



# Finding and keeping

*By any measure, lawyers are a firm's most valuable asset. All successful firms have excelled at finding, recruiting, integrating and keeping excellent lawyers. But how do you build a top-notch legal team? And how you can navigate the path to becoming a valued partner? LAWPRO asked a panel of lawyers with experience in firm recruitment and retention issues from both inside and outside law firms to tackle these questions.*

## good lawyers

## LAWPRO: WHY DO ASSOCIATES AND PARTNERS LEAVE FIRMS THEY HAVE WORKED SO LONG AND HARD FOR?

**Kirby:** I think that the answers are somewhat different for partners and associates. As law firms get more focused on the bottom line, partners whose practices have failed to grow and who are not delegating lots of work to associates may be asked to leave. As well, some partners are looking for a change and hear the siren call of business, and will go off to join a client in a legal or even non-legal role.

Associates move for different reasons – they feel they have lots of choice and will not put up with a situation in which they feel they are not being offered interesting work in a congenial workplace that offers good training and professional development.

**Lorene:** Partners may also leave if they have developed a practice in an area that is not supported or valued by their firm, or if they feel they are 'blocked' by a partner above and see an opportunity for further potential growth at another firm. I've also met other partners who want a different challenge (usually with a corporation) or want more control over their hours.

Associates tell us that they want a better work/life balance, better control and predictability over their lives, that they don't feel they are part of the team, and/or they don't feel they have connected with their practice group. Some associates look to the partners and tell us that they don't want to have the partner lifestyle – i.e. if they knew it was going to get better as they became more senior, they would stay, but they see that the partners work just as hard, or harder, than do associates.

**Mary:** I think that partners and associates who leave private practice to go to corporations and government do so for similar reasons. In private practice performance is measured in large part by time, whereas in other environments, performance may be measured less by time and more by output. Both partners and associates are motivated to leave because they want more control over when they work. It is not that lawyers aren't prepared to work hard – it is the lack of predictability of the hours that makes it difficult. In two-income families it is easier for lawyers to accept positions with lower compensation. The other thing law firms are facing is competition for the best associate lawyers from other jurisdictions, in particular London and New York.

### THE PANELISTS

**Kirby Chown** is Ontario regional managing partner at McCarthy Tétrault. She has practised in the area of civil litigation since her call to the Ontario bar in 1981, specializing in the areas of medical malpractice and family law. Kirby is chair of the University of Toronto Academic Tribunal and past chair of the U of T Law Faculty of Law Alumni Association. She has a particular interest in issues affecting the retention and advancement of women in the legal profession.

**Harold Feder** is a partner at BrazeauSeller LLP in Ottawa and works in the tax and estate planning, and corporate and commercial law areas. Harold is a member of the Canadian Tax Foundation, the Society for Trust and Estate Practitioners, and the Ottawa Estate Planning Council. He was called to the Ontario bar in 1990 and has been involved in student and associate recruitment for the firm for more than ten years.

**Mary Jackson** is chief officer of legal personnel and professional development at Blake Cassels & Graydon LLP in

Toronto where she is responsible for the recruitment and development of associates and law students. She practised civil litigation for six years and clerked for Chief Justice McLachlin of the Supreme Court of Canada. She was called to the Ontario bar in 1994.

**Lorene Nagata** is the executive director of NagataConnex Executive Legal Search and works to place lawyers in firms and corporations in Canada and internationally. Lorene practised law in Toronto in a well-known litigation boutique for five years, and was called to the Ontario bar in 1993.

### MODERATOR:

**Dan Pinnington** is director of practicePRO, LAWPRO's risk management program and claims prevention initiative. He frequently writes and speaks on claims prevention and practice management issues. He writes a monthly column in the ABA Law Practice Management Section's Law Practice Magazine, and was Chair of ABA TECHSHOW 2007.





Lorene Nagata

**Harold:** I think that in most cases it comes down to connection. Does the lawyer feel connected to the firm, the people they work with, the city? If the answer is no, then the lawyer will be looking for opportunities to move.

