Succession Planning Challenges – No Real Surprises Here

By Michael D. Short on February 9, 2016

There is a well-deserved and surprising focus on succession planning within many law firms right now. The "well deserved" focus is justified because these firms are trying to bridge/balance the immediate needs and expectations of the "seniors" with the longer term expectations of the "juniors," thus creating a shared path into the future for the firm. Unfortunately, the goals of each group often diverge, resulting in a series of very difficult, generation-based discussions. Those that cannot build a bridge between the two groups will have a difficult time surviving, so the stakes are quite high.

I want to explore the "surprising" part of the focus a bit further because we hear a *"where did THIS come from?"* reaction in many law firms that are demographically challenged. Unfortunately, this reaction is a symptom of the short-term business model that most law firms are wedded to (i.e., maximize profits each and every year with little regard to the longer term strategic needs of the firm). The available data has been telling us about this pending and growing issue for some time. For anyone who was paying attention, this issue was easy to spot years ago.

I used to read a magazine called *Business 2.0*. In September of 2003, this periodical (which no longer exists) ran an article titled "The Coming Job Boom." The associated attention-grabbing quotes included statements such as, "Demographic forces are about to put a squeeze on the labor supply that will make it feel like 1999 all over again," "We are about to face a demographically driven shortfall in labor that will make the late 1990s seem like a minor irritation," and "If you want to hire the people who have always been the bread and butter of the labor force, you're going to have to hire them away from someone else." These statements were based on longer term projections of basic labor statistics and the evidence was compelling. I added this seemingly important topic to my trends presentations at that time because I wanted clients to start focusing on longer term talent strategies. Unfortunately, the questions posed during my post-presentation Q&A sessions still focused on the short term issues, such as "what do you see happening with rate increases?" or "how much capital should we have?" I wish I had been more compelling in my pitch but I was up against the 365-day business model that did not, and often does not, care about such longer term challenges.

Fast forward to 2008 – the recession threw a wrench in a) the retirement plans of those Partners who were "on the cusp" at that time, b) the steady hiring patterns of law firms that injected new talent on a regular and consistent basis – a practice that came to a screeching halt, and c) the overall demand for legal services, which declined by about 10% across the industry within a very short period of time, rendering many law firms too large for their client bases. As a result, Partners delayed retirements, the influx of new young talent ceased, and the overall business of law started to evolve at an uncomfortable and challenging pace. The challenges raised by that 2003 article became even more complex and convoluted because the regular flow of people in and out of the workforce – a basis for the modeling at that time – had been disrupted.

Fast-forward to today – it's <u>very</u> easy to find firms where two-thirds to three-quarters of the business base is attributable to Partners of age 60+. Furthermore, many firm and practice leadership positions are still held by "seniors" who, in some cases, don't see the next generation of leaders and/or business-developers OR they are unwilling to recognize those talents within younger lawyers and then "let go." Meanwhile, the expectations of the next generation of Partners are sometimes mismanaged by "seniors" who don't want to hurt their feelings and tell them the truth – that key client relationship and/or leadership positions will NOT be coming their way.

There are still opportunities to look longer term and act accordingly. The available data, information, and intelligence on our industry appear regularly. We just need to pay attention to it and apply it strategically as well as operationally.

For example –

- Early in 2015 we cited a study in *The National Post* in Canada and wrote an accompanying blog entitled "The Law Firm of the Future: Demographic Changes Ahead." In the original article, the author concluded that, given the rapid growth in population among those 65+ and decline in population among those 15-24, it no longer makes sense to put job creation at the top of the country's national policy priorities. Such a statement is not made based on conjecture and speculation. It is based on data that was telling us all something important…but not as important as the current year's overhead expenses as a percent of revenue (as an example).

- The Bureau of Labor Statistics recently projected a 6% growth rate in the number of lawyers from 2014 to 2024 – a rate that is "about as fast as the average for all occupations" per the accompanying text. Growth in the legal marketplace is projected to be "average" for the foreseeable future. Whenever your projections are above average, look carefully at your underlying assumptions before proceeding

Despite the ignored warnings through the years, time marched on and many firms are now in the position of having to a) map out their labor force for a decade, b) make harder yet more realistic assumptions on turnover and hiring, and c) engage in candid discussions about the development of home-grown talent and the potential need for solutions from outside because those in the offices aren't viewed by Partners and/or clients as worthy of the client relationships. These analyses and discussions should have started over a decade ago, when the data pointed to a growing storm on the horizon. We could see this tsunami growing and building offshore for a long, long time so let's not act surprised now that it's coming ashore. Let's just do what we do…get to work on an issue that has become exponentially more complex with the passing of time.

Succession planning involves many parallel and equally difficult discussions that we must address concurrently, such as –

- Timelines and expectations of the "seniors"…some of whom state that they intend to be carried out of their offices on a stretcher someday;
- The juniors, who often have mismanaged expectations with respect to what they are getting, when they are getting it, and how they are going to be compensated during the transition process;
- The clients' expectations, some of whom don't see capable successors within their legal team…despite the expectations of members of that team;
- The depth of practice/client teams that need to match the demographic groupings of the client contacts so relationships can be reassigned or adjusted as transitions occur within the client's organization;
- The willingness of the Partners to double-pay (to a degree) for a book of business that is being transitioned; and
- The alignment of the Partner Compensation process with the overall goal of succession, because any disconnect will hinder or block all progress.

We have discussion materials to assist you with this issue. Contact us for that information.

Succession planning is a HUGE deal. Some firms will get through this while others will fold or be acquired as a result. Many client relationships will be up for grabs over the coming years because many Relationship Partners will forge ahead without speaking to the clients. While we are wrestling with this, can we please start paying attention to the longer term challenges? The data will show us what to worry about…if we pay attention to it. We'll share some of this information in future blogs.

In the interim, please focus on getting your succession planning program in place. Regardless of when you saw it coming, it's here and it requires a lot of attention.