THE NATIONAL LAW JOURNAL

LAW OFFICE MANAGEMENT
Monday, February 1, 1988
Pages 15-17

Avoiding the Pitfalls

Hiring Laterals Can Be Costly To Some Firms

By Susan E. Saltonstall
Special to The National Law Journal

LATERAL partners, if hired for the right reasons and if incorporated properly into a firm's practice, can be a fertile source of new business.

However, they can fail miserably if not supported by the firm and well-integrated. In most cases, lateral partners (and perhaps senior associates — for those rare instances in which they have developed a unique niche and reputation and have a significant client base of their own) are sought by firms for specific marketing purposes:

- To develop a new practice area of specialty.
- To expand or strengthen an existing capability.
- To meet specific client needs.
- To attract national or industry niche clientele.
- To improve profitability.
- To increase visibility and enhance reputation.
- To open and/or manage a new office.

Many law firms have been disappointed with the results of their lateral hiring, integration and retention efforts, — particularly in the areas of marketing and business development.

In some instances, the failure is due to an ineffective search process or to unrealistic expectations. In many cases, a firm focuses on the search and not the follow-up — i.e., once on board, the partner is often left to his or her own devices and not well-integrated. This often results in both parties feeling as if they had been set up for failure.

Lateral partners also can fail because firms have to pay high premiums to bring in major rainmakers. As a result, "homegrown" partners and associates may feel threatened and resentful — a situation that fuels insecurities instead of fostering cooperative brainstorming.

In addition, many firms are unable to recognize and generate cross-selling opportunities. Individual partners and departments often operate as separate profit centers — they coexist rather than cooperate. Until law firms implement compensation systems that foster sharing and reward those who act on the theory that "the whole is greater than the sum of its parts," laterals will have even greater difficulty becoming integrated.

Steps can and should be taken to ensure that the lateral and the firm benefit fully from the association. The following scenarios are illustrations of how firms can fail if the appropriate steps are not followed.

Scenario 1

A conservative, well-established regional firm hires a 62-year-old mergers and acquisitions expert and executive committee member from another regional firm to expand the firm's corporate practice. The firm already has a traditional and solid banking practice.

The new partner becomes chairman of the corporate department, a department filled with bright but young partners who lack management skills.

He converts two large offices into one, hires two associates to do his work exclusively, brings his secretary with him and negotiates one of the top 10 draws in the 60-person partnership.

Twelve months later, the partnership — led by a group of uneasy homegrown partners — begins putting pressure on the management committee to fire him.

More than half the lateral's promised business never came to the firm because of a couple of major conflicts that could not be resolved. The lateral had been absent with a chronic illness for three weeks in the first two months. The associates assigned to work with the lateral were only billing 1,100 hours a year, but were prevented from working in other areas.

Scenario 2

A large Midwest law firm hires a high-level, state government official. The lateral has a few areas of general expertise based on legislative and regulatory reform issues that were hot during government tenure, and excellent contracts in the private and public sectors.

The partner is given a large corner office and assigned to share a secretary who is already working with a senior litigation associate.

A month later, a standard announcement card is mailed to clients and others on the scant and outdated firm mailing list.

Twelve months later, the lateral has recorded only 600 billable hours, appears disorganized or disoriented and the lawyers in the firm have grave doubts about the hiring rationale.

Few of the firm's top clients, prospective clients and referral sources know that the individual has joined the firm.

Scenario 3

A client company merges with a larger company. The general counsel of the smaller company (the firm's client) gets pushed out. The individual is 60 years old, has been out of private practice for 15 years, has a good reputation professionally and excellent social contacts, but has difficulty in the job search.

The firm hires him to open a branch office in a suburban location, an emerging corporate center. The firm provides all support: secretaries, law clerks, and top management and rainmakers for introductions to contracts.

Two years later the office is forced to close. The lateral has been unable to generate significant business from his social contacts and the business environment has become too competitive too quickly: Other firms opened offices there with four to five attorneys. The lateral's skills are not responsive to local business needs and do not mesh with the firm's areas of practice.

There are ways to avoid many of the problems cited in these and other similar scenarios. In order to achieve marketing goals by hiring and successfully integrating a lateral partner, the firm must be organized and thorough in all three phases of the process: the prehiring analysis, the search and selection, and the post-hiring activities and integration.

In its prehiring analysis, a firm should:

Confirm the reasons for needed expertise. At the outset, firms must spend time analyzing the rationale and practicality of developing a new specialty area. Often, a firm will hire a lateral with a particular expertise because other firms are developing this area.

Firms occasionally hire a lateral partner because he or she has been approached by a personal friend or client; the lateral partner often is someone who has been phased out of a company or government position and who is looking for a transition to retirement.

