

Practice Management Primer

By James D. Cotterman

The principal resource of any law firm is its complement of human talent. Managing those resources to provide quality and timely legal services, at a cost that is economical for the client and economically rewarding for the owners, is the primary function of practice management.

Philosophical Orientation

The nature of the fundamental attitudes that determine how a group of lawyers organize themselves is critical to the implementation of practice management within any law firm.

Many of the young people who enter law school choose the law as a career because they are independent and value personal achievement. Their college and law school training reinforces individual competitiveness and the ability to master each situation by themselves.

When lawyers first enter a smaller law firm, they are generally given responsibilities after a short time and they may receive guidance and training only when they seek it. This freedom reinforces an independent attitude. It is no wonder, therefore, that many organizations of lawyers function as loose confederations of individuals, rather than as organized, disciplined teams. Many lawyers have never considered practicing as part of a true team, nor have they considered the ramifications of association with either a team or confederation type of organization, particularly with regard to the management of the delivery of legal services. Whether a firm is a team or confederation is largely a matter of degree. The "pure team" or "pure confederation" firm is rare.

Confederation Law Practice

In a confederation law practice, each lawyer develops individual client relationships. Quite often there is subtle competition for clients within the office, since serving the more important or better paying clients provides direct rewards and advancement. Many lawyers are happy only in a confederation environment. They enjoy

the sense of independence and the lack of accountability that this organization makes possible. In the confederation approach, each lawyer is viewed as a master of his or her craft and is permitted to practice with little supervision or accountability. The office exists merely to facilitate each lawyer's practice. It provides staff support, a library, occasional research assistance and like amenities, coverage during absence or illness, and companionship. The office, while providing many important aids, is not, however, central to the work the lawyer performs for clients. There is no need for substantial collaboration or cooperation among lawyers.

This confederation form of organization has some obvious shortcomings. There is no central strategy for attracting work. Professional resources may not be optimally used. Specialization is generally neglected. There is a lack of consistent firm-wide quality control. Training is a stepchild. There is usually little standardization of forms and work habits, since each lawyer basically practices alone.

The Team Firm

A "team firm" is a group of lawyers who work collaboratively to serve clients as a single entity, rather than as a collection of individuals. Many large law firms adopt some variation on the team approach because the many facets of the legal matters handled are too demanding for an individual lawyer to handle alone. But the team approach is available for small firms as well. A "full-service" law firm, to borrow a phrase from the commercial banks, has to be organized in the team fashion.

Team firms are generally recognized by well-defined specialization and by a view of clients as belonging to the firm rather than to any individual partner. Typically, team firms set firm-wide standards for the acceptance of assignments, tend to share support staff more easily, and manage members of the firm more

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 closely themselves. Today, team firms also develop firm-wide marketing and strategic plans to further the interests of the organization. These strategies call upon all of the talent available within the firm and use each talent to its best advantage.

Principles of Management **Specialization**

Specialization is the concentration of one's efforts on a single or highly focused area of endeavor. No one would expect to find a generalist who is experienced in every aspect of his profession, yet that is the orientation of a confederation approach where each lawyer insists that the clients' services be handled personally. In the smallest group practice, that of two lawyers, specialization may be manifested by one partner doing all of the litigation (the "courtroom" lawyer) and the other concentrating on office work (the "desk" lawyer), to the extent that workloads permit.

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As law firms grow, "specialization" may begin to refer to a structure that presides over an area of work. A firm may have real estate, corporate, estate planning and litigation practice sections. This does not mean that one only practices in a single area of the law. It does mean that the lawyer may assist others in a subordinate capacity. For example, the "real estate" partner would be subordinate to the "corporate partner" when working on a corporate matter. Large law firms may organize in a sophisticated matrix of legal specialties, industries or clients. Each of these overlapping structures serves to administer the flow of competencies

and work from the law firm to the client while at the same time developing and maintaining expertise in the law firm.

This approach to practice requires the subordination of lawyers' individual egos to the recognition that clients are better served by lawyers who are, at least to a degree, specialized, and that the lawyers in the firm are all, in their own areas, competent to serve any client.

Delegation

Delegation is the allocation of work such that it can be handled most competently and at the lowest cost to the client and the law firm. This embodies the concept that the firm has a mix of experience, as measured both in years of practice and within a particular area of law, industry, client or issue. Delegation is more than the simple pushing down of work to junior levels.

When a decision is made about the staffing of a matter, it affects everyone. Such decisions affect the approach, quality, timeliness and cost of the work product or service to the client. From the firm's perspective, issues of profitability, client/industry exposure for individuals, workloads, worker morale and development of individual expertise are important factors. Some firms have a rotation program for new lawyers that expose them to clients, industries, areas of the law, types of matters, various research methods, different venues of delivering legal services and the like.

