

Ties That Bind:

There are four essential elements of a strong law firm culture (and “collegiality” isn’t one of them).

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There’s a joke going around law firms these days: “What do Bay Area Am Law 100 firms have in common with top investment banks? They’re going under at about the same rate.” Two once-great firms—Heller Ehrman and Thelen are now in the throes of dissolution. Heller, home to a top-notch litigation practice, somehow managed to go from the A List to the F List in a mere two years. Thelen, with preeminence in electric energy and construction, pulled off the first major bicoastal merger in the nineties but entered a death spiral after completing the biggest law firm merger of 2007.

Heller, in particular, had been celebrated as a firm with a strong culture that was deeply involved in the Bay Area’s legal and civic community. In dissolution, both firms offer lessons about the true underpinnings of a strong culture—lessons that may surprise partners in many firms.

As is the case with the business of law, little is taught in law schools about building strong firm cultures. We’re left to osmose that like success, a strong culture is part of the lore of a great firm. Ask any partner at a major law firm what makes the firm’s culture strong, the first word out of the partner’s mouth will almost surely be “collegiality.” Next: “We like practicing law together.” Third: “We respect each other.” These words sound good, but frequently they are code words for “we tolerate each other,” or more specifically, “we tolerate disparate levels of commitment to one another and to the firm.”

Many have asked me whether there was something in the water in San Francisco that brought two outstanding firms to their knees. I don’t think so. But there may be a lesson the market is teaching us. As San Francisco has grown to become the country’s second or third most important legal market, many strong firms have opened there. Over time, the increased competition appears to have gradually taken a toll on the city’s indigenous firms, providing clients and talent with numerous attractive alternatives. As often happens, many firms responded to the encroachment on their home market by launching expansion initiatives into new

cities. But successful growth can only be accomplished from a position of strength, broadly defined to include a culture that breeds partners who are in it for each other, not just themselves.

Even the best lawyers practicing together can find themselves circling the drain if they don't have a keen understanding of what makes a firm culture strong. While collegiality, liking one another and mutual respect are all important, taking a look at what was missing from or what fouled the secret sauce of once-great cultures might help others from being sucked into the whirlpool. Here are four elements of culture. If you're not firing on all four, it is time to get busy.

HARD WORK. These two four-letter words cause recruiting partners to cringe, are the bane of associates, and can even be uttered disdainfully by partners at lifestyle firms who preach that "money isn't everything" and "we make good money and don't need to work harder." While it is true that the world's best firms aren't driven by greed, they are driven by high levels of productivity—a.k.a. hard work. If CNBC's Jim Cramer was ranting about how to pick a winning law firm, he wouldn't yell about collegiality and respect; instead, he would be looking at the hours, rates, and leverage.

There is a simple truth about law firm winners and losers: The losers are the firms that get flabby on the hours. They have too many lawyers for the work they have. (Remember Brobeck Phleger & Harrison? There, the problem was associates—700 of them, when there was enough work for 350.) This time, it is partners who have too little work. But instead of shedding partners, overweight firms try to manage the problem through compensation.

The trouble with this approach is that lack of a shared commitment is the number one enemy of a strong firm culture. Granted, not every partner is going to demonstrate the highest level of commitment to the firm every year. And firms must demonstrate a commitment to valued lawyers who may want to partially opt out during the illness of a loved one or while raising a family. Creating a structure to facilitate those needs signals to everyone else that hard work on behalf of the firm and its clients is required at all other times. It also builds pride in the firm and deprives underperformers of the camouflage that vagueness provides. If your firm needs to set acceptable levels of performance to accommodate the personal needs and aspirations of partners at different stages of life, read *Mass Career Customization* by Kathy Benko and Ann Weinstock, who designed Deloitte's ground-breaking structure for professional service firms.

REWARDS FOR RAINMAKERS. If too little work is the death knell for a law firm, then making sure there is more than enough work to keep everybody busy is an elixir. Every partner must "own" the responsibility to bring in work for the firm (not just for himself or herself) from new and existing clients. The excuse most often given by chronically underperforming lawyers: "It isn't that any of us don't want to work hard; we would do the work if it we had it." The solution: Go out and get the work. Too many firms pay partners well for doing things in lieu of getting the work or, even worse, doing nothing.

Let me be clear here: I'm not defining the problem as handsomely compensated full-time leaders of successful firms. I am referring to poorly rationalized compensation schemes, in which everybody wins, regardless of how directly their performance is tied to the financial success of the firm. Of course there is a place for rewarding partners who reflect well on the firm because of their civic and professional contributions, for mentoring young lawyers, and for other things. But in the end, firms must find a way to emphasize the importance of every partner doing his share to bring home the bacon for more than just himself.

Partners who keep more people busy than just themselves are more important to the firm's success than those who don't, and they deserve—and need—to be paid more. They sacrifice a lot of their personal life to do so, and they and their families merit it. When firms are pulled toward the whirlpool, these partners look around and see that they can make a lot more money practicing in a firm where everybody works hard to bring in the bacon.

KNOWING WHO YOU ARE (AND WHO YOU AREN'T). I have written many times about the importance of having a shared vision. I don't think I've ever put it this way, but a vision that isn't reasonably achievable is as bad as no vision at all. In short, don't bite off more than you can chew. Too many firms have opened too many offices in high-cost markets, often in rapid-fire succession, without any reasonable likelihood of attracting the talent or work they need. Having offices in New York, London, and Shanghai may make partners proud and give your Web site a snazzy global look and feel, but rent, talent, and travel are a huge drain unless you have the work to support it. No matter how high the billing rates in those markets are, don't expand until you can show good cause, and set a high bar for those who are making the case.

In cultural terms, successful geographic expansion is not about getting a matter or client in another city. It is defined instead by sharing work across offices and practice areas. When lawyers need each other to get their work done, they sacrifice for one another and stay together. That is the fabric that makes a strong culture.

TRANSPARENCY, WITH DISCRETION. Even the best law firm leaders worry that what they put in an e-mail to their partners, or even what they tell them in the water closet, will end up in the media. But it is hard to rally the troops for battle when they don't know and understand the threat at hand.

In strong cultures, partners are regularly apprised of the firm's performance and the drivers of its financial success. At such firms, partners understand law firm economics. When key indicators are down, they rally—and they don't talk to the media about the solutions the firm is seeking.

There may be little that a firm can do about disgruntled former partners talking to the media. But in my experience, journalists rarely rely only on sources outside a firm if they are reporting bad news. They want the news directly.

Firms need to create a culture of discretion regarding how their lawyers treat sensitive information. The firm's business should be treated with the same level of confidentiality as a client's. When a firm's affairs are played out in the media, headhunters circle, prospective recruits and laterals lose interest, and clients can lose confidence. In a strong culture, firms breed the same level of fiduciary concern about the firm's business as they do about their clients' business.

This last point is perhaps the best summation. In partnerships with strong cultures, lawyers behave as fiduciaries to each other. They work hard on behalf of one another, and they don't take financial advantage of each other. They don't make wasteful bets on the future, and they keep information that may compromise their endeavors among themselves. Partners who say their success is not about the money may still enjoy the fruits of a practice that is lucrative in nonmonetary measures. But, partners who aren't in it for each other won't. Therein lies the strength of culture.