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Guidelines for Equity Partners

Sample Criteria for Equity Partnership

John Remsen, Jr.

Criteria and Guidelines for the Promotion and Admission of Equity Partners

Nick Jarrett-Kerr

Law Firm Leadership and Responsibility

Christine S. Filipe

Weighing the Creation of New Partners During a Recession

Joel A. Rose

"Making Partner" or "Things to Do While Waiting for the Dream Job and the Dream Practice!"

Peter L. Smith

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SAMPLE CRITERIA FOR EQUITY PARTNERSHIP

Criteria for Associate Attorneys

Billable Hours	2,000
Collections	\$300,000
Firm Citizenship	
Firm-first Mindset and Behavior	
Quality Legal Skills	
Solid Academic Credentials	
Strong Work Ethic	

Criteria for Non-Equity (Income) Partnership
 (all of the above, plus these contributions)

Billable Hours	1,800
Collections	\$350,000
Origination	\$100,000
Management and Administration	
Ability to Handle a Complex Matter from Start to Finish	
Supervising Associates and Paralegals	
Client Satisfaction	
Seniority	2 years with firm, 7 years in practice
Other	

Criteria for Equity Partnership
 (all of the above, plus these contributions)

Collections	\$350,000
Origination	\$500,000
Firm Leadership	
Direct Supervision (including mentoring and training) of at Least One Associate	
Ongoing Marketing/Business Development Effort	
Seniority	5 years with firm, 10 years in practice
Capital Contribution	\$100,000
Personal Liability on Firm Debt Instruments	
Other	

These performance standards must be consistently maintained over time.

Criteria and Guidelines for the Promotion and Admission of Equity Partners

By Nick Jarrett-Kerr

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1. Introduction

Traditionally, law firms have not wholeheartedly embraced systematic methodologies for the selection of their partners. All too often in the past, decisions in many law firms were made out on emotional grounds ranging from fear (“he/she will leave unless we promote him/her”) through to implicit blackmail by a power partner insisting on promoting one of his/her team members. More recently, law firms formalised their processes and have developed promotion criteria, usually based on hard measurable data for revenues, hours and originations. Particularly at lateral hire level, this often resulted in a seemingly irresistible business case based on performance whilst soft features – including qualities such as integrity, openness, drive, commitment, leadership, and the ability to inspire trust – were often given scant regard.

These difficulties are not confined to the world of legal services. As Jack Welch¹ puts it, “Your goal in hiring is to get the right play-

ers on the field...It’s so easy to hire people like you. After all, you’ll be spending the majority of your waking hours with them....But friendship and experience are never enough. Every person you hire has to have integrity, intelligence and maturity. Once you’ve got those, look hard for people with the Four Es² and passion. Beyond that, at the senior level, look for authenticity, foresight, the willingness to draw on others for advice, and resilience.”

The problem is that these matters are difficult to assess, although judgements can be made about people who have worked with you for some time.

Promotion prospects are also likely to be dented by the current downturn – there is growing evidence from the legal journals that a considerable number of law firms are promoting fewer partners.

2. What an Equity Structure should achieve - Twenty Objectives

It is clear that the promotion of partners to equity status is a vital element in the firms Equity Structure. This structure must be linked to the firm’s overall strategy and therefore must achieve the following

¹ Jack Welch (former CEO of General Electric) deals with these issues at length in his book ‘Winning’ (pages 81-96).

² Jack Welch’s 4-E framework includes Positive Energy, ability to Energise others, Edge or the courage to make tough decisions and Execute – the ability to get the job done



Strategic

1. Identify the areas where the firm must perform as a whole in order to achieve its strategic and economic objectives which can then be drilled down into the 'Critical Areas of Performance' discussed in paragraph 3.
2. Ensure that remuneration levels match contributions to strategic objectives of the Firm as well as the maintenance of cultural values.
3. Recognize/reward long term growth towards strategic objectives rather than just short term results.
4. Encourage partners to support new ventures and develop new services in line with objectives.
5. Encourage, motivate, value and reward high achievers who are critical to the firm's strategic success and who contribute to an exceptional level
6. Manage and develop performance in the broadest sense in all performance areas within the 'T' discussed in paragraph 3

Teamwork

7. Sustain concepts of teamwork between partners with greater collective responsibility for the performance of practice areas.
8. Encourage and reward the most capable partners to lead the firm and practice areas as effectively as possible.

Culture, Values etc

9. Reflect the values of the partnership and cohesion of the Firm.
10. Value performance which contributes to the sustained growth of the Firm and one firm approach

11. Embrace a firm-wide approach to enable partners in different practice areas to be rewarded on a consistent basis.
12. Discourage maverick behaviour
Human Capital Development
13. Clarify the differing roles of partners as working lawyers, producers, managers and owners
14. Enable the Firm to attract and retain partners of the highest calibre and introduce partners from other firms.
15. Be linked to internal training and review processes which support the development of partners' development and improvement in performance.
16. Recognise that partners have different qualities and should be encouraged to focus on areas where they have strengths whilst contributing in all areas.
17. Link with the Firm's Career Development Structures for its professionals
Performance Expectations
18. Achieve clarity in the processes for reviewing/appraising partners and setting objectives
19. Define the requirements and appropriate performance levels for partners at each stage of progression on the firm's lock-step ladder or partner career structure both qualitatively and quantitatively
20. Identify the data and evidence which will be collected and used to measure performance

3. Essential Steps in establishing promotion criteria

Promotion to equity partnership should not be seen as an isolated activity but should be part of the overall talent strategy of the firm and should be an integral element in the firm's long term business strategy. The formulation and implementation of talent



strategies requires resources and should be an issue high up the firm's agenda.

It is not an easy task to set down in words a comprehensive definition of the qualities which aspiring Equity Partners need to have in any firm in order to be promoted to Equity Partnership. To set the guidelines too high may be both unrealistic and demotivating. On the other hand, the objectives and goals of most firms require a constant striving for improvement and excellence in the quality of their people - partners included. As has often been said, the good is the enemy of the great.

The establishment of equity partner promotion criteria does, however, set a framework for a lockstep ladder or for the firm's partner career progression – the base point from which equity partners will ascend upwards both in terms of rewards and in terms of contribution. Hence it is a critical foundation in any partner remuneration system. What we see, in many firms considering this topic, is five basic steps to achieve these vital criteria.

