Leadership vs. Management

By:

Patrick A. Nester
State Bar of Texas

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Patrick A. Nester
State Bar of Texas
Austin, TX

Pat Nester began his CLE career as a legal editor in 1978 and two years later moved to the seminar side, eventually becoming the director of the professional development division of the State Bar of Texas, succeeding Gene Cavin, one of the founding members of ACLEA. Pat has served on ACLEA's executive committee and as its president. In addition to his CLE duties, Pat serves as executive director of the College of the State Bar of Texas, an honor society chartered by the supreme court of Texas for lawyers who make an extraordinary commitment to lifelong learning. Pat served as executive planning chair of the ALI-ABA/ACLEA Critical Issues Summit, held in October 2009.

Management vs. Leadership in CLE

By Pat Nester

Quite a body of literature has developed on the elements of leadership as compared to management. Leadership gives purpose and resolution to the enterprise. Management is a series of behaviors that enables it to succeed. Management means doing things right; leadership, doing the right things.

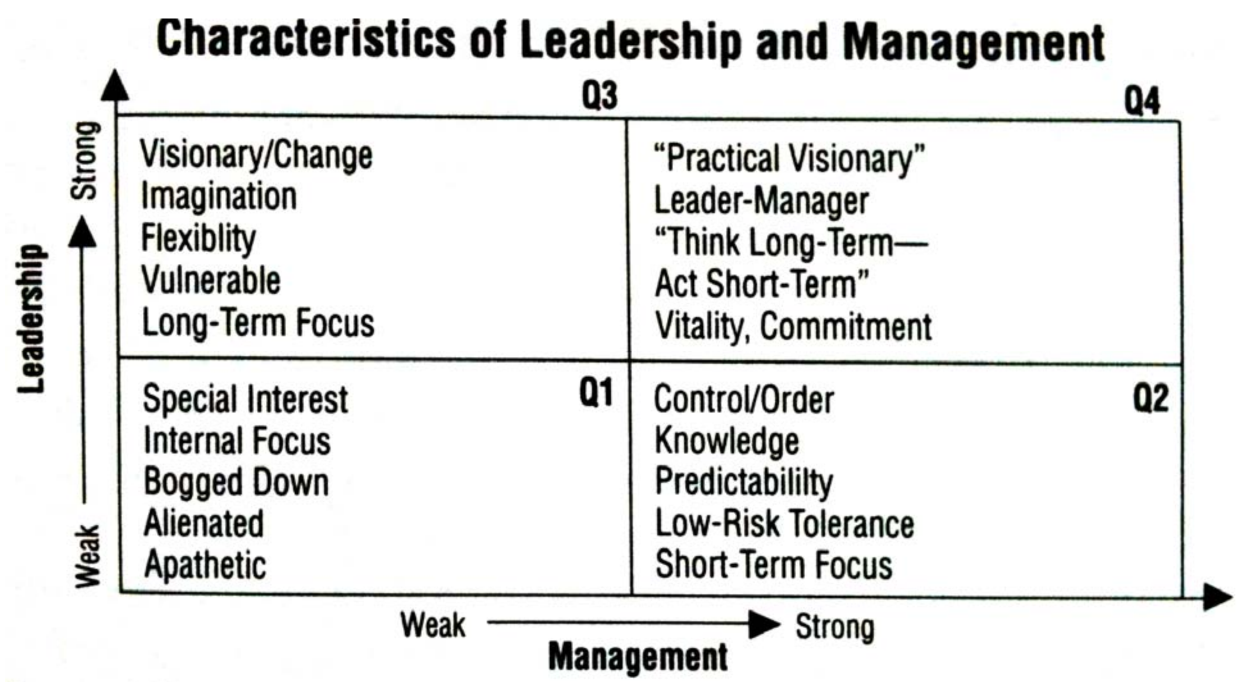
R. R. Richards in his excellent book *How to Build an Effective Board* suggests terms below that can be associated with each (with a few additions from me):

Manager	**Leader**
Where and when	What and why
Accepts the status quo	Challenges the status quo
Watches the bottom line	Watches the horizon
Administrative	Innovative
Predictable	Flexible
Low risk	Accepts vulnerability
Short-term	Long-term
Information	Inspiration
Controlling	Visionary
Analytical	Big picture
Documentation	Celebration
Knowledge	Imagination
Order	Change

Manager	Leader
Processes	Values
Internal	Contextual
Logistical	Strategic
Efficient	Effective
Problem-solving	Problem-using

To run the entire gamut of CLE work, there should also be a third column that would show perspectives relating to technical expertise and performance. Since our focus here is on leadership and management, we'll leave that column for another day.

