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What Course When the Economy is Tight?

Addressing Critical Issues in Attorney Staffing, Planning, and Management is an Absolute Must

By Susan G. Manch

The legal employment landscape continues to mirror the nation's economic fortunes. This past year we watched as the list of law firms laying off attorneys got longer and longer. Corporate layoffs were coming in waves of tens of thousands and in comparison, law firm downsizing looked reasonably tame. But to a new graduate or experienced attorney looking for work, the legal market looked rather bleak. The Summer Associates of 2001 found that five percent fewer received offers than had done so in previous years (*National Association for Law Placement*). This spring, only a few firms are hiring with any real enthusiasm and then only if you have a top law school, the best grades, perhaps *Order of the Coif*, a Federal clerkship, or were articles editor of your law review. Rather than graduating or firm-hopping to join the world of "greedy associates" who demanded and received dollars and perquisites, the end of 2001 and the beginning of 2002 have found many attorneys looking at severance agreements or rescinded offers. It feels as if we have returned to the recruitment scene of the early 1990's.

Attorneys are leaving law schools, beleaguered firms and investment banks, and failed dot coms looking for employers who may offer better opportunities. Yet even firms who appear unaffected by the economic downturn are faced with staffing challenges as they try to predict long-term need in an uncertain economy while staying profitable and productive. With the demand for legal services peaking a little more than a year ago and normal attrition rates slowing to a standstill, many firms find themselves with too many and not enough work to go around. Many firms have decided to freeze salaries and put newly sharpened teeth into their performance review processes.

There are some firm partners and administrators who may feel tempted to gloat just a *bit* at the associate attitude adjustment. This highly compensated group of junior attorneys has shifted from an aura of entitlement to an attitude of dread—waiting to see what will happen next. Yet, most legal employers recognize that the attorneys' problems are theirs as well. There are critical issues to address every aspect of attorney staffing planning and management. In fall 2001, everyone was focused on summer associate recruitment for 2002, but they didn't forget that this group would also constitute their incoming class of 2003. They have to try to predict the future to ensure that they will have a large enough pool of talented entry-level attorneys to choose from among when the time comes. Staffing levels among current firm attorneys continue to need attention, as well. With normal attrition slowing, firms need to be able to identify top performers and those unlikely to succeed as quickly as possible. And no matter how many attorneys the firm brings in or keeps, there has to be attention paid to crafting a plan for their professional development. Entry-level recruiting, ongoing associate evaluation, and comprehensive attorney development planning are tasks that must be accomplished no matter what the economy is doing. The following are some of the most critical issues for consideration as legal employers address staffing concerns in this environment.

Entry-Level Recruiting

To stay at the top of the entry-level recruiting game, you would ideally have a crystal ball that affirms how many new associates you will need in 2003. While most firms approached last fall's on-campus season with newfound caution, it was tough to read law students' mood. Most firms were wary of high acceptance rates, and the season proved those fears were warranted for many firms. At the same time, they had to try to make certain that they will have the attorneys they need in the practice areas where there is client demand. Assuming you are not omniscient, you can dust off the crystal ball somewhat by following these strategies:

- Assess whether you made offers only to those students who have the abilities, attitude, and personality that spell success in your firm. This is not the time to take candidate evaluation lightly.
- Be ready to measure summer associate practice interests this year. Firms say students were cagey about their practice interests in the fall 2001 interviewing process. Those who chose areas that don't reflect their real practice interests because they were more vibrant are not likely to succeed in them long-term.
- Plan a summer program focused on core skill development. Identify the key skills needed by first-year associates and develop a plan to communicate them to summer associates—both through their assignments and in their training programs. Commit to getting this class off to a productive start and let them know exactly what will be expected of them.

Managing Current Staffing Levels

As attrition slows, your firm may be faced with having more attorneys than you need in some areas. Too many laterals hired in haste, offers extended to those whose qualifications were not a match, and non-performers carried too long are all staffing burdens left over from the boom. Many firms have depended too heavily on the passive choice of letting attrition correct staffing levels. In a down market, attrition will slow to a trickle. The only attorneys likely to move on are your best people. It is critical to take control of the process that determines who will progress and who might be more successful elsewhere. Implementing a plan to assert control over that process involves the development of specific performance standards, as well as meaningful evaluation policies and processes. Examined critically, most firm evaluation processes do not do the job they are meant to do and certainly do not provide a benefit that is in proportion to the attorney time spent on them. Consider these steps:

- Make sure the evaluation process is appraising those skills, behaviors, and personal qualities that are critical to success in your firm and in the attorney's specific practice area.
- Reinforce the importance of candid and frequent feedback for associates with all supervisory attorneys and make certain all associates understand the performance appraisal process.
- Consider implementing a plan to retool talented attorneys to take on work in areas that are busier. It allows the firm to make the best use of the time and resources invested in an attorney's training and development, while recognizing an individual attorney's past contributions.
- If termination decisions must be made, plan all the details (deadline, severance, benefits, references, availability of e-mail/voicemail, outplacement support, etc.) in advance to be certain that it will be handled humanely, fairly, and professionally.

Improving Performance and Productivity

As work slows in some practice areas, skills and knowledge can begin to atrophy if not carefully managed. Thoughtful assignment management is critical to spreading out the available work and maintaining an awareness of experiential gaps. To make the best use of your current attorneys, you must ensure that they are developing the skills and knowledge they need to be productive. Managing the number of hours billed is only the beginning. Firms must take a comprehensive approach to attorney professional development that links training with performance standards and the application of those standards in an evaluation process. By identifying and communicating common standards of performance for associates at varying levels of experience, firms are building a foundation for truly managing attorney development. Ways to get started include these:

- Have each practice area identify the core skills necessary for optimal productivity and long-term success in their area. Also have them describe how these skills evolve as the attorneys become more experienced.
- Once the practice areas have identified their core competencies, the criteria necessary to maintain the overall firm culture should also be considered and added to the practice-specific factors that will be measured to determine progress.
- Take a hard look at your evaluation system—determine what it really measures and whether it is providing you with benefits that are equal in proportion to attorney time spent.
- Use evaluation policies and processes to provide clear indications of the firm's performance expectations at all levels of seniority. "No surprises" is always the best policy when it comes to attorney evaluations.
- Make associates accountable for charting their own development. Have them draft professional development plans for the coming year that identify training or experience needs and professional goals.

It may continue to be difficult to manage the attorney resource in the coming year, but strategic planning that addresses the recruitment, evaluation, and professional development of the firm's attorneys should mitigate some of the damage. The market can turn on a dime, and has. The Law School Admissions Council reports that the number of LSAT takers is up by 23% as of October 2001. Law Schools are reporting record numbers of applications from highly qualified students. As the rest of the nation experiences a so-called "jobless recovery," law firms will always need to replenish their valuable resource of talented attorneys. To manage that recruitment and retention effort, the best strategy for legal employers today is to have one (a strategy—that is).

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