THE EVOLUTION IMPERATIVE:

Why Businesses and Lawyers Must Embrace Innovation to Survive and Succeed[1]

I. INTRODUCTION

> *"Lots of companies don't succeed over time. What do they fundamentally do wrong? They usually miss the future."*
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> *—Larry Page, Co-Founder, Google*

Every organization — law firm, corporation, nonprofit — likes to think it is forward-looking. Executives hold strategy retreats. Managing partners commission five-year plans. Boards review market analyses. And yet, decade after decade, household names vanish from the corporate landscape not because they lacked intelligence or resources, but because they failed to anticipate what was coming next.

This article -- prepared for an accompanying presentation at the 2026 Annual Meeting of the Federation of Defense and Corporate Counsel -- examines what researchers, behavioral economists, and business leaders have learned about the single greatest threat to organizational survival: the failure to build a genuine culture of innovation. Drawing on the scholarship of Wharton Business School Professor Adam Grant, Nobel Prize–winning psychologist Daniel Kahneman, creativity expert Michael Michalko, and Harvard Professor Linda Hill, the pages that follow offer a framework for understanding why companies fail, how to create an environment in which original ideas thrive, and what practical tools exist to capture and evaluate those ideas before a competitor does.[2]

The subject is not merely academic. In an era of rapid technological disruption, the consequences of organizational complacency are swift and severe. The companies described below were not small or poorly managed. They were the giants of their industries — and they are gone.

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[1] The source information in this article was compiled by, or written by Christopher A. Page, of the law firm of Young Moore and Henderson in Raleigh, North Carolina. The article focuses primarily on business and law firm culture, but the presentation will also have a major emphasis on innovation in litigating and trying cases (staying on the cutting edge of technology and trial techniques), and on learning about innovation in the banking industry. Co-presenters will be experienced trial lawyer Melanie Cheairs, and Michael Berman, CEO of Ncontracts and author of *The Upside of Risk: Turning Complex Burdens into Strategic Advantages for Financial Institutions,* and *The Upside of Compliance: Empowering Financial Institutions to Thrive.*

[2] I enthusiastically recommend interested readers to buy and read the following books: *Originals: How Non-Conformists Move the World Forward*, by Adam Grant; *Collective Genius: The Art and Science of Leading Innovation*, by Linda Hill and others; *Thinking Fast and Slow*, by Daniel Kahneman; *Thinkertoys,* by Michael Michalko, *Creativity, Inc.* by Ed Catmull, and *The Art of Innovation*, by Tom Kelley.

II. THE CENTRAL PROBLEM: FAILING TO ANTICIPATE THE FUTURE

A. The Graveyard of Industry Leaders

Business history is littered with companies that were once considered unassailable — organizations so dominant in their markets that failure seemed inconceivable. Consider a few examples:

- Blockbuster Entertainment. Founded in 1985, Blockbuster reached its peak with more than 9,000 stores and 84,000 employees, making it the world's leading home entertainment company. In 2000, a small competitor offered to sell itself to Blockbuster for $50 million. The Blockbuster CEO dismissed the offer, describing the upstart as operating in a "niche" market. Six years later, Blockbuster was bankrupt. The "niche competitor" was Netflix.
- Kodak. For decades, Kodak was one of the most recognized brand names on earth. Its engineers actually invented digital photography — but fearing that digital products would cannibalize its highly profitable film business, the company suppressed the technology. That hesitation proved fatal. Kodak filed for bankruptcy in 2012.
- Nokia. For fourteen consecutive years — from 1998 to 2012 — Nokia sold more mobile phones than any other company in the world. When the smartphone revolution arrived, Nokia was slow to respond and slower still to execute. It ultimately sold its mobile phone business to Microsoft in 2014 at a fraction of what the unit had once been worth.
- Polaroid. Founded in 1937, Polaroid counted Steve Jobs among those who admired its founder. When an executive proposed acquiring a startup with electronic imaging technology, the CEO shut down the discussion by announcing that "Polaroid doesn't sell what it didn't invent." The executive who made the proposal — Carl Yankowski — departed and joined Sony, where he launched the PlayStation. Polaroid filed for bankruptcy.
- General Motors. Once one of the largest companies in the world, the old General Motors became one of history's largest bankruptcies. Management concentrated on financial engineering rather than product quality, failed to adapt to changing consumer needs, and did not invest sufficiently in new technologies until it was too late.