3.1. Step One: Define the Sort of Partners you want

We think the first step is to try to define the sort of people the firm would like to see as partners, using the firm's own language to describe their human qualities. Both the words used and the firm's need for particular skills and personalities will differ greatly from firm to firm. Most sophisticated professional service firms are looking at "success factors" – the factors about a candidate's attributes and experience which are likely to make him or her a success at the firm. What some firms do is to carry out internal observation and research into the attributes and behaviours which make for

a successful lawyer. At many firms, much thought has already been given to this topic at an advanced level. In addition to the obvious requirements of legal skills and revenue generating abilities, the firm will often have put in place criteria to identify a consistent track record of hard work and performance, and factors such as interpersonal skills, behavioural patterns, a positive personality and loyalty to the firm, team working and mentoring abilities, and high standards of professional ethics as well as long term commitment. These are all good qualities to which can be added

Does he or she have an entrepreneurial outlook?

Does he or she have a global view?

How does he/she shape up against Jack Welch's 4 Es and a P - Positive Energy, ability to Energise others, Edge (or the courage to make tough decisions) and Execute – the ability to get the job done, plus Passion

Collegiality - how will the dynamics of the Equity Group be affected by the promotion?

Culture - Will he/she fit in?

Professional Standing - is he/she widely admired?

Will he/she add 'something' to the Partnership?

Does he or she consistently demonstrate qualities like flexibility, dependability etc.?

In summary, newly promoted Equity Partners should either be, or have the clear potential in the short term to be or to have the following human and personal qualities:-

Pre-eminent or well regarded in their field with an established reputation for maturity and professionalism inside and outside



the firm with the ability to inspire trust in fellow Partners and others

Capable of leading and supporting substantial teams or a substantial team

Capable of making a major long term contribution to the proprietorial dimension of the Business and not just a competent fee-earner; this could be by being in command of a substantial client base, but would normally require something else as well

Work finders as well as minders and grinders

The ability to contribute creatively to the strategic planning of the firm and its implementation

The ability to develop, manage and sustain client relationships at the highest level

To be open with and approachable to fellow Partners and throughout the Firm

To be committed outright to the Firm and fellow Partners

To have a global and entrepreneurial view

3.2. Step Two: Define the 'T' and the Competencies and Skills needed

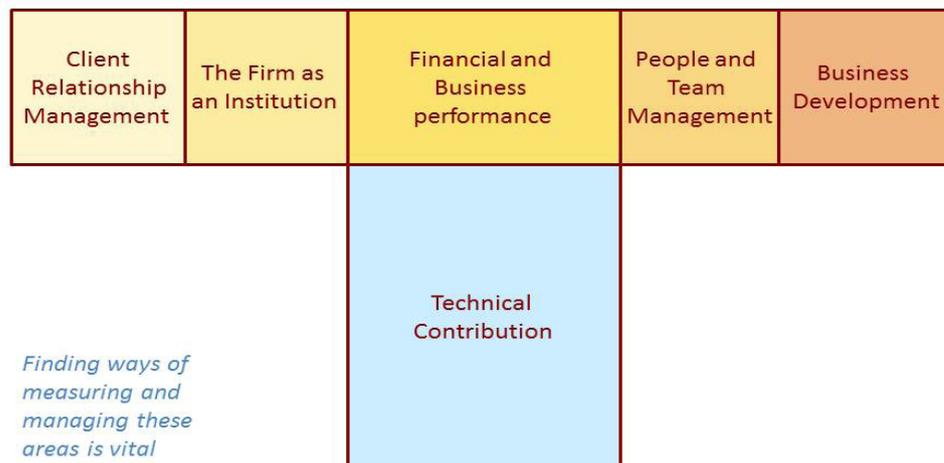
within the 'T'

Many firms employ a 'balanced scorecard or 'T' describing the critically important areas of performance for partners (CAP). This usually needs some development and the attached 'T' is used here as an illustration of possible CAPs.

Within this framework, there is a trend in many leading professional service firms to use competencies or skills benchmarks both for professional development and for assessing lawyers on a partnership track. The term competency is used to describe a learnable skill. The starting point is to define their expectations in terms of the behaviours, indicators, goals and outcomes which the firm would expect to see in the CAPs. Here, it is important to recognize that whilst firms may talk about People Management Skills, or Business Development Skills, they are not specific skills in themselves, but situations

The Changing Role of the Partner - The performance T

Getting Partners to build their Management Crossbar



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34

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or contexts within which certain skills are needed.

In the context of a law firm, the required competencies are such skills as Social/interactive skills, Communication/listening skills,

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Emotional intelligence & resilience, Analytical skills, Mental agility and Creativity, Mentoring and Coaching skills. These underlying skills and competencies to meet the firm's outcomes and goals in the principal areas of performance tend to become – for the Law Firm at least - part of the sub-text, but are significant tools for building partner development and assessment frameworks. Some firms may have a dozen of more competencies to consider in this context.

Our preference is to define – for every area of CAP within the 'T' – the competencies which are needed to perform well within that area and the behaviours which successful lawyers display in demonstrating their level of skill and competency. Take for example, the area of financial and business performance. The first step is to define the essential skill or competency level which an incoming equity partner might be expected to have. This might read something like “has the ability to make a significant contribution to the overall growth and profitability of the firm”. The next questions to ask are “What do these competencies look like? What behaviours do we see successful partners exhibiting?” This will then cascade down into some attributes or behaviours needed to demonstrate successful attainment of the required level of skill and competency. These attributes and behaviours in the area of financial and business performance might then look something like:-

Financial and Business Performance
Consistently for at least three consecutive years has achieved the firms revenue targets for a salaried partner
Evidences the capability to command a book of client business of at least £x per annum
Works at least 50 hours per week

Plans for and achieves high value matters

Achieves superior performance against chargeable hours targets

Maintains good financial disciplines

Negotiates and prices engagements commercially and confidently

3.3. Step Three: Define the metrics or measurable baselines which candidates have to achieve

Once the competencies have been defined, the next step is to consider some measures or metrics - compact descriptions which enable us to summarise accomplishments and thus to manage both the expectations and the performance of aspiring partners. Most often, the description is quantitative (number of hours worked or revenue generated) but they can also be qualitative (achieving the grade 'excellent'). Additionally, some of the measures will look at past achievements whilst some will be more prospective in nature.

