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Samantha A. Moppett

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CHANNEL YOUR INNER KINDERGARTNER: FOSTERING A CULTURE CONDUCIVE TO CREATIVITY IN LEGAL PRACTICE

Samantha A. Moppett[‡]

The COVID-19 pandemic requires lawyers to address a myriad of unique problems—and highlights the need for lawyers to engage as creative problem solvers. Lawyers must determine how best to deliver legal services while contending with travel restrictions, social distancing, stay-in-place measures, and business and court closures. Furthermore, questions arise as to how to tackle the access to justice gap in the midst of the largest global recession since the Great Depression.

Although lawyers need to work collaboratively to come up with creative solutions to these unprecedented problems, a challenge administered to groups of business students, lawyers, CEOs, engineers, and kindergartners revealed that lawyers do not work efficiently and effectively to creatively solve problems. In dozens of challenges, kindergartners outperformed all of the other groups. Instead of collaborating and focusing on completing the task, the lawyers engaged in status management—trying to determine how they fit into the group and who was in charge. While not

smarter than the lawyers, the kindergarteners solved the problems best because they were smarter in the way that they worked with each other.

The rigid hierarchy that tends to exist in the practice of law lends itself to increased status management. Moreover, the legal profession in the United States frequently discourages collaboration and suppresses creativity. To combat the barriers to collaboration and creativity in practice, lawyers need to "work together in a smarter way" to generate creative solutions to problems. They need to learn to behave like kindergartners.

This Article argues that in light of the COVID-19 pandemic, the unprecedented rate of change, and the growing access to justice gap, lawyers need to develop high-performing groups where creativity and innovation flourish. To that end, this Article introduces three skill sets of highly performing groups that lawyers can use to create a group that can perform far beyond the sum of individual team members, where they work collaboratively to creatively solve problems.

INTRODUCTION

[T]he complex challenges of the Twenty-First Century are far too difficult for any single person to solve. It takes a team to find the right solutions and execute them well.[1]

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[1] William M. Duke, *Cracking the Culture Code with Flawless Execution*, AFTERBURNER, https://www.afterburner.com/cracking-culture-code-flawless-execution/ [https://perma.cc/P993-R942].

At the core, lawyers are problem solvers.[2] To solve problems, lawyers need to be creative.[3] The global coronavirus ("COVID-19") pandemic renders the role of the lawyer as a problem solver and the need to be creative readily apparent.[4] The COVID-19 pandemic is requiring lawyers to address a myriad of unique problems.[5] Lawyers must determine how best to deliver legal services while contending with <u>travel restrictions</u>, social distancing, <u>stay-in-place measures</u>, and business and court closures.[6] Finally, questions arise as to how to tackle the access to justice gap in the midst of the largest global recession since the Great Depression.[7]

Lawyers not only need to solve problems, but they also need to work collaboratively to come up with creative solutions to problems.[8]

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[2] *See* Christopher R. Trudeau, *A Problem-Solving Approach to Law Practice Developed Through Legal Writing Courses*, *in* TEACHING LAW PRACTICE: PREPARING THE NEXT GENERATION OF LAWYERS 118, 118–19 (Charles Cercone, Nelson P. Miller & Christopher Trudeau eds., 2013) (observing that lawyers need to be able to identify, address, and solve a wide variety of client problems); Kathleen Elliott Vinson, *What's Your Problem?*, 44 STETSON L. REV. 777, 829 (2015); *see also* Bobbi McAdoo, Sharon Press & Chelsea Griffin, *It's Time to Get It Right: Problem-Solving in the First-Year Curriculum*, 39 WASH. U. J.L. & POL'Y 39, 63 (2012) ("[E]very lawyer must be able to problem solve."). In fact, "[p]roblem[ ] solving is the single intellectual skill on which all law practice is based." Myron Moskovitz, *Beyond the Case Method: It's Time to Teach with Problems*, 42 J. LEGAL EDUC. 241, 245 (1992) (citing Gordon A. MacLeod, *Creative Problem-Solving—For Lawyers?!*, 16 J. LEGAL EDUC. 198, 198 (1963) ("A lawyer might best be described as a professional problem-solver.")).

[3] *See* Brian Grossman, *Legally Creative: Why Being a Lawyer Requires Abstract Thought*, ABOVE THE L. (Jan. 11, 2019, 3:01 PM), https://abovethelaw.com/2019/01/legally-creative-why-being-a-lawyer-requires-abstract-thought/ [https://perma.cc/8DAL-EV44].

[4] *See* Mark A. Cohen, *COVID-19 Will Turbocharge Legal Industry Transformation*, FORBES (Mar. 24, 2020, 6:10 AM), https://www.forbes.com/sites/markcohen1/2020/03/24/covid-19-will-turbocharge-legal-industry-transformation/#293b26471195 [https://perma.cc/8DBD-ENR2] (asserting that COVID-19 will force law firms, which lag behind other industries in technology utilization, to undergo a digital transformation). Lexis's resource guide, which addresses specific issues that arise from the pandemic, illustrates how lawyers have had to adapt creatively to the delivery of legal services. *See generally Coronavirus (COVID-19) Resource Kit*, LEXIS, https://advance.lexis.com/document/lpadocument?crid=bc991856-c39e-4be6-b564-559a2839147e&pdpermalink=46fb0957-bdc1-4619-9298-7dea30bab374&pdmfid=1000522&pdisurlapi=true&cbc=0 [https://perma.cc/5DGP-AV4J] [hereinafter *Resource Kit*].

[5] *See generally Resource Kit*, *supra* note 4.

[6] *See generally* Hilary Dalin, Sarah Galvan & Liz Keith, *Working Remotely? Legal Delivery Tools You Need to Know*, *in* 41 BIFOCAL 258 (Carole Fleck ed., 2020).

[7] *Id.* at 260; Gita Gopinath, *The Great Lockdown: Worst Economic Downturn Since the Great Depression*, IMFBLOG (Apr. 14, 2020), https://blogs.imf.org/2020/04/14/the-great-lockdown-worst-economic-downturn-since-the-great-depression/ [https://perma.cc/9UQD-BLGW].

[8] KATHLEEN ELLIOTT VINSON, SAMANTHA ALEXIS MOPPETT & SHAILINI GEORGE, MINDFUL LAWYERING: THE KEY TO CREATIVE PROBLEM SOLVING 1 (2018) ("[L]aw students and lawyers need to be creative problem solvers.").

Sounds simple enough, but how do groups best work together to solve problems?

Peter Skillman, Director of Design at Amazon Web Services, administered a challenge to address this very question.[9] Over several months, he challenged four-person groups to build the tallest free-standing structure with twenty pieces of cooked spaghetti, one yard of tape, one yard of string, and one marshmallow.[10] The groups had eighteen minutes to solve the problem, and the only limitation was that the marshmallow had to be on top.[11] The composition of the groups varied significantly and included groups of business students, lawyers, CEOs, engineers, and kindergartners.[12]

As would be expected, when asked to complete the challenge, the lawyers strategized, exchanged ideas, asked questions, generated options, identified the best ideas, selected one strategy to pursue, divided up the tasks, and started constructing.[13] Comparatively, and unsurprisingly, the kindergartners did not do any of these things.[14] Rather, the kindergartners hardly spoke, stood close to one another, took supplies from one another, and started to build by simply trying to put "a bunch of stuff together."[15]

Guess which group developed the best solution to this problem? In dozens of challenges, kindergarteners erected structures averaging twenty-six inches tall, while the lawyers assembled structures averaging fifteen inches.[16] Although not smarter than the lawyers, the kindergarteners solved the problem best because they "work[ed] together in a smarter way."[17] The lawyers did not perform as well as the kindergartners because instead of collaborating and focusing on completing the task, they engaged in status management—trying to determine how they fit into the group and who was

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[9] Peter Skillman, *Marshmallow Challenge*, YOUTUBE (Jan. 27, 2014), https://www.youtube.com/watch?v=1p5sBzMtB3Q [https://perma.cc/63KJ-L6ME] (set forth in a 2006 TED Talk). The challenge was originally designed by Dennis Boyle, Health and Wellness Partner at IDEO. *See* Joyce Lee, *The Marshmallow Challenge: A #designthinking exercise for a snowy day*, MEDIUM (Jan. 5, 2014), https://medium.com/@joyclee/the-marshmallow-challenge-f4102d3b72c6 [https://perma.cc/Z8UP-ZW48]. IDEO is a "global design and innovation company." *About IDEO: We are a global design company committed to creating positive impact*, IDEO, https://www.ideo.com/about [https://perma.cc/AE8M-35A2].

[10] Skillman, *supra* note 9; *see also* Tom Wujec, *Build a tower, build a team*, TED (Feb. 2010), https://www.ted.com/talks/tom_wujec_build_a_tower [https://perma.cc/A79M-5ZR3].

[11] Skillman, *supra* note 9; *see also* Wujec, *supra* note 10.

[12] Skillman, *supra* note 9; *see also* Wujec, *supra* note 10.

[13] *See* Skillman, *supra* note 9; Wujec, *supra* note 10; *see also* DANIEL COYLE, THE CULTURE CODE: THE SECRETS OF HIGHLY SUCCESSFUL GROUPS xv–xvi (2018).

[14] COYLE, *supra* note 13, at xvi.

[15] *Id.*; *see generally* Skillman, *supra* note 9; Wujec, *supra* note 10.

[16] Wujec, *supra* note 10. The structures built by business students averaged ten inches, and structures built by CEOs averaged twenty-two inches. *Id.*

[17] COYLE, *supra* note 13, at xviii.

in charge.[18] This time spent managing status reduced the time spent understanding the problem, resulting in the groups' first attempts collapsing and not having enough time to try again.[19]

In contrast, although the kindergartners appeared disorganized, when viewed as a group, they conducted themselves efficiently and effectively.[20] Unlike the lawyers, the kindergartners did not compete for status.[21] As a result, they were able to work together and reach an efficient outcome because they were able to experiment and take risks.[22] When solving problems collaboratively, interaction—rather than each individual's skill—is key.[23]

Just as the groups of four had to work together efficiently and effectively to address the marshmallow challenge, lawyers need to work collaboratively to develop creative solutions to problems.[24] The ability of lawyers to develop creative solutions to problems is essential in the "increasingly complex, challenge-ridden and rapidly changing economic and social order."[25] In light of the staggering rate of change today and COVID-19, a "seismic event,"[26] today's problems cannot be solved with yesterday's solutions.[27]

Unfortunately, the rigid hierarchy that tends to exist in the practice of law lends itself to increased status management, inhibiting strong group

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[18] *See* Skillman, *supra* note 9; Wujec, *supra* note 10; *see also* COYLE, *supra* note 13, at xvii (noting that status management entails "figuring out where [one] fit[s] into the larger picture").

[19] *See* Skillman, *supra* note 9; Wujec, *supra* note 10; *see also* COYLE, *supra* note 13, at xvii.

[20] *See* Skillman, *supra* note 9; Wujec, *supra* note 10.

[21] *See* Skillman, *supra* note 9; Wujec, *supra* note 10.

[22] *See* Skillman, *supra* note 9; Wujec, *supra* note 10. For an overview of the Marshmallow Challenge, see *How Kindergartners Outperform CEOs—Marshmallow Experiment*, YOUTUBE (June 27, 2018), https://www.youtube.com/watch?v=7BExiT0JFGg [https://perma.cc/2TZM-8ZYC].

[23] Charles Duhigg, *What Google Learned from Its Quest to Build the Perfect Team*, N.Y. TIMES MAG., Feb. 25, 2016, at 20.

[24] Heidi K. Gardner, *Collaboration in Law Firms: The New Wave of Client Service*, PRACTICE, https://thepractice.law.harvard.edu/article/collaboration-in-law-firms/ [https://perma.cc/P9YH-MX3H]. The current trends towards greater specialization and globalization resulting in client problems that are more "volatile, uncertain, complex and ambiguous" have generated a "demand for lawyers who are not only technical experts in their own particular domain but also lawyers who can collaborate with others throughout the firm, and often around the world, to solve multifaceted problems." *Id.*; *see also* VINSON ET AL., *supra* note 8, at 55 ("Lawyers need to be creative in order to fulfill their obligations to clients.").

[25] *Creativity is Core Business*, ERICA MCWILLIAM (Apr. 15, 2012), https://www.ericamcwilliam.com.au/creativity-is-core-business/ [https://perma.cc/XC6Y-RNWM].

[26] Cohen, *supra* note 4.

[27] KEN ROBINSON, OUT OF OUR MINDS: LEARNING TO BE CREATIVE xiii (2d ed. 2011) ("We will not succeed in navigating the complex environment of the future by peering relentlessly into a rear-view mirror. To do so, we would be out of our minds.").

performance and problem solving.[28] Moreover, the legal profession in the United States frequently discourages collaboration and suppresses creativity.[29] To combat the barriers to collaboration and creativity in practice, lawyers need to "work together in a smarter way"[30] to generate creative solutions to problems. They need to learn to behave like kindergartners.[31]

This Article will discuss how lawyers can develop a high-performing group where creativity and innovation flourish. Part I of this Article will provide a brief overview of what creativity is, why it is important, how it is applicable to the practice of law, and the barriers to creativity in the legal field.[32] Part II will introduce a method that lawyers can use to create a group that can perform far beyond the sum of the team members where they are working collaboratively to creatively solve client problems.[33]

I.   CREATIVITY

The kindergartners outperformed the other groups because they worked together better, producing an environment that encouraged creativity.[34] But, what does it mean to be creative? This Part begins with a brief overview of creativity and presents five misconceptions about creativity.[35] Next, this Part introduces the 4Ps of creativity, with a focus on Press—the physical environment.[36] This Part then discusses some of the reasons why lawyers need to be creative.[37] Finally, this Part ends with a discussion on the barriers to creativity in legal practice and the current state of creativity in the United States.[38]

A.   Creativity Defined

While the definition of creativity is subject to much debate,[39] researchers largely agree that creative thought or behavior has two

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[28] *See infra* text accompanying notes 162–71 (discussing rigid hierarchy as a barrier to creativity in law practice, with a focus on the impact on the creative environment).

[29] *See infra* Section I.D.

[30] COYLE, *supra* note 13, at xviii.

[31] *Id.*

[32] *See infra* Part I.

[33] *See infra* Part II.

[34] *See supra* text accompanying notes 20–22.

[35] *See infra* Section I.A.

[36] *See infra* Section I.B.

[37] *See infra* Section I.C.

[38] *See infra* Sections I.D., I.E.

[39] TERESA M. AMABILE, CREATIVITY IN CONTEXT 19 (1996) ("The definition . . . of creativity [has] long been a subject of disagreement . . . ."); *see also* Leslie Owens Wilson, *Definitions of Creativity,* THE SECOND PRINCIPLE, https://thesecondprinciple.com/creativity/creativity-essentials/on-definitions-of-creativity/ [https://perma.cc/N9DK-KR64] (setting forth nine

components.[40] The first component is that the idea that work is novel—unique or unanticipated.[41] Novel ideas, however, can be irrational or ridiculous.[42] The second component of a creative idea or product is that it must be useful and relevant.[43]

A helpful approach to understanding creativity is to refute some of the commonly held misconceptions about creativity.[44] First, smarter

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definitions of creativity); *see generally* DONALD J. TREFFINGER, CREATIVITY, CREATIVE THINKING, AND CRITICAL THINKING: IN SEARCH OF DEFINITIONS (1995) (compiling over 100 definitions of creativity). In an interdisciplinary study, researchers studied creativity from multiple standpoints—cognitive, economic, educational, philosophical, behavioral, historical, social, personality, evolutionary, mystical, organizational, psychodynamic, psychometric, and developmental. MARK A. RUNCO, CREATIVITY: THEORIES AND THEMES (2007); ALANE JORDAN STARKO, CREATIVITY IN THE CLASSROOM 79 (4th ed. 2009); Aaron Kozbelt, Ronald A. Beghetto & Mark A. Runco, *Theories of Creativity*, *in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 20, 20–41 (James C. Kaufman & Robert J. Sternberg eds., 2010) (discussing various theories of creativity); Robert J. Sternberg & Todd I. Lubart, *The Concept of Creativity: Prospect & Paradigms*, *in* HANDBOOK OF CREATIVITY 3–14 (Robert J. Sternberg ed., 1999).

