THE LATERAL PARTNER CONUNDRUM II

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This monograph is the second of two monographs that take a look at lateral partners – how to effectively select, recruit and retain the best for your firm.

Summary

In the first paper on lateral partners, I examined the process of selection and recruitment with the goal of improving the rate of success. But, I also pointed out that the reliance on laterals as a key component of the growth strategy of many firms necessitates that the process for bringing laterals into a law firm goes beyond recruitment and selection. The process includes integrating and retaining laterals as well.

In this part II of the Lateral Partner Conundrum, I address the key elements of integrating, assimilating and retaining laterals. Without a comprehensive program to address each of these components, *"lateral partners"* as a key growth strategy, will continue to experience the high rates of failure experienced by many – if not most – firms.

Integrating Laterals

Once a lateral partner candidate has been selected and approved by the new firm as an incoming partner, the process of integration begins. It is imperative that the new firm have a process in place to integrate and assimilate the new partners into the firm. The first step in this process is *"orientation."* Changing one's place of employment is for most people, a very traumatic event. All too frequently the new partner is joining an organization without their previous support system. The people, procedures and processes that allowed them to function as a contributing member of their prior firm have been left behind. These people may include other members of their team, their secretaries and other administrative support personnel and a lack of familiarity with the way things are done in their new firm.

Orientation must begin as the new partner is going through the steps to leave their prior firm. Records, files and personal possessions need to be organized, packed and sent to the new firm.

Matters in progress need to continue to be serviced and clients need to be contacted to provide authorization to change the attorney of record on matters in process. Ethics rules need to be followed, and the new partner will likely need assistance in grappling with the myriad of activities associated with their transition. The first step in the new partner's orientation will need to take the form of several levels of assistance:

- Assistance with the correspondence needed to alert clients to the change;
- Assistance with the transfer of electronic files and records, and
- Assistance with the packing and movement of hard copy records and files along with personal property.

Each of these areas of support will require the involvement of personnel from the new firm at appropriate levels, in concert with the requirements and procedures of the old firm, and under the auspices and authority of someone at the new firm with responsibility for the new partner's orientation. I will have more to say about this later, but please recognize that any failures at this juncture will likely leave the new partner feeling disoriented and frustrated by the process of moving into the new firm. Such feelings will be difficult to overcome in the near term and will most likely have negative impacts on the ability of the new partner to hit the ground running.

Orientation continues once the new partner is on premises at the new firm. Orientation sessions with key personnel covering everything from benefits, work flow, opening new matters, computer and telephone systems training or refresher courses, expense reporting, office procedures, and the scope of administrative support available to the new partner need to be addressed in a timely and comprehensive fashion if the transition to the new firm environment is to be properly facilitated.

The most successful assimilation seems to occur with lateral partners who are being brought into a firm to provide additional capacity to handle the existing workload at the new firm. Nothing succeeds like *"putting them to work"* as quickly as possible. Having a new partner assigned to existing matters and existing client service teams greatly enhances the facilitation and assimilation process. The new partner gets to work side-by-side with existing partners at the new firm and they quickly adapt to the new environment. However, this is not always possible. Frequently, new lateral partners are recruited because they represent new practice areas, or they possess skills that are complementary to the new firm. Because of their *"newness"*, these partners are all too frequently left to their own devices to figure out *"how we do things around here*." In these cases, orientation and assimilation can be enhanced by quickly having the new partner participate in meetings of the new firm's appropriate practice groups and client service teams.

Similarly, it is important to create opportunities for the new lateral partner and existing partners to establish mutual trust. This includes trusting them as individuals as well as trusting them as professionals. It also implies trust in their judgment along with trust in their skills as lawyers.

Both firmwide social events and social events with members of the practice group and client service teams can facilitate the creation of such trust. It may take a while for the new lateral partner to establish deep friendships with the partners in the new firm, but people like to do business with people they are *"friendly with."* These social events will help create and foster those feelings of friendship.

Another critical component in the successful integration of a new lateral partner depends upon the marketing launch of that lateral in your firm. It is essential that marketing personnel get involved at an early stage and in a comprehensive manner. The launch entails the information that will be announced about the new lateral partner to other partners as well as the rest of the firm and the information that will be announced to the media and the clients of the firm. The breadth and scope of these announcements, the implementation of the lateral's marketing plan and the specific steps to be taken to accomplish this must also be guided and overseen by a partner with the authority and accountability to ensure that the launch of the new lateral is creating an environment to ensure success. All too often the plans for each of these steps are well conceived, but lack the follow-up necessary to ensure their successful implementation.

