

## **Essay #3 Leadership Challenges in the Age of COVID-19**

### **I. INTRODUCTION**

In this paper, I will be examining the impact COVID-19 has had on leadership in the legal field. While COVID-19 has presented an unknowable number of issues in the legal field, this paper will be focusing on three main sections. First, I will be applying those leadership principles to the economic struggles brought by COVID-19. Second, I will be considering the COVID-19 remote work situation. Lastly, the intangible struggles raised by COVID-19 will be examined. Throughout these sections, I will be referencing the various leadership practices we discussed in our textbook<sup>1</sup> and in our class.

### **II. LEADERSHIP APPROACHES, SKILLS, AND ATTITUDES**

In our class, we have learned the value of leadership and the difference it can make in various contexts. I have explored the practices of exemplary leadership in a previous paper.<sup>2</sup> For a more detailed analysis of these practices, see my previous paper.

### **III. COVID-19 CHALLENGES**

#### **a. Economic Struggles**

---

<sup>1</sup> Polden, Posner. *Leading in Law: Leadership Development for Law Students*, (2021).

<sup>2</sup> Patricio Munoz-Hernandez, *Paper #2: Practices of Exemplary Layer Leadership*, Leadership for Lawyers (2021).

To begin, the COVID-19 pandemic has been catastrophic to the United States economy.<sup>3</sup>

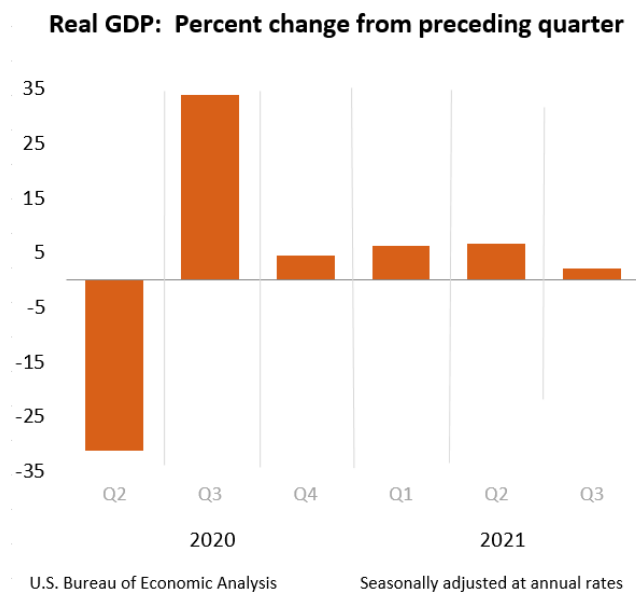


Figure 1.

In Figure 1 above, we see that the second quarter of 2020 was horrendous to the United States economy. The economic impacts did see a rebound in Q3 of 2020, but the initial impact on GDP proved damaging to families, businesses, and individuals. There are various factors that come into play such as rate of States that recovered jobs, the labor market as a whole, impact to certain types of jobs and industries, and the recovery when compared to pre-pandemic levels.<sup>4</sup> The main takeaway here is that the damage to the economy in the United States and to the world was initially devastating and continues to plague us.

This is where the impact of leadership comes in. When COVID-19 first hit, “Job losses nationally were at their worst in April of 2020 when the nation and every state had lost more jobs

<sup>3</sup> <https://www.bea.gov/data/gdp/gross-domestic-product>

<sup>4</sup> Michael Ettlinger, Jordan Hensley, *COVID-19 Economic Crisis: By State*, <https://carsey.unh.edu/publication/COVID-19-Economic-Impact-By-State>, University of New Hampshire, Carney School of Public Policy (Oct. 22, 2021).

