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HOW COVID AND THE REMOTE WORKING EXPLOSION WILL IMPACT THE LEGAL INDUSTRY

NOVEMBER 2020



“HOW MUCH SPACE DOES A LAW FIRM ACTUALLY NEED GOING FORWARD? THIS IS ONE OF THE MOST IMPORTANT REAL ESTATE QUESTIONS FOR THE NEXT GENERATION OF LAWYERS”, ACCORDING TO THE MANAGING PARTNER OF AN AMLAW 100 LAW FIRM.

The question above is top of mind for many law firms, given the effectiveness (and potential cost savings) of lawyers working remotely and the fact that, for so much of the time, pre-COVID-19, a lot of their office space was unoccupied by their lawyers (30 to 35%) due to meetings out of the office, travel, vacation, work from home, etc. With even lower occupancy levels since the pandemic arrived, why should a law firm continue to lease private office space for its lawyers if the attorneys are not in the office every day and can and do often work from elsewhere? Think of the money they would save! The challenge is finding the right balance between cost savings and culture—the mentorship, collaboration, on-the-job training, relationship building and collegiality, which is fostered by an “in-office” environment. Isn’t culture the glue, along with prudent financial and business decisions, that ensures the success and longevity of the firm?

HOTELING IN THE ERA OF A GLOBAL PANDEMIC

Hoteling (non-dedicated work space) is being considered, and even implemented, by some law firms at varying levels (some at 100%), and there may be a good use for hoteling for a portion of the attorney population (i.e. of counsel attorneys, retired partners, attorneys that work out of multiple offices, attorneys that travel most days, attorneys that are winding down, etc.). The fact is hoteling was being incorporated into law offices even pre-pandemic. However, for those attorneys that are the lifeblood of the firm (you know who they are), consider the following.

For starters, the CDC has recommended against desk sharing to avoid the spread of disease. The 23rd Commissioner of the FDA, from 2017 to 2019, and a Pfizer Director since 2019, Scott Gottlieb, M.D., said in 2020 at a well-attended industry conference that even after the vaccine is disseminated into the population, mask wearing would be here to stay because coronaviruses are here to stay. Fred Brown, a 40 year epidemiologist and Harvard MBA said “At every point in time since the start of the pandemic, the public estimated that normalcy would return in 2 weeks to 3 months and

while this was always a theoretical possibility, the preponderance of the evidence continues to indicate that Covid will continue to impact us for 5 – 10 years until durable, sanitizing childhood vaccinations are broadly mandated.”

Those comments were startling to hear. How can we have desk/office sharing in that environment? Would people feel safe? Would the senior partners of a law firm ever come into the office in that office environment? Why wouldn’t they just work from home 100% of the time if they did not have their own office at the office? If there were an internal meeting, they could easily join remotely, couldn’t they? In fact, even without desk or office sharing, if the pandemic continues as the experts say it will, how can attorneys even be expected to work from the office all of the time, especially since they did not do that before the pandemic? When we look the pandemic square in the face and what ensues when spikes occur, can’t we assume the need for office flexibility is here to stay?

THEN THE QUESTION BECOMES “HOW CAN THE OFFICE BECOME A VIBRANT PLACE TO BE WHERE EMPLOYEES WANT TO WORK WHEN THEY CAN?”

THE SENIOR PARTNERS

Especially during a pandemic, evidence suggests that a firm that does not have dedicated offices would likely see its senior partners working from home (or their second home) all of the time. There are facts to support this. Senior partners typically like their papers around them. They would not like the idea of cleaning up their workspace each day, which is necessary in a hoteling environment. With hoteling, you must have a “clean desk policy” unless you allow “squatters”, which would defeat the purpose of hoteling, since hoteling provides a fewer number of attorney offices than attorneys. Moreover, senior partners are likely to be more at risk for serious illness stemming from infectious diseases, which flies in the face of office sharing. The reduction of knowledge transfer from senior partners to the next generation of lawyers could be further compounded by a wave of senior partners retiring earlier than planned due to the pandemic. Some senior partners simply may have had enough.