One approach that seems to work well is to schedule regular periodic check-in and check-up meetings with the new lateral over a period of months, with a partner from the new firm assigned as the *"orientation sponsor"* for the new lateral partner. Some firms assign the director of professional development the responsibility to meet with the new lateral regularly and to report back to firm management on progress being made and problems being encountered.

Another tool that has been applied successfully in some firms to facilitate the integration of a new lateral partner is a centralized client relationship management (CRM) application that enables the lateral to quickly learn, at his/her own pace and on his/her own time, the status of existing client relationships.

Notwithstanding all of the necessary integration steps that can ensure the successful launch of a new lateral partner, there are a host of activities that must be addressed to ensure that the lateral partners that you want to keep are retained by your firm.

<u>Retaining Laterals</u>

Hiring the best lateral partners is a widely accepted approach for law firms seeking to achieve their strategic growth objective. However, meticulous selection procedures, as discussed in Part I of the Lateral Partner Conundrum, are not enough.

Firm management needs to have the ability to assure the success of a correctly selected person. Moreover, firm managers (practice leaders, firm managers, department heads, and even managing partners) need the ability to rescue a failing partner. It should be noted that more than one-third of correctly selected people fail within their first year on the job. They do not perform as expected and in many cases, they do not remain with the Firm. But they possessed the necessary technical skills to function at the level of a partner. So, what goes wrong?

The cost associated with such failures can be multiples of the lateral partner's first-year compensation, considering recruitment fees, orientation and integration costs along with opportunity costs associated with what in most cases, turns out to be a faulty *"launch"* of the new lateral partner. And yes, it is normally the launch that failed and not the lateral.

Indeed, building on the research of behavioral science pioneers like Maslow, McGregor and Hertzberg, Dr. Kurt Einstein, the late founder of the Einstein Institute, had turned his attention to the causal factors that brings success and failure to new hires. Retaining lateral partners is the responsibility of firm managers whose own success is dependent upon their ability to motivate others to want to excel and to desire excellence in their own performance.

To understand the assertion that it is the failure of the launch and not the lateral, one must first look at the three phases that new lateral partners go through – **anticipation, reality and judgment.**

> **<u>Anticipation</u>** is what an individual hopes or fears she/he will find in a new position. It generally begins during the recruitment interview and selection process and overlaps with *"reality"* during the first few weeks in a new position at a new firm.
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> **<u>Reality</u>** determines a person's success or failure. The newcomer to the firm learns *"what is"* or *"what is perceived to be"* rather than *"what they expected it to be."* It must be pointed out at this juncture that *"anticipation"* and *"reality"* are never completely synchronized. There may be several slight deviations between anticipation and reality, or there may be some massive ones. Hence the assertions above that reality determines a person's success or failure.
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> The individual internalizes the *"reality"* from the *"anticipation"* and makes a *"judgment."*
>
> **<u>Judgement</u>** generally sets in somewhere around six months after a partner joins a new organization. In effect, the new lateral partner thinks, *"I know what happened here and now I will decide what to do about it."* Whether this is a fully analytical and conscious self-assessment or something a bit more subtle, the result of the *"judgment"* drives behavior.

The challenge to firm management and the hiring partner is to manage this process so the results are favorable to the individual and the firm. The firm's goal must be to create an environment for the new partner that will allow her/him to succeed.

In order to accomplish this, we need to go back to the anticipation phase and understand what goes wrong in this phase? Anticipation, as stated earlier, begins during the recruitment process. At that time, the lateral partner candidate *"anticipates"* things that cannot be realized when the position starts and may even *"fantasize"* things that cannot be realized when the job starts.

There are ways available to us to get a pretty good fix on *"anticipation"* and bring it into line with *"reality"* before the candidate is offered the position. All anticipations are based upon either *"hope"* or *"fear."* So, how can you avoid unrealistic expectations?

During the recruitment process, there are five questions that should be asked:

1.) What are three things you expect from this position with our firm and why?

2.) What are three things that would concern you if you found them to exist with this position and why?

3.) What are three difficulties are you likely to encounter with this position and why?

4.) Where do you think you and your practice will be in the next year or two? Three to five years from now? How will you accomplish that?

5.) What, if anything, will you do differently from your current position? What changes do you think you will make to your practice and approach to clients within the next year and why?