between February and April than had been lost in the Great Recession a decade before,”<sup>5</sup> which resulted in everyone scrambling to get control of their respective situations. In particular, leaders of major businesses were pitted with uncertainty, worry, and pressure. One such example is the National Basketball Association (NBA). The NBA Commissioner, Adam Silver, suspended the 2019-20 season in the early points of the pandemic and was supported by many high ranking officials.<sup>6</sup> For example, one unnamed executive voiced “If it’s not safe to play games today, why would it be safe in two months when all the charts say the spread will be much worse?”<sup>7</sup> Furthermore, there was support for leadership in ownership, such as Mark Cuban publicly stating “The NBA has hired people with expertise in those areas and they are working with people from the government and other people with expertise. We have to defer to them and that's exactly what we will do.”<sup>8</sup> Needless to say, the decisions by these leaders in the organization were very unpopular with players, fans, and fellow leaders. The latter group being dissatisfied with the prospects of losing out on plenty of money that would have been made had the season continued. However, the data and experts all pointed to the need for enterprises, like professional sports, to halt in order to slow the spread of the pandemic. Ultimately, the NBA led the way for other professional sports to decide to cease operations and likely slowed the spread of the virus and saved countless lives.<sup>9</sup>

The economic impacts of COVID-19 also effected leadership decisions at the local level. My hometown, San Jose, CA, has faced economic disaster during the pandemic. Specifically, the

---

<sup>5</sup> *Id.*

<sup>6</sup> <https://www.washingtonpost.com/sports/2020/03/12/nba-decision-suspend-season-rudy-gobert/>

<sup>7</sup> *Id.*

<sup>8</sup> [https://www.espn.com/nba/story/\\_/id/28888886/stunned-mark-cuban-emphasizes-basketball-nba-halts-season](https://www.espn.com/nba/story/_/id/28888886/stunned-mark-cuban-emphasizes-basketball-nba-halts-season)

<sup>9</sup> <https://hbr.org/2020/04/what-good-leadership-looks-like-during-this-pandemic>

East Side San Jose<sup>10</sup> has seen lopsided struggles. For example, the East Side San Jose has the largest concentration of minorities of Hispanic and/or Latinx origin and coincidentally, this part of San Jose has seen loudly voiced cries for support and help from San Jose's City Counsel.<sup>11</sup> As a member of this community, it is difficult to hear community leaders reporting that "If you walk up and down the Alum Rock corridor, White Road, and you talk to any one of those businesses, those that are still here, they will tell you that they've been here holding on for their lives."<sup>12</sup> However, budget committee meetings are often guided by the voices who speak the loudest and lacking representation in positions of power and community involvement has made things even more difficult for the struggling East Side. The takeaway here is that local leadership, including eviction moratoriums, budgets being set aside for small business relief, and listening to the concerns of the locals is paramount in times of crisis.

## **b. Remote Work Struggles**

### **i. Paradigm Shift**

One of the more dramatic changes that COVID-19 has brought is remote working and learning. The way in which people work, learn, and interact has changed, but the way leaders have reacted to this change is divisive. With respect to lawyer leadership, big law firms are not enthused about remote work and have pledged to move attorneys and students back into the office ASAP. Bloomberg Law reports that "Firm partners, subtly or not so subtly, are pressuring associates to work in-person even as office policies technically welcome them to continue

---

<sup>10</sup> I was raised and lived in the East Side San Jose from ages 3-25. I consider the East Side San Jose home. However, the East Side has been devastated by the pandemic in ways that less diverse and more economically fortunate parts of San Jose have.

<sup>11</sup> <https://www.nbcbayarea.com/news/local/south-bay/city-leaders-roll-out-plan-to-boost-businesses-in-east-san-jose-hit-hard-by-covid-19/2568232/>

<sup>12</sup> *Id.*

working from home.”<sup>13</sup> The challenge with this leadership direction is that the United States is in a remote work revolution.<sup>14</sup> With remote work becoming the status quo for the foreseeable future, and with tech companies pledging to stay remote forever “We’ve all seen how far these tech companies have come with remote work. They were the first to shut down in the pandemic, and they came out early saying we’re not coming back until 2022 ... or ever. When you have tech companies saying we don’t care where you work, firms have to compete with that,”<sup>15</sup> legal departments need to make huge decisions about whether forcing lawyers to return to work is viable.

