

Chicago Daily Law Bulletin

Volume 158, No. 39

Associates see new opportunities for building their practices

It's no secret that these are uncertain times for practicing lawyers. A depressed global economy, ever-increasing pressure from clients to limit costs and an excess supply of attorneys resulted in large-scale attorney layoffs in 2009 and early 2010.

According to the National Law Journal, there was a decline of nearly 10,000 attorneys at the journal's 250 law firms between 2009 and 2010 alone. Although there are signs of increased nationwide economic optimism, the demand for cost-effective results and ever-efficient legal services has not slowed. Client demand for innovative billing arrangements and leaner staffing continues apace in 2012.

A recent American Lawyer survey of law firm leaders found that 81 percent of those responding have more clients seeking discounts and 92 percent used flat fees for at least one deal in 2011; an additional 73 percent believed that more alternative fee arrangements would be used if clients and firms had more experience with such arrangements.

These new market realities have forced firm management and administrators to not only become creative in their billing and fee arrangements with clients, but also with the manner and personnel with which they staff their matters. One option used with increasing frequency has been to outsource work to third parties. American Lawyer reports that 37 percent of AmLaw 200 firms outsourced work to third parties. Another burgeoning alternative has been to move administrative operations to off-site centers located in cheaper parts of the country.

Perhaps the most easily attainable method of cost containment is to push work down to junior attorneys in a given law firm. Possessing billable rates sometimes hundreds of dollars per hour lower than their partner counterparts, younger lawyers have the opportunity to demonstrate their abilities and their value to clients by taking on new responsibilities and an increased role in the management of litigation and other matters.

This opportunity undoubtedly

presents risks to the associates and their firm alike. One recent headline-grabbing example is the dismissal of a death penalty appeal untimely filed by a white-shoe New York law firm after the two associates charged with managing the case left the firm without coordinating a hand-off to their replacements. While the Supreme Court ultimately excused the procedural defect, it was not without harsh criticism of the firm and its attorneys who "abandoned" their client.

Despite the potential — but manageable — pitfalls of leaner and lower cost attorney staffing models, newfound opportunities abound for young associates to manage discovery, conduct depositions, brief and argue dispositive motions and play a greater role in the strategy and management of litigation from a case's inception. Along with these increased substantive and managerial responsibilities comes an additional opportunity: routine and direct client contact.

While coordination and interaction with in-house counsel will always be the principal responsibility of lead partners, the ever-present pressure to contain costs and fees increasingly includes the routine client contact necessary to propel and respond to litigation. This new opportunity to interact directly with their client is a welcome development for many associates, but requires the development of additional skills and habits that are typically not the focus of a law school curriculum.

Over the course of the next several months, this column — Associated — will explore the consequences of these changes to the business of law firms and their impact on the practice of litigation associates. We will address these changes through the lens of both sides of the attorney-client relationship, from the associate litigators who are now handling substantive responsibility and client relationships earlier than anticipated to the in-house counsel who are finding ways to use associates to maximize value and receive cost-effective services. Attorneys who have made the transition from associate to in-house counsel will discuss the most valuable

ASSOCIATED PERSPECTIVES



MARTIN J. BISHOP

Martin J. Bishop is a partner in the litigation department in Foley & Lardner LLP's Chicago office. He is also the vice chairman of the firm's consumer financial services practice.

lessons learned while working for a law firm, the new considerations and responsibilities attendant to working in-house, the personal and professional trade-offs associated with the transition and offer insights gleaned from their change in vantage point.

While it is not uncommon for clients and in-house counsel to chide the use of lower level associates (seeking the perceived efficiencies provided by more seasoned counsel), in today's competitive environment, the value a competent associate can bring to

a given matter should not be overlooked. From a firm's perspective, an associate can cultivate a valuable and productive client relationship. From a client perspective, associates often bring hard-working expertise at a much lower cost than the partners can deliver.

In this increasingly competitive market where continued growth and promotion within a firm has never been more difficult, associates are becoming increasingly aware of the attributes clients value most in the attorneys working on their matters. Associates not only recognize these desired traits, but they strive to emulate them earlier in their careers. Perhaps more than any generation of lawyers before them, associates today are encountering and contemplating how the relationship between an in-house counsel and associate may differ from that of the in-house counsel and the partner; the added value that an associate may provide the client; the level and frequency of communication the in-house counsel expects and seeks from its outside associates; the steps a partner can take to facilitate a productive working relationship between the client and the partner's associates; and ways to illuminate the dynamics of a working relationship between young associates and their clients.

In the coming months, Associated will delve into the new associate dilemma by examining the personal side of lawyers who have made the transition from law firm associate to in-house counsel and exploring how the change in their roles and responsibilities have shaped their view of how associates can best bring value to a matter. We look forward to spending time with you in this space and hope to accurately capture the dynamics of the working relationship between clients and young associates in modern law firm life and provide valuable insight for attorneys on both sides of the attorney-client relationship, both senior and junior counsel alike.

Jonathan W. Garlough is an associate in the litigation department of Foley & Lardner LLP and assisted with this column.

“In this increasingly competitive market where continued growth and promotion within a firm has never been more difficult, associates are becoming increasingly aware of the attributes clients value most in the attorneys working on their matters.”