Outcome measures therefore are used to describe results and accomplishments already achieved. Prospective measures describe two different types of metric. First, there are activities and projects which partners have undertaken but which have yet to show any success or return on the invested time. Second, there are surrogate measures; these are activities where the cost or the input can



Measures	Factual Criteria (Quantative)	Assessable Criteria (Qualitative)
Outcome Measures (Outputs and Results already achieved)	Hours, Revenue, Realisations, Evidence based client origina-tions and cross-sales Appraisal Objectives met Value/price of engagements negotiated	Assessment of contribution based on internal and external feedback Directory ratings File and client Audits Complaints (internal and external) Staff retention rates
Prospective Measures (Inputs and Partner Effort): Performance Measures (Activities with future or long term impact) Surrogate Measures (Resources & Time spent/used)	Specific BD projects, Documents/Templates etc for Knowledge Management, Time/Effort spent in Client visits, Course attendance General marketing efforts Efforts to develop particular expertise Delivery of training, coaching, associate development, Practice area development Teamwork	Assessments of contribution based on feedback from clients, partners and staff Calculation of likely outcomes of projects Assessment of chances of success on prospecting efforts Post-course evaluation forms

be measured (such as training expenses), but where no measurable outcome can yet (or sometimes ever) be quantified.

The table below sets out some examples.

Most firms will give partners credit for both inputs and outputs. After all, the results of effort towards longer term strategic objectives may not be seen for some time. Even shorter term business development activities may well take more than a year to bring any reward. Additionally, partners

should be encouraged to develop new clients and new area of work and not just rely on ‘farming’ the existing client base. As one firm has made it clear, “We feel a balanced approach is essential. Whilst outcomes are important, the effort and actions taken by a partner in seeking to achieve the business objectives of the firm should also be valued.” In terms of new entrants to equity, some credit obviously has to be given for both their perceived potential and activities in which they have energetically engaged but which have as yet not borne any fruit. What is important in every case is to attempt to describe all the required attributes and competencies in terms which will enable two important things to happen. First, it is vital for the salaried partner on the equity track to be able to discuss appraisal objectives in terms which specifically help him or her to understand what he/she need to do to gain



promotion. Second, it is important to satisfy all partners that a fair view of performance and competency will be taken.

As before, the effort in establishing the promotion measurement criteria will be an invaluable baseline to inform all aspects of partner criteria at every stage on the lock-step.

3.4. Step Four: Set up a rigorous but fair assessment process

Partners are notoriously suspicious of attempts to evaluate, assess or judge them. In the context of promotion to equity status, it is therefore important to be clear on the process and methodology used in the decision-making process. The simplest method is for a committee or board to make an overall judgement, having considered the candidates record of achievements, having taken into account any views and feedback which might have been expressed to it and on the basis of a business case for the promotion prepared by the candidate or his or her sponsoring department or office.

Many professional service firms have established and developed assessment processes for the purposes of both promotion and remuneration, particularly where there are bonuses or discretionary elements to consider. Some of these systems require a grading assessment of professionals at every level, and – where such systems are in place – they are often used for assessing various levels of promotion as well. Where a balanced ‘T’ is being used, it is important here to recognise the principle that partners can choose the amount of effort they make in each performance area, through their appraisal objectives, but they must make an effort in each category; a balance will have to be achieved across all performance areas. Partners can-

not pick and choose, and should attain a baseline competency across the board. It is important to make it clear that the partner will need to show superior performance, above that expected of a salaried or fixed share partner; what ‘superior performance’ looks like will need clarification and definition.

A number of larger professional service firms – mostly outside the legal sector – conduct promotion assessment centres. These are lengthy staged tests, interviews and assessments over a period of three times. Candidates are expected to respond to a case study or set of problems, to make a presentation and to submit themselves to a number of interviews mainly designed to assess the characteristics set out in paragraph 3.2. In other firms, an interview process is all that is required although it is becoming quite popular to require the candidate to make a presentation in response to a case study or problem. Some firms also expect incoming partners to undergo medical and psychometric testing.

3.5. Step Five: Implement a Programme

and Partnership Track for Associates and non-Equity Partners.

There are two aspects to this step.

3.5.1. Development programme for Associates and non-Equity Partners

Most leading global professional service firms now have an organized formal training



curriculum for the first three years of an associates career but it is clear that such development becomes less formal and more ad hoc after that. Most firms are however now ramping up their efforts to provide a partnership track for promising associates, to evaluate/review progress regularly and to encourage career plans. These often involve self-assessment and goal-setting, together with the use of a balanced scorecard or career development benchmarks established by the firm. Associates are expected to align their career plans with the strategic goals of the firm or their practice group and receive regular mentoring and counselling in addition to their appraisals.

3.5.2. The Promotion Process and Timetable

The promotion process should be open, clear and sympathetic. This process should be conducted in a way so as to avoid, on the one hand, raising false hopes of aspiring applicants or, at the other extreme, of being arbitrary and susceptible to favouritism. About a year before promotion, on-track candidates should be given support and objectives which will enable them to meet the agreed criteria. Candidates who are not quite on-track should also be helped to understand their short-comings and what they might do to address them. The partners with whom most firms have difficulty are those non-equity partners who, in the view of the firm leaders, are never going to make it though the promotion gate. In many instances, firms would like to keep these partners and are reluc-

tant to have a conversation with them which may cause them to leave or may otherwise be demotivating. Although it clearly helps if the promotion criteria are sufficiently rigorous to enable partners to assess their own chances realistically, nevertheless, it is never easy to tell a candidate that he or she is insufficiently entrepreneurial or dynamic. The following process is fairly typical of a process and timetable which would usually start several months before the start of a new financial year.

1. Aspiring Equity Partners are usually invited to indicate their interest to Board in writing within an agreed timetable. This application is usually encouraged (or discouraged) by the candidate's mentor, the Practice group head or the Managing Partner.
2. Within a reasonable period (to be indicated) after that, the following steps will take place.
 - a. The aspiring Equity Partners are usually asked to put forward their applications and to provide a business case for promotion, if this has not already been done. Sometimes, the aspiring partner will be asked to put forward his or her Business Plan, whilst the Practice Area head is required to provide a more objective and dispassionate Business Case for his or her protégé's promotion.
 - b. The aspiring applicants are then often interviewed. As mentioned previously at paragraph 3.4, this can often become a lengthy and detailed process.
 - c. Promotions are then discussed/approved at a meeting of the Board or the Equity Partners and formal invitations to Equity Partnership are then issued, but usually subject to a medical and in some cases psychometric testing.
4. Setting and Agreeing Entry Terms
In setting the starting rewards package for a new Equity Partner, three factors have to be



triangulated and aligned.

