

Pioneers and Pathfinders: Keith Maziarek and Justin Ergler, Part II

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Steve Poor

Greetings. We're back with part two of our conversation with Justin Ergler and Keith Maziarek, two sharp voices at the forefront of legal innovation and co-hosts of the Off The Clock podcast. In this second episode, we dig deeper into the forces driving legal transformation. We talk about what motivates real change in the industry, why managing change—not just demanding it—is key to moving the industry forward, and why culture is such a critical but often overlooked component of successful change management.

Whether you're inside law firm or on the client side, this is a candid, practical look at the challenges and opportunities of modern legal practice. Thanks for taking the time to listen in.

Justin Ergler

But I will say, and I'm not going to speak about any one firm here based on previous experience, but I will say, I'll tell you who's really freaking good at non hourly flat fees, flag bank firms, firms at that tier of the firm you just said, you know why? Because they know they have worked really hard to get the best talent. They've worked really hard to retain that talent, and they know that they can deliver more efficiently, but just as effectively as some of their competitors. If you give a firm of that tier a flat fee, guess what? They're able to hit it, and they're able to have high profitability because their people are that good. And that's kind of, as I said earlier, the impetus of what had my former company go to flat fees in our former general counsel was, if you've got great people, you've got brilliant minds, right? They should be compensated based on the work that they do. So if you're a firm of that tier and you've paid them, well, you've retained them and all that stuff, those are the firms that I found. And it wasn't, you know, a flip of the switch overnight, but as they kind of got used to it, it was, hey, you know what? We can really have an upside on deals like this, and that includes putting your best people on it, which, that's always the concern. People say, Oh, well, if I do an alternative fee, I'm not going to get their best people. Well, if you do a flat fee, you put your best people, you're going to make hell a lot of profit.

Steve Poor

I'm curious. You're one of the first people to really push this alternative fee back in, my God, what 20 years ago? 15 years ago? What kind of resistance did you encounter then? Because as I said, I recall you talking at a conference, and the shocked looked on the faces of the people in the room were like, Oh my God, he's crazy.

Justin Ergler

That was the best thing. At least nobody asked me if I smoke crack, but that was the best response I got. And again, I don't pretend to say, like, you know, oh, hey, this was some brilliant No, if you're a big fish in the legal industry, you have the ability to move change. And if you have a resolute corporate legal department that says, hey, we're doing this, come with us, or don't, come with us, right? There

was a resistance, but it was, if you're going to do business with us, here's the way that we're going to do business. You know, Quentin Tarantino went the whole way back to earlier as far as the different disciplines that change management. It was a change management if it was going to be effective, then it had to be. It was a learning process internally at the corporate legal department. How do we work with us, right? How do we do this? How do I, as a line attorney, evaluated this deed makes sense because I came probably from a law firm, and all I know is hours. Hours makes sense to me in law firms, so educating internally, and then educating externally and also, and this is where something I also was sold early on was, I'm going to destroy relationships. Business guys, girls and women are going to destroy relationships. Well, you know what? I think that I would like to think that I helped and others at other companies, in my former company helped to strengthen relationships, because if you're going to do something new, you got to have trust and all that strategic partnership stuff. That's the buzz word, buzz phrase that people say, if you're going to do something really new, and you have somebody that's willing to come with you and say, Hey, we both know that we're going to be learning things along the way, and they're willing to go with you and you're willing to go with them. That's where trust is, and that's what a strategic relationship and partnership needs. Does that make it sense?

Steve Poor

Yeah, it makes complete sense. I mean, I think that was the problem, a number of clients had what they're trying to follow in your footsteps. They were trying to get it right, right out of the gate, and didn't know how to manage the learning process. Same with the law firms on the other side, because it is a journey into the unknown, and you are not going to get it right the first time out of the box, and you have to be willing to trust each other, to say there's a reason why we didn't get this right, and it's not because you're running inefficiently. We're not, We're not rewarding bad behavior. We're also recognizing our own limitations and analyzing it on our side.

