



'There's No Longer a Fit'

September 1, 2010
By Debra Forman

Transitioning Partners Out of Firms with Dignity and Professionalism

Joining a law firm as an associate or partner is no longer a lifetime arrangement. It used to be that lawyers would become members of firms straight from law school and remain with those firms until retirement. However, in recent years, firm partners have actively been pursuing other opportunities, and law firms are dismissing partners as well as associates.

Associate Transitions

Since the 90s, junior attorneys have been transitioning out of law firms. Legal tabloids regularly focus their attention on associate layoffs and have kept the issue on the front burner throughout the recession. Associate layoffs have not only become part of the norm in law firms, they have become a spectator sport.

Associates will typically be terminated if firms have determined that they are not going to be made partners. If firms do not have precedents for "permanent associates," not being put forward for partnership is a clear message to all that certain associates do not have a future at their firms. Most law firms have mechanisms in place for benchmarking and evaluating associate growth and development, including policies and staff to deal with associate dismissals. These procedures and resources enable firms to handle associate dismissals professionally and with empathy, allowing for smooth transitions at various stages of associate development.

Efficient and effective evaluation processes, exercised throughout the year, drive the firms' assessment policies, address recurring performance issues, and provide data for feedback discussions. Many senior firm members are consulted and assist with the difficult decision to let associates go, including management committees, practice group leaders, mentors, and professional development and HR directors. Severance packages, out-placement resources, coaching, and working notice periods are just some of the arrangements available for terminated associates. Consequently, associates who are asked to leave should not be totally surprised by their firms' decisions. In fact, many associates anticipate their inevitable dismissal, take matters into their own hands, and seek other employment opportunities before being asked to leave. Generally speaking, associates are provided with due process and, when reviews and feedback are handled well, can manage their next moves.

Partner Transitions

Partner terminations, on the other hand, are less frequent experiences for all concerned. In the past, it was rare for firms to terminate partners. Those who were still in their prime, with 20 years or more of practice remaining, were unlikely to be dismissed. If any of these partners demonstrated poor communication skills, or an unwillingness to collaborate, these penchants were tolerated or validated as important skills needed to be effective litigators or corporate practitioners. Senior attorneys who were starting to wind down their practices but not close to retirement age were shifted to quieter floors, down-sized to associate offices, or given administrative, non-billable and CLE/development responsibilities. But no one was ever terminated.

The current shift in firms' procedures regarding partner dismissals can be attributed to many factors, including firm growth by way of law firm mergers or acquisitions, lateral hires, climbing billable rates and profits per partners,

and continual shifts in client needs and practice group productivity levels. As a result, law firms' relationships with their attorneys have also shifted, and they are viewing these more as business relationships.

'There's No Longer a Fit'

No relationship, whether business or personal, is immune from parties growing apart or wanting change. In law firms, dissolving a long-standing relationship with firm partners may be ambiguously explained as, "there's no longer a fit." What causes certain partners to fall out of favor? Of late, economics and fall-outs from the recession have played a significant role in partner turnover. Many decisions to let go of partners are business-based: Firms' management teams have concluded that some highly compensated partners are no longer paying for themselves or adding sufficiently to firm profits. How is this determined? These partners may be failing to meet their business targets, losing clients and their books of business, or too frequently writing off work. New work in their practice areas may be declining. They may be service partners who no longer have "feeders," as many of their feeders are now doing the work themselves.

Business-based reasons, however, are not the only deciding factors. Unpartnerly behavior is no longer being ignored. Civility and firm responsibility are key attributes of partners, and firms may be less tolerant of behavior deemed non-collegial. For business and/or other reasons, firms are asking partners to leave.

Transition Difficulties

Unlike the effective handling of associates' terminations, many firms do not have standardized policies and procedures in place for terminating partners. Or, firms may feel that the same processes should not apply to partners. As a result, many partner transitions do not flow smoothly or reflect well on the law firms.

Why do law firms have more difficulties transitioning partners out of their firms than they do associates? Letting someone go is a tough message for most individuals to deliver. Many attorneys find terminations to be unpleasant tasks, whether dismissing staff, associates or partners. It is not unusual for partners to leave or be absent from their offices when terminations they have supported or initiated take place. They want the individuals to be terminated, but do not want to be associated with the actual deed. One can only assume that this discomfort will escalate when it comes to terminating fellow partners. As a result, it is unlikely that clear messages will be delivered to partners when their services are no longer required.

