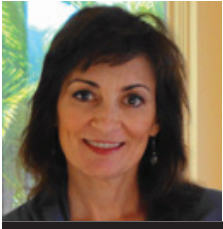


## Resolving Intra-Firm Disputes



Deana Kardel

Relationship dynamics within firms constantly change. You have heard the adage — the only thing we can count on in life is change. When change is imposed, new pressures as well as opportunities surface. Within all law firms, relationships among attorneys evolve over 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 they win and lose clients. When you combine the natural evolution of the firm with unavoidable change, opinion differences surface. In most instances, differing collegial opinions are respected and welcomed. However, in other instances, opinion differences can turn into conflict, resulting in 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 versus what the individual needs or wants is another potential source of conflict. Below are other scenarios that run the risk of dividing partnerships.

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- Attorney-to-attorney business development competition.
- Inter- or intra-practice group competition.
- Redefining/updating of 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.).

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

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 often simply a mask for the underlying core emotion; fear, threatened ego and/or hurt feelings. Before harmony and respect can be restored to any relationship, the core emotion of the dispute must be addressed for all interested parties.

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

### THE RESOLUTION PROCESS

Resolving a partnership dispute requires several key steps that are familiar to most 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 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 contributes 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. (Often, before the conflict can be resolved, the threshold task of the coach is to generate the participants' buy-in to the resolution process.)

Once the parties agree to engage in the process, the change catalyst, also known as the executive coach (or, in mediation terms, the neutral) privately and confidentially interviews each party to understand the unique perspectives of each. Lawyers liken this step to 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. Others within the firm may be confidentially interviewed, emails or documents that address the situation may be reviewed,

and so on. Depending on the situation, client relations information might also be incorporated.

The critical factor is the ability to maintain neutrality while assessing the situation to determine the next steps for moving forward. The intention is to obtain a full, integrated and neutral perspective of the situation in order to facilitate an intelligent conversation among the parties at a joint session.

At the joint session, facts are reviewed, ground rules are set, assumptions are discussed in light of their truth and/or falsity, and goals and intentions are agreed upon. This process establishes the foundation for future communications between the parties.

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, each party is also given a written recap of agreed upon ground rules and next steps.

After the joint session, the executive coach begins to work one-on-one with each of the parties as they interact with each other during their daily business communications. This is when the real work begins for each party. 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 executive coach meets regularly with each party to reveal meaningful insights relating to their professional and personal habits, behaviors, goals and intentions.

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 moves the relationship forward.

The resolution process can vary in length, but it generally lasts four to six months while the multiparty, complex case, usually lasts 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 that previously damaged relationships can 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 the coaching is taking place. As a vital part of the process, the executive coach helps each party prepare for upcoming shared interactions and meetings. The objective is to ensure that the interactions are respectful.

As the parties interact, they are equipped with new tools to help them effectively transform counterproductive behavior into effective communications. An integral part of the process is directing each party to anticipate possible reactions and to respond appropriately and effectively. Over time, the parties learn how to sustain a healthy working relationship. 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 effect to other relationships, both personal and professional.

At subsequent joint sessions, the coach/neutral and the parties agree on what is and is not working, so that necessary adjustments can be incorporated into the plan. Depending on the parties’ progress, the process continues until both sides are satisfied. On occasion, the final joint session is shared over a cup of coffee or a celebratory meal — a visible symbol that the parties have 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 to turn their hardened and repetitively negative behaviors into new behaviors that enhance communications and bring about positive change. Often, in addition to peace and harmony being restored to the firm, new revenue opportunities are uncovered. And for some participants, the new behaviors significantly benefit multiple aspects of their lives.

Whether parties are able to resolve their personal disputes depends on 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.



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