

# WHY YOU NEED A CHIEF MINDSET OFFICER

By Dr. Larry Richard



*“The fish is the last to notice the water.”*

**W**e’ve all heard the term “mindset,” but I’m willing to bet that virtually no law firms prioritize mindset as something worthy of their highest level of attention. In this article, I’m going to make the case that mindset matters way more than we realize, and that designating a C-level professional to focus on it will benefit your firm profoundly.

What is a “mindset”? A mindset is the way we look at things, the lens we filter through, the assumptions we make about the world, and the framework we use to make sense of the world as we go through our day. A mindset prioritizes our attention. People can have more than one kind of mindset.

If you’re a lawyer, you almost certainly possess what I call a “negativity mindset.” In law school, you were trained to “think like a lawyer,” which basically entails:

- Spotting issues, looking for problems, figuring out what’s wrong or what could go wrong,
- Challenging assertions made by others,
- Paying more attention to the 5% that may be untrue, inaccurate, faulty, mistaken, problematic, or risky, than to the 95% that may be fine, and

- Scrutinizing others’ motives, intentions, and bona fides.

Here’s an example of a negativity mindset. Before I became a psychologist, I was a practicing lawyer. I remember that on numerous occasions, as I walked down the street, I would notice cracks in the sidewalk and think to myself, “Hmm. That could give rise to liability for whoever owns this adjoining property. . .” A negativity mindset filters for what’s potentially problematic. It’s more pessimistic than optimistic. When applying a negativity mindset toward people, it’s more fault-finding than strength-finding.

Over the past couple of decades, I’ve gathered personality data on more than 25,000 lawyers. The number one consistent outlier trait is skepticism — lawyers are far more skeptical than members of the general public. This stands to reason — if the job of practicing law requires skeptical thinking, then the profession would naturally attract individuals who are more dispositionally skeptical than average. Skeptics have an easier time practicing law.

But increasingly, successful law firms are demanding more from their lawyers than simply practicing high-quality law. A changing environment, more demanding and sophisticated clients, the increasing impact



of technology, and a host of other factors are making the practice of law more complex and competitive. To succeed in this new normal, lawyers have to play several other roles as well — we need to be good mentors, supervisors, managers, leaders, colleagues, committee members, firm citizens, rainmakers, and more. And in order to be successful at them, all of these other roles require high levels of emotional intelligence, better social skills, an ability to build and maintain interpersonal trust, and a collaborative mindset.

In short, today, lawyers need a more positive mindset to succeed. To recap, in our role as lawyers, we need a skeptical mindset; but in all the other roles we’re expected to play, we need a positive mindset.

What does a positive mindset look like?

- Giving others the benefit of the doubt
- Spending more time focusing on what’s working than on what’s not working

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- Trusting others
- Considering how assertions of others may have some validity
- Expecting the future to hold good things (optimism)
- Focusing on strengths and on bringing out peoples' best
- Being kind

I contend that we need a positive mindset not just to express my opinion, but because compelling social science research makes it clear that 1) mindsets are enormously

powerful, and 2) positive mindsets can lead to the outcomes that most human beings desire.

Here is a brief summary of some of the science. Let's start with the importance and power of mindset in general:

- Mindset is more powerful than we imagine. Psychologist Alia Crum, then at Yale University, conducted a study in which students were invited to drink what they were told was a low-calorie milkshake and then a high-calorie milkshake while hooked

up to an IV. The reason? Scientists drew their blood to measure the hormone ghrelin. Ghrelin is the “hunger hormone” — when present, it increases our appetite. However, when we consume food, the amount of ghrelin in our blood system declines, signaling that we've taken in some calories and need to digest. The more calories we consume, the more ghrelin levels will drop. So after the students consumed the low-calorie shake, their ghrelin levels did drop, although only a little, since the calorie load was minimal. A week later, Professor Crum had them come back and they consumed what they were told was a high-calorie shake. As expected, this time their ghrelin levels dropped significantly, which is what you would expect when a larger calorie load is consumed. But there was a catch — the students were actually given the identical shake on both occasions. The only difference was their mindset. These measured differences in hormonal response were entirely the result of the students' belief that they had consumed a small or a large number of calories (see Resources: Milkshakes).

- Kelly McGonigal, a health psychologist at Stanford University, has

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marshalled the scientific evidence showing that some people who experience stress suffer physiological harm, while others don't, and that the principal factor that determines whether the harm will occur is not the severity of the stress or the pre-existing physical condition of the individual, but their mindset. People who believe stress is harmful were much more likely to suffer negative physiological consequences, while those who viewed stress as beneficial ("it challenges me," or "it keeps me focused") were less likely to suffer harm (see Resources: Good Stress).