Keith Maziarek

Yep, you know, this kind of makes me think, to kind of go back to something we talked or touched on at the beginning or towards the beginning of the discussion, one of the biggest limiting factors still today, and was the case 20 years ago, I think, still too right, is that change management piece. So we talked about the interesting facet that anthropology resides in, in terms of thinking about, Okay, well, that sort of focuses on the study or the behaviors of community, or what creates community, communities breed culture, right? Culture, I always say, you know, I've stolen this, and I use it, you know, pretty commonly these days. But you know, culture is strategy for breakfast, right? So I think what we find is that, at least. What I my observation has been is the culture piece will destroy your plans that make intuitive, logical sense pretty quickly, and have no, you know, have no regrets about it, right? What I feel like is able to be the difference between we had some great ideas that they made logical sense, but we don't live those things. It's because, typically, there's some lack of, I would say, centralized authority, or centralized buy in, or vision that is shared amongst a population in a community, right? That becomes part of the culture to make that shift where it's something we do as opposed to something we know about, but don't do right? Because we can't get everybody on board to go, this is good for me, not this makes sense. But what I'm going to do is what I think is really is good for me, and it's not that. And I'm curious, Stephen, that long sort of lead in, in '04, '05, you know what you said I 100% agree on, agree with you're like, PMO, this makes all the sense in the world. We should have this. That, I think, happened a lot. What was the difference? Because at least the perception I had even back then was

that at Seyfarth, there was some level of unified agreement of that, and I'm not saying it's unanimous, but there was some element of we adopted that as part of our culture into how we want to do business. And that became, from a brand standpoint, I would assume, from a competitive standpoint, a differentiator, if I'm right at all, in that or like, what were your tactics or ways of making that be something that people lived, as opposed to something that people tried to, you know, keep at arm's length or acknowledge, but go, "That makes all the sense in the world I see a lot of people around here that could probably benefit from that. I'm going to go on my merry way and go talk to my clients about what I normally do"?

Steve Poor

Great question, and your point about it not being unanimous. I want to just reinforce. Anytime you've got, you know, seven, 800 lawyers, there's nothing that's unanimous, yeah, and they're certainly, certainly were people that fall into that latter category. I think we recognized. We moved to the PMO, we moved to trying to bring lean into services in the '04-'05 time period. But earlier than that, we recognized a whole bunch of experiments that I don't need to go into, because it'll bore you to death, the need to enhance the business acumen of our partners. And so, we went, we worked with Kellogg School and put together an Executive MBA Program designed specifically for our partners. And so in the '02-'03 time period, we put all our partners through three day Executive MBA Program, leading effective teams, organizational design, stuff like that. It was a complicated process. It took, took a lot of time, and it was not cheap. But the point of it was to create at least a consistent language, a consistent viewpoint as to how you analyze business of the practice, because I knew we had to get more business focused from a process standpoint, right? It's a profession, but clients were demanding to be operated more efficiently, more effectively, so that when we then started moving into Lean Six Sigma, you had plenty of people who fell in the category Keith that you described to say, "Oh yeah, those guys need that, but I don't need it, right?" The change process was a slow one would begin to think. What we learned along the way with their voices that matter. So we would have clients come in and talk to our partners and talk I remember one client in particular came in and talked about how important the change was to them and how we were getting more money. This is a few years into it. I remember a few partners came up to me afterwards go, "Why haven't you ever said that?"

Justin Ergler

I was a client for years? You have no idea how many times I have, you know, said something. And people like a Keith or, you know, folks other firms, are like, "God, I've been saying that for five years. And then you come and say it once, and it sounds like the and they think it's the best idea in the entire world."

Steve Poor

You got to get beyond that. If you're the guy that's been saying it for five years.

