

Saying goodbye the hard way

Many large law firms are losing the opportunity to leverage their relationships with alumni (including those not leaving of their own accord) and why it matters.

Kate Neville / Special to NLJ.com

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In 2009, more people were laid off by more firms than had been reported for all previous years combined. Letting attorneys go in significant numbers is not something large law firms have had a great deal of experience with until recently. Standard practice in most large law firms had been to retain attorneys until a partnership decision was made. These firms did so in part because they feared the reputational stigma attached to firing one of their own; as one blog explains, the "vast majority" of prospective lawyers "turned up their noses at firms...[that] laid people off."

How quickly times have changed.

Despite the novelty of big firms having to let their attorneys go, it still comes as a surprise how poorly some large law firms have handled the process of layoffs over the past year. To be fair, firms made these decisions under great stress and uncertainty, when the risk of total firm collapse existed and in fact happened to some, which certainly influenced the choices they made. Many firms insist that they have only let attorneys go for performance rather than economic reasons, even when it strains credulity. It is difficult to believe that a firm suddenly realized, all at once, that dozens of its attorneys had sub-par performance, particularly when some of those lawyers were recently made junior partners, or when those attorneys were in their first or starting their second year of practice.

Most analysts (and other attorneys in private conversation) recognize that these lawyers would never be let go in a stronger economy as long as they made money for their employers. To their credit, some firms forced to make layoffs have stated this explicitly and expressed regret at having to say goodbye to respected colleagues.

Even at firms that have been up front about the economic necessity of layoffs, however, stories abound of attorneys being given almost no notice, little or no severance, and no assistance in securing a new position. Departing associates have told of working closely with a partner for years, only to receive an email message in farewell. In a few cases, attorneys have been shut out of the firm's computer system while they were being given the news, and others have been immediately escorted out of the building with their personal items forwarded separately by messenger. Such jarring departures, while common in investment banking and internet start-ups, had been unheard of for members of the bar in good standing whose only misdeed was that they were caught in a downlegal economy.

Certainly, not all firms have handled things so poorly. Indeed, some have worked to create a "soft landing" for their attorneys who have been laid off. These efforts have typically included providing career counseling and outplacement services, offering appropriate severance packages, making office space available, and keeping attorneys' phone lines and email accounts active.

By far, the most helpful — and loyalty-engendering — thing a firm can do for its former attorneys is to make calls on their behalf and provide contacts who are knowledgeable about opportunities for the individual now looking. In the past, once it was decided that a senior associate was not going to be made partner, almost all large firms made an effort to place the individual in a position with a client or somewhere one of the firm's partners was well known. While some individual attorneys have asked for and received this type of help in the past year, the courtesy has not been extended as a matter of practice to attorneys told that they no longer have a position with their firm.

There is of course no public data on which firms did what in the process of letting go of attorneys, so it is impossible to calculate how things were handled by the field as a whole. Nevertheless, it remains clear that in the face of hard times and increasing financial pressures, it is in a firm's interest to avoid unnecessarily aggressive, and arguably self-defeating, approaches to downsizing their workforce.

THE BUSINESS RATIONALE: WHY IT MATTERS

As one large firm associate noted in early 2009 on Above the Law:

I remember back in 2003, one of my colleagues was laid off from our firm, and they provided him with six months' salary and hired a professional career consultant/placement agent to help him land safely.... This firm did all the right things, including telling him that it was purely for economic reasons and not performance related. The rewards to the firm were obvious -- he joined the in-house legal team of a Fortune 50 corporation, and still looks back fondly at our former firm despite being laid off.

The absence of far-sighted strategies on the part of some large firms in letting attorneys go exists, of course, in large part because firms are under pressure to save money — the driving force behind the layoffs in the first place. Economic conditions have changed drastically since 2003 — firms no longer feel flush, there is no reassurance that business will increase in the near future, and fewer Fortune 50 corporations are hiring.

It seems that, in their rush to adapt to changing economic conditions, decision-makers at some firms may have lost their long-term perspective. In some cases, administrators in charge of marketing and business development have made the case internally for substantive severance packages in order to maintain goodwill among departing attorneys only to be turned down by managing partners or others on the management committee.

The question remains at what cost firms make these decisions.

Eventually, law firm alumni will find jobs somewhere, very possibly with potential clients. In addition, once work begins to pick up, competition for experienced mid-level talent who can manage complex matters will become fiercer than ever. Consequently, it makes economic sense for firms to handle layoffs sensitively and to do as much as they can for outgoing employees in the midst of tough economic times.

When firms insist on claiming performance issues and lack foresight in how they treat their alumni, it can not only poison the relationship with the individual but also can quickly ruin the firm's reputation with that individual's former colleagues, clients, and fellow alumni. These procedures and processes — or the lack thereof — also mean that a firm assumes the risk of driving away future candidates and causing prospective clients to question the firm's judgment, placing its future in jeopardy.

It is difficult to see a rationale for the problematic practices some firms have implemented. A subsequent column will review practices adopted in other industries to not only maintain but to leverage relations with their alumni to maximize the return on those investments.

Kate Neville, Esq., a Harvard Law graduate, is founder of Neville Career Consulting, LLC, which provides guidance to attorneys considering a job change or career transition, whether within the practice of law or to another field. She helps practicing attorneys identify the full range of their professional options and develop strategies to pursue them successfully. This is the first of a two-part series; the second part, on how law firms can maintain good relationships with alumni, will be posted on NLJ.com in July.