

## **Stop the Bleeding: Taking Care of the Firm's Heart**

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They hadn't spoken to each other in months. Sure - they'd given each other the perfunctory nods of acknowledgment, even grunted hello at each other on an occasional morning, but they hadn't really communicated in months. They were avoiding having anything to do with each other if at all possible. She felt undervalued and discounted in the overall scheme of things. He couldn't understand her attitude. He was adamant that her perception of the value of her contributions to the relationship were totally disproportionate to reality and he was not about to "knuckle under" to her "whining" about it.

This sounds familiar today doesn't it? A husband and wife, both working, struggling for recognition of one by the other of their value to the relationship. Both perhaps on the brink of abandoning the relationship due to feeling undervalued. Only these two aren't husband and wife. They are partners in a law firm and they are involved, along with the other partners, in a business that is "bleeding." In this case the "bleeding" is the result of the conflict created by the dissatisfaction of a few related to the perception of each person's contribution to the firm and how it should be valued in the compensation system.

Other issues with the potential to cause conflict and dissatisfaction existed in this firm as well. They were of a more subtle nature and not necessarily related directly to compensation. However upon reflection they are also related to the issue of one's feeling valued and had existed for quite some time.

One "non-equity" partner felt that when he spoke at partner meetings what he had to say was discounted and sometimes even rudely ignored by the senior partners. Additionally, although even he had to admit that it was a petty issue, it still upset him that one of the new "non-equity" partners had been given an office that was slightly larger than his and on the "preferred" side of their office suite. While he realized that, in the scheme of firm concerns, it wasn't the most important of issues nonetheless it enhanced the feeling that he was receiving "step-child" treatment. He considered bringing it up but didn't feel that partner meetings were the proper forum for such personal issues, yet he was concerned that if he approached anyone individually he would be seen as a "malcontent". So like a good soldier he bit his tongue and kept his feelings to himself while his level of dissatisfaction continued to smolder.

Think about this situation then consider the following questions; Can he function with a good attitude? Is his productivity being negatively affected? Is he feeling that perhaps his value might be better recognized somewhere else, maybe in a competitor's firm? Do you think that, with the demand for productive and experienced attorneys, he will have trouble finding a viable alternative if these issues are left to continue "bleeding"? Do you think if he left the firm for an alternative position that there would be a negative economic impact?

From everything I've experienced, read and discussed the answers to the above are: No he can't function with a positive attitude; Yes-his productivity is absolutely negatively affected to some

degree; Yes- of course he has considered the alternatives outside of this firm; No -he won't have any problem finding an appealing alternative in the "seller's market" that exists today; and Yes- there would be a significant negative impact on the firm economically if he left.

The above is a composite representation of some of the issues and actual situations discussed during several interviews I conducted while gathering information on the matter of internal conflict and dissatisfaction and the ramifications of each in law firms.

### ***The Illness***

Dissatisfaction among firm members and internal conflict exists to some degree on some level in every law firm and the costs for not identifying the issues and resolving them can be staggering. However most firms have a tendency to discount the severe impact this issue can have on the firm and therefore tend to "bury their heads in the sand". Development Dimensions International, a recruitment and development firm recently listed these among the myths that keep firm management in the dark regarding personnel defections: 1) Employees have stopped caring about firm trust and organization; 2) It's all about the money; and 3) It doesn't cost much to hire a replacement. In addition most believe that conflict means confrontation. After all, who wants to confront his or her partner or partners about such sensitive issues such as firm direction, inadequate leadership or an unfair compensations system. Who would want to deal with a promising associate who is upset about a lack of training or being "thrown to the wolves" after only a week of firm indoctrination, or perhaps a senior associate who has concerns about being considered a " production machine" without feeling vested in the long range plans of the firm. Many of the issues are of a "prickly" nature and are often awkward to deal with. However, left unattended they often cause valuable people to seek other options in the marketplace.

Most firms don't recognize the significant negative financial consequence of either not being aware of, discounting or even ignoring these types of issues. A number of studies have concluded that the cost of replacing a productive member of a law firm is approximately the equivalent of three times the departing member's compensation. Also, there are other hidden losses and costs suffered by the firm due to the manner in which dissatisfaction and conflict manifests itself. Unhappiness and conflict generate a negative attitude that can easily invade other firm members negatively affecting their productivity as a result. A reluctance to collaborate professionally with firm members on the other side of an internal conflict can lead to inefficiencies in service and ultimately even the best result for the firm's client and the firm.

The impact of these is sometimes subtle and sometimes not, but in every case it is negative. Am I making this out to be a more significant issue than it is - I don't think so!

Consider the following - according to a survey of over 250 legal administrators one of the top three requested subjects for continuing education is "Conflict management". According to another survey conducted by the ABA Young Lawyers Division in 1995 almost 33% of the respondents to the survey said that were strongly considering leaving their current firm at some point within the next two years due to dissatisfaction on some level, another 31% responded that they might also consider doing so. In an article in New York Magazine, June 1999 it was noted that big firm lawyers are less satisfied with their jobs than ever despite the explosion in salaries

and profits. This was confirmed during an interview I conducted with a young attorney who had recently left a large local law firm .He told me that during the six years he had been with this firm over 130 attorneys had left the firm for various reasons, many of which were related to the issue of feeling undervalued or feeling "stranded" within the firm. This constituted a turnover of over 100%. It was his observation that the firm either chose to ignore or discounted these problems and, as a result, the firm is now a fraction of the size it used to be and a fraction as profitable as well. Additionally, there are web sites on the Internet today that provide "bulletin boards " for interaction and communication for those attorneys who are dissatisfied as well as information and council regarding opportunities and options in the legal profession for those considering or wanting to make a change. These same web sites sometimes also offer articles of advice and explanation regarding attorney retention such as The New Associates: A Letter to Puzzled Partners by Mark L. Byers, Ph.D. that touches on factors that might cause young attorneys to become disillusioned and dissatisfied. As you can see the subject of dissatisfaction and conflict is a prevalent issue today in the legal profession. We know that employment alternatives have never been as numerous for an attorney contemplating a change in employment and it is truly a "seller's market" today. Keeping all of this in mind, internal conflict and dissatisfaction has become is a significant issue in the legal profession and is so pervasive today that law firms of every size must address it or be prepared to ultimately pay the very expensive price for ignoring it.