## ii. Logistical Challenges

One of the most important logistical challenges that face legal leadership is retaining attorneys. COVID-19 and remote work poses a new challenge for leaders – should we offer remote work situations to both retain and to recruit new talent? The National Law Review reports that “There is a war for talent and attorneys have more leverage than ever. For most attorneys I speak with, being allowed to work remotely has become critical and, for many, their employer’s impending return-to-office policy is motivating them to make a move. That said, with client demands at an all-time high, law firms have been creative and aggressive when it comes to creating incentives to attract and retain talent (e.g., compensation increases, significant bonuses, and long-term flexible working arrangements)”.<sup>16</sup> With demands for being able to have

---

<sup>13</sup> <https://news.bloomberglaw.com/business-and-practice/big-law-remote-work-becoming-risky-career-move-associates-say>

<sup>14</sup> <https://www.law.com/therecorder/2021/10/22/why-california-firms-are-holding-out-amid-a-shift-back-to-in-office-work/>

<sup>15</sup> *Id.*

<sup>16</sup> <https://www.natlawreview.com/article/changes-law-firms-are-adopting-amid-covid-19-trends-remote-work-litigation>

more flexibility in working schedules, leaders need to model the way in managing a potential logistical nightmare. One example of this is California Am Law 200 firms being pioneers in the change to a more flexible work situation “Cooley and Morrison & Foerster have said lawyers will be permitted to work from home through 2021, and Gibson, Dunn & Crutcher and Wilson Sonsini Goodrich & Rosati have set some of the latest office returns among Big Law firms for Jan. 10 and Feb. 1, respectively.”<sup>17</sup> However, leadership has been divided on this point nationally, with “a majority (28%) of firms are aiming for lawyers to adhere to a three-day-per-week minimum of onsite work.”<sup>18</sup> The main takeaway here is that the legal field is responding to the same issues in different ways, with more progressive firms banking on remote work flexibility paying dividends in the long-run, and more conservative firms fearing that clients and work product will suffer if work from home becomes the norm. This however is countered by associates who argue that firm culture and office morale was never great to begin with.<sup>19</sup>

### **c. Intangible Struggles**

#### **i. Worker Morale**

It is not likely to be debated that worker morale is vital to the success of any business. The impact of COVID 19 on worker morale is still being experienced and ultimate impacts will not be available with any certainty for some time to come, however, the impacts are already being seen. According to one business impact survey by Morrison & Foerster LLP “between March 20 and March 24, legal counsel also weighed in on how the novel virus has affected their

---

<sup>17</sup> <https://www.law.com/therecorder/2021/10/22/why-california-firms-are-holding-out-amid-a-shift-back-to-in-office-work/>

<sup>18</sup> *Id.*

<sup>19</sup> <https://news.bloomberglaw.com/business-and-practice/is-firm-culture-a-good-reason-to-return-to-the-office>

tasks. Almost 63% of respondents said that their current workload - has increased as an immediate result of COVID-19.”<sup>20</sup>

Moreover, the increasing number of associates, especially minorities and women, are glad to be out of the office “And what constitutes ‘culture’ in Big Law can feel especially cold to minority lawyers. You’re stuck in some partner’s office where they don’t make eye contact...or you walk by a partner who doesn’t acknowledge you—which is especially true for minority associates. Working remotely removes that social stress; it’s less emotional work.”<sup>21</sup> It does not come as a surprise that alienated associates seem reluctant to return, commute, work through, and likely suffer in place they never enjoyed being in. Lawyer leadership needs to recognize this phenomenon and respond by granting remote work request, less office days, or improve the firm culture altogether. With all of these issues, where does leadership start?