[40] Gregory J. Feist, *The Nature and Nurture of the Creative Personality*, *in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 113, 114 (James C. Kaufman & Robert J. Sternberg eds., 2010).

[41] ARTHUR J. CROPLEY, CREATIVITY IN EDUCATION AND LEARNING 2, 14 (2001); JAMES C. KAUFMAN, CREATIVITY 101 19 (2009); Feist, *supra* note 40, at 114; Sternberg & Lubart, *supra* note 39, at 3. According to Todd Lubart & Jacques-Henri Guignard:

> [T]his work must be novel in the sense that it goes beyond a replication or copy of that which exists. The extent to which the work product is novel can vary from being original only for the person who completed the work (this is the notion of reinventing ideas known already in the larger social context) to being original for a limited social group, to being original for all of humanity. Furthermore, within a given domain, there are different ways that an idea may be novel, or original. For example, it may (a) reiterate a known idea in a new way, (b) move a field forward along its current trajectory, (c) move a field forward in a new direction, or (d) lead to an integration of diverse trends in a field.

Todd Lubart & Jacques-Henri Guignard, *The Generality-Specificity of Creativity: A Multivariate Approach*, *in* CREATIVITY: FROM POTENTIAL TO REALIZATION 43, 44 (Robert J. Sternberg, Elana L. Grigorenko & Jerome L. Singer eds., 2004).

[42] R. KEITH SAWYER, EXPLAINING CREATIVITY 27 (2006). Gregory Feist observes:

> It is easy to see why originality per se is not sufficient—there would be no way to distinguish eccentric or schizophrenic thought from creative. To be classified as creative, thought or behavior must also be useful or adaptive. Usefulness, however, is not meant in merely a pragmatic sense, for behavior or thought can be judged as useful on purely intellectual or aesthetic criteria.

Feist, *supra* note 40, at 114.

[43] KAUFMAN, *supra* note 41, at 19. A product or idea is useful if it is "appropriate to the task at hand." SAWYER, *supra* note 42, at 27 (noting an appropriate idea is one that society acknowledges as socially valuable).

[44] VINSON ET AL., *supra* note 8, at 44–49.

people are not necessarily more creative.[45] Intelligence and creativity are statistically independent.[46]

Second, creativity is not confined to the arts.[47] On the contrary, organizations and individuals can express creativity in an array of fields, including engineering, math, advertising, architecture, science, business, teaching, economics, and industrial design.[48]

Third, everyone has creative potential—it is not reserved for the rare few.[49] Researchers divide creativity into two categories based upon creative magnitude: big-C and little-c creativity.[50] An individual exhibits big-C creativity if he or she "achiev[es] . . . . something remarkable and new, something which transforms and changes a field of endeavor in a significant way. . . . the kinds of things that people do that change the world."[51] In contrast, little-c creativity—everyday creativity—involves the capacity to solve the day-to-day problems that arise, and to adapt to change without difficulty.[52] As such, "little-c creativity results in useful and significant contributions to everyday life."[53]

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[45] CROPLEY, *supra* note 41, at 23; SAWYER, *supra* note 42, at 44.

[46] SAWYER, *supra* note 42, at 44.

[47] ROBINSON, *supra* note 27, at 4–5.

[48] *Id.* at 3 ("It is often thought that creativity is about special activities, like the arts, or advertising, or design, or marketing. All of these can be creative; but so can anything, including science, mathematics, teaching, working with people, medicine, running a sports team or a restaurant."); Donald J. Treffinger & Scott G. Isaksen, *Creative Problem Solving: The History, Development, and Implications for Gifted Education and Talent Development*, 49 GIFTED CHILD Q. 342, 343 (2005).

[49] Kozbelt et al., *supra* note 39, at 23.

[50] ANNA CRAFT, CREATIVITY IN SCHOOLS 19 (2005); Kozbelt et al., *supra* note 39, at 23; Beth A. Hennessey & Teresa M. Amabile, *Creativity*, 61 ANN. REV. PSYCHOL. 569, 572 (2010).

[51] DAVID HENRY FELDMAN, MIHALY CSIKSZENTMIHALYI & HOWARD GARDNER, CHANGING THE WORLD: A FRAMEWORK FOR THE STUDY OF CREATIVITY 1 (1994); *see* SAWYER, *supra* note 42, at 27; *see also* KAUFMAN, *supra* note 41, at 44 (noting that individuals with big-C creativity produce a socially valuable product that lasts for generations); *see also* Jeffrey K. Smith & Lisa F. Smith, *Educational Creativity*, *in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 250, 258 (James C. Kaufman & Robert J. Sternberg eds., 2010). Examples of big-C creativity include Charles Darwin's theory of evolution; Mark Zuckerberg's social networking site, Facebook; Jack Dorsey's micro-blog, Twitter; and Lady Gaga's unconventional and provocative singing, song-writing, and acting. VINSON ET AL., *supra* note 8, at 46.

[52] VINSON ET AL., *supra* note 8, at 46. Examples of little-c creativity include coming up with different ways to fix lawnmowers, dishwashers, and refrigerators; creating a dinner from the leftovers in the refrigerator; using duct tape to make wallets, and life hacks—strategies that enable people to conduct a daily activity more efficiently. *Id.* at 46–47.

[53] *Id.* at 46.

Fourth, though creativity may seem to be "inherently unknowable, mysterious, and immeasurable,"[54] it can be gauged.[55] Countless assessments exist to measure creativity, determine how a person is creative, and ascertain the creative strengths and weaknesses of a person.[56] The leading evaluation practices focus on the creative process and creative thinking, measuring the cognitive skills indicative of creativity.[57]

Fifth, creativity can be fostered.[58] Although individuals cannot increase their inborn creative potential, they can maximize their creative potential.[59] Individuals can work on attaining the traits of creative people,[60] study the creative process,[61] and cultivate environments conducive to creativity.[62]

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[54] Feist, *supra* note 40, at 114.

[55] *Id.*; Jonathan A. Plucker & Matt C. Makel, *Assessment of Creativity, in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 48, 49 (James C. Kaufman & Robert J. Sternberg eds., 2010).

[56] VINSON ET AL., *supra* note 8, at 49–53; Samantha A. Moppett, *Lawyering Outside the Box: Confronting the Creativity Crisis*, 37 S. ILL. U. L. J. 253, 286–89 (2013).

[57] *See* CROPLEY, *supra* note 41, at 102; Plucker & Makel, *supra* note 55, at 51; *see also* Moppett, *supra* note 56, at 287.

[58] *See, e.g.*, ROBINSON, *supra* note 27, at 245 ("There is a lot that individuals and organizations can do immediately, to revive their creative capacities."); ERNESTO VILLALBA, ON CREATIVITY: TOWARDS AN UNDERSTANDING OF CREATIVITY AND ITS MEASUREMENTS 11 (2008), https://publications.jrc.ec.europa.eu/repository/bitstream/JRC48604/eur_on%20creativity_new_.pdf; Raymond Nickerson, *Enhancing Creativity, in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 392, 400–01 (James C. Kaufman & Robert J. Sternberg eds., 2010); Jonathan A. Plucker & Mark A. Runco, *Enhancement of Creativity, in* 1 ENCYCLOPEDIA OF CREATIVITY 669, 670 (Steven R. Pritzker & Mark A. Runco eds., 1999) (asserting that people can improve their creativity); David R. Culp, *Law School: A Mortuary for Poets and Moral Reason*, 16 CAMPBELL L. REV. 61, 92 (1994) ("Lost creativity can be renewed, at least to some degree, at any age.").

[59] Plucker & Runco, *supra* note 58, at 670.

[60] Michael C. Zilch, *The Creative Person*, https://www.scribd.com/document/172990023/The-Creative-Person-Zilch [https://perma.cc/2C8W-3FHR] ("It is important to realize that while each of the above traits are necessary for creative individuals to utilize, if they are not present within your life at this point, the traits necessary for creative production can be developed throughout your lifetime.").

[61] *See generally* Gerard J. Puccio & Susan Keller-Mathers, *Enhancing Thinking and Leadership Skills, in* CREATIVITY: A HANDBOOK FOR TEACHERS 285 (Ai-Girl Tan ed., 2007).

[62] *See* Daniel Fasco, Jr., *Education and Creativity*, 13 CREATIVITY RES. J. 317, 319–20 (2001) (citing John F. Feldhusen & Donald J. Treffinger, CREATIVE THINKING AND PROBLEM SOLVING IN GIFTED EDUCATION 32 (1980)) (setting forth suggestions for creating a classroom environment that encourages creativity); *see also* ROBERT W. WEISBERG, UNDERSTANDING INNOVATION IN PROBLEM SOLVING, SCIENCE, INVENTION, AND THE ARTS 529–30 (2006) (noting that physical environments can be altered and individuals can be immunized against the adverse impact of rewards on creativity).

B.   The 4Ps of Creativity

Creativity is a complicated subject.[63] Researchers have divided the multitude of theoretical approaches to creativity[64] pursuant to the facet of creativity that it emphasizes.[65] The four main facets—the "4Ps"—are Person, Process, Product, and Press.[66] Although divided into four facets, creative performance is almost always a product of a combination of two or more of the 4Ps.[67]

The Person or personality facet focuses on creativity as an attribute of the individual.[68] Unlike the Person perspective, the Process facet examines the cognitive operations that result in a creative product or idea.[69] The Product facet entails ascertaining the characteristics of a product that is creative.[70]

Finally, the fourth P—Press—focuses on the elements in the environment that "press" upon a person and either foster or obstruct creativity.[71] Moreover, researchers have divided Press into two categories:

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[63] Researchers disagree about what creativity is. AMABILE, *supra* note 39, at 19 ("The definition . . . of creativity [has] long been a subject of disagreement . . . ."). In fact, creativity researcher Donald J. Treffinger identified more than 118 definitions of creativity. *See generally* TREFFINGER, *supra* note 39.

[64] *See generally* Kozbelt et al., *supra* note 39, at 20–41 (examining theories of creativity).

[65] *Id.* at 24.

[66] KAUFMAN, *supra* note 41, at 21; Kozbelt et al., *supra* note 39, at 24; *see also* AMABILE, *supra* note 39, at 4–5 (providing general introduction to the four facets of creativity). Researchers introduced the Four Ps of creativity at the Utah Conferences on the Identification of Creative Scientific Talent. Ruth Richards, *Four Ps of Creativity, in* 1 ENCYCLOPEDIA OF CREATIVITY 733, 733 (Steven R. Pritzker & Mark A. Runco eds., 1999). The Four Ps have been extensively adopted by creativity researchers. *Id.* Two additional facets—Persuasion and Potential—have been introduced. Kozbelt et al., *supra* note 39, at 24–25.

[67] CROPLEY, *supra* note 41, at 2 ("Actual creative behavior results from interactions among abilities and knowledge, personal properties, motivation and the properties of the surrounding environment."); Michael Lee Scritchfield, *The Creative Person, Product, Process and Press: The 4P's,* INT'L CTR. FOR STUD. IN CREATIVITY (1999), https://web.archive.org/web/20140214061838/http://www.buffalostate.edu/orgs/cbir/readingroom/html/Scritchfield-99.html [https://perma.cc/9J2W-T4W2].

[68] Researchers acknowledge that "there is no one creative personality." Gregory J. Feist, *A Meta-Analysis of Personality in Scientific and Artistic Creativity,* 2 PERSONALITY & SOC. PSYCHOL. REV. 290, 304 (1998). Rather, creative people display certain traits and propensities. *Id.* For a brief overview of the Person facet of creativity, see Moppett, *supra* note 56, at 267–70.

[69] Todd I. Lubart, *Models of the Creative Process: Past, Present, and Future,* 13 CREATIVITY RES. J. 295, 295 (2001). For an overview of the Process facet of creativity, see Moppett, *supra* note 56, at 270–78.

[70] Scritchfield, *supra* note 67. For a discussion of the Product facet of creativity, see Moppett, *supra* note 56, at 285–86.

[71] AMABILE, *supra* note 39, at 17 ("Whatever an individual's talents, domain expertise, and creative thinking skills, that individual's social environment—the conditions under which he

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psychological and physical.[72] Psychological press—also known as internal or intrinsic press—involves the internal conditions that "press" upon a person and influences an individual's creativity.[73] In contrast, physical press entails a person's physical environment and the external factors that impact creativity.[74] These external influences can be developmental,[75] historical,[76] cultural,[77] or social, also known as organizational.[78]

This Article focuses primarily on this fourth facet—Press. Specifically, it focuses on physical press in the organizational climate. Social or organizational factors have a large impact on whether the environment enhances creativity, translating into creative performance.[79] Social influences "can support, undermine, or neither support nor undermine . . . creativity."[80] Researchers have identified nine dimensions as being essential to facilitate a creative atmosphere.[81]

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or she works—can significantly increase or decrease the level of creativity produced."); Goran Ekvall, *Creative Climate, in* 1 ENCYCLOPEDIA OF CREATIVITY 403, 405 (Steven R. Pritzker & Mark A. Runco eds., 1999); *Creativity 101: Creative Press (Environment)*, INT'L CTR. FOR STUD. IN CREATIVITY, [hereinafter *Creativity 101*] ("'Press' refers to our environment; we are each being called to be creative in a specific context, and this context is seen as 'pressing' down on [sic] upon us."). The term "press" derives from the Latin word *pressus*. John Michael Fox, *Mel Rhodes: The Man Behind the Four P's of Creativity*, ICSCREATIVITY (Mar. 15, 2012), http://facultyicsc.blogspot.com/2012/03/mel-rhodes-man-behind-four-ps-of.html [https://perma.cc/Q329-FTRX]. The term *pressus* denotes "a box or container to put things in—the environment being the place where the other 3Ps live." *Id.* For an overview of Press, see Moppett, *supra* note 56, at 278–85.

[72] Ekvall, *supra* note 71, at 405; *Creativity 101*, *supra* note 71.

[73] Scritchfield, *supra* note 67. Attitude, collaboration, affect, mood, values, and brainstorming are internal conditions that can impact creativity. AMABILE, *supra* note 39, at 17; RUNCO, *supra* note 39, at 309.

[74] *Creativity 101*, *supra* note 71 (noting that physical press refers to a person's physical setting).

[75] Ekvall, *supra* note 71, at 406.

[76] RUNCO, *supra* note 39, at 215.

[77] *Id.* at 276.

[78] Ekvall, *supra* note 71, at 406.

[79] RUNCO, *supra* note 39, at 175.

[80] *Id.* at 154.

[81] SCOTT G. ISAKSEN, K. BRIAN DORVAL & DONALD J. TREFFINGER, CREATIVE APPROACHES TO PROBLEM SOLVING 187–90 (2011) [hereinafter ISAKSEN ET AL., CREATIVE APPROACHES]. Originally, Goran Ekvall recognized ten dimensions of a creative environment. Gerard J. Puccio & John F. Cabra, *Organizational Creativity: A Systems Approach, in* THE CAMBRIDGE HANDBOOK OF CREATIVITY 145, 157 (James C. Kaufman & Robert J. Sternberg eds., 2010). In 1994, Lauer redefined the dimensions. Scott G. Isaksen, Kenneth J. Lauer, Göran Ekvall & Alexander Britz, *Perceptions of the Best and Worst Climates for Creativity: Preliminary Validation Evidence for the Situational Outlook Questionnaire*, 13 CREATIVITY RES. J. 171, 175 (2001) [hereinafter Isaksen et al., *Perceptions*]; *see generally* GÖRAN EKVALL, CLIMATE, STRUCTURE AND INNOVATIVENESS OF ORGANIZATIONS (1983); Kenneth J. Lauer, The Assessment of Creative Climate: An Investigation of Ekvall's Creative Climate Questionnaire (Dec. 8, 1994) (unpublished M.A. thesis, State University of New York College at Buffalo).