For their part, many partners who are asked to leave their firms find the "break-up" to be very traumatic. Friends, partners (some junior to them) or management team members are asking them to leave a place that, for some, has been home for many years. Termination messages lack clarity and direction, and next steps are unknown. Concern (and fear) about what their internal colleagues, external peers, and clients may think keeps partners from initially moving forward. In addition, once reality starts to sink in about what their futures may or may not hold, these feelings are followed by anger, resentment, pain, and, in extreme cases, retaliation.

Mixed Messages

Most firms do not have a transition process for delivering dismissal messages to partners as they do for associates. It may not be clear who is responsible for delivering the message. The messages are frequently unclear: Partners are told to prepare to leave, without much discussion or direction. Adding to the confusion, they may or may not know who else at the firm may be aware of their predicament. The upshot is that not a lot of guidance is provided as to what next steps these partners should take. Consequently, many partners procrastinate over their transitions and do not prioritize their action plans with regards to finding new opportunities. Their inaction is, at times, supported by their firms, as firms' management may not follow up with these partners or only visit them many weeks or months after the initial meeting to see where things stand. If partners are not feeling the pressure to leave, they may carry on as usual and wait for the firms to push them into action.

Partners' inertia is aided by lack of steady transition support and resources. Although the assistance provided to partners differs from firm to firm, the following scenarios are evident at many firms. Some partners may be provided with out-placement assistance, the services of a coach to transition out, or simply a list of recruiters they may want to call. Some receive ad hoc copies of job ads sent inter-office or via e-mail. To colleagues unaware of their partners' situations, all may appear to be status quo, as the partners continue to work and bill their times on files, attend firm and client meetings and function as they did before.

Clear Messaging and Partner Transitioning Procedures

How well are the transitions from firm partners to former partners being handled at your firm? A clear message to deliver to partners being transitioned out of the firm should include: what the terms of their dismissal entail; when they are to leave; what resources are in place for them; who they can speak to about the termination; what they can expect from the firm.

To assist you with your clear messaging, here are some suggested practices to consider when transitioning partners effectively and efficiently out of firms with more dignity and professionalism.

Put an Effective Process in Place

Partner transitions need to be accepted and integrated as standard firm practices, with appropriate resources, procedures, and policies. Policies and grounds for partner transition, whether phased retirement or dismissal, need to be transparent, updated, and always shared with partners. As with staff and associate dismissals, partner terminations should flow fairly and consistently from regular evaluations, performance discussions or result from specific events. As a key first step, every firm should draft policies regarding partner evaluations. Within these policies should be a section on terminations. Having written and shared policies will ensure that there are no real surprises when the decision to part ways with partners are made and conveyed.

Standard Practices: Create a transition partner team to be involved with all partner dismissals. Members should include senior firm management, both attorneys and senior administrative personnel. Members should have specific roles, responsibilities and authority to carry out transition functions.

Standard Policies: Devise and regularly review/update policies for partner terminations. These policies should be unambiguous and accessible to all partners. Termination and transition policies can be included with regular partner policies under evaluations and firm expectations. Grounds for termination should be itemized, with due process and timings explained.

Partner Evaluations: Establish or integrate into existing partner evaluation procedures feedback mechanisms that will enable the collection of data, which will allow for fair evaluation of partners and provide documentation of areas requiring improvement.

Confidentiality: Ensure that the highest levels of confidentiality are maintained throughout the process. This includes regular partner reviews, due diligence discussions and meetings with affected partners, and transitioning partners from the firm.

Clarity: Clearly identify the messages, the messengers, the processes, the timeframe, and the follow-ups.

Preparedness: Prepare messages before delivering, documentation before sharing, and resources that the partners will require. Anticipate questions that partners will ask and prepare answers for all aspects of the process.

Consistency: Involve appropriate transition members at all levels of the transition. Follow the same procedures for all partners, within reason.

Point Person: Designate one senior individual to be the "go-to" person for partners in transition. This person will be very effective in ensuring that all procedures are followed, all resources are in place and that the partners' needs are being met with dignity and professionalism. They will prepare and deliver a clear message regarding the transition: timing to leave the firm; firm messaging, if any, to the partnership/firm; what the firm will provide to the partner in terms of outplacement support, practice support, and references. They will be someone to whom the partner can vent and speak with confidentially. They will be the firm's representative in the transition.

Conclusion

When there is no longer a fit for some partners at your law firm, own up to it, end the relationship, and transition the partners out of the firm, professionally and with dignity.

Debra Forman of Pinstripe Coaching (www.pinstripecoaching.com), a member of this newsletter's Board of Editors, is a certified Executive Coach (PCC) who collaborates with attorneys in coaching sessions and workshops that are fueled by clients' professional and business goals.

© Copyright 2010, Law Journal Newsletters