

Morgan Lewis' David McManus: Mentorship is great, but have you tried sponsorship?

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"It wouldn't be a conference call if my dog didn't bark," says David McManus as he apologises for Rex, his "particularly clingy pointer", over a Teams call. "My dog is literally scratching at my office door," he adds, laughing. "One of the biggest realisations in the pandemic has been the fact that a dog is always on the wrong side of a door."

Based in New York, McManus is a partner and deputy practice group leader of Morgan, Lewis & Bockius' global labour and employment practice. Working with group leader Grace Speights since 2016, McManus has spent the last two years managing a more than 300-strong global team through the covid pandemic. "Grace and I worked hard together to keep the group humming and, importantly, connected," he says, explaining that Speights and he also rely on the group's sub-practice leaders, who drive each specialist employment law team, as well as the local group leaders, who coordinate the team in each office around the world on a day-to-day basis.



This coordination across 30 offices was key for everything from cross-border workflow to organising the associates' evaluation process, as well as social activities to keep the team feeling connected. "Each of those areas have always been important, but through the pandemic they became even more so as we tried to maintain our drive, keep people focused, and stay connected to clients and tuned into the industries we serve. We really leaned on the local practice group leaders to keep us attuned to wellness issues, making sure our attorneys and staff were doing okay. That became a particularly important issue for us."

McManus says Morgan Lewis' success in navigating the wellbeing issues presented by the pandemic flows from the top and firm chair Jami McKeon's focus on wellness. A founding member of the Institute of Wellbeing in Law, in 2019 the firm hired a full-time, in-house director of employee wellbeing. During the pandemic, the firm launched various initiatives including its "Moving Together Challenge", an effort to keep all employees active with virtual yoga classes, bootcamp-type CrossFit training, as well as cooking classes, book clubs, stress management courses, and webinars with special guest speakers. McManus says the firm also sent out thousands of gratitude cards to nearly 3,000 associates and support staff as a small token of the partnership's appreciation.

Additional programming was put together for the firm's diverse communities. "We had, for example, Dr Rheeda Walker, who is a recognised expert, talk to us about African-American mental health issues, and we coordinated with the Asian American/Asian Lawyer Network as we focused on some of the unique

issues that our diverse populations and employees were facing through the pandemic. So there was a very coordinated and dynamic firm-wide effort,” explains McManus.

“On a local level, Grace and I were focused on encouraging creative group activity. The easy ones were virtual cocktail hours, obviously, but we tried to make them more productive. Local leaders had trivia contests about the firm or even about colleagues. And, particularly after vaccination, we encouraged people to get together in small groups in a safe way, but only if people felt comfortable doing so. There was a lot of local creativity that we relied upon to keep people connected in addition to the firm-wide initiatives.”

Full-service pull

Unravelling why someone sets out to become a lawyer, and how they chose their specialty practice area, can be a fascinating conversation to have with those who have reached the lofty heights of a Big Law partnership. McManus’ journey to law arguably has a paternal influence. Growing up, McManus’ father was a plant manager for the Western Electric Company, which was eventually folded into AT&T, manufacturing telecommunications equipment. During the 1970s, McManus Snr was one of the lead company representatives for his plant in collective bargaining negotiations with the Communications Workers of America, a very strong force for employees in the telecoms industry as the union sought better pay and conditions for its hundreds of thousands of members. “Those were usually tense weeks at my house,” recalls McManus. “My father was rarely home. He was working around the clock with the negotiations and, often-times, dealing with strikes and picketing. I always found his work very intriguing.”

With no lawyers in his family, McManus’ says he went “a little bit rogue” by deciding to become an attorney. “Unfortunately, I don’t have that story about how I passionately always wanted to be a lawyer. I wouldn’t be truthful if I told you that. I found myself at the University of Virginia, approaching my fourth year, and despite having had some really enjoyable and productive internships – including at AT&T – that helped me grow a great deal, I didn’t find anything that I was truly passionate about. I started thinking about practicing law thinking that if I worked a few years in a law firm, I could go in-house and then gravitate towards business, or use it as a stepping stone to a political career.”

McManus says he was fortunate to have the grades to attend law school at the University of Pennsylvania where he quickly found the study of law to be intellectually stimulating. But what made him gravitate towards employment and labour law specifically? “It was a required course our first year of law school, and it resonated with me,” he replies. “For the next two summers, I worked at firms with established employment practices where I had real opportunities to engage with clients, and to be involved with litigation and with labour relations issues. I found I liked the people aspect of it; that what you’re doing not only has legal implications but also directly impacts people’s working lives, careers, means of earning a living – and the need to be sensitive to that. It all just clicked.”

McManus graduated in 1992 and moved to Morgan Lewis in 1995, craving the experience of a full-service law firm. “I wanted to work in a firm that values its employment practice and invests in it; where it is an important part of the firm and its history. Since I left law school, many full-service firms have made a business decision to divest their employment practices. Whereas, here at Morgan Lewis, we have benefited from leadership that truly values the practice area,” he says.

