Solving the Retention Crisis

Alternatives to Throwing More Dull Money at a Generation Hungry for Challenges

Few statistics worry today's law firm leaders more than their attrition rates. And they are quick to point out that the market for talent is as competitive as the one for client work. Some would say that the competition is not for clients, it's for talent: Find the right talent and the clients will follow.

One is inclined to point out that firms seem to gravitate to the same mistake in both markets: going out of their way to lure new talents / clients into their stable, but starving the ones they already have.

"Everybody's numbers are bad," they say.

Well, that's not quite true. Some firms' attrition rates are not north of 19% annual attrition, but – point taken – those firms are different in many ways and in this article we will show just how different they are.

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What factors cause or hinder progress on the retention issue, and how can they be eliminated? What alternatives could firms use to retain their talent? This article will elaborate on these two aspects. But be forewarned: it will conclude with no quick-fix recommendations.

Breaking the Compensation Spiral

It always strikes us when working with client teams how quick law firms are prepared to offer a break on fees with dissatisfied clients. What loyalty does that create? And what expectation does that set? The same can be said of retaining talent. Market leaders announce pay hikes for newly qualified lawyers every year; subsequently they adjust their pay scale on the associate ladder – until their highest paid associates' salaries overlap with the draws of the bottom tier of partners. This practice has been going on for so long that associates now expect the pay rise. If it does not happen, they interpret it as a sign of frailty or disapproval, and get ready to leave for those firms who continue to play the pay-hike game.

Those who want to break away from this vicious cycle need to demonstrate to their associates what makes the firm different: what are the reasons for them earning a few percentage points less in pay, but by getting a bit more of something else? The associates will demand the same pay until they see that there is a difference – not just talked about, but experienced. Why should I believe that I have more chances to make partner here, if your promotion ratio is no better than at the sweatshop next door? Why don't you show me the strategy document that says the partnership does not want to lock up equity the way other leading firms do? Why does the partner with whom I work do nothing about helping me get better while the guy down the hallway spends half his day challenging his associates? Why does the firm advocate part-time possibilities without losing the opportunity to stay on the partner track, while my partner tells me that she did not get that chance so why should I? Tell me, firm, why should I not demand more money when I cannot trust a single reason for accepting a cent less than my friends who work in other firms?

Conclusion: Your firm needs a very clear message about its unique offering to its talent; and this message must be backed up by substantial facts and enforced practices (not policies, practices).

Breaking the Glass Ceilings between Ranks

One characteristic to professions is their rankdriven organisational hierarchy. Unlike the corporate world that has a much more intricate system of internal differentiation, law and other professional service firms have professionals as owners, professionals who are potential owners and employed professionals in various disciplines (finance, HR, IT, marketing and management) who are often incorrectly referred to as "non-professionals." Over time, variations such as the dual-tier structures in the partnership as well as so-called intermediate positions between associate and partner ranks emerged. "Non-professionals," often with a lot more professional experience than many of the firm's partners would join the firm, operate with formidable titles and take home substantial incomes. But they remain employees; they are "management support" and as such will never be members of the club called partnership.

There are two glass ceilings that need to be broken. The first is the one between partners and associates. It is driven by an antiquated concept of master and apprentice. It is not uncommon that a US associate with 7 years of experience in highly sophisticated transactions finds himself with a continental European partner of her firm, for example, who has worked only 6 years as a lawyer and has a fraction of her experience in transaction management. The difference between the two ranks presumes that one has to be a business manager (or leader, if you prefer that term) who makes decisions while the other executes them.

Often partners ignore their associates' management potential – at their peril. Law firms that come to grips with this inefficiency by shunning the invisible wall between the ranks benefit from associates taking ownership for issues of the firm. Firms that tell their associates to act like partners, and then treat them like employees will fail. Firms that ask their associates to act like owners, and then treat them like they are, are already winning today. This not only raises the firm's competitiveness level, but it will also create loyalty among the younger professionals.

The second glass ceiling is the one between professionals and "management." Few lawyers in US firms dare to migrate across this dividing line as they may not have a practice left when they return. Thos who do take on management roles do it at great personal risk. Most management functions are staffed with nonlawyers and are thus considered "support." This reinforces a feeling of us vs. them also expressed in a frequent partner view that: "They are overhead that we have to carry." It follows quite naturally that an associate would never conceive a stint outside of legal practice and in firm management. Nothing could kill partner prospects faster. We argue that the opposite should be the case: non-chargeable roles should be a mandatory part of the partner track. But that won't happen until the firm believes (and demonstrates) that it doesn't just value chargeable work.

Conclusion: Your firm needs to open up issues of practice and business management to the rising professional stars; and its systems, such as partnership criteria and compensation must support the migration between the various ranks and roles within the firm.