Richards also observes that all organizations can be represented on a diagram having four quadrants. Weak to strong leadership is represented on the vertical axis. Weak to strong management is showed on the horizontal axis. The characteristics of the organization with weak or strong leadership or management are showed in the four boxes.



Richards believes that we all want our organizations to score in that upper right corner. We should be "practical visionaries," "leader-managers;" we should "think long-term and act short-term;" we should overflow with vitality and commitment.

Changing. Most of the conditions described by all these terms are descriptive of people and situations that we all recognize. But moving a person or an organization from one condition to another—say, from predictable to flexible—may be one of those "thought experiments" that physicists are so fond of , because a real experiment on the topic hasn't been invented yet. Having clean, descriptive words that we can move around on a diagram gives us a sense that something might be possible without necessarily telling us how to get there. Assuming that leadership and management are distinctly different, as the chart assumes, how do we move our CLE organizations toward the upper right quadrant?

To get there we need to move beyond rhetoric. We are now in the realm of individual development and organizational dynamics. What can drive these kinds of change? At the personal level, we have observed the good effects of a focus on emotional intelligence, about which much has been written in the ACLEA article library. EI offers a number of learnable, concrete behaviors and attitudes that can change the personal climate.

From the perspective of the organization, we see a much sharper focus today on business-level results and sustainability—many driven by competition—which put additional pressure on eliminating obstacles to organizational success that live in pockets of technical inefficiency, idiosyncratic egos, and "we've always done it this way" inertia. Global competition and technology have driven the development of accounting and economic tools that test the prospects of organizations better than ever.

In the CLE world, this evolution can be described as a decline of the original service model for CLE that emerged from about 1940 to 1960, when the profession become aware of the acute need to support the continuing education of lawyers. It is now effectively replaced by a business model in which CLE costs are covered, and opportunities for technological and other kinds of development are funded, from CLE revenues, not from bar dues. Many CLE executives believe that this transition is not as radical as some might believe since a long-term business strategy puts tremendous emphasis on customer service, perception of value, and the importance of life-long customers.

Technical Expertise. As Richards' chart shows, moving into the upper right quadrant entails a "leader-manager" mentality. It bears serious thought whether at a given instant one is playing the role of a manager, a leader, or some kind of technical expert. In CLE work, many in the upper echelons continue doing various kinds of technical work—editing, budget analysis, HR paperwork, an occasional legal task, etc. Most of us came up through the ranks becoming proficient at various technical skills, and sometimes these skills continue to be useful in more senior positions. But be careful about using your now aging expertise in managing the troops who have been hired to be or to become experts on technical matters. The micromanaging temptation is out there for all of us and needs to be resisted full throttle. In their own development, you want those technical folks to master and go well beyond your own level of expertise, and it will *never happen* if you clumsily intervene too often in what should be *their* work.

Roles and Goals. The best role to play at a given moment—whether from the leadership list or the management list—is largely determined by the goal to be achieved. There will surely be moments in CLE work where one's best role might be described as "constructive following." If the Bar president has made a CLE program the centerpiece of her presidency, it would be a good strategy to enthusiastically support it rather than to quibble over logistics or authority or anything else. See my prior writings in the ACLEA library for a description of the virtue of learning some civilian version of a snappy military salute, signifying that you are on board with the project and will do your best. Typically, CLE executives have numerous bosses to answer to, and most of the time their demands, if they reach the stage of a demand, are reasonable. Giving strong quick assent when it can be given builds the relational bank account to help cover those times when it cannot.

If you have some misgivings but are not totally opposed to the proposal, the best approach often is quick assent followed by polite questions that reveal a role for yourself in which you express your cluelessness about the full vision for the project. You ask, "If we are able to put the program in place in June, will we need to make any changes in the annual meeting which is also in June?” Often bosses haven’t thought through the full implications of their projects. Gentle and polite questions, especially after showing a quick willingness to help, even more especially if you truly are clueless, can make the project better and build the relationship.

Assessing the roles and goals associated with the task du jour helps determine what your preferred conduct should be. It could be on the management or the leadership list. It could be on the technician list. Another clue is to make a momentary detour to the leadership list and look at the big picture. How does the present situation fit into the bigger or longer term situation? When looking through that telescope, if it still seems that your best play is the manager’s role of improving efficiency, then that’s where you go.

