



Aligning Associate Training With Client Needs

A Case Study on Drinker Biddle's
Apprenticeship Program



Robert C. Juelke
Partner, Drinker Biddle

F. Douglas Raymond III
Partner, Drinker Biddle

Now in its second year, Drinker Biddle's innovative associate training program demonstrates the firm's ability to respond to market demands and developments.

Challenges

AS the economic downturn took hold in late 2008, Drinker Biddle & Reath set up a focus group whose mission was to work out how to do deals more efficiently for clients. The group came to a number of conclusions.

First, it determined that the firm should actively align its culture with what its clients really value. In the past, corporate clients undertaking commercial transactions hired law firms primarily for access to technical legal knowledge. Now, not only do clients expect an extremely high level of technical knowledge as standard, they also expect their lawyers to have state of the art systems and processes in place to handle matters more efficiently. Clients therefore are now actually paying their law firms for judgment, business sense, project management, professionalism

and experience. These were the areas in which the firm decided it needed to invest.

Second, the firm had to be able to demonstrate to its clients that work is always done at the right level within the firm. It immediately set in motion the development of a system of skill sets, or core competencies, that each attorney in the firm, from the newest associate to the senior partner, must demonstrate daily (see *Box, Core Competencies*). The system acts as a road map of what the firm's clients value and what the firm's attorneys must achieve to advance.

Third, it recognized that improving efficiency can increase not only the overall value delivered to the firm's clients, but also the attorneys' realization rates (the proportion of recorded hours recovered), particularly at the more junior level. In time-billed matters firms typically have to write off a large

proportion of junior associate time because clients are reluctant to pay for what they consider to be “on-the-job training.” Fast tracking the development of the junior associates helps alleviate this problem. More significantly, the firm also recognized that the more skilled their junior associates, the more confident it would feel about executing transactional fixed-fee work profitably.

Opportunities

One practical issue being factored into the firm’s discussions was the scheduled arrival in September 2009 of the next intake of first-year associates. Rather than cancel or postpone their arrival, the firm decided to use the opportunity of the economic downturn to create a structured training program for junior associates.

“We believe that thinking differently opens the door to us charging differently,” says partner Doug Raymond, who, along with chair of the firm’s Corporate and Securities Group, Bob Juelke, has had a long-standing interest in associate training. “The deliberations we had been having around core competencies and efficiencies seemed to align with the Bell Labs analogy developed by William Henderson of Indiana University,” he says, “and we wanted to build on that.”

Henderson’s 2008 paper entitled *Are We Selling Results or Résumés?: The Underexplored Linkage between Human Resource Strategies and Firm-Specific Capital* (Indiana Legal Studies Research Paper No. 105) explains why a high quality/fixed costs model is so attractive to the many General Counsel who are charged with lowering legal costs as a percentage of company revenues. It also illustrates the potential gains of human resource strategies by reviewing Robert Kelley’s and Janet Caplan’s study of engineers at Bell Laboratories and 3M in the late 1980s and early 1990s.

Henderson explains that the core insight of Kelley’s and Caplan’s work is that, within a certain range, cognitive abilities and various key measures of knowledge workers personalities and social attributes do not correlate with contributions to organizational productivity. Rather, exceptional performance is a function of work strategies that are teachable. If this research can be applied to sophisticated legal work — and Henderson assumes that it can — the ability to circumvent the persistent associate salary wars, and the excessive cost structure they generate, offers an enormous competitive advantage for a legal services innovator. If General Counsel are buying

cost-effective results rather than résumés, law firms built on organizational productivity could be the way of the future.

Another major influencing factor for Drinker Biddle was the existence of practicallaw.com. When Raymond and Juelke saw a presentation about the site, “the light went on.” The site offers continuously maintained standard form documents with integrated drafting notes and how-to guides (or Practice Notes) created and maintained by a staff of over 40 US attorneys hired from leading law firms and in-house departments.

