

# Report to Legal Management

OUR 29TH YEAR

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## Deciding Who's Right (and Who's Wrong) for Your Law Firm

By the Consultants at Altman Weil

**W**hen asked about their primary focus, most law firm managing partners would probably say 'profitability' or 'growth.' When queried about the business factor that most concerns them, they might cite increasing competition. But if you probed more deeply to learn what managing partners actually spend the bulk of their time on, the answer you would hear most often is 'people.'

The examples are familiar: the 900-pound gorilla partner who terrorizes associates; an able and senior lawyer who is a disaster as a practice group leader; the unproductive partner whom no one has the stomach to let go; or the clash of cultures in a newly merged firm. These are the issues that law firm leaders struggle with — the issues that ultimately get in the way of building a more competitive law firm.

In our consulting engagements, Altman Weil is called upon to help law firms in many different areas, and yet it is striking how often we find that the root of the problem is the same — people. The right people in the wrong jobs, the wrong people in the partnership, and a lack of awareness or will to solve the problem.

### 'First Who... Then What'

Our longstanding belief that identifying and solving 'people' issues is a critical foundational step for building successful law firms has been reinforced by a recent study of success in corporate America. In his highly-acclaimed 2001 book, *Good to Great*, author Jim Collins found that companies that want to go from being simply good to being great must decide "first who...then what."

Collins states, "First get the right people on the bus (and the wrong people off the bus) before you figure out where to drive it." In other words, before all else, including strategic planning, mission implementation, or organizational strategy, determine *who* should be part of your organization.

Additionally, Collins advocates exercising "sheer rigor" in an organization's decision-making and implementation processes where they involve people. Be rigorous, he advises, but not ruthless.

Collins' elegant articulation of these principles should be considered by all good law firms striving to become great.

### Current Market Realities

In 2003, many law firms will attempt to become more competitive through strategic planning, marketing or reorganization, and they will not be wrong to do so. But they will be only half right, unless they also address critical people issues head-on. Having the right people in the firm (and only the right people) is not a luxury. It is a necessity.

### UNRESOLVED 'PEOPLE PROBLEMS' CAUSE REAL DAMAGE

The managing partner of a multi-office, 150-lawyer firm called us recently to discuss several issues. Finally he said, "We have eight to twelve people that we just can't get rid of and we need help." The problem had festered over many months and enormous management time was being absorbed. Some highly productive partners had already left the firm, despairing that the "bad apples" would never be dealt with.

Here are some factors to consider:

- The proliferation of law firm mergers, acquisitions and lateral recruitment means that firms are constantly adding to and changing their lawyer mix. In the past, law firm cultures were built through slow, steady growth. Associates were evaluated and reviewed for seven years to ensure a fit with the firm. In today's environment, new people are added all the time — people who have an immediate impact on the culture. As firms employ these new methods of growth, they should be increasingly rigorous about identifying problem people and dealing with them expeditiously.
- Law firm recruiting and training strategies are more important than ever. With the cost of losing an associate approaching \$250,000, firms cannot afford too many mistakes in hiring and retention.
- There are certain types of law practices that simply don't fit together well. When the critical success factors for such practices are in conflict, firms must make not only strategic decisions about service mix, but decisions regarding who should stay and who should go.
- Many firms have made partners of people who should not be partners. We are seeing a trend toward de-equitizing or installing tiered partnerships and other strategies to deal with this problem. But these strategies are just band-aids, often resulting in the wrong people remaining — just in different seats.
- The recent economic slump has resulted in layoffs throughout the profession. In some instances the right people were let go and the wrong people retained.

#### Why It's Harder for Law Firms

There are unique organizational and structural differences in law firms that make implementation of a rigorous personnel-screening strategy more

challenging than in other businesses. That is not to say that firms should shy away from such implementation, only that they should be aware that these differences will shape the way the issues are addressed and recognize that there will be some speed-bumps along the way. Here are some of the salient differences.

- Lawyers, unlike executives in industry, have multiple roles in the organization including salesperson, producer, manager and owner. This makes development of the correct profile of who should be 'on the bus' much more difficult.
- Although many firms are organized as business corporations, they still operate like fraternal partnerships. Lawyers like the idea that many, if not all, important decisions are made by the partners. Often responsibility is delegated to management without sufficient concomitant authority.

#### THE 900-POUND GORILLA

A practice group leader, with whom we worked and who was the leader of the firm's largest and most profitable group literally begged his executive committee to get rid of "my major headache" as he put it. The committee refused because the partner controlled \$750,000 of business. As the practice group leader lamented later, "If I didn't have to spend all my time cleaning up all Bob's messes and could focus on opportunities instead, we could be twice as profitable."

