill, is in itself indicative of ownership. In addition to reinforcing the fact that I am grateful, I provide other forms of recognition. For example, I send staff away for a day to an event they admire. It may be as simple as

inviting them to a court case that another lawyer is involved in because it is something of interest to them. It improves morale and increases motivation. Staff retention rates are naturally higher when one is working in an environment where they are appreciated. The key is to recognise each staff member frequently and often in unusual ways. Sometimes it may be a text message, or a simple phone call where I am physically clapping my hands in appreciation. It does not have to be a financial reward.

To be an effective leader I have embraced change. Therefore, a leadership paradigm is never perfect. It is always imperfect as it must always be capable of change. The chameleon is the best analogy I can draw to describe the ever-changing style of my personal contingent leadership paradigm. Tony William Charles the former CEO of Hungry House UK (now known as the app Delivery Hero) to whom I have referred earlier in this thesis spoke of change, and the importance of moving on when something did not work. As he said: 'we had things that weren't working so we threw them out the window.'

Where Do We Stand?

I was driven by my background and values and driven by my notion of how to structure social systems. The concept of redundancy of functions, leads me to be the one to disrupt the bureaucratic structure of the legal profession. I have seen no reason to oppress the individual so as to deny them the opportunity to do more.

The principle of redundancy of functions (Emery, 1969) means that the people I work with can be used for a variety of functions; that means that the people that I work with can fulfil more functions than are required at any particular point in time. I have created the necessary environment with the right people wanting to and be capable of, with training, of performing various task. The training of the people I work with is therefore essential. They are my most important stakeholders, yet the profession to date seems to suppress the 'employee' with a perception that the 'boss' will profit.

I have had to fight the rules because I have been marginalised. My leadership goals are now drawn by something deeper of which I don't have a true comprehension. I do not necessarily know why I am doing what I am doing.

Fair Hiring Practices

How to ensure that I do not discriminate on a subconscious level?

I propose to have any person applying for a position with our firm to do so without reference to their name, age, sex, race, religion, or even address. Most of these are not legally capable of being asked, but never the less, people interviewing do ask, and are influenced on some level as to the appropriateness of the applicant.

Once the applicants are assessed, the first interviews are to be conducted over the phone, so as to not allow me to see the person.

Channel 9 recently started a singing contest called The Voice, in which the judges can hear but not see the person auditioning. This was to remove the element of bias. Society has an expectation that a superstar looks a particular way. Lawyers have a similar expectation at some level as to what a lawyer should look like; not to mention that society have that expectation. When I became a barrister at the age of 27 I must have heard the phrase 'you don't look like a barrister' over a thousand times. My response was, 'what does a barrister look like?'.

Following the telephone interview, there will be an in-person interview, where the applicant can see me, but I cannot see them. I am proposing to use technology to achieve this.

This is a simple step that I am implementing to stamp out prejudice, discrimination and mistreatment.

Leading Change

Leadership is important. I have not paid it enough attention over two decades. It is essential. Constant reflection on my paradigm, so as to ensure that I am leading the necessary change in an evolving context.

I have embraced diversity. Although in fairness, I was never closed minded about different walks of life. My leadership recognises that people come from different walks of life; different beliefs and backgrounds – a diversity which brings into the mix a better

organisation. One would be foolish not to be inclusive in the widest possible respect. I do not suggest that I am setting out to make my firm diverse, but I will be open and accepting, and embracing of all.

Why?

I know why we do what we do. It is not just about making money. It is about providing legal services to make a difference to those who need them, and to make the experience of having to see a lawyer as pleasurable as possible, in most cases, in difficult circumstances. Basically, taking the sting out of having to go to the lawyer's office and making it as palatable as it possibly can be. I genuinely am wanting to deliver a top shelf legal service at a fixed rate, and provide it to people in an accessible fashion, without them needing to come up to level 25 of the palatial headquarters of an intimidating law office.

It is my hope that I will inspire others within the four virtual walls of my law firm to become leaders. It is my greater hope that I inspire other lawyers to either approach and join us, or to do precisely what we are doing themselves, and take the sting out of seeing a lawyer, and provide a safe, enjoyable, inspiring and likeable environment for lawyers to practice the law.

My personal contingent leadership paradigm is about others. It is not about me. It is about empowering others and fulfilling a vision without me needing the recognition. 'Do nothing out of selfish ambition or vain

conceit. Rather, in humility value others above yourselves' Philippians 2:3.

Research Limitations

There have been some significant limitations placed on my research. Firstly, I have found that the only people I can really ask about leadership in the law, are the lawyers themselves. People as a general rule are not quick to criticise themselves.

Secondly, I have been met with some hesitation and reluctance by some of the people I have interviewed. They have in my observation of them not been completely transparent and forthcoming with their views. That is not all; some. I can appreciate the reasons why some have taken this approach, namely they do not want to be singled out in the profession because it could be a career disaster. They simply do not want to stick their necks out. Likewise, some have not wanted to be named. One concludes that it is for similar reasons.

Thirdly, it was difficult to have people talk about leadership. Most people just want to talk about themselves.

Fourthly, although many wanted to talk about leadership, and they thought they were talking about leadership, they were not talking about leadership at all. It seems obvious that lawyers, or at least a fair

number I interviewed, did not understand the concept of leadership at all.

Fifthly, I have had people decline interview requests. These have generally been extremely senior people in the profession. I cannot name them. The junior profession on the other hand are very keen to be interviewed, and that itself may skew the results. Young lawyers who are underpaid and have a vision of being a lawyer as portrayed on American television are aggrieved for a variety of reasons, some of which may have little to do with leadership.

The External Validity & Further Research

I propose to approach three law firms in the coming 12-month period and ask them to consider my findings. I am going to invite them to participate in a trial of employing a Law Firm Shepherd in their firm. If they agree, I will provide them with guidance on how to do so, and ongoing guidance on how to gauge whether the persons working in their firm are content. Funding for this role might come from the Law Society of New South Wales, whom I will be approaching. I am yet to do so.

I am also proposing to approach the Law Society of New South Wales with my thesis and ask whether they wish to publish an abridged

version in their journal which reaches all lawyers. I will be asking all lawyers for their feedback.

Teaching Leadership Pro Bono

I am making my services available pro bono to one university, where I will teach leadership to law students. I will develop a curriculum to provide law students with the information they need to appreciate what they should expect from a leader, and what they are likely to encounter in the legal profession.

I hope to provide an insight so as to empower such students to make whatever changes they have to in the workplace, to ensure that they are not mistreated.

A number of Universities in the United States have implemented leadership courses from which I can draw inspiration. Most notably, Harvard Law School runs an Executive Education course called 'Leadership in Law Firms' (Harvard Law School, 2017). This program has a different model and focus to the kind of leadership education I would provide, but it shows that workable models of legal leadership training do exist – and that there is demand, at least within the United States of America.

As well as introducing leadership education to students within law schools, these ideas could be taught in house, and even in the Law Society of New South Wales.

We fight as lawyers for our clients. Most lawyers put them first. The time for change is upon us and is my genuine hope and desire that the profession reads this thesis and takes a look at itself in the mirror, and makes the changes so desperately required.

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Sydney, Australia

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