

Law Firm Leadership: A Unique Challenge

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BY ED POLL



Several months ago, press reports about a potential (and ultimately unconsummated) merger between two high-profile law firms contained a startling fact: The managing partner of one firm had logged 3,300 billable hours in the most recent calendar year, while the managing partner of the other had not practiced law in more than a decade. The disparity in management cultures may not have spelled the end of the merger idea, but it does reveal that law firms approach firm leadership differently from other business organizations.

It's difficult to be a "worker" and a manager. All executives in corporate America had some kind of operational position before they became CEOs – and all will agree that once you become the leader of the company, your old job has to be given to someone else. Lee Iacocca stopped designing cars when he moved into top management of Ford and then Chrysler, and Bill Gates long ago got out of a software oversight role at Microsoft. Are law firm leaders truly that different from either of these examples?

Law firm leadership is a different undertaking because it involves so many aspects that are unique to a senior lawyer's role. Organizational fundamentals, ethical responsibilities, partnership needs, and client service requirements are all unique to the law firm setting. A look at some of the issues underlying these elements points to the inescapable conclusion that law firm leaders really do constitute a different breed.

ORGANIZATIONAL FUNDAMENTALS

In today's larger law firms, one finds management efforts being split. There may be a COO (usually a non-lawyer), a CEO-Managing Partner (and Chair of the Management Committee), and then sometimes a Chairman of the Board (usually a former CEO-Managing Partner). If the Chairman of the Board is an "emeritus" position or a position with specifically designated responsibilities, this division can work well. However, if there is the expectation that the CEO is the primary leader while there is another ego-bound lawyer acting in a leadership role as Chairman who conflicts with the CEO, the firm can experience chaos and difficulty. Clear lines of leadership are inseparable from effective functioning of the firm.

The leadership structure of any law firm should be considered carefully and changed to meet today's sophisticated needs.

As noted earlier, many lawyers who manage their law firms – whether those firms have only a few lawyers or several hundred – still have billable hours. Often this is because they don't get paid for also taking on management roles. How to compensate lawyers for this when the firm's primary focus is on billable time is a major issue. Add to that the reasoning in the U.S. Equal Employment Opportunity Commission's recent age discrimination settlement with a major global law firm – that older lawyers who were forcibly retired were actually employees under federal law and partners in name only because they had no voice in the firm's management. The rationale was that, at this and other large law firms, governance was with a very few in the organization ("the management committee"). The remaining "partners" thus become de facto "employees," not owners. The result is a "catch-22," as leaders – in the eyes of the law – may not get paid for filling that role in the firm.

THE ADMINISTRATOR'S ROLE

In many firms, of course, there are paid administrators who are responsible for accounting, human resources, and other vital functions. Often such a person will report to a senior lawyer in the firm – such as the CEO or the Managing

Partner – but the reporting relationship is less than ideal. Most lawyers/law firms as employers act on the premise that all non-lawyer administrators, including such senior managers as the Executive Director or COO, are servants to the law, and that diminishes the senior administrator's effectiveness. Two prerequisites should help to define the senior administrator's role in order for the firm to get the most benefits:

- A written statement can define the administrator's lines of reporting and communication, and the method for evaluating the administrator's effectiveness. If there are organizational criteria for success (profits per partner, revenue growth, number of clients, etc.), it must be clear which ones are considered to be within the administrator's control and which ones are not.
- A clear understanding of organizational roles and responsibilities must be articulated. Typically this will mean that the senior administrator is responsible for profits, organization, and efficiency, while senior lawyers – the individual Managing Partner or CEO, or the collective Executive or Management Committee – are responsible for the firm's overall strategy and future growth.

Formally defining an administrator's responsibilities, however, represents only half of the job. The other half is to have continuing dialogue and evaluation that allows for reinforcement, modification, or expansion of responsibilities as the firm's circumstances, performance, and expectations

hours, and that he or she will be available to meet with the administrator for no less than two hours once a week.