The list is not limited to these. A brief survey of companies that failed to innovate their way into the future includes RadioShack, Circuit City, Tower Records, Borders Books, Palm, Blackberry, Encyclopedia Britannica, and dozens of other brands that were once synonymous with their industries.

B. The Common Thread: Defaults and Complacency

"We cannot solve our problems with the same thinking we used when we created them."
—Albert Einstein

What connects these failures? It is tempting to attribute each collapse to a unique set of circumstances — management changes, economic shocks, bad luck. But research suggests a more systemic explanation. These organizations, in different ways, accepted the default.

In a study of customer service agents across banking, airlines, and telecommunications companies, economist Michael Housman found that employees who used a non-default internet browser — those who had taken the initiative to download Firefox or Chrome rather than simply accepting Internet Explorer — stayed in their jobs 15 percent longer, were 19 percent less likely to miss work, and had significantly higher sales and customer satisfaction scores. The difference was not the browser itself. The difference was what browser choice revealed about mindset: a willingness to question the default and look for a better option.

This principle scales from individuals to entire organizations. Companies that treat existing processes, products, and business models as defaults to be preserved — rather than assumptions to be questioned — will eventually find that the world has moved on without them. The hallmark of innovation, as Adam Grant and his colleagues observe, is the capacity to reject the default and seriously explore whether a better option exists.

C. The Questions Every Organization Must Answer

Before examining solutions, it is worth being honest about the problem. Consider the following questions:

- Does your company genuinely care about anticipating trends in products or services, and positioning itself for long-term success?
- Do any of your organization's unwritten rules boil down to "that's the way it's always been done"?
- Does your organization have a process in place to generate innovative ideas and capture them?
- Can employees at every level freely offer ideas and criticisms on a regular basis?
- Does your organization have someone whose primary responsibility is dedicated to innovation?
- Do teams from different departments regularly collaborate to generate new ideas?

Organizations that cannot answer these questions affirmatively face a structural innovation deficit — and the research suggests that the gap between asking the right questions and actually building the right systems is where most companies fail.

III. CREATING A CULTURE OF INNOVATION

"Innovation has nothing to do with how many R&D dollars you have. When Apple came up with the Mac, IBM was spending at least 100 times more on R&D. It's not about money. It's about the people you have, how you're led, and how much you get it."

—Steve Jobs

A. The Lesson of Moneyball: Overcoming the Dinosaurs

Creating a culture of innovation is not simply a matter of announcing that innovation is now a priority. Real innovation culture requires dismantling entrenched assumptions and giving people permission — indeed, an obligation — to challenge the status quo. This is difficult work, and it often meets fierce resistance from those with the most invested in the existing order.

Consider baseball. In 2002, Billy Beane, the general manager of the Oakland Athletics, revolutionized how professional baseball teams evaluated and acquired players. Armed with statistical analysis, Beane demonstrated that objective data could predict player performance far more accurately than the gut instinct of veteran scouts. His methods directly contradicted decades of received wisdom. The old guard resisted. And yet, today, every major league team has adopted his approach.

The lesson is not unique to baseball. Organizations that successfully create innovation cultures are those that build systematic processes for challenging assumptions — and make it safe for people at every level to participate in that challenge.

