

LAW OFFICE MANAGEMENT & ADMINISTRATION REPORT



ISSUE 09-10

WWW.IOMA.COM/LAW

November 2009

Stopping the Flood: Retaining, Attracting Talent in a Recession

By Audrey H. Rubin, President, Rubin Solutions Ltd.

Editor's note: On Oct. 6, 2009, at 2 p.m. ET, LOMAR will offer to its readers a timely webinar on the subject of recruiting and retention. The webinar panel will be led by Chicago-based consultant Audrey Rubin, who has served as a chief operating officer, partner, and general counsel for large and small law, accounting, technology, travel, and consulting firms for three decades. She is a leader in the law practice management section of the American Bar Association. This article is a precursor to the impending webinar.

The problem. Firms, large and small, have reduced their legal staffs this year. No surprise in a recession. Business is down and rates are stagnant at best. Less work to do means less people needed to do it. There have been terminations of lawyers in 2008 and 2009 unlike any in modern history.

While cutbacks are an appropriate way to deal with reduced levels of business, many firms are now facing the reality that the keepers are nervous. They've seen their colleagues severed, they fear for the financial stability of the firm, and they are concerned that even the best and brightest could be next for the guillotine.

Such unease results in much lower productivity, resistance to delegating or sharing work or business development leads, and overall panic in the workplace. The number of partners and associates

across the country who have résumés ready for the first glimmer of job mobility is astonishing. Law firm leaders may falsely assume that the survivors of the job purge are thankful to have their jobs and thus more loyal to their employers. They also may foolishly assume that the job market is too tight for the keepers to leave. These law firm leaders couldn't be more wrong!

Those lawyers whom firms chose to keep are often angry at management for firing their friends and see management as greedy or disloyal to the ranks. In light of such insecurity, the survivors are willing to look around and consider other career opportunities, both within and outside of the law. Many are considering spinning off their own small practices in 2010.

The market has already started moving. It will, in my estimation, move even more rapidly in the first quarter of 2010. There is traditionally little job movement between Thanksgiving and New Year's. But when the final numbers are in and people realize they will not get a bonus or raise, many voluntarily leave. When they feel that they've stuck it out at the firm for a couple of terribly stressful years but are now ready to try something else, they'll do it.

So how do firms motivate and improve morale of the lawyers they don't want to leave? And when the

time comes to bring in a lateral or two to handle the work of someone who was terminated a year ago, how does the firm convince the lateral that this firm is a good place at which to work?

The solutions:

(1) *Look in the mirror.* Acknowledge that lawyers whom firm leaders thought were excellent in the past and who may have known their worth to the firm may not be feeling that great about the firm these days.

(2) *Develop individual business plans for the keepers in coordination with them.* This takes time. It involves leadership sitting with partners and associates on a one-on-one basis, finding out what the lawyers want to do going forward, how they feel about the firm's situation and their own, and developing a program for moving forward. Smart attorneys feel motivated when they have a creative project on their plates: The project for the rest of this year for each attorney in the firm should be working on how they can bring value to the firm that will be supported and recognized.

(3) *Hold frequent and frank communications.* Firms simply cannot afford to operate like they did a year or two ago. They kept financial, client, and other business information close to the vest, especially from other partners—equity and non-equity—without morale fallout. The attitude about such practices is changing. The failure to frankly and openly communicate will cause already existing fear to grow. It will cause the keepers to think that the firm doesn't really care about them because it's withholding information from them—information now seen as central to their career decisionmaking. ("If I'm important to the firm, then management should respect me enough to tell me what's going on, not treat me like a kid.")

(4) *Assume no news equals the undermining of your talent pool.* Get rid of the canned speeches! Take real questions and answers at meetings! Don't hide behind the podium! Don't be lulled into think-

ing information needs to remain confidential because of the firm's private ownership structure. This is an age where people can't stop the bombardment of information. For firm leaders to think most financial and client information should be kept confidential within the firm is ludicrous and undermines trust between leadership and the team. What is not shared is imagined or dug up anyway. Firm management must get ahead of the misinformation flow.

