

INSIGHT: Legal Hiring in a Recession— Lessons From the Past Downturn

May 28, 2020

As the coronavirus pandemic rages across the globe, law firms and corporate legal departments are being hit hard. Deal work, including IPOs and M&A, is shrinking. Trials are being put on hold. Budgets are being scrutinized for opportunities to cut costs. Productivity is arguably down, as employees have transitioned from an office work environment to home—often with a full and restless household.

With so much uncertainty surrounding Covid-19, some companies will opt to halt all hiring until the pandemic ends. Over the course of our 35-plus-year history, we have seen this trend play out again and again during economic downturns.

Many law firms and legal departments react to financial stress and worry by hunkering down. After all, it's hard to see past the upheaval of the moment we're in, when entire populations around the world are facing political turmoil, financial distress, illness, and devastating loss of life.

While understandable, fear-driven paralysis is inherently dangerous to businesses. This is because while some are “waiting it out,” others are not. Some competitors are acting opportunistically, diving headfirst into proactive mode, taking strategic steps to ensure their survival—and success—after the dust has settled.

Halting Hiring Does Not Prevent Attrition

Clamping down on hiring does not prevent attrition. In fact, we've seen firsthand that a legal department's best talent is more apt to leave if their company is seen as taking a passive, reactive stance in a crisis, without planning for the future. The best lawyers are already recognized as high-value targets in the market and know it. If they sense they are on a sinking ship, or even a becalmed but slow-moving one, they may be more likely to explore other options.

Once valuable lawyers do leave, replacing them with comparable talent can be challenging. I have seen many companies—even after the economy has begun to rebound—delay filling their gaps in legal talent. This delay continues until their existing lawyers become overworked, burnt out and unhappy. Eventually, the company shifts back in the hiring mode in an attempt to “right size.” But by then,

they are already lagging behind: Top-tier talent has already been scooped up by competitors who never lost their hiring momentum.

Then there's the dilemma of trying to find junior-level lawyers with a specific skill set. During past economic crises, associate training, particularly in transactional areas requiring specific expertise, was put on the back burner, or transactional associates were repurposed into restructuring and related practices. This meant that when normalcy returned, there simply weren't enough junior lawyers with the requisite expertise to fill the restored demand.

We saw this in particular with junior real estate lawyers in other recessions. As things improved, talent was scarce because no one had been training them for months and even years.

End-to-End Transformation of the Legal Sector

As the coronavirus crisis continues to unfold, proactive companies have already acknowledged that significant change is coming. Given the size and scope of this pandemic, and the speed of its onset, Covid-19 will be the catalyst for an end-to-end transformation of the legal sector, unlike previous downturns that were solely economic in nature.

Among other things, in this transformation, we will likely see:

- Fierce competition for good talent, particularly in the area of core and commoditized legal work as alternative legal services providers gain market share.
- Firms and departments embracing the concept of telecommuting, which has been shown to lead to cost savings, greater productivity, and higher job satisfaction.
- More widespread utilization of technological tools and systems to increase process efficiency and improve service delivery to clients.
- Challenges to law firm and law department culture. While culture is a fuzzy concept for some, it is an institutional "glue" that binds an enterprise and translates into real bottom-line advantages: employee retention, enhanced recruiting, greater productivity, improved efficiency and enviable positioning in the marketplace among competition.

Retaining Outstanding Lawyers is Key

Retaining outstanding lawyers will be a key factor for law firms that will need to work harder and more creatively at differentiating themselves and at demonstrating their value. In-house legal departments will be challenged to rethink how their team can be effectively restructured to meet the needs of the business as it retains its footing.

Since predicting the future is a gamble at best, how does a business navigate the best path forward? In part, client demands will dictate strategy, at least in the short term when the sands are shifting rapidly.

More companies and firms will likely recognize the value of using alternative resourcing models like interim legal talent. Hiring on an interim basis allows companies to bring on experienced, skilled lawyers when—and for however long—they need them. The lower costs of hiring legal professionals on a contract basis will be particularly appealing as the future remains uncertain.

Amid the challenges presented by the pandemic, leaders will have a great opportunity to exercise their role as trusted advisers. Part of this is encouraging their organizations to maintain a healthy and agile legal team to keep moving forward. Although the current pandemic is a tragedy, it's sure to cause a much-needed shakeup in an industry that's been highly resistant to change.

Legal industry commentators have discussed the “revolutionary” changes to the practice of law for almost 50 years. The changes we've seen in that time, while considerable, may be only a prelude to those that 2020 will produce.

Robert Major Major Lindsey & Africa