**LAWPRO: WHAT CAN FIRMS DO TO RETAIN THE PEOPLE THEY REALLY WANT TO KEEP?**

**Harold:** It starts at the beginning during the recruitment stage. You have to be brutally honest about the firm's culture, direction and expectations. You want to establish the buy-in from the outset. The next step is to establish the connection to the firm. For an associate, working closely with a partner is one of the best ways to gain a sense of belonging and value. It is a fluid process. As an associate advances, you want to identify opportunities for that associate to assume leadership roles within the firm. The goal is to instill a "we" mentality within the firm, not an "us and them" mentality.

**Lorene:** Agreed. Whether you're dealing with associates or partners, they all need to feel that they are part of a team. Take an interest in what they're doing, how their career is developing and what's happening in their personal life. Some firms train partners to help encourage them to delegate work as soon as possible, before it becomes an emergency. This not only helps the work flow, but also demonstrates that the firm respects associates' time.

As well, support programs can be helpful. A number of firms in the U.S. and U.K. have implemented job-sharing and flex-time programs. However, the success of these programs depends on the area of practice and the support of the practice group and firms.

Even if only a few people use these initiatives, they can have a positive effect on the firm's culture and its people, and will communicate to employees that the firm cares.

For these types of programs to be successful, the whole partnership must understand and support the initiatives. If there's a negative attitude to these programs and their participants, no one will want to participate and you're wasting resources setting them up.

**Mary:** Given our discussion of why lawyers are leaving, it is clear that firms need to be better at determining staffing needs and at managing and distributing workloads so that we provide lawyers with more work-life balance.

E-mail and Blackberries have made lawyers' lives more difficult. There is a huge volume of communication that requires quick responses. This adds pressure and takes away focused work time during the work day. Many lawyers try to cope with this by working evenings and weekends. Coaching and training on productivity may help lawyers have more personal time. Other support programs or systems such as child care, food services, concierges and medical plans can also help people with busy lives.

Obviously we have to make efforts to ensure that people feel valued. Even small gestures to colleagues can make a great difference – whether that means saying "thank you" more often, showing consideration during important events in people's lives, or offering tickets so a lawyer can take her daughter to a ball game. In every firm there are always lawyers who never have any problems finding people to work with them no matter how busy they are. They understand the importance of people and are naturally empathetic.

**Kirby:** I agree with Mary that simply treating people better is an important step. As well, we need to provide challenging, interesting work, ongoing CLE and other support so that lawyers feel that the firm is concerned about them as individuals and not just as production units. They expect to receive training that will assist them in furthering their careers, whether or not they end up as partners in the law firm.

**LAWPRO: WOMEN ARE STILL FAR MORE LIKELY TO LEAVE THE PROFESSION THAN MEN, AND THEY ARE UNDER-REPRESENTED IN THE SENIOR AND MANAGEMENT RANKS OF MANY FIRMS. WHAT CAN BE DONE TO RETAIN MORE WOMEN AND GET THEM INTO SENIOR ROLES AT FIRMS?**

**Kirby:** This is not a simple issue. Private practice is a male-dominated environment and a challenging one for women, as the path to partnership intersects with childbearing years, and the demands placed upon associates at that point in their careers are high. Firms need to understand the business case for retaining women, communicate that business case to the partnership and the women in the firm, and commit resources and effort to

addressing the issue. Activities focused on women such as maternity leave support and flex-time arrangements coupled with community building for women in the firm are a start. But, they must be accompanied by career mentoring of women to ensure that they are being given the same opportunities as men, both with clients and in law firm management. Women who feel loyalty from their firms and support will be more likely to stay for a long and productive career at the firm.