(5) *Invest.* Every firm and every business has scaled back in one way or another. But cutting personnel, deferring infrastructure improvements, and hunkering down are or should be nearly over. Firms must now provide leadership and team-building training to department leaders and young partners. Firms need to invest in coaches for the lawyers chosen to run large matters and whose performance could be improved by learning better communication, time-management, or delegation skills. Associates should be sent to serious professional-development programs to improve their skills, maybe learn new ones as they may be asked to stretch their areas of experience with fewer bodies around.

(6) *Creative compensation.* Compensation does not have to be lockstep, even between bands in the organization. Where is it written that a partner must earn more than an associate every single year? Where is it written that larger percentages of pay can't be accrued as longer-term compensation bonuses based on individual and firm productivity? Intelligent professionals respect that you are taking the time to share the firm's business plans with them and willing to share the risk with them.

(7) *Rehire if you can.* Imagine a law firm at which excellent producers had to be laid off due to lack of business but were promised that when business picked up again they'd be at the head of the line for rehiring. This concept is astonishingly foreign to most law firms. Remember, many excellent attorneys were terminated due to no fault of their own. Why not try to rehire them, just as corporations put people on

furlough but then bring them back when the business turns the corner? Imagine what this rehiring program would do to morale and how it would save in on-boarding and education of new hires.

(8) Be frank with and don't overpromise laterals. If a firm cannot rehire good attorneys, they must not fall in love too quickly with laterals or brush over the realities of the business. More—not less—time should be spent getting to know candidates. The value of effective and thorough due diligence cannot be minimized. Firms simply cannot afford, as a practical and productivity matter, to hire laterals who don't work out. The survivors are exhausted from living through the revolving-door years. They need to trust management to make sound business decisions. Firms have to be as sure as possible that the lateral's clients will follow. They need to objectively assess whether the lateral's style will meld with the firm. Compensation offered to laterals must be flexible and not too rich.

If firms don't follow this advice, they will see the keeper partners and associates become disgruntled, under the theory "Management let my colleague go, only to now pay for a lateral who may or may not turn out."

Calling all leaders. Now is the time. Invest. Communicate. Be open. Be realistic. Be creative. There are plenty of highly valuable consultants and other resources available to provide direction and advice. Firms' leaders should stop assuming all the answers lie within the walls of the firm itself.

Olympic champions have coaches for athletic, leadership, and confidence skills. World Series winners have coaches for athletic and team building

skills. Corporate CEOs have executive coaches, officers to develop and discuss new approaches, speechwriters to help fashion the message, and leadership promoters. So do the best political leaders.

Law firm leaders should avoid being lulled into thinking, "We've made it this far, we can make it through now." Times have changed. Firms have changed. Now is the time to lead through the change, retain, and mobilize the most valuable assets—attorney talent.

A note about the webinar. In the webinar that we will present under the auspices of IOMA, I will be joined by three other panelists who have expert, firsthand experience managing talent acquisition and retention matters in law firms. Managing partner Bryan Schwartz of Levenfeld Pearlstein, principal Bobbie McMorrow of McMorrow Savarese Consulting, and co-founder and president Robert S. Wilson of High Potential Inc. will contribute their knowledge and insights to the discussion.

In addition to our prepared remarks, online viewers will be able to ask us their questions directly and for immediate answer. We hope that those law firms struggling to balance recession-driven cuts in professional staff and their compensation with the need to maintain or secure a productive and impressive workforce will join us for a practical discussion. □

Audrey Rubin leads Rubin Solutions Ltd., a consulting firm concentrating in profit and talent improvement in law firms. She may be reached at 847-446-2211 or via e-mail at audreyrubin@rubinsolutions.com.

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