



LAW JOURNAL
NEWSLETTERS

LAW FIRM PARTNERSHIP & BENEFITS *Report*®

An **ALM** Publication

Volume 18, Number 1 • March 2012

DIY Mentoring

By Diane Costigan

No one should care more about your career than you do. It is difficult to be successful and reach career objectives in isolation. The help of others is needed along the way: to train, to advise, to motivate, to give perspective, to educate, and to interject healthy doses of reality. Unfortunately, this need does not change with seniority — particularly because goals get set higher and usually require significant effort and energy. Mentors can serve any or all of these roles. In fact, similar to financial investments you will want a well-diversified portfolio of mentors who can contribute to your career in different ways depending on your goals.

Mentors are not, however, panaceas for all career woes or facilitators of all aspirations. No one should care more about your career than you do. Not even a mentor. If any of these people care more about your vocational plans than you do, you are in for a very unsatisfying career. Similarly, if you are waiting for a mentor to create an opportunity, you may be waiting a long time — especially if you have not asked for it or shown what role you can play in helping to get it.

YOUR CAREER TOOLBOX

Mentors are an important tool in your career toolbox. Hammers, for example, do not pick themselves up and start

continued on page 8

A New Philosophy for Managing Partners

By Joel A. Rose

An astute lawyer-manager must achieve the appropriate balance of building consensus among the partners versus managing as an autocrat.

Countless law firms, large and small, are questioning long-standing views about firm management and structure. Yet the sources of their concern are not new. After years of analyzing the personal and professional styles of lawyer managers in successful (and not so successful) law firms, three inescapable conclusions are readily apparent:

1. The authority of lawyer management is derived from the willingness of partners to be managed;
2. Partners in most law firms perceive themselves as being owners of the firm, having certain prerogatives and independence, not as employees to be “managed”; and
3. Law firms have their own personalities and cultures; management techniques that may be effective in one firm may be only marginally effective or even unsuccessful in another.

WHY A MANAGEMENT PHILOSOPHY IS NEEDED

One of the most basic tenets of law firm practice is that joining together will achieve benefits for each partner, which would be less possible if he or she were to practice individually — *i.e.*, income, workload, coverage, ultimate withdrawal benefits, and similar considerations. To obtain the benefits of an organized practice, law firm leaders need to know that individual lawyers will subordinate their individual judgment to a select few, however chosen, in order to allow for a comprehensive and more holistic oversight approach to firm management. Absent that mindset, management will have a difficult, if not impossible, struggle to succeed.

Since philosophical cohesion is a prerequisite to effectuating a structure by which partners will agree to be bound, great care must be taken: 1) to

continued on page 2

In This Issue

A New Philosophy for
Managing Partners... 1

DIY Mentoring 1

Disparate Impact
And the ADEA 3

Compensating
Transition 5

Compensating Transition

Business Transition in a Post-Unfunded Liability

By Joseph B. Altonji

Sometimes it seems like you can't win. Law firms spent the better part of two decades effectively extricating themselves from unaffordable, life-threatening unfunded retirement packages during a period of constantly growing business, only to find they have few if any financial mechanisms available to incent retiring partners to actually transition their clients to the next generation, prior to retirement. Not that most firms were particularly good at linking unfunded deferred compensation to transition, but in theory, at least, you could. But now, at a time when it appears a permanent buyers' market has set in and the market is growing slowly if at all, retaining clients through partner transition is ever more critical. And most firms are woefully short of actual tools to encourage such transition.

PAY LIP SERVICE TO TRANSITION TODAY ...

A limited number of "institutionalized" law firms — generally among the highest regarded and well-established firms — have effectively grown up with client transition principles as part of their cultural DNA. And for these firms the clients are as often "clients of the firm" as clients of partner X. But for the vast majority of commercial firms, including virtually all mid-market firms, clients are far more attached to the individual than to the firm. At least most of them are. And while most of these firms have a stated objective of

ensuring a smooth transition of the clients of retiring partners to other partners of the firm, that stated objective unfortunately tends to be the beginning and the end of the firm's involvement in the process. As a result, while successful client transitions take place, they are almost always because the individual partner wanted them to occur and behaved in a manner that would encourage the transition, irrespective of the efforts of the firm itself. Worse yet, in many cases the actual policies of the firm work against client transition rather than in its favor.

The core challenge on this front is the compensation system. Most firms drive the bulk of their com-

The first step is to assure that the process begins reasonably in advance of the expected retirement date of the partner.

pensation from two key productivity factors, namely "origination" (a.k.a. some measure of the partner's contribution to the client base) and "working attorney fees" — the amount of cash produced from the partner's own efforts. While many other factors are and should be considered, these two are the dominant factors and the ones that most affect behavior. This may be fine for most of the partner's career, but has an obvious impact on the motivational structure of the partner approaching retirement.

