

ASSOCIATE RETENTION: MAKING A CASE FOR A SYSTEMS ANALYSIS

By

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The newest hot topic in attorney management circles is retention. A chorus of growing concerns about the retention of law firm associates has arisen over the past two years. Probably the truest comment that can be made about attorney retention is that no one factor operates alone to make associates want to remain in their jobs. The difficulty in addressing morale issues and the distressing attrition rates among mid-level and senior associates in law firms is trying to identify the cause and effect relationships that lead to the decision to leave.

There are, however, a number of common sense approaches to examining the situation and beginning the process of creating a work environment that encourages attorney retention. The process begins with a look at some basic questions.

WHY ARE ASSOCIATES LEAVING?

First, why do attorneys leave their firms? While each attorney has her/his own reasons for leaving and each firm has specific issues that contribute to attorney decisions to leave, four basic issues are the most common.

- Associates have a desire for a better balance between work and the other parts of attorneys' lives such as family, hobbies, community, or other activities. The current generation of new associates set a high priority on balance.
- Associates are unhappy with the substance of their assignments, the focus of their practice, or the level of hands-on involvement available in the matters on which they are working.
- With changes brought about by a shifting market for legal services, many firms take a very conservative approach to offering partnership, leading associates to have some valid concerns about their future.
- Their practice area is on the wane and they are looking for a opportunity to retool and pursue other aspects of their legal talent.

WHERE ARE ASSOCIATES GOING?

Second, we must examine where they are going and what is drawing them there. It appears that much of the current rash of law firm attrition has benefitted corporate legal departments. Other popular employers include boutique firms and public service. Focusing on in-house jobs, what do associates believe they will find with a corporate legal employer?

- In general, corporations offer regular hours (usually predictable and/or shorter) and more flexible work options. Many corporations are more "family-friendly" in terms of leave arrangements and flexible work options.
- Corporate management structure allows attorneys to aspire to a variety of management and leadership roles in both the legal and business divisions.
- Corporations are not law firms. Some attorneys have such bad experiences as junior associates in firms that they believe all firms are alike and would not consider working in a firm.

IF ASSOCIATES STAY, WHY?

There is no doubt that a law firm is a unique working environment that requires a high level of commitment, motivation, and drive. What are the key elements that keep attorneys motivated to stay in law firms?

- Earning power at firms is significantly higher than in any other legal employment venue and law firm partnership is still considered one of the most prestigious positions one can hold.
- In general, law firms regularly handle the most challenging legal work and have the greatest resources to support the attorneys in the performance of their work.
- Law firm partnership can allow for entrepreneurial expression in an environment of shared risk. In addition, there are opportunities for getting an unusual combination of marketing, leadership, and management responsibilities within the firm.
- Law firms offer a higher level of substantive training and development than most other legal employers, both formal and informal.

A CASE FOR A REVIEW OF FIRM SYSTEMS

Having identified some issues that appear to be key to the decision of stay or go, how do we maximize the likelihood that attorneys who are valued by the firm will stay? In order to begin to address the problems, it may make sense to analyze the **firm systems** in place that affect associates. Firm management systems provide the framework within which firm management philosophy is communicated. Crucial systems to look at include the following:

Financial management
Compensation/benefits/bonuses
Recruitment of legal personnel
Training/Development
Performance Appraisal/Feedback
Marketing/business development support
Termination/transition support

While this may look like a laundry list of systems, each of them affects the retention of valued employees in its own way.

Financial management: In recent years, attorneys have watched law firms fail because of poor financial management. A firm's financial standing and strategic plan for the future (or lack thereof) clearly has an impact on whether or not an attorney sees a future for him/herself in the firm.

Compensation/benefits/bonuses: This is one area that most firms have addressed in order to remain competitive. However, the concern becomes the way in which compensation decisions are made after the initial hire. Associates want to feel as if production and the quality of their work are being rewarded, rather than seniority.

Recruitment of legal personnel: Retaining good employees begins with hiring good employees in the first place. Using the appropriate selection criteria to evaluate attorney candidates in the hiring process is the structural underpinning for successful recruitment.

Training/development: New associates need guidance in basic legal skills. Mid-level associates need hands-on experience and in-depth skills training. Senior associates need to begin to hone skills for partnership, such as management and business development. Junior partners need to keep up their specialized skills and manage their developing practice. Senior partners need to stay current in their legal skills continue developing strategic management skills for firm governance.

Performance appraisal/feedback: Often attorney evaluation systems are used only for the narrow purpose of "weeding out" the attorneys who are not developing as hoped. A good evaluation system can provide the structure for informal and formal feedback among partners and associates, for early recognition of developmental problems that can be addressed with training, to recognize spectacular performance, to encourage the development of necessary skills through the criteria chosen, and it can ensure that expectations for attorney development have been communicated.

