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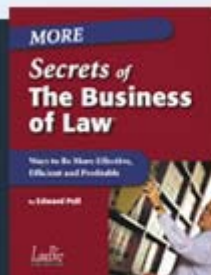
Should Every Lawyer Be a Star?

Not every player on a basketball team is expected to be a star; should every lawyer in a law firm be expected to be a rainmaker? The question arose when I recently was engaged to facilitate a roundtable discussion among estate planning attorneys. One of the questions asked pertained to the issue of how we motivate associates to engage in developing new work. My response was that not every associate can do this. If the associate is doing good work, if the law firm understands, sets, and monitors the metrics (whether by number of hours, matters or revenue) the associates need to reach, and if the associate reaches the metrics...and both sides accept the compensation being paid to the associate for this effort...then what is the problem? The associate is satisfied with the compensation, the law firm is getting quality work performed at a profit to the firm, and the clients are being well served. What's wrong with this picture?

The problem, of course, is the law firm model itself. When hard times hit - and today's economy epitomizes hard times - such lawyers are seen as "clogging up the middle." They are good lawyers but not great rainmakers. They were originally brought into the firm to serve the principle of leverage, doing work at much lower cost than the partners who billed out that work at the higher cost partner rate. The associates remain, their compensation rises, then after the eighth or ninth year, they are either invited to join the partnership, or are asked to find employment elsewhere. Today they often are let go even before the partnership decision time.

One might argue that the associates know what they're letting themselves in for when they join a large firm. But most human beings are optimists (until they conclude otherwise), and I suspect most young associates believe that continuing to show up and do good work will prove to be worth it - right up until the moment that they are shown the door.

When firms terminate these experienced associates that they presumably had good reason to hire in the first place, it not only is costly, it undermines the loyalty of the remaining associates. Is there enough work to justify keeping the associate? The answer must be "yes" since, despite firing




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experienced associates, law firms continue to hire new law school graduates. And, if the answer is yes, the next question becomes, does the associate's combination of skill and attitude demonstrate potential to continue contributing to the firm? Skills are teachable, attitude isn't.

Leverage always has been, and will continue to be, a motor for profit in law firms. Experience is important, but it is also teachable. Why can't these lawyers be transferred from their current practices to other practice areas that are still growing? After all, they are trained in the culture of the firm and should be capable of learning new technical skills. Perhaps the more progressive law firms will wake up to learn how they can benefit from rejecting the "chew 'em up and spit 'em out" model and emulate a more sensible approach that treats lawyers as a resource and not as a fungible cost.

Personal Commentary

I was coaching a client today. She pulled at my heartstrings by telling me the problems she is having with several of her clients who owe her large sums of money. One of the clients paid her \$37,000 two weeks ago and already owes her another \$27,000. After complaining about some of the services and getting a \$5,000 reduction in billing, he has not yet committed to a date certain for payment of this amount. Oh, yes, you guessed part of it. "The check went out last week."

Should she continue working for this client? My advice was for her to review the file to make sure it's clean and not susceptible to negligence claims, make one last effort to collect by telling the client he has to pay what is owed within 7 days or she will file a motion to withdraw because the client has not honored his commitments, and then be sure she is far enough away from trial to have such a motion granted.

While you are taking care of your client, you must take care of yourself! If, while focusing attention on the client's issues, you ignore your own billings and accounts receivable, you will lose the respect of the client, you will not get paid the full amount owed to you, and you will not get more referrals from this client.

Best wishes,

Ed Poll

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