Challenges at Work

The well analysed generations X and Y are not lured by money in the way the baby-boomers were. Yes, they will take it and measure their success by it, if that is the only measure available. But what they are really after is challenges that give meaning to their life. Let's for a moment assume that your firm did not want to lose 19% or more of its associates every year. What environment should the firm create, which allows for these challenges to occur?

Shockwaves for the Learning Curve

Most firms say they understand professional development. They introduced appraisals, 360 reviews, in-house universities. All fine and well, but they do not attack the real problem: 90% of learning happens on the job. That is why 90% of resources should go to making those responsible for training on the job do their job right. That principally has two components: One is the work assignment (short-term) as well as career planning (long-term). How disciplined is your firm at making sure its associates don't meander on the plateau of their own learning curve? This requires real processes for assigning the right people to the right work – not in which they are experts already, but in which they would learn most effectively. The other component is the interaction on the engagement between the individual that is to learn and the person that is to help / assist in the learning process.

How much money does your firm spend on improving your partners' ability to help associates learn? And how consistent is the effectiveness of that learning experience across your entire partnership? Unless you belong to the handful of firms that work on this with rigour, our guess is that the median partner in the top quartile is about 10 times as effective as the colleague who represents the median of the bottom quartile. When do you start addressing that performance delta?

Splitting the Baby

Part-time work in a leading law firm is impossible, right? Family life and professional career is irreconcilable, correct? Well, maybe we should explore just once more why that is. Client demands. No, clients are actually quite used to not getting access to, in particular, partners. That is why they increasingly want to see some associate being the first – and permanently available – point of contact. Granted, part-time professionals could not occupy those roles, but they are limited. Work demands. This one backfires, unfortunately, because it can and should be organized. There are undoubtedly moments when transactions near their signing that require every team member's full attention. So, you cannot have anyone going home at 2 p.m. every day even if hell broke loose.

But what about the following job description: "You work on this assignment, which is expected to take 12 weeks and in which you are expected to be working around 280 hours. Together with the engagement leader you must decide from week to week how this time is best spent. You have the full support of the firm if changes to the planned schedule arise at short notice." You hear them say that they cannot predict workload? Well, they better start working at it, unless you are in a fortunate firm where clients haven't yet started to insist on estimates for matters given to the firm.

What it may require is a 180-degree turn of attitude of those that are least willingly challenged: engagement leaders, i.e. partners. It requires openness to experiment and willingness to learn. If they become accustomed to such work arrangements, the firm can do the rest to accommodate its people with an ambition to master the challenge of combining active family life with professional career prospects. Already today, the partners with the lowest attrition rates in firms with retention problems are those who changed the way they work with their talent – often without much support from the firm.

Do your partners really understand the issues? They can shut their eyes at the situation and hope it goes away, but it will haunt them sooner or later. How well are your partners prepared to create flexible work arrangements?

Missions into Management

Seven years on the treadmill, a solid productivity, a bright mind and you have reasonable chances of making partner. Then what? So as not to dump the associate who knows nothing much but billing in the deep end of the partner tank, law firms have come up with grooming processes. Two years before the Dday candidates are taken on a special track – with extra marketing training and induction courses on what it means to be a partner. Such measures are approved by the same partners who believe that all legal training is nonsense because their associates learn best on the job. So, shouldn't they learn management on the job as well?

We fundamentally oppose the predominant policy in the law firm world that associates should not manage projects, initiatives or even groups and teams that have nothing to do with fee-earning. In fact, we propose that no associate be considered for partnership that has not done at least one extended spell of no less than 9 months in a management function at the firm. That will not only hone his or her management skills when it comes to leading people and/or being entrepreneurial in developing the firm's client relationships, people or know-how, it will also deliver invaluable insights into the roles of management professionals in the firm which will aid this soon-to-be partners' understanding of the contribution that management staff can make to the firm's success.

When might your firm make such secondments into management mandatory? And how long will it be before all partners are asked to catch up by serving their own mission rather than just attending a fancy 5-day executive course tailored to the firm's needs by some fancy business school?

Conclusion: If you read the above, it will not surprise you that we see the key to solving the retention crisis as being primarily a change in the partners' mindset, expectations and behaviours. Only secondarily, it is the need for sophisticated practices within the firm to support the efforts of giving associates the challenges they seek. No easy task – without question; but nobody argued it would be easy. Proposals for such measures rarely have a chance of support if put before the general partnership. You must convince them – if need be one partner at a time - that the alternative is a worsening of the retention crisis with losing further good people, lots of partner profits and precious time – time that other firms are using to bring about the necessary change.

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