The first dimension, idea support,[82] refers to an environment where new ideas are encouraged and reacted to positively.[83] When idea support is not present, suggestions are instantly opposed.[84]

Challenge is the second dimension.[85] This dimension focuses on the degree of involvement that organization members have with regular operations.[86] A creative climate is one that challenges individuals with duties, objectives, and institutional operations.[87] Environments with a high level of challenge render individuals intrinsically motivated to contribute to the organization.[88] In comparison, "[l]ow challenge indicates alienation and indifference; a common sentiment and attitude is apathy and lack of interest for the job and the organization."[89]

The third dimension is idea time—referring to the amount of time that the organization permits its members to discuss and expound on their ideas.[90] In organizations where substantial idea time is provided, members are encouraged to discuss and test new ideas, regardless of the fact that this idea time is not planned and not part of the initial assigned task.[91] Conversely, in organizations where there is no support for idea time, every minute is reserved and planned.[92] This time pressure makes it impossible for individuals to think beyond the specific instructions and arranged routines.[93]

Freedom, the fourth dimension, denotes the amount of independence the organization provides its members.[94] An individual's creativity is enhanced when he or she is able to exercise discretion and autonomy in completing his or her work.[95]

Trust and openness is the fifth dimension of a creative environment.[96] The emotional safety that comes with trust and openness creates an environment where members do not fear ridicule if they introduce new ideas that fail.[97] Without trust, "people are suspicious of each

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[82] RUNCO, *supra* note 39, at 164.

[83] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

[84] *Id.* (noting that in environments without idea support, ideas are responded to with "[f]ault-finding and obstacle-raising"); *see also* Isaksen et al., *Perceptions, supra* note 81, at 175.

[85] Isaksen et al., *Perceptions, supra* note 81, at 175.

[86] *Id.*; *see also* RUNCO, *supra* note 39, at 164.

[87] RUNCO, *supra* note 39, at 164.

[88] Isaksen et al., *Perceptions, supra* note 81, at 175.

[89] *Id.*

[90] *Id.*

[91] *Id.*

[92] *Id.*

[93] *Id.*

[94] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 188–89.

[95] *Id.*

[96] *Id.* at 189.

[97] RUNCO, *supra* note 39, at 164; Lauer, *supra* note 81, at 225.

other and count on high expenses for mistakes that may occur."[98] In addition, in environments where trust is lacking, individuals fear others exploiting them and stealing their good ideas.[99]

Dynamism/liveliness—"describ[ing] the eventfulness of the organization"—is the sixth dimension.[100] In a highly dynamic environment, new things are happening constantly, fostering a creative climate.[101] The seventh dimension of a creative environment is risk-taking.[102] Encouraging risk-taking fosters a creative climate because members are more likely to seize opportunities.[103] Conversely, organization members are cautious and hesitant in environments that discourage risk-taking.[104] To play it safe, members will create committees and cover themselves by various means prior to making any decisions.[105]

The eighth dimension necessary to facilitate a creative climate is playfulness and humor—specifically, how relaxed the environment is.[106] The presence of playfulness and humor in groups positively influences the number of ideas generated and the quality of creative thinking.[107]

Debate is the ninth and final dimension that promotes a creative climate.[108] In an environment that openly embraces debates—disagreements among perspectives and ideas—members are willing to share opinions, fostering a creative climate.[109]

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[98] Lauer, *supra* note 81, at 225; *see also* ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

[99] Lauer, *supra* note 81, at 225; *see also* ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

[100] Lauer, *supra* note 81, at 189.

[101] *Id.*

[102] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 190.

[103] *Id.* ("In the high Risk-Taking case, bold initiatives can be taken even when the outcomes are unknown. People feel as though they can 'take a gamble' on their ideas.").

[104] *Id.*

[105] *Id.*

[106] Isaksen et al., *Perceptions*, *supra* note 81, at 175; ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

[107] *How To Use Humor To Spark Creativity*, NEW & IMPROVED (Jan. 15, 2017), https://newandimproved.com/2017/01/15/humor-sparks-creativity/ [https://perma.cc/XD3U-DLPD].

[108] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189; RUNCO, *supra* note 39, at 165; *see also* Caroline Sharp, *Developing Young Children's Creativity: What Can We Learn from Research*, TOPIC 5, 8 (2004), http://www.nfer.ac.uk/nfer/publications/55502/55502.pdf [https://perma.cc/2RVL-TBGL] ("The more favourable situation for creativity seems to be interpersonal exchange, with negotiation of conflicts and comparison of ideas and actions being the decisive elements.").

[109] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189; Lauer, *supra* note 81, at 192; *see also* RUNCO, *supra* note 39, at 164 ("There is a permissive environment with frequent discussion and debate but no actual animosity."). Conversely, people in environments where the debate dimension is absent "follow authoritarian patterns without questioning." ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

Contrary to the nine dimensions that enhance creativity, there is another dimension that impedes a creative environment—conflict.[110] Here, conflict refers to "the presence of personal and emotional tension."[111] The presence of conflict in an environment causes immature conduct, resulting in an antagonistic climate.[112]

The nine dimensions discussed above enhance physical press. Moreover, the skill sets introduced below in Part II improve the physical press of a group of practicing lawyers. This, in turn, results in a working environment where creativity bourgeons and problems are solved.

C.   Why Lawyers Need to Be Creative

Part I began with a brief introduction to the science of creativity, with a focus on the physical environment of organizations and the nine dimensions that encourage creativity. This Section will address why creativity is important. Initially, the current unprecedented rate of change is addressed. Next, this Section discusses the need for creative problem solving in the practice of law.

1.   Unprecedented Rate of Change

There is an unprecedented rate of change in the world today—a world that is becoming increasingly complex.[113] The technological revolution exemplifies this unprecedented rate of change,[114] with the development of the home computer and computer technology being, perhaps, the most telling.[115] In 1946, engineers developed the first computer—the ENIAC—which was approximately eight feet high, three feet deep, and eighty feet long and weighed thirty tons.[116] Compare this to the most common

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[110] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189; RUNCO, *supra* note 39, at 165.

[111] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 189.

[112] Isaksen et al., *Perceptions, supra* note 81, at 175.

[113] Rita Gunther McGrath, *The World Is More Complicated Than It Used to Be*, HARV. BUS. REV. (Aug. 31, 2011), https://hbr.org/2011/08/the-world-really-is-more-compl&cm_sp=Article-_-Links-_-Top%20of%20Page%20Recirculation [https://perma.cc/A3TV-N2ZL]; *see also* VINSON ET AL., *supra* note 8, at 55–56; *see generally Global Employer Forum 2017*, BAKERMCKENZIE (2017), https://www.bakermckenzie.com/-/media/files/expertise/employment/the-global-employer-forum_2017.pdf?la=en [https://perma.cc/JP2D-7GGX].

[114] McGrath, *supra* note 113.

[115] *Id.*

[116] *The ENIAC vs. the Cell Phone*, ANTIQUETECH, http://www.antiquetech.com/?page_id=1438 [https://perma.cc/C7WT-ZXZR].

computer today: the cellphone. Cellphones are lighter, cheaper, smaller, and more powerful.[117] This breathtaking rate of change will continue.[118]

This unparalleled rate of change has made creativity an indispensable trait.[119] The results of a 2010 poll of 1,500 Chief Executive Officers from fifty countries confirms this.[120] The poll revealed that creativity, not "rigor, management discipline, integrity, or even vision," is the most important leadership competency "for organizations to navigate today's complex world."[121] Similarly, in 2012, Adobe Systems released the results of a poll of 5,000 people on three continents, revealing that eight out of ten people believe that "unlocking creativity" is crucial to economic growth.[122]

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[117] *Id.* In fact, it has been stated that the computer power of cell phones today exceeds all of NASA's computer power in 1969 when it sent two astronauts to the moon. Tibi Puiu, *Your Smartphone is Millions of Times More Powerful Than All of NASA'S Combined Computing in 1969*, ZME SCI. (Oct. 13, 2015), https://www.zmescience.com/research/technology/smartphone-power-compared-to-apollo-432/ [https://perma.cc/XFR3-WC93].

[118] *See generally* Declan Butler, *Technological Change is Accelerating Today at an Unprecedented Speed and Could Create a World We Can Barely Begin to Imagine*, 530 NATURE 399 (2016), https://www.nature.com/news/polopoly_fs/1.19431!/menu/main/topColumns/topLeftColumn/pdf/530398a.pdf?origin=ppub [https://perma.cc/SF8L-JEYT].

[119] ROBINSON, *supra* note 27, at xii ("The more complex the world becomes, the more creative we need to be to meets its challenges."). While in the past intelligence was viewed as the most important leadership competency, the breathtaking rate of change discussed above has rendered creativity an indispensable trait. JOHN S. DACEY & KATHLEEN H. LENNON, UNDERSTANDING CREATIVITY: THE INTERPLAY OF BIOLOGICAL, PSYCHOLOGICAL, AND SOCIAL FACTORS 3 (1998); Po Bronson & Ashley Merryman, *The Creativity Crisis*, NEWSWEEK (July 10, 2010, 4:00 AM), https://www.newsweek.com/creativity-crisis-74665 [https://perma.cc/5B4G-FDFL] ("The necessity of human ingenuity is undisputed.").

[120] *IBM 2010 Global CEO Study: Creativity Selected as Most Crucial Factor for Future Success*, IBM (May 18, 2010), www-03.ibm.com/press/us/en/pressrelease/31670.wss [https://perma.cc/D9GM-XSZD].

[121] *Id.*

[122] *State of Create Study*, ADOBE 5 (Apr. 2012), https://www.dexigner.com/images/article/22456/Adobe_State_of_Create.pdf [https://perma.cc/C332-PCKT]. Yet only one out of four people reported that they thought that they were living up to their creative potential. *Id.* at 7. Recognizing the importance of creativity, a growing number of companies are inspiring creativity in the workplace. For instance, approximately every six weeks Facebook hosts Hackathons that normally span twenty-four hours. Matt Weinberger, *'There Are Only Two Rules'—Facebook Explains How 'Hackathons,' One of its Oldest Traditions, is Also One of its Most Important*, BUS. INSIDER (June 12, 2017), https://www.businessinsider.com.au/facebook-hackathons-2017-6 [https://perma.cc/XQ5T-XDC4]. During this time, engineers are asked to solve problems that are outside of their usual work area. *Id.* Facebook's tagging tool and Facebook's changeable profile picture frame are two ideas that arose out of a Hackathon. *Id.* In the education sphere, programs have popped up at schools around the country that focus on helping students discover their creative potential. For example, in 2005, David Kelley founded the Hasso Plattner Institute of Design—or d.school—at Stanford. Anne Strehlow,

2. Creativity and the Practice of Law

Creativity is not confined to the arts.[123] The need to be creative applies with equal force to the practice of law.[124] Lawyers are not merely legal technicians, applying the law to facts and executing basic analytical skills.[125] Rather, lawyers also

> need to be creative to interpret precedent in a novel way, reframe an unfavorable fact, attempt to get a larger percentage of the pie in a negotiation, envision different theories of liability, craft innovative defenses, identify potential parties, draft a persuasive argument in a brief, and generate alternative solutions to client problems.[126]

Lawyers also need to be creative to develop new means to deliver legal services.[127] Disruptive technologies—"new, innovative technologies that periodically emerge and fundamentally transform companies, industries, and markets"[128]—have redefined the legal landscape, requiring lawyers to develop creative approaches to providing affordable legal services.[129]

Institute Launched to Bring "Design Thinking" to Product Creation, STAN. NEWS (Oct. 12, 2005), https://news.stanford.edu/news/2005/october12/design-101205.html [https://perma.cc/25G9-3QLN]. The d.school brings together students from the various programs at Stanford; engineering, medicine, business, law, the humanities, science, and education. *Id.* The goal of the program is "to help students unlock their creative potential by teaching them to become, among other things, more open to experimentation, more comfortable with ambiguity and less afraid of failure." Carolyn T. Geer, *Innovation 101*, WALL ST. J. (Oct. 17, 2011), https://www.wsj.com/articles/SB10001424052970204831304576596703319827740 [https://perma.cc/5MGX-23NA].

[123] *See supra* notes 47–48 and accompanying text.

[124] Grossman, *supra* note 3. "Lawyers must be creative so they can identify[] new forms of legal service, different ways of delivering legal advice to . . . clients, novel ways of pricing, different ways of pitching, new ways to distinguish [their] firm in the legal recruitment market, and new ways by which teams can reach an even higher level of performance, as well as the formulation of a new and distinctive strategy." Dennis Sherwood, *Koestler's Law: The Act of Discovering Creativity—and How to Apply it in Your Law Practice*, 32 L. PRAC. 44 (2006).

[125] VINSON ET AL., *supra* note 8, at 58. Of course, lawyers need to be able to comprehend the law and conduct legal analysis, legal writing, alternative dispute resolution, and oral advocacy. *Id.*

[126] *Id.* (providing examples of creative lawyering); *see also* Grossman, *supra* note 3.

[127] Sherwood, *supra* note 124, at 44; *see* Ari Kaplan, *The Evolution of the Legal Profession* 15 (2010), https://www.arikaplanadvisors.com/wpcontent/uploads/2020/03/DiscoverReadyFINAL2011.pdf [https://perma.cc/Z9TY-GLT9]; *see also* Moppett, *supra* note 56, at 260.

[128] RICHARD SUSSKIND, THE END OF LAWYERS? RETHINKING THE NATURE OF LEGAL SERVICES 94 (2d ed. 2010); *see generally* CLAYTON CHRISTENSEN, THE INNOVATOR'S DILEMMA (1997).

[129] SUSSKIND, *supra* note 128, at 95, 100; *cf.* DANIEL H. PINK, A WHOLE NEW MIND: WHY RIGHT-BRAINERS WILL RULE THE FUTURE 45–46 (2006) (examining the impact of technology on the practice of law).

Moreover, the need to be creative in the delivery of legal services is necessitated by recent events. First, the Great Recession that began in December 2007 shifted client expectations,[130] requiring lawyers to develop and offer alternatives to the traditional hourly billing model.[131] The need to be creative in the delivery of legal services is even more imperative in light of the COVID-19 pandemic.[132] Efforts to combat the spread of the virus include closures of schools and businesses, stay-at-home orders, and enforcement of social distancing.[133] Accordingly, lawyers have had to be—and will have to continue to be—creative in serving their clients in the new normal.[134]

Finally, lawyers need to be creative in addressing the access to justice gap.[135] There is an enormous need for legal services in the United States that has gone unmet.[136] While legal organizations assist low-income Americans who cannot afford legal representation in civil matters, the resources available are not sufficient to meet the current needs.[137] Studies consistently reveal that over eighty percent of the basic legal needs of low-income Americans go unaddressed every year.[138] Lawyers need to think

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[130] *See* Kaplan, *supra* note 127, at 6 (noting over seventy percent of lawyers surveyed believe that the changes in the legal profession caused by the Great Recession are permanent); *see also* Moppett, *supra* note 56, at 255–56. In a survey, ninety-two percent of respondents thought that client expectations had been changed by the recession. Kaplan, *supra* note 127, at 6.

[131] Kaplan, *supra* note 127, at 6, 9; Nathan Koppel & Ashby Jones, *'Billable Hour' Under Attack*, WALL ST. J. (Aug. 24, 2009, 11:59 PM), https://www.wsj.com/articles/SB125106954159552335 [https://perma.cc/3SMK-S7B6]; *see also* Moppett, *supra* note 56, at 258.

[132] *See* Cohen, *supra* note 4.

