

McKenna On Malignant Leaders

Would You Recognize A Malignant Leader If You Had One In Your Firm?

My January article in American Lawyer Magazine, entitled *Malignant Leadership*, stimulated a good number of emails from readers wanting to pose questions and explore this subject in more depth – which makes one wonder whether they are observing certain behaviors within their own firms that they find troubling. In any event, here are some of the questions, followed by my response.

QUESTION: Your latest article in American Lawyer, entitled Malignant Leadership, had an intriguing title. What inspired you to use that term?

You are correct in pointing out that the title is provocatively designed to jar, to open minds and to force an examination of certain leadership behaviors.

Many consultants have long advocated for a more corporate model of governance, to manage and lead law firms. They assert that the ability of the organization to better make decisions, change quickly and adept to competitive threats would be far better handled by having a firm leader that was given the freedom to make decisions without partners having to stick their nose into every trivial matter. It sounds reasonable. The risk, of course, is that a firm may select a forceful leader who is unchecked, drifts away from self-restraint and becomes unbounded in appetite and ambition.

Psychologists have recently taken notice of individuals in the corporate world who allow the responsibilities of leadership and the perks of power to override their moral sense. If one were to closely examine the classic features of firm leadership like making decisions, taking charge and motivating your partners to do what you want, one might also see well-packaged forms of coercion, manipulation and domination. The difference is whether the intent is to altruistically advance the firm's best interests or for some form of self-centered gratification.

QUESTION: You state that, "too often, boards and/or executive committees facilitate firm failures by denying, overlooking, or working around crucial issues." How does that happen?

Good question and I wish I had the definitive answer. What I do know and have researched is that 84% of the AmLaw 100 and 200 firms have an "elected" Executive Committee/Board. That means that conceivably, 16% of firms operate wherein the firm leader has "very broad discretion" with little or no oversight. And keep in mind that I am talking about the largest law firms in the U.S.

Of the large majority of firms that do have "elected" Boards, the average size of that Board is 10 partners (similar in size to what one would most often find in the corporate sector). In the case of AmLaw 100 firms, some will have as few as 7, some as many as 15 or 16 partners on their Boards. I can report from first-hand experience in working

with some Boards, that when the numbers get up to 15 partners, it can make for a challenging experience to keep things moving.

Now, imagine that two good-sized law firms enter into a merger. What often then happens is that the two Boards get combined into a new Executive Committee/Board configuration going forward. Take, for example, the situation at Dewey & LeBoeuf. Following their merger, the Executive Committee had a fluctuating membership of 24 to 26 partners. Ensure that your Executive Committee/ Board grows large enough and you ensure that it will then become dysfunctional, with poor communications and decision-making and meet on anything but a regular basis. In fact, any substantive studies of board size are consistent with the arguments of scholars and regulators who advocate for smaller groups of ten or less members.

QUESTION: Your article touches on some “undermining behaviors” but doesn’t really give me much detail. Can you elaborate? How would I recognize a malignant leader if I had one in my firm?

The (summarized) behaviors that were cited in my published article were largely drawn from media reports (AmLaw, NY Times, Legal Week, etc.) together with interviews with former partners from those firms that had ambitious “star” leaders that eventually caused their firms to flame out. In my original draft I was very explicit in citing specific behaviors and calling out the individuals involved. Those who kindly edited my article decided on the side of caution and took out the particulars. Nevertheless, here are some of the behaviors that I believe are clear indicators.

A malignant leader is someone who:

- *exhibits a powerful desire for heroic recognition and high visibility (a leader whose elevators are stuck at the ego floor).*

Malignant leaders strive to be “the face” of the firm often craving the limelight far more than the typical firm leader. It is widely known that one of our bankrupt leaders was named among 20 "Visionaries" for TWO consecutive years by Legal Times. A malignant leader is highly competitive and aggressive, often fostering a “star culture.” The result for the firm is often intense internal competitiveness at a time when everyone is already under pressure to perform.

- *provides colleagues with grand aspirations, portraying themselves as having the answers, all ultimately to enhance their excessive authority and power.*

When people are under an increased amount of stress or pressure, they tend to overuse their strengths to compensate. So, what you see with malignant leaders is self-confidence in its extreme form. They overestimate their abilities, make decisions without consulting others, and scapegoat when they get it wrong. “Despite the glaring economic problems, our firm leader was optimistic – some would say naive – and continued to make rosy predictions about target revenues and individual partner income,” says one ex-partner. Another lawyer talking about his firm leader said that the partners in his firm became the

beneficiaries of deals wherein “bonuses were intended to retain star performers and to keep powerful individuals toeing the management line.”

- *fabricates and misdiagnoses situations and issues – often relying on outdated or unproven strategies and tactics.*

At one firm, according to one media report, the executive committee — those senior partners who oversaw the management of the firm alongside the firm leader — had established a bonus pool to reward top-producing partners. Many of those top producers sat on the executive committee. “We were in the middle of the worst economic crisis since the Depression and these guys were reserving bonuses for themselves,” said a former partner. “Whatever happened to shared sacrifice? One of our bankrupt leaders was widely reported to have continued to deliver upbeat messages about the firm’s performance, while partners claimed that they remained mostly in the dark about the growing financial difficulties.

- *stifles criticism usually through authoritarian processes and eliminates anyone who might challenge decisions or question the leader’s actions.*

One of our bankrupt leaders dealt with a threat to his leadership from two department heads who had mounted a bid to replace him by confronting them with embarrassing internal e-mails they had written and forcing them out of their management posts. According to one partner, “There was one occasion where I stepped out of line by voicing my opinion on one particular lateral hire and the firm leader made it pretty clear that he was not happy with me. After that, I never went against orders again.”

- *has insatiable ambition, ignoring negative feedback and failure with a tendency to continue a failing course of action regardless of the consequences.*

Despite double-digit revenue declines over a period of a couple of years, one bankrupt firm leader maintained his growth-by-lateral strategy, claiming that “despite some expected weakness in demand, all was going according to plan.” According to the partners, although the firm's partnership agreement called for a majority partner vote to approve the executive committee slate, in practice the first vote many partners ever made was the vote on the firm's dissolution.

Overall, the malignant leader is highly productive, charismatic and a charmer who is capable of converting any partnership with his/her rhetoric. As they achieve some notable success there is a corrosive effect, in that they can become increasingly self-assured, start to think they are invincible and behave free of constraints. At the extreme, they listen even less to advice or messages of caution. After all, they had been right in the beginning, when many of their partners expressed doubt. Rather than even try to persuade those that may disagree, they feel justified in ignoring or attacking. The result can be flagrant risk taking that only proper governance systems (as I attempted to outline in my article) can help prevent everything from leading to catastrophe.