

One Size Fits All

“I just came from a meeting of CARE,” announced Sherwood Corrigan. “Wait a minute, how can the committee still be called CARE when you’re meeting to decide how to fire a bunch of associates?” asked Annabelle Under-Appreciated, Director of Recruitment. “CARE stands for Committee on Associate Retention and Evaluation.”

“Used to,” said Sherwood.

“What do you mean ‘used to’?”

“Well, the committee’s name has been changed, but we’re still CARE. It now stands for the Committee on Associate Redeployment and Elimination. And we’re not firing anyone.”

“Oh, I forgot,” said Annabelle, “you’re downsizing.”

“No, downsizing sounds too negative, so what we’ve decided to do, instead, is to rightsize. Our first issue was how to go about rightsizing.”

“What do you mean? You decide how many is the right size and you keep firing until you get there.”

“That’s obvious,” said Sherwood, “but we need to decide whom to fire.”

“Isn’t that pretty simple, you go down the list of associates and get rid of the weakest.”

“No, that could present some serious problems. Our weakest associates might have trouble finding new positions. If we have a lot of attorneys out in the market without positions, that’s going to leak out to the press and will come back to haunt us in our recruitment efforts. And, anyway, that would be inconsistent with the press release

that we want to put out, saying that these layoffs were not because of poor performance, but were due to the general economy.”

“So, if we say that in our press release, why can’t we just get rid of the weakest, since nobody else will think they’re the weakest if our press release says we’re laying people off for economic reasons?”

“C’mon now, Annabelle, you know that nobody is going to believe our press release.”

“So if nobody is going to believe our press release, why are we going to base our decision on what it says?”

“Well, we certainly don’t want to get the reputation of putting out misleading press releases, do we?” said Sherwood.

“You’ve got a point there.”

“What are we going to tell firms that call us to ask for references?”

“Don’t we just give the associate’s name, rank and serial number? Otherwise can’t we get into big trouble if we get sued?” asked Annabelle.

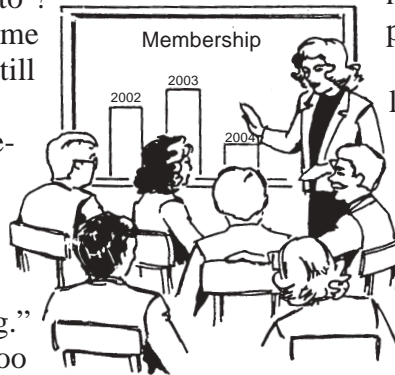
“No, we just tell our clients to do that. We ignore our own advice and say pretty much anything that whoever happens to answer the phone decides to say.”

“Can’t we change that, tell our partners what they should say in giving references?”

“We can tell our partners anything, but when’s the last time our partners listened to anything we told them?”

“I guess you’re right.”

“Uh, getting back to the question at hand, one CARE member thought we ought



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Carol's Column

This column draws on Carol Kanarek's unique perspective as an advisor to law students and consultant to large law firms. Carol can be reached at 212-371-0967 or ckanarek@aol.com.

With the projected number of 2L hires down dramatically from a couple of years ago, large law firms enjoy a buyers' market at the leading law schools this fall. Consequently, there is absolutely no excuse this year for hiring anyone who doesn't have both the ability and the desire to be a successful associate with your firm. You'll have no problem finding a sufficient number of students who are academically qualified; the key is to avoid those who lack genuine enthusiasm for your practice. In my conversations with law students at top schools during the past month, most have been properly humbled by this tough market for them. However, a significant minority complain bitterly about their inability to secure the offers they believe they deserve, and make disparaging remarks about the "second string" firms that have expressed an interest in them. Indeed, the only question some of these 2Ls have for me is what they can do to get offers from "better firms" when they are 3Ls. Here are a few strategies for identifying these malcontents before you make the mistake of actually giving them offers (which they are very likely to accept, albeit reluctantly).

1. Ask which other firms they interviewed with on campus. If your firm appears to be a "safety firm" relative to the others, be wary.
2. Always ask what the student finds especially appealing about your firm's practice. If he or she fails to mention anything that is a genuine match with your current needs (e.g. wants to do m&a or appellate litigation, and your current needs are in secured finance and products liability), take a pass.
3. Don't give an offer to any student – regardless of grades or pedigree – who is rude or obnoxious to a secretary or to anyone in your recruiting department.
4. Bear in mind that those who are unhappy with their choices usually put off accepting an offer for as long as possible, in the hope that something more appealing to them will come along. A weekly call to those who have not yet given you a response will help you to gauge their levels of enthusiasm and to red-flag those who don't seem to have a positive attitude.
5. And, finally, keep an eagle eye on those who – despite being identified as potential malcontents – nevertheless wind up in your summer program. If they rub a number of people the wrong way during the summer, consider withholding offers, or at least discourage their returning as permanent associates.

