



# The geometry of law-firm growth

## Conversations with successful trial lawyers on their practices

By SCOTT HERNDON

Every successful law firm needs to understand the history, present challenges, and future of its growth. It needs to know why and how its clients decided to retain the law firm in the first place, and it needs to analyze, resolve, and argue its cases successfully. It needs to hire and manage the right kind of partners, lawyers, and staff. And it needs to find ways to pay for its overhead, invest in its future, and sustain the ethos and values that gave it life in the first place. Imagining, planning and executing these elements together is the art of the successful law firm.

Recently, I decided to take some of the best plaintiff's attorneys I know – principals at successful firms with legacies that will follow their names for years to come – out to lunch. My goal was simple. I wanted to ask simple questions about what they cared about as attorneys and leaders of firms. And I had a theory that I wanted to test.

Was it reasonable to believe that the core values these attorneys espoused and practiced were not only the core drivers of their success in handling their cases, but also the drivers of the growth of their firms? Taking my inspiration from sociologist Daniel Kahneman and the mathematician Benoit Mandelbrot, I want to call these core values *fractals*. If you'll give me a few paragraphs to explain what I mean, I promise that the advice these attorneys gave me will not only make sense, it may help your law firm analyze its own values, management, and growth in context. And at your next cocktail party, or on a hike in the woods with your friends, you may even be able to drop the term *fractal* into the everyday lexicon of your small talk. It may not get you a free drink, or qualify you as a working biologist, but it will reaffirm, once and for all, that lawyers are never short of metaphors.

### Fractals: Simple values that create complex patterns

So what is a *fractal*? A fractal is a complex geometric pattern, created when a simple process is repeated over and over. Think of the folded images of a kaleidoscope, the fronds of a fern, the branching alveoli of our lungs exchanging oxygen and carbon dioxide as we breathe.

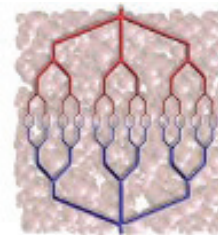
Fractals are found everywhere, from microscopic crystals to the galaxies that fill the night sky. What makes these shapes so interesting is that their complexity, growth, and beauty are based on the simplest of patterns. Fractals are really just pictures of simplicity, multiplied and expanded over time.

Here is what a mid-sized defense law firm might look like when it first opens, beginning with a founding partner on the left side. Let's say the founding partner hires three seasoned associates as her client base grows. Over time, these associates become partners themselves, acquiring attorneys under their charge, as the law firm grows as we move right, from fractal to fractal.

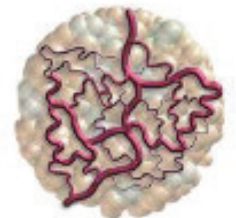


Seen in this respect, law firms, like fractals, are living snapshots of simple processes of development.<sup>1</sup>

What should make the fractal a provocative concept for law firms is that they can also help us picture the way an attorney's individual values and decisions, if consistently followed, multiply over time, and help create our reputations, specialties, and legacies. In the negative, they can also provide a visual model for how some habits, inconsistencies, and poor decisions can frustrate the development of a law firm, forcing it to make difficult and sometimes painful decisions as to how to "right the ship"



A. Normal



B. Abnormal

or realign the firm to get back to a healthy path of growth. Consider the images at right, demonstrating two different patterns of growth, one healthy and one unhealthy.

As anyone who has worked in toxic tort litigation knows, the image on the left is a healthy cell, and the one on the right is suffering from cancer. For the sake of this article, imagine for a moment that the image on the right is also the image of a law firm that is making inconsistent decisions over time. Even though the law firm is "growing," its geometry may not support dependable scalability over time.

Like the development of a microscopic cell, the decisions that govern the growth of a law firm may be so minute, they may at first be unnoticeable. Consider the following questions: What



kinds of cases does your law firm handle? How have junior associates been treated by senior partners in the office? How have the law firm's clients been treated? Where and how much has the law firm advertised on a yearly basis? The answers to these questions may reflect a pattern of core values that have repeated themselves, and grown, alongside the law firm. As such, understanding these core values is crucial, because they compound over time, and sometimes, outlive the law firm's best intentions.