Justin Ergler

I agree, but no, Steve, and to keep going, is what we're saying here is all these different disciplines, which you really set us off on the right track, my friend, are all these different disciplines that maybe could be more valuable to the legal industry. And coming in at this point in time. What I keep hearing is change management. Change Management Professionals are perhaps maybe something that we

haven't had as much of in the past. I'm not saying it at your firm, but just in general, for some of these change initiatives that maybe have been attempted in the past, but now, change management professionals and people that are really, really good at it, may be outside of disciplines of the law, could be absolutely invaluable.

Steve Poor

In the right place, I think absolutely. Every time we try to do something different and we forget the fundamentals of change management, it's not as successful as it should be. Our first application of our PA, robotic process automation was into a sector of the firm where it just seemed to be all upside it was just, we're getting this lousy work off your desk. We're automating it, and you're going to do some cooler things. And so, we forgot to sort of lay the groundwork, talk to people, hear their concerns, talk about what their job was going to look like, reassure them that we weren't going to be laying people off. We forgot to do all that stuff because we thought it was self evident, and we had to back up and do it again. So I think, Justin, your point's the right one. But it also requires a certain mindset by the part of management of the firm to say, "We're going to support this." Because otherwise you're going to toss a couple of change management professionals in. They're going to be ramming their heads against the law. Unless your compensation, your hiring, your promotion, all of those mechanical functions are aligned around what you say it's important to you as an organization, they're going to pull against this change management process.

Keith Maziarek

So, I've been at a really large, global firm, and I've been at other large firms, but not quite at that scale, and I've seen that happen where I've been witness to the difference between, hey, this is the way we need to do things in order to be competitive and optimize where we sit within the industry and where we want to get to, as far as what our goals are, you need to kind of get on board. I've seen people say that, and then I've seen people enforce that, and without the enforcement piece, you're kind of relying on free will of a bunch of people to go, Yeah, that makes sense. But I wish the best of luck to those that need this, you know, to do this thing, but you do really have to have a lot more centralized sort of consensus around that, and more movement towards it, rather than sort of tacit agreement that that makes sense on paper, right?

Steve Poor

Yeah, that's right. Sustaining the change is always more difficult than creating the change in the first place, right? Because people tend to fall back on old behaviors that are perhaps rewarded in the way. And unless you, unless you change those reinforcing factors, you're not going to sustain the change in behavior you want to see. And that's not easy. That's a hell of a lot easier said than done.

Justin Ergler

I've always said to firms that, you know, oftentimes clients look at firms at an enterprise level. They look at the firm, right? Firms look at clients oftentimes, since there are those partners at almost like a here's my fiefdom, right? And here's how I service this client. And not that they don't care about the firm, but this is my client. This is how I serve as client. Do you think that in this era of change, and kind of to the point you just said about ingraining it and about everybody going that firms need to look at clients more at an enterprise level that perhaps they have in the past, that they need to look at it not just if leadership

of a firm is going to make change take hold, they have to start looking at clients at an enterprise level, as what do we as a firm do for this client and how can we as a firm, service this client better, as opposed to just, I am Susan Smith, I'm in M&A, and here is how I service, x, y, z client. Does that make sense?

Steve Poor

Yeah, it makes complete sense. It's made sense for decades.

Justin Ergler

For you, yeah, but the rest of the industry, we're all but pawns in your game of light, my friend.

Steve Poor

But no, I think your point's right. It's, it's, it's because it becomes ever more important when you're talking about the need to invest in enterprise level technologies. Enterprise level system changes, where how you touch and how you service the client sends a message to the market, sends a message to the client. You're out there saying, we are x kind of firm. If the clients aren't getting that experience, you aren't x kind of firm, right? And I think that becomes as the industry continues to speed up this innovation bandwagon with technology, looking at our clients as assets for the enterprise as a whole becomes even more important. I agree, 100% Justin.