#### **IV. LEADERSHIP IN PRACTICE**

Turning back to what we learned in this course, firm partners can begin by modeling the way. As I discussed in previously, clarifying your values and finding your voice is important to great leadership (60). Like the manager at my first job at a hardware store, firm leaders can set a terrible tone for the firm by failing to describe the values the firm believes in, why they believe them, and how they are being implemented. An example of this is how firm websites proudly

---

<sup>20</sup> Michele Gorman, *GCs Forced To Shift Priorities Amid COVID-19 Crisis*, Law 360, <https://www.law360.com/articles/1259963/gcs-forced-to-shift-priorities-amid-covid-19-crisis> (April 2, 2020, 7:37 PM)

<sup>21</sup> <https://news.bloomberglaw.com/business-and-practice/is-firm-culture-a-good-reason-to-return-to-the-office>

display what they value in the workplace. My company has the acronym “F.A.M.I.L.Y” to describe their values and they mention them all of the time.<sup>22</sup>

The benefit of modeling the way is that team members, such as associates at the firm, understand where the leaders are coming from when they make decisions. When firm partners require associates to come into the office as soon as the local jurisdiction allows them to, then it is imperative that the decision is rooted in the values of the firm. Jones Day, a Big Law firm, “encouraged” but did not require associates to return in person, citing that they would provide all of the best tools to serve their clients. The issue here is that the announcement is in conflict with challenging the way. Associates have gone through a transformation during the pandemic and asking them to return to the office, when arguably many of them have preferred being at home is failing to challenge the way. Furthermore, small factions of associates are likely to see leadership that challenges the need to return to the office by citing new research and evidence that Big Law firms performed well during the pandemic and that firm efficiency did not decrease when associates were working from home.<sup>23</sup> The fact that “firms saw a net income growth of 9.9%. AmLaw 50 firms saw a 12.7% increase in 2020,” puts pressure on legal leadership. If you cannot cite valid reasons for associates to return to the office, then why should they?<sup>24</sup>

One solution is for lawyer leaders to inspire a shared vision. As I mentioned before, Professor Polden is a good example of inspiring the shared vision of a new law school for Santa

---

<sup>22</sup> My company, 6Sense Insights, Inc., promotes the values: Fun, Accountability, Mindfulness, Love, and Yes, and...; the General Counsel of my legal team brings these values up often and she emphasizes how important it is for them to guide us in our work product and team dynamic.

<sup>23</sup> <https://www.law.com/americanlawyer/2021/02/05/why-law-firms-had-so-much-success-in-2020-as-a-pandemic-raged/>

<sup>24</sup> It is not surprising to many that being able to work from has its advantages. Chief among these is the safety from the virus, a decrease of the carbon footprint, transportation costs, wear and tear of the body and mind, and ability to see family and pets.



Clara University, because good leadership ultimately “transcends the here and now and draws people forward.” (83). Sharing a vision is important on getting your team on board too because “listening to the hopes and dreams of others so that they clearly understand how their values and interest will be served; showing how they can make a difference,” (89) will ultimately be vital in deciding if remote work will be the future of the legal field. Profits, tradition, and clients will always play a role in firm decision making, but without associate concerns being factored in, legal departments are likely to lose morale.

Challenging the way can be an exciting time because it can lead to improvement firms in the United States. During my time teaching, I found that most of my successes were a product of challenging the status quo.<sup>25</sup> The largest departures I made was creating a non-traditional final exam, making participation a significant part of the grade allocation, allowing students to come into office hours to hang out in a less formal environment, and being professional yet blunt about social and political issues in the world. On paper, these strategies were very risky because they could be interpreted as informal, unprofessional, lenient, and heavy handed. I chose to challenge the way, experiment with new methods, and run my class in my own way because I saw the potential upside that could be achieved. Fortunately, my efforts were met with close student interaction, honest conversations, ample participation in class, and praise from my colleagues and students.<sup>26</sup> Put bluntly, leaders in all facets of the legal world need to be open to challenging the way, especially in the face of a changing and different world.