Analyzing the responses to these questions will go a long way towards ensuring that you are not bringing in a new lateral partner with unrealistic or unhealthy expectations.

But it is still possible for the reality of the new lateral partners to be seriously out of sync with her/his anticipation. As noted earlier, *"reality"* is what is or what is perceived to be. And there are lots of things and stimuli that impact the *"reality"* phase of a new lateral partner.

"Reality" is based on both emotions and logic. That dynamic is true for all of us as human beings. It is also true that *"emotions"* do not know *"logic."*

- Logic is *conscious.*
- Logic is how we *think.*
- Emotions are *unconscious.*
- Emotions are *how we feel.*

The impact of these differences between emotions and logic really take center stage whenever emotions supersede logic. In this case, the results are almost always poor. Examples of emotions superseding logic are around us every day and typically include feelings of anger or thoughts about loved ones or your children. If a change in behavior is required, emotions cannot be allowed to rule over logic.

In order to see how this pull between logic and emotions affects the behavior of a new lateral partner let's consider an example:

> ***"Stranger in the Promised Land"***
>
> The lateral partner candidate has accepted the offer from your firm. She is excited about the opportunity to work in your firm. She is also excited about her prospects for the future. She feels she is *"going to the Promised Land."* But, when she shows up at her new office for the first day with your firm, she feels like a stranger.
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> The orientation transition and assimilation process that are discussed earlier are critical at this juncture. All people function through their support systems – whatever those may be. Domestically, your support systems are defined by your friends and family. In a professional or business environment our support systems are defined by the people we associate with – people whom we like, admire and depend on, AND people who depend on us, as well. So it is fair to say that, on average, the new lateral partner may have lost as much as fifty percent of her support system when she shows up for her first day. Is it any wonder then why she cannot function normally? Moreover, as new colleagues stop by to greet the new arrival, instead of seeing someone who validates the *"hiring decision,"* they see someone who cannot function normally. Unless and until the new firm helps the new lateral partner recreate or reconstruct her support systems the new partner will not fully operate normally.

Secure, Accepted and Important

Another key concept necessary for the successful integration and assimilation of a new lateral partner is the requirement that she/he feel secure, accepted and important. It is virtually impossible to effectively manage, motivate or constructively criticize a new member of your team so that she/he becomes a successful participant unless she/he feels secure, accepted and important. In fact, in order to help a new member of your organization reconstitute the support system she/he has lost by coming to your firm, you must first make her/him feel secure, accepted and important. If you interfere with even one of these needs, you impact them all.

Let's explore this concept. In every position, and especially at senior levels, there is a certain amount of *"crap"* or *"noise"* or *"nuisances"* that takes place every day. People who feel secure, accepted and important take the *"crap"* in stride.

Some other elements of reality include the *"new kid on the block"* syndrome. This occurs when the new lateral is not included in any meaningful activities right away. she/he is not included in the teams or cliques that already exist in your organization. she/he is not asked to *"play in the game"* from the get go. This form of treatment is frequently rationalized as *"giving the new partner an opportunity to feel his/her way"* through the organization. But this different treatment does not allow her/him to feel secure, accepted and important.

Another situation that affects performance is *"smothering."* Excessive supervision, sheltering the new lateral from the responsibilities of her/him new position in your firm – in effect treating the person like a child – results in the new lateral feeling degraded. Telling the new lateral to *"clear everything"* with the practice leader or managing partner until (she/he gets to know the firm, the clients, etc. is similarly degrading.

In the first part of this paper (Lateral Partner Conundrum I), I discussed the need to define and communicate the responsibilities of the lateral partner's position in your firm during the recruitment phase. *Responsibilities* define what this person will do while *authority* defines what kind of decisions the new lateral partner will be allowed to make without prior approval.

For example, a commitment of firm resources or finances for temporary case room space in another city or the ability to fire staff and hire replacements without going through firm procedures designed to handle staffing are likely roles that a new lateral partner will not be authorized to undertake.

The opposite of smothering is the *"sink or swim"* approach that many firms employ with a new lateral – especially a senior level partner. The new firm says, in effect, *"you are on your own but if you screw up, I will be there for you."* The new lateral, whether it is sink or swim, can only feel devastated by such an approach.

In order to address these reality issues, it is critical that you make the new lateral feel **secure**, **accepted** and **important**!

