LEGAL TALENT & INCLUSION

Practice Innovations: Finding an antidote to the Great Resignation

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In the shadow of the Great Resignation and a growing war for legal talent, what can law firms do to ensure their associate class stays put?

Associate attrition in law firms is not a new challenge. **The National Association for Law Placement (NALP) Foundation for Law Career Research and Education** has published its study *Keeping the Keepers* since 1988. The most recent report — *Keeping the Keepers IV* — states that between 2012 and 2018 for every 20 associates hired annually, another 15 leave.

We hear about **the "Great Resignation"** in the legal industry, which refers to all attorneys not just associates. And clearly, this on-going pandemic has changed some attorneys' attitude towards staying at their current workplace; but if you think associates have new demands, you would be wrong. They have always asked for what they want — the difference now is they hold the cards.

This situation has left law firms scrambling to retain associates as they face an inevitable talent war. So, let's explore associate retention.

As a matter of precedent, law firms use money — in the form of annual bonuses and salary increases — as their primary retention strategy. There are countless studies that repeatedly conclude that people do not stay with an employer for the long term because of compensation. Instead, they stay, and they leave, for a wide variety of tangible and intangible reasons.

For example, a lack of quality or challenging work is often at the top of the list as a reason for departure. (In a 2017 NALP survey, this was listed as the number one reason.) Last year, many media reports suggested that return-to-office requirements were causing attorneys to jump ship.

Here is a partial list of other reasons for attrition gathered through exit interview analysis and other research studies:

- not having enough responsibility;
- not receiving enough client contact;
- absence of business development opportunities;
- lack of partnership prospects;
- desire for less pressure to attain partnership;
- disregard for leadership/management skills training;
- working with unpleasant colleagues;
- work/life imbalance; and
- lack of mentoring, coaching, sponsorship, feedback, communication, etc.

All the reasons above have been around for decades, and some firms have tried, and failed, to address these causes. Kudos to the firms that have made efforts, employed "helping" professionals, and implemented initiatives that have at their core the goal of retention.

Here are the highlights of what initiatives that law firms have implemented over the past 20 to 30 years to retain associates:

- created a professional development initiative;
- offered substantive legal and/or management training;
- used an assignment management system;
- acknowledged alternative career paths;
- implemented mentoring and/or sponsorship programs;
- established policies that support work-life issues;
- provided internal or external coaching services;
- extended outplacement services to attorneys who were asked to leave; and
- conducted exit and/or stay interviews.

For the fun of it, let's add a list of actions that law firms do or have done that have no measurable long-term impact. These would include:

- increasing salaries and bonuses;
- providing collaborative workspaces;
- offering perks; and
- launching engagement surveys.

Now a list of actions that firms had resisted until the pandemic, but associates have asked for repeatedly:

- installing technology that supports their practice;
- allowing remote work; and
- accepting flexible schedules.

Investing in happiness

Given all this, what's a law firm to do during the current Great Resignation and talent wars?

First, go back to basics. What keeps people happy at their jobs? Much research points to supporting individuals in their career and personal goals. An employee who feels their employer is invested in them will be in turn, invested in their firm.

"Firms that conduct stay interviews learn the reasons associates stay, which often include having a good mentor and feeling the firm is grooming them for a successful career," says Fiona Trevelyan Hornblower, president and CEO of the NALP Foundation.

Unfortunately, sometimes the dynamics, politics, and cultures within some firms impede the success of initiatives that have proven to be successful elsewhere.

One solid strategy is investing in associates' futures by offering skills growth, whether it be in substantive law or practice management topics. For example, Canadian law firm Torys has embraced this approach by offering a business leadership program in collaboration with the Rotman School of Management at the University of Toronto. Milbank and other law firms have been doing this for some time now. And Sidley Austin recently announced their MBA-style program, with attendance counting towards billable targets. (Associates often ask for billable equivalency when asked to do non-client work.)

Outplacement was dabbled with back in the earlier 2000s and has reemerged through a new approach: coaching. Internal firm coaches can help place associates with clients or in other jobs, according to Rachel Marx Boufford, a former Am Law 100 law firm career counselor. "Counterintuitively, when these programs are well-run, they can actually serve to improve associate retention," she adds.

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In the past, many firms outsourced their outplacement efforts, but bringing them in-house through coaching initiatives demonstrates the firm's desire to help associates throughout their careers. Sheryl Odentz, founder of Progress in Work, a legal outplacement firm, agrees. "Whether through in-house or outside services, outplacing an attorney in a positive fashion is not only smart business on the part of the organization, but it also creates goodwill and is often appreciated by the departing attorney."

Creating new titles for associates is another tactic, yet again, this is not new. And firms such as Sidley Austin; Orrick, Herrington & Sutcliffe; Dentons; and Foley & Lardner among others, use various titles to distinguish between levels of associates. Bestowing titles on individuals is a type of recognition that researchers have found increases positive feelings towards an employer. However, when a title does not reflect the job duties, the tactic can backfire. For example, if an associate has the title of *Managing Associate*, but they are not managing others nor have received training in how to manage others they may begin to feel the title is meaningless.

Circling back to the theory that employees stay with employers that the employee believes invests in them, let's take the leap to say employers *should care* about their employees beyond health-insurance-led wellness programs. During the pandemic (and even before), the push for mental well-being initiatives has taken off. Firms signed on to **the ABA Well-Being Pledge** and publicized their commitment to mental health awareness. Yet, the needle has not moved.

Indeed, the International Bar Association issued a report stating, "individual legal professionals do not perceive firms and organizations as responding effectively to issues affecting mental well-being." Programs are good attempts to show the love, but what firms really need to do is change the entrenched behaviors of firm partners and leaders.

Retention strategies should start from the first day of an associate's employment and include open dialogue regarding career goals, home life, work challenges, and the ongoing impact of the pandemic. These open conversations between associates and partners builds the foundation of trust which fuels retention.

"This is not about being nosy or stepping over the line," says Gerry Riskin of Edge International. "It's about opening the door so others can open it further and welcome them in."

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