Are You Serious?

I firmly believe that recruiting and managing lawyers effectively requires a (sick?) sense of humor. This space is reserved for humor. Please feel free to send in your contributions.

Dear Ms. Cunningham,

On behalf of myself, thank you for your prompt follow-up letter.

I must protest, however, against the wording of the most critical sentence of your response. Although the opening of the second paragraph laudably side steps the usual insipidity (such as "We were highly impressed by your achievements..."), that paragraph ends with the unfortunate statement, "...our hiring committee has concluded it will not be offering you a position." The phraseology conjures up an image of your hiring committee engaged in an ethereal meditation which somehow clarifies for the committee its destiny, namely that it will not be offering me a position. My point is that one does not ordinarily "conclude" something about one's own future actions. One decides them or resolves upon them.

I do not mean to minimize the difficulty of composing form rejection letters. Your wording does avoid the over-polite (and likely false) phrasing of "we cannot offer you a position." Although tempting, the moralistic "should not offer you" and the tantalizing "might not offer you" must also be discarded. Clearly, auxiliary verbs will not do. After careful consideration of numerous ding letters, therefore, I must recommend the use of the simple "Our committee has decided not to offer you a position."

Paradoxically, there are a thousand ways to convey aggression, wussiness, or vague ineptitude, and only a few ways to be straightforward. I hope you will not have been being miffed at my efforts toward this goal.

Sincerely,

A Matter of Fact

The world of lawyer recruitment and management often seems so nebulous that it's comforting to hear a good, hard fact once in a while. Here's this quarter's fact:

Law is becoming more like investment banking, a young person's game. One major law firm with over 900 lawyers around the country reported to me that of those lawyers, only 10 were age 60 or older. What's the comparable figure in your firm?

The Longer View

Most people involved with recruiting and managing lawyers feel they have enough to do dealing with what's on their plate today. This column will try to stimulate you to view things on a longer continuum, and to look to the future.

As your partners approach the time that they will be retiring, encourage them to ease into this role. Once they hit sixty years of age, require them to develop an annual plan for deacceleration. Among other things, this plan should help to transfer responsibility for their clients to other lawyers at the firm. As they decrease their client billing, consider using these more senior lawyers actively in mentorship and training roles around the firm.

Ask Arnie

Please submit your questions about recruitment or life. The swami will reply.

What approaches do firms take in defining what qualifies to meet their hourly billing requirements annually?



There are almost as many approaches as there are law firms. Here are some of them:

(1) minimum hours means exclusively client billable time.

(2) there is a minimum client billable amount and above that pro bono hours are credited hour-for-hour.

(3) the American Bar Association suggested minimum for pro bono (3 percent of billable hours) is not included in minimum hours, but above that amount pro bono hours are credited.

(4) some amount of credit is given for training time, committee work or business development.

(5) there is a minimum client billable amount plus a specified number of hours that must be devoted to other matters which may include writing, speaking, recruitment, committee work, or other things.

Firms also vary significantly as to the effect of failure to meet the minimum hours. In some firms, it affects the associate's bonus, in some firms it affects whether the associate gets a salary increase and, in other firms, it may lead to dismissal. In some firms it has no effect. These latter firms tend to phrase the hours requirement as a "target" or a "goal," instead of a "minimum".

clientSell

This crassly commercial section ballyhoos a consulting service, which could prove very useful to you (and, of course, profitable to me). Here's this issue's suggestion. Call (847) 864-7657 or e-mail arnie@kanterprofessional.com if you're interested. Additional consulting services can be found on my website at www.kanterprofessional.com

For most firms, the end of the hiring season is a time to rejoice – not a time to devote more thought to the process. Unfortunately, these firms miss an important opportunity to learn from what has just happened and to review their hiring results and procedures systematically to identify possible improvements. Here is how we could work together to accomplish that. You provide me with detailed statistical data regarding your recruitment results. I review this material. I conduct a day or two of interviews after the hiring season with lawyers who were active in your recruitment process. I then compile and report on the results of the above and meet with members of your hiring committee to discuss action based on my recommendations and findings.