Keith Maziarek

There are a million things I want to that I keep it, oh, you know when I get Steve's thoughts on thoughts on this. But I know we're kind of getting, we're starting to get low on time. So one in particular,

Justin Ergler

Hey, Keith, I actually just, I extended. It's the three hour podcast now.

Keith Maziarek

Okay, good. We didn't tell you that you should have packed a lunch.

Steve Poor

I was going to say, Wait a minute.

Justin Ergler

Sorry, Steve, as far as, as far as Off The Clock is like Hotel California. You can check it anytime, but you can never leave.

Keith Maziarek

One of the things I wanted to, I would love to get your philosophy on, is, if you think about the way the technology, sort of evolutionary piece is going to affect firms, one of the things I've been thinking about a lot, I've been talking about a lot because it's fun to philosophize on these things, is, what does the law firm structure look like moving forward, when you do automate more of what the traditionally manual processes are because so here's my theory and I, but I'd love to get yours. The pyramid, there's still a pyramid, but it's not as wide. It's much more narrow of a pyramid, because you don't need armies of

people to do sort of the grunt work, or I don't want to say necessarily even grunt work, but some of the other tasks that can now be technology enhanced are enabled to require less manual time. So what does that mean? You're not going to pay the same amount of people, the same amount of money for half of them to sit around and not have to do work half the day. This is all hypotheticals, right? Because you've got software that makes it that much faster. You're going to hire half as many people. They can use software to do the same work twice as fast. And now you've got a much more narrow triangle, right, a much more narrow pyramid. But what other stresses does that cause on the system? Right? You've got less leverage if you are charging by the hour to generate profit, that's an internal sort of sausage thing. But as you think about what the pyramid represents, it's sort of that progression of expertise up as you evolve to becoming an expert or a guru, right? The profession and the industry will still need gurus, but we don't get to use that sort of attrition model of slashing and burning through the same volume of people to see who rises to the top of the pyramid anymore. It's a much more focused and much more curated path to get there in the future. That's my philosophy. That's my opinion. How that takes place, it's not going to be a flip to switch. We bought a bunch of software. So hey, 30% of you guys pack your stuff, head home today, the ones that you are left, get on that software and start cranking it out, because we need you to do this. It's going to be much more nuanced and much more complicated than that. And I'm very curious to see how firms start to change what they do in terms of talent acquisition and professional development and retention. I'm just curious what your sort of prognostications look like on that.

Steve Poor

Yeah, I agree almost 100% of what you said, Keith, I've been talking to people about this question of how does this affect development and careers of people for a couple years now, and I don't think there is any emerging consensus in the industry as to what it is, but your analogy to essentially a rectangle as opposed to a pyramid is, I think it's premised on the assumption that the volume of work will not expand to fill out the bottom of the pyramid. And that may be true, but you know it's like when they put the ATMs in place, they thought all the tellers were going to go away, and they're just as many tellers and banks now as there were before. And you'll see people talking out in the market that in fact, they anticipate the complexity of the work to grow, and the demand for work to grow to keep that bottom part of the pyramid busier, even if a lot of work falls away. And certainly in the eDiscovery, we heard the same argument, right?

Keith Maziarek

Yeah, true.

Steve Poor

Right. "Oh my god, they're not going to have people going through boxes of documents, armies of people going, where are they going to make the money, and how are they going to get trained?" So, it'll be interesting what the demand curve actually looks like. But the basis that it's a rectangle, which I think it will be, Keith, I agree with your point. The training, you think, Okay, what the clients are going to need more than ever is not the routine work, but the wisdom, the empathy, the experience, judgment. We've sort of had people get that by osmosis, to your point, sort of winding the way up the system through an apprenticeship system. How do we accelerate that? How do we create environments in which people can learn and develop? I think technology will play some role, but frankly, I think it becomes a more

human endeavor than ever before. It's not going to just happen by time. It's got to be happening by talking to experienced lawyers, by learning from them, by experiencing it in a thoughtful and planned way, which is a deliberate way, which is not the norm in the industry right now.