- Autonomy is generally held as a value among lawyers. Lawyers like to be left alone to do as they wish and lawyer leaders often are reluctant to operate differently. Making decisions about people and being rigorous in implementation is extremely difficult when autonomy is valued so highly.
- In industry, getting an executive 'off the bus' seldom leads to a direct reduction in revenues. In law firms it almost always does. This is a serious dilemma if the

person who happens to be a 'wrong person' is also a heavy producer of legal work or generator of new business.

- Corporations have policies, systems and procedures as well as HR departments to assure humane treatment in dealing with people. Law firms are often ill equipped to do so (although they usually want to). This often leads to avoiding problems altogether.

#### Laying the Groundwork

Three conditions must be in place for a firm to address people issues successfully.

First, there must be agreement about the firm's operating policy among the partners about recruiting and retaining only those people who meet the definition (profile) of who should be part of the firm. Based on long experience, we recommend a collective decision on this policy, no matter how large the firm. Retreats, focus groups and informal roundtables are excellent ways to create the agreement.

Second, a profile of characteristics that describe the right people must be developed. There is no universal profile for law firms. Firms must define their own set of values, non-negotiable behaviors and contributions required to keep one's seat on the bus. A majority of partners should endorse the profile — but it should not require unanimity.

Finally, a clear, equitable policy must be established to assure that firm leadership can be rigorous in evaluating people against the profile and dealing with these who need to leave or be moved into a new role in the firm.

#### Creating the Profile

Altman Weil has organized numerous management retreats around these principles and our experience is that the most challenging part of dealing with the "first who...then what" process is defining who fits.

The simple idea of a ‘wrong person’ is a difficult concept in many firms. ‘Wrong’ in a law firm usually means incompetent or sub-standard lawyering skills, ethical behavior or productivity. While these standards certainly might comprise part of the profile, other characteristics may render a person wrong for the firm. For example, a fundamental disagreement over the firm’s mission or vision, a disagreement related to values, a dispute about the need for accountability, or disagreements over how to compensate people might also constitute ‘wrong’ behavior.

Wrong does not mean bad, but more often represents an irresolvable disagreement over fundamental issues. It relates to a person’s willingness to conform to the majority for the good of the firm. This operating concept *does not* mean that legitimate differences cannot exist, or that they should not be brought forward and debated.

Many law firms view creating the profile as an economically oriented exercise calculated to prune dead wood. While personal economic viability is often a part of the profile, firms should not assume that the screening process relies *only* on economic parameters.

In fact, in *Good to Great*, Collins specifically advises against using this process as “an excuse for mindlessly chopping out people to improve performance.” We see firms today doing precisely this — often to improve publicly stated net income per partner.

Probably the most important lesson for law firms is that although sometimes the wrong people are

### THE UNDER-PRODUCTIVE PARTNER

How about the lawyer who does everything right in terms of team play, following firm policy and procedures, but chooses to work only 1,200 hours per year, when the norm is 1,800? Should this lawyer continue to be a member of the firm?

economically productive, in spite of their productivity they should not be in the firm. This is often the hardest thing to be rigorous about. Alternatively, some under-productive people may be the right people who are simply in the wrong seats and it is up to leadership to figure out where they fit in the firm.

Our work has shown that there is no ‘right’ profile for every firm. A highly entrepreneurial firm may have one set of needs, values and contribution requirements, whereas an old-line institutional firm will likely have a different set of requirements. The challenge is to figure out what *your* firm needs.

You might begin with these basic standards that we have found most firms agree upon:

- Professional and technical competence
- Accountability for upholding the (particular) firm’s values, in all respects
- Contribution in *all* the ways required of the firm’s partners

An expanded definition of each of these three *tailored to your firm* could comprise the standards to which everyone in the firm should be held. Once established, management can use this profile to determine whether individuals are right or wrong for your organization.

### Evaluating People

Most firms have some type of performance review program for associate lawyers. Such programs are excellent vehicles for spotting problem people early on and dealing with them. Some firms have annual performance, compensation or even peer reviews for partners. These are excellent systems for aligning expectations, discussing strengths/weaknesses and setting professional development goals. However, these processes are probably *not* the best means of dealing with people who are judged wrong for the firm.

### THE MALCONTENT

Associate Sue is technically as good as they come. She is excellent with clients and they like her. But within the firm, she is insatiable and can focus on nothing but her compensation. It is the focus of every conversation with partners, associates and support staff. Sue likes to measure her compensation against associates from other firms and there is speculation that she is providing firm compensation information to [www.GreedyAssociates.com](http://www.GreedyAssociates.com). Should she remain with the firm?