Supervision

Work delegation requires supervision of those who undertake the assignment. Supervision of lawyers is often controversial. Lawyers pride themselves on their professional status and independence. Lawyer supervision, however, is entirely consistent with professional tenets, because with professional independence comes professional responsibility.

Supervision includes one-on-one sessions, section meetings, and team assignments. One-on-one sessions are those in which an experienced lawyer reviews the progress, approach and thoroughness of a junior lawyer's work, usually on a file by file basis. Section meetings allow a broad sharing and discussion of current developments in the law, case strategies, client issues, workloads, continuing legal education topics and the like. Team assignments pair an experienced and a less experienced lawyer on files. The team approach provides for guided development of the younger lawyer, back-up and the building of collegiality among the lawyers.

Contemporary supervision practices include peer review of partners. The probability for error increases with workload and partners are typically the busiest individuals within the law firm. Couple that with the increasing frequency of clients suing their lawyers and there is sufficient reason to warrant supervising partners' work. Typical programs include the types of matters and/or activities that require review, the level of review required and how the review is conducted.

Training

Law schools do not produce good lawyers — they produce individuals trained in the law. Good lawyers are produced by years of practicing law, solving problems and counseling clients. Training has historically taken place on the job. In the past, law firms were able to train lawyers and make a profit on them at the same time (or at least limit their financial exposure). Training today is more a cost of doing business and an investment in higher productivity for the future. Clients are not inclined to pay to bring a lawyer up to speed on the law, its business or its legal issues.

Training is not limited to new lawyer orientation. Lawyers must

train and receive training throughout their careers. Although some of this may be in the form of mandatory continuing legal education, such requirements probably fall way short of training needs. Included at the end of this article are sample training outlines (Exhibits A, B and C) for new associate orientation, and for litigation practice areas for new and experienced associates.

Technology is very much an integral part of our lives. Business in general, and certainly the legal profession, is information-driven. Proficiency in the application of technology is critical to efficient access to and use of information. Practice area leaders must not only ensure that proficiency does occur, but must also plan and seek out the technology and systems that support the practice and integrate the clients into a seamless unit.

Marketing skills and sales training are fast becoming the top training issues for law firms. Often a law firm is founded on the entrepreneurial and business-getting skills of one, two or three individuals. The firm succeeds and grows. It soon reaches a point where the founders are no longer capable of generating sufficient business to continue the growth. In fact, they may be looking toward reducing their efforts. The challenge to the firm is to provide the training necessary to develop business-getting skills so that those who follow can continue the firm absent the founders. This does not mean the cloning of the three founders ten or twelve times over. It does mean cultivating skills that allow partners to become self-sufficient and then to export excess work to others in the firm, providing for more growth.

Evaluations

Every worker needs feedback on performance. Professionals are no exception. The growth of a lawyer is very much dependent on the frequency

and quality of evaluations. An evaluation that is poorly done is no better, and probably worse, than not having done an evaluation at all. Evaluations are used to monitor performance, guide training efforts, support income and promotion determinations, assist with staffing assignments and the like.

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Performance evaluations are not limited to the typical annual ritual. In fact, such evaluations are probably fairly ineffective in guiding an individual’s growth and development. Better is a system of continual feedback and guidance. Such systems involve matter by matter reviews or debriefings, interim reviews of longer, more involved matters, and coaching sessions that look to focus the day-to-day efforts of the individuals. This is not to say that each person must be constantly monitored, with “daily” sessions. Rather, one should avoid the perception that evaluations are discreet and isolated events and that they only occur for compensation or disciplinary reasons.

Another aspect of the partner peer review discussed above is the ability to provide feedback to the partner about his or her performance. Guiding a partner into better work habits, human relations, marketing and management skills requires frank and constructive dialogue among the partners in a non-confrontational setting. The goal should be to provide an environment in which we assist and support each other in elevating our skills to as high a level as we can attain.

Budgeting

Budgeting, or financial planning and accountability are quickly becoming

standard fare for law firm practice leaders. Law firms must know the cost of delivering legal services either to initiate or to respond to requests for alternative pricing arrangements.

The process begins with analysis of work done, identification of fee-sensitive variables, development of prediction models and budgeting of matters, and ends at the beginning with a review of actual performance against the plan.

In addition, practice area leaders must be concerned with overall workload coordination (utilization levels). Under-utilization wastes resources, delays the professional skill progress of the individual and generally hurts morale and personal satisfaction of the underutilized individual. Over-utilization leads to burn-out, a greater potential for errors, lower productivity and less creativity. Firm management should develop a comfort zone for utilization based on the firm’s culture, practice, client needs and economic objectives.