To ask the obvious: How can a firm expect a partner to transition clients if it continues to pay him or her based on maintaining control over those clients and personally doing as much work as possible? Interestingly, these factors are less determinative with truly major rainmakers. Those lawyers cannot function without integrating significant and high-performing partners into

their client relationships. But for the vast majority of valuable law firm partners — e.g., those with \$1-3 million of "portable business" — this motivational structure is determinative and ironclad. As a result, the tendency is to get partners who will only attempt client transition when: 1) they have secured their own permanent financial independence; and 2) they are absolutely sure they want to retire within a couple of years. Not surprisingly, many never quite get around to it.

TO CHANGE THE OUTCOME, CHANGE THE DYNAMIC

We are not recommending a return to unfunded retirement plans and all the dangers they presented, although there are some clear advantages to having the ability to link future compensation to successful client transition. (Few of the old unfunded approaches actually did that, although we do recommend that those few firms that still retain such approaches at least firmly link those plans to client transition.) There may come a time in the future where different ownership structures, notably public ownership concepts, may provide stronger tools, but for now we need to work within the current economic models. We believe a financial mechanism combined with a different set of expectations for partners approaching retirement could increase the probability of success.

The first step is to assure that the process begins reasonably in advance of the expected retirement date of the partner. This has become increasingly problematic as firms back away from mandatory retirements and many partners have chosen to extend their working careers beyond "normal" retirement ages due to recent investment market conditions. In addition, the process needs to get started before the partner's client contacts retire, in effect allowing the firm and the client to transition together. To this end, we recommend that law firms begin to think differently about anyone within a limited number of years of

continued on page 6

Client Transition

continued from page 5

normal retirement age, irrespective of whether that partner is likely to retire at age 65 or not. Transition takes years, not days, and by age 62 all partners should be working with their clients with relationship transition as a primary goal. But how can the firm encourage such an approach? Meeting with the partners starting at a specific age, requiring “plans” and the like are all elements of a successful transition approach, but in the end you also need to realign financial incentives to create a supporting structure for your efforts.

How can this be done? The specifics will vary from firm to firm, and sometimes from partner to partner, but several general concepts have a role:

- For partners with a reasonable client base, billable hours and personal revenue generation need to take a back seat to client transition. Formally dropping or lowering billable hours expectations without dropping compensation tiers is a good initial starting point. Occasionally you even need to go so far as to formally limit the number of hours a partner can bill before he or she incurs a negative impact to compensation.
- Next, emphasize firm client transition rather than revenue generation. \$1 million of reg-

ularly occurring, completely transitioned work is worth far more than, say, \$3 million of one time, ephemeral work, all other things being equal.

- Create confidence that the partner will not be “working himself out of a job” — a hugely sensitive issue for many, even if rarely discussed directly. While the firm cannot realistically hold on to people long after they stop working, it can create assurances that there will be a place for them for a reasonable period after successfully transitioning clients (with meaningful things to do.) For example, perhaps the firm could commit to allowing a partner to continue till 68 with a reasonable compensation package, in return for successfully transitioning his practice between ages 62 and 65?
- Create alternative value propositions for senior partners. For someone who has had a successful career of developing clients, perhaps their post-65 career could be focused on developing (and working with) new clients on the condition that they are immediately “transitioned” to younger partners to manage and care for, with a compensation package that looks the same as it would if they maintained control? Or even better, pay them more for turn-

ing over the clients than they would earn for “controlling” them. The key here, though, is real transition, not simply listing them on someone else’s client sheet.

Although these concepts are somewhat general, they can be applied in most firms with some modification of the underlying partner compensation structures. The keys to success include: 1) recognizing the needs and desires of the partners involved and working with them to assure that their needs are met rather than just the firm’s; 2) creating a sense of personal safety that allows the partner to actually transition their clients without losing their personal security blanket; and 3) creating alternative opportunities for the partner to make valuable contributions in the latter stages of their career, without the need to hold tight to long-term relationships. If these concepts are incorporated with active leadership engagement in the process, the probabilities of success increase dramatically.

CONCLUSION

Client transition is never easy, but the way most firms approach the subject reduces, rather than increases, the likelihood of success. Given that new work and new clients are extraordinarily difficult to obtain in the current environment, paying better attention to retiring partner transition can be one of the most important things a firm can do to ensure its long term client base.

—♦—

Managing Partners

continued from page 2

to structure, which must be made, include:

1. What exactly are the roles and responsibilities of the partners, managing partner, executive committee and department chairs?
2. How do they interact and what is the reporting responsibility of each to the other(s)?

In some firms, one partner assumes the leadership role naturally,

either because the individual is a founding partner or controls a significant client base. In firms where the partners are relatively young and inexperienced, however, this process of natural selection may be more difficult (if not impossible). In firms where no partner surfaces as a natural leader or no one wants the job, the firm must take aggressive action if it wishes to grow and satisfy its members’ professional, economic and personal objectives.

The firm must make some hard-and-fast decisions about the kind

of leadership required and what the members are willing to accept. Should a managing partner be elected by the general partnership? Or should this individual be appointed by the management committee?

Sometimes the firm’s size will preclude this particular dilemma. The

continued on page 7

**FOLLOW US ON
TWITTER!**

http://twitter.com/ljn_online