

Law Firms Must Rise to Meet New Challenges Post-Pandemic

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The business of law is built on the talent of its professionals. As we (hopefully) emerge from the COVID-19 pandemic, law firms are being challenged to protect this core asset. Like increased lawyer mobility of the '90s and during the 2007-2009 financial crisis, law as a business must find a new way to keep and retain talented young lawyers.

Prior to 1990, the business of law functioned much as it had throughout history. Young lawyers were recruited out of law school, came to a firm, worked hard to hopefully be promoted into the partnership ranks, then continued as an owner in the business until a client opportunity or public service (the bench or elected office) took them into the later years of their career. Absent a change in geography, movement among legal professionals was unusual and carried the risk of being labeled a firm hopper.

This would change as lawyers and law firms embraced lateral hiring—igniting the race for talent that had been previously cabined to law school recruiting. But the basis of competition was largely limited to compensation and promises of improved profitability or opportunity for promotion. The larger law firm lifer became more the exception than the rule and the spread of compensation information through the newly minted vehicle of the internet continues to drive this trend.

The Great Recession in the late 2000s presented yet another challenge to law firm leadership. But this time the change was fueled by client expectations and extended not only to law firms, but also in part to the way law schools prepare young lawyers.

Until that time, most law schools focused almost exclusively on legal theory rather than the actual practice of law. While there were trial advocacy classes, there was not a lot of focus at most schools on how to get a case from inception to trial. That type of practical training was traditionally reserved for a lawyer's first few years in practice, when the law firm would essentially offer on-the-job training in a variety of cases. This was where the young lawyer learned how to take a case from day one through discovery to the ever-diminishing prospect of a jury trial.

However, firms that withstood the Great Recession began hearing from their clients that they would no longer foot the bill for completing the education of these young lawyers. Some even refused to pay for first-year associates'

time on cases. To address this challenge to the traditional way of “finishing” young lawyers, firms along with the American Bar Association, turned to law schools to see if courses could be developed to help in producing more “road-ready” associates.

In this environment, my wife, U.S. Magistrate Judge Kimberly Priest-Johnson, was asked to develop and teach a pretrial advocacy course at Southern Methodist University’s Dedman School of Law, which I was fortunate to be asked to co-develop and teach. Much like existing trial advocacy classes, we employ both lectures and practical exercises to replicate the experience of taking a case from the day a client walks in your door through discovery and including dispositive motions.

In the end, students write and argue a summary judgment motion which they present in Judge Johnson’s courtroom. This provides the adrenaline rush of a first court appearance, while also teaching the logistics of where to sit, how to use courtroom technology and above all, the courtesy and respect to be shown the courthouse staff.

As we exit the worst of the pandemic shutdowns, lessons learned in courses such as this are invaluable, but law firms need to adjust as well to provide a new level of engagement for young lawyers and one that makes the relationship between lawyer and firm a more fulfilling experience. But how can this be accomplished?

- Meaningful case and client engagement. Associates are no longer as motivated by money or the promise of partnership, rather it is the need for fulfillment that comes from being vital members of the team and the firm. Direct engagement with cases and clients helps them form ownership of both, which brings a deeper and more consistent reward than just the ultimate winning of the case. Even small opportunities to argue hearings, take a minor witness, or do a deposition leads to a great level of fulfillment. Likewise, participation in firm leadership (e.g., associate committees, etc.) can complement the client/case engagement and enhance their overall engagement.
- Encourage self-direction/responsibility for the development of skills and expertise. Let associates know you will provide some freedom of choice over the subject matter of their work so they may take their career and skill set where they want it to go. This type of freedom and engagement leads to a belief that their relationship with the firm is not a one-way street. In addition to deeper engagement/investment in their work, it keeps the associate in “growth mode.”
- Educate and foster entrepreneurial aspects of law. Every successful lawyer is an entrepreneur, yet law firms do not do enough to teach how to be one. Firms not only need to foster an understanding of client engagement but associates also should be involved in client development. Training them in this crucial skillset will lead to a greater ability to develop their own clients. Like self-direction, this creates a “two-way street” relationship where the firm benefits, but the associate also experiences growth and investment in themselves.
- Use law as a social vehicle. Reinforce to new associates that they can use their law degree to make positive change beyond winning a client’s case and collecting a billable hour. A firm might allow self-selection of pro bono opportunities and offer billable hour credit for their work. Using legal skills in this way helps give younger attorneys a sense that what they do is meaningful beyond the walls of the firm or courthouse.
- Provide freedom to work in a way that best suits them, but with the understanding that it is neither in their best interest nor the firm’s, to spend years apart. Extended periods of remote work will stunt their growth and limit their familiarity with the firm and its leadership. Lost is the sense of community working from work fosters — group lunches, joining together for support of the larger community from volunteering on a Habitat for Humanity build to gathering to assemble school backpacks for needy children. Also lost is the ability to collaborate and interact on a level impossible to achieve online. Flexibility to work from anywhere is great for the improvement of lawyer lifestyles, but it must be balanced with the benefits that stem from the law firm as a community that is engaging and fosters the growth of the firm’s culture and the young lawyer’s abilities.

After an extended period of working remotely in a great deal of isolation, attracting and retaining talent will be the next big hurdle for firms to address. Meeting this new challenge will require more than merely increased compensation or a promise that the lawyer can be selective in their days in the office. It will require a mixture of incentives and ingenuity to create a workplace where lawyers are truly engaged not only in the practice of law, but also in the firm as an enterprise for both clients and their community.

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