

The Post-Pandemic Law Firm



NEW NORMAL

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Chapter 11: A happy, profitable law firm – no, really

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Introduction

As lawyers emerge from the cloak of COVID-19, when their home and work lives seemingly became one, they will seek to incorporate the learnings of the pandemic into their new work worlds. Winning law firms will be those who can build the benefits of flexible work into happier and more productive and profitable environments.

That's why I've become increasingly troubled as I've watched the latest frenzy of associate salary inflation among law firms. I'm not worried about whether the firms will be able to afford the associates' raises or whether clients will continue to pay firms' escalating rates. Nor is my concern due to naivete. I know that competition for top talent is fiercer than ever and that there's a dearth of quality associates available to do the demanding work. The crux of my worry is that heightened law firm expenses will further erode law firm culture and create an ever more intense focus on delivering maximum billable hours at the expense of the quality of lawyers' lives.

My worry is compounded by disappointment. It looks like law firms have already forgotten the valuable learnings we gained from the lockdowns. Those learnings, in essence, are that firms can be profitable and productive while also being flexible and giving lawyers more control in the way they work. Lawyers are the greatest assets of their firms yet it appears that firms still fail to understand what inspires their talent. If the lessons from the pandemic were taken to heart, firms would make flexibility, control, and quality of life integral to how they recruit and retain their talent. Instead, money is still the key lever.

To me, this means that law firms have yet to learn that building a profitable firm also requires building a happy one. Here are my six tips on what lawyers really want and how firms can seek profitability and productivity and yes, happiness for their lawyers.

Luxuriate in the billable hour

The luxury of the billable hour is that firms generate the same revenue wherever their lawyers bill. Yet even after conditions mandated remote work at many firms for more than a year, the macho pull to return onsite to the office is still strong. Let me be clear. I agree there is real value to being together in-person. The benefit of impromptu brainstorming and connection when colleagues are with each other in person is important. Yet there is nothing magical about a five-day onsite work week. We live in a customized world and the younger generation, in particular, expect that work schedules should similarly be customized. Many law firms are fearful of responding to their firms' survey feedback where lawyers articulated a preference for only two to three days onsite each week. These preferences, however, are not going away – especially now that we've seen that firms can thrive without continuous face time.

Law firms need to resist the knee-jerk default for full onsite return and instead focus on what are the most compelling factors that drive performance and results in determining lawyers' work schedules. Those factors include, most critically, the type of work lawyers do as well as their ability to perform at maximum potential and serve clients' needs most effectively. Giving lawyers more control in the way they work should generally elevate, not negatively impact, performance.

Much of this is not new. Many lawyers were already used to not seeing each other regularly pre-pandemic. The law firm lawyers who work with clients are typically not together on a regular basis and even lawyers within the same firm may be geographically dispersed and not accustomed to seeing each other. In fact, many lawyers report having "seen" each other more regularly through video during the pandemic. Visibility was effectively increased when these lawyers were used to previously only communicating by telephone.

When lawyers work flexibly, what is key, along with high quality of work, is responsiveness and accessibility. By training lawyers to confirm receipt when emails and assignments are delivered, it allays clients' and assigning partners' concerns that lawyers are not available and not being conscientious about their work. Additionally, firms that value having lawyer teams work together in person or in unison can establish core hours where certain days/hours per week are set, with the expectation that all lawyers will be onsite or working during the designated hours. For firms that are adopting a hybrid model long-term, it is helpful to use standardized schedules and rotations, wherever possible. This is a way to reduce stigma and subjectivity, given that men are returning to the office

at greater rates and firms need to ensure that in-office presence does not result in those onsite being staffed on a disproportionately higher number of high-profile matters.

Invest in your firm culture

More than ever, lawyers are seeking more meaning and purpose in the work they do. Lawyers also have a heightened expectation that their firms will play an integral role in environmental, social, and governance (ESG) work. If the client work at firms doesn't deliver that meaning and purpose in the ways lawyers want, they will want to participate in social impact, pro bono, and community service through their firms. Lawyers are also expecting that their firms take a position and publicly declare their support for causes that are meaningful to them. This means taking a stand on diversity, equity, and inclusion issues, as well as other social impact work. Firms can no longer sit on the sidelines – they must speak up.

Many lawyers reported feelings of isolation in working remotely. Lawyers returning to the office will likely be seeking more affinity groups, both to feel more connected to colleagues and to become more aligned with the firm and colleagues on their identity and other issues about which they care deeply. Lawyers are also yearning for a social community through work. During their remote working, many lawyers missed the casual conversations and interactions that are natural in an onsite work day. Firms that invite those opportunities for casual connections onsite through their office designs and otherwise will make their workplaces more inviting. Also, firms that host frequent social events give colleagues a chance to connect and create forums for lawyers to build the trust and bonds they need.