[133] *Id.*

[134] Uri Friedman, *I Have Seen the Future—And it's Not the Life We Knew*, ATLANTIC (May 1, 2020), https://www.theatlantic.com/politics/archive/2020/05/life-after-coronavirus-china-denmark-south-korea/611011/ [https://perma.cc/L34Q-UAWE]. For example, lawyers have had to make creative use of technology while brick and mortar offices are closed. *See* Dalin et al., *supra* note 6, at 260. Moreover, it is likely that the shift to more remote services will continue well after the pandemic ends. *Id.*

[135] The justice gap is defined as "the difference between the civil legal needs of low-income Americans and the resources available to meet those needs." *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans*, LEGAL SERVS. CORP. 9 (2017), http://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf [https://perma.cc/ND2F-PNAL] [hereinafter *Justice Gap*].

[136] *Id.* at 42–44.

[137] *Id.*

[138] *See* Gene R. Nichol, Jr., *Judicial Abdication and Equal Access to the Civil Justice System*, 60 CASE W. RES. L. REV. 325, 327 (2010); *see also Justice Gap*, *supra* note 135, at 30 (reporting that in 2017, only fourteen percent of the civil legal issues that low-income Americans faced received adequate legal help).

creatively about how to provide legal services to the underserved.[139] It has been posited that "[w]ith bold innovation, the justice system could serve everyone."[140]

The COVID-19 pandemic has exacerbated the access to justice issues in this country. In light of the fallout from COVID-19, an increase in issues relating to housing, access to nutrition and health care, income, and elder abuse and neglect is likely.[141] Yet, low-income clients may have a more difficult time getting assistance because of the increase in virtual legal services wrought by the pandemic. Many indigent clients have limited access to the Internet and other technologies needed to connect with legal services.[142] Accordingly, it is even more important that lawyers think creatively to ensure they are able to provide services to their low-income clients.

D.   Barriers to Creativity in the Practice of Law

While lawyers need to be creative, for the most part, the legal profession does not support creativity.[143] Even more problematic, barriers to creativity exist.[144] For example, the time pressures of tight deadlines have a

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[139] The American Bar Association's 2016 Recommendation on the Legal Profession announced that lawyers today "will have to be entrepreneurs rather than employees . . . .". *See* ABA Commission on the Future of Legal Services, *Report on the Future of Legal Services in the United States*, A.B.A. 49 (2016), https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_W EB.pdf[hereinafter *ABA Report*] (quoting Richard S. Granat & Stephanie Kimbro, *The Teaching of Law Practice Management and Technology in Law Schools: A New Paradigm*, 88 CHI-KENT L. REV. 757, 762 (2013)), and that "lawyers who learn entrepreneurial skills can help solve the justice gap." *ABA Report*, *supra*, at 48–49. For a discussion of one way to leverage technology to provide access to justice, see Kathleen Elliott Vinson & Samantha A. Moppett, *Digital Pro Bono: Leveraging Technology to Provide Access to Justice*, 92 ST. JOHN L. REV. 551 (2018).

[140] Vinson & Moppett, *supra* note 139, at 558.

[141] *See* Dalin et al., *supra* note 6, at 258. Many renters have become unable to afford rent due to loss of income and competing priorities. Sarah Mervosh, *An 'Avalanche of Evictions' Could be Bearing Down on America's Renters*, N.Y. TIMES (May 27, 2020), https://www.nytimes.com/2020/05/27/us/coronavirus-evictions-renters.html [https://perma.cc/5L6X-WE5W]. Although many places still have eviction moratoriums in place, it has been predicted that an "avalanche of evictions" will come once moratoriums are lifted. *Id.*

[142] *See* Monica Anderson & Madhumitha Kumar, *Digital Divide Persists Even as Lower-Income Americans Make Gains in Tech Adoption*, PEW RES. CTR. (May 7, 2019), https://www.pewresearch.org/fact-tank/2019/05/07/digital-divide-persists-even-as-lower-income-americans-make-gains-in-tech-adoption/ [https://perma.cc/J8KQ-FYQN].

[143] *See* Jeff Bennion, *Can Lawyers Be Creative?*, ABOVE THE L. (Nov. 8, 2016, 5:13 PM), https://abovethelaw.com/2016/11/can-lawyers-be-creative/ [https://perma.cc/24HJ-TPN9] ("If there's one profession that stifles creativity, it's the legal profession."); *see* Moppett, *supra* note 56, at 294.

[144] Mikkel Boris, *5 Obstacles to Innovation in the Legal Profession*, LEGALTECHWEEKLY (Feb. 4, 2019), https://suits.contractbook.com/legaltechweekly/5-obstacles-for-innovation-in-

negative effect on creativity.[145] Deadlines leave lawyers feeling unsatisfied and overwhelmed and have a negative effect on the lawyer's psychological press.[146] This, in turn, harms the lawyer's motivation.[147]

The intense pressure to meet deadlines also adversely impacts the physical press.[148] For instance, the lack of idea time—one of the nine dimensions of an environment that encourages creativity—does not allow individuals to explore ideas and think creatively.[149] In addition, time constraints discourage lawyers from taking risks, the seventh dimension of a creative environment.[150] When faced with time constraints, lawyers may hesitate to proceed with a novel idea because it may take longer to develop or it may fail.[151]

The billable hour—an attribute of some areas of legal practice—also serves as a barrier to creativity.[152] When clients pay by the hour, an incentive exists for lawyers to bill as many hours as they can to maximize profits for the law firm.[153] Billable hours have a negative impact on an individual's psychological press, thus inhibiting creativity.[154] To make sure that lawyers meet the required number of billable hours, it is not uncommon for firms to institute bonus or penalty clauses.[155] In addition, firms look to

the-legal-profession [https://perma.cc/6UD6-CQRL] (identifying the partner structure, financial incentives, legislative protection, the precedent culture, and lawyers' behavioral psychology as barriers to innovation in the legal practice); *see* Charlie de Rusett, *Overcoming the Barriers to Innovation in the Legal Sector*, IDEA DROP (Sept. 10, 2017), https://ideadrop.co/overcoming-barriers-innovation-legal-sector/ [https://perma.cc/22AA-W6JH]; *see also* Moppett, *supra* note 56, at 299–302.

[145] *See* Teresa M. Amabile, *How to Kill Creativity: Keep Doing What You Are Doing. Or, If You Want to Spark Innovation, Rethink How You Motivate, Reward, and Assign Work to People*, HARV. BUS. REV., Sept.–Oct. 1998, at 82; Moppett, *supra* note 56, at 299; *cf.* C. Page Moreau & Darren W. Dahl, *Designing the Solution: The Impact of Constraints on Consumer Creativity*, 32 J. CONSUMER RES. 13 (2005).

[146] Amabile, *supra* note 145, at 82; Moppett, *supra* note 56, at 299.

[147] Amabile, *supra* note 145, at 82; Moppett, *supra* note 56, at 299.

[148] *See* Moppett, *supra* note 56, at 299.

[149] *See id.*; *supra* text accompanying notes 90–93.

[150] *See* Moppett, *supra* note 56, at 299; *supra* text accompanying notes 103–05.

[151] *See* Moppett, *supra* note 56, at 300.

[152] Beth Cody, *Lawyers as Members of the New "Creative Class,"* LAWFIRMSTAFF, http://www.lawfirmstaff.com/articles/50072/75/Lawyers-as-Members-of-the-New-Creative-Class/ [https://perma.cc/LUH9-BN9W]; *see* Moppett, *supra* note 56, at 300.

[153] *The Truth About the Billable Hour*, YALE L. SCH. CAREER DEV. OFF., https://law.yale.edu/sites/default/files/area/department/cdo/document/billable_hour.pdf [https://perma.cc/XF9W-AK2E].

[154] *See* Moppett, *supra* note 56, at 300.

[155] *See* Garry Crystal, *What are Billable Hours?* WISEGEEK (Dec. 8, 2020), https://www.wisegeek.com/what-are-billable-hours.htm [https://perma.cc/6EQX-M2JM].

billable hours when deciding who will make partner.[156] As a result, the reward or threat of recourse motivates the lawyer, rather than the problem that he or she is working to solve.[157] This extrinsic motivation inhibits creativity.[158]

Billable hours also adversely impact the physical press.[159] For example, the pressure to meet the billable hour quota discourages idea time because the lawyer cannot bill the time spent discussing the ideas.[160] Moreover, pressure to meet the billable hour quota can also impede risk-taking.[161]

The rigid hierarchy that frequently exists in the practice of law also inhibits creativity.[162] This rigid hierarchy creates a large power-distance index[163] between employees of different statuses, and results in communication flowing from the top-down.[164] While those at the top of the hierarchy are encouraged to share their expertise with those lower in the hierarchy, the lawyers lower in the hierarchy are not encouraged to share their ideas with the lawyers above them in the hierarchy.[165]

Supporting conformity, emphasizing status symbols, and discouraging internal communication inhibits creativity.[166] This environment negatively impacts some of the dimensions of a creative environment. For example, an atmosphere of trust and openness frequently does not exist because of the lack of unrestricted and candid communication.[167] The lack

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[156] *See* Raffaele Murdocca, *Five Keys to Making Partner*, BCG SEARCH (Jan. 7, 2020), https://www.bcgsearch.com/article/60583/Five-Keys-to-Making-Partner/ [https://perma.cc/F4Z8-CWA6].

[157] Amabile, *supra* note 145, at 22.

[158] *Id.*

[159] *See* Moppett, *supra* note 56, at 300–01.

[160] *See supra* notes 90–93 and accompanying text.

[161] *See supra* notes 102–05 and accompanying text.

[162] *See* David Burkus, *Why Hierarchy Stifles Creativity*, PSYCH. TODAY (Mar. 23, 2014), https://www.psychologytoday.com/us/blog/creative-leadership/201403/why-hierarchy-stifles-creativity [https://perma.cc/S9TZ-CSQM]; *see also* Moppett, *supra* note 56, at 301.

[163] *Power-Distance Index*, INVESTOPEDIA (updated Apr. 7, 2019), https://www.investopedia.com/terms/p/power-distance-index-pdi.asp [https://perma.cc/72P9-GBNA] [hereinafter *Power-Distance Index*] (defining power-distance index as "an index that measures the distribution of power and wealth between individuals in a business, culture, or nation.").

[164] *See* Moppett, *supra* note 56, at 301; Katharine Rosenberry, *Organizational Barriers to Creativity in Law Schools and the Legal Profession*, 41 CAL. W. L. REV. 423, 427 (2005); *see also Power-Distance Index*, *supra* note 163.

[165] *See* Moppett, *supra* note 56, at 301; Rosenberry, *supra* note 164, at 427.

[166] *See* Robert Tanner, *Ten Organizational Barriers That Limit Innovation*, MGMT. IS A JOURNEY (Aug. 21, 2019), https://managementisajourney.com/ten-organizational-practices-that-limit-innovation/ [https://perma.cc/4AM6-2YEL]; *see also* Moppett, *supra* note 56, at 301.

[167] *See* Moppett, *supra* note 56, at 301; *supra* text accompanying notes 96–99.

of trust and openness discourages individuals from sharing new and unusual ideas and taking risks.[168]

Another dimension impacted by a rigid hierarchy is the dimension of debate.[169] With the flow of information only going one way, the lawyers at the bottom are not likely to be comfortable sharing their ideas or challenging ideas set forth by those higher in the pecking order.[170] For like reasons, risk-taking—the seventh dimension—is also inhibited, thus deterring creativity.[171]

E.   Creativity in the United States

As established above, creativity is an indispensable trait because lawyers need to be creative so they can come up with novel solutions to problems.[172] Yet, alarmingly, creativity in the United States is on the decline.[173] The cause of the decline is subject to much speculation.[174] It has been attributed to the proliferation of technology and the failure of families, schools, and society to appreciate creativity, creative individuals, and creative ideas.[175] Fortunately, as mentioned in Part I, creativity can be fostered, and creative capacities nurtured.[176] Equally encouraging is that the skills that create a high-performing group—discussed below—also foster a creative press.[177]

II.   THE CULTURE CODE[178]

Culture is a set of living relationships working toward a shared goal. It's not something you are. It is something you do.[179]

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[168] *See* Moppett, *supra* note 56, at 301; *supra* text accompanying notes 96–99.

[169] *See* Moppett, *supra* note 56, at 301–02; *supra* text accompanying notes 108–09.

[170] *See* Moppett, *supra* note 56, at 301–02; *supra* text accompanying notes 108–09.

[171] *See* Moppett, *supra* note 56, at 301; *supra* text accompanying notes 103–04.

[172] *See supra* Part I.

[173] *The Decline of Creativity in the United States: 5 Questions for Educational Psychologist Kyung Hee Kim*, ENCYC. BRITANNICA BLOG (Oct. 18, 2010), http://blogs.britannica.com/2010/10/the-decline-of-creativity-in-the-united-states-5-questions-for-educational-psychologist-kyung-hee-kim [https://perma.cc/ZN9G-VZ9X] [hereinafter *5 Questions*]; Kyung Hee Kim, *The Creativity Crisis in America!*, CREATIVITY POST (July 10, 2012), https://www.creativitypost.com/article/yes_there_is_a_creativity_crisis [https://perma.cc/9FV5-NNPQ].

[174] *Explaining the Decline of Creativity in American Children: A Reply to Readers*, ENCYC. BRITANNICA BLOG (Dec. 23, 2010), http:// http://blogs.britannica.com/2010/12/explaining-the-decline-of-creativity-in-american-children-a-reply-to-readers [https://perma.cc/E87A-25YQ] [hereinafter *Explaining the Decline*].

[175] *Id.*; *see* Moppett, *supra* note 56, at 290–93.

[176] *See supra* text accompanying notes 58–62.

[177] *See infra* Part II.

[178] COYLE, *supra* note 13.

[179] *Id.* at xx.

While lawyers today need to work together to creatively solve client problems, law practice tends to discourage creativity.[180] Many barriers exist, negatively impacting the organizational factors conducive to developing an environment that enhances creativity.[181] In addition, the rigid hierarchy leads to status management and poor group performance. So, how can a team of lawyers, legal department, or law firm behave like a group of kindergartners and develop creative solutions to today's increasingly complex problems?

In an effort to ascertain how strong group cultures work, some of the world's most successful organizations were examined over a period of four years.[182] The organizations studied were diverse, including: the Navy SEALs, the San Antonio Spurs, Pixar, Union Square Hospitality, and a gang of jewel thieves.[183] These groups were then compared to less successful ones to see what made the extraordinarily successful organizations tick.[184]

The research revealed that highly successful cultures are not preordained.[185] Contrary to the belief that organizations excel because they have intelligent people, the manner in which members of a group behave, interact, and collaborate are what matter for success.[186] When a cohesive group structure exists, teams are able to perform far beyond the sum of individual capabilities.[187]

Groups can cultivate a specific set of skills to create a strong group culture[188] irrespective of the business, market, or objectives.[189] These skills

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[180] *See supra* Part I.

[181] *See supra* Section I.D.

[182] *See supra* text accompanying notes 18–19.

[183] *See* COYLE, *supra* note 13, at xviii.

[184] *Id.* at xviii–xix.

[185] *Id.*; *see generally* Andre de Waal, *The Characteristics of a High Performance Organization*, 8 BUS. STRATEGIES 179 (Mar. 2007), https://www.hpocenter.nl/wp-content/uploads/2013/07/Business-Strategy-Series-2007-HPO.pdf (setting forth characteristics managers should focus on to turn their companies into high performance organizations).

[186] COYLE, *supra* note 13, at xix; *see* Daniel R. Denison & Aneil K. Mishra, *Toward a Theory of Organizational Culture and Effectiveness*, 6 ORG. SCI. 204, 220 (1995) ("[T]he cultures of organizations have an important influence on effectiveness."); Waal, *supra* note 185, at 183; Boris Groysberg, Jeremiah Lee, Jessica Price & J. Yo-Jud Cheng, *The Leader's Guide to Corporate Culture*, HARV. BUS. REV. (Feb. 2018), https://hbr.org/2018/01/the-culture-factor [https://perma.cc/GLD9-XW84]; *Developing and Sustaining High-Performance Work Teams*, SHRM, https://www.shrm.org/resourcesandtools/tools-and-samples/toolkits/pages/developingandsustaininghigh-performanceworkteams.aspx [https://perma.cc/5XBW-3WJE] [hereinafter *High-Performance Work Teams*].