**Harold:** This is a difficult issue, particularly in a small- to mid-size firm where the size of the firm limits your flexibility. The reality is that in recent years women have made up a disproportionate number of our top candidates. You have to try to be flexible to meet the needs of female lawyers. Communication is key so that you gain an understanding of expectations; then you look for ways to achieve mutually beneficial results. We have been successful with shortened work-week arrangements because everyone involved understands the expectations and is willing to be flexible. Perhaps more importantly, we have provided our female lawyers with the opportunity to develop their own marketing plan and brand. This has fostered a sense of ownership which leads to loyalty.

**Mary:** One of the changes we all are facing is that men are actually becoming more like women, rather than the other way around. More men are taking parental leaves and structuring their work lives so that they can play a greater role in their children's lives. This is good news for all lawyers because it is pushing firms to try to come up with solutions for the entire workforce. Flexibility is not exclusively a women's issue any more.

With respect to women, the key is mentoring and coaching. At our firm we recently held a facilitated discussion among women lawyers with children. From those discussions it was clear that women lawyers put a lot of pressure on themselves to be perfect parents and lawyers. Building a community of women within a firm can help provide them with both support and resources.

Of course, women still face different challenges than men. For instance, the client base in particular areas of practice is more likely to be male than female. Often women have to find a style of business development that allows them to network with men in a meaningful manner, whereas men, because of similarities of interests and activities, may have more opportunities. Women are also judged more harshly than men for being too "aggressive" or too "soft." Women can benefit from guidance about how to strike a delicate balance in order to be successful.

**Lorene:** This is a problem. About half of all law school graduates are female, yet on average, only about 20 per cent become



partners. The law firm model does not fit that well with most females' (and males') personal life goals. Some firms have created a two-tier partnership track which allows associates to take a break from the equity partnership track during the years when they're busy with young families or other personal matters. After they get over the 'early years' and their children are of school age, they are able to rejoin the equity partnership track without feeling stigmatized. Many young female associates will tell me that their mentors have been males, not females. Getting successful women who are in senior roles to act as role models and provide support and mentoring will help firms give female associates the confidence and ability to succeed.

**LAWPRO: WHAT DO ASSOCIATES AND PARTNERS NEED TO DO TO GET AND STAY ON THE RIGHT TRACK? SHOULD BECOMING AN EQUITY PARTNER BE THE ULTIMATE GOAL FOR EVERYONE?**

**Harold:** The days when becoming a partner was everyone's goal are long gone. Again, communication is key to ensure that expectations are in line with the anticipated realities. Ultimately,

the goal for the firm is to develop and retain talented and productive people. To achieve this goal the firm must understand the expectations of its professionals, and then adapt to ensure that those expectations can be met.

**Kirby:** Law firms are struggling with how flexible they can be with alternate track positions for those who do not want equity partnership: How many of these positions can be created and maintained without stifling work opportunities for others?

As for staying on the right track – lawyers themselves need to be more proactive at speaking up for what they would like: partnership track, flex time, a wind-down coming up to retirement, or help to relocate in-house with a client. Such discussions should be encouraged and assistance offered wherever possible so lawyers can align their behavior with their goals and the firm goals, or leave if there is no obvious fit.

**Mary:** In terms of "being on the right track", there is no magic recipe. Even if an associate hasn't made the assumption that the goal is to become partner, it is important to do great work, network

Harold Feder





Mary Jackson

with as many people within and outside the organization as you can, and treat everyone you deal with in a positive and professional way. At every point in your career, you are "building your own brand." It is events along the way that often define what course a lawyer will take.

**Lorene:** The "right track" will differ for each individual. If the right track means equity partnership, then ongoing communication between the associate/partners, the practice group leaders and the firm is important. The firm needs to clarify what is expected to move to the next level, and the candidate needs to know if he or she is accomplishing what is required. Individuals also need to be honest with the firm as well as themselves about their goals. I speak with many candidates at different stages in their careers who have not yet set long- and short-term career goals. Everyone should set and revisit goals on an ongoing basis. Goals will change as lawyers progress through their career; they should always be thinking of the next two steps they want to take.