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Asked what he sees as the major advantage of a full-service offering over a specialist employment and labour outfit, McManus offers two: "First, when our clients come to us with complex issues that may implicate other areas in law, we have the ability to reach out to our partners in other practice groups. For example, if it's a tax issue I can jump on the phone with one of our tax partners, or if I have a matter that involves potential criminality I can reach out to one of many of our white-collar group who are former US Attorneys or Assistant US Attorneys. I do believe that provides us with a tremendous advantage and value-add over more highly specialised firms.

"Second, for somebody who's entrepreneurial, you have an opportunity here to build a trusted advisor relationship with general counsels or senior management. You have the opportunity to introduce them to other practice areas and to expand the relationship between the client and the firm. Serving as a relationship partner that is overseeing and interacting with the client daily and ensuring that their legal needs are met brings value to a client."

Now with three decades of experience, McManus still maintains a broad practice; shunning the trend where lawyers aim to specialise in a specific area and become the go-to for queries from sexual harassment claims, discrimination allegations, and internal investigations, to trade secret protection, non-compete policies, or labour relations. McManus, by contrast, covers it all.

"Here you get an opportunity to, in my view, exercise all of the skills of being a lawyer. We train our associates to be full-service employment lawyers first – to litigate, to counsel, to negotiate, to draft, and to participate in mediations and arbitrations. You really get to flex all the muscles of being a lawyer. And then, as you evolve, you tend to develop areas of either expertise or specialty, and maybe that field narrows. But that was one of the things that had me gravitate to labour and employment."

Future trends

Like many lawyers IEL has spoken to this past year, McManus believes the fallout from the covid pandemic will continue to have long-term implications on labour markets worldwide. "If we're fortunate enough to see the pandemic subside to a point where people continue to return to work, employers are going to face questions about their philosophies on remote working and the challenges associated with managing a hybrid workforce," he says. "Unlike any other time that I can recall, employees can now work for companies from anywhere. It opens up opportunities for employees like never before and requires companies to be nimble about being competitive and balancing that challenge against wanting to have folks in the workplace for cultural reasons or supervisory concerns in highly regulated industries."

The protection of trade secrets and intellectual property in this new era will also continue to be an ongoing concern for many employers, says McManus. "Remote workplaces and virtual working create a whole new dynamic to the protection of intellectual property. Employers need to be proactive about looking at the four-corners of their IP and confidentiality agreements, as well as considering the compliant monitoring of the flow of information and movement of data within a global workplace. Some of that's not new, but the pandemic has required employers to be more thoughtful about that. Certainly, I'm seeing more instances of clients being focused on the challenge of retrieving intellectual property from an exiting and remote employee."

Passage of the Ending Forced Arbitration of Sexual Harassment Act will also present a challenge for employers with established, and successful, ADR programmes, he adds. "Including arbitration provisions in employment agreements, and how you modify your current ADR programmes to be compliant with the new federal law is going to require a very thoughtful approach. And then how best to implement those changes if changes are necessary, especially when the law is not truly refined yet. There's a lot of questions about the scope of the law, how the courts will interpret it, and what will be implications for other types of claims that might be covered under an arbitration agreement."

And, with the Biden administration in its second year, McManus believes federal agencies are only going to

become more proactive on labour and employment issues. “Obviously, when any administration changes, especially with a change in political party, it usually follows that there’s also going to be changes in this important sphere. Clients are going to have to anticipate and adapt to those changes, whether it’s with respect to industries that have unionised workforces or interpretations of wage and hour laws.”

As part of McManus’ diverse practice, he is a member of Morgan Lewis’ cross-disciplinary Workforce Change Group that focuses on assisting clients in managing organisational change. “Whether that’s in the context of a transaction or outsourcing or moving a significant number of employees or moving facilities or opening new facilities, we work proactively with clients to be legally compliant, but also implementing those changes in a way that’s right for the business’ culture and attuned to their impact on employees.

“A lot of what we do as lawyers is after a dispute has occurred and you’re already in some sort of adversarial proceeding that might have been avoided. Working with business leaders and in-house lawyers to proactively change an organisation in a way that betters it for the future, reacts to and anticipates change, provides opportunities for employees for growth, designing programmes and policies that manifest the philosophy of the company going forward, I find particularly rewarding.”

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Being a part of the firm’s crisis management team is another area of McManus’ practice he enjoys. “While it’s always troubling to see a client facing an issue that presents broader implications for the organisation, it’s rewarding to be considered a trusted advisor in those times they turn to you. I do a lot of work with boards on the most sensitive issues where particularly contentious or inflammatory claims or allegations have been brought. We work with them to bring matters to an appropriate conclusion that not only resolves the issue in the short term but thinks about the implications more broadly. How did the issue arise? What will we do to ensure it doesn’t arise in the future? Does this have a broader impact? Does it say something about the organisation’s culture and do we need to make some cultural changes?”