There are several steps that firm management can take to make the new lateral feel secure, accepted and important. The first of these steps involves feedback. Feedback is not always or exclusively positive. Feedback must be balanced and true. Remember that a person who only receives positive feedback will be apprehensive as she/he waits for the other shoe to drop.

Another important step to make your new lateral feel secure, accepted and important is to show that you care. Ask the new partner if she/he is finding things the way she/he expected them to be. If the person answers *"yes, I am ok,"* they are telling you that things are good and that they feel good about their launch in your firm. But if the person says that *"things are not as they anticipated they would be,"* you can tell her/him either *"I didn't know about that but I am glad and impressed that you told me. I will look into it and do something to address it."* Or you can say that *"I cannot do anything about that, because those are our rules but I am sorry that the situation is affecting you."* No matter which response is provided in the aforementioned exchange, each one says *"I care about you."*

It is also important to maintain regular and periodic contact for the first several months. This is especially important to overcome feelings associated with a *"sink or swim"* approach. Either call or meet with the new lateral routinely and ask her/him how she/he is doing? In addition share with her/him information that can be perceived as beneficial to her/him success.

Similarly invite participation by the lateral. Ask her/him for their observations, recommendations and opinions about the goings on at the firm. Include her/him in your decision making process and explain your reasons for the decisions you make.

Another key component of *"reality"* is the need to bestow recognition on the lateral, and, as much as possible, bestow that recognition *in front of others*. In fact, it is a good practice to try to give a *"stroke a day"* to each member of your team. Now, it is not practical or realistic to stroke everyone every day, but try to make it a habit of stroking at least one member of your team every day. This will strengthen the bond between you and the members of your team and it clearly says *"I care about you."*

It is also important for establishing the acceptance, security and importance of a new lateral that she/he understands that she/he has the right to be wrong, provided that she/he is willing to come to you to discuss the mistakes she/he makes. In fact, she/he should feel that she/he has an obligation to share such mistakes with you in a timely manner. Let her/him know that if she/he don't report mistakes, your conclusion must be that either she/he is not learning and growing or that she/he is hiding such mistakes from you. Either way, such behavior is unacceptable and will not be tolerated.

Most human beings learn and grow through the mistakes they make. Yet, people do not want to make mistakes – to do otherwise is against human nature. But we also do not want people to feel that we are giving them permission to make mistakes. So it is important that admissions of mistakes are not met with tirades or some other form of clobbering. In fact, one way to diffuse the situation is to tell the new lateral that we can discuss the situation (involving the mistake) later but first, you want to congratulate the person, because you have a trust relationship where you can help her/him avoid such mistakes in the future. This exchange will go a long way to avoiding mistakes which can snowball into bigger problems.

This brings up the need to be able to criticize behavior, and be liked for it. Most people will become defensive when they are being criticized – the emotional reaction. We already established that no one wants to make a mistake, and most people will perceive criticism as an attack. Remember that one person's perception is another person's truth. Moreover, any defensive person has a greater allegiance to her/his own emotional safety than to the truth. This means that emotional safety equates to not getting hurt. Accordingly, defensive people are preoccupied with protecting their feelings and not with what you have to tell them.

How to Criticize and Be Liked

There are essentially two ways to criticize a team member:

- Critical – which evokes defense
- Developmental – which evokes respect

Your goal should be to criticize in a developmental way. Start with phrases such as:

- *"Your success will be enhanced…"*
- *"You will be more successful if you can do this…"*
- *"I was pleased with the way you approached this; let me suggest that you will be more successful if…"*

It is also important to differentiate between critical and annoying.

- If you cannot tolerate annoyance, stop being a manager!
- If something is critical, you must deal with it
- Annoying is akin to life itself
- If you act like something is critical every time you are annoyed, your effectiveness is reduced.

One suggestion for team leaders and managers here is to develop a 24-hour delay fuse (i.e. – *"not now"* and *"not no"*). If something is merely annoying, *"not now"* is preferable to *"no."* By giving yourself 24 hours, you are giving yourself a chance to decide whether this situation is indeed critical so you must address it, or whether you would be better off if you simply dropped it?

The last component of managing reality is to arrange for some successes. It is a well-known theory that success breeds success. Give your new team member an opportunity to be successful within a short period of time following her/his start date and then bestow praise on her/his in front of others.