- The relationship with the patient — specifically, a warm, caring, and empathic mindset — is as predictive of success in psychotherapy as the type of treatment strategy employed. This is impressive, given that several treatment strategies have proven highly effective (see Resources: Patients).

- Business professor Anita Woolley has demonstrated that "collective intelligence" (C) is a better predictor of the performance of workgroups and teams than the individual IQs of the team members. And "C" includes an egalitarian approach to team participation — essentially a democratic mindset (see Resources: Collective Intelligence).
- Psychologist Karen Reivich at the University of Pennsylvania has identified seven cognitive strategies that build an individual's psychological resilience. Most of the techniques that she teaches involve adjusting your mindset, which, in turn, leads to a more favorable emotional response in the face of adversity (see Resources: Cognitive Strategies).
- Psychology professor Barry Schwartz has shown that four principal intrinsic motivators (autonomy, meaning, belonging, and mastery) lead to high



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levels of employee engagement. But his most important finding is that the strategies are only effective when the supervisor has a supportive and positive attitude in addition to deploying the strategy (see Resources: Intrinsic Motivators).

Similar research has shown that mindset is a significant (in some cases the dominant) factor in producing better outcomes in all of the following areas (see more on each topic in the Resources section):

- Leadership (and followership)
- Diversity, equity, and inclusion

- Planned change
- Negotiation
- Conflict resolution
- Giving and receiving feedback
- Motivation
- Innovation
- Risk management
- Meditation and other mindfulness practices

Not only does mindset matter, but in particular, a positive mindset is both powerful and, in a law firm, essential. It's the best

mechanism for offsetting and mitigating the prevailing negativity mindset that represents the norm in virtually all law firms. And it's the tool of choice in coping with the stress and uncertainty created by the COVID-19 pandemic, in managing change in general, and in fostering well-being.

For example, Dan Cable, an American organizational psychologist teaching at the London Business School, has written several books (See Resources: Positive Mindset) extolling the virtues of a positive mindset and positive emotions in the workplace. Drawing on research in both the social sciences and from cognitive neuroscience, he makes the case that a positive, strengths-based, supportive approach to supervision and development produces the highest levels of employee engagement with superior performance, reduced turnover, increased collaboration, and greater productivity. He has personally consulted with a number of businesses and helped them implement his ideas with astonishing improvements in performance.

Numerous other studies reach similar conclusions.

Because the negativity mindset is pervasive in a law firm — and because it gets rewarded and reinforced every day — we can expect it to remain dominant. But, as noted above, we also need a positivity mindset in order to

support all the newer roles that lawyers are being asked to play. Given the dominance of the negativity mindset, law firms need to take bold and recurring steps to add some offsetting positivity.

Designating an individual whose primary responsibility is to be a steward of this more positive mindset is the step that I recommend. And to ensure that the lawyers take this individual's efforts seriously, this person needs to have the status of a C-level leader. Hence, law firms need to designate a Chief Mindset Officer (CMSO.)

If you do appoint a CMSO and give that individual suitable authority to carry out the

mission of supporting a positive mindset, what kinds of payoffs can you realistically expect? Here's my list:

- Greater innovation
- Elevated levels of well-being, reduced stress, better ability to cope with change and uncertainty
- Better leadership — and followership
- Increased respect for diversity, equity, and inclusion efforts
- Superior success in recruiting Millennial generation lawyers
- Higher client satisfaction, more repeat business
- Increased collegiality

- Reduced costs due to stress or ill health
- Improved esprit de corps (morale)
- And even, based on some studies, increased profitability

If you successfully introduce a positive mindset, and offset the negativity mindset, and if you teach lawyers to be more agile, i.e., to be sufficiently skeptical to be excellent at practicing law but to adopt a positivity mindset when they're inhabiting one of their newer roles, you'll realize the enormous potential that mindset offers. +



## RESOURCES

**Milkshakes:** See “[Mind over milkshakes: mindsets, not just nutrients, determine ghrelin response](#),” PubMed.gov.

**Good Stress:** See Kelly McGonigal, *The Upside of Stress: Why Stress Is Good for You, and How to Get Good at It*.

**Patients:** See “[Better relationships with patients lead to better outcomes](#),” by Tori DeAngelis, APA.

**Collective Intelligence:** See re:Work, “[What makes one team smarter than another?](#)”

**Cognitive Strategies:** See Karen Reivich and André Shatte, *The Resilience Factor: 7 Keys to Finding Your Inner Strength and Overcoming Life’s Hurdles* (Broadway Books/Random House, NYC, 2002).