Raymond recognized that the Practical Law Company attorney editors were doing a lot of the work the firm’s own attorneys would otherwise have to do with raw legal information — filtering, analyzing, putting in context, getting to the essence of how things work in practice. “I could see that practicallaw.com would allow us to operate internally in a more thoughtful way, a way in which we believe our clients trust that we are operating,” he says. Juelke agreed: “practicallaw.com was an immediate and cost-effective upgrade to our systems and processes and an obvious way of improving the efficiency of our more junior associates.”

The Roll-out

The firm came up with the idea of an “experiential” training program which would last for several months, during which time the associates taking part would not undertake billable work. The program would be funded in part by a reduction in the salary level of the new associates.

“We leveraged our resources by providing our associates with access to the many high-quality materials on practicallaw.com.”



Scott Connolly
Partner, Drinker Biddle

The immediate aim of the program was to fast track the junior associates to the requisite level of competency, allowing them to genuinely add value sooner rather than later. The longer-term business objective was to enable the firm to adopt pay and billing practices that shift the cost of junior associate training from the client to the firm.

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EXAMPLE MODULE: M&A 2009–2010

In the M&A module the associates followed an asset purchase transaction, together with the simultaneous related financing transaction, from beginning to end. The scenario and documents used were taken from a transaction previously undertaken by the firm on behalf of the buyer. The General Counsel of the client corporation reenacted his position as the client for the purposes of the exercises. Another senior advisor of the company reenacted the part of the representative of the lender. Specific assignments were allocated, as set out in the table below.

| | | |
|------------------|------------------------|--|
| M&A | Letters of Intent | Mark up letter of intent. |
| | Due Diligence | Review due diligence materials and prepare client memo. |
| | Acquisition Agreements | <p>Prepare issues list for client after reviewing original blackline draft from opposing counsel.</p> <p>Listen to partner feedback on issues list.</p> <p>Talk client through the issues list.</p> <p>Mark up the agreement after client feedback on issues list.</p> <p>Break into two teams (Buyer and Seller) and negotiate asset purchase agreement.</p> <p>Draft ancillary agreements for transaction.</p> <p>Negotiate ancillary agreements.</p> |
| FINANCING | Credit Agreements | <p>Review agreement to determine whether borrower can acquire another company.</p> <p>Review agreement to identify issues associated with amending it for additional financing.</p> <p>Break into groups (Borrower counsel and Agent counsel) to discuss issues with respective clients.</p> <p>Break into three groups to negotiate issues.</p> <p>Revise agreement based on the negotiations.</p> <p>Draft and negotiate the ancillary agreements.</p> |
| CLOSING | | Prepare closing checklist and attend closing with a paralegal. |

During the course of the program, the associates also participated in mock negotiations of an asset purchase agreement with law students from Drexel University's Earle Mack School of Law. The Drexel students were enrolled in the course *Law & Finance of Transactional Lawyering*, taught by professor Karl S. Okamoto, the director of Drexel's Business and Entrepreneurship Law Program.

THE ASSOCIATES' VIEWS

The 2009 intake of associates share their views on the corporate training program and practicallaw.com



THE PROGRAM



Jay Atkinson

“This was a great way to transition from being a law student to being a practicing corporate lawyer. We got first-hand experience of working as a team with a client, partners and senior associates. We had to coordinate around the client’s schedule, as you do in real life. We also had to think carefully about what questions to ask the senior associates, what to ask the partners and what to put to the client. The course made the transition to life as an attorney a lot smoother. We now know how to tackle issues that come up.”



Kevin Walsh

“Talking to senior associates at other firms, I think that we have a much better sense of where to go and what to look for when confronted with a new assignment. We’re not feeling around blindly. I think I speak for the whole group when I say that the program increased our confidence in our abilities. I hope that it also increased the confidence other members of the firm have in us. I can’t stress enough how much we feel that the firm has invested in us as professionals. They really want us to develop as attorneys. They did so by fast tracking our training in the key skills an attorney needs. They want us to have a holistic approach to the law. Involving a client team in the training program really underscores this.”

