

## Assigning Blame

“Damn, damn, damn.”  
“What’s the matter, Sherwood?”  
Annabelle Under-Appreciated inquired of her favorite (and only) hiring and associates’ relations partner.

“The idiot.”

“Who are you talking about, Sherwood?”

“Frederick I.V. Leege III.”

“And why is he an idiot?”

“He gave me this draft agreement, and it’s worthless.”

“But, Sherwood, isn’t Freddy the guy you recruited so heavily out of that little school up in New Haven?”

“Well, he seemed bright then.”

“How did he do in law school?”

“Who knows? Nobody can figure out how anyone does at that school.”

“But Freddy was in our summer program, too, wasn’t he? So didn’t we get a chance to see if he was an idiot then?”

“Oh, sure, we may have had a chance, but we never take that chance. It might ruin us for a decade at the law school.”

“I seem to recall, though, that we actually got some very favorable comments about Freddy’s work from a couple of your partners.”

“Yeah, but what do they know?”

“Is that a nice way to talk about your partners, Sherwood? Why not assume that they actually had good experiences with

Freddy, and that just maybe he’s not an idiot?”

“But he is. Just look at what he produced.”

“What did you ask him to do?”

“Simple. Just a garden variety convertible debenture, with antidilution provisions, and an agreement with financial covenants, representations and warranties, registration provisions for the debenture and acceleration in the event that certain covenants were violated or the reps and warranties proved to be substantially incorrect as determined by an arbitration panel established by the agreement.”

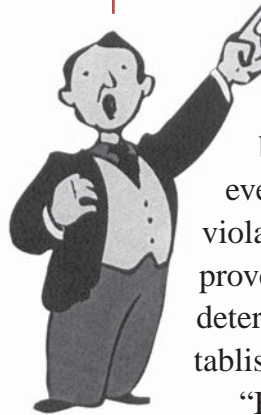
“But Freddy’s just going into his third year at the firm. And in the last two years nobody had much experience on anything because the market was in the tank.”

“It’s not my fault that the market was in the tank, Annabelle.”

“No, I guess not. I guess it was Freddy’s fault, wasn’t it?”

“Do I detect a tad of sarcasm creeping into your otherwise sweet and gentle nature, Annabelle?”

“Perhaps a bit. Sorry. I was just trying to point out that there might be explanations other than Freddy being an idiot that could account for your dissatisfaction with his work product and that one of them



(con’t pg. 4)

---

## 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](mailto:ckanarek@aol.com).*

The prospect of an imminent end to the nearly three-year long recession (we hope!) brings with it a problem that will catch many large law firms by surprise: lawyers by the dozens will run for the exits as soon as they have somewhere else to go. Fine, you may say; we have too many of them anyway. Sadly, however, those who are most likely to leave are those that you will be most sorry to lose. So before your competitors start giving headhunters the green light to start raiding your associates, do a bit of strategic thinking about lawyer retention.

First, identify those most likely to leave, and assure them that they are valued. Pay particular attention to those who have been working long hours when others around them have been underutilized. Mid-level associates in practice groups that have passed over worthy candidates for partner are especially vulnerable to being lured away. Look closely at laterals who have been hired to "upgrade" the quality of your associate pool.

If you performed poorly in the American Lawyer mid-level associates survey, address the issues that were raised. At many firms, the "quality of life" committee that was active in the boom years of the nineties has been ignored; now is the time to reactivate it. Issues such as hiring and retention of women and minorities, part-time work policies, and practical skills training are still on the minds of your associates. Lawyers are less vocal about their dissatisfactions during tough economic times, but lack of attention to these issues is almost always correlated with a high rate of voluntary attrition during boom times.

Finally, when a valued attorney does announce that he or she is leaving, resist the temptation to be angry or vindictive. If your firm lets the person know that your door will remain open if the grass on the other side isn't so green, you may be pleasantly surprised to see how quickly some of them will see the error of their ways. And even if they don't return, keeping an open line of communication with valued firm alumni invariably pays off.

---

## 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.*

Other than New Yorker cartoons, some of the funniest stuff I see is the American Lawyer Surveys. We are all familiar with the humor in their annual summer associate and mid-level associate surveys. (Obviously, those firms ranked at the bottom may understandably fail to appreciate the humor.)

The American Lawyer may have out done itself, however, in a recent survey conducted of managing partners in large law firms around the country, reported in its December issue. Among the startling findings of this survey (reported in pie charts and bar graphs to show the reader how professional and scientific the results are) are the following:

Eighty-eight percent of the law firm leaders said that they were optimistic about their firm's prospects for 2004, as opposed to twelve percent who were uncertain. Shocking, eh? An additional one-percent (making it a total of one hundred and one percent) were pessimistic.

Ninety-four percent of the law firm leaders expected their deal flow to be moderately or significantly higher in 2004 than in 2003. Another stunner.

Ninety-one percent expected their firm's 2004 profits to exceed those in 2003, with nine percent predicting that the profits would be flat. An additional one percent (presumably the same extra one percent who were pessimistic about the firm's prospects for 2004) expected a decrease in profits.

Perhaps the most surprising result of the survey, however, was the response to the somewhat colloquially-phrased question "what's your take on John Ashcroft's performance as Attorney General?" in which three percent said it was highly favorable, twenty-four percent mildly favorable, fifteen percent mildly unfavorable, twenty-nine percent highly unfavorable and twenty-nine had no opinion. These results are surprising because it's a little hard to see how this question made it into a survey dealing with law firm economics. I expect next month's issue to report on the ice cream flavor preferences of law firm leaders and their predictions as to how the baseball team in the home town of their firm's largest office will do in 2004, as compared to 2003.