The Whole Truth

In interviews at firms around the country, I'm often struck by the way lawyers say things to me. Because I think they help bring home some truths, I use quotes in my reports.

Going into my annual review I had no idea how it was going to work out. You have no sense of where you are as opposed to where you should be in your career.

The review process is not really an evaluation process. Twelve people who have no idea who you are sit around and if they hear any criticism they lower your grade, which is important for salary and bonus. This means partners who evaluate you can't be honest.

I had a partner take me aside and give me some constructive criticism, but tell me, "I'd never say this on an evaluation." The evaluation system becomes a way to see if people are willing to help you with your career, rather than an attempt to help people improve.

The review is absolutely pathetic. It's obviously written by lawyers. There are no specifics, only generalities. One good paragraph and one bad paragraph. I got absolutely nothing out of it.

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to identify our strongest associates and fire them.”

“He must be out of his mind, why in the world would we get rid of our best associates?”

“He gave two reasons. First, these being our strongest associates, they should have no problem finding another position, thus avoiding the problems discussed earlier. And, second, since our history clearly demonstrates that our strongest associates inevitably leave our firm early in their careers in any case, we lose nothing by being proactive and inviting them to do so.”

“That makes some sense. What other suggestions were there?”

“Somebody else thought we should do the firing, I mean rightsizing, by department. Since some of our departments are a lot less profitable or less busy than others, we could get rid of associates in those departments. But nobody thought that was a good idea.”

“Why not?”

“We don’t want to give the associates the impression that their success at the firm is dependent on which department they happen to work in.”

“But their success *is* dependent on which department they work in,” said Annabelle.”

“Of course it is, but we don’t want to give them that impression. Anyway, we couldn’t do that to our partners in those departments.”

“Why not? If their work is down, and they don’t really need the number of associates they have, what’s the problem in asking them to get rid of some of their associates?”

“Have you no heart? Our partners’ self esteem is intimately tied up with how many associates they have working for them. If you take away some of their associates just because the department’s work load doesn’t require them, our entire real estate section is going to be moping around the place. And you know what a moping real estate department is like.”

“You’re right, I don’t know what I was thinking. Accountants rely on LIFO quite a bit. Maybe we should use that approach with our associates; last in, first out,” suggested Annabelle.

“No, the last in are our cheapest associates. We’d save a lot more money if we fired some of those who’ve been around longer.”

“What if we just gave each department a quota and left it up to them who to fire in their area?”

“No, we’re all one firm; we don’t want to be creating divisions.”

“We’ve already got divisions, Sherwood. That’s what departments are, divisions.”

“Anyway, somebody else thought it would be fairer if we did it more randomly, just had associates draw lots and the short lots are out.”

“Oh, that’s humane and sensible, Sherwood, why don’t we just do it by height?”

“Actually, nobody thought about doing it by height. Would we get rid of the tallest or the shortest?”

“I was just kidding, Sherwood.”

“Maybe we are not thinking creatively enough. We need to think outside the box. If we call this a ‘leave of absence,’ we could use it as a recruitment tool.”

“How is this a leave of absence? We’re firing them,” Annabelle pointed out.

“Well, I suppose we’d have to describe it as an involuntary, indefinite leave of absence without pay, to be absolutely candid.” Sherwood conceded.

“Any law student who falls for that description is somebody we wouldn’t want to hire, in any case,” said Annabelle. “But there may be another approach. This whole thing is driven by cost, right? So what if we just ask the associates to take a cut in pay, to make a salary concession?”

“Yes, but there still wouldn’t be enough work. Associates would probably only be averaging about 1750 billable hours per year.”

“It was only a few years ago when we thought that wasn’t such a bad number to shoot for, Sherwood. So, would it really be so bad if lawyers worked that number of hours for a reduced wage?”

“Trouble is, Annabelle, we’ll get busy again in a few months, and they’ll have gotten used to working a reasonable number of hours and developing a lifestyle that allows for some time with their families and for their other interests, and then we’re going to have a hell of a time getting them to go back to working ridiculous hours just to make some more money that they don’t have time to enjoy anyway.”

“Yeh, you’re right, Sherwood, that would be terrible. We can’t go back to that.”

“I’ve got an idea, Annabelle. Why don’t we just leave it up to the associates to determine who should be dismissed and who will survive?”

“You mean just have them vote their fellow associates off the island?”

“Sure, maybe we could even get some TV network interested in carrying the show. That would help us with the economics that got us into this mess in the first place.”