PRACTICALLAW.COM



Elizabeth Hepp

“Whatever module we were working on, I would go to practicallaw.com to get a basic understanding of the area and to find out what we were supposed to be doing. For example, the Practice Notes were really useful when we were preparing the client memo on due diligence.”



Nicolas Guzman

“When we worked on the securities module, we looked at ^{PLC}What’s Market to find out what risk factors were being disclosed in light of the recession. The same is true of IPOs — it’s really quick and easy to see what is market at any given time.”



Antonia Scholz

“I looked at the asset purchase agreement and really liked the drafting notes that go with it. I wasn’t sure at first what to argue for, but the drafting notes tell you what to look for if you are acting for a buyer and what to look for if you are acting for a seller.”



James McMeen

“^{PLC}What’s Market was really useful when we were benchmarking the percentage points we needed to determine at various points in the credit agreement we worked on.”



CORE COMPETENCIES

At the heart of the Drinker Biddle training program is the firm-wide system of core competencies.

The system is based on a series of core competencies that each attorney in the firm, from the newest associate to the senior partner, must demonstrate daily. The core competencies provide:

- Associates with a roadmap for focusing their own development efforts.
- Practice groups with a framework for evaluating the development of their associates.
- A mechanism for rationalizing associate base salary and billing rates.

As associates advance within and between levels, their salaries are increased, with significant increases coming as associates move from one level to the next. At the same time, the associates' billing rates typically increase in recognition of their increasing skill sets and the added value they bring to client matters.

There are four levels of competency, each defined by lists of specific skills in each of the four following categories:

- Technical lawyering skills.
- Client focus.
- Execution.
- Professionalism.

The levels are not aligned with years of experience nor is there a standard plan for advancement through the levels. When the concept was rolled out each associate in the firm was assigned to an appropriate level. Each associate is evaluated individually to determine which level he or she has achieved. An associate must demonstrate a sufficient mastery of substantially all of the skills at each level to advance to the next level. New associates are required to demonstrate mastery of the Level 1 competencies before being promoted to Level 2 and so on. Mastery of Level 4 is effectively partner level performance.

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Like the programs at many firms, training at Drinker Biddle before 2009 was based primarily on lectures (generally one hour a week over a nine-month period) and a “watch and listen” approach. The new program presents the new associates with a series of real-life problems designed to simulate the seminal experiences that the firm would expect its junior lawyers to have during their first few years of practice. The associates are given extensive feedback regarding their performance on a real-time basis, allowing them to put lessons learned from a training module into practice almost immediately. The goal of the program is to produce experienced, practical lawyers who can proactively deal with new challenges and who will never make a “first-time” mistake on a client matter.

“In short, practicalaw.com puts the associates way ahead of the curve in tackling new assignments.”



Matthew McDonald
Partner, Drinker Biddle

The course for the firm's corporate associates is framed around a series of modules focused on core work types (M&A, Finance, Securities, Venture Capital, Corporate Governance and so on). Partners Matthew McDonald and Scott Connolly took the lead on implementing the program for the firm's corporate group and also acted as instructors on most of the assignments. For each module they devised fact patterns around which the first year associates are assigned specific tasks: mark up a client's draft of an earnings release and prepare a related 8-K, prepare an issues list for an acquisition agreement markup, rules check a client's draft 10-K, negotiate an agreement with opposing counsel, prepare a closing and so on (for examples of the various tasks within a single module, see *Box, Example Module: M&A 2009–2010*).

About 80% of the assignments are based on actual documents and deals the firm has worked on, and all the modules incorporate experiences that the firm's lawyers have had during their careers. And whereas the old training program had been based primarily on teaching technical lawyering skills, the new program allows the firm to focus on training in other categories of the firm's core competencies, such as client focus, execution and professionalism.

Success on the course is measured by how well an associate takes ownership of any project as a whole and translates his or her efforts into client-focused work product. How well an associate accesses available resources is also crucial. Using resources includes not only walking the halls and developing a network of mentors among the more senior associates and partners, but also being able to harness and leverage available online resources.