B. Bridgewater Associates: Making Dissent a Core Value

When Wharton Professor Adam Grant asked executives to identify the strongest organizational culture they had ever encountered, the clear winner was Bridgewater Associates, the world's largest hedge fund. Managing over $170 billion in investments for governments, pension funds, universities, and charities, Bridgewater's 2010 returns exceeded the combined profits of Google, eBay, Yahoo, and Amazon.

Bridgewater's founder, Ray Dalio, attributes the company's success to a simple but demanding principle: radical transparency. His guiding rules include these:

- Place the utmost importance on truth. Create an environment in which everyone has the right to understand what makes sense, and no one has the right to hold a critical opinion without speaking up about it.
- Teach your team that it is okay to fail, provided the failure results in learning something.

At Bridgewater, employees are evaluated — in part — on whether they speak up. Failure to challenge the status quo is itself a fireable offense. The commitment is not to blind loyalty but to promoting genuine dissent and original thinking. As Grant observes, what separates a strong innovation culture from a cult is precisely this commitment: original thinking is not merely tolerated, it is demanded.

C. Google: Creative Agility and the Volunteer Organization

When Google was preparing to introduce Gmail and YouTube, its infrastructure team faced a critical problem: the existing data storage system was inadequate. Rather than convening a task force with a predetermined mandate, the head of the engineering group, Bill Coughran, allowed teams to coalesce spontaneously around competing approaches.

Two teams emerged. One proposed building on the existing system; the other proposed an entirely new architecture. Both built prototypes. Both were tested. The first team's approach was selected — but crucially, rather than discarding the second team's work, management asked two of its members to join the team developing the next-generation system, so that the learning would not be lost.

Coughran described his philosophy this way: "I lead a volunteer organization. Talented people don't want to follow me anywhere. They want to co-create with me the future. My job is to nurture the bottom-up and not let it degenerate into chaos." His advice to managers: hire people who will argue with you, and do not be afraid to be deliberately vague when vagueness creates productive ambiguity.

D. Warby Parker: Making Idea Submission Meritocratic

Warby Parker, the online eyewear company started by four Wharton students in 2010 with $2,500 in seed money — valued at $1.2 billion by 2015 — offers a particularly instructive model for capturing and evaluating ideas from across an organization.

In 2014, Warby Parker created a program called Warbles, which invited every employee to submit suggestions and requests for new technology features at any time. Before Warbles, the company received ten to twenty idea submissions per quarter. After its launch, submissions jumped to nearly four hundred. The key was not merely opening the channel — it was making the process visibly meritocratic.

All submissions were made transparent in a shared Google document. Every employee could read them, comment on them, and discuss them at a biweekly meeting. Technology teams had full discretion to act on the ideas that interested them. To provide strategic guidance without creating a false veto, managers could vote promising ideas up and weak ideas down — but the votes were not binding. The result was a system in which employees trusted that good ideas would be heard and evaluated fairly.

E. Pixar: Structural Changes That Unlock Voices

Even organizations celebrated for their creativity can build structural barriers to it without realizing what they've done. Pixar's early experience illustrates how physical and procedural arrangements can suppress the voices of the very people whose ideas an organization most needs.

When Pixar's production teams first met to review their films, they gathered around a long, rectangular conference table with assigned seats. The formal arrangement made people stiff, and those seated at the ends of the table rarely contributed. Pixar replaced it with a square table and eliminated place cards — a small change that produced a dramatic improvement in participation.

More significantly, a company-wide survey after the production of Toy Story revealed that a large proportion of employees — particularly production crew members, as opposed to story designers — felt disrespected, marginalized, and afraid that complaining would cost them future work. In response, Ed Catmull, Pixar's President, established a company-wide policy: anyone could talk to anyone in any department without fear of reprimand, without going through proper channels, without consequence. Catmull's articulated purpose for Pixar was not simply to make movies, but to build a creative culture in which people would continue to ask questions and feel respected. By the end of A Bug's Life, the mood at the company had transformed.

IV. GENERATING NEW IDEAS: STRUCTURED CREATIVITY

"Logic will get you from A to Z; imagination will get you everywhere."