4.1. Market benchmarking

The first consideration is to establish typical entry level remuneration for new equity partners at similar firms, and even at global firms with which the firm is competing. Additionally, many lawyers are lured away from private practice into banks and corporations and an idea of competitive salaries outside legal practice is also helpful. As time goes by, these benchmarks are becoming more and more available both formally (Directories and International Business Intelligence services) and informally through the firm's own networks and contacts of good friends.

4.2. A worthwhile step up.

The starting point for equity partnership should show a potential clear step up from non equity status, both to provide a worthwhile promotion incentive and to recognise risk. As profit shares are based on a projection of last year's profits, many firms now offer a safety net (usually individually negotiated) for the first two to three years. As an alternative, a number of firms operate their points structure on a three tier system, providing as the base of the three tiers a starting salary which operates as a floor to the incoming equity partner's package. Hence a floor or 'salary' for an incoming equity partner might be fixed at roughly the same level as his or her salary package as a non-equity partner, with his or her points package providing the necessary elements of uplift. An alternative approach is to fix these 'salaries' at roughly the amount needed to align with the monthly draw.

4.3. Preservation of an appropriate ratio

from top to bottom of the equity

It is axiomatic in any lockstep structure that the partners on the top level of points will be earning more than the partners at the bottom of the lockstep. We often see a ratio of 3:1 here, with plateau partners earning three times (or more) the earnings of an entry level partner. Ratios higher than 3:1 appear to be exceptional, at least in the UK and Europe. According to the Lawyer in the UK, DLA Piper are said to have a spread of 5:1, whereas Slaughter and May are at 2:1. Clifford Chance, Linklaters, Freshfields and Allen & Overy all vary between 2.3:1 and 2.5:1.

Annexe

Sample Baseline Promotion Requirements for Equity Partners

- 1 Financial Performance (Economic Capital)
 - Consistently for at least three consecutive years has achieved the firms revenue targets for a salaried partner
 - Evidences the capability to command a book of client business of at least Rs 4 crore per annum
 - Works at least 50 hours per week
 - Plans for and achieves high value matters
 - Achieves superior performance against chargeable hours targets
 - Maintains good financial disciplines
- 2 People Management, Leadership and Team/Skills Development
 - Has a strategic grasp of manning

3 The Lawyer UK 200
September 2007



requirements and plans to ensure appropriate level and mix

- Creates a dynamic atmosphere for teamwork
- Coaches and delegates responsibly
- Displays the ability to motivate and inspire people
- Professional Expertise and Technical Skills
- Recognised widely as an expert with deep specialised knowledge in chosen area of law
- Consistently delivers services to meet client expectations
- Seeks and plans for future trends, opportunities and threats, anticipating the need for change
- Cascades knowledge throughout the practice area

3 Business Development

- Develops and maintains strong and profitable client/referrer relationships which are critical to the Firm's success
- Raises the Firm's profile nationally and (where relevant) internationally
- Enhances the Firm's reputation in its chosen markets
- Assists the Firm's efforts to develop its differentiation

- Shows clear accomplishments in bringing in valuable new work

4 Client Management

- Has developed a deep expertise in client industry sectors
- Achieves role as trusted adviser or business confidant to major clients
- Plans, measures and manages all aspects of Firm's interface with its clients
- Plans innovatively for better service

delivery

5 Technical expertise and Contribution to the Firm as an Institution

- Very well established reputation for special expertise in a relevant practice area with a portfolio of successful significant completed transactions/matters
- Contributes creatively to the strategic planning of the firm and its implementation
- Contributes to the building of the Firm's Intellectual Property including precedents, templates, case management and workflows
- Assists in the development of leading edge Knowledge Management and high level technical know-how
- Actively helps build the Firm's processes and systems which contribute to the Firm's ability to grow its business including quality control/improvement, governance and management structures
- Contributes to the development of a homogeneous culture and esprit de corps.



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Law Firm Leadership and Responsibility

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By *Christine S. Filip* and *Esq.* of *The Success Group*

Although the law business is booming, two issues implicit in successful law firm governance remain unsolved in many firms, and, in fact, have as much to do with the financial future as does the state of the economy. The first issue is what I term the co-equal conundrum, meaning that among partners there is frequently no one with the ability to bring about changes in attorney behavior critical to the firm, especially when some of the co-equals do not contribute to business development. This lack of a "sales manager" role -- someone who consistently inspects revenue production and coaches team members to fulfill their marketing obligations -- spawns a culture of uneven performance that for many (mid-sized particularly) firms bodes poorly for longevity. In this culture, key partners defect, and experienced associates seek futures elsewhere because they either do not have a book of business, or do not see a viable place for themselves as future partners. This churn erodes profits even in a good economy.

The second issue is part of the same fabric: the lack of an objective performance appraisal process that motivates firm members to live up to their reciprocal obligations of ownership. The appraisal process is often too narrowly answered at the end of the year by means of distributions. Now that the thrumming anticipation of partnership distributions has waned (for some), the grander issues implicit in partner compensation and appraisal are worthy of discussion. No matter what manner of compensation formula is used for distribution purposes, lock step, eat what you kill, or pure magic, a larger question should be honored given the reciprocal rewards and risks of "partnership": What exactly should equity partners contribute to the firm beyond new fee generation, and how should those contributions be evaluated?

To my mind, not answering the foregoing questions thoughtfully, continually and objectively, is a grave risk for a firm of any size in any locale. From a purely economic viewpoint, consider that the financial existence of a firm rests on the pediments of client retention and employee (read partners, et al.) retention. The client retention half of the equation as it relates to ownership obligations means that collaborative marketing, cross-selling for example, must take place, and that the minimum level of attorney competence has been ratcheted upward by client demands, and will not regress. The notion of owner

contribution parsed by rainmaker vs. non-rainmaker fits like a pair of bad shoes. There is much more to this consideration than fees alone.

On the second side of the profitability equation, concerning employee retention as it affects financial existence, firms risk the defection of key owners if the obligations of partners are not evaluated in a multifaceted, defined manner. Nor will worthy associates remain in an environment in which there is no rational evaluation and succession plan, particularly in a tight labor market. Increasingly for firms, having a reputation for being a less than good place to work and remain, will severely undercut both the present existence and future succession of that firm. In a very critical sense, the owners of the firm need to lead, demonstrate, and be practical models of ownership obligations if a firm is to have a present and future life. Times have changed.

To succeed into the future, and to weather economic cycles both nationally and internationally, firms need to look carefully at the issue of vesting someone (or group) with the leadership position -- literally, vesting a partner with "first among equal" status -- on the business development inspection. Then, evolve a process of performance appraisal that is consistent with the financial objectives and values of the firm. What, really, does ownership entail?