The proliferation of social media tools makes crisis management even more challenging for global employers worried about the impact of bad news stories made public. “The fact every single employee has various platforms to make particularly significant matters widely known has certainly changed the way clients respond [to negative developments], but also how we advise them. Matters that gain media attention may also draw the attention of the regulators, government, public interest groups, etc. Oftentimes it requires a multidisciplinary approach only offered by a full-service firm to resolve an issue. Here, we’re not only working with outside PR consultants, but we’re also able to bring in other partners with expertise from within the firm as an issue potentially mushrooms.”

Multinationals’ links with Russia is just one recent example of a mushrooming crisis. As the war in Ukraine intensifies, social media pressure from employees and the wider public has contributed to several major corporations announcing the temporary closure of their businesses or full-scale withdrawal from Russia. Many other companies without a footprint in Russia have also announced the severing of ties with Russian entities for fear of being seen to profit from the conflict in Eastern Europe.

“Beyond navigating the complexity of sanctions, clients are keenly focused on their employees in Ukraine. Should they provide assistance to help get them out of the country? What kind of humanitarian effort can they participate in to assist employees and Ukrainians in general? You can see several companies globally reacting to the Ukraine crisis by being sensitive to their dealings with Russian businesses and the government. In part because employees may be looking at whether their employers are acting in a socially responsible way,” says McManus.

Morgan Lewis announced last week that it would be winding down its Moscow operations after “focusing intently on colleagues in Moscow, assisting them in addressing the disruption in their lives, potential threats to their safety, and in implementing their personal plans, including relocating to other jurisdictions where they have made that choice”.

“There’s been a number of social, civil rights, moral, and ethical issues, both domestically and internationally, that have drawn the world’s attention in recent years. For that exact reason, companies need to be more attuned to their employees’ views concerning the company’s particular stance on any highly sensitive social issue. Ukraine is a particularly sensitive issue right now, but you can just look across the last two to three years in the United States and how companies reacted to the MeToo movement or Black Lives Matter. For many companies it’s become important to them, culturally, to demonstrate they are attending to those issues and are reacting in a socially, morally responsible manner.”

Importance of sponsorship

On the subject of racial justice, in June 2020 Morgan Lewis launched its “Mobilizing for Equality” initiative. Led by Speights and McKeon, 14 working groups were tasked with curating substantive racial justice projects, including developing an internal platform for discussions on racism, power, and privilege; supporting minority-owned businesses and community economic development; litigating high-impact, racial justice matters; collaborating with law enforcement on safe policing practices; providing free services to the racially disadvantaged; and working to secure voting rights. The firm’s lawyers and support staff also collectively donated more than \$1m to organisations dedicated to racial justice.

“Like many other employers we felt it very important for us to publicly take action on the racial issues in this country,” says McManus. “It’s been a dynamic and transformational response that has brought together our diverse attorneys in ways nothing else has. I think it’s been sincerely appreciated by our diverse populations within the firm, for whom we care deeply. It’s made many of us more attuned to the racial issues facing our country. We’ve always had a tremendous focus on diversity and sponsorship, but this project just felt energised in a way I’ve not felt in the 27 years I’ve been here.”

McManus credits McKeon, now in her second five-year term as chair, as the driving force behind Morgan Lewis’ diversity and inclusion efforts. “The leadership of our firm has always been excellent in involving us in community diversity and pro bono initiatives. But having Jami as a chair for the last seven-plus years has been really transformational. We’re one of the only law firms of our size and position to have a woman leader as a chair and it’s been transformational on every policy level; there’s this emphasis on diversity in recruitment, retention, sponsorship, and mentoring. The Mobilizing for Equality project has just galvanised that effort on an even larger scale.”

For McManus, supporting the wellbeing and development of the next generation of talent is a fundamental tenet of being a partner in a major law firm. “Mentoring is incredibly important as a resource to help colleagues to think through the challenges they’re facing, especially so for our valued associates who we want to retain. But, for me, sponsorship is even more important. Sponsorship goes beyond mentoring. It’s creating opportunities for people to be successful; to have an opportunity to step into the forefront with a client, to appear in court, or run a project and gain visibility within the firm. Creating opportunities for others to succeed, for them to have their skills challenged, to take people out of their comfort zone to demonstrate they have the talent to do things they didn’t believe they could do, is an incredibly important part of being a partner.”

Even after 27 years at the firm, McManus still benefits from the sponsorship provided by Speights. “We’re fortunate that Grace is an incredibly dynamic person who has really led our practice group to an entirely different level over the last six years. I often tell junior associates and other partners that I’ve been fortunate to have several mentors and sponsors at this firm, but to find yet another in Grace who has helped me to advance, even at this stage of my career, and is a true partner and a friend is truly a blessing – it’s a sincere pleasure to be able to lead the group with her and to learn from her virtually daily.” So, what was the last thing Speights did to push McManus out of his comfort zone? “Well, she told me to do this interview.”