Marketing/business development support: Most attorneys have not been trained to market themselves or their practices. A strategic marketing plan and a support system for marketing and business development can allow attorneys to develop the skills necessary and focus the collective energy of the firm at all levels.

Termination/transition support: There will always be attorneys who leave the firm for a variety of reasons. Badly handled terminations can create an atmosphere of fear and concern. Transitions in which attorneys are offered support and allowed to retain their dignity pay huge dividends in the retention of other attorneys.

THE PHILOSOPHY BEHIND THE SYSTEMS

Analyzing the impact of firm management systems is the beginning. Since these systems provide the framework through which the firm's philosophy of management is communicated, the way in which firm systems support or hinder attorney performance can support retention or encourage attrition. Some examples of creative approaches to applying supportive attorney management philosophies to law firm management systems are as follows:

Determining predictors for success: Developing specific selection criteria to be used in all phases of recruitment can be accomplished by looking inward to ask "who is successful here?" "What characteristics do they share?" "Which attorneys are most likely to enjoy our firm's work, culture, and rewards?"

Recognizing and rewarding a wide range of contributions: The primary concern of most associates is "How am I doing"? Whether through informal feedback on an assignment well done or by a mention in the firm newsletter of a newly published article, firms can use a variety of means to create the feeling that associates who work hard, commit themselves to the firm, and produce consistently are recognized by firm management.

A desire among the partnership to commit to and be accountable for new attorney development: Mentoring and coaching often get lost among the day's many demands. The traditional apprentice-master relationship has been lost in many firms and attorneys feel its loss--both for the training potential and for the relationship that grows between the senior and junior attorney.

Providing multiple pathways to success: Associates are sometimes faced with family or other responsibilities that take them away from the traditional partnership track. Having alternative opportunities for success available encourages long-term commitments.

Creating an environment that encourages communication and personal interaction: One thing we do know makes people stay in jobs is a "feeling of connectedness." Achieving this involves participative governance, formal and informal feedback, social activities that promote informal interaction, and a general atmosphere that recognizes the common human need for feeling a part of a whole.

Belief in utilizing every attorney to the fullest of his/her abilities: The future of certain practice areas may mean the development of in-firm training programs that allow associates to retool. Because of the cyclical nature of the legal job market, there will always be gaps in varying practice groups and firms that utilize internal talent resources will be maximize the return on their investment.

Retention of valued associates will remain a key challenge for all growing law firms. A systems analysis can yield a broad range of information for a firm to use in addressing morale or attrition issues. Each firm will be different, but the process begins with asking questions about why associates leave your firm, why they stay, and how firm management systems affect those decisions. Patterns will likely emerge that will suggest logical next steps for improving the retention and morale of associates.

WHERE DO WE GO FROM HERE?

Some examples of things that firms are doing to encourage retention of valued attorneys are as follows:

One firm has a program that allows a six month paid sabbatical to rest, regroup and refresh after five years as a partner, ten total years at the firm.

Another firm involves junior and mid-level associates on key management committees to encourage early investment in the firm goals and to foster a clear understanding of the direction of the firm.

A firm offers a one year pro bono fellowship for mid-level associates who are yearning to do something that is public service oriented, but need to earn a firm salary.

Several firms are experimenting with developing criteria for success to be used in both the recruitment effort and in performance appraisal.

A mid-western firm does comprehensive exit interviews to determine the causes for the attorney's departure.

Several firms offer regular social events that involve the whole firm. They run the gamut from a formal annual retreat to informal "movie night" entertainment.

In one firm, the partner who supervised an associate when they were summer associates remains that attorney's assigned mentor for the associate's first year.

A firm offers mentoring opportunities to law students at a local law school, partnering with the law school placement office to provide an on-the-job look at life in a law firm.

Several firms have developed "counsel" positions that allow senior associates to stay in the firm and yet have a title and salary increase.

Some firms are trying job-sharing arrangements where two attorneys work in place of one, sharing the work load and clients.

An ever-increasing number of firms are providing on-site day care; some even offer sick care for the children of employees with an option for late hours care in an emergency.

Many firms have adopted a parental leave policy that allows for men and women to take paid leave upon the birth or adoption of a child.

Several firms have begun offering full benefits to same sex partners of attorneys in the firm.

Many firms offer outplacement career counseling to associates and partners who have been terminated, which is tangible support for each attorney through the transition process.

Firms offer employee assistance programs that address substance abuse problems, mental or physical illness, or other concerns.

A few firms have a rebuttal system built in to their evaluation system so that the attorneys comments are always heard as a part of the process.

One mid-Atlantic firm has built a health club in the basement of their facility and encourages attorneys to devote time to an exercise regime as well as providing a forum for informal interaction.

There are lots of innovative ideas. Retention can be achieved through any number of means and firms have to decide which ideas most appeal to them and fit their culture. However, the basics have not really changed: hire the right people; give them the means to succeed; pay them well; provide continual sources of feedback and development; promote them when they deserve it and you should have an employee for life.