OWNERSHIP ATTRIBUTES

"Ownership" in a partnership imputes certain responsibilities that can be translated to observable criteria that stretch beyond fee origination for oneself. I believe that there are at least five criteria that should be considered, which, when scored in an objective manner and paired with a financial analysis of a practice, pave the way for using year end evaluations to determine distributions in a calmer, more intelligent manner:

Client and employee retention

: since both retention rates underpin a firm's profitability, the rate at which an attorney churns through either can be a severe detriment to the lifeblood of a firm. The rainmaker who cannot retain administrative help, or one whose outbursts or demands drive associates away is as significant a contributor to red ink as the attorney who eschews marketing. How do you clock retention? Count defections, and look at non-recurring, unexpanded clients, particularly in transactional practices, and inspect litigation clients who remain only litigation clients.

Team player

: does the attorney contribute to firm growth by cross-selling additional services? To do this, a lawyer has to consider the client as a whole, do research, and hold client reviews and sales calls to expand the menu of proffered services. Other attorneys have to be introduced to the client. Don't know your rainmaker's clients? When you ask to meet a client, get the cold shoulder, or "I like to work one on one"? These responses are not those of a team

player responses and bode poorly for the future of the firm. Often these responses are emblematic of poor client service and leave the firm hostage to the whimsy of one partner's ownership of a client. Feel uncomfortable?

Marketing

: few firms collect and inspect monthly marketing calendars at partner meetings. This is a mistake that breeds animosity. Those who market actively will feel unappreciated; those who don't market will (or should) feel fear. These marketing activities are productive: speaking engagements, client seminars and reviews, publication of articles to fertile target audiences, and "sales" calls to expand and cross-sell. Little else works.

Mentoring

: every new hire decision should be completed with the expectation that new hire will make partner. Why else hire the lawyer? Yet, the lack of mentoring escalates a turnover rate among junior partners and tenured associates that is a financial problem to many firms, large and small. Recent research indicates that senior associates and junior partners switch firms to find a better place to work, not for money; money is way down on the list of criteria. Partners must bring associates under their wing: take them to networking and marketing events, introduce them to clients and others who may help them grow in their careers and demonstrate how to build a book of business by doing just that in plain sight. Associates need coaching too in weathering the sometimes tumultuous give and take of working with clients. In the commercial world, business people are trained in negotiation skills; they assume that conflict and discord are expected pieces of working relationships. When associates encounter difficult client discussions without coaching, over time they begin to look for a better place to work.

Leadership

: seemingly a fluffy subject, leadership is really concrete. Who among your partners steps up to the bar to spot problems, issues, and then works with others to fix them? Forget your calculator, this is a one-handed count in most firms. Leadership happens in teams, and effective leadership means the teams work, they have shared responsibilities and they create a result. If you are a managing partner and you have no junior partners nipping at your heels to assume leadership, beware. You need to parse out increasingly more responsible leadership roles to your younger colleagues in order to pass the mantle of leadership on to someone who will assure the future for all your employees.

APPRAISAL: PAIR THE CRITERIA WITH THE NUMBERS

If you score these and other criteria of your choosing, and then pair them with a profitability analysis of a partner's practice, you will have a more objective, broader means of considering the distribution issue. Take the five criteria above and score them on a one to five scale, five meaning excellent, and one meaning poor. Look at the growth (or lack

thereof) of the partner's practice, and its profitability. What trends do you see? Is the practice keeping up with industry averages?

If you see an under performing practice, note that the opportunity to change this picture should have a definable time line that needs to be part of your negotiation with that partner. Set a time line and review it with the partner every month, or every quarter, not just once a year. Using over productive practices or areas to cross-subsidize (literally, pay for) under performers is a much more time limited proposition than one would think. Cross subsidizing has been proven a flawed strategy in both law firms and in the commercial world time and again.

Many successful firms review the numbers and the performance criteria numerous times throughout the year, not just at year end. It is a wise practice. It obviates surprises, acrimony, and defections. One managing partner I know opens a quarterly review with partners by asking, "What do you want to make this year?" Attention gotten, they then review criteria and performance numbers and work together, not at loggerheads.

I have seen other well performing firms open each partners meeting with a review of the past month's marketing tactics by partner, paired with an inspection of the upcoming month's tactics. I include a form that partners submit before the meeting and is circulated as a package at the start of every partners meeting. This public review in confines of an owners meeting both informs members of activities, and raises the collective and individual consciousness on the obligations of each person. It inherently holds the marketing calendars of partners up to inspection and comparison, which is not without problems. However, this process fulfills the "sales manager" role of the commercial world in a professional setting -- it inspects the expectations of the group.

If you implement this process, my experience shows that you will meet with recalcitrance for a number of months; partners will forget to turn in calendars. Some will lobby against the process, casting it as unprofessional or overly commercial. Interestingly, in the commercial world of sales meetings, the same objections occur. Persevere, cajole, and keep the discussion of obligations on the front burner.

MARKETING CALENDAR

NAME: _____

List specific marketing activities* you are doing with clients or potential clients (prospects) in the next month.

MONTH: _____

CLIENT/PROSPECT ACTIVITY DATE

1.

- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

List the marketing actions you took last month with clients and prospects:

MONTH: _____

CLIENT/PROSPECT ACTIVITY DATE

- 1.
- 2.
- 3.
- 4.
- 5.
- 6.
- 7.

*client reviews, sales calls, speaking, publication, client visit, meal w. prospect, etc.

Christine S. Filip is an attorney and the president of The Success Group in NYC, a company that helps law firms build wealth through active marketing and public relations. Filip authored the book, Effective Marketing for Lawyers, published by the NYSBA, is the regular marketing columnist for New Jersey Lawyer, and her articles are published nationally.

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Weighing the Creation of New Partners During a Recession

by Joel A. Rose

There certainly is no conventional wisdom in today's economy on the depth, length or severity of the current recession. Firms are actively engaged in significant analysis of economics and profitability management, expenses, marketing and personnel.

Many law firms have announced and implemented cuts in both lawyer and staff personnel, and there is reason to believe that our economy may well worsen. In addition, as to existing lawyer populations, firms have had to eliminate or diminish associate bonuses, freeze salaries, cease or modify otherwise usual and customary hiring, delay start dates for associates to whom commitments have already been made and generally reduce the scope and magnitude of all lawyer-related expenses.