—Albert Einstein

A. The Problem of Conditioned Perception

One of the persistent obstacles to organizational creativity is not lack of intelligence or motivation — it is conditioned perception. Human beings are trained, through years of experience, to notice certain things and ignore others. When shown a picture containing both black shapes and white shapes, most people focus instinctively on the black figures and miss the meaning embedded in the white spaces. When faced with a business challenge, most managers ask the questions they have always asked and see only the options those questions are designed to reveal.

Creativity expert Michael Michalko, who organized NATO intelligence specialists to research and categorize all known inventive-thinking techniques, argues that creativity is not a genetic gift or a learned trick. It is the consequence of an intention to be creative and a determination to use creative-thinking strategies deliberately. The barrier is not talent; it is habit.

B. The Thinkertoys Approach: Forcing Alternatives

One of Michalko's central techniques involves reframing the questions an organization asks about its challenges. Rather than asking broad questions like "How can we improve our sales?" — questions that tend to generate incremental answers within existing frameworks — Michalko advocates phrasing questions so that each one forces the consideration of alternatives.

Consider a design company tasked with creating a new trash container. Rather than asking "How do we design a better container?" the company asked a series of specific alternative-forcing questions:

- In what ways might others help us design a better container?
- In what ways might we make containers out of other materials?

- In what ways might we obtain other materials?
- In what ways might we make containers more convenient?
- In what ways might we design a truly unique container?

This iterative questioning process led the company to an innovative product: a convertible trash can made of recyclable plastic that stores flat — a solution that would almost certainly never have emerged from the original broad question. The method was not to generate the answer, but to force the team to inhabit a space in which alternatives were always being considered.

A similar process produced one of the most successful product introductions in lawn care history. A small lawn care company, competing against industry giants like Sears and Dow Chemical, began asking not “How do we improve our market share?” but “In what ways might we alleviate customer frustrations with planting?” The result was the Scott Spreader — a simple mechanical device that allowed controlled, even distribution of lawn care products — and overnight, the Scotts Company became a national leader in its industry.

C. Personal Analogy: Imagination as a Tool of Discovery

Another of Michalko’s techniques invites participants to imagine themselves as the product or process they are trying to improve, and to ask questions from that perspective. It sounds eccentric. It works.

An executive at a small wallpaper company used this approach to compete against larger rivals. Asking himself “If I were a wall covering, what would my concerns be?” he thought about falling off walls, about being difficult to remove — and then one concern struck him: he would not want to catch fire. None of his competitors offered a fire-resistant product. He developed one, patented the process, and his business grew dramatically.

This is not an isolated anecdote. GE’s prolific inventor T.A. Rich cited this technique as a primary source of his ideas. And Albert Einstein famously described the thought experiment that led to the Theory of Relativity as an act of imagining himself as a beam of light hurtling through space.

V. PITCHING AND EVALUATING IDEAS

A. The Curse of Knowledge: Why Good Ideas Go Unheard

Even when organizations build systems for generating original ideas, they often fail at the next step: communicating those ideas effectively. Adam Grant describes this phenomenon as the “curse of knowledge” — the inability to imagine what a familiar idea sounds like to someone hearing it for the first time.

A Stanford study demonstrated this dramatically. In the study, one participant tapped out the rhythm of a well-known song with their fingers while the other tried to identify it. The tappers predicted that the guesser would identify the song about 50 percent of the time. In reality, the success rate was approximately 2.5 percent.

The tappers could hear the music in their heads. The guessers heard only disjointed taps. The gap between what the tapper knew and what the listener heard is precisely the gap that separates the innovator from the organization she is trying to persuade. By the time an idea has been developed, tested, refined, and prepared for presentation, its creator can no longer accurately imagine what it sounds like to someone encountering it for the first time. The result is systematic under-communication of new ideas.