ETHICAL RESPONSIBILITIES

In law firms with compensation systems that reward individual performance, most lawyers do not pay attention to management issues. They tend to be focused only on rainmaking and their own billable hours. However, a lawyer's responsibility for his or her firm is magnified by the requirements of rules of professional conduct. These often extend well beyond the basics of individual ethical practice.

In California, for example, State Bar Rule 5.1 provides that partners and other lawyers with managerial authority in a law firm must take reasonable measures to ensure that all lawyers in the firm conform to the Rules of Professional Conduct. The rule further provides that lawyers who have managerial responsibility within a firm are *personally* responsible when other lawyers in the firm under their direct supervision violate the Rules. This leaves a lot of room for error by others ... and personal responsibility for the firm's leadership. If firm leaders still focus mostly on rainmaking and their billable hours, they may not be paying proper attention to catch the errors of others – and that creates governance problems that are at the heart of many disciplinary actions and malpractice lawsuits.

PARTNERSHIP NEEDS

"Firm culture" is a primary determinant of firm success. People must like the work they do and those with whom they

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evolve. The best way to achieve this is through formal procedures – for example, that the senior lawyer will respond to an inquiry from the administrator within 24

do it. Lawyers who are members of the same firm should share a camaraderie that shapes a shared firm culture. Law firm partnerships cannot succeed without communication and

planning that begin with the firm's leaders. The primary rainmakers of the firm, the management, and managing partner all must be in concert to shape and direct the strategic plan. If the partners are not clear about the overall goals as well as specific objectives and strategies, and if the firm's leadership does not abide by what is agreed to, then the plan will be sabotaged and become useless.

The most important function of all law firm leadership is to facilitate continuous communication that ensures individual agendas continue to synergize with each other. In divorce practice, lawyers frequently hear the complaint that "we grew apart." This results from the failure to keep communications open and candid as time passes. Law firms are subject to the same need to keep the communication process open, candid, and frequent.

CLIENT SERVICE REQUIREMENTS

Perhaps the biggest challenge of law firm leadership is in transitioning client responsibility as leaders get older. A law firm can create a huge competitive advantage for itself by proactively encouraging succession of clients from firm leaders to younger lawyers as the older lawyers age. Senior lawyers should remain engaged in the firm, continuing to bring in new business, but without the fear of financial loss before they are ready to step away from active practice.

The team concept is one of the best mechanisms by which more lawyers can become firm leaders. Teams encourage succession of clients from rainmakers to younger lawyers and institutionalize the process of business development by facilitating cross-selling under the rainmaker/billing partner's direction. Ultimately, clients belong to the firm and not to the rainmaker – and making more lawyers leaders and rainmakers is ultimately in the best interests of clients and firms alike.

LEADERSHIP AND AGE

Implicit throughout this discussion is the idea that firm leaders are senior lawyers who inevitably age. According to a study by Altman Weil Inc., the closer to retirement a lawyer gets, the more likely he or she is to oppose mandatory retirement ages. This seems particularly true for lawyers who have been leaders and rainmakers. Most firms, however, are not addressing this issue with urgency. In fact, firm representatives with whom I've discussed this

insist that their mandatory retirement ages will not change and that they still intend to de-equitize partners who reach a given age, usually between 62 and 70.

As the population ages overall, law firms need to find ways to help their senior leaders retire gracefully. Perhaps a forward-thinking firm will create an alumni club of retired partners similar to the formal alumni of associates created by some larger firms. Such mechanisms may help lawyers transition gracefully into their "second season" without facing the peril of de-equitization.

The leadership structure of any law firm should be considered carefully and changed to meet today's sophisticated needs. No longer can a large law firm – which likely is spread out across the United States or even the world – follow the relaxed country club model of firms from decades past. The larger law firm must have clearly defined roles of leadership – for lawyer managers and for professional administrators – and mechanisms by which leadership transfers. Failure to operate in this way results in poor economic results and unhappy lawyers.

If all members of the firm are not clear about the issue of transition, there is no real firm leadership – and ultimately there may be no firm. In this sense, then, are law firm leaders a different breed as contrasted to other business organizations? ♦

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