**Intrinsic Motivators:** See Barry Schwartz, *Why We Work* (Simon & Schuster, NYC, 2015).

**Leadership:** See Kim Cameron, *Positive Leadership: Strategies for Extraordinary Performance* (Berrett-Kohler, San Francisco, 2012). Professor Cameron has shown how a positive mindset fosters more effective leadership and “positively deviant” results.

**Diversity, Equity, and Inclusion:** Professor Barbara Fredrickson at the University of North Carolina (Chapel Hill) and her colleagues have shown that a positive mindset produces greater pro-social and inclusive behavior: Professor Barbara Fredrickson, U. of N. Carolina, presentation at 2021 International Positive Psychology Congress.

**Planned Change:** See John Kotter, *Heart of Change: Real-Life Stories of How People Change Their Organizations* (Harvard Business School Publishing, Boston, 2002). Professor Kotter has shown that there are eight steps that are necessary in order to effectuate change successfully in a business organization. In this book, he confesses

that the eight steps alone are insufficient — the steps only work when accompanied by a mindset that evokes an emotional response from the participants.

**Negotiation:** See Roger Fisher and Daniel Shapiro, *Beyond Reason: Using Emotions as You Negotiate* (Random House Business, NYC, 2006). The authors concede that the steps outlined in their preceding best-seller, *Getting to Yes*, work effectively only when you adopt a mindset that evokes emotional responses from the other party.

**Conflict Resolution:** The author has helped more than 40 law firms and law departments resolve internal conflict or morale issues over the past 30 years. Based on that experience, one of my primary learnings has been the importance of adjusting mindset in order to achieve a successful resolution of the problem.

**Giving and Receiving Feedback:** See Stephen R. Covey’s best-selling masterpiece, *7 Habits of Highly Effective People* (30th Anniversary Edition, Simon & Schuster, NYC, 1989, 2004, 2020). In this book, Professor Covey shows that feedback is only effective when you “seek first to understand, then be understood” — a classic illustration of a mindset shift. See also, Douglas Stone and Sheila Heen, *Thanks for the Feedback: The Science and Art of Receiving Feedback Well (Even When It Is Off Base, Unfair, Poorly Delivered, and, Frankly, You’re Not In the Mood)* (Viking Press, NYC, 2014)

**Motivation:** See Daniel Pink’s book *Drive: The Surprising Truth About What Motivates Us* (Riverhead Books/Penguin/Random House, NYC, 2012). Pink marshals the science about what motivates people, and it boils down to three mindsets.

**Innovation:** See Olivia Fox Cabane and Judah Pollack, *The Net and the Butterfly: The Art and Practice of Breakthrough Thinking* (Penguin Random House, NYC, 2017). Also see Clayton M. Christensen, *The Innovator’s Dilemma: When New Technologies Cause Great Firms to Fail* (Harvard Business School Publishing, Cambridge, MA, 1997, 2000). Both books show that mindset matters more in innovation than just about anything else.

**Risk Management:** See Max H. Bazerman and Ann E. Tenbrunsel, *Blind Spots: Why We Fail to Do What’s Right and What to Do About It* (Princeton University Press, Princeton, NJ, 2011). The authors show how subtle, even inadvertent, mindset shifts are often responsible for ethical lapses, much more than intentional, malevolent acts.

**Meditation and Other Mindfulness Practices:** Let’s take “judicial notice” that meditation and other mindfulness practices are the essence of “mindset.” There are literally hundreds of books on these related topics, nearly all of which confirm this idea.

**Positive Mindset:** See Dan Cable, *Alive at Work: The Neuroscience of Helping Your People Love What They Do* (Harvard Business Review Press, Cambridge, MA, 2018) and Dan Cable, *Exceptional: Build Your Personal Highlight Reel and Unlock Your Potential* (Chronicle Prism Books, San Francisco, 2020).



**Dr. Larry Richard** ([drlarryrichard@lawyerbrain.com](mailto:drlarryrichard@lawyerbrain.com)) is widely recognized as the leading expert on the psychology of lawyer behavior and the lawyer personality. Dr. Richard is the founder and CEO of LawyerBrain

LLC ([www.lawyerbrain.com](http://www.lawyerbrain.com)), a consulting firm that serves premier law firms and corporate legal departments in the areas of leadership, change management, teams and collaboration, talent selection and development, feedback, motivation and lawyer resilience and well-being. A graduate of the University of Pennsylvania Law School, he was a litigator for 10 years before earning his PhD in psychology from Temple University. Since then, he has gathered and analyzed personality data on thousands of lawyers and consulted with hundreds of legal providers on a wide range of complex behavioral issues. Known for his ability to distill cutting edge scientific principles into actionable recommendations for improving lawyer performance, Dr. Richard is a frequent presenter at professional conferences, and a sought-after keynote speaker.