Since CLE is a derivative profession—dependent on the multifarious dynamics of the legal profession—a CLE executive never quite has the luxury of the pure leader role as regards the most important elements of the profession. We don’t get to directly affect fundamental equities and foundational institutions. But we often get to play a significant leader role regarding processes affecting our little branch of the family tree. Therefore it helps to mentally position the present task in the middle of all the mirrors in which it might reasonably be reflected. How will this look from the perspective of your supreme court, or your MCLE regulator, or the state bar sections, or the Sunset Commission reviewing your bar in the next legislative session, or your board or CLE Committee, or the local legal newspaper incessantly looking for gossip, or the director of next year’s course on this topic?

Situational Awareness. After taking the broader view, problems or opportunities might be revealed that the more limited management perspective, for instance, would not have uncovered. Acute situational awareness in its present form is the child of a military and a spiritual view of the world—both driven by the friendly goal of preserving one’s life. It is now a standard-issue tool for leaders and managers. If your boss asks you in an anguished voice, Why didn’t we think of that?—it is the big version of situational awareness that she is addressing.

Roles, goals, and situational awareness drive the decision about whether to adopt a management or leadership perspective in the present situation. At least as powerful a tool as all these others is a focus on values. Now to focus on values is itself an affirmation of a value, and a pillar of the leadership perspective to boot. Let me see if I can persuade you of its utility.

The Power of Values. In the sense we're using it here, "values" describes a condition or situation considered *intrinsically* valuable or desirable. Usually those who take a stand based on values believe their positions to be a matter of basic principle about how human beings ought to interact with one another. Values live at the level of wisdom revealed from above, gut feelings about the way things ought to be, and time-honored historical aphorisms that begin with, "we hold these truths to be self-evident." Values underlie our sense of purpose. They give us a vision, though often murky, about where we ought to be heading. Most importantly, for most of us values provide the foundation for how we interpret incoming information. How many of us find ourselves saying "Yes!" or "That's just wrong!" often based on precious little information?

Values are tied to a positive or negative emotional response, but they persist through time and typically have the capacity to recreate the same emotional responses over time. When we say we are responding to a value, we almost always mean that we believe others share the same value, not all others necessarily, but somewhere there are or were others that we believe share the value. (I just read, for instance, that according to the 2011 census, the second largest non-traditional group of believers in England are the Jedi Knights, more of them than atheists and agnostics.)

A value is more than an idea because we are willing to behave consistently in respect for a value, but not necessarily for a mere idea. A value may have what proponents consider to be intellectual underpinnings. Once our common value regarding slavery was based on our "understanding" that slaves were not our equals, needed guidance and care and a constructive place to work (and did we mention, work for free?). So strong was that value that blood was spilled by the buckets to defend it. But values may not be changed merely by rebutting some factual foundation. Our politicians are always pestering the think tanks to send some PhDs to rebut the other side with facts and figures. The other side rarely acknowledges defeat because the value—say, the value of "personal responsibility" or, what is sometimes counterposed against it, "we're all in this together"—runs deeper than facts. Often changing a value doesn't require correction: it requires conversion.

Most law schools spend the first couple of semesters fighting the powerful human drive of first-year students to interpret situations based on personal values. Lawyers are taught to marshal the facts and to withhold judgment until we can get even more facts. And even with all the facts we can get, there are all kinds of mitigating factors that should be taken into consideration. Rationality, proportionality, due diligence, patience, restraint, fairness, foresight, due process, predictability, the sureness of a final result, and many other hallmarks of legal thinking are themselves values or collections of values. They therefore become tools of interpretation.

Following our good legal training, however, even the legal hallmarks may not be useful or appropriate in every situation. Only after we have exhausted all the alternatives, Dr. Watson, can we be sure of our conclusion. The problem is that the human mind never runs out of alternatives. It always holds in reserve a trump card asserting that all those rules were never intended to be applied in a remarkable case like the present one. With the coming of the "Matrix" movies, (and with a big tip of the hat to Sir Francis Bacon) we can't even be sure that what seems to us real and important is not just a clever flow of electrons around a circuit board somewhere. Are you really out there . . . .?

Mapping Values. Assuming that CLE is not an illusion, I'm arguing that another step in figuring out how to get out of whatever predicament you're in—beyond analyses of role, goal, and situational awareness—is to attempt to map the values of the players. What are those bedrock standards they believe in, and how to do they drive towards one result or another?

