

Resolving Law Firm Conflicts

By Amy Lieberman

Attorneys are not immune from conflict. Law firms are employers, like any other. The law gives them no distinction. They are not immune from lawsuits from their employees, raising claims of sexual harassment, gender discrimination, wrongful termination, or breach of contract. In addition, the impact of serious conflict from job dissatisfaction or other causes can be devastating when valued attorneys leave the firm, taking other lawyers and important clients with them.

Not all lawyers like conflict. Some prefer to avoid it altogether. Others thrive on it. Those that do, such as litigators, are trained - and paid - to win. Yet, a "win" in the workplace is different than a win in court. In the workplace, that win is peace and productivity.

How do you get to that place of peace and productivity?

Here's a secret: Lawyers are people too. We have the same fundamental needs that other human beings have. From a business perspective, we need to have satisfied clients who pay

their bills and hire us again. From a human perspective, we need to feel respected, and to know our contributions are valued. We want hope for the future of our practices. We seek to be financially secure. And, we desire to have a good rapport with those we work with and for. We also want to be inspired (perhaps a stretch in some areas of the law) by the work that we do.

Some law firms live by the Golden Rule: He has who the gold makes the rules. In other words, those who are the biggest rainmakers have the largest sphere of control and influence over firm decisions, policies and relationships.

But what do you do when the biggest rainmaker is also the biggest offender of the firm's personnel? If a lawyer is hostile or rude to a client, the client simply leaves. You would counsel that lawyer not to do that because if he or she loses too many clients, that lawyer is not long for the firm. But, such "counseling" is not so easy to do with a power-hitter.

What about the partner who sexually harasses a young associate? Or the associate and her secretary who cannot get along? What happens when the managing members of the firm don't see eye-to-eye, and have difficulty reaching consensus on key issues? What happens when lawyers have an agreement as to allocation of expenses and profits, but have neglected to provide for what happens if a lawyer leaves the firm? What do you do if lawyers feel seriously undercompensated and wish to leave?

As a firm, you want the opportunity to address issues and resolve them before they escalate. To do that, you need to have adequate processes in place.

Based on my observations in working with law firms in the conflict scenarios set forth above, here are 8 suggestions to get to that place of peace and productivity.

1. Have a harassment policy with a safe reporting structure. Your sexual harassment and overall anti-harassment and discrimination policy should be distributed and known. It is critical for the policy to not only detail what kind of conduct is prohibited, but also for it to identify at least two alternative "go-to" people for complaints (preferably a human resource professional, and one partner.) It is not unusual for an associate or staff person to feel that it is their supervising partner that is causing the problem, and a safe haven needs to exist to encourage those with concerns to come forward.
2. Engage an outside investigator. If a complaint of harassment or discrimination is raised, do not brush it



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off or assume it will go away! Title VII and related laws require a "prompt, thorough and impartial" investigation. Depending on who the complaint is being raised against, it might not be possible to do the investigation internally.

3. **Establish a mentor program.** Assign a formal mentor to all associates. This allows for an additional avenue of communication and ensures someone senior is offering guidance, serving as a resource and looking out for growth opportunities.
4. **Conduct annual reviews.** In addition to providing feedback for all associates and staff, seek feedback on how the persons being reviewed feel about how the firm is treating them. Ask about any concerns they have about their career, or the firm.
5. **Celebrate successes!** And not just the obvious ones, such as a huge win at trial. There are many other accomplishments that can be lauded, such as landing a new client, beating last year's numbers, joining new committees or boards, obtaining leadership roles in organizations, or receiving a wonderful compliment from a client.
6. **Hire a Consultant.** Enlist the help of a facilitator or consultant every year or so to speak with each member about their visions, goals and concerns. The truth is that we will be far more candid with an outside person who is simply gathering information to help the firm be more responsive to its members, than we will if we fear the listener might not like what we have to say, and could negatively impact our career as a result. And, it shows the firm cares and is committed to establishing a positive work environment. Review the results, communicate them, and work to be responsive.
7. **Have those direct and difficult conversations.** Do so sooner rather than later. Susan Scott, the author of "Fierce Conversations," suggests the following steps: (1) Identify the issue, (2) Provide a specific example that illustrates the behavior or situation you want to change, (3) Describe your emotions about the issue, (4) Clarify what is at stake, (5) Identify your contribution to the problem, (6) State your wish to resolve the issue, and (6) Invite the partner to respond.
8. **Seek assistance.** Attorneys may be the least likely people to take advice from others, because the role of an attorney is usually to give advice. Yet, when we are embroiled in our own serious conflict, our lack of objectivity impacts our ability to communicate as effectively as we wish. Consider bringing in another partner with solid communication and conflict resolution skills who is not involved to serve in the role of mediator. If there is no one at your firm

who fits this profile, engage the services of a neutral third party experienced in mediation of employment disputes to resolve the conflict. Even an open-heart surgeon enlists the services of another surgeon when he himself is the patient!

Conclusion

For lawyers with busy practices, it is natural to resist the formalities of structured processes, or the time and expense involved in effectively working to address tension and conflict in the firm. Yet, the return on investment will most certainly be worthwhile. An ounce of prevention is worth a pound of cure.



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