Out with the Old... In with the New – High Risk Strategy

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Not a new phenomenon but one that seems to be in vogue for small to medium size firms lately is jettisoning of senior lawyers and not always on the firms' initiative!

There is lots of speculation of reasons why the increase, that while they run the gambit of logic are for the most part driven by perspective:

Senior partners losing faith in the future of the firm for several reasons, including:

- A dearth of imminent leadership to ensure the firm is positioned to move forward.
- An eroding client base that makes current income levels unsustainable.
- A sudden self-awareness that their historic leadership has resulted in a firm with an imbalance between leading "grinders" but skillful "finders."
- Seeing the price of a lack of past strategic vision to actively pursue augmentation of practice areas offered.
- Panic drove by them both understanding the role their "capital" plays in their financial retirement and the potential to lose it.

Mid-level partners developing a sense of being "past over" for several reasons including:

- Stalling of levels of income, some times at substantially less than what their predecessors enjoyed.
- Perceived disrespect from senior partners with their catering to younger partners (i.e., work allocation; leadership roles; client succession; etc.)
- Distrust of younger partners to accord them the same respect they have shown the partners who went before them.
- Increased willingness to deal directly with the economic pressures of supporting "underperforming" senior partners.
- The increasing financial costs of running the firm and "who" is going to share in the funding of these costs at the same time as capital payouts.

Younger partners developing a sense that they should play a greater role in directing the future of the firm (now and not later) for a variety of reasons including:

- Uncertainty of "mid-level partners" sense of fairness in dealing with them and their work-life balance challenges.
- The absence of a "risk-taking" mindset of older than them partners required to ensure the legacy of the firm in today's legal profession.
- Income expectations/requirements (often founded on what friends are earning – regardless if based upon fact or fiction) that look unachievable under the current regime.
- A sense of self-worth that is driven by investing in skills/ attitudes not necessarily historically institutionalized in law firm culture, including:

  - leadership
  - regular and ongoing feedback
  - business development
  - diversity and inclusion
  - teamwork and collaboration

Some or all of these reasonings may have no reality in fact, but they are the perspective of many of the members of each group and, therefore, are very real to them.

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Demystify each group's perspective is an exercise in futility as these beliefs were ingrained over time based upon personal experiences.

Rather, I would channel your time and energy into examining what is the reality of not reaching a solution that sees all parties give a little.

The firm will fail to exist as they have known it.

Why will it fail? For several reasons including:

- The lawyers with a lucrative practice will defend it by moving laterally (Firms can't exist with 100% "grinders").
- Clients will tire of the uncertainty and ill-advised comments of firm members and change firms (try meeting partners' draws without clients).
- Senior lawyers will retire capping any financial exposure to their existing capital accounts.
- Younger lawyers will move in-house all but assuring senior lawyers do not get their capital returned intact.
- Competitors will "cherry-pick" both lawyers and clients sometimes offering nothing else but the certainty of a future.
- Banks will tighten credit covenants or even reduce or eliminate loan offerings.
- The dealings with each other becoming too emotional and draining to continue.

Only once the reality of demise is embraced and all partners losing can you work towards a solution that achieves the greatest good for the greatest number.

Components of successful compromise solutions have included:

- The compensation for senior partners becoming fixed in amount and time frame (requires a belief that they will continue to work at transitioning of clients, acting to enhance the firm's reputation, developing skills of younger lawyers and being productive.
- Capping senior partners' capital accounts and even finalizing repayment terms.
- Establishing a transition task force led by mid-level partners but including young partners that not only focuses on a short term solution but on addressing the longer-term issues.
- Revamping of the compensation system which likely includes reducing importance of seniority and increases the importance of delegation and "soft skills" while maintaining or enhancing value placed on client generation.
- Moving from "blob" governance to one where partners and management each have a clear and distinct understanding of their role in the firm's leadership and management.
- Re-balancing the funding of the firm's working capital between partners' capital and bank financing (reducing the former and increasing the latter).
- Changing terms of partners' capital payment including lengthening the time it takes (both when it starts and the length of time over which it is paid) and reducing the amount of the payout in the case of partners leaving to compete with the firm (i.e., geographical, practice area, etc.)
- New partnership agreement that not only deals with the changes but some of the issues not historically addressed (parental leaves, sabbaticals, disputes (what and how),

professional corporations, resolving partnership issues (requiring majority and supermajority votes, payment of draws, commitment to exclusive practice, etc.)

Jane Wells expressed words that are so appropriate to the situation being faced by many small and mid-size law firms today —

> *"learn the wisdom of compromise as it is better to bend than break."*

Stephen Mabey is a CPA, CA and the Managing Director of Applied Strategies, Inc. Stephen's focus is on law firms in general and on small to medium size law firms in particular. He has written about and advised on, a wide range of issues including - leadership, business development, marketing, key performance indicators, strategic planning, mergers, practice acquisitions, competitive intelligence, finance, mergers, practice transitioning, compensation, organizational structures, succession and transition planning, partnership arrangements and firm retreats. In 2013, Stephen was inducted as a Fellow of the College of Law Practice Management in recognition of his sustained commitment to the highest standards of professionalism in law practice management. For more information, visit ***appliedstrategies.ca*** *or connect with* ***Stephen Mabey on LinkedIn****.*

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