---

## 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.*

The trouble with most firms' orientation programs is that they assume that associates are capable of absorbing and understanding everything that is said to them. In most firms, this is not true for two reasons. First, too much is thrown at them for them to absorb in a short period of time. Second, some of what is included in a typical law firm orientation program can be appreciated only when associates have some experience under their belts. Consider altering your orientation program by spreading it out over a longer period of time. For hints on how to do that, debrief associates who have been at the firm for a year on what was or was not useful in their orientation, and what might usefully have been added.

---

## Ask Arnie

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

*How can we get our younger associates to be involved more effectively in the recruitment process?*



Most firms utilize their first- and second-year associates primarily to take candidates to lunch. While this can be a very effective way to use these associates, most firms give these associates little to no guidance, other than setting a spending limit above which they may not go.

I have conducted many training sessions for law firms around the country to teach younger associates how to make effective use of the interview lunch. In addition to improving their performance in this regard, the training sessions also send a message to the associates that the firm values their input and approaches the recruitment process in a thoughtful and professional manner. That message is likely to encourage them to continue to participate in your recruitment efforts.

---

## 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](mailto:arnie@kanterprofessional.com) if you're interested. Additional consulting services can be found on my website at [www.kanterprofessional.com](http://www.kanterprofessional.com)*

The past couple years have seen tough economic times for large law firms. In that environment, management of many firms has understandably (though I believe mistakenly) neglected recruitment and associate issues. Well, the economic worm appears to be turning. Now would be a perfect time to take a fresh look at your recruitment efforts over the past couple years and to revamp and rejuvenate your program for this summer, and beyond. Please contact me if you are interested in undertaking that effort. An investment now will pay dividends down the road.

---

## 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.*

Partners don't follow through on what they say. They'll say "I've got to get you less \_\_\_\_\_ work ..." but nothing is done.

There's no centralized management in litigation. There are 40 partners working as floating individuals. The associate weekly report doesn't work in practice, you only get the dogs of assignments from that system.

I think that the firm distributes work poorly, so that unless an associate is assigned primarily to one matter, the associate may be left working for so many different people on so many diverse matters that it diminishes the associate's work product and negatively affects opportunities for training, career development, and feedback. If a partner is displeased with an associate's work, this system makes it possible for the partner to avoid working with the associate and to wait until the year-end review process to provide the associate with any feedback (at which point, the criticism is so far removed from the work that it is unlikely to be constructive).

(con't from pg. 1)

might be that you assumed a level of sophistication that was unreasonable in a third year associate, especially given the lack of corporate work in the past couple years.”

“Okay, maybe that’s right, but it still doesn’t excuse the product that he turned in.”

“There may have been other contributing factors.”

“Such as?”

“Well, how did you give Freddy the assignment?”

“What do you mean, how did I give it? Orally. I said, ‘Freddy, I need a convertible debenture and an agreement with such-and-such.’”

“And did you explain the transaction to Freddy, what the whole deal looked like, what you were trying to accomplish, what was particularly important to our client?”

“Not exactly.”

“What do you mean, ‘Not exactly?’”

“Well, I was sort of in a crunch. I had several other deals going and we were in the middle of hiring season and....”

“So, by ‘not exactly,’ you mean ‘not at all.’”

“That’s probably a more accurate characterization.”

“And how much time would a more complete explanation have taken, another five or ten minutes?”

“Yeah, probably not much more than that.”

“And how much time would that ten minutes have saved you overall in the deal, if it had helped Freddy to do a better job?”

“Probably a couple of hours.”

“So it might not have been a bad investment of your time, even if you were in a crunch? And don’t you think that giving Freddy the whole picture would have made him feel more a part of the transaction and the team, and motivated him to want to do a better job on the assignment?”

“Sure, but I thought he understood. And, if he didn’t, he should have come in to ask me about it.”

“Did you ask him whether he understood what you were looking for, whether he had any ques-

tions, when you gave him the assignment?”

“Not in so many words.”

“What do you mean, ‘not in so many words?’ Did you ask him or didn’t you?”

“Not exactly. I mean I did end the assignment by saying, ‘okay?’ as I was leaving for a meeting I had.”

“I see. And that was an open invitation to ask any and all questions that Freddy may have had?”

“He shouldn’t need an open invitation. He knows that my door is always open.”

“Ah, Sherwood, when I come by, your door is often closed.”

“Well, you need to do that in order to get something done around here. Otherwise people are always wandering in...”

“To ask questions?”

“Well, yes. But, figuratively, my door is always open. All he has to do is come in and ask any questions he may have.”

“Sherwood, it’s hard to walk through a figuratively open door. And it’s hard for associates to walk through even a physically open door. You partners are intimidating figures, just by virtue of your status in the firm and your big offices. Many associates view walking in to ask questions as an intrusion on your limited time and an admission of weakness on their part.”

“*Moi*, intimidating? You don’t seem to be intimidated, Annabelle”

“Yes, you. I’m not intimidated because I knew you when you were an associate, before you became intimidating, and I know you’re a pussycat. But associates don’t know that. Did you ever check in with Freddy while he was doing the assignment, to see if he was going along okay, or needed any help?”

“No. I don’t like to micromanage.”

“Making sure your associates are on track is not micromanaging, Sherwood; it’s training and coaching.”

“So, you’re suggesting that perhaps Freddy is not an idiot, that maybe I am?”

“You said that, Sherwood, not me.”