The final stage in the process that all new team members go through is judgment. Judgment sets in somewhere around six months after the new lateral starts with your firm. It turns out that there are three basic judgments that one can make:

- *"I like it here;" "I am ok;" "I made a good choice in coming to this firm"*
- *"I do not like it here;" "I quit"*
- *"I do not like it here;" "But I will hang in"*

The first form of judgment – *"I like it here"* – means the firm has successfully launched this person and loyalty and team spirit have been fixed.

But the second form of judgment – *"I don't like it here – I quit"* indicates a failure in the launch. At this point, most managers screw up the situation even further by reacting emotionally or inappropriately to what the other person means by *"I quit!"*. In actuality, there are two entirely different kinds of *"quits"* that occur and they need to be treated differently.

In the spontaneous quit, the person gets upset, gets huffy and probably walks out. Most managers take this situation personally and react emotionally as they experience the situation as a personal rejection. The manager essentially says *"good riddance, don't show up here again. You are out."* This is not good for anyone.

Unless this person was a true hiring mistake, a bad member of the team whom you want to do without, I recommend that you consider an alternative approach. Just because this person got upset and could not control her/his temper, does that mean you should lose all the experience, training and everything else you put into the lateral? You will only have to start the recruitment process all over again and the next person also may not work out.

The lateral who quit and stormed out will shortly face the reality of that reaction. A call from you in a day or so suggesting that the upset partner come in to meet with you to discuss the situation is both good business and a humanitarian gesture. Asking the person *"let's discuss your problem. If you want to come back, I believe I can help you."* It is also important in this situation, to tell her/him that *"if you do this again, I may or may not take you back."* You want to establish that your firm is not the kind of place where people can walk out and constantly return with impunity.

The *"premeditated quit"* is altogether different. Attempts to change this person's mind are futile. Although most managers will try to change the decision because they act as if the decision was made when it was announced even though it is never decided when it was announced. The lateral decided to leave some time ago and has been looking for a new position. The only component of this decision that is *"now"* is the announcement.

It should be noted that, by and large, premeditated decisions that are reversed do not work over the long term.

Firms that are in trouble for whatever reasons they say, such as competition, marketplace changes, client defections or changes, etc., are just not admitting that they have an over-abundance of marginal partners.

Moreover, a partner who "*doesn't like it here*" but stays is a disgruntled person, and such people *"arrange"* to have company. Like a rotten apple, they infect others.

The third form of judgment – *"I don't like it here but I will hang in"* is a partner who will immediately become or is already a marginal partner. They are not bad enough to fire but not good enough to help your firm flourish. It is unacceptable to merely stand still with such partners. These people can and must be rescued.

<u>Some Thoughts About Rescuing</u>

To begin with, it is important to understand that firing a failing partner is a complicated, complex process that can be expensive. Additionally, firing requires no skills on the part of the practice leader or managing partner.

Rescuing, on the other hand, requires a number of skills. As a law firm leader, it is important that you are liked but it is essential that you are trusted. If you are not trusted, you are disqualified as a rescuer.

Rescue efforts take place over a continuum. They require a series of regular and periodic meetings. These meetings should always contain the following elements:

- Meetings should always start on an up-note.
  - Use compliments, on work and practice related efforts.
  - Reinforce good behaviors or good performance.
- Avoid small talk.
  - Small talk lacks sincerity; it is merely "*filler*."
  - Small talk also creates and heightens anxiety and apprehension.
- Insist on privacy.
  - Rescue meetings are best if one-on-one.
  - Never use a public forum like a restaurant or airline club.
- Stick to the facts.
  - Do not allow the lateral to become evasive.
  - Avoid tangential topics.
- Offer solutions as suggestions only.
- Never judge or use judgments, assumptions or hearsay.
- Do not threaten, interrupt, accuse or patronize.
- Always state what was done wrong; never state what is wrong with the person who did it.
- The more specific your facts, the more successful your counseling will be.
- Make the person realize and own the problem.

Once this stage is set, you can begin to help the person identify and implement a means to address the problem.

<u>In Summary</u>

In this Part II of the Lateral Partner Conundrum, we looked at the three phases that a new lateral partner goes through.

- Anticipation
- Reality
- Judgment

We discussed what can go wrong in the anticipation phase and ways to avoid unrealistic expectations. We then turned to the reality phase and identified several things that typically occur as well as the rules for making a new member of your team feel secure, accepted and important.

In the judgment phase we explored the impact of *"I like it here"* vs. *"I'll quit"* vs. *"I'll hang in."*

This concludes our monograph on the Lateral Partner Conundrum. As with our other monographs, we welcome your comments and thoughts.

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