To illustrate this idea in practice, I reached out to a few of the smartest attorneys I know, and took them to lunch. What follows are some of the things I learned, from the folks who were gracious enough to sit down with me.

### Doris Cheng

The accomplishments of Doris Cheng, a partner at Walkup, Melodia, Kelly & Schoenberger, are too many to list here. (Most recently, she served as the President of the San Francisco Chapter of the American Board of Trial Advocates in 2020 and the San Francisco Bar Association in 2019.). During our conversation, we spoke about the importance of basic human rights, new technologies such as artificial intelligence, and products liability in a globalized supply chain. For Doris, the challenge of any law firm rests in its ability to respond to the increasingly complex world in which we live. As a core value, Doris emphasizes the need for a law firm to never lose sight of the people plaintiffs' firms represent – and the increasingly urgent need to keep pace with the technologies and policies that drive our economy. In this sense, she conceives of growth in terms of an intellectual and ethical mission – to commit every day to developing our legal acumen in stride with the new challenges faced by ordinary people, problems that have been amplified, and sometimes even created, by the conditions of contemporary life.

**Core fractal value:** Strive to adapt to the amplified challenges of modernity.

### Skip Walker

I met Skip Walker at the office of Walker, Hamilton & Koenig on a foggy day, overlooking the Embarcadero. Skip is the epitome of a trial lawyer, and his law firm's legacy speaks for itself. In person, though, he is a master conversationalist, and his success as an attorney derives in part from his ability to move seamlessly from anecdote to concept. Skip emphasized the importance of growing a firm case by case, by treating colleagues, opposing counsel, and the bench with respect. Specifically, he emphasized how important his firm's office manager, Serena Broussard, has been to the success of his firm. In this regard, the success of any firm depends on the contributions of every member. Just as the health of an organism depends on the vitality of its integrated systems, so too does the growth and sustenance of a law firm depend on every employee flourishing in their roles and messaging the values the law firm espouses.

**Core fractal value:** Understand the generative value of mutual respect and contribution.

### Kevin Morrison

Over lunch at Wayfare Tavern in San Francisco, I met Kevin Morrison, a partner at Altair Law, LLP. I asked Kevin many questions about how he would describe Altair's success and growth. Thoughtful, articulate, and witty, he gave me one important answer. Kevin described how important it is to understand how incremental steps build reputations in the legal community, and how clients come to Altair.

Instead of prioritizing advertising, Kevin explained, the successful law firm is built case by case, by word of mouth, and through referrals from other lawyers – especially those he had opposed in other cases. Growing a firm in this manner takes incredible attention to detail, and respectful advocacy, even in the most difficult cases. The referral of a new client by opposing counsel is

something of a gold standard. It is not only the recognition of a strength in practice, it is also the recognition that lawyers such as Kevin will treat their new clients and cases in the same way they did, when Kevin was arguing against that same lawyer in trial. In this manner, a positive legacy of feedback is created.

**Core fractal value:** Grow your firm by treating opposing counsel with dignity, especially in hard-fought cases.

### Leigh E. Johnson

Both over the phone and during one of her *Trial Whisperer* workshops (which I attended), Leigh E. Johnson discussed the importance of community collaboration in the plaintiff's bar. An alumnus of the Trial Lawyers College, Leigh's consulting practice centers fostering the growth of the collective intelligence of her workshop's participants, who learn to work together to analyze and improve their strategies well in advance of trial. For Leigh, the social and political mission of the plaintiff's bar is dependent on collaboration. Law firms work more effectively when they cease thinking of themselves primarily as competitors with one another for cases. In her workshops, case by case, trial by trial, Leigh teaches us how our firms' individual successes in the courtroom can grow together to establish humane and equitable public policies.