THE MILLENNIALS

It is understood that some Millennials, especially the recent law school graduates, may want to be in the office, at least for the majority of

the time; home is too small and there is much to see, hear, and learn in the office, if the partners are in the office that is. Some older Millennials may also prefer to work in the office for good workspace, and home is distracting with young children. Surely, most would agree that working in the office is especially beneficial for associates if they can receive strong mentorship, training and relationship building from their firms—culture. On the other hand, more experienced associates got their lives back during the pandemic. They no longer must endure “the 5 p.m. dump”, work from partners at the end of the day that keeps them in the office until 9 or 10 p.m. at night. Instead, they can work from home, see their families for dinner, and get more work done in the evening; they can live a more balanced life. As such, the desire for flexibility, the right to work from anywhere, is not limited to one generation but rather pervasive across all the generations of lawyers today.

To take it a step further, if the senior partners of “Law Firm A” no longer came into the office for whatever reason (i.e. they don’t like their commute, building, space, experience when being in the office, or lack of personal time), would the next generation of lawyers prefer “Law Firm B” instead, if Law Firm B

had a predominantly in-office but flexible work from anywhere culture, where the associates could learn from, be mentored by, and develop collegial relationships with the senior partners of the firm and expect to grow and be successful more rapidly, while still enjoying work/life balance? If so, it could be anticipated that the law firms that have brand new attractive and efficient attorney space with dedicated offices for the attorneys that are the lifeblood of the firm and offer a vibrant in-office culture, while providing flexibility on where people work, would be the law firms that attract the best and the brightest associates in the years to come. The vibrancy comes from seeing colleagues at work, sharing meals, and having impromptu discussions. Having an oversized office is no longer the reward attorneys are seeking. Space that is efficient where people are visible and that offers amenities (food and drink) and alternative casual seating may appear more vibrant than traditional office space that does not have those things.

THE RAINMAKERS

Law firms are not like corporations. Success comes from people, “human capital”, not widgets or a

website. Law firms' senior partners generate the lion's share of a firm's revenue. They are the rainmakers. They hold the client relationships in their hands. As much as the senior partners lead meetings and hold conference calls, they also continue to read documents and do heads down work. They have a need for confidentiality. They are also the people who teach the next generation, crucial to sustaining and growing a law firm's market share. They are the people the Millennials want to be close to for the culture discussed above. They are the laterals so keenly sought after in the industry, again because they have the clients and the revenue. In other words, today's senior partners are the key to a law firm's future success and growth.

AS SUCH, IT COULD BE CONCLUDED THAT UNDERSTANDING WHAT WOULD BRING SENIOR PARTNERS BACK INTO THE OFFICE EVEN THREE DAYS PER WEEK WOULD BE CRUCIAL TO A LAW FIRM'S LONG-TERM OVERALL SUCCESS.

This points to a dedicated private office environment in a Class A building (if not a new or trophy building) for a top image with brand-new tenant improvements, attractive meeting space, and space that fosters culture. Smaller, single-size, all glass private



offices that provide excellent space efficiency (a nod to cost reduction and operational efficiency), significant natural light, and visibility of the attorneys that are in the office have generally been accepted across the legal industry, especially in the high rent markets. However, doing away with a dedicated private office environment for the attorneys that are the lifeblood and future of the firm would be crossing a line that could dampen culture and, in turn, hurt the long-term success of a law firm.

THE FUTURE

It remains to be seen what law firms will do about their office space going forward. Will they go to a completely non-dedicated office environment (all hoteling), a fully dedicated private office space program, or some hybrid of the two? Thus, the challenge—cost savings vs. culture for the longevity and success of the law firm. But, for all the reasons stated above, bringing attorneys back to the office (even if they are not in the office every day of the week) would be important to the long-term success and growth of the firm. If a dedicated office environment for the majority of attorneys is required to do that, it may very well be worth the cost, so long as the space is efficient. It will take time to study this issue and the results of real estate decisions being made by law firms today and in the coming years, since virtually

no data points exist yet on the effects of attorney office hoteling; however, the law firms that get the balance right will likely be winners for decades to come, and those law firms that do not may simply fade from existence over time.



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