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INDUSTRY FOCUS: LAW

Collegial to corporate: Law firms are changing, partner

Over the past 30 to 35 years, the practice of law has evolved from a "professional calling" — something akin to a noble intellectual pursuit of truth and fairness — to a service business.

Truth, fairness and intellectual honesty still no doubt are critical and distinguishing aspects of the profession, but today in the larger metropolitan areas a law practice truly is a business. This is true not only for the national and international megafirms but also for the local two-lawyer firms.

The shifting economics have had a significant impact on a time-honored institution: partnership in a law firm.

Perhaps the single most important force driving the change is eroding profit margins.

Thirty years ago it was not uncommon for firms to achieve profit margins of 55 to 60 percent; for every dollar earned, 40 to 45 cents were used to cover expenses.

Today the ratios have nearly flipped, with 40 to 45 percent profitability more common and 50 percent almost unheard of except in extraordinary instances.

Why the change? While there are many explanations, several expense items stand out: rent, malpractice insurance premiums, salaries for staff and nonpartner attorneys, and in the larger firms, divergent practice areas — for example, being staffed in mergers and acquisitions as well as bankruptcy — to hedge updrafts and downturns in the economy.

THE NONPARTNER PARTNER

Today, being a good lawyer is not enough to achieve partnership, except perhaps in the very largest firms with institutional clients. Partnership candidates must certainly be good lawyers, but they must also convince the firm they will make significant contributions above the line through business origination and revenue generation without adding pressure below the line from expenses.

The skill set that makes a person a good attorney is not necessarily the same that makes someone a good business generator, which demands marketing skills — skills not taught in law school and rarely learned on the job during an attorney's early years.

Traditionally, the partnership track was six to eight years in downtown firms and perhaps slightly shorter in the suburban firms. During this period, young attorneys, in reality, served as apprentices, expanding upon theories studied in law school and learning to apply them to actual cases, deals and controversies.

Given the demands on the young attorney to achieve the requisite skill level and produce required billings and collections, little if any time was available to develop business generation skills.

To address the need for marketing skills and at the same time recognize significant intellectual achievement, law firms have adopted a tiered approach to partnership over the last 15 years. This has resulted in the creation of the nonequity partner (from a strictly legal standpoint, a nonpartner "partner"), followed by full equity partnership.

"Graduation" from nonequity to equity status is dependent on learning and implementing marketing skills. In the vast majority of downtown and suburban firms, full equity status depends upon achieving a targeted level of business origination.

One notable exception can be found in the large megafirms with long-time institutional clients. At these firms, client management skills or discrete, and sometimes arcane, legal specialties are often acceptable substitutes for business origination.

A NEW MODEL FOR THE FIRM

The law firm model has come to more closely mirror the corporate model in at least two other important respects.

First, not so long ago partners who achieved equity status had a realistic expectation of remaining with the firm for the balance of their careers. Again, not so today.

Management focus on revenues and expenses has resulted in a relatively new phenomenon — the culling of partnership ranks. Nonproductive partners are no longer assured job security.

Performance analysis for partner culling usually spans several years. More frequent review and analysis is done in the downtown firms, but at both those firms and suburban firms the concept of partnership for life is either dead or rapidly disappearing.

The advent of attorney "free agency" — partners or practice groups jumping ship for enhanced income opportunities — also has hastened the demise of the partner-for-life model.

It isn't clear whether treating equity partners more like employees has caused attorney free agency or is a result of it. Regardless, culling and free agency have stripped away intangible bonds that previously distinguished law partnerships from other types of business services.

The second area in which law firms, particularly the larger downtown and national firms, have begun to emulate the corporate model is mandatory retirement, typically at age 65.

Although the reasons for retirement rules vary, they generally are premised on the notion that by the time partners reach the mandated age, their business origination and productivity are on the decline.

Smaller law firms tend not to adopt mandatory retirement, perhaps recognizing that older partners often remain prodigious producers and have "marquee" power that is essential to their firm's viability.

If you had to choose the one element of today's law partnerships that differentiates the downtown megafirms from the suburban firms (aside from partner incomes), it most likely would be the mandatory retirement requirements.

FOREVER CHANGED

With law schools admitting and graduating ever-increasing numbers and with little chance that pressure on law-firm margins will subside, it is likely the nature of a partnership in larger downtown firms has permanently changed.

Collegiality in the collective pursuit of truth and fairness has been forever altered by the profit motive, for better or worse.

And while some would say the essence of the true law partnership may still exist in the smaller downtown firms and the suburban firms, there is no denying that the practice of law is now more a business endeavor than a professional calling.

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