While a few such hires can bring a certain marketing value and other positive qualities to the firm, firms should proceed with caution and full awareness about the risks of hiring such a person.

Instead of being reactive, decisions to hire a lateral partner should be client-driven, compatible with the firm's existing services, and profitable in the short and long term.

For example, the firm should analyze how frequently this type of work has been referred out to other firms or turned down (this assumes, of course, that this has been tracked — not always a safe assumption) and about how much this turned-away business represents in dollars.

Analyze the external environment. Before embarking on the expensive and time-consuming process of developing or expanding a particular area of expertise, the firm must examine the external environment.

Market Research

A firm should conduct at least some minimal market research to find out: specific information about prospective client needs in this area of expertise, whether other law firms are providing this service, whether other firms would have an unbeatable advantage (lower fees, entrenched reputation, aggressive style), and what the trends will be in the next three to five years. This information must be solicited from outside sources, not projected or speculated about by the lawyers in the firm.

Analyze internal factors. A firm would be wise to do some internal research as well. It may be that a partner or an associate in the firm has prior experience in this field or has a closely related skill that is transferable.

Firms should consider developing the expertise internally in certain circumstances.

Other internal efforts include identification of potential candidates through existing contacts, consideration and resolution of any potential negative impact hiring laterally will have on partners and associates, and assessment of necessary associate and staff support and other resources.

Define expectations. Firms must get specific about what it is they expect from a lateral partner. Most critical but most often avoided are focused discussions concerning mutual expectations about compensation, future business generation and actual business which the lateral will bring to the firm.

Ms. Saltonstall is the founder of Saltonstall & Associates, a Washington, D.C.-based marketing management consulting firm.

How to Integrate Laterals Successfully Into a Firm

Key Factors

Important factors include whether the individual is expected to develop a new practice and client base or to serve existing clients. In many failed cases, expectations of laterals have not been well-articulated, nor were laterals held accountable.

Both the firm and the lateral partner should set forth in writing their short- and long-term expectations, responsibilities and necessary resources in the form of a business plan.

A document that synthesizes the standards, needs and projections of both parties should be drafted and circulated to the partnership in advance of the partnership vote. Stating mutual commitments and expectations in writing should not bind either party to irrevocable expectations, but should lend greater sensitivity and accountability to the process.

Develop hiring criteria. As with expectations, firms frequently are lax about specifying what qualifications they seek in a candidate. Lawyers assume that when there is a natural fit — the right chemistry and all the right "numbers" — they will know it. Chemistry, however, consists of too many important factors to allow gut instinct and statistics alone to direct the decision.

The firm should develop specific hiring criteria and position factors in order of priority as they apply to the particular firm and situation.

Important Qualities

In addition to legal skills, business development and compensation expectations, qualities to consider might include personality, personal objectives, compatibility, character, ethics, style, management approach and ability, maturity, reputation, ability to act as a mentor, abilities, business development philosophy and approach, experience, political connections, ability to keep a certain number of associates busy full time.

Establish a hiring process. Again, too often in large firms, the left hand does not know what the right hand is doing. The prehiring research and the hiring process often are done without full management endorsement or absent a systematic approach.

The firm should be organized about its search — especially regarding the choice of a headhunter, the selection of who will be involved in the process (both as decison-makers and as sellers), how the process will proceed, and what information will be exchanged and reviewed.

Although the firm must scrutinize candidates thoroughly, firms also must focus energies on marketing themselves to attractive candidates. This requires organization and follow-through.

One person should be designated to be responsible for this, and hiring problems should be anticipated. For example, will the firm be able to attract top candidates for this position? If not, will the problem be related to compensation, the firm's image, personalities, management style, the quality of clients, the quality of legal services, the firm's location or its facilities? How will the firm respond to these concerns?

Second Phase

A firm in the process of searching for and selecting candidates should:

Carefully review the candidate. In their enthusiasm for a candidate or out of respect for a colleague, lawyers often do not probe for critical information. There is tendency to overlook blemishes or ignore concerns. But firms must carefully scrutinize any potential lateral entrant, even those known to have major business and whose hire would represent a coup for the firm.

Factors such as the individual's ethics and values, reputation in the local, state or federal bar, personal or health problems, "hidden agendas," work habits (billable hours, commitment to marketing and management, vacation expectations, support needs) and what the individual seeks in a new firm and environment will all be key as to whether the newcomer will be well-received and successful.

Carefully review the individual's client base and practice. Out of respect for their colleagues or for fear of bruising egos or breaking confidentiality, lawyers involved in lateral searches often avoid reviewing this critical area.

There is a tendency to conduct a cursory review of client data and to accept the candidate's word that a specific amount of business will be brought with him or her — especially for well-known, successful rainmakers.

