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Legal Upheaval: A conversation with law professor and author Michele DeStefano

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Industry analyst Ari Kaplan (pictured right) spoke with Michele DeStefano (pictured below), a professor of law at the University of Miami School of law and the founder and executive director of LawWithoutWalls, a think tank designed to create innovations at the intersection of law, business, and technology. She is also a guest faculty member at Harvard Law School's Executive Education program and the author of the newly released book *Legal Upheaval: A Guide to Creativity, Collaboration and Innovation* (American Bar Association, 2018).



Michele tell us about your background and work at the University of Miami School of Law .

I've always been fascinated with motivating people to think and behave differently. After graduating from Dartmouth College, I went into advertising at Leo Burnett, working on campaigns for brands like Kellogg's. Then I moved from advertising into marketing and worked at Levi Strauss & Company for four years trying to understand why people might pay more for button-fly jeans when nobody can tell they're button-fly. Eventually, I decided to move from the world of cereal and jeans to one of principles and ethics. At Miami, I teach civil procedure and am absolutely in love with teaching One-Ls civil procedure and inspiring law students to think about our justice system and what they want out of it. I'm a big believer in procedure and that's my charge with LawWithoutWalls. We focus on changing behaviour, such as how lawyers practice and provide their services, as opposed to what they deliver.

What motivated you to write *Legal Upheaval*?

Through LawWithoutWalls and my consultancy, MoveLaw, over the past eight years I've led over a 190 multi-disciplinary teams on innovation journeys. We address a huge topic or challenge and this multi-disciplinary team goes from problem to solution, with a business case, prototype, and branding. As I've been working with teams on creating innovations at the intersection of law, business, and technology, and trying to help lawyers hone the mindset and skill set of an innovator, I thought about how we define innovation. Throughout my academic career, I've been focusing on general counsel so it was a natural progression to study what they have to say about innovation, ways they are helping to drive it, and how they define it. So, curiosity was the motivation.

Was there anything surprising about what the interviews revealed?

What was surprising were the commonalities that ran between them. For example, general counsel want new behaviours and services from their outside law firms and ask for innovation, yet admitted they weren't quite sure what that was. Still, although they weren't sure what it meant, they agreed on a common definition, which focused on incremental value and change that made a lasting impact. For me, that was surprising and wonderful because it means that we want change. We're not asking for huge, big disruption, which means we can move the profession.

Speaking of disruption, you founded LawWithoutWalls before the legal tech revolution. How has the profession changed in the years since you created that organisation?

There have been three major changes since the development of LawWithoutWalls in 2010 and its launch in January 2011. First, we're seeing a lot of innovation across the legal marketplace in terms of how legal services are delivered, priced, sourced, packaged, and defined. As part of this effort, the number of legal tech start-ups and alternative legal services providers has grown dramatically. This shift is fuelling what I call an "innovation tournament" in the market for legal services in which everyone is playing, i.e., Big Law, in-house counsel, small to medium-sized firms, solo practitioners, and the Big Four. They are all trying their hand at figuring out ways to provide services more effectively and efficiently. Second, clients are changing due to many factors, including globalisation, technology, and socioeconomics. General counsel at large corporations are facing huge problems that cannot be fixed by lawyers alone so they are getting smarter, becoming black belts in new processes, and hiring legal operations professionals to help them map out their protocols. Third, clients are asking lawyers to behave differently. In-house leaders are running their departments like businesses and are being charged by their own internal clients to innovate. They have new demands and expectations of lawyers, with the largest being the call for a different type of collaboration, which comes naturally to innovators and maybe not so naturally to lawyers.

Who will lead the way in innovation – in-house legal teams or law firm lawyers?

When I'm presenting to in house legal teams, I say: "This is your shot; go for it. You could lead the way." And when I present at law firms, I say: "This is your shot; you could lead the way." Neither have done so yet. My bet is that it will be driven by those in-house, but my hope is that it will be a joint effort. Here's why: If you think back to the call for diversity from 10-20 years ago, clients wanted their law firms to be more diverse, but did not clarify what they meant so law firms just created their own definitions. Over time, in-house counsel became more specific and more creative in what they mean by diversity and what they're demanding. We have moved from "just be diverse" to "I need a certain percentage of people to be diverse," including those on the team that's actually servicing my matters. Also, "Show us your flex-time policies because unless you've got great flex-time policies, you're not supporting the diversity you have." I think we're going to see a similar approach to innovation. While there hasn't been a huge movement to define what we mean by "be more innovative," eventually, organisations will follow up and measure it.

Can innovation ever be measured?

This is one of the questions I asked in over 100 interviews with general counsel at large international corporations and heads of innovation at law firms, including some law firm partners. I think some type of innovation, of course, can be measured, such as the results of advancements in contract automation and e-discovery. Ultimately, innovation changes the way you think about the lawyer as a business partner. It enables you to enter more conversations and gets you a seat at more tables. Some law firms could start tracking behavior, activity, and increases in business over time. At this stage, however, it is still generally hard to measure.

Given the "tournament" that you described taking place between in-house legal teams and law firm lawyers, what role should law schools play in innovation?

There are a lot of great law schools participating in innovation, including those that are involved in LawWithoutWalls trying to help change the legal marketplace and the way we train our future lawyers. Law schools really do need to rethink how they're educating their students and what skills they want them to leave with. The skills that the 21st Century lawyer needs are not the type that can be easily honed in a classroom. They are also not the skills that your average or even great academic scholar is trained to teach, which is a problem. We may be really good at teaching you how to think like a lawyer, but maybe not as good at how to service a client like a businessperson.

Given all the areas that you have been tracking and the impact of legal upheaval, where do you see the legal industry headed?

It is going to continue on a trajectory of change. The "tournament" is one in which everybody can play. We're seeing different types of lawyers, law companies, and firms trying to improve the way they're doing things and offer various products and services. Over the next 10 to 20 years, we will see a redefinition of what it means to be a great lawyer. I think lawyers will be seen as business professionals that also have a law degree, who can utilise technology and leverage innovation to be better at their jobs, better collaborators, and better at relationship building.

Ari Kaplan <<http://www.AriKaplanAdvisors.com>> regularly interviews leaders in the legal industry and in the broader professional services community to share perspective, highlight transformative change, and introduce new technology at <http://www.ReinventingProfessionals.com>.

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