



# The Complete Lawyer

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## Use Appreciative Intelligence To Work Smarter

*By learning to flex their appreciative intelligence muscle, attorneys can change the course of their businesses*

*By Mark Beese, Carol Metzker and Tojo Thatchenkery*

**M**ore than ten years ago Ralph Palumbo and Otto Klein, two partners of Heller Ehrman's Seattle office, presented to their firm's chairman a 20-page document. Though its official title was "Creating the Law Firm of the Future," it came to be known as "The Manifesto." And it was nothing short of revolutionary.

### It's Possible To See Possibilities Where They Don't Yet Exist

The Manifesto had clear intentions. "Our task was ambitious," Palumbo and Klein wrote: "To make the practice of law more fun, more productive, and more profitable." Its prescriptions included eliminating the hourly rate system, providing a service

guarantee, allowing customers to define success, radically reducing overhead by vacating high-rise office space and moving to a renovated warehouse, abolishing the title of “associate” to make every attorney an equity partner, and instilling an unrelenting obsession for customer service. Perhaps the most unsettling proposal to traditional law firm owners was to include a blank line at the bottom of every invoice where clients could add or subtract from the total fee based on their perceived value of the service.

In short, Palumbo and Klein looked at law firm management as it had been practiced for decades and saw an opportunity for something different:

- They reframed a firm’s success as defined by clients instead of by attorneys.
- They appreciated each lawyer’s expertise and contribution to the firm instead of focusing on the partners at the top of the hierarchy.
- They embraced warehouse space as viable real estate instead of dismissing it because it wasn’t at the top of a building.
- They envisioned new practices in billing, customer service and organizational relations that could build satisfaction and value for customers, lawyers and the company.

Robert Rosenfeld, chairman of Heller Ehrman, didn’t fire Palumbo and Klein for their insurgent and entrepreneurial thesis. Instead, he invited them to present it to the firm’s partners for consideration. When it became clear that the other partners weren’t quite ready for a revolution, Palumbo and Klein started their own firm, Summit Law Group, using the Manifesto as its foundation. Today, Summit Law Group employs 24 attorneys (all equity partners) and touts an A-list of clients whom they serve in its class-C office space.

## **Identify And Tap Into Your Appreciative Intelligence**

Summit Law Group was created because its founders capitalized on a newly-identified ability called Appreciative Intelligence (A.I.). According to Tojo Thatchenkery (who coined the term) and Carol Metzker, co-authors of the book *Appreciative Intelligence: Seeing the Mighty Oak in the Acorn*, appreciative intelligence is the ability to perceive the positive inherent generative potential inherent within the present. In other words, Palumbo and Klein looked at an acorn and saw the mighty oak.

Appreciative intelligence is more important to success than I.Q., pure subject matter expertise or the number of resources at hand. Everyone has appreciative intelligence in varying degrees, and everyone can put theirs to work to change their personal lives, career paths and companies.

## **Understand The Components Of Appreciative Intelligence**

There are three components of appreciative intelligence:

1. Reframing—the ability to see people, problems or things in new ways so that something good emerges.
2. Appreciating what is good.
3. Envisioning how what is good in the present can grow into a great future.

In the context of the legal profession, the concept of appreciate intelligence holds significant promise.

### **Reframing Gives Us A New Perspective On Old Situations**

Given the same evidences and facts, what makes one lawyer frame a case as winnable while another thinks otherwise? One important factor is the ability to reframe. A lawyer using her appreciative intelligence steps out of her conventional way of thinking or interpreting a case and discovers that new or different guidelines might apply. She remembers unconventional arguments, new logic, and creative twists that might persuade a jury or judge in the desired direction.

Law firms can also reframe their mission, as the Summit Law Group did. Palumbo and Klein, for example, rejected outdated service models and intentionally reframed their law firm's definitions of services and clients in order to reach different outcomes. "Legal services" became well-defined and uniform "legal products" in order to connote something that would cost less, yet provide great value. "Clients" became "customers" who buy products (or don't, if they're not a good value.). "For a customer, you hustle," the Manifesto emphasized.

According to Polly McNeil, Summit Law Group's Managing partner, "We critically evaluated almost every aspect of a traditional law firm to see whether it added value to the legal services or not."

