



Law Firm Dispute Resolution
Getting the Most out of your Partnership by Eliminating Conflict

By: Deana Kardel

Relationship dynamics within firms constantly change. This is a fact. You have heard the old adage - *the only thing we can count on in life is change*. And when change is imposed, new pressures as well as new opportunities surface. Relationships between and among attorneys within all firms evolve with time: firm members age, they advance from associate to partner, they grow or lose profits under one or multiple roofs, they hire and fire, and clients are won and lost. Combine the natural evolution of the firm with unavoidable change and opinion differences surface. In most instances the lawyers do *play nice* and collegial opinions are respected and welcomed. However, in some instances, opinion differences can turn into conflict and decreased productivity, revenues and attorney satisfaction.

There is also the element of competing interests to consider. What the firm needs to be competitive or profitable v. what is in the individual needs or wants is another potential source of conflict. Below are other pathways that have the risk of dividing partnerships.

- Attorney to attorney business development competition
- Inter- or Intra-practice group competition
- Redefining/updating partnership agreements
- Unclear, unspoken, or even spoken changes in partnership expectations
- Lateral hiring
- Firm culture – internal communications
- Fairness issues relating to compensation -billable hours, origination credit, etc.
- Firm structure and/or leadership changes
- Gender conflicts and/or generational gaps (male/female; associate/partner)
- Outside stresses (divorce, aging parents, health, children, etc.)



As we know, relationships can thrive on change. Change can be an opportunity to strengthen bonds and deepen relationships resulting in collective prosperity. However, change can often damage relationships and lead to divisiveness or compartmentalized fiefdoms. When relationships devolve into conflict, emotions can start to control outcomes where logic, common sense, and even sound strategic plans are lost. The legal press is replete with stories of valued partner or group defections and in extreme instances, firm dissolutions. And in virtually all unhealthy relationship disputes, there is risk of diminished revenues and profits as well as tarnished reputations for both the individual and the firm.

Few people like to initiate or participate in difficult conversations surrounding change and conflict -- personal or professional. This is because difficult conversations cause some to experience anxiety and frustration. If the choice is to confront or avoid a problem, the latter typically prevails. Over time, when difficult conversations are avoided, personality or relationship disputes fester and thus grow stronger causing even greater degrees of disharmony within the firm or practice group.

Disharmony manifests in many forms and varies in intensity. Virtually all partnership disputes have, at their core, an emotional element that triggers the conflict. The external or stated conflict is oftentimes simply a mask for the true underlying core emotion; fear, threatened ego, and/or hurt feelings. And to restore harmony and respect to any relationship, the core emotion of the dispute must be addressed for all interested parties. Some examples:

- A partner who is displaying temperamental outbursts aimed at a certain attorney but is in fact frustrated because that partner let him down in an unrelated personal matter;
- Two partners are at odds because one receives a higher compensation and the other feels the distribution is unfair but in reality is mad at the partner for allegedly “stealing” the client relationship or not sharing credit for growing the client’s business;



- A valued partner who demands an untimely sabbatical is perceived as ungrateful but in fact desperately needs a break as he/she is on the edge of unhealthy burn-out or leaving the profession;
- An older founding partner whose name, due to a merger or another reason, is taken off the masthead seems negative but in reality is concerned about his/her transition into a new future outside of the firm and the reality of retirement planning;
- A partner who is perceived as “slacking” but really feels underappreciated and/or unrecognized for unbillable administrative and marketing assignments completed on behalf of the firm, while being criticized for billable work, or vice-versa;
- A lawyer or an executive manager who is in constant conflict with the firm’s Legal Administrator is really caused by a distrust of each other due to transition planning (job insecurity);
- A senior partner that is nearing the end of his/her career but refuses to transition their relationships for succession planning is feeling threatened or distrustful by someone else taking control of the client relationship;
- A partner who feels suddenly micromanaged by a senior partner, practice group chair, or team leader in reality faces trust issues surrounding unclear or miscommunications; and
- A partner that manifests uncooperative team player characteristics in fact results from feeling left out of key decision-making.

Every situation is layered, diverse, and can involve multiple parties. If any of this sounds familiar, you may consider implementing a process to resolve the dispute. It is a process that marries mediation with executive coaching. It is a process that is internal, private, and confidential. Its dual goals are to enhance firm profitability and attorney satisfaction.

The Resolution Process

Resolving a partnership dispute requires several key steps that are familiar to virtually all lawyers because it is similar to the mediation process. First, like any successful mediation, the parties must come to the



table in good faith and with the proper authority to settle the case. For partnership disputes to resolve, the lawyer and the opposing party(s) must come to the table with the desire to change the current situation for the better. This does not mean that the parties must agree to be friends; rather they must be willing to understand how their behavior is contributing to the conflict, and they must be open to changing the present situation. Each party should agree to be part of the solution rather than part of the problem. (Oftentimes before the conflict can be resolved, the threshold task of the Coach is to generate the participants' buy-in for the resolution process.)