Practicallaw.com played an important part in the process. “We leveraged our resources,” says Connolly, “by providing our associates with access to the many high-quality materials on practicallaw.com, such as forms for several types of transactions, practice notes on many topics with real-time updates on the state of the law, and the PLCWhat’s Market database of deals and filings. As a result, we were able to invest our time in developing effective fact patterns for our training modules and providing intensive feedback on the work product of our associates, rather than preparing extensive training materials.”

“We knew,” says McDonald, “that the new associates would not come up against a brick wall when looking for useful resources to give them guidance. Having spent some time ourselves reading the practicallaw.com materials, we felt entirely confident that they would give the students practical tips on the issues to look for. The new associates could ask Scott and me and the more senior associates for help, but practicallaw.com helped them identify the questions to ask. Also, the time saving for us and the senior associates was considerable. We didn’t need to explain the basics, just the relatively advanced points. In short, practicallaw.com puts the associates way ahead of the curve in tackling new assignments.”

With client focus as one of the core competency categories, early access to client-facing situations was high on the list of priorities when the course was designed. The task list on most of the modules included putting in a call to a client, talking the client through an issues list and counseling the client in a negotiation meeting with opposing counsel. The role of the client was played in many of the exercises by some of the firm’s senior partners. In the M&A module, the General Counsel of the client corporation on which the module was based, Mike Sherman of Pennsylvania-based Genesis Healthcare Corporation, reenacted his position as the client for the exercises. Another senior advisor of Genesis reenacted the part of the representative of the lender.

The Verdict, So Far

When the program was originally rolled out, the press coverage it generated focused largely on whether the lower salary level offered to participating associates is sustainable in a more buoyant market. Will graduates go for higher salaries elsewhere if they are available?

“We take a long-term view,” says Raymond in response. “We are interested in hiring associates who share our vision of how the practice of law is evolving and what clients really value. The idea for this program was born at the firm during the ‘talent wars’ period. The slowdown gave us the discipline to commit to it. What we are offering new associates is similar to a Masters degree or the fourth year of law school.”

At this stage, with one full round of the program completed and the second year in progress, any benefit analysis is qualitative rather than quantitative. McDonald, who is responsible for internal allocation of corporate associates, observes that he is definitely getting more repeat work requests for first-year associates, in scenarios where he would normally expect the requests to be for more senior attorneys. “The 2009 group of first-years have had client-focused experience that first-years would not normally have had at this stage, including substantive interactions with a client. They are certainly very confident and don’t flinch when you ask them to take on a new challenge.”

“I hope some of these associates get to work on my transactions.”



Michael Sherman

General Counsel, Genesis Healthcare Corporation

The interim verdict goes to the firm’s client, Mike Sherman. He admires the importance the firm places on building out the first-years and was equally impressed with how seriously the first-year associates took the exercise: “They really cared whether or not the deal got done.” He also recognizes that the investment will take a few years to play out. “It will be interesting to see whether they will be more useful more quickly as attorneys.” Having worked with the first-years on the exercises, though, he was certainly left with a very favorable impression: “I hope some of these associates get to work on my transactions,” he says.

ABOUT DRINKER BIDDLE & REATH LLP

Drinker Biddle & Reath LLP is a national law firm with more than 650 lawyers in 12 offices providing client service in areas such as commercial litigation, intellectual property and technology, environment and energy, corporate and securities, emerging companies and venture capital, corporate restructuring, investment management, health care, real estate, employee benefits and executive compensation, life insurance and annuities, insurance coverage, labor and employment, government and regulatory affairs, communications litigation, products liability and mass tort litigation, electronic discovery and data management, and private client services.

Drinker Biddle is fully committed to the ACC Value Challenge. According to Michael Roster, Chairman of the ACC Value Challenge Steering Committee: “The ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability.”

Drinker Biddle

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