### **Seize What Is Positive In The Present To Use In The Future**

Appreciating the positive—seeing what is useful, valuable or desirable in the new context—is the next step.

Consider Chris Marston, age 29. Two years ago, when he graduated from law school, he was convinced that much of what was wrong with the practice of law derived from its reliance on the billable hour. It violated his sense of good business practices because of its negative effect on management, power, organizational structure, work-life balance, diversity and culture. "If you google the words 'Billable Hour,' you will find that nearly everyone hates it!" he exclaimed. As a result, Marston started his own

firm, Exemplar Law Partners, serving clients only on a flat-fee basis.

Focusing on the positive was a critical vector in the early days of Marston's entrepreneurial venture. "It was after several straight successes in my endeavors that I saw the power I had within me to affect positive change with raw conviction to succeed and pure optimism," he continued. Marston requires of all the attorneys at Exemplar that they have a positive outlook and business acumen. He sees the ability to focus on what *will* work as a competitive advantage over other firms' prevalent negativity. His tenet: Lawyers too focused on weaknesses or barriers to success cannot catapult a firm to new and visionary heights. Because he was able to appreciate the positive—in the form of adopting flat-fee billing and hiring optimistic firm members—Marston's client-focused firm is thriving; its engaged attorneys are bringing in extraordinarily loyal clients.

### **Know How To Act In The Moment**

Reframing and recognizing positive possibilities aren't enough, however. A successful attorney must also know what to do in the current moment.

Summit Law Group's McNeil said that their vision had very finite, tangible elements that were at the core of the new firm. "For starters, we determined that our physical plant—office layout, location, and design—would be critical to enabling us to implement our theories," she said. "So we found office space outside of the downtown district, designed the interior so that all offices are sized and configured similarly regardless of seniority or status, and oriented work-spaces to maximize the benefits of technology. This lowered our overhead so that we could lower our rates. We also promoted a sense of mutual respect and value for all employees so that we could promote teamwork; and we subordinated superficial trappings of traditional law firms in favor of technology to maximize efficiencies."

By envisioning and creating equitable work spaces, eliminating hierarchical distinctions between partners and associates, and inviting all the firm's attorneys to become owners of the business and help make decisions, the firm cultivated an entrepreneurial culture and gave all employees a stake in its success.

### **What Appreciative Intelligence Is Not**

Appreciative intelligence is not about seeing the world through rose-colored glasses. It is not about covering up problems, pretending mistakes don't exist or pasting a label of "good" on something negative. It is not about rewarding incompetence or lack of talent. Chris Marston did not convince himself or others that hourly billing was consistent with his convictions or business experience; he saw the traditional practice as an opportunity to switch to flat-rate fees that would better suit his clients and

provide his firm with competitive differentiation.

While people with high appreciative intelligence reframe a situation to see the positive, they do not deny that any negative aspects or destructive possibilities exist. Their goals and expectations are high, but not ungrounded. They use the strengths and resources that are available and that come from positive and negative experiences to move forward, the way Palumbo and Klein did.

At first glance, the notion of appreciative intelligence might not be easy for some lawyers to swallow. Our society, and lawyers as a group, tend to view optimism or appreciation with skepticism. “Pollyanna”-type characters—or people who cheerfully look for the positive in situations—are often viewed as unrealistic or naïve. “Real” work is sometimes synonymous with seeking what is wrong or broken in order to make repairs.

Furthermore, reframing, appreciating the positive and envisioning action that generates desired outcomes might not come easily for some attorneys. Depending on their training and acculturation, lawyers may not notice the positive possibilities already embedded in a case scenario. According to Stephanie West Allen, a consultant and writer who practiced law in California for several years, pessimism and skepticism can sometimes serve legal professionals. “But those traits also can be destructive if they become a default way of life across all roles,” she said.

### **Use Appreciative Intelligence To Work Smarter**

Fortunately, there are ways to promote appreciative intelligence. To jumpstart the process of reframing, for example, a lawyer needs to look intentionally and proactively for opportunities to examine alternative points of view, question conventional perspectives and brainstorm possibilities. He must deliberately choose to find what is valuable or positive in a situation. Eventually, he will become more adept at recognizing new legal maneuvers, reframing existing arguments, and discovering positive possibilities that were not initially visible.