However, many firms have taken the recession as an occasion to review the breadth and depth of their expertise in practice areas and aggressively recruit as equity partners attorneys (who may or not be equity partners in their firms) who possess expertise or control work of clients in practice areas that are strategically important. Similarly, many smaller and midsized firms have successfully recruited attorneys from larger firms who controlled a certain amount of client business that was insufficient to become a partner in the large firm, but more than adequate to become an equity partner in a smaller or midsized firm.

Coupled with all of the issues with which law firm owners have to deal relating to the operation of their firms is the fact that even with careful management, there is increasing evidence of reduced partner income in many sectors of the legal marketplace. Firms must therefore examine the wisdom of creating new partners.

It is vitally important that partners examine the culture of their firm before making blanket modifications to the partnership structure or admission practices simply to satisfy current, and perhaps short-term, economic issues.

First, assure that the firm has carefully analyzed the various components of the firm's economics and taken appropriate steps to improve its financial health.

Then, conclude whether the firm's partnership structure and admission practices are a root cause of the economic problem.

For example, what changes or modifications to partnership admission will be beneficial?

Consider modifications to existing criteria established for partnership admission and an increased length of time to partnership. It might be advisable to review associates with a

more critical eye, so as to determine more quickly the lawyer's suitability for continuation. This will probably lead to increased terminations but will also avoid dealing less objectively with associates who have expectations based in significant measure on longevity. Ascertain whether it is timely to seek withdrawal of uncooperative or underproductive partners and whether there are candidates for early retirement.

What adverse effects will result from seeking modifications to the existing culture for economic reasons? They may include resignations of associates who are displeased over the changes in required service or protocol and feel that their trust in the firm has been misplaced; an inability to replace defections in a timely enough fashion to provide continuity of service; loss of revenue; loss of clientele; and a decline in morale.

Partnership Criteria

The firm must examine the process as well as the criteria for partnership carefully and, before modifications are made of any sort, a consensus of the partners should be reached.

There are issues to be considered and addressed by all partners; they will undoubtedly view them in part on behalf of the firm and in part as potentially affecting each of themselves. Criteria must, for each potential partner, include:

Client origination. The ability to develop and originate new clients for the firm is one of the most significant criteria that will be considered. Although this criterion is certainly important, it is not of itself a condition precedent for elevation to partner status. It is generally recognized, however, that the ability to originate new business is a much desired attribute.

Economic consideration. A law firm must be able to justify the progression of associates to partner status on an economic as well as a professional basis.

Factors that must be considered when determining the feasibility of adding another partner include:

- The present and projected strength of the practice area (or whether the department can sustain another partner);
- The individual's historical productivity level (billable hours history);
- The individual's ability to sustain a high productivity level at a partner's billing rate; and
- The individual's ability to support himself or herself as a partner.

Collection of hours billed, realization on hours billed. This is certainly as important as the number of hours billed. Although billing 1,750, 1,800 or 1,850 hours in one year reflects dedication, hard work and devotion to the firm, realization on only 40 percent of the hours billed adversely impacts on the bottom-line productivity of the substantial investment of time made by the billing associate.

Client relations. Most firms encourage associates to establish a professional relationship with clients. Thus, the ability of the associate to relate and interact with a client is an important factor to be considered.

Handle complex matters with minimal partner supervision. The demonstrated ability to

handle complex matters and to function effectively without close partner supervision is another key factor. Associates wishing to be elevated to partner status must demonstrate their ability to manage, service and relate to clients without substantial or significant input from the originating partner.

Professional skills. Associates on partner track must develop a "professional identity" within and outside of the firm for skill in their specialty areas and possess a breadth of skills or the ability to transcend a narrow specialty, if needed. Also, candidates must obtain strong marks in legal analysis, writing, oral communications, negotiating ability and the sound exercise of judgment, etc.

Cooperative spirit. Every attorney should be a team player. Each attorney desiring elevation to partner status must demonstrate a willingness to participate, cooperate, and get along well with clients, other lawyers and staff in all aspects of the firm. In today's economic environment, reinforced by downsizing of firms and cross-fertilization of attorneys -- the willingness to accept assignments from other attorneys, regardless of who originated the client, is an important consideration.

Community involvement. Most firms encourage attorneys to become involved in community and outside activities. Participation in community activities neatly dovetails with marketing and client origination.

Personal presentation. Most firms do not possess any hard and fast dress codes. However, image often is perceived as being important. And personal presentation projects an image.

Non-billable hours. Promotion to partner status requires more than simply billing hours during the work week. Non-billable time is a yardstick by which the firm can measure an associate's level of interest in the success of the firm.

Given the need for more careful analysis before making new partners as a result of the economy and shrinking profits, it is also timely to give thought to different classes of partners.

Classes of Partners

Non-equity partners are generally characterized by a "guaranteed" draw but with no right to share in the firm's profits. While this is potentially beneficial in the short term, issues that can arise relate to the partner's desire and expectation that there will be an opportunity for advancement to equity status. So as not to disincentivize further initiative, clear criteria must be established which identify the basis for progression to equity status.

Contract partners, who are similarly salaried, perhaps with bonus arrangements predicated on performance. These are frequently lateral partners, whose attraction may be an existing book of business or a needed expertise in a particular field of law. Some firms have trepidation about engaging contract partners, since they may, without qualification, be inclined to move for more money, made easier by their not having been inculcated into the firm culture.

Many practitioners are concerned about how and whether to advance the careers of less than full-time lawyers. There are still many law firms that would find it problematic to consider part-time lawyers for partnership, irrespective of their age, experience or the

quality of their performance. It has been the author's experience that the long-held view by many law firms that a part-time lawyer lacks commitment, coupled with the fact that part-time work is not often well-defined, results in a perception that less than a 24/7/365 involvement severely limits advancement and career options.

Factually, surveys have shown that flexible work arrangements are sought and considered to be more desirable for women lawyers. Therefore, if women are not encouraged to balance their family and personal lives with their careers, there is a far greater likelihood that they will seek other opportunities, resulting in very expensive attrition. Replacing a seasoned third-year associate will cost hundreds of thousands of dollars in training and indoctrination. Firms face increasing pressure from clients and lawyers alike to maintain a diverse workplace. Client relationships may be adversely affected as well, particularly if the departing lawyer has had positive experiences with the client.

As a result of the above, a firm that is unwilling to address a more heterogeneous work environment will likely not be attractive to future hires -- "word gets around." Just as important as well as all of the objective considerations is the importance of a value system that respects family and quality of life commitments.

