

## NYLJ Article – Mid-Size Law Firm Management

By Frederick R. Cummings, Jr., Managing Partner of Warshaw Burstein, LLP, a 55-attorney, NYC midtown-based general practice firm, covering all the major practice areas, with some additional niche practices.

Remaining competitive as a mid-size law firm in New York City has its challenges. There are those irksome difficulties faced by most firms, such as making sure that everyone's time gets recorded daily and bills get sent out monthly. But there are other aspects to achieving success that include a willingness and ability to be nimble and to adopt strategies that run counter to management trends followed by Big Law. Here are a few suggestions I would offer based on my experience:

*Seize Opportunities in New Practice Areas When They Arise.* One advantage we have over larger firms is that we are able to carve out niche practices that larger firms might not be willing to enter. Under the leadership of the Chair of our Matrimonial Department, we have developed a significant practice, which not only handles a broad range of complex matrimonial and family law cases, but also has been a leader in the establishment of rights for the LGBTQ community. Our firm played a key role in redefining the definition of "parent" under New York law, which we undertook on a pro bono basis. We also have been on the cutting edge of the law in our Title IX practice, which is based on the proposition that all individuals in educational settings, particularly in cases of alleged sexual assault, are entitled to due process. The Chair of that practice group was just selected for Crain's "40 Under 40" list for 2019 – an extraordinary accomplishment and a great honor for her and our firm. These initiatives are by no means a substitute for strengthening our core practice areas but they are important in distinguishing the firm as one that embraces innovation and entrepreneurship.

*Plan for Succession.* Firms our size disappear on a regular basis. They fail, they merge or sometimes the owners just decide to fold them. The disappearance of these firms often coincides with their lease expiration and results from the failure of those responsible for managing the firm to establish and implement a plan for who will assume those responsibilities when the current leaders no longer are willing or able to do so. With our lease coming up for renewal later this year, we focused our energies over at least the past five years in attracting and retaining younger attorneys who would form the core group of future leaders who would eventually inherit the firm. We have made some of them equity partners with representation on our Management Committee. Our new 15-year lease in modern space positions us to continue on this path intended for smooth transition of leadership in the coming years.

*Leave the Mandatory Retirement Policies to the Large Firms.* This may seem to contradict the previous suggestion regarding planning for succession by the next generation. It doesn't. In firms our size, there is room for attorneys of all ages so

long as they are productive and make a meaningful contribution. I have always been against mandatory retirement. A brother-in-law of mine was forced to retire from a large Manhattan firm. I would watch him do the Times crossword puzzle – the Saturday puzzle, not the Monday puzzle – answering each clue from 1 to 124 methodically and correctly from start to finish. While I have nothing against crosswords, I couldn't help thinking that a guy who was still at the top of his game should be doing something more productive and meaningful with his time and intellect. I understand that mandatory retirement is a necessary byproduct of the business model that large firms apparently must adopt to stay as profitable as they are. Smaller firms like ours don't need to force older lawyers to retire to make room for their younger colleagues. In fact, the mandatory retirement policies of large firms have served as a windfall for us, allowing us to hire partners who at age 65 or 70 still have many productive years ahead of them, combined with a book of business and relationships developed over a career of successful work for their clients.

*Vetting of Lateral Partners.* While growth from within is one path to greater profitability, hiring laterals is for most firms also a necessary component of their growth strategy. The best laterals are often the ones who approach the firm because they know and respect the judgment of one or more of your partners. From the firm's standpoint, the risk of making a hiring mistake is significantly reduced if one or more of your partners has worked with the person on the same or the opposite side of a matter. Your partners can tell you first hand whether the individual is a good lawyer, whether that person relates well to colleagues and staff on a day to day basis, has a strong work ethic and an entrepreneurial outlook or other talents that could benefit the firm. We also deal with many recruiters and value their services since we have had many successes with their candidates. The benefit of our being approached directly by the lateral who has prior relationships with your partners is not so much about saving a fee as it is about getting a known commodity. You do your best in the interview process to try to ferret out the possible problems you might have after the person arrives. With candidates always on their best behavior when interviewing, asking the tough questions is an essential part of your due diligence. Mistakes sometimes might cost you financially, but always will cost you in terms of the time they consume. It's almost always far more complicated extricating yourself from these relationships than it was entering into them - the divorce can be a lot tougher than the marriage.

*Be as Transparent as Possible with your Partners.* One essential message you need to convey to your partners is that all of you are in this together – everyone has a stake, and everyone has a responsibility to the group. A necessary predicate to this type of engagement is to convey as much information to your partners as possible so that everyone understands that there are no secrets here. At our firm, the equity partners get a full report each month covering every significant piece of financial data ranging from current and year-to-date billable and non-billable hours of each timekeeper, to billings, collections, receivables

and work in process of each attorney, to hours spent by each attorney broken down by which attorney originated the matter. Each of them also gets a report each day of all of receipts, upcoming expenses and cash balance. The non-equity partners don't get the same scope of information but do get more than enough information to manage their practice. Besides supplying current financial data, we hold a monthly meeting for the equity partners at which everything of significance is discussed based on my detailed agenda. This venue, as well as our bi-weekly management committee meetings also provide valuable feedback for the decisions I need to make.

*Managing a Mid-size Firm is an Incredibly Complicated but Fulfilling Job.* Firms of our size can't afford a large overhead structure. The people who support you in office administration, accounting, IT, and records management, all need to be prepared to give 110% effort. Slackers need not apply. I insist that they each keep a "to do" list in the same way that I keep one for myself, while being careful how I allocate and prioritize my own time since there are always dozens of tasks on the list. But the challenge is not just about what you must do – it's also about who you must be. It is often said that one big difference between practicing law at a large firm versus a small firm is that at a large firm, the lawyer has the luxury of being able to focus on a narrow specialty whereas at a small firm, the lawyer must be able to handle a wide variety of legal problems to satisfy the clients' needs. That principle applies tenfold when it comes to managing the firm. Be prepared on any given day to act as mentor, counsellor, motivator, arbitrator, strategist, planner, organizer, hirer, firer, evaluator, damage controller, enforcer, promoter, confessor, therapist and shrink. And that doesn't even begin to cover the roles you will need to play the following day, not to mention the legal work you are still expected to perform for the firm's clients. The job does have its satisfactions. Not only are you responsible for providing top flight legal services to your clients and reasonable rates, you also are providing gainful and meaningful employment for dozens of people – no small accomplishment in today's world. If you ever experience boredom, you are probably doing something wrong and should start thinking about getting another job. With apologies to Samuel Johnson and his beloved London, it's a bit extreme to say when you're tired of being managing partner, you're tired of life. But then, maybe it's at least time to start thinking about retirement.

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