

Leading the Way

Administrators Are Best Equipped to Manage Change in Today's Law Firms

BY ED POLL

Law firm administrators are facing unprecedented uncertainty and upheaval in their firms. Part of that reflects the impacts of a financial crisis and recession that have become the most severe in living memory.

But another major challenge comes from structural changes within the profession itself that the recession has intensified. As an entire generation of lawyers moves toward retirement age, the current crisis may make it financially impossible to do so – creating the potential for generational conflicts involving older and younger lawyers within firms and for talent shortfalls once the recession is past.

Administrators will be squarely in the vortex of these intersecting trends, and firms will likely be relying on them to manage and defuse a variety of potential conflicts. Being able to do that requires that firm administrators and senior managers understand the seismic shifts under way in law firm demographics and have a clear vision of their roles in dealing with them.

AN AGING PROFESSION

As Chair of the American Bar Association (ABA) several years ago, Karen Mathis focused her leadership year on heightening awareness of the implications of the legal profession's aging population. She often emphasized that 400,000 lawyers would likely retire in the next 10 years. That's equivalent to the entire current membership of the ABA, the world's largest volunteer organization. Until recently, the prospect of this massive demographic shift made partner succession potentially the biggest challenge that law firms faced. Managing partners and law firm administrators focused on finding ways to encourage retiring partners to leave gracefully and to transition client relationships to other lawyers in their firms, thereby enabling the firms to retain the business as the retiring lawyers stepped back.

This often is easier said than done. Typically, the next generation of lawyers has been accustomed to inheriting business and has little marketing skill. For partners at law firms where compensation is based on individual performance only (the so-called "eat what you kill" approach), the business development credo often leads them to refuse to share information on clients or prospects with the next-generation lawyers who might "steal" business before the first attorney was ready to step away from active practice.

This has created tremendous headaches for administrators charged with oversight of client relationship management (CRM)



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systems. Rainmakers' CRM contact records should be used to develop cross-selling opportunities among younger lawyers according to an overall firm strategic plan, one made more challenging by managing the impending demographic shift.

A FEARFUL PROFESSION

Today, the demographic challenge assumes a new dimension. The global financial crisis has created fear and confusion for countless lawyers who, like many others, suddenly have seen nest eggs shrink dramatically – 401(k)s have become 101(k)s, in the current gallows humor – and fear they may outlive them if they don't continue working. The only way many lawyers see that they will be able to retire is to significantly reduce the retirement dreams, expectations, and standards of living that they anticipated just a few years ago. When *The Wall Street Journal* runs a front-page story (as it did in early 2009) titled "Recession Batters Law Firms, Triggering Layoffs, Closings," it definitely indicates a high level of concern.

With the reduction in number of clients and matters and the slower payments that are often inescapable during a recession, the financial and economic difficulties many lawyers and firms face are substantial. Less tangible, yet a very real problem for law firm administrators, is that the result of all this fear and uncertainty is stress, and the results of stress are often anger and hostility. An angry law firm is one doomed to failure, unless managing partners and firm administrators take proactive steps to deal with the resulting fallout. And nowhere is that more apparent than in the inter-related trends of culling and de-equitization.

A DOWNSIZING PROFESSION

With aging lawyers working longer, and firms continuing to hire (although at a greatly reduced pace) new, lower-paid lawyers out of law schools in order to increase their leverage, something has to give. In many firms there is a direct relationship between de-equitization and leverage: letting go of older partners who may have higher rates but bring in less business, while hiring and using young associates as a cost-effective way to do billable work that boosts profitability.

But this business model "eats 'em up and spits 'em out" when it comes to associates. The "culling process" gets cheap labor (yes, even despite high salaries for the young talent) for five, six, or seven years. Then, if associates don't make partner, they're asked to leave to make way for the next group of law school graduates.

The issue that firms seem to have with associates who "clog up the middle" is that, while these are good lawyers who produce good billables, they are not great rainmakers. And that same criticism often drives the de-equitization process. De-equitization is a financial strategy that has substantial human impact. Each of the laid-off partners was (presumably) added to the partnership because the firm had a strategic vision at some point for the clients that the partner could draw. However, times of crisis lead the firm to make changes rather than hold on to partners who were added for a reason.

De-equitized lawyers have likely earned good money during their time with the firm, but they will face many hard questions. Did they save enough to be independent, or did their standards of living increase over the years to match their incomes? What severance packages did they receive? "You're not wanted here." Will their egos be able to gracefully handle the psychological impact of being told that?

ANCILLARY CHALLENGES

Administrators and their firms must prepare for the possibility of litigation. One suit already decided involved an older partner at a major firm who refused to accept a downgraded status. The law firm argued that the lawyer breached his employment agreement by failing to produce sufficient billable hours. The lawyer argued that he merely had to be available to do work, and that he did not have rainmaking responsibilities. The issues revolved around interpreting an employment contract, and the arbitrator found that the lawyer did seek billable work and was available. The contract did not otherwise require that he reach the firm's billables benchmark. By extension, inconsistency in the benchmarks used to identify groups of older lawyers who are de-equitized when past a certain age can spur wrongful termination claims.



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Another problem will come when business inevitably picks up and firms need to address client needs when the talent cupboard is depleted. Firms' hiring out of law schools has already become "decremental" – an ongoing decrease that is the opposite of the incremental increases of the past. Past recessions have often led to an increase in law school enrollment as people seek to enter the more "stable" legal profession. But because that image of stability has been shattered – and because law school is far more expensive than ever before – the big surge in enrollments will likely not materialize. Likewise, the highly publicized troubles of large corporate firms make the prospect of having their own firm seem more attractive to many young or newly unemployed lawyers.

All of this may leave managing partners and administrators faced with the prospect in a year, or two or three, of having to staff firms for a level of business that simply can't be met with the existing lawyer pool.

AN OPPORTUNITY FOR ADMINISTRATORS

Resolving the litany of problems facing today's law firms will likely land squarely in the laps of the firms' legal administrators. Lawyers come and go, but staff, and especially senior staff members, constitute the foundation on which a law firm builds for the future. While staff layoffs and terminations have occurred during the economic downturn, no law firm can successfully meet the challenges of recession and a changing profession without the help of staff leaders such as legal administrators, who embody the multidisciplinary skills that the new professional dynamics of law firms demand.

Lawyers, like managers everywhere, are most effective when they connect with and rely upon their administrators. When that connection and reliance are real and reinforced, it creates a shared work

ethic, values structure, and belief that what is done for clients is worthwhile. Failure to do so will cause inefficiencies, create disharmony within the firm, and ultimately result in the firm's failure.

Momentous change is under way in the law firm universe – change that will create opportunities for administrators who understand it and respond effectively. As change continues to transform law firms, it must be clear what efforts to manage change are considered to be within administrator control, and which ones are not. Administrators can refocus the firm's direction to cope with ongoing change in many ways, among them:

- identifying technologies that will help to achieve cost savings;
- implementing educational programs to make staff and attorneys more effective at client service; and
- creating cohesive teams of lawyers and staff and charging them with the goal of making their practice areas more efficient and more effective.

The results will likely include increased revenue from happier clients, decreased operational costs, firms better able to deal with today's problems and tomorrow's opportunities – and increased respect for administrators who have anticipated change and prepared their firms to take advantage of it. ✨

about the author

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