The Ownership Mentality

Addressing the *Real* Threat to Law Firm Survival

BY ED POLL

The business press generally, and the legal press in particular, has devoted considerable attention to the global recession and the impact it is having on law firms. Several of the world's largest law firms have made major headlines by postponing new law school hires, laying off associates and staff, and "de-equitizing" or demoting underperforming partners. One prominent Web site with news about the legal profession even started a "Layoff List," which as of mid-January 2009 showed 55 firms as having shed staff, associates or partners.

Major law firms are definitely on the downside of this latest chapter in the boom-and-bust cycle. Even so, the pain being felt by the major firms as institutions is not that bad, particularly when compared to that of the banks and the auto companies. Layoffs, delaying the start date of recently hired graduates, or cutting by 20 percent the compensation of partners already earning over 1 million dollars a year, may be novel to these firms, but is not huge in overall economic impact. Real "hurt" is being felt by many of the United States' 1 million-plus lawyers who are sole practitioners or members of small firms and making $60,000 to $100,000 a year representing individual clients and small businesses. But in many respects, what's a "difficult economy" for the big firms is often just more of what these smaller practices consider to be business as usual.

Focusing on a concept of ownership and responsibility is the only way to build a law firm as a cohesive unit.

THREE SCENARIOS

Regardless of the impact of today's business conditions on major law firms, there remains a far greater and more significant problem for any firm's future health. Consider these three scenarios:

- **Scenario 1:** Young Dr. Kildare works in a medical internship to learn the trade, and then takes over the practice as the old doctor fades into the sunset.
- **Scenario 2:** In Big Law, a young associate works for as many as 10 years, rising through the ranks of associate-dom, and is then either invited to become one of the clique, otherwise known as the partnership, or is asked to find employment elsewhere.
- **Scenario 3:** In a small firm, a young associate works for a few years and feels entitled to become a partner. While a good lawyer, this person has yet to develop rainmaking skills and still has no personal client following or book of business. The result is a classic "Catch-22" – the associate cannot become a partner without having clients, but is precluded from opportunities to do so by virtue of associate status.

While there may be variations on this theme, consider the contrasting perspectives of the people involved in each of these scenarios. In the first case, there generally is no discussion of money; the young doctor is happy to have a job, likes and respects the older doctor, and is eager to learn as much as possible from the experienced doctor. The older doctor, on the other hand, is happy to have a younger person to help out and to mentor so that his patients will receive both his experience and the new learning coming out of a recent medical graduate.

In the second scenario, there also is generally no discussion of money. But, the partnership interest has no independent value, cannot be sold independently, and gives the holder only a small say in directing the law firm's path. It often does enable the holder to receive a much higher level of income, but also subjects the person to potential liability if the firm fails – without having any voice in corporate-style firm governance that is in the hands of the Management Committee. And, of course, the risk exists that the associate could be laid off or asked to leave long before becoming a partner. Either way, the situation does not encourage a sense of ownership and commitment.

In the third scenario, there may be as many reactions as there are lawyers. The young associate may be thrilled to be considered for the partnership, but having never developed clients for the business book of the firm, the associate has no real idea of what "ownership" as a partner means. Often associates believe that their time and effort, working at partner direction, are substantially responsible for creating value in the firm, and that they should be given credit for that. Undoubtedly everyone in a firm creates value in this way, including staff. Yet, one would never hear a staff member ask for a partnership interest. Associates who don't know how to develop books of business, or who face second-class partnership status at best, will neither know nor care about the financial workings of their firm.

THE OWNERSHIP MENTALITY

So, what is the essence of being a partner? The answer, in a single word, is "ownership." This means being the last person to receive financial benefit from the firm. Staff and associates come first. Vendors and suppliers come next, and then owners. It means that you are personally responsible for the debts and liabilities. It means that you lay awake at night wondering how to improve the firm's efficiency, growth, and profitability. This concept of ownership and responsibility is the only way to build the firm as a cohesive unit, getting away from the "broken model" in which people are chewed up and spit out, whether through layoffs or failing to make partner.

An ownership mentality that supports an emotional commitment to the firm's success can lead directly to ideas of value billing and client service, among others, as antidotes to simply focusing on billable hours and ignoring the worth of what each person does. It takes the law firm out of the realm of industries like autos and banking, where churning out cars and mortgages without regard to value and worth led to collapse and layoffs. The automotive manufacturer that once was the world's largest company is now close to bankruptcy because it did not listen to its customers. Our associate in Scenario 3 has exactly the same perspective. Without having responsibility for business development that contributes to the firm's success, the associate feels entitlement rather than ownership.

The earlier associates begin to market, the better they will be at it, because the key to business development success is building relationships with potential clients. Relationship development is a marathon, not a sprint, and it starts with the associate. Firms should encourage associates to undertake fundamental business development activities apart from the work that partners assign to them. This requires a development plan to get associates into the public eye by writing articles and attending lunch or bar association functions, particularly when

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these things are done with established older partners. Associates should also be encouraged to do "blawging" (either individually or on behalf of the firm) and to contribute to client news updates.

THE VALUE EQUATION

Once you look at associates collectively as a business development resource for the firm, rather than a means to meet an immediate workload, the dynamic changes. It's no longer a matter of guessing whether there will be enough work for the associates to do. The more firms do to help associates undertake fundamental business development apart from the work that partners assign them, the more valuable resources the associates will become.

Firms sometimes are tempted to terminate associates that they presumably had good reason to hire in the first place. That not only is costly, but it also undermines the loyalty of the remaining associates. Is there enough work to justify keeping the associate? The answer must be "yes" because, despite firing associates, law firms continue to hire new law school graduates. And, if the answer is yes, the next question becomes: Does the associate's combination of skill and attitude demonstrate potential for career growth beyond the immediate hiring need? Skills are teachable; attitude is not. And when we talk skills, it's not just knowledge of the law – it's the ability to learn about "The Business of Law"®.

THE REAL SOLUTION

The real solution is to hire an associate only when needed, and to make the most of the associate as a resource. If firms want to strengthen their performance, hiring the right person the first time for the right job will create more profits.

The most effective tool to do that is to provide education for those people to improve their skills, and then to involve them in the firm's financial and organizational life so that they understand and appreciate their roles and look forward to the future. It's no longer a matter of guessing what the partners are telling them to do – it becomes a process of understanding what they ought to do.

Lawyers who understand how to grow a career can better assess the value they provide to the firm, and better reflect it in their performance. They are prepared to become owners of the firm. And with such owners, the firm is better prepared to withstand any financial or economic shock. ❇

about the author

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