What Keeps Managing Partners Awake?

By Ward Bower

The pace of change in the legal services marketplace makes law firm leadership harder than ever. The breadth and depth of issues with which law firm leaders are wrestling are monumental. Following are what appear to be the “top ten” (plus one) issues that arise in law firms of all sizes and locations.

1. Clash of culture versus economics

Law firm cultures and values arise from the common law partnership origins of group law practices. Many of those values are more like those of a college fraternity than a modern business. Seniority, exclusiveness, unanimous decision making, and lifetime tenure are some of the features that persist. They are in direct contrast to a meritocracy - with centralization of authority and constant performance evaluation and other characteristics that describe values in modern corporations and businesses. Even in large, established law firms, vestiges of the partnership culture persist.

2. Central authority of management versus individual partner autonomy

The issue of centralized authority is related to the partnership origins and values of law firms. Does a firm exist to provide a vehicle for self-actualization by partners, or are the interests of the firm greater than those of individual partners? Is the firm to be a “confederation of solo practitioners” or truly a team? Most successful law firms strive for teamwork, collaboration, mutual respect and placement of firm and client interests ahead of those of individuals. Striking the balance is a continuing problem in both large and small law firms.

3. Criteria for becoming/remaining a partner

In prior decades, partner criteria were to be a good person, a good lawyer and survive five or six years with the firm. Today, that is not enough. One still has to be a good lawyer, liked and respected by partners and clients, but generally must make a significant economic contribution to the financial success of the enterprise as well. Today, a partner must be a “net exporter of business” within the firm or exhibit the potential to do so, by generating enough work to keep oneself busy and creating work to be passed on to others.

In friendlier, prior decades, partnership in a law firm was a lifetime position, absent some egregious act or omission. With today’s higher standards and more demanding criteria for becoming a partner, performance must be sustained at a high level or one’s position as a partner is vulnerable. De-equitization and even expulsion are possibilities facing partners who cease to perform in today’s competitive economic environment.

4. Eroding client loyalty

Clients are no longer “clients for life.” They switch firms readily, use multiple firms, and frequently do not inform
their firm if they are leaving—they just do it, and new matters from that client evaporate.

Corporate clients are creating and growing their internal law department capabilities and handling work that used to be sent to outside counsel. Larger corporations are reconsolidating work in a smaller number of law firms, often chosen on the breadth and depth of their capabilities, in open competition based upon responses to Requests for Proposal (RFPs).

In effect, the sellers’ market of the past where law firms dictated pricing, staffing and strategy has been replaced by a “buyers’ market” where clients determine what they are willing to pay, dictate staffing and even dictate strategy.

5. Price competition
In a buyers’ legal market, where supply exceeds demand, price competition is a major factor in law firm selection. In the sellers’ market of prior decades, law firms could increase billing rates annually, staying ahead of the cost of inflation. Today, clients resist rate increases, and most actually seek discounts from “standard hourly rates.”

Corporate clients increasingly are asking for alternative fee proposals, which require the law firm share risk and provide certainty with regard to overall legal costs. Firms are learning to do this, but to be successful they must know the cost of producing legal work. Firms also must manage work better or lose money on alternative fee arrangements.

Many large firms are providing Legal Process Management (LPM) training for the partners, enabling them to quote alternative fees rationally and manage matters to retain or even improve margins.

6. New competitors
Larger firms are expanding to new geographic markets, targeting top clients and work within those markets. That has some appeal to corporate clients because of the greater breadth and depth of services provided by larger firms. This is one of the drivers of law firm mergers, 80% of which are multi-city combinations. In 2014 there were 82 law firm mergers in the US. There have been 68 in 2015 through the end of September.

And the new competition is not just among law firms. Discovery, document review and litigation support companies are being retained directly by corporate clients. These non-law-firm vendors do work that once was delegated to associates and was highly profitable for law firms in prior decades.

Consulting firms are doing work that otherwise might be performed by law firms - particularly environmental, health care and employment consulting firms. The Big 4 and other accounting firms are continuing to hire lawyers to provide non-litigation services otherwise provided by law firms, under the guise of offering “consulting” services.

Virtual law firms are providing legal services without the overhead of bricks and mortar and support staff. Many of these are comprised of highly experienced lawyers working from home at billing rates that are a fraction of those charged for comparably experienced lawyers in large law firms.

Online services are providing legal documents and advice directly to consumers, including corporate law departments. LegalZoom has been particularly aggressive, even enabling its users to speak directly with lawyers, according to recent advertisements.

Finally, there is increasing pressure in favor of non-lawyer ownership of law firms in various jurisdictions in the United States. Non-lawyers can already own legal practices in the UK and Australia, where there are publicly-owned law firms. Some provinces in Canada are considering following this model. Clients, including in-house counsel, seem not to be concerned with the conflict of interest and client confidence issues argued by opponents as reasons to prohibit non-lawyer ownership of law firms.

7. Marketing expense
As competition in the legal service marketplace has intensified, and client loyalty has declined, law firms must market themselves every day. This requires investment in advertising, use of social media, sophisticated websites, hiring of professional marketing personnel, client entertainment, events and seminars and other costly and time-consuming activities. Managing partners are rightfully concerned about the effectiveness of the firm’s marketing efforts, what works and what is wasted.
8. Partner denial
A lot of partners in law firms today are hunkered down, waiting for the “good times” to return, in effect a return to the sellers’ market of prior decades. That is simply not going to happen. The challenge for managing partners is to educate partners with respect to economic realities, in some cases including courses in “law firm economics 101.” It is amazing how many law firm partners do not understand the fundamental economics of a profitable law practice, today.

9. Succession
Law firms are aging as Baby Boomer lawyers hired in the sellers’ market approach retirement. This includes managing partners, practice area leaders, office managing partners, and others. Partners who control client relationships also are approaching retirement age. Firms need to implement policies and plans to require and encourage transition of management responsibilities and client relationships. One impediment to this is the hoarding of clients by older partners, in order to perform better on metrics that are used in determining partner compensation. This is a significant challenge to managing partners today.

10. Time devoted to management
This is a dilemma for managing partners. It is fundamentally a question of whether the position is full-time or part-time, and if part-time, how much time should be devoted to management versus law practice. It also affects compensation—how should a firm compensate for the management function? Many partners do not place great value on the efforts and activities of their lawyer-managers. How should that be handled in a law firm compensation system? In addition, what provisions are made for compensation of a former managing partner once he/she returns to law practice?

All of this will be affected by the firm’s commitment to professional managers who handle business operations, such as executive directors or administrators, marketing professionals, HR, financial and other specialists. These professionals can provide great support to a managing partner and their value is established and accepted in most successful law firms.

10+1. Cybersecurity
As if there is not enough to worry about, recent news reports suggest law firm computer systems are hacked every week, potentially putting confidential client information at risk. There are few standards for protection of data in law firm computer systems. Clients are now asking what safeguards their law firms have implemented. This may become the biggest law firm management issue of the next decade.

CONCLUSION
This is what we see as the 10+1 most important issues keeping managing partners awake at night. None of the answers are easy. There are no ideal solutions. But successful firms will consider all of them and implement strategies and actions to deal with their ramifications.

Ward Bower is a principal with Altman Weil, Inc. He heads consulting assignments in law firm strategy, partnership planning leadership and governance, and has facilitated some of the largest law firm mergers in the world. He is a key adviser on retainer to a number of major law firms. Contact him at wbower@altmanweil.com.

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