In order to get a complete picture of the problem of what causes an attorney to leave one situation for another and how it could possibly be prevented I attempted to get as broad a spectrum of input as possible. I interviewed a cross section of attorneys, all of whom had been in either employment or ownership positions in firms and had chosen to leave for another opportunity. Included in the interviews were partners who had withdrawn from both large and small firms to go to other situations, equity and "non equity" partners, associates who had resigned from one firm to become associates in another firm, male attorneys, female attorneys, attorneys in their 30's, 40's, and 50's.

### ***The Causes***

In discussing the most common reasons behind conflict or dissatisfaction a common theme emerged -one's value and compensation as a measure of it, either within the firm or within the marketplace. Clearly if one doesn't feel properly valued where he or she is they are likely to seek a situation in which they will feel valued. The responses on this issue touched on various causes such as "greedy" partners, non-recognition of "backroom" production value, owners who weren't willing to sacrifice their lifestyle in the short term in order to recognize the value of others. While most attorneys interviewed were quick to mention that "it wasn't about the money, it was about feeling properly valued" it is also worth noting that in most firms money or compensation is the foremost measure of feeling valued or discounted. There were also issues that were somewhat more subtle- lifestyle issues, work ethic, firm direction and management differences, gender issues and feeling abandoned by or "cut off" from senior ownership. In many of these cases the dissatisfaction was kept quiet for fear of not being seen as a "team player".

### ***The Symptoms***

Symptoms that appear when there is "bleeding" due to unresolved conflict have additional negative impacts on the day-to-day operations of firm. Firm objectives begin to take a back seat to personal objectives. Unity among firm leadership can begin to disintegrate. Feelings of isolation lead to having "practices within a practice". Of course the ultimate symptom of conflict and dissatisfaction is that valuable people start to leave the firm.

So, considering all of these factors how important is it to "stop the bleeding?"

What can be done to minimize or perhaps even eliminate the problem?

### ***Diagnosis***

Before a firm can deal with a problem it must know and acknowledge that the problem exists. During my research it was noted that frequently firm management wasn't aware of the concerns at issue because those that were dissatisfied couldn't find a comfortable forum or process within the firm for discussion of such concerns. Consider this in the same manner as someone getting an annual physical. If there is a problem and it is detected it can be treated and hopefully eliminated or at the very least monitored. Conversely, if there is no annual physical and there is a problem the consequences could be devastating. Having the process for identifying these situations and a forum for resolution should be viewed as "preventative medicine" for the firm. All of those attorneys interviewed noted that keeping open lines of communication was the basis to any viable solution of this problem. While I agree with this conclusion, it is also clear that a more formal process needs to be in place to enable both firm and firm members to identify the types of sensitive issues, which can typically result in conflict or dissatisfaction. Not all of the areas of conflict and dissatisfaction will surface in informal conversation. Many of the more subtle issues, such as those in the composite described above will remain hidden and the "bleeding" will continue under the surface. The deficiency in most firms is in the lack of a method or process for keeping in touch with how firm members feel about both firm objectives and management, firm policies and culture and how they perceived to be valued the scheme of it all. Clearly it is difficult, if not impossible, to please all of the people even most of the time and there will always be those who will be dissatisfied no matter what the process or what the resolve. However the firm can't deal with what it doesn't know and it is to the firm's benefit to put a process in place that promotes periodic feedback needed to identify potential causes of firm "bleeding".

### ***Treatment***

There are some basic elements necessary to any process, whether written, (questionnaires, management valuations, etc.) or oral ("one on one" or group meetings) in order for it to be productive. The first is the element of trust. In order for the process to succeed all participating must trust the goals of the process and that what follows will be objective and fair. The process must promote a "safe place" to be open and direct without fear of ridicule or retribution.

Obviously if one thinks they will be singled out as a "crybaby" or thought of as a "trouble maker" they will not give honest feedback, thereby defeating the goal of the process. Detailed relevant questions must be asked and mutual consideration given for adequate detailed answers.

The process should ultimately provide a forum for discussion and resolution to be conducted in an atmosphere of confidentiality.

As with any conflict or problem resolution the best results are achieved when all parties involved have a desire to resolve the issue recognizing that certain negotiation and concession may be necessary to achieve a "reasonable resolve" that is both for the good of the firm and the individuals involved. This is more easily achieved if the panel or council ultimately responsible for achieving consensus to resolve an issue constitutes a fair representation of all parties involved.

### ***Conclusion***

The people in any firm are the heart of the firm and therefore are its most valuable asset and resource. It is crucial to the long term success of the firm to keep its "heart" healthy. Therefore the importance of monitoring the heartbeat on a regular basis to insure continued firm health can't be overstated. A methodical periodic evaluation of firm members' concerns on all levels is necessary to this process. The process must include a means to probe for the issues, a forum to discuss the issues, a desire to resolve the issues, and recognition by all parties that a reasonable resolve may involve some concessions on the issues. When a firm has such a process it stops any "bleeding," maintains a healthy "heartbeat," retains its resources and enhances its chances for long term success.