[187] COYLE, *supra* note 13, at xviii ("A strong culture increase[d] net income 756 percent over 11 years . . . ."); *see also High-Performance Work Teams*, *supra* note 186.

[188] Group culture is the relationships between people who are working to achieve a common goal. COYLE, *supra* note 13, at xx.

[189] *See id.* at xix; *see generally* Waal, *supra* note 185.

utilize the ability of human beings' social brains to generate interactions identical to those the kindergarteners used to build the spaghetti tower.[190] The three skills are: (1) Build Safety, (2) Share Vulnerability, and (3) Establish Purpose.[191]

The first skill, Build Safety, entails making all group members feel like they belong and are comfortable working with each other.[192] Share Vulnerability, the second skill, focuses on all members sharing their weaknesses to demonstrate that no one is perfect, creating trusting cooperation.[193] Finally, skill three—Establish Purpose—entails developing a clear vision and mission to create a culture of collaboration.[194] These three skills—discussed in more detail below—"work together from the bottom up, first building group connection and then channeling it into action."[195] In part, these three skills increase performance because they also produce an environment that encourages creativity.[196]

Lawyers can learn and practice these skills to create a high-performing group culture—free of status management—that encourages innovation and creative problem solving. Many of these recommendations impact physical press, fostering an environment conducive to creativity.[197] This Part addresses each of the skills in turn. In each subsection, the skill is defined, an example of the skill in action is discussed, ways to develop the skill are identified, and the impact on the creative environment is noted.

A.   Build Safety—Safety Isn't the Frosting on the Cake, It's the Whole Cake[198]

Generally, skills and attributes that we associate with high-performing groups include each individual's verbal intelligence and ability to fashion and convey complicated ideas.[199] Yet, research reveals the

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[190] COYLE, *supra* note 13, at xix; *see* Skillman, *supra* note 9; *see also* Wujec, *supra* note 10; *supra* text accompanying notes 21–23.

[191] COYLE, *supra* note 13, at xix.

[192] *Id.*; *see* Waal, *supra* note 185, at 183; *infra* Section II.A.

[193] COYLE, *supra* note 13, at xix; *see* Waal, *supra* note 185, at 183; *infra* Section II.B.

[194] COYLE, *supra* note 13, at xix; *see* Waal, *supra* note 185, at 184; *infra* Section II.C.

[195] COYLE, *supra* note 13, at xix.

[196] *See supra* notes 79–112 and accompanying text.

[197] *See supra* text accompanying notes 79–109.

[198] *See* Carolyn Ray, *Daniel Coyle Demystifies Culture in "The Culture Code,"* BRANDCHANNEL (Mar. 16, 2018), https://www.brandchannel.com/2018/03/16/daniel-coyle-demystifies-culture-in-the-culture-code/#:~:text=%E2%80%9CSafety%20is%20not%20some%20atmospheric,It's%20everything.&text=Safety%20is%20more%20important%20than%20smarts.%E2%80%9D [https://perma.cc/8NAD-NHF9].

[199] *See* COYLE, *supra* note 13, at 6, 15; Duhigg, *supra* note 23 ("[Google's] top executives long believed that building the best teams meant combining the best people.").

opposite—that team performance hinges upon conduct that communicates the idea that "[w]e are safe and connected."[200] Accordingly, Building Safety is the first core trait of highly successful organizations.[201]

1. Nonverbal Cues and Safety

Humans use nonverbal—or belonging—cues to build safety in groups.[202] These nonverbal cues are small signals that convey closeness, safety, and a shared future.[203] The three qualities of a belonging cue are energy, individualization, and future orientation.[204] Energy—or nonverbal involvement behavior—refers to the investment that the person is placing into the exchange.[205] Individualization refers to treating the person as unique and appreciated.[206] Finally, future orientation refers to indicating that the connection will last.[207] Belonging cues include closeness, eye contact, liveliness, imitation, turn-taking, attentiveness, physical gestures, vocal tone, reliability of emphasis, and whether all members of the group speak to each

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[200] COYLE, *supra* note 13, at 15; *see* Laura Delizonna, *High-Performing Teams Need Psychological Safety. Here's How to Create It*, HARV. BUS. REV. (Aug. 24, 2017), https://hbr.org/2017/08/high-performing-teams-need-psychological-safety-heres-how-to-create-it [https://perma.cc/N23A-EUYF]; *see also* Duhigg, *supra* note 23 ("The 'who' part of the equation didn't seem to matter.").

[201] COYLE, *supra* note 13, at xix; *see* Delizonna, *supra* note 200. In fact, "safety is . . . the foundation on which strong culture is built." COYLE, *supra* note 13, at 6.

[202] COYLE, *supra* note 13, at 10; *see also* MARTIN S. REMLAND, USES AND CONSEQUENCES OF NONVERBAL COMMUNICATION IN THE CONTEXT OF ORGANIZATIONAL LIFE, SAGE HANDBOOK OF NONVERBAL COMMUNICATION 513 (Valerie Manusov & Miles L. Patterson eds., 2006) ("[N]onverbal involvement behavior leads to positive outcomes."). Nonverbal communication has been defined as "the use of interacting sets of visual, vocal, and invisible communication systems and subsystems by communicators with the systematic encoding and decoding of nonverbal symbols and signs for the purpose(s) of exchanging consensual meanings in specific communicative contexts." MICHAEL H. EAVES & DALE LEATHERS, SUCCESSFUL NONVERBAL COMMUNICATION: PRINCIPLES AND APPLICATIONS 12 (5th ed. 2018).

[203] HOWARD GILES & BETH A. LE POIRE, THE UBIQUITY AND SOCIAL MEANINGFULNESS OF NONVERBAL COMMUNICATION, SAGE HANDBOOK OF NONVERBAL COMMUNICATION xxi (Valerie Manusov & Miles L. Patterson eds., 2006) ("[N]onverbal cues engender social support and relational harmony."); *see* COYLE, *supra* note 13, at 26.

[204] COYLE, *supra* note 13, at 11.

[205] REMLAND, *supra* note 202, at 512 ("[N]onverbal involvement behavior . . . indicate[s] the degree to which a person is overtly involved in the interaction."); *see* COYLE, *supra* note 13, at 11.

[206] COYLE, *supra* note 13, at 11.

[207] *Id.*

other.[208] These belonging cues are more important than the words used in the exchange.[209]

Belonging cues, if continually reinforced, inform our unconscious brains—that are obsessed with danger—that it no longer needs to worry about danger, and it creates psychological safety.[210] Psychological safety has been "defined as a shared belief that the team is safe for interpersonal risk-taking."[211] In groups where psychological safety exists, group members feel safe to speak, offer up ideas, ask questions, raise concerns, and take risks.[212]

2. *Power of Belonging Cues in Practice*

An experiment that the Indian outsourcing firm WIPRO conducted with its one-hour orientation for new employees in its call center

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[208] REMLAND, *supra* note 202, at 512; *see* COYLE, *supra* note 13, at 10–11. Humans are unconsciously attuned to these nonverbal cues. *See* Delizonna, *supra* note 200. Before humans used language, they communicated via signals. Donald Brook, *On Non-verbal Representation*, 37 BRIT. J. AESTHETICS (1997).

[209] EAVES & LEATHERS, *supra* note 202, at 7 ("[N]onverbal, not verbal, factors are the major determinants of meaning in the interpersonal context."); REMLAND, *supra* note 202, at 513 ("[T]here is strong support for the claim that a speaker's nonverbal cues are often more important than the speaker's words."). Some research indicates that two-thirds of communication comes from nonverbal cues. JUDEE K. BURGOON, DAVID B. BULLER & WILLIAM GILL WOODALL, NONVERBAL COMMUNICATION: THE UNSPOKEN DIALOGUE (1996); *see also* Rebecca Brook & Maros Servatka, *The Anticipatory Effect of Nonverbal Communication*, 144 ECON. LETTERS 45, 45 (2016). "Specifically, through nonverbal channels, a speaker can signal positive or negative expectations, modify the meaning of a verbal message, and influence the reactions and judgments of listeners." REMLAND, *supra* note 202, at 513. In fact, researchers have discovered they can predict how well a person will perform by focusing on nonverbal cues and ignoring all information provided during an exchange. *See generally* James R. Curhan & Alex Pentland, *Thin Slices of Negotiation: Predicting Outcomes from Conversational Dynamics Within the First Five Minutes*, 92 J. APPLIED PSYCHOL. 802 (2007).

[210] COYLE, *supra* note 13, at 11–12 (noting that psychological safety "is easy to destroy and hard to build."); *see* William A. Kahn, *Psychological Conditions of Personal Engagement and Disengagement at Work*, 33 ACAD. MGMT. J. 692, 708–13 (providing a discussion of psychological safety); David Brendel & Sara Davis, *How Leaders Can Promote Psychological Safety in the Workplace*, HUFFPOST (Aug. 29, 2017, 8:46 AM), https://www.huffpost.com/entry/how-leaders-can-promote-psychological-safety-in-the_b_59a55d34e4b03c5da162af6e [https://perma.cc/HG4C-F5NP] (psychological safety "refers to the notion that the work environment must foster people's confidence in taking well-considered risks around innovation and growth."). In turn, psychological safety assists the brain to move into connection mode where the focus is on developing stronger social bonds with the members of the group. COYLE, *supra* note 13, at 25–26.

[211] Amy Edmondson, *Psychological Safety and Learning Behavior in Work Teams*, 44 ADMIN. SCI. Q. 350, 354 (1999).

[212] Delizonna, *supra* note 200 ("[P]sychological safety allows for moderate risk-taking, speaking your mind, creativity, and sticking your neck out without fear of having it cut off."). The belonging cues produce "bonds of belonging and identity" and "totally transform the way people relate, how they feel, and how they behave." COYLE, *supra* note 13, at 23.

provides a vivid example of the impact of psychological safety on building connection, motivation, and engagement in a group.[213] Although a successful call center, anywhere between fifty to seventy percent of WIPRO's employees were leaving every year.[214] When increasing salaries, providing more perks, and marketing the fact that the company had been named one of India's best employers did not halt the persistent yearly attrition, the company decided to try a new approach.[215] The company divided the new hires into three groups and conducted the one-hour orientation of each group slightly differently to see if a different training model would have an impact on retention rates.[216]

One group of new hires, the control group, received the standard orientation, "which focused primarily on skills training and general firm awareness."[217] The second group of new hires received the standard orientation and an additional hour of orientation where the trainees learned about the company's values and origins and spoke to star performers.[218] In addition, the trainees in this second group received two fleece sweatshirts and a badge with the company name on it.[219] Finally, the third group received the normal orientation plus an extra hour that focused not only on the company but also on the trainees.[220] The trainers asked the trainees in the group questions about themselves, and the group members got to know one another.[221] At the end of the two-hour training, each trainee also received two fleece sweatshirts with the WIPRO logo alongside the trainee's name and a badge with the trainee's name on it.[222]

Seven months later, the study revealed that the trainees in the third group that had the extra hour of training focused on them and that

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[213] Daniel M. Cable, Francesca Gino & Brad Staats, *Breaking Them in or Revealing Their Best? Reframing Socialization Around Newcomer Self-Expression*, 58 ADMIN. SCI. Q. 1, 50 (Mar. 2013) https://dash.harvard.edu/bitstream/handle/1/10996793/cable%2cgino%2cstaats_breaking-them-in_ASQ2013_edited.pdf?sequence=1&isAllowed=y [https://perma.cc/2UV2-YFR3]; *see also* COYLE, *supra* note 13, at 37; Carmen Noble, *First Minutes are Critical in New Employee Orientation*, HARV. BUS. SCH. WORKING KNOWLEDGE (Apr. 1, 2013), https://hbswk.hbs.edu/item/first-minutes-are-critical-in-new-employee-orientation [https://perma.cc/9STD-54SZ].

[214] Cable et al., *supra* note 213, at 16; *see also* COYLE, *supra* note 13, at 37.

[215] *See also* COYLE, *supra* note 13, at 37.

[216] Cable et al., *supra* note 213, at 17; *see also* COYLE, *supra* note 13, at 37.

[217] Cable et al., *supra* note 213, at 17, 19; *see also* COYLE, *supra* note 13, at 37.

[218] Cable et al., *supra* note 213, at 17; *see also* COYLE, *supra* note 13, at 37.

[219] Cable et al., *supra* note 213, at 19; *see also* COYLE, *supra* note 13, at 37.

[220] Cable et al., *supra* note 213, at 16–17; *see also* COYLE, *supra* note 13, at 37–38.

[221] Cable et al., *supra* note 213, at 17–19; *see also* COYLE, *supra* note 13, at 37–38. The employees were asked simple questions such as, "What three words best describe you as an individual?" and "What is unique about you that leads to your happiest times and best performances at work?" Cable et al., *supra* note 213, at 18.

[222] Cable et al., *supra* note 213, at 19; *see also* COYLE, *supra* note 13, at 37–38.

received a fleece with their name on it were 250 percent more likely to still work at WIPRO compared to the group that had the extra hour of training focused on the company.[223] Moreover, the third group was 157 percent more likely to still be employed at WIPRO as compared to the members of the control group.[224] The retention rate for the members of the third group was higher because they received signals that they were important and belonged to a cohesive group.[225]

3. *Building Safety, Creative Press, and the Practice of Law*

As seen above, groups can build safety by "dialing into small, subtle moments and delivering targeted signals at key points."[226] These ideas apply to the practice of law, and many have an impact on the creative press as well,[227] establishing an environment conducive to creative problem solving.[228]

First, lawyers working in groups should make sure that they listen attentively to their team members.[229] Avoiding interruptions and maintaining a posture and expression that encourages talking serves to enhance two dimensions of a creative press discussed above: idea time[230] and idea support.[231] The absence of interruptions and focus on the speaker permits

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[223] Cable et al., *supra* note 213, at 23; *see also* COYLE, *supra* note 13, at 38.

[224] Cable et al., *supra* note 213, at 23; *see also* COYLE, *supra* note 13, at 38.

[225] *See* Cable et al., *supra* note 213, at 24; *see also* COYLE, *supra* note 13, at 37. Safety was delivered in the small moments when the third group received belonging cues, "creat[ing] a foundation of psychological safety that built connection and identity." COYLE, *supra* note 13, at 39.

[226] *See* COYLE, *supra* note 13, at 75. Coyle's tips are based on patterns of interaction that he witnessed when researching successful groups. *Id.* at 7. The distinct patterns of interaction that helped to create a bond and build safety in a group included "[c]lose physical proximity, often in circles; profuse amounts of eye contact; physical touches (handshakes, fist pumps, hugs); lots of short, energetic exchanges (no long speech); high levels of mixing, everyone talks to everyone; few interruptions, lots of questions; intensive, active listening; humor, laughter; small, attentive courtesies (thank-yous, opening doors etc.)." *Id.* at 8.

[227] Alexander Newman, Ross Donohue & Nathan Eva, *Psychological Safety: A Systematic Review of the Literature*, 27 HUM. RES. MGMT. REV. 521, 527 (2017) ("[T]here is growing evidence of a link between employee perceptions of psychological safety within the organization and their creativity.").

[228] *See supra* text accompanying notes 71–112 (discussing creative press).

[229] *See* COYLE, *supra* note 13, at 75; *see also* JOSEPH L. CHESEBRO, PROFESSIONAL COMMUNICATION AT WORK: INTERPERSONAL STRATEGIES FOR CAREER SUCCESS 133 (2014) ("[People can be encouraged to talk] by some combination of remaining silent, nodding our head, having an encouraging facial expression, gesturing for the person to continue, and using vocal back-channel cues.").

[230] *See supra* text accompanying notes 90–93 (discussing idea time, the third dimension of a creative press).