Justin Ergler

Now a two-part question for you, Steve, I'm sorry for but two-part questions. First off, to your point, about development and osmosis and things like that, there's a very senior partner, Ed, which large firms global litigation practice that said to me, when we kind of had the discussion around this, he kind of feared for the young lawyers, because when I was a young lawyer, some of the most valuable insight in education that I got to be a better lawyer was when a senior partner or partner would peek his or her head out of their office, look at the bullpen and say, "Hey, come on, get in here. I'm getting on a call with a client. I need you to be here." If it was even to take notes, you know what I mean, learning and seeing that and understanding how they dealt with the client and tackled the issues. During COVID, that wasn't possible. And he said to me, "I don't know how to set up a multi person Zoom meeting on the fly. So, and that is this me and the client, you know, that young lawyer that was me back in the day, isn't going to get the chance to hurry up and scurry over into the office and get that experience." So, that's one question I had, as far as you know, what kind of thoughts do you have? What kind of ideas do you have, or what kind of advice do you have as far as to help young lawyers get that experience that may have been previously organic, when it was a more of an office, not tech culture. The second part of the question is to your thing around eDiscovery. Look what happened in eDiscovery. But everybody thought it would go away, but it didn't. One thing that it did do is it went from just about every firm, most firms, having their own eDiscovery folks in house, to this advent of all these eDiscovery tech providers, one off and it being outsourced, and clients saying, I'm not going to go to a x, y, z firm for my eDiscovery. Here's my eDiscovery tech provider, and that's who you're going to use, right? So do you see that the fact that some of that work could be done elsewhere? Do you see work moving away from law firms to third parties and becoming more of a bifurcated model?

Keith Maziarek

I was thinking that same thing?

Steve Poor

Yeah, yeah. I do see that Justin, I do see becoming more a bifurcated model. I certainly see types of work moving away from humans doing it at the way they're doing it now, and whether that means firm will bring its own, create its own ALSP, or whether it's going to go to another one, it's not going to be handled by young associates in the same way it's been handled now, at least two or three years from now, it's not going to be the same. To go back to your first point, to me, that's the existential question in the industry right now, because it's easy to say those things that happen organically now have to happen by intention. They have to be designed. They have to be worked into the blueprint. The partner has to say, has to have that associate on the call, even if they're not billing the client. It just has to be part of the culture. That's a massive change, particularly after COVID, that is a really hard change, and I have no idea how that's going to happen, but that's the logical end result. I think I can't think of another one. I don't think the technology itself. There's some programs working on now where we're trying to build AI into a training module for different tasks to get people advanced, but it's never going to train you, I don't think, on empathy and on relationships, and how do you handle the questions from the

client and all that kind of stuff. I learned that by watching I learned that exactly the way by being called into the office. I learned to take depositions by going and watching the senior partner take depositions. It's not going to happen just because it's the way things are done. It's not done that way these days.

Keith Maziarek

That actually makes me think of something else. And I know we got to, we got to wrap up here, but you can't substitute sort of the human experience piece of it right at some point and still end up with the same wisdom or knowledge or capabilities. It kind of makes me think as a analogy, like devices. What age do you give your kids an iPhone or, you know, a smartphone or a tablet or whatever? Because they talk about how, you know, more recent generations are less socially adapted, you know, because there is so much that takes place in a digital environment or without interacting directly with people. And what does that mean for effective communication or just bonding, like that type of thing? It's a similar type of dynamic here. Whereas, if you, you know, if you bring a bunch of young associates in and throw them on a workstation and say, here's a bunch of cool software. Go, you know, go do that, do all your work, or supplement what you were doing before in those meeting rooms here, on this thing, they're going to lose that dimension of sort of picking up on some of those cues, or understanding how to respond to different stimuli that take place in those situations where that's really where the value comes in, right?