Some firms are reticent to invest in their culture because they view the millennial generation, in particular, to be more transient. However, firms need their work performed now and if millennials are the best ones to do it, firms need to understand that the investment in culture is worthwhile to develop quality lawyers, even if short term. Additionally, if the millennials don't stay at their firms, they still have the opportunity to be ambassadors of their firms' brands by vouching for the training, relationships, and knowledge they built while they were there. These departed lawyers will also more likely become clients if their firms take the time to invest in them and embed their culture into their skills as lawyers.

Facilitate connection and personal development

When we could not fall back on in-person connection, we learned that effective communication is more critical than ever. The leaders who

ultimately inspired their teams and kept them engaged were the ones who demonstrated their vision and confidence as well as their vulnerability and willingness to listen. Part of that effective communication is being able to adjust both the messaging and means of communication based on the evolving needs of the audience. In that vein, firms should continue to survey their lawyers regularly and not only report back on the survey findings but also be responsive to the feedback that their lawyers provide.

Part of that lawyer feedback undoubtedly will be an interest in their firms investing in their development as people, not just as lawyers. That means training lawyers on effective communication – how to listen and how to impart information clearly, concisely, and persuasively. That training should also entail developing lawyers as leaders. These skills include developing executive presence, gaining sponsorship, and learning effective negotiation, as well as self-advocacy.

Create a work–life career continuum

As firms emerge from the pandemic, they need to reframe how they envision work–life issues. Many lawyers who spent more than a year working from home witnessed, participated in, and gained more knowledge about what home responsibilities truly involve. Historically, women lawyers more often availed themselves of work–life policies at law firms and, in the pandemic, women were disproportionately burdened by home and child-care responsibilities. As firms reevaluate their work–life environments, it is critical that they think more broadly in designing work–life flexibility in a gender-neutral way, across the career spectrum. This starts with reasonable hour expectations for all lawyers and allowing lawyers to create boundaries and carve out opportunities to recharge during their work weeks as well as on weekends. Establishing and updating written policies to address work–life needs is also critical. Key areas of policy focus include flexible and reduced hours, remote and hybrid work, parental leave, re-entry into the profession, phase back from parental or other temporary leaves, and phased retirement. The exercise of drafting these policies and updating them, as needed, forces consensus and enables lawyers to be able to plan and know their firms' expectations. Additionally, lawyers expect their firms will provide resources and support around childcare, eldercare, and sick care as well as mental health. These resources will engender loyalty in lawyers and instill confidence that they can do the work they need to do while they have the support.

Embrace the flexible remote lawyer

Firms have historically been reticent to welcome lawyers who sought reduced hours that did not amount to at least a 60 percent billable hour schedule. Now's the time to rid firms of that bias permanently. The pandemic demonstrated that remote lawyering is not just viable but it makes economic sense. Firms should no longer be weighing a lawyer's billable hours against his or her overhead expenses. If firms embrace a new category of lawyer without a billable hour minimum and without an office presence (the "flexible remote lawyer"), the overhead math no longer applies and instead the flexible remote lawyer simply becomes an agile talent resource to fill in for the inevitable ebb and flow of clients' needs. This elastic opportunity for law firms to expand and contract their workforces while meeting the needs of lawyers who are looking to stay engaged in the practice and earn an income without having the additional demands of full-time employees is long overdue. What's more, this becomes a means for firms to develop a pipeline of top talent that needs or wants more flexibility for an indefinite term. In turn, firms are able to maintain relationships and cultivate skills that may lead to an easier path for many of these lawyers to have a more expansive return.

Perpetuate the inventive spirit

The pandemic was a time of upheaval and it forced law firms to do things differently. It's important that firms don't lapse back into what was. Firms need to take advantage of the window of openness and continue to explore new ideas. They should institute pilots and experiment with different practice areas, methods of working, team compositions, approaches to bill clients, ways of doling out assignments, and techniques for business development, and see what is worth keeping. Also, firms need to anticipate that the transition back for many will be big. Instead of expecting a full onsite return, firms should plan for the hybrid and plan for the patchwork. They should assume that flexibility will be expected and stop calling it an accommodation. Instead, firms should see flexibility as the ability to be cutting edge in the way they attract and engage talent just as they would value being creative in developing strategies for clients or creating new practice areas for their firms. Law firms will need to evaluate and track their successes and mishaps and be willing to regroup and redirect accordingly. They should also survey their clients and ask them what they want that's different and be willing to try that too.

Conclusion

Law firms that seek a more humane means to deliver legal services with a heightened sensitivity to well-being and well-doing will improve their connection to clients as well as their engagement of lawyers. This will not only enhance law firm performance but also the lawyer experience to create happier, more successful, and more sustainable firms into the future.

The chapter "A happy, profitable law firm - no, really" by Debbie Epstein Henry of DEH Consulting, Speaking, Writing is from the title *The Post-Pandemic Law Firm* published by Globe Law and Business.