**Core fractal value:** The individual successes of each of our firms can result in public policy change for all.

### Arnold Berschler

I met Arnold Berschler, principal of Berschler Associates, at Café Bastille on Belden Place, a charming alley of restaurants familiar to many attorneys in San Francisco. Arnold is a successful lawyer whose practice spans nearly five decades in maritime law. A born storyteller and natural philosopher, Arnold described the importance of developing specific expertise in a niche. But Arnold didn't explain this core value in terms of searching for a niche, the way an



entrepreneur might. Instead, Arnold emphasized finding a niche by responding to intellectual and social challenges that had not been fully addressed by attorneys. Arnold's law firm grew by responding to novel legal questions where sometimes there were no answers. Even if they were not "cases of first impression," the knowledge and experience Arnold gained from this practice made him a resource for other attorneys who knew they could rely on him. The rest followed.

**Core fractal value:** Respond to challenging cases in order to develop your firm as a trusted resource in an underserved area of the law.

### Tom Paoli

I met with Tom Paoli, a trial lawyer with more than thirty-five years of experience. An alumnus of the Trial Lawyers College, Tom is colorful, emotive, and a joy to meet. When I asked Tom about how a law firm should conceive growth, he recommended a book, *Visionary Business*, by Mark Allen. Among other things, this incredible book, and Tom's advice, centered on the creation of a "business plan." Tom's description of a business plan was unlike anything I had heard from the entrepreneurs and lawyers I know. It was rich and complex, far beyond any summary I can provide here. But it was not fundamentally concerned with profit-making, margins, or return-on-income (ROI). Instead, the business plan Tom recommended was focused on the incipience of growth, or one that I would describe as fitness modeling. A law firm that seeks to grow should look for a "fit" at each step: from clients and cases, to attorneys and staff. The firm that finds a synergy of fitness at each level will grow

naturally, because it will reduce friction in the realization of unified work practices, ethos, and goals.

**Core fractal value:** Strive to grow your law firm by embodying your aspirations and values in each aspect of your practice.

### Albert G. Stoll and Walter Haynes

Albert G. Stoll ("Al") and Walter Haynes are partners in the personal injury law firm bearing Al's name in San Francisco. More than ten years ago, Al started the Attorney Action Club (AAC), and, Walter started his own group, the San Francisco Lawyers Network (SFLN). Together, these groups include lawyers and non-lawyers, from all walks of life, who meet bi-monthly to discuss developments in their work and practice.

When I asked Al and Walter about what drove the success of their practice, they pointed to AAC and SFLN. Like Leigh E. Johnson, their conversations repeatedly hinged on the phrase, *legal community building*. In 2012, neither Al nor Walter could have anticipated the value their networks would have during the Covid-19 pandemic. But by 2020, their networks were providing a meeting place, which Walter called "digital bread breaking," for hundreds of professionals, who were working at home, isolated from the offices, restaurants, and cities they had come to take for granted. What began as brown-bag discussions amongst colleagues at First Republic Bank suddenly became a life-line for lawyers and businessmen, who had become friends over the years, to discuss how to adapt

to a new world. And their law firm experienced fantastic growth during this period.

**Core fractal value:** Legal community building in supporting diverse practitioners is a good in itself.

### Concluding thoughts

The generative concept of the fractal shows us that the simplest values of any law firm accumulate over time. Each law firm really is just a living picture of the values which drove it to grow. Legacies are built on years of tactical and strategic choices — many of which are made without any recognition of the impact these choices will have on the sustained growth and success of our practices. Over time, every law firm literally becomes an image of its own values, whether they are taken for granted with each case it handles, or carefully considered. As Al Stoll put simply, "Good habits are like compound interest."

*Scott Herndon is a plaintiff's trial lawyer, focusing on catastrophic personal injury, civil sexual assault on behalf of victims, and employment law. He has a PhD in Literature and Philosophy from New York University. He has taught at Stanford University and the University of California, and is the Principal at The Law Office of Scott Herndon, PC, in Berkeley, CA.*



Herndon

### Endnotes:

<sup>1</sup> This image, and the images that follow, were taken from an exceptionally interesting guide to teaching fractals, accessible online at: <https://fractalfoundation.org>.