[231] *See supra* text accompanying notes 82–84 (explaining idea support, the first dimension of a creative environment).

people to introduce new ideas and spend time discussing them, resulting in more creative problem solving.[232]

Lawyers working together to solve problems should also identify their weaknesses, particularly the lawyer that is the leader.[233] In light of the rigid hierarchy, lawyers that are leaders tend to hide weaknesses to look competent.[234] To build safety, the opposite is required.[235] Everyone—particularly the leaders or most senior lawyers—needs to be open about weaknesses and invite feedback from others in the group.[236] Sharing weaknesses and seeking input connects with the listener who is left wanting to help.[237] This produces an environment where risk-taking, trust, and openness[238] are encouraged—two additional dimensions of an environment that encourage creative problem solving.[239]

Lawyers should also generate a collision-rich space.[240] Collisions—defined as "serendipitous personal encounters"—are pivotal to creativity, unity, and feeling safe.[241] As such, to optimize performance, law offices should be designed to optimize the number of collisions.[242] Collision-rich

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[232] *See supra* text accompanying notes 82–84, 90–93.

[233] *See* COYLE, *supra* note 13, at 76; *see also* SEBASTIAN SALICRU, LEADERSHIP RESULTS: HOW TO CREATE ADAPTIVE LEADERS AND HIGH-PERFORMING ORGANIZATIONS FOR AN UNCERTAIN WORLD 195 (2017); Ameet Ranadive, *How to Create Psychological Safety in your Work Culture*, MEDIUM (Sept. 30, 2016), https://medium.com/@ameet/how-to-create-psychological-safety-in-your-work-culture-119dae055c10 [https://perma.cc/YSR4-VHKZ] (recommending that to create psychological safety, leaders need to acknowledge their own fallibility).

[234] *See* COYLE, *supra* note 13, at 76.

[235] *Id.*; Ingrid M. Nembhard & Amy C. Edmondson, *Making It Safe: The Effects of Leader Inclusiveness and Professional Status on Psychological Safety and Improvement Efforts in Health Care Teams, in Elaborating Professionalism: Studies in Practice and Theory* 84 (Clive Kanes ed., 2010) (noting the impact of actively seeking input and speaking about errors on surgery teams).

[236] *See* COYLE, *supra* note 13, at 76; Nembhard & Edmondson, *supra* note 235, at 84; Waal, *supra* note 185, at 182 ("[A high performance organization] *creates highly interactive internal communication* through which a continuous and open information exchange takes place.").

[237] *See* COYLE, *supra* note 13, at 77.

[238] *See supra* text accompanying notes 96–99.

[239] *See supra* text accompanying note 81.

[240] *See* COYLE, *supra* note 13, at 81; MIGUEL PINA E CUNHA, ARMÉNIO REGO, ACE VOLKMANN SIMPSON & STEWART CLEGG, POSITIVE ORGANIZATIONAL BEHAVIOR: A REFLECTIVE APPROACH, 166 (Routledge 2020); Amy C. Edmondson, *The Competitive Imperative of Learning*, HARV. BUS. REV., July–Aug. 2008, at 60, 66 [hereinafter Edmondson, *Competitive Imperative*] (encouraging leaders to "[p]rovide tools that enable employees to collaborate in real time.").

[241] WALTER ISAACSON, THE INNOVATORS: HOW A GROUP OF HACKERS, GENIUSES, AND GEEKS CREATED THE DIGITAL REVOLUTION (Simon and Schuster 2014) (recognizing that "bringing different types of people with various skill sets together on a daily basis is important for growth.").

[242] With the 2020 pandemic, lawyers are now faced with developing creative ways to create serendipitous encounters in an environment where social distancing is encouraged, and

spaces, where group members are in close physical proximity, increase group performance by both building safety and providing more opportunities for group members to interact.[243] This collision, paired with encouragement to spend time discussing ideas, enhances idea time—the third dimension to facilitate a creative atmosphere.[244]

To build safety, it is key that all lawyers on the team have a voice.[245] Specifically, group leaders need to ensure that everyone has an opportunity to be heard, regardless of their position in the group.[246] When everyone has a voice, the members feel safer.[247]

Listening to everyone also enhances the creativity of a group because it impacts three of the dimensions of creative external press.[248] First, it likely promotes the dimension of idea time because when all group members have a say, more time is spent discussing new ideas.[249] The ninth dimension of a creative environment—debates—is also impacted by encouraging everyone to share their opinions.[250] The rigid hierarchy in legal practice, where those lower in the hierarchy are generally not encouraged to share their ideas, is the exact opposite of what needs to happen to build safety—the first skill of a highly successful organization that can develop creative solutions to client problems.[251]

To build safety, lawyers also need to embrace fun.[252] Embracing fun and laughter improves group performance because laughter is "the most

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lawyers are working remotely. *See* Gerald Sauer, *For Lawyers, Social Distancing Could be the New Normal*, LAW.COM (Apr. 13, 2020, 12:29 PM), https://www.law.com/therecorder/2020/04/13/for-lawyers-social-distancing-could-be-the-new-normal/ [https://perma.cc/H5G4-4TCX].

[243] PINA E CUNHA ET AL., *supra* note 240, at 166–67. Research has shown that the frequency of communication increases exponentially when people are less than eight meters from each other. COYLE, *supra* note 13, at 71.

[244] *See supra* text accompanying notes 90–93.

[245] COYLE, *supra* note 13, at 83; KEDREN CROSBY & SARAH COLANTONIO, AUTHENTIC COMMUNICATION: 20 CONCRETE PRACTICES TO ENHANCE YOUR COMMUNICATION & JOY 57 (Lulu 2018).

[246] COYLE, *supra* note 13, at 83 ("Some [groups] do this by making a rule that meetings don't end until everyone speaks. Others do this by holding regular open-reviews where anyone can pitch in."); NIK KINLEY & SHLOMO BEN-HUR, LEADERSHIP OS: THE OPERATING SYSTEM YOU NEED TO SUCCEED 4 (2020).

[247] KINLEY & BEN-HUR, *supra* note 246, at 4.

[248] *See supra* text accompanying notes 81–109.

[249] *See supra* text accompanying notes 90–93.

[250] *See supra* text accompanying notes 108–09.

[251] Rosenberry, *supra* note 164, at 427; *see* COYLE, *supra* note 13, at 20 (using Google as an example of a highly successful group that encourages free-wheeling debate irrespective of status).

[252] COYLE, *supra* note 13, at 88.

fundamental sign of safety and connection."[253] In addition, it positively impacts the external press encouraging creative problem solving as it relates to the dimension of playfulness and humor.[254] Additional tips to build safety in a group include embracing the messenger,[255] previewing future connections,[256] overusing thank-you,[257] being meticulous when hiring new group members,[258] getting rid of members who behave poorly,[259] and capitalizing on threshold moments.[260]

B. Share Vulnerability

[B]eing vulnerable together is the only way a team can become invulnerable.[261]

The first skill—building safety—focuses on how successful groups create belonging.[262] The second skill, sharing vulnerability, explores how successful groups translate that connection into "trusting cooperation."[263] High-performing groups cannot be built without trust.[264] Trust among members of a group is the key trait of highly performing groups;[265] in fact, "when it comes to creating cooperation, vulnerability is not a risk but a psychological requirement."[266]

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[253] AFSANEH NAHAVANADI, ROBERT B. DENHARDT, JANET V. DENHARDT & MARIA P. ARISTIGUETA, ORGANIZATIONAL BEHAVIOR 190 (2015); COYLE, *supra* note 13, at 88.

[254] *See supra* text accompanying note 106.

[255] COYLE, *supra* note 13, at 77 (asserting that group members should embrace other members who deliver difficult feedback in order to create safety and encourage group members "to speak the truth fearlessly.").

[256] *Id.* (previewing future connections entails making a connection between now and the future by showing the group where it is going).

[257] *Id.* at 86 ("[T]hanking ignites cooperative behavior.").

[258] *Id.* at 81 (noting that, in an effort to make the best hires, Zappos offers $2000 to any trainee who wants to quit after the new hires complete training).

[259] *Id.* ("Successful groups display zero tolerance to poor behavior."); Waal, *supra* note 185, at 183.

[260] COYLE, *supra* note 13, at 86.

[261] *Id.* at 145.

[262] *Id.* at 97–98.

[263] *Id.* at 98.

[264] *See* PATRICK LENCIONI, THE FIVE DYSFUNCTIONS OF A TEAM: A LEADERSHIP FABLE 195 (2002) [hereinafter FIVE DYSFUNCTIONS]; Waal, *supra* note 185, at 183; Paul J. Zak, *The Neuroscience of Trust: Management Behaviors that Foster Employee Engagement*, HARV. BUS. REV., Jan.–Feb. 2017, at 1, 4. According to Stephen Covey, the author of the book *The 7 Habits of Highly Effective People*, "[w]ithout trust we don't truly collaborate, we merely coordinate or, at best, cooperate. It is trust that transforms a group of people into a team." STEPHEN COVEY, THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE (Free Press rev. ed., 2004).

[265] BRENÉ BROWN, DARE TO LEAD 223 (Random House, 2018); Roderick M. Kramer, *Rethinking Trust*, HARV. BUS. REV. (June 2009), https://hbr.org/2009/06/rethinking-trust [https://perma.cc/Y7DD-3BPJ].

[266] *See* COYLE, *supra* note 13, at 111.

1. *Sharing Vulnerability Defined*

A common misconception is that group members must build trust before they can be vulnerable with one another.[267] In fact, vulnerability precedes trust.[268] Diving into the unknown with other group members "causes the solid ground of trust to materialize beneath [their] feet."[269]

Sharing vulnerability requires group members to behave in a way contrary to human instinct.[270] Specifically, this skill requires group members to send clear signals that they have weaknesses and could use some help.[271] As such, all group members recognize that they will make errors and, when made, the group members will be comfortable disclosing them to the group.[272]

Exchanges of vulnerability—or vulnerability loops—build group cooperation and trust.[273] Vulnerability loops follow five distinct steps.[274] First, group member A transmits a sign of vulnerability.[275] Second, group member B senses the sign.[276] Third, in response, group member B sends a sign of his or her own vulnerability.[277] Fourth, group member A notices this sign, and

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[267] BROWN, *supra* note 265, at 34 ("Trust is the stacking and layering of small moments and reciprocal vulnerability over time."); FIVE DYSFUNCTIONS, *supra* note 264, at 188 ("Team members who are not genuinely open with one another about their mistakes and weaknesses make it impossible to build a foundation for trust."); *see* COYLE, *supra* note 13, at 107.

[268] *See* FIVE DYSFUNCTIONS, *supra* note 264, at 201; Patrick M. Lencioni, *The Trouble with Teamwork*, 2003 LEADER TO LEADER 35, 35–36 (2003) ("The first and [foremost] step in building a cohesive and functional team is the establishment of trust."); COYLE, *supra* note 13, at 107. Being vulnerable entails group members "acknowledg[ing], without provocation, their mistakes, weaknesses, failures, and needs for help." Lencioni, *supra* note 268, at 36. Trust, in the context of team building, "is the confidence among team members that their peers' intentions are good, and that there is no reason to be protective or careful around the group." FIVE DYSFUNCTIONS, *supra* note 264, at 195.

[269] COYLE, *supra* note 13, at 107.

[270] *See* FIVE DYSFUNCTIONS, *supra* note 264, at 37; *see also* COYLE, *supra* note 13, at 97.

[271] *See* Edmondson, *Competitive Imperative*, *supra* note 240, at 65; FIVE DYSFUNCTIONS, *supra* note 264, at 36; *see also* COYLE, *supra* note 13, at 104.

[272] *See* Edmondson, *Competitive Imperative*, *supra* note 240, at 65 ("When supervisors admit that they don't know something or made a mistake, their genuine display of humility encourages others to do the same."); FIVE DYSFUNCTIONS, *supra* note 264, at 36.

[273] COYLE, *supra* note 13, at 104; *How Can You Design & Lead Better Teams?*, CENTRICMINDS (May 2019), https://centricminds.com/resources/articles/how-can-you-design-lead-better-teams/ [https://perma.cc/VY54-RSEM] [hereinafter *Lead Better Teams*]. Vulnerability loops, defined as "[a] shared exchange of openness," are the most elementary "building block of [group] cooperation and trust." COYLE, *supra* note 13, at 104.

[274] COYLE, *supra* note 13, at 104; *Lead Better Teams*, *supra* note 273.

[275] COYLE, *supra* note 13, at 104; *Lead Better Teams*, *supra* note 273.

[276] COYLE, *supra* note 13, at 104; *Lead Better Teams*, *supra* note 273.

[277] COYLE, *supra* note 13, at 105; *Lead Better Teams*, *supra* note 273; *see* Paul J. Zak, *The Neuroscience of Trust*, HARV. BUS. REV. (Jan.–Feb. 2017), https://hbr.org/2017/01/the-neuroscience-of-trust [https://perma.cc/VS7N-E53J] (noting that when an individual displays vulnerability, "others are socially inclined to assist.").

then, fifth, a norm is created that it is acceptable to acknowledge weakness and assist each other.[278]

In essence, the positive reaction provided by group member B serves as a model for other group members who then feel comfortable setting aside their insecurities and trusting and collaborating with the group, making the entire team stronger.[279] Repeated patterns of sharing vulnerability increase group performance because group members are comfortable expressing their ideas absent fear of judgment.[280] Moreover, sharing vulnerabilities allows group members to embrace mistakes and learn from their failures.[281] In addition, group members are more inclined to say something when things are not working, even if it may be an unpopular opinion.[282]

2. *Flight 232*

The 1989 landing of Flight 232 illustrates how sharing vulnerability sparks cooperation and trust, resulting in the creation of a highly effective team.[283] While in flight from Denver to Chicago, Flight 232 lost the plane's tail engine—one of three engines on the DC-10 airplane.[284]

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[278] COYLE, *supra* note 13, at 105; *Lead Better Teams*, *supra* note 273. Note that it is not sufficient for group member A to express their vulnerability. *See* COYLE, *supra* note 13, at 104; *Lead Better Teams*, *supra* note 273 (explaining that the key is how group member B responds to group member A's sign of vulnerability).

[279] COYLE, *supra* note 13, at 104; SUSAN HAWKES, CHASING PERFECTION: SHATTER THE ILLUSION, MINIMIZE SELF-DOUBT, AND MAXIMIZE SUCCESS (2017); *Lead Better Teams*, *supra* note 273; Zak, *supra* note 277, at 8. In the absence of sharing vulnerabilities, group members will try to hide their weaknesses, and insecurities are manifested in every little micro-task. COYLE, *supra* note 13, at 104.

[280] COYLE, *supra* note 13, at 111; *see* Harvey Deitschendorf, *7 Reasons Being Vulnerable Makes Better Leaders*, BUSINESS2COMMUNITY (Dec. 12, 2017), https://www.business2community.com/leadership/7-reasons-vulnerable-makes-better-leaders-01971295 [https://perma.cc/NP5Y-B9HJ]; Ray Williams, *Why the Best Leaders View Vulnerability as a Strength*, MEDIUM (June 8, 2019), https://medium.com/@raybwilliams/why-the-best-leaders-view-vulnerability-as-a-strength-6a4a7e27d461 [https://perma.cc/9KVX-KW56].

[281] *See* COYLE, *supra* note 13, at 112 ("A constant stream of vulnerability gives [group members] a much richer, more reliable estimate on what their trustworthiness is, and brings them closer, so they can take still more risks. It builds on itself."); Deitschendorf, *supra* note 280.

[282] *See* FIVE DYSFUNCTIONS, *supra* note 264, at 196; Deitschendorf, *supra* note 280.

[283] *See* COYLE, *supra* note 13, at 91–97.