A recent CLE situation I encountered in which this sort of perspective proved useful revolved around a State Bar of Texas board member who wanted us to offer our Online Library for $39.95 per year rather than $295. The Online Library includes every CLE article we have published since 1998, more than 15,000 of them—all word searchable and downloadable. If you bought at retail all the books containing all the articles from just last year, the cost would exceed $10,000. (Nice, but nobody does that.) The board member argued to our CLE

Committee that so many more people would subscribe at the low price, that we would more than make up the difference in revenue. (This meant that we would need 7.4 times as many lawyers with paying subscriptions to break even financially.)

His value thinking went something like this: the Online Library is a great good thing and should be used by every lawyer. The State Bar has a duty to make tools available to its members to improve law practice. Some lawyers do not buy the OL because they can't afford it. Ergo, the State Bar should greatly reduce the price on the OL.

Our initial response was to show that this scheme put in jeopardy an annual revenue stream of more than $500,000. We expressed great skepticism, with some historical examples, that we could generate that many more customers from just changing the price. We pointed out that the OL would never have come into existence if it didn't provide a substantial revenue stream to support itself and related projects. Our values focused on preserving the status quo and the Bar's bottom line—typical management perspectives.

After discussion, the CLE Committee rejected the proposal by the board member. But ever since then, we have begun thinking more seriously about how to reach lawyers who find our prices too high. We invented a scholarship scheme under which you could attend courses by paying what you said you could afford, down to and including nothing. We are presently putting in place a scheme to give away the all the articles in the OL dealing with legal ethics. In next year's budget, we are cutting the registration fees for most courses by 50 percent for all lawyers with five or fewer years' experience. (Get them while they're young, don't you know.) In short, the values behind the board member's proposal were sufficiently powerful to get us thinking about ways to help those who he claimed were his constituents—lawyers who can't afford our normal prices.

Interestingly, the scholarship scheme is attracting applications mostly from lawyers who say they can afford to pay, and do pay, at least what our out-of-pocket cost is for one additional registrant to a course. So far, this has made the whole scholarship plan revenue positive, leading us to wonder how we can appeal to still other parts of the Texas CLE market that are price sensitive without endangering our appeal to regular customers who pay normal prices.

I offer this as an example of what seemed to us like a very bad idea morphing in the background into something more positive—primarily from our going through the exercise of attempting to map the values of "the opposition" and determining constructive ways to honor them. Now our board member mentions our scholarship program in a positive way on his Facebook page "Make the State Bar Relevant."

This circumstance also was a lesson to me about how reflexively we CLE administrator types fall into the management frame of reference when faced with a more visionary perspective. Too often, we think we can see that from our perspective, the idea is just impractical or even destructive. And it is indeed always possible that a particular visionary scheme is impractical—many are, and we need to help proponents understand their failings—but it is also possible that they reflect some looming value out there that comprehends the desires of many lawyers. In designing and selling CLE, we are hoping to understand and address those desires. I contend that fishing in our various ponds to uncover values that we sometimes dismiss or discount can defuse disputes and uncover business opportunities.

Bosses and Boards. Most of the time, value clashes come up when we're dealing with our multiple tiers of bosses or with our board members. They are looking at what we do from a broader perspective. That's their role. Often they have goals that are not driven solely by our bottom line. In many state bars, there are political eddies and currents that can wash you out to sea before you even know what's happening. (Remember the virtue of the snappy salute and polite questions.)

Summary. What I'm proposing here is that we use our own tools—analysis of roles and goals, situational awareness, emotional intelligence, business-tested performance measures, and value mapping—to anticipate and respond constructively to the leadership ***and*** the management dimensions of our jobs. Our leadership visions will not necessarily be the same as those of boards and bosses, but we will be much better prepared to adapt to truly insightful visions of change that occasionally emerge from our relationships with them if we are constantly imagining constructive changes for ourselves. PLI, ALI-CLE, superior CLE organizations in Michigan, Minnesota, California, British Columbia, Alberta, the Atlanta and Nashville bars, at Georgetown and Suffolk law schools and many others that I don't know as well, don't wait to be pushed. They are always pushing themselves. On this point, we CLE executives are sharks that must swim or die. Much as some of us would like to simplify our lives and be left alone to manage our little cottage industry (which is hard enough!), we cannot. We must also be leaders, forging and re-forging links with the legal profession as it evolves towards, we pray, the greater good.