In any firm, there are relatively few people who simply do not fit and they are usually easy for management to identify. Practice leaders and senior management know who they are. However firm leaders must challenge themselves not to look the other way or to rationalize negative behavior and allow a wrong person to remain. Jim Collins suggests two simple, but useful questions that can initiate the evaluation process:

- If you were faced with a hiring decision (rather than a ‘should this person get off the bus’ decision), would you hire the person again?
- If the person came to tell you that he or she was leaving to pursue an exciting new opportunity, would you feel terribly disappointed or secretly relieved?

Senior management should periodically ask practice leaders to identify people they believe do not fit, and then to articulate why using the agreed-upon profile as a standard. This is a simple, but highly effective process that results in a close collaboration among leadership who will make the decision, rigorously but humanely. Once someone has been identified, the process of outplacement should start immediately.

### Right People, Wrong Seats

An important element of the people evaluation process is determining whether or not people who clearly should be in the firm, are occupying

the right positions. This means determining whether each person is employing his or her greatest strengths in the best manner for the firm. This is management at the most basic level — proper allocation of resources.

Broadly defined, the ‘seats’ for lawyers in a law firm are:

- Producers of work
- Managers and Leaders
- Salespeople

Most of the conflicts or ‘right seat’ problems in law firms revolve around management and leadership positions. This is because firms often assign or elect people to positions for the wrong reasons. Instead of focusing on a person’s demonstrated management or leadership skills, the firm looks at legal skills, rainmaking, or seniority as being the appropriate qualifications. The erroneous assumption that the skills that make an excellent lawyer or rainmaker necessarily equate to being an effective manager, leads to having the right people in the wrong seats.

Perhaps the greatest struggle facing law firm leadership currently is having the wrong people in practice group leadership roles. Many managing partners (or executive committees) struggle with what to do with a highly regarded *lawyer* who does not have the skills to be an effective manager/leader.

Moving people to other seats is often more trying than getting someone off the bus altogether. Political realities, a dearth of skilled managers, emotions and relationships, all combine to make the job difficult. Nevertheless, having resources poorly employed can be as debilitating as allowing the wrong people to remain with the firm.

It is important to articulate reasons why a person is ill placed. Why is the person wrong for the seat they occupy?

Is it because:

- They don’t have the skills to do the job well.

- They were placed for political reasons.
- They wanted the position for the wrong reasons.
- They don’t spend the time needed to do the job well.
- They do not command the necessary respect from peers.

You can answer this question through observation, investigation and testing for personality and skills.

### THE RIGHT PERSON IN THE WRONG SEAT

Consider the practice leader who is billing in excess of 2,400 hours per year and markets energetically. He’s terribly upset that no one else in the group works as hard as he does. When he developed a plan for the group (over an entire weekend) and got lukewarm feedback, he asked us to help “solve the problem.” Conversations with group members showed that the group leader was enormously respected as a lawyer and producer of business, but as one member stated, “Jim doesn’t have a clue about managing or leading professionals, but his ego probably wouldn’t allow anyone else to manage while he did what he does best.”

Savvy managing partners know the best way to get people to move seats is to get *them* to recognize that they are not properly placed. A focus on how a person could use his or her skills better (in another position) is the best way to begin such conversations. Beginning with an assessment of weaknesses is likely to evoke denial, defensiveness and counter attacks. A strategy of multiple progressive meetings has proven best in these circumstances.

#### When People Just Don’t Fit

Discipline in execution — “rigor” as Collins says — must accompany the decision about people. Unless you translate decisions into concrete actions, no useful change occurs. Speed and process integrity are key.

The following has been helpful in those firms that manage the process well.

1. Inform colleagues and others who may be affected by the change, educating them about the ‘right people’ operating philosophy.
2. Inform the person and, at the same time, initiate the humane process, which may include several steps such as severance packages, outplacement assistance, etc.
3. Communicate quickly and accurately with those who remain and have the closest ties to the individual.

#### An Investment Worth Making

Lawyers often use the term ‘collegiality’ to describe the ideal working environment. More often than not this is code for their strong desire for autonomy combined with an equally strong disinclination for any accountability to the organization. As one lawyer put it recently, “Why should we care about anyone’s behavior as long as they produce 2,200 billable hours?” The naiveté of that statement is astounding, but not all that far from the thinking of many attorneys. It brings to mind the image of thoroughbreds racing across the fields in a dozen different directions... *power without focus.*

Law firms, like all organizations, can benefit from the enormous power of professionals working in concert. Individuals who choose not to use their skills and strength to further the goals of the organization eventually will become an obstacle or a detriment to it. Only when your firm has made and implemented the tough decisions to get rid of the ‘wrong’ people and realign the ‘right’ ones in the most appropriate roles, will you be able to harness the full energies of the firm for meaningful change. Then you can, as Collins suggests, “put your best people on your biggest opportunities, not your biggest problems.”

The benefits will be enormous. ♦