[284] Patricia Bauer, *United Airlines Flight 232*, ENCYC. BRITANNICA, https://www.britannica.com/event/United-Airlines-Flight-232 [https://perma.cc/V5TU-BQU5]; Daniel P. Finney, *United Airlines Flight 232: What You Need to Know About 1989 Plane Crash in Iowa*, DES MOINES REG. (July 15, 2019), https://www.desmoinesregister.com/story/news/2019/07/15/united-airlines-flight-232-july-19-1989-crash-sioux-city-iowa-airport-pilot-al-haynes-denver-chicago/1717687001/ [https://perma.cc/7XPV-ZUK5]. For a detailed explanation of the tragedy, see LAURENCE

The captain, with the help of the first officer and a pilot trainer who happened to be on board and offered to help, crash-landed the plane in Sioux City.[285] Of the 296 people on board, 185 survived.[286] The fact that during twenty-eight simulations of the same scenario after the event, the plane crashed every time without getting close to Sioux City exemplifies the extraordinary nature of this feat.[287]

The successful landing of Flight 232 can be attributed to the captain's ability to establish a helping culture by almost immediately sharing his vulnerability.[288] A recording from the cockpit shows that instead of trying to bark orders to others and fix the problem on his own, the captain asked the crew in the cockpit if they had any ideas.[289] In addition, a pilot trainer who was on board offered to help.[290] Rather than taking over, he simply said, "[T]ell me what you want, and I'll help you."[291] The captain and the pilot trainer did not assert ego or superior knowledge.[292] The crew succeeded not because of the skills of each individual,[293] but because the open, honest communication and willingness to demonstrate vulnerability permitted

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GONZALES, FLIGHT 232: A STORY OF DISASTER AND SURVIVAL (W. W. Norton & Co. 2014).

[285] Bauer, *supra* note 284; Finney, *supra* note 284.

[286] *19 July 1989—United 232*, COCKPIT VOICE RECORDER DATABASE, https://www.tailstrike.com/190789.htm [https://perma.cc/H9E5-ZNHU].

[287] John Peterson, *Test Pilot Says Safe Landing of United Jet was Impossible*, UNITED PRESS INT'L. ARCHIVES (Oct. 31, 1989), https://www.upi.com/Archives/1989/10/31/Test-pilot-says-safe-landing-of-United-jet-was-impossible/8531625813200/ [https://perma.cc/WEC5-M2FS].

[288] *See* COYLE, *supra* note 13, at 97.

[289] *Id.* at 96. The transcript from the cockpit is available at Nat'l Transp. Safety Bd., *Cockpit Voice Recorder Transcript of the July 19, 1989 Emergency Landing of a United Airlines DC-10-10 at Sioux Gateway Airport, IA (SUX), USA*, AVIATION SAFETY NETWORK, https://aviation-safety.net/investigation/cvr/transcripts/cvr_ua232.pdf [https://perma.cc/9UV4-8FSH].

[290] Bauer, *supra* note 284; Finney, *supra* note 284.

[291] Laurence Gonzales, *The Crash of United Flight 232*, POPULAR MECHANICS (July 18, 2017), https://www.popularmechanics.com/flight/a10478/the-final-flight-of-united-232-16755928/ [https://perma.cc/8VC5-X7J5].

[292] *See* COYLE, *supra* note 13, at 97. Organizational theorists examining a 1980 study by NASA researchers came to similar findings. *See* James O'Toole & Warren Bennis, *A Culture of Candor*, HARV. BUS. REV. (June 2009), https://hbr.org/2009/06/a-culture-of-candor [https://perma.cc/C9AE-2TFS]. In the NASA study, cockpit crews were placed in flight simulators to assess how the crew would perform during the pivotal "30 to 45 seconds between the first sign of a potential accident and the moment it would occur." *Id.* The theorists discovered that the inclusive pilots that admitted a problem and sought help from the other crew members when deciding what to do made better decisions more often than the take-charge pilots that acted instantly based only upon their gut instincts. *Id.*

[293] *See* COYLE, *supra* note 13, at 97; *supra* text accompanying notes 279–82 (explaining how sharing vulnerability increases group performance).

them to combine their individual skills into a greater intelligence.[294] The crew succeeded in landing the plane because they were able to share their vulnerability.[295]

3.   *Sharing Vulnerability, Creative Press, and the Practice of Law*

Lawyers can improve their performance by sharing vulnerability.[296] Moreover, sharing vulnerability will positively impact the ability of the group to come up with creative solutions[297] to client problems due to the positive impact on some dimensions of a creative press.[298] Sharing vulnerability conveys the message that risk-taking is encouraged.[299] As such, the seventh dimension of a creative press—risk-taking—is enhanced because group members are encouraged to learn from their failures.[300] In addition, because sharing vulnerability creates trust, members are more willing to share opinions—positive and negative.[301] This willingness to openly accept conflicts between opinions creates an environment that openly embraces debates—the ninth dimension that promotes a creative environment.[302]

Building practices of group vulnerability is analogous to strengthening a muscle—"[i]t takes time, repetition, and the willingness to feel pain in order to achieve gains."[303] Similar to the suggestions to build safety provided above, many of these tips apply equally to the collaborative practice of law and establishing an environment that encourages creative problem solving.[304]

First, the leader should be the first member of the group that is vulnerable, and the leader should be vulnerable frequently.[305] When the

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[294] *See* COYLE, *supra* note 13, at 97; *supra* text accompanying notes 279–82 (discussing impact of sharing vulnerability on group performance).

[295] *See* COYLE, *supra* note 13, at 97.

[296] *See supra* text accompanying notes 279–82.

[297] BROWN, *supra* note 265, at 43.

[298] *See supra* text accompanying notes 81–109 (discussing nine dimensions that are essential to facilitate a creative environment).

[299] Deitschendorf, *supra* note 280.

[300] *See supra* text accompanying note 103.

[301] *See supra* note 282 and accompanying text.

[302] *See supra* text accompanying notes 108–09.

[303] *See* COYLE, *supra* note 13, at 158.

[304] *See supra* Part II and accompanying text.

[305] *See* FIVE DYSFUNCTIONS, *supra* note 264, at 201; *see also* COYLE, *supra* note 13, at 158; Robert Mulhall, *Leading with Vulnerability: How Being Vulnerable Can Serve—Not Harm— You As A Leader*, CROSSLAND GRP., https://www.thecrosslandgroup.com/article/inner-leadership-seriesleading-vulnerability-vulnerable-can-serve-not-harm-leader/ [https://perma.cc/C9AX-XLKS]; Sammi Caramela, *Four Ways to Unmask Vulnerability and Become a Strong Leader*, BUS. NEWS DAILY (Apr. 9, 2018), https://www.businessnewsdaily.com/10680-unmasking-vulnerabilities-leadership.html [https://perma.cc/H9DA-JRDT].

leader conveys to the group that they are uncertain about something or made a mistake, group members receive the message that it is acceptable to tell the truth in the group.[306] The trust that is formed cultivates a stronger performing group and enhances the fifth dimension of a creative environment—trust and openness.[307] As such, lawyers working collaboratively are better able to generate creative solutions to client problems because they are not afraid to introduce novel ideas that may fail.[308]

Lawyers working together should also deliver negative information face-to-face because dealing with tension in an upfront, authentic manner avoids misunderstandings.[309] This, in turn, cultivates a shared clarity and connection.[310] This connection—as discussed when addressing building safety—creates emotional safety, facilitating trust and openness—the fifth dimension of a creative environment.[311] Delivering negative feedback face-to-face, rather than via email or written edits on the page, will enhance group performance and creative problem solving.

In addition, to share vulnerability, lawyers should "listen like a trampoline."[312] An effective listener is one that interacts with the speaker in a manner that makes the speaker feel safe; takes a cooperative stance; asks occasional questions that constructively test old assumptions; and makes infrequent recommendations to expose alternative paths.[313] Nodding,

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[306] *See* Edmondson, *Competitive Imperative*, *supra* note 240, at 65; *see also* COYLE, *supra* note 13, at 159. "I screwed up" are some of the most valuable words a leader can speak. *Id.* at 158.

[307] *See supra* text accompanying notes 966–99.

[308] *See* FIVE DYSFUNCTIONS, *supra* note 264, at 201; *supra* text accompanying note 977.

[309] *See* COYLE, *supra* note 13, at 160–61; Jeff Haden, *The Best Way to Deliver Bad News to Employees, Teammates, and Customers*, INC. (July 27, 2017), https://www.inc.com/jeff-haden/the-best-way-to-deliver-bad-news-to-employees-team.html [https://perma.cc/5RDQ-QEDS].

[310] *See* COYLE, *supra* note 13, at 161; Carmine Gallo, *Marriott's CEO Displayed Authentic Leadership in a Time of Crisis*, FORBES (Mar. 21, 2020), https://www.forbes.com/sites/carminegallo/2020/03/21/marriotts-ceo-demonstrates-truly-authentic-leadership-in-a-remarkably-emotional-video/#7a784ce16543 [https://perma.cc/XW8G-22NZ].

[311] *See supra* text accompanying notes 6–9.

[312] COYLE, *supra* note 13, at 162; *see* LYMAN STEIL & RICHARD K. BOMMELJE, LISTENING LEADERS: THE TEN GOLDEN RULES TO LISTEN, LEAD, AND SUCCEED 1 (2004) (One scholar defined listening as "a process of taking what you hear and organizing it into verbal units to which you can apply meaning."); Blaine Goss, *Listening as Information Processing*, 30 COMM. Q. 304, 304 (1982).

[313] *See* COYLE, *supra* note 13, at 162; Rick Bommelje, John M. Houston & Robert Smither, *Personality Characteristics of Effective Listeners: A Five Factor Perspective*, 17 INT'L J. LISTENING 32, 32–33 (2003) ("Effective listening is defined as hearing what the speaker says, interpreting it accurately, and responding appropriately."); Melissa Daimler, *Listening is an Overlooked Leadership Tool*, HARV. BUS. REV. (May 25, 2016), https://hbr.org/2016/05/listening-is-an-overlooked-leadership-tool [https://perma.cc/R8CB-C2A2].

providing insight, and producing instants of joint discovery requires idea time, which is the third dimension of a creative press.[314]

A team of lawyers should also use candor-generating practices where the group meets and provides candid feedback.[315] These practices develop the practice of unlocking vulnerabilities, which allows the group to obtain a better understanding of what does and does not work and determines how the group can improve.[316] These practices create a shared mental model to assist the group in navigating future challenges.[317]

Lawyers should engage in these types of practices to improve their representation of clients. Engaging in this type of candid discussion increases idea time, one of the dimensions of a creative climate.[318] Moreover, a candid discussion addresses the ninth dimension of a creative press—debate.[319]

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[314] *See* COYLE, *supra* note 13, at 162; *supra* text accompanying notes 90–93.

[315] *See* COYLE, *supra* note 13, at 164; Edmondson, *Competitive Imperative*, *supra* note 240, at 66. For a discussion of the importance of candor on performance, see O'Toole & Bennis, *supra* note 292.

[316] COYLE, *supra* note 13, at 165; *see* O'Toole & Bennis, *supra* note 292.

[317] *See* COYLE, *supra* note 13, at 165. The most successful groups intentionally create awkward and uncomfortable exchanges to talk about difficult problems and confront unpleasant questions. *Id.* The military's After-Action Review ("AAR") is one example of a candor-generating tool that groups can apply to other domains to build trust among the group members and help group members overcome their fear of making a mistake. *After Action Review*, BETTEREVALUATION, https://www.betterevaluation.org/en/evaluation-options/after_action_review [https://perma.cc/2VCH-HHFM]. An AAR entails answering the following questions: What were the projected outcomes?; What were the actual outcomes?; What caused the outcomes achieved?; and What will we keep the same next time, what will we change, and what will we get rid of? Doug Ramsay, *The Four Part Action Review*, ADVENTURE ASSOCS. (Jan. 9, 2018), https://www.adventureassoc.com/the-four-part-after-action-review/ [https://perma.cc/R8FX-P9BN]. The objective of an AAR "is not to excavate the truth for the truth's sake, or to assign credit or blame, but rather to build a shared mental model that can be applied to future missions." COYLE, *supra* note 13, at 141.

[318] *See supra* text accompanying notes 90–93.

[319] *See supra* text accompanying notes 108–09. Lawyers can also create an environment where the group members are open to sharing vulnerability and thus greatly improving group performance by aiming for candor rather than brutal honesty when providing feedback. COYLE, *supra* note 13, at 165–66 ("By aiming for candor—feedback that is smaller, more targeted, less personal, less judgmental, and equally impactful—it's easier to maintain a sense of safety and belonging in the group."). In addition, group members need to embrace the discomfort that arises from the emotional pain "of digging into something that already happened . . . with the burning awkwardness inherent in confronting unpleasant truths," and avoid reflexively adding value when engaged in conversation with a group member. *Id.* at 166. Suggestions "should be made only after you establish . . . a 'scaffold of thoughtfulness.' The scaffold underlies the conversation, supporting the risks and vulnerabilities. With the scaffold, people will be supported in taking the risks that cooperation requires." *Id.* at 163–64. Moreover, leaders need to over-communicate expectations that members will cooperate. *Id.* at 160 ("[Leaders must be] explicit and persistent about sending big, clear signals that establish[] those expectations, model[] cooperation, and align[] language and roles to

C.   Establish Purpose

> *It's not about nice-sounding value statements—it's about flooding the zone with vivid narratives that work like GPS signals, guiding your group toward its goal.*[320]

The first two core traits of highly successful groups focus on connecting the group members and empowering them to cooperate, working collectively as a single entity.[321] The third core trait—establishing purpose—switches the focus to the group's commitment.[322] Great group performance requires a common purpose.[323]

1.   Establishing Purpose Defined

A clear beacon of purpose increases group performance.[324] To establish purpose, highly successful groups fashion a common culture that plainly expresses the group's purpose, objectives, and processes.[325] Rather than arising from a mystical inspiration, purpose stems from establishing simple ways to concentrate attention on the shared goal.[326]

In high-purpose environments, clear signals are provided that connect the present moment to a significant future goal.[327] Stories are the

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maximize helping behavior."). Leaders must also align language with action. *Id.* at 160, 166 (aligning language with action "highlights the cooperative, interconnected nature of the work and reinforces the group's shared identity"). A leader must construct a barrier between performance review and professional development. *Id.* at 166–67. Furthermore, they must employ flash mentoring, and occasionally, make the leader disappear. *Id.* at 167. Finally, the focus should be on two crucial instants—the initial vulnerability and the initial dissonance—when new groups are being created. *Id.* at 161–62.

[320] *See* Richard Dore, *The Culture Code: The Secrets of Highly Successful Groups*, PROTEUS LEADERSHIP,   https://proteusleadership.com/book_review/the-culture-code/ [https://perma.cc/M6WD-7SKU].

[321] *See* COYLE, *supra* note 13, at 177–78; *supra* Sections II.A., II.B.

[322] COYLE, *supra* note 13, at 178.

[323] BROWN, *supra* note 265, at 100; COYLE, *supra* note 13, at 178; Waal, *supra* note 185, at 182. *Cf.* Zak, *supra* note 264, at 7.

[324] COYLE, *supra* note 13, at 178; *see* ERIC F. RIETZSCHEL & BERNARD A. NIJSTAD, *Group Creativity*, 1 ENCYCLOPEDIA OF CREATIVITY 562, 567 (Mark Runco & Steven Pritker eds., 3d ed. 2020).

[325] COYLE, supra note 13, at 178; *see* Michael Chavez, *Have you Articulated your Team's Purpose*,   FORBES   (Mar.   20,   2019,   05:34   PM), https://www.forbes.com/sites/michaelchavez/2019/03/20/have-you-articulated-your-teams-purpose/#7d8943063d24 [https://perma.cc/L6RX-G3QC].

[326] COYLE, *supra* note 13, at 180; *see* Linda Hill & Kent Lineback, *The Fundamental Purpose of your Team*, HARV. BUS. REV. (July 12, 2011), https://hbr.org/2011/07/the-fundamental-purpose-of-you.html#:~:text=A%20clear%20and%20compelling%20purpose,seek%20in%20what%20they%20do [https://perma.cc/M2SP-9TZH].