A firm must review the individual's billing and collection histories over the past three years, look at the trends in service and profitability for these clients, and study leverage and other financial factors.

Check References

While remaining sensitive to confidentiality, the firm must seek client references and encourage candid disclosure. If the lateral is bringing clients along, the firm must carefully

check for conflicts and resolve them to the extent possible.

Discuss marketing in depth. This area is where most firms fail. Some firms may be proficient at analyzing the candidate's billable hours history and assessing personal and professional qualities. But few ask for specifics about how the candidate will develop business, with what human and financial resources, when it will be begun and how long it will take.

Many times this discussion is held, if at all, after the individual has been at the firm for several months and is being reviewed for compensation adjustment. Rather, this discussion should be held during the hiring process.

Perhaps part of the firm's policy on lateral partner hiring should include a stipulation about a trial period.

Some firms hire laterals in an of counsel capacity or as non-equity partners. The individual is reviewed at the end of a two-year period and may or may not be elected to full equity partnership.

This system, which is applied to all laterals (even the known stars), is more effective when a business plan is written and evaluated, which allows the homegrown partners to judge the individual by objective and measurable standards, rather than by emotion.

Without mutual commitment to time and the necessary resources, business development efforts and successes will not be measurable.

The lateral and the firm partners should jointly devise the plan of action and clearly articulate policies ahead of time. This will ensure that the individual is aware of expectations and of what must be accomplished in order to achieve the firm's objectives as well as his own.

Third Phase

There are several things a firm should do to prepare a lateral partner for his or her entry into the firm.

Communicate immediately and begin planning. As soon as a lateral candidate has formally accepted the offer and his or her resignation has been accepted at the former firm, the new firm must communicate with its lawyers and staff.

Start the tone off right by informing the staff before the news is heard through the grapevine. Additionally, lawyers should begin brainstorming about client development, and about cross-selling opportunities and promotional activities.

Administrators also must set other wheels into motion, such as the arrangement of office space, secretarial support, needs for associates, marketing needs, etc.

Prepare a marketing action plan. Shortly after accepting the offer (as much as four to six weeks before joining the firm), the lateral partner, with the marketing committee or marketing director, should develop a six-month marketing plan. It should include the firm's, the departments' and the individual's marketing activities related to his or her arrival and the first six to 12 months of practice.

Action items included in the plan might be: proactive and reactive strategies for dealing with the media (e.g., why is he leaving Firm A and why is he joining Firm B); the development of a positioning statement; promotional activities; meetings with other lawyers in the firm; and introductions to targeted firm clients. Other activities could include introducing the lateral's clients to other attorneys within the firm, planning receptions, developing promotional materials, establishing professional networks and organizing marketing efforts.

Visits to the firm's offices and client offices, if appropriate, should be included in this plan.

Restate Goals

The six-month marketing plan also must restate the individual's goals and targets as well as those methods the lateral will use to achieve the objectives.

This plan should be devised in concert with the individual's business plan discussed above. The requirement for a lateral partner to develop a personal business plan should be consistent with the firm's policy for all partners.

Orientation. Partners tend to assume that laterals know everything there is to know about lawyering and about the practice of law.

The reality is that every firm is unique, and lateral partners should be treated no differently from the new associate in terms of how they are integrated into the firm.

If anything, the lateral should receive a more comprehensive orientation. He or she should be given a thorough introduction to the firm's policies and procedures, committee governance structures and memberships, facilities, library, automation systems, telephones and support services.

Special meetings might be focused on billing, timekeeping, management reports, associate and paralegal assignment processes.

Many Chiefs

Orientation to the firm will be especially critical for laterals coming from the government or political sector. A government official may be accustomed to being "the chief," with a generous size staff of specialists. This person may not have dirtied his or her hands in a while.

As a partner in a law firm, one is among many chiefs, and the adjustment is difficult. The general assumption that the lateral's reputation and connections will carry him or her is usually wrong.

Firms should be aware that these individuals often need guidance on how to use their time effectively, how to transfer theoretical thought to actual practice, when to use and charge for special "chits," and how to turn shoulder-rubbing and contacts into business.

This guidance can take many forms — early and regular reviews by the executive committee, informal one-on-one discussions, or special business development meetings — depending on the relationships and needs in each situation.

Failed "marriages" are expensive, both in terms of financial cost and institutional collegiality. Many firms point the finger at the lateral for promising more than he or she could deliver, for having an incompatible personality and style, and for bringing expertise which was in reduced demand in the marketplace.

Making verbal and written commitments upon hiring lateral partners can prevent disappointing results. To make a lateral partner a marketing success, a firm must not rely solely on the lateral: It must systematically incorporate the individual into the firm and into the firm's marketing plan.