Steve Poor

I'd like to think so. Anyway, I'm certainly of a generation that believes that,

Keith Maziarek

Yeah, yeah, yeah. I think so too.

Justin Ergler

Keith, Steve, I really, I hate to do this, but Steve, we are going to let you check out of the Hotel California, because we are getting over time, but one. But one of the things we're trying to do, we like do and is, is, kind of think three takeaways. I think whenever you listen to stop you see a presentation, whatever, it's always good to give the audience three takeaways. So I'll start, and then kick to Keith and Steve, we will give you the last bit to make Keith and I at least seem somewhat smart. Maybe, I don't know. We'll see. For me, it is, there's a lot of change going on in the world as we're as far as the world, let alone the legal industry. And change has to be managed, and it needs to be managed appropriately and responsibly. If the best effects of that change, the best impact of that changed is going to be realized. So, that's one of the things I think we talked about in an unknown, uncertain future, with tech changing so fast, and the ability to do things changing so fast, there's so many other things that it affects that if you aren't managing that change properly, you are not going to end up in a good way to put it in technical terms, so I will leave it at that. Keith, go ahead, my friend.

Keith Maziarek

There's a lot of things I could say, the takeaways, I'd say the final one, though, changes the same theme with, you know, as mine, but I think what you talked about was ways to make that change part of the fabric of the organization, in terms, like, when you're when you were discussing the, you know, the Kellogg program, like I, every firm I've worked for has had some, and this is probably by virtue of your

leadership in that regard, too, where there's been a lot of interest in partners that are sent to business schools to get, you know, sort of the mini MBA programs. What I find is they're really fascinated by it when they're there, and then they come back and don't do any of it, right? So, I think really making it, whatever mechanisms you use to make that part of the incentives and part of the part of the fabric of how the internal community relates to each other you mentioned, like using the same terminology, like getting on the same page, as far as that goes, and making it sort of a little bit more common knowledge on how we want to be doing these processes in the future based on what we've learned and how we talk about these things, makes it have more sort of tangible existence is that key piece that I think is critical. And you know, hearing how you kind of came to that realization and worked to mobilize around that was very helpful to me.

Steve Poor

I will just pick up on sort of what underlies both of your points, which is, as we look at a changing environment, there's a lot of talk about technology. There's a lot of talk about the impact of technology and shiny new toys and all that kind of stuff. The core of this business is people. The core of this business is the expertise and empathy and human innate human characteristics that will drive the business. And as you're thinking about where the business is going, Yes, structures are going to change. Yes, tasks are going to change. Yes, you're going to make different investments in technology. You cannot lose the sight of the fact that this is a people business, and it's the impact on the people and how they adapt and are LED that's going to make it successful.

Justin Ergler

Well, hey, I think we do need to wrap up here, because as far as our master of ceremonies, Chad Main, the technically legal podcast, you know, please make sure you check it out. If you haven't already, I'm sure you have.

Keith Maziarek

I would mention Steve's Pioneers and Pathfinders. A great podcast.

Justin Ergler

Pioneers and Pathfinders, absolutely. And I believe, Steve, you said this is going to be co broadcast.

Steve Poor

Well, we'll probably, we do it a half an hour, so we'll probably break it into two sections.

Justin Ergler

All right, so yeah, all right,

Steve Poor

Yeah, but we'll republish it on ours.

Justin Ergler

Well, yeah, like, as far as this, cut Keith out, then we could have the part where you and I, it would be a much better podcast, but, um...

Steve Poor

He's magician at editing, but I don't know about these.

Justin Ergler

But no, as far as I think the lesson we all learned is that if we had all listened to Steve 20 years ago, the world would be a much better place, and the legal industry would be in a much better position. So Steve, I can't thank you enough for your time. Really been incredibly insightful, fun conversation. Thank you everyone for listening. Look forward to talking to you next time on Off The Clock.

Steve Poor

Thanks, guys. I appreciate it.

Steve Poor

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