Beyond applying their appreciative intelligence to work on challenges, attorneys can expand their abilities through mental exercises. “The brain is not a static piece of hardware,” said John Kounios, a professor and researcher at the Drexel University Medical School’s EEG Lab. Human neural connections can change even after a 20-minute conversation.

To boost your appreciative intelligence, try the following exercises:

#### *Appreciate Your Own Successful Experiences*

Write down each day’s experiences for one month. If an experience was successful,

capture what you did to make it so effective. If it seems less than successful to you, contemplate or write down what was significant and what you learned that you could apply to a future situation. Then, practice reframing it to see where long-term value or a positive opportunity might lie. Through a process called “neural Darwinism” described by Nobel laureate Gerald Edelman, infrequently used mental processes and connections are pruned and destroyed, while those that are used more often become strengthened. So the more you practice reframing to see the positive possibilities in any given situation, the stronger that ability will become.

### *Turn Ridiculous Notions Into Great Ideas*

No one walks into a meeting thinking, “I’m going to share a ridiculous idea today.” If you hear an idea that sounds outlandish, resist the urge to blurt out, “That’s crazy. It would never work.” Instead, pause for ten seconds to consider the potential value in it. If you still cannot see how it might be a good idea, ask your colleague three questions in a nonjudgmental way:

“How are you seeing this solution?” (For example, she may be seeing a technology or labor solution when everyone else contemplated a financial solution. If you ask her to clarify her comment, she may shed light on a new perspective that no one has considered.)

“What are you seeing that would make this a viable solution? What is positive or useful in this perspective?” The answers may help you appreciate something positive you missed.

“What resources or talents already exist that could make this work?” This answer may help you see how your colleague is applying what is positive in the situation to generate an outcome.

If the person cannot answer any of the questions, ask her to come back to you with the information. If she cannot find answers or doesn’t get back to you, the idea will die on its own; you won’t need to kill it. If, however, your colleague comes back with some good answers, you might find yourself being introduced to an innovative idea that has merit and benefits for your firm. By learning to think as innovatively as Palumbo and Klein did, by learning to flex their appreciative intelligence muscle, attorneys can change the course of their business. As legal firm owners and managers—leaders in their workplace—they can bring out the best and most creative aspects in their employees, and in themselves.

## **ADDITIONAL THOUGHTS & RESOURCES**

### 1. Further Qualities Of A Leader

When people see the mighty oak in the acorn, they find innovative solutions, bring out

the best in people and invent new services. In interviews with organizational leaders and innovators, Thatchenkery and Metzker found that the ability to reframe, appreciate the positive and see how the future unfolds from the present consistently led to four qualities crucial to success:

**Persistence**—Leaders who can envision a desired future and discern which attributes of the present can catapult them into it are more likely to persevere in pursuit of their goals.

**Conviction that one's actions matter**—The more you believe that you can deal with events at hand, the better you are actually able to handle them. In fact, behavior depends more on what people believe about their capabilities than on what they are actually capable of accomplishing. Psychologists have shown that the more people believe that their actions matter, the greater their persistence and resilience.

**Tolerance for uncertainty**—Typically, people experience uneasiness when new ideas or experiences seem to contradict what they already know or believe. People who are able to see what's inherently positive in the present moment can more easily tolerate the feeling of "being up in the air" while waiting to start a new business, product or initiative. Psychologists Sternberg and Lubart contend that "the creatively insightful person seeks the paths that others avoid or even fear; he or she is willing to take risks and stray from the conventional."

**Irrepressible resilience, or the ability to bounce back from difficult situations**—Leaders' ability to reframe or reinterpret situations enables them to see how a positive consequence can emerge from even the most devastating circumstances. Furthermore, they have an ability to face adverse situations and turn them into opportunities to thrive.

2. Thatchenkery, Tojo and Metzker, Carol; *Appreciative Intelligence: Seeing the Mighty Oak in the Acorn*; Berrett-Koehler Publishers; May 2, 2006.

3. Thatchenkery, T., and Chaudhry, D. (2007). *Appreciative inquiry and knowledge management: A social constructionist perspective*. Cheltenham, U.K. Edward Elgar.