Every law firm faces voluntary and involuntary separations of partners through retirement, lateral movement and death. It would therefore be sensible, particularly given the evident changes in our society, e.g., desire for more relaxed lifestyle, diversity and balance, to consider the advancement of part-time lawyers to partnership. Clear and distinct guidelines must be established for ascension by part-time lawyers to partnership. Although consistent with all lawyers considered for partnership, existing partners will undoubtedly be watchful for:

- Fixed required annual hours production that is consistently met;
- Evidenced determination to advance and to distinguish oneself as a lawyer;
- The ability to develop and maintain clients in a substantial way, resulting in the buyers having a substantial practice;
- Interpersonal skills which result in harmonious relationships within the workplace; and
- Demonstrated loyalty to the firm and the partners -- a subjective, but rather easily detected characteristic.

Details of a part-time partnership should be in writing and made known to associates who identify their need for such consideration on a going-forward basis. They would clarify, among other things:

- Expectation of and commitment to a predetermined number of both billable and non-billable hours.
- Base compensation which is consistent in its comparison to full-time partners, with the difference in required annual hours.
- Incentivized bonus compensation similarly must be addressed but may be more subjective in its determination.

Conclusion

While developing strategies to cope with the recession, lawyer management must understand their partners' expectations so that the former may develop and begin to implement strategies to reduce costs and enhance the volume of profitable business, which, in turn,

leads to increased revenue per lawyer and profits per partner. Lawyer management in the better managed firms recognize opportunities, implement action plans and assume risks that will provide their partners and associates with the framework for building stronger and more successful law firms.

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ATTORNEY SEARCH

By Peter L. Smith, Esq.

“Making Partner” or “Things to Do While Waiting for the Dream Job and the Dream Practice!”

As I sit before my computer monitor writing this short article, the window for my document is minimized so as to maximize my view of my desktop background—a view of our beloved, blue planet from two hundred miles above its surface. The stunning vista of creamy, white-blue clouds and indigo sea against a black, starless sky reminds me of the amazing richness of opportunities constantly before us...and of our regrettable inability to take advantage of all of them. Fortunately, leading full and joyful lives does not require that we take advantage of all opportunities but, rather, that we carefully choose the precious few possibilities that we can and will pursue. What a difference it will make in your law career if you seize those few opportunities and take full advantage of the doors they open!

No Such Thing as “Making Partner”

Candidates ask me all the time, “which firms are making partners now”? I always respond, “None of them!” The dead silence is usually followed by a nervous laugh. “No really,” candidates say, “I know it seems like that, but where are associates really making partner?”

Candidates ask me all the time, “Which firms are making partners now?” I always respond, “None of them!” The dead silence is usually followed by nervous laughter. “No, really,” candidates say. “I know it seems like that, but where are associates really making partners?”

At this juncture, I usually let them in on a little secret: things have changed in the practice of law since the 1950s. **Here’s the bottom line: there are no more firms where associates simply “make partner.”** Instead, associates grow up, get clients, create practices, and only then are awarded partnership status.

What this means is that attorneys must know how to create thriving practices while maintaining heavy workloads, and most firms cannot or will not expend resources to teach lawyers how to do this. They are on their own. Well, almost.

Here are some pointers that will help you develop the personal and professional clout you will need to build your own book of business.

Start Building Partner Skills Now

Associates who are ultimately invited to join their firms’ partnerships are not created equally, yet there are several “types” of attorneys who possess skills that increase their likelihood of making partner. I once sat in on a lecture given by the chairman of a prominent law firm, in which he discussed three types of partnership-bound associates.

First, there is the “rainmaker” who spends all (or most) of his or her time networking, having lunches, meeting people, and bringing in business. Second, the “service partner” adds value to a firm by providing niche expertise

“Making Partner” or “Things to Do While Waiting for the Dream Job and the Dream Practice!”

in a specialized area of the law, thus meeting the needs of sophisticated clients in ways that a partner with general legal skills cannot. Finally, the “hybrid” brings good leadership skills, strong connections to the firm and within the local community, and the ability to supervise projects and associates with aplomb.

While I respect these distinctions, I see things a little more simply. **The only kind of person who can make and remain a partner is a person who has developed and continues to nurture a large, quality network of friends, colleagues, experts, and clients with whom he or she is involved on a professional level.** This means that a potential partner must be able to call upon the people within his or her network to meet the needs of existing clients, to refer and generate new clients, and to keep abreast of developments in his or her industry.

No matter what level of practice you may now enjoy, the levels of ability and interest you exhibit in maintaining such a network may well mean the difference between professional and remunerative success or failure.

The Core Competency of a Partner

The ability to develop successful professional relationships is one of the core competencies of a partner.

Almost anyone can practice law, but only a few develop law practices. I always try to emphasize to younger lawyers that it is never too early to start the process of building a network of strong relationships. The fundamental difference between a partner and any other lawyer is leadership ability. Partners lead. That means that partners assume responsibilities, delegate tasks, and are accountable for meeting the needs of their clients. These leadership traits are *not* innate; they must be learned, and to be learned, they must be practiced.

The only way to become a leader is to practice leadership in a thousand small ways. Sets of small acts tend to grow, of their own accord, into larger sets of responsibilities that eventually can develop into leadership over an entire case, with a large client, or in a 3,000-member law firm.

Furthermore, leadership does not begin with a “lucky break,” such as when, for instance, the senior associate on a matter calls in sick and you are named the lead attorney...or when the lead partner suddenly realizes that you are brilliant...or even if a client suddenly prefers that you take the reins. Rather, leadership begins with relationship management. In essence, **every legal task can be broken down into a series of relationships that need managing.** For example, an attorney must exhibit leadership in order to assign the appropriate people within a law firm to answer interrogatories, to find critical documents, to communicate key information about deals to clients, or to manage support staff and other associates in preparing filings or coordinating nationwide document collections and reviews.

Thus, to build the confidence, credibility, and leadership skills necessary to fulfill these responsibilities, attorneys must begin by cultivating as many meaningful relationships as possible. **To do this, they must actually meet people.**

Get Out There, Meet People, and Make Friends

Networking is just a fancy way of describing the process of intentionally making friends. *Every* lawyer in the country should be a member of at least three organizations and should contribute to each of them. It is often the case that the most effective, highest-functioning attorneys are those who are members of scores of organizations that they have joined over the courses of their careers.