Another practice area financial planning activity includes analysis of work by the type of work, client utilization and industry utilization. These analyses offer clues to opportunities and threats to the practice that will require management intervention. Such analysis leads to staffing, physical resource, and technology decisions.

Finally, the pipeline of work-in-progress and receivables must be managed. This is my personal favorite because of the overwhelming aversion lawyers have to the economic client relationship. Avoidance occurs at three primary events. The first instance is during the quest for more work. All too often there is insufficient time and effort in assuring that the client can pay and that there is agreement on the pricing, timing, bill format and payment of invoices. Second, when work is progressing on the matter, lawyers become reluctant to bill. Lastly, when a bill has sat

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unpaid, lawyers are loathe to pick up the phone and interject a collection call into the client relationship that they have so carefully nurtured. Good practice management establishes policies in this area that fit the nature of the clients and the work performed. Then, those policies are communicated internally and externally. Finally, reporting systems allow the practice leader to monitor compliance on a current basis so that corrective measures can be subtle and more effective.

Client Issues

Client issues include both the development of additional business for the firm and the building and managing of relationships. Aspects of business development include marketing and marketing training (discussed above) as well as marketing coordination. All too often a firm implements its marketing plan only to find that instead of hunting as a pack and jointly bringing in work, the hunters have all separately hit the same target. The result is usually embarrassment for the firm, and possibly lost opportunities for work.

Client relationships are the bonds that allow firms to weather a mistake in judgment or other quality problem. They also provide that extra ingredient that clients are looking for in their legal counsel — the willingness of the lawyer to get to know the client and discuss topics of interest on his time. Practice management coordinates such activities, making sure that each client has a team that is charged with the care and nurturing of the client relationship, ensuring that the “right” amount of contact is maintained.

Law firms focus on a concept known as partnering. An approach to eliminate the seam that separates the private practitioner and the client, partnering is a commitment to understand the client, the business and the industry almost as well as

the client does. It represents the dedication to being a trusted, reliable inside advisor or counselor. It is a mutual give and take relationship that integrates the client into the process. It’s the intimate knowledge of what’s important and unimportant to the client and the client’s objectives.

The Practice Manager as Coach and Conductor

As discussed earlier, lawyers can be difficult to manage. One approach — coaching — is appropriate to consider. A practice area needs the same direction, support, encouragement and discipline that a good coach brings to a sports team. In fact, managing may connote a function that is overly formal, rigid, impersonal and threatening. Managers set the direction and direct its attainment.

The approach of coaching is typically the opposite — informal, flexible, personal, caring, suggestive, supportive and guiding. Coaches facilitate the realization of each individual’s potential. Good coaching can bring out the best in diverse personalities and at the same time build those personalities into a cohesive effective team. Practice area leaders may oppose this approach because of the time it requires and the sincere interest it requires in the welfare of each team member. However, the results that a good coach obtains are far greater than the cost. Very few successful teams are comprised solely of superstars. In fact, a superstar is not really a necessary ingredient for success. If properly coached, talented individuals can excel as a team.

Another applicable analogy is that of the conductor of an orchestra. Each musician is highly talented and while he or she probably plays many instruments well, there is one in which the musician excels. Each musician also has an independent view as to how each musical score should be interpreted. One can

choose to be a soloist, but to play in the orchestra, he or she must be willing to accept the lead of the conductor. The conductor must bring out each individual talent while simultaneously creating that special unique sound of the entire orchestra.

One can see the similarity between a law firm and an orchestra. The law firm is composed of many specialists who are capable practitioners in broad areas of the law, but who garner their greatest satisfaction in specialization — immersing themselves deeply in a specific area of law.

Conclusion

There is an axiom that states that when you stop developing, you die. This is true for all living organisms, and, I believe, for all business enterprises as well. There is a tendency among professionals to reach plateaus. The first is the culmination of their formal education and the attainment of the right to be called a professional. The second is the attainment of confidence in one’s ability to serve clients. The third is the historical right of passage to “partnership” status.

There is danger at each of these junctures that the individual may not significantly develop beyond that level. There is a tremendous value in the intelligence, education and ambition of most professionals. There is also a tremendous lack of focus (having a clear image of where one is headed, how to get there and the consistent concentration to make it all happen). Not surprisingly, only a few people (the “superstars”) have this skill internalized as an operating part of their psyche. Most require assistance. This is when the practice manager/leader/coach/conductor becomes so important. ♦

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