

Avoiding Law-Firm Armageddon: How a Major Law Firm Nearly Imploded... and How the Conflict Was Resolved

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The survival of today's law firm sometimes requires the capacity to resolve senior-level conflict. Occasionally that conflict mushrooms and threatens to tear the firm apart.

This is the story of one such conflict, and how I managed to facilitate its resolution through a long and difficult mediation.

My Relevant Background

As a former dispute resolution lawyer (I practised as a Barrister in London for 12 years), I know and understand conflict well. As a Barrister – and as a litigator in the Common Law Anglo-American tradition – I was primarily schooled in an adversarial approach to dispute resolution.

Although I trained as a mediator while still at the Bar, I never actively practised as a mediator. The court cases I fought were adversarial battles. Note that I use the verb 'fought' and the noun 'battle'. That's an accurate way of describing an English court case. It is a highly adversarial process. And although I was familiar with the concept of 'alternative dispute resolution' (ADR), my practice as a Barrister was a traditional adversarial one.

Fifteen years ago, I started to retrain as a psychologist, completing my undergraduate equivalence in psychology while still practising at the Bar. When I left the Bar, I continued my studies and started to practise as an occupational / organisational psychologist. Over the years I have worked extensively in the field of senior-level talent development in law firms and corporate legal departments, both in the UK where I live and also in the US and internationally.

Given the breadth of my background, I have been involved in a number of projects which defy easy categorisation. It was only recently that I realised that senior-level conflict resolution in law firms had become a significant strand of my work.

A Case Study: Chair and Managing Partner Go 'Nuclear'

The conflict I am describing here was between the chair and managing partner of a major law firm in Latin America, the exact

location of which I am deliberately withholding to respect the privacy of the firm.

The firm had grown rapidly over a period of 15 years. The managing partner had been a very junior lawyer when the firm was set up. She had become a protégée of the chair and over the years had become centrally involved with the management of the firm, culminating in her appointment as its managing partner.

At a key board meeting that had been convened to discuss certain strategic and operational initiatives being planned in the firm, a row blew up between the chair and the managing partner. The managing partner made a series of accusations against the chair, including that he had lied by claiming to be the source of several recent significant client instructions when in fact the managing partner said that she had been the source. She made further allegations that the chair had charged certain expenses to the firm when these were either personal expenses or extravagances not properly chargeable. Finally, the managing partner alleged that the chair had behaved inappropriately in front of certain key clients. The chair denied all of these allegations and made certain counteraccusations. He contended that the managing partner was trying to position herself as an alternative to the chair, lying about the source of the client instructions and making a naked grab for power. The chair was also highly critical of the management style of the managing partner, which he maintained was both divisive and destructive within what was otherwise a generally supportive culture.

The managing partner and the chair had heard of me through work I had done with another firm in their network. They arranged for me to visit their firm within two weeks of the precipitating incident, as it became clear that the continuation of the firm itself was at risk if the dispute were not resolved.

Choosing an Appropriate Process

I arrived knowing only the bare bones of the conflict. I was under the impression that the conflict had erupted out of a clear blue sky at the board meeting. I knew that the standoff had unsettled the other board members, who were extremely worried about the situation and what it meant for the future of the firm.

The first thing I had to decide was what sort of conflict resolution process to choose. I felt that I was charting a course with very limited data as to the obstacles that lay ahead, as I didn't know the parties and had a very narrow idea of what the conflict was really about.

I decided to follow a very simple process, initially conducting separate fact-finding meetings with the chair and the managing partner. I felt that if there were to be any chance of resolving the conflict, I would have to see each of the key players separately and only bring them together when I felt comfortable that a 'plenary' meeting of the three of us would yield a resolution of the conflict.

The Early Meetings

I held three rounds of very lengthy meetings with each of the chair and the managing partner. These were very long meetings, each lasting several hours; they were also rambling and hard to structure. For the most part I felt that the best policy was just to sit and listen. The chair and the managing partner both wanted to air their individual grievances with the other, and any attempt by me to put boundaries around the airing of these grievances was forcefully rebuffed.