Leadership vs. Management Group Discussion

At the Clearwater ACLEA program, a workshop was held on "Leadership vs. Management." After opening remarks on the topic, workshop facilitator Pat Nester asked the participants to divide themselves into discussion tables according to the kinds of organizations they represent. Participants at each table were asked to confer about the following scenario and to respond to whole group:

> **You are an experienced CLE director in your organization. Your new boss will be on the premises next Monday morning and has asked to see you in the conference room for an initial one-hour briefing on what you think is important for her to know about the CLE operation. You don't know the new boss. You have heard that she doesn't know much about CLE but is a "go-getter." Using what was discussed in this session about leadership and management roles, please prepare your list of talking points for the one-hour conversation.**

(The boss in this scenario would vary by the type of CLE organization. For many, she would be the new executive director of the bar association; for others, the new dean of the law school; for independent organizations, the new board chair; for law firms, the new managing partner.)

Note that the thoughts below were recorded in a brainstorming format and may or may not be recorded in priority order. Most likely, they were recorded in chronological order in which they were expressed, but it appears that the groups attempted to propose an order in which they thought the points should be raised.

A. **Notes from national CLE organizations** (these are independent organizations)

Help offered to the new boss:

1. What were you hired to do here? How can I help and rally others to help?
2. What does our organization look like from your vantage point?
3. What are your expectations about my availability to you? I don't want to be in your hair, but I am willing to conform to your expectations
4. Will you have an Executive Team? Who will be on it?
5. Do you have an agenda and timetable for your first steps?
6. What is your communication style? What works best for you in terms of my communications with you?
7. What is your leadership style?

Information about our company, if you would find it helpful:

1. Documents: here is what they are and where they are, and why I think you might want to know about them and familiarize yourself with them (governance; org chart; employee handbook; 990s; CVs of staff; claims against us; contracts; names of outside service vendors like lawyers, CPAs, insurance broker, building manager, etc.)

2. Financial: reserves, sales, expenses, high earning service lines, low earning service lines, etc.
3. Our market, brand, sales force
4. Our service line
5. Corporate culture (mission statement; values; long range plan; current business plan; etc.)
6. IT and web development
7. Disaster recovery plan
8. Partners and joint ventures

B. Notes from Law School CLE Organizations

1. Our business model
2. Budget
3. Politics—who to pay attention to
4. Value added
5. Who is on the advisory board
6. Annual programs
7. How decisions are made about curriculum
8. How decisions are made about whom to invite
9. Staffing rules
10. Challenges
11. $ to do what we would like to do—$ to do what we need to do
12. Limitations the regulatory world imposes
13. Benefits to alumni/faculty/students
14. Relationships that have been built with the community
15. Connections to development—career services
16. Why be members of ACLEA
17. CLE Climate
18. What is the reporting structure

C. Notes from Statewide CLE Providers

1. Your relationships with your speakers (volunteers) and staff—utilize to get things done
2. Be aware of the politics
3. Find out what the new boss's goals are—talk about what your goals are
4. We are always working as a team
5. Understanding CLE is only understanding the history of relationships
6. Always try to say "yes" first
7. Financial realities
8. Providing resources—the "who to go to" list
9. Lay out the geography of the organization

D. Notes from State Bar and Provincial Bar Providers (similar to group above)

1. Create a framework to have the conversation
2. Vision statement—what directions we see that we are going in
3. Values we hold—practical, trustworthy, high quality, useful, innovative. We reach these goals by offering programs, pubs, other resources
4. Financial goals—are we meeting our budget projections?—the “lay of the land”
5. Share annual or long range plan
6. Challenges we face now and your perspective on how best to approach and meet the challenges
7. Restatement of vision, mission statement, goals.
8. Ask what’s missing? What’s your perspective?
9. What is there in your experience that you see can help us?

E. Notes from In-House Providers

1. Preferred communication styles
2. How should we communicate? Regular organized meetings, agendas, action points
3. How does she want to manage—micro or macro—we can adapt
4. How does she want me to report?
5. What keeps her up at night?
6. Vault and Am Law [?]
7. Discuss strategic plan and professional development return on investment
8. Take a fresh look at systems and determine if there is or isn’t a better way
9. Give her the current curriculum and the history of it
10. Setting the vision for the future curriculum
11. Demonstrate technology and how it currently operates
12. Assess what additional technology she might want to incorporate
13. What does she expect from us?
14. Get to know each other on a personal level—what’s important to each other—what drives us

Since sooner or later all of us will be in the situation described above, it is hoped that the wisdom of these groups will prove useful. Some items from organizations unlike one’s own might apply, so be sure to read them all. Thank you all for the great thinking.

--Pat Nester