Once the parties agree to engage in the process, the change catalyst, a.k.a the Executive Coach (or in mediation terms, the neutral) privately and confidentially interviews each party to understand their unique perspectives. Lawyers liken this step to that of submitting a confidential brief to the mediator in advance of the mediation; and like mediation, the information communicated to the neutral or coach from the interview is not shared without consent. At this point some discovery may be conducted. This is to say that others within the firm may be confidentially interviewed, past written e-mails or documents that address the situation may be reviewed, etc. And depending upon the situation, client relations information might also be incorporated.

The crux is the ability to maintain neutrality while assessing the situation in order to determine the next steps for moving forward. The intention is to obtain a full, integrated and neutral perspective of the situation so that an intelligent conversation among the parties can be facilitated, which can then lead to the joint session.



At the joint session, facts are reviewed, ground rules are set, assumptions are discussed and revealed for their truth and/or falsity, goals and intentions are agreed upon. Additionally, the foundation for future communications between the parties is established.

Typically, the first joint session lasts for approximately two hours and the parties leave with optimism for moving beyond the current dispute. At the end of the joint session, each party is given a recap, on paper, of agreed upon ground rules and next steps.

After the joint session, the Executive Coach begins to work one-on-one with each party as they interact with each other during their daily business communications. This is when the real work for each party begins. As part of the individual coaching process, the parties are given a personalized and confidential coaching plan unique to the person and situation. Assignments such as self-observation exercises, communication assessments, fieldwork tasks, suggested readings, and/or exercises are assigned. The Coach meets regularly with each party to reveal meaningful insights relating to their professional and personal habits, behaviors, goals, and intentions. The parties who have a desire to become more effective at managing conflict engage in varying degrees of self-reflection throughout the resolution process. The goal is for each party to communicate and act in a way that advances the relationship forward.

The resolution process can vary in length of time but generally lasts four to six months while the multi-party, complex case, last longer. Typically, there is a positive surge at the beginning of the process, followed by respectful communications, followed by real behavioral and relationship transformations. It is



only when behaviors at the “core level” change can previously damaged relationships be repaired long-term.

During the coaching process, the parties engage in routine business interactions. Most often only a discreet few within the firm know that coaching is taking place. As a vital part of the process, the Executive Coach helps each party prepare for upcoming shared interactions and/or meetings. The objective is to ensure the interactions are respectful.

As the parties interact, they are equipped with new tools to help them effectively transform counterproductive behavior into effective communications. Directing each party to anticipate possible reactions and to respond appropriately and effectively is integral to the process. Over time, the parties learn how to sustain a healthy working relationship. And while the process is intended to help with the partnership dispute at hand, it is very common for the resolution process to have a spill-over affect to other relationships, both personal and professional, for all parties involved.

At subsequent joint sessions, the coach/neutral and the parties agree to what is and is not working so that necessary adjustments can be incorporated into the plan. Depending upon the progress, the process continues until both sides are satisfied. Sometimes, the final joint session is shared over a cup of coffee or a celebratory meal - a visible symbol that the parties have put the past behind and moved forward.

Partnership conflicts waste time, consume energy and are emotionally draining. The participants, the firm, and many times surrounding innocent bystanders are all negatively impacted. **Most partners don't**



want to fight; they just don't know how to stop. Partners who engage in a process to resolve their disputes learn how turn their hardened and repetitive negative behaviors into new behaviors that enhance communications and bring about positive change. Oftentimes, in addition to restoring peace and harmony to the firm, new revenue opportunities are uncovered. And for some, the new behaviors significantly benefit multiple aspects of their life.

Whether parties are able to resolve their personal disputes depends upon the parties' willingness and ability to act and react differently to the conflict. If someone or some issue is precluding you from getting the most out of your partnership, I invite you to seek to understand the different underlying emotions that are blocking your quest for resolution. It is not what we know or don't know, but rather it is what we SAY and how we ACT that matters when resolving internal disputes.

Deana Kardel is the founder of Eos Consulting, Inc. Kardel is an Executive Coach who works with law firms and their management teams as a catalyst for positive change. She specializes in partnership dispute resolution, business development coaching, strategic planning and retreat facilitation. As a former JAMS Regional Vice President, she is trained mediator. She also completed the Rosenberg Mediation Program and holds her executive coaching certificate from New Ventures West. She is Myers-Briggs certified and is trained in Neuro-Linguistic Programming. Deana can be reached at: dkardel@eosconsultinginc.com or at: 415 845 7690.