It was apparent from the first round of meetings that the chair and the managing partner each had their own 'founding myth' as to the genesis of the firm, and their own narrative around the reasons underpinning the firm's growth and success. The two narratives diverged significantly and were, in many details, irreconcilable; it seemed to me that they resembled the different founding myths that exist when two peoples disagree about something as fundamental as their rights to territory – think Northern Ireland (Nationalists vs. Republicans), Israel / Palestine or Kashmir (India vs. Pakistan). There were also personality differences which made their approaches fundamentally different.

As is sometimes the case with territorial disputes, both the chair and the managing partner wanted me to adjudicate as to the veracity of their respective versions. I knew that I could not be lured down that path, which would not resolve anything. Even if a third party were to opine as to the veracity of the versions, it was clear that the 'losing' party would not respect the judgment – and with a narrative going back 15 years it would be extremely hard to get to the 'truth' of the respective versions.

So while I needed to listen to each of the narratives, as a mediator I could not agree to adjudicate between them – nor could I accede to the parties' requests to litigate their dispute by bringing in witnesses or reading supposedly relevant documents. I had to push back on these various requests even though I knew that this was frustrating for each of the parties – and that it might cause them to doubt my ability or competence to resolve the conflict. It was important for me to adhere to my role as mediator, rather than adjudicator.

It is fair to say that by the end of these three rounds of meetings the process felt very 'stuck' and that I was scratching my head as to what might unlock that 'stuckness'. I was struggling to get either of the parties away from their own narrative, much less to focus on what needed to happen in order to resolve the conflict and get them working together more functionally.

Working from Intuition: A Light-Bulb Moment

During the first three meetings, I had found the managing partner to be at times difficult, at times aggressive. She was self-centred and seemed to lack the ability to introspect or reflect.

The fourth meeting with the managing partner rapidly turned into a re-run of the first three. She reverted to the issues that we had by now covered three times, and she was clearly frustrated at my reluctance to affirm her version of events at the expense of the chair's narrative.

Frustration turned to aggression and then to rudeness as the meeting entered its second hour. The managing partner vocalised her frustration by saying that the process was going nowhere, and then she became aggressive.

At that point I decided to call out the behaviour. I intuitively felt that I needed to do so firmly and to meet fire with fire. So rather than pushing back gently I did so firmly and in a way that I knew would make the managing partner deeply uncomfortable. I myself sensed that there was at least a fifty-fifty chance that my push-back might derail the process; but equally sensed that unless I did something that would really shake things up there was no way through the current stalemate.

The managing partner responded to my volley of fire by exploding with anger. She made it clear that she was furious with me and that she felt that I had completely overstepped the mark. I responded by letting her know that I was not going to be bullied and that if push came to shove, I was reconciled to packing my bags and returning to London. This was a risky strategy for me as it could have affected my profile in that continent.

However, I sensed that I needed to hold firm. The managing partner was used to bullying weaker personalities into submission and I felt that she needed to experience the effect of strong resistance to her behaviour.

My intuition was well-founded. The managing partner vented for about ten to fifteen minutes and then began to pull back from the brink of calling time on the process. I called a break to give her a bit more time to cool off and to buy some time for me to reflect as to next steps.

During the break I reflected on what was really going on. I focused on the fact that the managing partner was clearly under a huge amount of stress and suddenly realized that this stress was almost certainly a very basic component of her attitude towards the chair. Simply put, the complaints and anger against the chair were a displacement, i.e. a distraction from and a projection of the managing partner's anger onto the chair. In other words, the conflict wasn't really about the presenting complaints – it was really about the managing partner's anger that she was having to shoulder so much responsibility (from her perspective) for the running of and development of the firm, and that she was, as a result, so stressed.

After this 'light-bulb moment' I was able to refocus my efforts. During the break the managing partner had calmed down and I was able to pivot the conversation to what was going on in the firm and the stress that the managing partner was under. The managing partner started to acknowledge her levels of stress and also acknowledged that she felt resentment towards the chair in relation to those levels of stress.

I was able to build on this light-bulb moment and start to focus the managing partner on how we might support her in addressing the underlying issue of her workload – and what therefore really needed to happen to resolve the conflict.

