The "Good People" Test

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Here is a little test. Suppose you are a business person trying to choose an important vendor for your company. You have competing proposals which are basically equivalent in price and quality of goods and services from two vendors, vendor X or vendor Y. Each seems fully capable of fulfilling your needs. Or suppose you are a commercial loan officer for a bank and you have been approached to either make a loan to customer X or customer Y, both of whom fully satisfies all of the bank's underwriting criteria. Or suppose you are an inventor with a blockbuster patent and investors X an Y have asked to become your money partner with both being equally capable to fulfill the role.

So how do you choose between the "X's" and the "Y's"? Coin toss? One potato, two potatoes? Throw a dart? Probably not even though they are equal on all objective accounts. More likely you will consult your subjective or gut feeling about the quality of the characters of X and Y. Does one appear to be more honorable than the other or better project an image of trustworthiness? Put simply does one seem like really "good people" with whom you would have a great deal of confidence that future snags could be worked out smoothly and fairly. I believe that this kind of thought process frequently occurs and often is the critical factor in business decisions such as described.

What does this tell an astute X or Y? Well, I believe it should tell them, loudly and clearly, that an important part of their respective competitive edges might lie in whether they are perceived as "good people" or not. In other words, are they generally perceived in the community as good and trustworthy, as well as competent and price competitive. Will their assurances of trustworthiness ring true or simply be seen as "sales talk". Are they seen as people with whom a client would like to be with and with whom a long term relationship may seem inviting.

In the business world smart companies and individuals recognize the importance of having "good people" reputations associated with their product or services. Savvy companies and individuals also know that reputations cannot be conceived during sales pitches, but must be earned and earned through long term, sustaining actions rather than words. We all know that in our personal lives and it is no different in the business world. The companies that "get this" are the ones who are careful to cultivate an image of integrity and trustworthiness in their dealings and more generally as part of their "brand" identification. While there are many ways to do this, increasingly companies are adopting or expanding corporate philanthropy as a means of creating an aura of responsibility, caring and trustworthiness. Millions of dollars are spent on cultivating this image as part of a company's brand, the same way that millions are spent on cultivating images of competence, responsiveness and intelligence as ingredients of the brand.

And companies have more than one audience that need to become believers in the "goodness" of the company. While customers are critical, the internal audience of those who work for the companies is also of critical importance, particularly in environments where worker loyalty is threatened by the greater mobility of today's workforce. Whether it be workers thinking of joining a company or tempted to leave for greener pastures, an important factor in the decision is the general, visceral view or feeling the worker has for the company. A decision to join a company is akin to a decision to get engaged if not married. A decision to leave to join another company is similarly a decision to get engaged or married to a new suitor. Like our earlier examples, in many situations the concrete issues of pay, benefits, title, and opportunity for advancement may essentially be the same between competing choices. When this is the case a person is likely to resort to his or her "feel" for the personality of the company. Is it a place that cares for people? Is it a place that is trustworthy? Does it evidence a respectful attitude toward people of all types and stations in life? Or, in other words, is it "good people"?

Again the same question is being asked about the company. Smart and savvy companies realize this and that having a good answer to this question will provide them with an important and distinguishing competitive edge within their internal marketplace. Part of the answer will be found in good training programs and career advancement policies. Another important part of the answer will come from the company's philanthropic activities as these will resonate well with the innate charity found in most people. Charitable and civic undertakings vividly demonstrate that a company does care for people and that it is respectful of people from diverse backgrounds and stations in life. Action will again speak volumes and create for companies important advantages in recruitment and retention.

Equally important to the internal health of a company is overall employee morale. One can talk abstractly about this or one can just think about the topic from one's own perspective. Day in and day out performing the same work function and working on essentially similar tasks is a recipe for boredom and depression no matter how much money is made in the process. Breaks are needed and are often taken through vacations, being "sick" or otherwise becoming unproductive on the job. While I am no expert in human psychology, I think it is only human nature for the mind and body to rebel at times against monotony. Smart and savvy companies know this and need antidotes to monotony among their workers. There are many programs designed to do this. Exercise programs and office social functions are used for this purpose. Participation in companies' charitable programs or participating in one's own charity with the support of the company has also become a major weapon in a company's efforts to maintain healthy morale among its employees.