[327] COYLE, *supra* note 13, at 180 ("High-purpose environments are filled with small, vivid signals designed to create a link between the present moment and future ideal.").

most powerful tool to deliver the signals that drive behavior and remind the group of its purposes.[328] Stories guide group behavior.[329] Through narratives, everyday moments that convey why the group works and what the group is trying to accomplish are shared with the group members.[330] The most successful groups devote a significant amount of time to telling their own story so that each member is reminded precisely what the group stands for, reinforcing shared goals and values.[331]

In high-purpose environments, establishing a clear purpose creates a culture of collaboration.[332] When group members have a clear picture of where the group is, compared to where the group wants to be, they are inclined to work towards that ideal future.[333] The motivation of group members is "the result of a two-part process of channeling [their] attention: *Here's where you're at* and *Here's where you want to go.*"[334]

2. *The Surgeons*

Research conducted on sixteen surgical teams learning to perform a revolutionary new procedure illustrates how highly successful groups can establish and nurture high-purpose environments.[335] In this study, after receiving identical training, researchers tracked each teams' learning

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[328] *Id.* at 180, 182; *see* Deborah Sole & Daniel Gray Wilson, *Storytelling in Organizations: The Power and Traps of Using Stories to Share Knowledge in Organizations* (Jan. 2002), https://www.researchgate.net/publication/242189756_Storytelling_in_Organizations_The_power_and_traps_of_using_stories_to_share_knowledge_in_organizations [https://perma.cc/9TP7-DAAW].

[329] COYLE, *supra* note 13, at 183. The Harvard Test of Inflicted Acquisition illustrates how stories can guide group behavior. *See generally* Robert Rosenthal & Lenore Jacobson, *Teachers' Expectancies: Determinates of Pupils' IQ Gains*, 19 PSYCHOL. REP. 115 (1966); Alix Spiegel, *Teachers' Expectations can Influence how Students Perform*, NPR (Sept. 17, 2012, 3:36 AM), https://www.npr.org/sections/health-shots/2012/09/18/161159263/teachers-expectations-can-influence-how-students-perform [https://perma.cc/3TJ9-SNCH]; *see also* COYLE, *supra* note 13, at 184–86.

[330] COYLE, *supra* note 13, at 199.

[331] *Id.* at 180.

[332] *See* Vineet Nayar, *A Shared Purpose Drives Collaboration*, HARV. BUS. REV. (Apr. 2, 2014), https://hbr.org/2014/04/a-shared-purpose-drives-collaboration [https://perma.cc/9VC3-HEYU]; *see also* COYLE, *supra* note 13, at 180.

[333] *See* COYLE, *supra* note 13, at 180; Nayar, *supra* note 332.

[334] COYLE, *supra* note 13, at 182.

[335] *See* Amy C. Edmondson, *Speaking Up in the Operating Room: How Team Leaders Promote Learning in Interdisciplinary Action Teams*, 40 J. MGMT. STUD. 1419, 1427 (2003) [hereinafter Edmondson, *Speaking Up in the Operating Room*]; Amy C. Edmondson, Richard M. Bohmer & Gary P. Pisano, *Disrupted Routines: Team Learning and New Technology Implementation in Hospitals*, 46 ADMIN. SCI. Q. 685, 686 (2001) [hereinafter Edmondson et al., *Disrupted Routines*]; *see generally* Amy Edmondson, Richard Bohmer & Gary Pisano, *Speeding Up Team Learning*, HARV. BUS. REV. 125 (Oct. 2001) [hereinafter *Speeding Up*]; *see also* COYLE, *supra* note 13, at 193–99.

velocity, defined as how quickly each team improved its performance on the surgery.[336] Researchers predicted that the team from an elite teaching hospital in a metropolitan area would outperform the other teams—one of which was a team from a small, non-teaching institution in a rural area—because it had greater expertise, more practice, and greater organizational assistance.[337]

Contrary to their prediction, the researchers discovered that the elite team did not learn as quickly as other teams, and the amount of time it took the elite team to complete the surgery plateaued after ten procedures.[338] Upon interviewing the elite team members, researchers also discovered that the team members were not happy.[339] After six months, the elite team ranked tenth out of the sixteen teams.[340]

Conversely, the team from the small, rural institution was already faster than the elite team's top surgery by their fifth procedure.[341] The rural team—by its twentieth procedure—was finishing successful procedures sixty minutes faster than the elite team and relating high rates of satisfaction.[342] At the end of six months, the rural team ranked second out of the sixteen teams.[343]

Researchers discovered that the teams with the greatest learning velocity inundated the atmosphere with narrative links that connected the procedure to its greater meaning.[344] These signals oriented the group of surgeons to the procedure and to team members.[345] Specifically, the most successful teams framed the task as a learning experience that would help the hospital and the patients.[346] Moreover, the team leader told the members

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[336] *See generally* Edmondson et al., *Disrupted Routines, supra* note 335. Learning velocity is a top gauge of a group's culture. COYLE, *supra* note 13, at 193.

[337] *See* Edmondson et al., *Disrupted Routines, supra* note 335, at 696; *see also* COYLE, *supra* note 13, at 194.

[338] *See Speeding Up, supra* note 335, at 128.

[339] Edmondson et al., *Disrupted Routines, supra* note 335, at 704; *see also* COYLE, *supra* note 13, at 195.

[340] *See* Edmondson et al., *Disrupted Routines, supra* note 335, at 696; *see also* COYLE, *supra* note 13, at 195.

[341] *See* COYLE, *supra* note 13, at 195.

[342] Edmondson et al., *Disrupted Routines, supra* note 335, at 704; *see also* COYLE, *supra* note 13, at 195.

[343] *See* Edmondson et al., *Disrupted Routines, supra* note 335, at 696; *see also* COYLE, *supra* note 13, at 195.

[344] Edmondson, *Speaking Up in the Operating Room, supra* note 335, at 1443, 1444; Edmondson et al., *Disrupted Routines, supra* note 335, at 697–99; *see also* COYLE, *supra* note 13, at 195.

[345] Edmondson et al., *Disrupted Routines, supra* note 335, at 699; *see also* COYLE, *supra* note 13, at 195.

[346] Edmondson, *Speaking Up in the Operating Room, supra* note 335, at 1444; *see also* COYLE, *supra* note 13, at 195; Hilah Geer, *Inside the OR: Disrupted Routines and New Technologies*, HARV. BUS. SCH.: WORKING KNOWLEDGE (Aug. 21, 2000),

of the successful teams why they played an important role in the team's success and the importance of performing as a team.[347] Successful teams also practiced the procedure.[348] In addition, team leaders of successful teams encouraged team members to say something if they saw any problems and actively coached the team members through how to provide feedback.[349] Finally, upon completion of every surgery, the successful teams reflected on the surgery, discussed future procedures, and examined ways that the team could improve.[350] All of these signals focused the team members' attention toward the larger objective.[351]

3. *High-purpose Environments, Creative Press, and the Practice of Law*

High-purpose environments don't descend on groups from on high; they are dug out of the ground, over and over, as a group navigates its problems together to meet the challenges of a fast-changing world.[352]

Lawyers working collaboratively to develop creative solutions to client problems need to create a high-purpose environment. The means to create a high-purpose environment depends upon the type of environment desired: high-proficiency or high-creativity.[353] High-proficiency environments focus on helping a group provide an exact, consistent performance.[354] In contrast, high-creativity environments assist a group with

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https://hbswk.hbs.edu/item/inside-the-or-disrupted-routines-and-new-technologies [https://perma.cc/T84V-PLW7]. In contrast, the surgeons in the unsuccessful teams conceptualized the new technology as a plug-in to current practices. *Id. See Speeding Up, supra* note 335, at 130; *see also* COYLE, *supra* note 13, at 195.

[347] Edmondson et al., *Disrupted Routines, supra* note 335, at 698, 699; *see also* COYLE, *supra* note 13, at 195–96; Geer, *supra* note 346.

[348] Edmondson et al., *Disrupted Routines, supra* note 335, at 701–02; *see also* COYLE, *supra* note 13, at 196; Geer, *supra* note 346.

[349] Edmondson, *Speaking Up in the Operating Room, supra* note 335, at 1442; Edmondson et al., *Disrupted Routines, supra* note 335, at 697, 699, 703, 708–09; *see also* COYLE, *supra* note 13, at 196; Geer, *supra* note 346.

[350] Edmondson et al., *Disrupted Routines, supra* note 335, at 697, 705, 710; *see also* COYLE, *supra* note 13, at 196; Geer, *supra* note 346.

[351] *See Speeding Up, supra* note 335, at 130–31.

[352] COYLE, *supra* note 13, at 228.

[353] *Id.* at 199.

[354] *Id.* at 199, 230.

creating something novel.[355] The distinction highlights the two fundamental challenges that every group faces: consistency and innovation.[356]

As this Article focuses on creating a physical press in legal practice where creativity and innovation flourishes, this Section will address how to create a high-creativity environment.[357] Adopting the suggestions on how to lead for creativity will facilitate a more creative atmosphere where lawyers can work together to develop creative solutions to client problems. Generating purpose entails providing the necessary tools so that group members can work together to build something that is not yet in existence.[358] Accordingly, "[b]uilding purpose in a creative group is not about generating a brilliant moment of breakthrough but rather about building systems that can churn through lots of ideas in order to help unearth the right choices."[359]

When leading for creativity, the leader needs to allow the team members to discover what to do on their own, rather than simply telling them.[360] This autonomy fosters freedom, the fourth dimension of a creative environment.[361] Creativity is enhanced because team members can exercise discretion to define their work.[362]

To develop a high-creativity environment, the leading lawyer needs to make it safe for individual team members and the collective team to fail.[363] Embracing failure encourages teams to take risks, the seventh

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[355] *Id.* at 199. Ed Catmull's leadership at Pixar illustrates how leaders can develop high-creativity environments where the focus is on creating something novel. Ed Catmull, *How Pixar Fosters Collective Creativity*, HARV. BUS. REV. (Sept. 2008), https://hbr.org/2008/09/how-pixar-fosters-collective-creativity [https://perma.cc/U28Z-QME8]; *see also* COYLE, *supra* note 13, at 216–26. Under his leadership, between 1995 and 2018, Pixar produced seventeen feature movies, earning Pixar over half a million dollars, acquiring thirteen Academy Awards, and creating "some of the most beloved cultural touchstones of our age." *Id.* at 216.

[356] COYLE, *supra* note 13, at 199.

[357] This is not, however, to suggest that proficiency is not necessary. *Id.* at 231 ("Most groups . . . consist of a combination of these skill types, as they aim for proficiency in certain areas and creativity in others.").

[358] *See id.* at 230; *see generally* Paul B. Paulus, *Groups, Teams, and Creativity: The Creative Potential of Idea-generating Groups*, 49 APPLIED PSYCHOL.: AN INT'L REV. 237, 239 (2000).

[359] COYLE, *supra* note 13, at 219; *see generally* Paulus, *supra* note 358.

[360] *See* Teresa Amabile, *How to Kill Creativity*, HARV. BUS. REV. (Sept.–Oct. 1998), https://hbr.org/1998/09/how-to-kill-creativity [https://perma.cc/LDN7-RFXF]; Waal, *supra* note 185, at 184; *see also* COYLE, *supra* note 13, at 222, 223; RIETZSCHEL & NIJSTAD, *supra* note 324, at 566.

[361] *See supra* text accompanying notes 94–95.

[362] ISAKSEN ET AL., CREATIVE APPROACHES, *supra* note 81, at 188–89.

[363] *See* COYLE, *supra* note 13, at 231; Teresa M. Amabile & Mukti Khaire, *Creativity and the Role of the Leader*, HARV. BUS. REV., (Oct. 2008), at 101, 107–08; Waal, *supra* note 185, at 183; *see generally* Paulus, *supra* note 358, at 251.

dimension of a creative environment.[364] Allowing for risk-taking and failure also facilitates the dimensions of idea time[365] and idea support.[366]

Relatedly, feedback from all lawyers on the team is encouraged in high-creativity environments.[367] Designing meetings where team members can be frank with one another allows the team members to point out problems, generate ideas, and move toward solutions.[368] This is especially essential in the practice of law because the rigid hierarchical structure discourages this type of interaction[369] and negatively impacts debate, the ninth dimension of a creative climate.[370] Open discourse, including differing viewpoints and ideas, leads to creative problem solving.[371]

Of particular importance to a high-creativity environment is the ability to protect the group's creative autonomy.[372] Rather than a directive from above, group members must be allowed to work together to develop a creative solution to the problem.[373] This also engages the fourth dimension of a creative climate—freedom.[374] Autonomy enhances creativity.[375] Accordingly, establishing "creative purpose isn't really about creativity. It's about building ownership, providing support, and aligning group energy towards the arduous, error-filled, ultimately fulfilling journey of making something new."[376]

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[364] *See supra* text accompanying notes 103–05.

[365] *See supra* text accompanying notes 90–93.

[366] *See supra* text accompanying notes 82–84.

[367] *See* Simon Taggar, *Individual Creativity and Group Ability to Utilize Individual Creative Resources: A Multilevel Model*, 45 ACAD. MGMT J. 315, 327 (2002); *see also* COYLE, *supra* note 13, at 231.

[368] *See* Catmull, *supra* note 355, at 64, 69–71; *see also* COYLE, *supra* note 13, at 221.

[369] *See supra* text accompanying notes 162–65.

[370] *See supra* text accompanying notes 108–09.

[371] *See* Catmull, *supra* note 355, at 70; *see also* COYLE, *supra* note 13, at 231.

[372] *See* RIETZSCHEL & NIJSTAD, *supra* note 324, at 56; *see also* COYLE, *supra* note 13, at 231. Additional recommendations for establishing purpose in a high-creativity environment include "keenly attend[ing] to team composition and dynamics and celebrat[ing] hugely when the group takes initiative." *Id.* at 231.

[373] *See* Catmull, *supra* note 355, at 68–69; *see also* COYLE, *supra* note 13, at 222, 223.

[374] *See supra* text accompanying notes 94–95.

[375] *See generally* Teresa M. Amabile, Regina Conti, Heather Coon, Jeffrey Lazenby & Michael Herron, *Assessing the Work Environment for Creativity*, 39 ACAD. MGMT. J. 1154 (1996). *But see generally* Jin Wook Chang, Devin Wende Huang & Jin Nam, *Is Task Autonomy Beneficial for Creativity? Prior Task Experience and Self-Control as Boundary Conditions*, 40 SOC. BEH. & PERSONALITY 705 (2012).

[376] COYLE, *supra* note 13, at 226. Some additional tips for groups that want to develop a high-purpose environment—both high-proficiency and high-creativity—include identifying and ranking its priorities; being clearer about the groups' priorities than the members think it should be, using catchphrases, gauging what really is important, using artifacts that represent the purpose and character of the group; and concentrating on bar-setting actions. *Id.* at 226–33.

III.   CONCLUSION

While successful culture can look and feel like magic, the truth is that it's not. Culture is a set of living relationships working together toward a shared goal. It's not something you are. It's something you do.[377]

The need for lawyers to work together to creatively solve problems is immense. The unprecedented rate of change and the access to justice gap renders creative problem solving important. The COVID-19 pandemic has rendered it even more essential.

Lawyers need to create a culture where individuals feel safe, are comfortable sharing their vulnerabilities, and understand and embrace the organization's purpose. To do so, lawyers need to "channel their inner kindergartner"—focusing less on how they fit into the status quo and more on the problems they are facing. Working better together translates into greater creativity of the group. According to Amy C. Edmondson, a top leadership scholar:

> When managers empower, rather than control; when they ask questions, rather than provide the right answers; and when they focus on flexibility, rather than insist on adherence, they move to a higher form of execution. And when people know their ideas are welcome, they will offer innovative ways . . . [to lay] a more solid foundation for their organization's success.[378]

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[377] *Id.* at xx.

[378] Edmondson, *Competitive Imperative*, *supra* note 240, at 67.

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