Resolution of the Conflict – What Happened

By the end of this fourth meeting with the managing partner, we had reached the point where she was prepared to make a conditional apology to the chair for the allegations that she had made, and to withdraw those allegations. I was a bit worried about the conditionality of the apology: I was pretty sure that the chair wouldn't accept anything less than an unconditional one, and that the apology would have to be made not only to the chair but also repeated to the other board members.

I also spent quite a bit of time in the meeting discussing what needed to happen to reduce the managing partner's stress levels. The steps that needed to be taken would not require much support or buy-in from the chair – but they would require the chair to renew his commitment to his relationship with the managing partner, and to agree to certain reforms which were at that time being planned within the firm. Those planned reforms are beyond the scope of this article but related both to governance, strategy and in particular operational efficiency.

I then met with the chair. As envisaged, the sticking point for the chair was any conditionality attaching to the managing partner's apology. He understood that the managing partner was and had been under a considerable amount of stress, and was happy to renew his commitment to the proposed reforms. However, he did not regard that stress as justifying the outburst, and he was only willing to move beyond the outburst if he received an unconditional apology and believed the apology to be genuine.

I gradually persuaded the chair to back off from calling time on the relationship and to focus instead on the willingness of the managing partner to recommit to the relationship. I worked on a form of apology that would be acceptable to the senior partner and also enable both parties to save face, and I received his agreement to the wording.

I then had one final meeting with the managing partner at which she agreed to the wording. Although not delighted by the form of wording, by this point she was keen to put the conflict to bed and to move on. We had got to the root cause of the conflict in my view – the managing partner's underlying stress and her feeling that the chair was unsupportive – and both had recognized that this was in fact the underlying cause, and that it needed to be addressed.

By now it was around 11 p.m. on day four of our discussions. I hastily arranged for all of us to meet together – myself, the managing partner and the chair. Over some food and drinks, the managing partner and the chair shook hands with one another and agreed to let bygones be bygones.

Aftermath

One year on, the somewhat uneasy truce has held. Managing partner and chair stepped back from the brink and have continued to work together, much to my relief and to the relief of their senior colleagues. In truth, I had wondered whether the truce would hold, and I am delighted that it has done so. – although I do understand that some of the underlying behaviours have not changed (for example, the managing partner still has a tendency to sweat the small stuff, and the chair is not always as supportive as he could be).

This was a particularly long and fraught mediation. In total it took me four days, working 18 hours per day, to broker this truce.

Could the same result have been achieved more rapidly and with the same durable result with the use of another strategy? I honestly don't know ... and I am unsure what, if anything, I would do differently if faced with the same situation again.

The Significance of This Exercise – Conclusions

Whilst the details of this particular case study are important, the significance of the exercise is that it threw into sharp relief the tendencies of ambitious and driven lawyers to use the brute force of their personalities, status and value as revenue generators, to drive their individual agendas. Whether this is a result of innate personality traits or learned behaviour is the question most psychologists grapple with, but my experience has led me to conclude that there is usually a trigger at some point – the common thread being the tendency of the strongest lawyers to lean on and overplay certain behaviours in order to succeed. In most cases, this is not destructive. That strength to fight is what makes the best adversarial lawyers who pitch into battle on behalf of their clients. Where it becomes counter-productive is when the person is taking on a leadership role and fighting their colleagues.

I have discussed this with a number of colleagues who specialize in the field and their conclusions are similar. The best lawyers do not always make the best leaders. Why that is the case is a subject for another day, but the fact remains that it is often a thankless and sometimes impossible task to draw together a large number of intelligent and ambitious lawyers, working towards a common goal, at the same time as satisfying their individual aspirations. It requires personality traits and skills to achieve these goals and managing partners are not selected on the basis of those skills or personality traits. Rather, they often struggle to cope, utilizing management skills that they usually acquired as a practicing lawyer rather than a professional manager.

The value of the type of intervention described above is to try and identify the trigger for the underlying destructive behaviours – and to work on changing learned behaviours, which are often deeply entrenched.

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