For all these reasons we see today a bigger and stronger embrace by corporate America of philanthropy and charity as a "core" function of overall business strategies. While this is obviously strongly motivated from the heart of the people making the decisions, it also plainly makes good business sense and in many ways significantly improves a company's competitive edge, both externally and internally. Creating and sustaining competitive advantages are keys to business success and corporate participation in philanthropy is a principal means of establishing a distinct competitive advantage. No external professional code of ethics is needed for this. It does not have to be mandated. Individual hearts and cold business reality make it happen.

Do law firms "get it" in the same way? Few can doubt, although many view with nostalgic misgiving, the profound changes in law firm culture over the last 15 years. Gone are the days when law firms and lawyers in law firms viewed themselves as members of a more genteel profession that could all but ignore such things as cut throat competition, huge marketing expenditures and focus on bottom line economics even at the expense of collegiality. The change is profound, far-reaching and irreversible.

Regrettably, however, the drumbeat normally used to arouse a firm to undertake pro bono work harkens to a vanishing era. To talk to law firms or lawyers about their responsibility as institutions or practitioners within a system of justice or to abstract ethical principles to "do justice" has nostalgic, guilt value but no real staying power in the new climate. Of course, the appeal to ethical aspirations as the basis for pro bono efforts will, and does, work to a certain degree. In some situations, it works to a remarkable degree. But it is a message that needs to be buttressed by a different message, one that demonstrates to skeptics, not just the choir members, that pro bono activities make good business sense and actually contribute value to the bottom line.

Can the case be made? Is it really true that pro bono contributes value to the bottom line? I believe the answer is yes for the same reason that corporate America has embraced philanthropy. Pro bono work can be a positive and significant contributor to a law firm's competitive edge, externally with clients and internally with its workforce. Indeed, rather than seeing the business metamorphosis of law firms as the enemy of pro bono, I believe a more complete embrace of the corporate philanthropic model may actually enhance the firm's commitment to pro bono.

Law firms, like corporate businesses, increasingly need to develop unique ways to be competitive, externally with clients and internally with employees and recruits. By building and maintaining a better client base and attracting and retaining talented employees, a firm will more likely be able to satisfy its investor stakeholders, the firm's partners. To do this, like their corporate cousins, law firms need to develop competitive edges that will help clients and potential and actual employees develop feelings of comfort with and loyalty to the firm. Pro bono work, when viewed as part of a firm's philanthropic program, can play, as it generally does for corporate America, a terrific way for the firm to establish its "good people" image and brand. Clients of law firms want not only competent and price-competitive lawyers, but they want lawyers they can trust, lawyers whom they know will be responsible human beings and true fiduciaries for their interests. This is not to say that the "good guy" brand attracts clients on its own, no more than any marketing device works by itself. Rather, like an important instrument in the orchestra, it contributes to the overall, favorable image of a firm which, in turn, often plays a role in a client's decision to choose between otherwise equivalent "X's" or "Y's".

There is a major problem with all this, however. As accurately stated to me in a recent conversation with the head of a major, national law firm, "lawyers are seen as takers, not givers". Lawyers and law firms in general have terrible reputations and are quite far from being viewed as "good people". In becoming more "business-like" lawyers have jettisoned a prior and more favored image as professionals without replacing this image with anything positive. In the meantime, with notable exceptions, Corporate America has been polishing up its image and now more than ever attempts to appear as the good citizen, one that gives off an aura of trustworthiness and integrity. The aura given off by lawyers, on the other hand, is easy to imagine, but hard to put in respectful words. Has this happened because all the ethical genes have somehow been diverted to business school types with lawyers being left out of the pool? No, the reason is that Corporate America has realized the business value of good works and have found ways to combine what's in the heart with what builds a competitive business edge for the benefit of the bottom line.

Smart and savvy law firms who want to be more "business-like" will recognize the business value of having strong pro bono programs. They will further recognize that they cannot have truly strong programs unless pro bono is regarded as a core function and not a sideline. While pro bono coordinators and pro bono committees may be helpful to administer programs, they should not substitute for pro bono as an executive function of the firm's executive committee or its managing partners. In many businesses with extensive charitable programs, it is the CEO not some amorphous committee that leads the charitable program.

In writing this I want to assure the reader that I do understand that the motivation from the heart is really the fuel for law firm pro bono. But like any fuel, it has limited utility standing alone. It needs to be used to make something work or it is not of core interest. The something is the bottom line, like it or not. I happen to like the bottom line and I believe it can be enhanced, not diminished, by good corporate philanthropy. I believe many executives in the business world agree with me. Hopefully, more managing partners will awaken to the possibility as well.