

The Importance of In-House Legal Departments Being Engaged

Standout law departments encourage their people to go that extra step with creativity, effort and execution. This requires members of the department to be fully engaged, not merely satisfied. Engagement is not satisfaction. A complacent paralegal can be very satisfied just coasting along. An assistant general counsel might be quite pleased with the moderate workload, controllable work hours and decent compensation -- it's a sinecure! A plateaued lawyer, no longer hoping for promotion, sleepwalking through the job as it has been done for years and mostly thinking about retirement, could be delightfully satisfied -- but not at all engaged -- while productivity slips as steadily as salary rises.

Study after study has shown that a small portion of any group produces a disproportionately high amount of work. The 80/20 rule here has something to do with sheer ability, of course, but it also reflects engagement. The relatively few who are engaged greatly outperform their peers. Not that everyone can be fully engaged. Work is, after all, work. Some people like their work, feel part of it and involved, but go home at night without thinking about it. That's fine. Those who are disengaged, by contrast, cause problems.

Disengagement by a member of a law department sounds a death knell. Disengaged employees pose a significant risk to a law department, and thus to the company it serves. First, they don't get through their inbox, they become "black holes," and they do not get as much work done as a counterpart who still cares. Even if they churn out the documents, the spark of quality and insight has flickered out. Also, if people are disengaged (working at the bare minimum or less), they may discourage harder-working, enthusiastic colleagues around them, some of whom decide to leave, taking with them critical skills and invaluable experience. The worst form of this malaise falls under the term "deadwood," and is especially pernicious if the lumber lawyer fills a position that an ambitious junior lawyer could fill. (This also then triggers recruitment and replacement cost.) Worse, keeping disaffected and under-productive people incurs costs more broadly, such as morale and management time and attention.

Even general counsel can slip into the morass of disengagement. *USA Today* (June 21, 2005 at 1B) described the Gallup Organization's so-called Q12 questionnaire that measures employee engagement. According to Gallup, engagement has to do with understanding, liking, and committing to one's job. Since 2002, 332 companies have paid Gallup to administer the Q12 instrument, with responses from, among others, 17,406 executives at the level of VP and above.

Disturbingly, among that large group of executives nearly one in 10 is "actively disengaged -- beyond the point of even going through the motions." Of that executive group, quite plausibly there were more than 300 general counsel (one per company) and other officer-level lawyers. There seems no a priori

reason to hope that these top management lawyers enjoy engagement levels higher than other executives. The law departments of these companies must have their share of alienated senior lawyers, if the Gallup findings are generally valid and hold specifically for the subset of CLOs.

It bears noting that attraction and retention are largely driven by different factors than engagement. Attorney engagement supports successful retention. Retention of attorneys is primarily driven by:

- senior management interest in an attorney's wellbeing;
- quality of client interaction;
- stimulating work;
- career advancement opportunities;
- feeling part of a team; and
- professional development beyond technical law.

Research and our consulting work shows that retention of attorneys, unlike attraction, is not primarily driven by pay and benefits. Attraction is largely influenced by pay and benefits, which do not necessarily need to be exceptional, but they must be competitive. Career advancement opportunities, quality of client interaction and the prospect of stimulating work also feature strongly as influential factors in joining an organisation.

What does this mean for general counsel who want to effectively engage and motivate their attorneys and staff? Suggestions include:

- Focus on engagement, not simply satisfaction. To the watchful the signs of both are many and evident. To foster engagement, spot high potentials and both challenge and nurture them. Convey the importance of what your staff are doing and praise them, as much as you can. Some hard-boiled general counsel don't praise people, lest the praise go to their heads and make them complacent. Such parsimony backfires; nearly everyone cherishes a "good job!" and redoubles their effort to get more. To foster engagement, keep work at the right level. For example, have paralegals, not a lawyer, do commodity work. Also, let people know honestly about their strengths and weaknesses, because lawyers (and others) want to know where they stand and to advance professionally.
- Assess engagement by observing the degree of commitment people demonstrate at work (volunteering for activities beyond their basic role, putting forward ideas and suggestions, collaborating willingly with others, etc). Set up a project team or two, or volunteer people for cross-functional efforts like a Six Sigma project.
- Seek feedback from attorneys and staff to inform your understanding of the different drivers of attraction and retention and garner suggestions as to the type of activities that can advance success in these areas.
- Manifest your own high level of engagement. Be confident; be passionate about your work and the company; be excited about what you and your team are working on. It makes sense that

engagement is contagious, and you as the senior lawyer set the tone.

- Deal promptly with disengaged employees. Speak to them to understand the root causes of concern and evaluate what can be done to make changes to reengage them. If attempts to engage have failed and performance is an issue (and after carefully following the company's HR policy on performance feedback and evaluation), assess terminating their employment, before they can poison a wider group of people.
- Develop separate policies, goals and activities designed to focus on attraction and retention, based on the different set of drivers outlined earlier.
- Review progress made against these policies and goals periodically, at least twice a year. Nurturing talent never ends.

When you take steps like these, you will feel engagement rising, and with it revitalized collegiality and productivity.