The practical implication: when presenting a new idea, be explicit about the downsides and the uncertainties. Counterintuitively, transparency about weaknesses makes the strengths more credible and easier for an audience to process.

B. Pioneer or Settler? When to Move First

One of the most practically important questions in idea evaluation is when to be first. The received wisdom — that first-mover advantage is decisive — does not survive scrutiny.

In a classic study, two marketing researchers compared the success rates of pioneers (the first companies to introduce a product to market) against settlers (those who waited for the pioneer to establish the market before entering). Analyzing hundreds of brands across thirty-six different product categories, they found a stark disparity: the failure rate for pioneers was 47 percent, compared with just 8 percent for settlers. Pioneers were approximately six times more likely to fail.

The explanation is not that settlers are mere copycats. As Grant observes, the most successful settlers are not simply imitating existing products — they are studying the market that pioneers created, learning from pioneer mistakes, and introducing meaningfully improved alternatives when the time is right. The iPhone was not the first smartphone (IBM introduced the Simon in 1994). The Xbox was not the first home video game console. Being second, or third, is not a disadvantage — it can be a deliberate and sophisticated strategy.

C. The Kahneman Framework: Understanding Your Own Decision-Making

Even organizations with strong innovation cultures and rigorous idea-evaluation processes can be undone by the systematic cognitive biases that affect all human decision-making. Nobel Prize–winning psychologist Daniel Kahneman's influential work on intuition and deliberation identifies several biases that are particularly dangerous in organizational settings:

- Availability bias: overweighting information that comes readily to mind.
- Familiarity bias: preferring familiar options over superior but less familiar ones.
- Overconfidence: systematically underestimating risk and overestimating capability.
- The endowment effect: overvaluing what you already possess.
- WYSIATI ("What You See Is All There Is"): making decisions based on incomplete information without awareness that the information is incomplete.

Kahneman's framework suggests that speed of decision-making — reliance on intuitive shortcuts — is invaluable for routine decisions but dangerous for novel ones. Organizations that want to evaluate innovative ideas fairly must build deliberate structures that force careful analysis, expose cognitive shortcuts, and surface the assumptions being made. As Marubeni — a $100 billion Japanese trading company with subsidiaries in more than sixty countries — concluded after examining its own decision-making processes: to move faster, sometimes you must first slow down and think.

VI. EXTERNAL BARRIERS TO INNOVATION

Not all barriers to innovation originate inside the organization. External market structures, procurement practices, regulatory frameworks, and customer habits can all impede the adoption of innovative solutions even when internal champions are fully committed to them.

The European medical device industry offers a useful illustration. Medical devices in Europe are typically acquired through procurement processes in which manufacturers submit competitive tenders. These processes traditionally weigh upfront investment cost heavily against quality and longer-term outcomes — an approach that systematically disadvantages innovative solutions, which often carry higher initial price tags but deliver significantly greater long-term value.

A coalition of European medical device manufacturers, working with the Boston Consulting Group, developed an alternative approach called Best Value Procurement (BVP), which evaluates proposals on a broader basis that accounts for total cost of care delivery — including downstream savings in patient outcomes — rather than unit price alone. BVP is gaining traction across Europe precisely because it aligns procurement incentives with innovation incentives. The lesson for organizations facing external barriers is that changing the framework — not just the product — is sometimes what innovation requires.

VII. REINVENTION: IT IS SOMETIMES THE ONLY OPTION

For organizations that have fallen behind, the question is not only how to build an innovation culture going forward, but whether meaningful reinvention is possible. The evidence suggests it is — if the commitment is genuine and the approach is systematic.

Disney's turnaround in the 1990s is instructive. After years of aggressive cost-cutting that had eroded the quality of its customer experience, a study commissioned by Disney found that 63 percent of first-time guests said they would never return. Using Total Quality Management principles and advice from management consultant Marcus Buckingham, Disney rebuilt its approach from the ground up — not by simply spending more, but by reimagining the entire customer experience model. The result was one of the most successful corporate reinventions in American business history.

