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The Best Book This Year On Legal Innovation

By Joseph Andrew, Contributor

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Mark Cohen, a leader in Legal Innovation has written an exciting book about his history with the profession
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A Legal Innovation Leader

Legal Innovation did not begin with the arrival of AI, or even the internet or the personal computer. A small group of practitioners have been improving the modern profession from nearly its beginning, but particularly as it has changed from the role of general strategic advisor to collections of increasingly specialized experts. One of the constants in the transformation of law for nearly fifty years is Mark Cohen.

Mark is known by law firm leaders, chief legal officers, law school deans, and nearly every author who has written about legal innovation over the past couple of decades. Mark Cohen is not only always insightful, gracious with this time, but often that rare person who can best distill the big trends and the big changes in the law before others even notice them happening.

What is even more rare in the fast moving and skeptical profession we call law, is to meet someone who has taken the most rare thing-- time-- to explain not only their own history, but how it has been intertwined with the development of the contemporary legal profession. Mark Cohen is a true eminence grise in the world of legal technology. A “lawyers lawyer” he has for decades, crossed over into its adjacent fields-- business, technology, finance and government.

He was a regular contributor to this magazine, gaining a faithful global readership from his insightful and eminently readable articles. Mark’s keen insight, intellect, fluid writing style, ability to connect the dots between seemingly disparate topics are all widely respected. He is not only a legend for his insightful analysis of the business of law, but how Zelig-like he is not only in the middle of every innovation, but often the instigator of that innovation.

In his exceptional monograph, titled Pieces of a Larger Whole: Integrating Law, Business, Technology, and Humanity Amid Constant Change, Mark lays out not only his own history, but the history of contemporary legal innovation.

He also provides a concise encapsulation of law as an important, though laggard, part of business transformation, AI’s role in transformation, client-centricity as the North Star of the transformation journey, and the importance of humanity and collaboration.

Every lawyer who seeks to be at the top of their profession; every lawyer who seeks to be truly innovative, and every client who seeks to get the most out of their legal team, should read this book.

The first sign that this is an impressive book about a much too modest man, is to read about how Cohen is willing to learn from mistakes, and help the reader avoid them. He tells a story in which several hundred general counsel understood his business better than he did and then he gives an artist, a law student and the doctor who treated him for prostate cancer as much standing to teach him something about law as the famous lawyers who took him under their wing.

The pleasure of this short book lies in discovering what each of these characters saw that a very accomplished trial lawyer had managed to miss, but then had the confidence to admit and the courage to act on.

Learning From Others

The artist enters first. As a young lawyer, Cohen complained to the woman he lived with that he had chosen a profession with little use for his imagination. She suggested he approach law as he would a foreign language and offered an unusually demanding test of fluency. “Learn to tell jokes in its language.” Anyone who has ever tried to be funny in a second language will appreciate the precision of her advice.

It takes a considerable command of the rules to know which ones can be bent, and a still finer ear to know whether the people listening will get the joke.

Cohen acquired that ear as a decorated assistant United States attorney, where he was lead counsel in 21 major federal trials, and at the infamous firm Finley Kumble, where he became the youngest partner. At the firm he dealt with the issues that arise when the lawyer who brings in a client receives more economic credit than the colleague across the country who might be best equipped to serve it, and the challenges that physical distance created before emails was used in the law.

When he founded his own litigation boutique, he could do something about not just about the physical distance between offices, but the economic problem of how to reward both origination and expertise, innovating both with technology and with organization. In 1991 he asked AT&T, itself a client, to connect his geographically dispersed lawyers and multiple offices to one another and to their major clients in such as way to build not just integration but the much more allusive alignment.

Within months they could consult a digital law library from their desks, videoconference, and access to the firm’s intellectual capital— something that most firms did not do until a decade later.

The Clearspire Story

That willingness to learn from your clients makes the story of Cohen’s founding of one of the very first technology-native law firms, named Clearspire, especially interesting. Mark Cohen and his co-founder, Bryce Arrowood, spent nearly three years designing a firm around what corporate clients wanted from outside counsel.

Its lawyers worked to agreed budgets, and like today’s MSO structures, Clearspire had a “two company model” where its service company built Coral, a platform through which a client could follow a matter, see its budget and keep the knowledge its own legal fees had paid to produce.

In sixteen months the founders met with approximately 300 Fortune 500 general counsel. Several wanted to license Coral. Others wanted the firm’s experienced lawyers to supplement their own staff. Leading law firms proposed partnerships. the founders turned down every one of those proposals.

“We had become slaves to the elegance of our own vision,” Cohen writes. Clearspire closed in 2014, after seven years in which he earned nothing from the venture and lost millions of his own money. In a subsequent Forbes column about the legal startup Atrium, Cohen concluded that licensing Coral could have saved his company.

The monograph explains, in its sophisticated but warm style, why two intelligent people could hear prospective customers tell them what they would buy and still decline to sell it. The founders had devoted years to fitting the pieces together and proud of what they had built. But a general counsel who already had a legal department had

every reason to want just the piece that was missing-- not the intricate, sophisticated combination of multiple new innovations they had built.

Cohen summed it up compellingly: “give clients what they want, when they want it—not what you want them to take, when you want them to take it. If you cannot compromise on the elegance of the idea, do not expect the client to pay for it.”

That experience also helps explain Cohen’s interest in a student he met after a lecture at the National University of Singapore. Asked what becoming a lawyer meant to him, the student described law as a skill he could put to work alongside his interests in business, technology and policy.

Cohen made the exchange the occasion for his 2019 Forbes essay, “What’s A Lawyer Now? Law’s Shift From Practice To Skill” that is still today one of the best essays on what it means to be a lawyer in a technology enhanced practice.

Rethinking The Legal Department

In his foreword, Bill Deckelman, the chief legal officer of Andersen, recalls inviting Cohen to address his team and finding in Cohen much more than a lawyer, but an adviser who could help rethink how the whole company used its legal department. The two eventually founded the Digital Legal Exchange, where legal leaders at some fifty multinationals could work through such problems with their business colleagues.

The organization’s premise gives readers a useful way to think about artificial intelligence. For example, if a machine can draft a contract in seconds, who will recognize that the provision being drafted has produced the same dispute three times, and who has the authority to change not just the drafted provision, but the way the company does business? Cohen smartly focused on this simple advice: bring the lawyers who see the subsequent claims together with the people who sell the product.

The most revealing comparison in the monograph is one Cohen leaves the reader to make. In his 2017 Forbes essay, “What A Cancer Diagnosis Reminded Me About Professionalism,” he recalled arriving at his doctor’s office with his wife and thirteen questions.

The doctor answered every question before Cohen had to ask, explained what each treatment would mean for the life he wanted to lead, and encouraged him to consult a radiologist even though the doctor himself favored surgery. At Clearspire, Cohen says he had asked customers to trust his judgment about the whole enterprise without sufficient explanation. His physician earned that trust in part by telling Cohen where to find someone who might disagree with him.

It takes a generous writer to give readers both stories and enough room to recognize themselves on either side of the desk to create as powerful a book as this. That is Mark Cohen.

If you know a lawyer, do them a favor and send them the link to this free book. If you ever hire lawyers, allied legal professionals, or a law firm, read this book. If you are a lawyer, do yourself a favor and read it right now.

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