---

<sup>25</sup> Munoz-Hernandez, Patricio. *Syllabus: Fall 2018, Moral Issues*, San Jose State University, [https://www.sjsu.edu/philosophy/resources/Greensheets/PHIL\\_61\\_07\\_Munoz-Hernandez\\_Patricio\\_F18.pdf](https://www.sjsu.edu/philosophy/resources/Greensheets/PHIL_61_07_Munoz-Hernandez_Patricio_F18.pdf).

<sup>26</sup> I typically do not tout my achievements but for the purposes of making my point: I received the best feedback in every category from student surveys of anyone in the department for the Fall 2018 and Spring 2019 semesters (I was given the statistics), I was given good feedback from students in office hours and at the end of semester,

To best implement remote work in the face of the pandemic, leaders need to enable others to act. In order to get others to act, whether it be requiring lawyers to come into the office every day, allowing them to remain remote, or a hybrid of the two, leaders need to foster collaboration and trust. Imagine you are a General Counsel who wants to allow your legal team to work remotely indefinitely. Would you want to worry about your team members being unproductive at home and feel the need to keep checking in on them? If so, then at some point you likely failed as a leader to establish a culture of trust and understanding. Naturally, the need to micromanage and essentially badger your team is going to be exhausting and likely lead to resentment. In my current role as a Law Clerk, I work remotely full-time and so does the rest of my entire team. The culture set by my General Counsel is that everyone trusts that everyone else will “deliver the goods” and everyone will work hard for each other. In my experience, this has worked out well. What I have experienced is that the team is happy to have the work-life balance to be home but also make sure that they get the job done. The culture in my legal team is collaborative, supportive, loving, and genuinely happy. My leader leads by example, encourages us, allows us to step aside from work as life requires us to, and cares about our growth and development. Not surprisingly, my team has amazing chemistry, closes out deals, exceeds growth expectations every quarter, and has fun along the way. The main idea is that if a leader sets a strong culture of collaboration and trust, then the worries that come along with challenging the way begin to disappear.

Lastly, leaders need to encourage the hearts of their legal teams. I have touched on this point above but to drive the point home, lawyer leaders should expect the best of their followers.

---

including on Rate My Professor, and I was given a near perfect evaluation from the department sit-ins. My point is that challenging the way paid dividends for me and can do the same for leaders in the legal field.

As our text points out “People are strongly influenced by leaders who believe in them and continually reinforce that belief through their actions and words,” (151) which is why lawyer leaders need to be open to the statistics about remote work productivity and why they should actively reinforce the choice to remain at home. This can be a simple policy that is implemented, or it can become personalized with an email memo or call that describes the trust they have in them. Leaders should be extra sensitive and mention the hardships brought on by the pandemic, especially in respect to how associates may have been impacted by the loss of friends or family. Not only will messages and policies like these show that management respects the decision and choice of associates, but it will also build the trust and community that will likely translate to improved morale, efficiency, and well-being.

## V. CONCLUSION

Ultimately, there is no “one-size fits all” solution for lawyer leaders. COVID-19 is unprecedented, scary, and dangerous.<sup>27</sup> The Omicron variant that is being reported in late November of 2021 is only a sign of what further obstacles may come in 2022, including the so called “race against time.”<sup>28</sup> The news is not encouraging but leaders have the tools at their disposal to make the best of the situation. Leaders at firms and companies can model the way, inspire a shared vision, challenge the way, enable others to act, and encourage hearts during a pandemic. Like we saw during the recession of the 2000s, leaders need to take the initiative and

---

<sup>27</sup> [https://covid.cdc.gov/covid-data-tracker/#cases\\_totalcases](https://covid.cdc.gov/covid-data-tracker/#cases_totalcases). There have been at least 776,000 deaths in the United States since the start of the pandemic. With variants like the Delta and Omicron, Americans have a lot to fear.

<sup>28</sup> <https://www.cnn.com/2021/11/28/world/coronavirus-omicron-variant-spreading-intl/index.html>

Patricio Munoz-Hernandez  
Fall 2021 - Michels, Polden  
Leadership for Lawyers

trust in their associates. The rewards may be large and the quality of the lives they impact may help many survive this difficult time.