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Are Firms Fighting the Associate Salary War With the Wrong Weapon?

By **Blane R. Prescott** | September 27, 2018 at 01:30 PM

It may seem like recent associate salary increases are all about competing to get the best and brightest people in the door, but given the economic impact for some firms, real victory over the long term will depend on whether firms can keep the associates they recruit long enough to turn a profit. To compete in the associate salary wars, firms outside the Am Law 20 will have to do more than continually raise starting salaries. They will have to focus on minimizing the unintentional turnover of associates.

Retention has been discussed for more than 20 years in the profession, yet turnover rates are virtually unchanged during that time. Why is retention more important now? Because law firm economics show that firms outside the top tier are being squeezed out of the first-tier salary market, even though some firms don't realize the extent of their losses.

Consider the following example: Five years ago, it took one large middle-market Am Law firm an average of 22 months to break even on a new associate. By last year, that grew to 35 months. Why? Like so many firms in the Am Law 20 to 200, this firm can't raise rates and hours fast enough to keep pace with the changing salaries imposed by the most profitable firms.

Compounding this problem is the fact that the turnover rate among large law firm associates is still averaging almost 20 percent per year. If the financial losses from unintended turnover are combined with the economics of newly arrived associates, the break-even point is pushed out even further.

Most importantly, the economics of firms that are setting the market for associate salaries are so dramatically different from many of the firms that are chasing those increases. Consider the economics of one New York firm: It will generate $1.2 million in collections on a first-year associate, and after salary and expenses, generate $400,000 to $500,000 in profits. Compare that with the middle-market Am Law firm, which has dramatically lower hours and rates, and dramatically higher write-downs and write-offs on its first-year associates. That firm will struggle to produce one-third the revenue on its first-year associate, even though it is paying the same salary as the New York firm. So, instead of generating a profit, the firm will produce a loss of $15,000 to $40,000 in the first year.

Given the reality of those economics, was the New York firm worried about raising starting salaries this year? Is there any financial reason it won't raise salaries again in two years?

Firms that intend to match salaries, but which do not have the ability to raise hours or rates, will have to find other ways to make up for their early-stage losses. One obvious solution is that such firms will have to implement real change to improve

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retention, thereby keeping more associates longer until they turn a profit.

Interestingly, there has been little change in the reasons cited for associate departures in surveys and exit interviews over the last 20 years. Three of the top reasons are:

- **Lack of training and mentoring.** Not just formal, classroom training (which tends to have the lowest educational, practical and retention value), but actual hands-on, one-on-one, intensive training and mentoring, by those select partners and senior associates who are well-suited to the task. The advantage for many mid-market firms is that they have lower leverage, which makes it easier to provide associates with one-on-one training by partners. Their disadvantage? Too many middle-market firms are lightly managed, and just assume every partner should be good at everything, so they end up with mediocre mentors and supervisors.
- **Lack of ongoing, substantive feedback.** Not just cookie-cutter year-end reviews that say something like, "You're great! Keep doing what you're doing and remember to proofread." Associates want timely, constructive, honest feedback about their work product and their career paths. It may seem counterintuitive, but firms that get the best grades for feedback tend to also be cited for the toughest, yet most honest and caring feedback. Those with the worst grades? Firms that are overly reliant on technology in their evaluation process, have poor or late participation by partners, don't bother to train lawyers in how to give and receive feedback, and which provide superficial comments or long-after-the-fact criticisms.
- **No sense that there are career opportunities.** Associates want to know they have a career path long-term—whether that is in the partnership, in a valid non-partner-track role or outplaced with a client—and they want to feel like their firm is serious about providing them with the resources, work, opportunities and support to get there.

These concepts are simple, intuitive even, yet law firms aren't showing a dramatic improvement in retention. Why not? Because addressing these concerns is particularly hard and requires a different approach than historic practices. Most organizations struggle with change, and law firms are no different. Historically, rather than make meaningful changes, law firms simply spent money on issues because they could, and for some issues, that has worked well. But it isn't working on associate retention. So, what can they do instead?

First, money may be a quick fix on the hiring side, but long-term retention is not about money. In fact, money ranks as one of the lowest and least-cited reasons associates leave a law firm.

Second, make training better, provide real mentoring rather than a superficial "how's it going?" lunch, give quality feedback, and manage expectations as an ongoing exercise and a part of firm culture. Leaders of firms that do this well use partners according to their strengths and reward them. They don't have a generic expectation that all partners will be good at everything—that just ensures mediocrity, further worsening the problem. Instead, those partners who are great at training train. Those who are great at generating clients do so, but then have the obligation to spread the work around. These firms do more than check the perfunctory box on policies and procedures; they require partners to commit significant nonbillable time to retention initiatives and recognize them for those contributions.

As Charles Kettering said, "The world hates change, yet it is the only thing that has brought progress." The challenge for many firms is in recognizing when their historic efforts are no longer producing meaningful results and to then be brave enough to try something that is different but also proven to work.

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