Other companies have undergone comparable transformations. Nintendo reinvented itself when the dedicated handheld game market was threatened. Amazon reinvented itself from bookseller to everything-store to cloud computing giant. Netflix reinvented itself from DVD-by-mail service to streaming platform to original content producer. IBM, Lego, Apple, McDonald's — each organization faced a moment when the old model was no longer viable, and each chose reinvention over decline.

The common thread in successful reinventions is not a single strategy but a cultural commitment: the willingness to accept that what worked before may not work tomorrow, and to build systems that identify the next thing before the crisis arrives.

VIII. THE EVOLUTION IMPERATIVE FOR LAW FIRMS

A. The Same Principles Apply

It would be a mistake for lawyers reading this article to treat it as a message for their clients alone. The forces of disruption and disintermediation that have eliminated industries and companies across the global economy are present in the legal market as well. Legal technology, artificial intelligence–assisted research, alternative legal service providers, and increasingly sophisticated in-house legal departments have permanently altered the competitive landscape for law firms of every size.

The innovation audit questions posed earlier in this article apply with equal force to law firms: Does your firm have a process for generating and capturing new ideas? Does your firm have someone whose primary responsibility is innovation? Do your attorneys have structured opportunities to collaborate across practice groups to generate new approaches? Can attorneys at every level offer suggestions and criticisms without consequence?

B. What Clients Expect

The client perspective is unambiguous. In-house counsel increasingly expect their outside law firms to be creative problem-solvers — not merely processors of legal transactions. Clients do not want to be told that a matter will proceed through the standard stages of litigation or transaction: complaint, discovery, depositions, trial or closing. They want to know that their outside counsel are thinking strategically about their problems, anticipating developments, and bringing genuinely innovative approaches to the representation.

The law firm that treats its practice as a default — doing things the way they have always been done because that is how they have always been done — will find itself competing on price alone, and losing that competition to new entrants who are building the next generation of legal service delivery.

C. The Path Forward

The good news is that the tools for building an innovation culture are available and well-documented. They do not require massive capital investment. They require leadership commitment, structural changes to how ideas are solicited and evaluated, and a genuine willingness to challenge existing assumptions.

The practical first steps are within reach of any organization:

- Create formal, accessible channels through which every person in the organization can submit ideas and provide criticism.
- Make the idea evaluation process transparent and meritocratic, so that contributors believe their ideas will be heard.
- Build cross-functional collaboration into regular operations, not just strategic retreats.
- Designate someone — at a senior level — whose specific responsibility is innovation.
- Train leadership to recognize and counteract the cognitive biases that distort decision-making on novel ideas.
- Celebrate productive failure — the kind that generates learning — as an organizational value.

IX. CONCLUSION

> *"Learning and innovation go hand in hand. The arrogance of success is to think that what you did yesterday will be sufficient for tomorrow."*
>
> *—William Pollard*

The graveyard of formerly great companies is a permanent reminder that success is not self-sustaining. Blockbuster, Kodak, Nokia, Polaroid, General Motors — each of these organizations had every reason to believe it was secure. Each had the resources to adapt. Each failed, ultimately, not because of a single catastrophic decision, but because it built organizations and cultures that were structurally incapable of seeing the future clearly enough to meet it.

The prescription is not complicated, though it is demanding. Organizations that survive — and thrive — through change are those that build cultures in which questioning the default is rewarded, original ideas are captured and evaluated fairly, and the cognitive biases that distort decision-making are actively managed. They are organizations that understand the difference between driving the train and laying the track.

In the words of Pixar President Ed Catmull: "What interests me is the number of people who believe that they have the ability to drive the train and who think that this is the power position — that driving the train is the way to shape their companies' futures. The truth is, it's not. Driving the train doesn't set its course. The real job is laying the track."

The times are, as they have always been, changing. The only question is whether you and your organization will be prepared.