**LAWPRO: Now, turning to the issue of new and lateral hires, how do job candidates and firms best assess whether they are a good fit for one another?**

**Kirby:** Firms need to ensure that more than one person from the firm meets with the candidate. Firms need to have straight talk about firm culture and expectations with the candidates. They also should be doing confidential due diligence on whether someone will be a good fit.

**Lorene:** It's important that both the interviewers and interviewees have accurately determined what they are looking for before they go in to the interview. It's common practice to determine what skill sets are required, but sometimes the employer fails to determine other important factors such as personality fit, work-time requirements, motivation and ambition.

Likewise, interviewees should know what type of work environment they want, including the time commitments that will fit with their lifestyle. Both parties need to be very candid with each other

throughout the interview process – about both strengths and weaknesses. It is becoming more popular in the U.S. and U.K. to assess candidate traits with psychometric tests. Of course, references should always be checked – by both parties.

**Mary:** I completely agree that you have to understand what qualities a candidate needs to succeed in a particular environment. You need to interview in a manner that knocks the candidate off-script (i.e. their prepared answers) and gets at personal stories that will reveal their underlying qualities.

When you are close to making a decision, you need to be completely candid with the candidate about the nature of the position and the challenges that they may face. My advice to candidates is to try to speak to different people within an organization about the position and the lawyers they will be working with. Asking hard questions shows that you are taking the position seriously.

**Harold:** The trick is to stay true to your instincts. The tendency, especially when there is a pressing need to be filled, is to hope that people will change to adapt to the firm culture. From experience, this is seldom the case. You have to hold out for the right people and not compromise.

#### **LAWPRO: AFTER FIRMS DECIDE TO HIRE SOMEONE, WHAT STEPS SHOULD BE TAKEN TO TRULY INTEGRATE THAT PERSON AS A FULL AND PARTICIPATING MEMBER THE FIRM TEAM.**

**Lorene:** Integration is key to making people part of the team and keeping them for the long term. The integration process is an ongoing one. Often, there's a flurry of activity when the new hire starts and then the attention dies down. Depending on personality and level of experience, it can take months or more for a person to become truly integrated into the team and with the clients. It is important to introduce partners to clients and partners in other departments. It's also important that partners within the department and in other departments understand the new partner's background and expertise (so they can effectively use the new hire's services and cross-market).

Associates should be formally introduced to the associates and partners in their group, and others from whom they will be expected to draw work. All in the group should make an effort to include the new hire and immediately give them work. The

fastest way to make the new hire feel like they are part of the team is to keep them busy.

Ideally, someone should be touching base with the new hire, regularly for the first six to 12 months, and longer if it looks as if the person needs more time. They should be reviewing the person's hours (to make sure he or she is receiving work), finding out whether work is coming from a number of partners, and seeing if the person is getting involved with internal firm activities (such as a committees). There should also be confidential discussions with respect to networking initiatives within the department and firm.

**Mary:** Integration is an issue that all laterals need to focus on. My best advice to laterals is to take advantage of all opportunities to network with people, whether it be through professional development programming, social events, recruiting or mentoring. In my experience, partners and associates who want to be involved integrate very quickly no matter what formal systems you set up.

**Harold:** Integration is about structure and connection. From a structural standpoint you want to build in working relationships that will create opportunities for success. We have found that entrenching one-on-one relationships as opposed to a scatter-gun approach to associate development to be very effective. When one person is responsible for the integration and success of the associate, it creates accountability.

On the other side of the integration process is building a connection. You have to be proactive in finding opportunities to engage at a personal level. Simple things such as grabbing a lunch or a coffee, or going to a hockey game can go a long way towards speeding up the integration process.

**Kirby:** Develop a formal plan for the integration and make a current partner responsible for integration of the lateral partner. That responsible partner needs to assist with social integration as well as integration into files and transactions and onto client teams. Reporting by the responsible partner to a practice group leader or the managing partner can ensure that the integration is progressing. As well, it is important to understand that few laterals can be up and running instantly so a lag period in which file transfers and integration can happen should be expected and accepted. Also, build in opportunities for the lateral to comment on how the integration is going.