For starters, however, any professional—and every lawyer—should join one organization within each of the following genres: professional, service-oriented, and fraternal or social. At the most basic level, every lawyer should be closely involved with some sort of professional organization of lawyers dedicated to furthering the practice of law. This might be a subcommittee within a state bar association, the American Bar Association, the Association of Trial Lawyers of America, or even your local Barristers Club. There is no substitute for meeting and interacting with new lawyers in settings devoted to their respective practices. Successful lawyers have *hundreds* of colleagues who are essentially professional acquaintances with whom they have developed familiarity. Although meeting people and getting to know colleagues is incredibly easy to do, many lawyers dread it. It doesn't have to be painful. Go out and meet someone new today!

For the Socially Challenged: A Step-by-Step Guide to Creating Your Network

Here is a step-by-step primer for developing a network of professional colleagues that even a partner would envy:

1. Join the “[fill in the blank]” club.
2. Actually go to a meeting.
3. Say, “Hello, how are you?” to five people. Be brave. Try to initiate some small talk. (For example, ask questions such as “Where do you practice?” or “What is your most interesting case right now?”)
4. Give a business card to each person you talk to. Ask for a business card from each of them, or write their names and phone numbers down on one of your own cards and hang on to it!
5. Once you get home or back to the office, enter their names in your Outlook folder (or some other location), and set up a reminder to call each person back in one week to follow up and say how much you enjoyed meeting him or her.
6. Actually call each person back.
7. Make it a practice to call each person on your list of contacts once every three months.
8. Follow where this leads you.

PAGE: 3

There. That wasn't so hard! These are simple but invaluable steps. Every lawyer has *some* basic social skills, or he or she would not have survived the first year of legal practice. Begin naturally—but *begin*—and see where these proto-relationships take you. The point is that, just like in sales, there are only so many solid opportunities per “X” number of contacts. The only way to “get lucky” is to make sure that you make lots of attempts to build and maintain your personal network. Not every person is going to become a client, but the greater the number of personal contacts you maintain, the greater the resulting synergy between their accumulated sums of interactions, relationships, and experiences and your own.

Bringing It All Together

Once you have started down the path of generating a network of diverse professionals, you will be surprised at how it starts to take on a life of its own. Telling one colleague about an amusing vignette may lead him or her to do a small favor for you, such as sending over a client as a referral. Over time, that client or that colleague may lead you to significant business opportunities. All the while, you should be continuing to grow these and other relationships.

The key point to remember is that becoming a responsible leader depends on your ability to manage relationships. In every interaction, follow through with whatever you promise to do. If you offer to provide a reference, provide it! If you agree to get the name of someone who can serve as an expert, do it—and promptly! **Demonstrating this kind of courtesy builds reputations and relationships—one small, solid step at a time.** I absolutely guarantee that if you follow these practices, you will eventually succeed. You don't have to be perfect all the time. You just need to be reasonably careful, reasonably reliable, and reasonably friendly, and you will be ahead of the majority of the pack.

Conclusion

The world is full of opportunities, but we cannot take advantage of them all; we can only capitalize on a few. To the extent that you can internalize this powerful principle, you will find that the world—and, in particular, your own practice—is as full of opportunities as a path strewn with gems. The key is to determine which gems to pick up, carry, and ultimately safeguard...because you cannot take them all. If you follow this path, you may find that your biggest challenges lie not in finding opportunities, but in having sufficiently large pockets!

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“Making Partner” or “Things to Do While Waiting for the Dream Job and the Dream Practice!”

Partner Compensation: Creating a Performance-Boosting Scorecard

by August J. Aquila

Until recently, times were good, very good indeed, for most law firms. Profitability increased year by year and the economy kept lawyers in the money. Under those circumstances, there was little need to discuss-let alone worry about-partner compensation. As the saying goes, "Cash is king."

Times have clearly changed. Today the central subject in many firms is what to do about partner compensation. Despite the talk, no one has yet developed the perfect compensation system, and it's unlikely that any one ever will. That, however, does not mean that there aren't better ways to determine compensation than the traditional methods of billable time and origination being used today.

What, Really, Is Compensation?

Law firm compensation systems often fail to differentiate between salary and profit distribution. The majority of firms pay out most of their earnings in monthly draws to the partners. In fact, asked what compensation means, the average law firm partner would reply, "It's my biweekly draw." In other words, partners don't tend to differentiate between base pay, profit allocation, pension contributions and other benefits and perquisites. That's not the way compensation is thought about in the business world.

Executive compensation in the corporate world is normally presented as "total compensation." This consists of base pay, short-term incentives (such as year-end and quarterly bonuses), long-term incentives (such as options, other deferred compensation and retirement benefits) and other benefits and perquisites (such as health, disability and life insurance). Some firms claim that they pay according to what they consider to be "market" compensation. That is a nebulous term that fails to define whether the firm is comparing itself with a market performer or an underperformer. Moreover, unless the firm's financial performance is at or above market, it will have trouble paying "market" year after year.

What Is Fair Partner Compensation?

I've yet to meet a partner who felt that he or she was overpaid. Although that's a healthy attitude, it's not necessarily the reality. There are partners who, undoubtedly, are underpaid for their contributions to the firm and, of course, there are others who are grossly overpaid. The cold hard fact for many partners today is that they could not go into the marketplace and replace their current compensation. Nicholas J. Mastracchio, in his book *Mergers and Acquisitions of CPA Firms* (American Institute of Certified Public Accountants, 1988), says that a fair compensation (salary) for owners (if they sell their firms) is based on the following formula:

Owners' salaries = staff (i.e., associates) salaries x owners' billing rates / staff billing rates

Why couldn't this formula be used to set base salaries for law firm partners? Here's how it could work. In "Best Service Law Firm," the associates have an average salary of \$100,000 and an average billing rate of \$144 per hour. The partners have an average billing rate of \$225 per hour.

Using the preceding equation, the partners in this firm would be paid \$156,250 in salary:

$$\text{Partner salary} = \$100,000 \times \$225 / \$144 = \$156,250$$

Remaining income after base salaries were paid could then be paid out in bonuses or used for capital improvements. The strategic value of having such a compensation system is clear. Partners now have much more of their income at risk and, as such, will not only perform at a higher level, but also will help the firm achieve its strategic objectives. The questions that firms then struggle with are: (1) how should profits be distributed to the partners? and (2) what criteria should be used to determine profit allocation?

Building the "Near-Perfect" Compensation System

It is impossible for anyone else to answer those two questions for your law firm. The ultimate answer has to come from inside the firm, not from an outside consultant. Each firm needs to develop a system that works for it uniquely and helps achieve its strategic focus. Consider these key strategic points in building your compensation system:

- Compensation systems are self-funding unless the firm decides to borrow money from the bank to pay partners. Although this is not a very smart idea, I have seen firms do it.
- The compensation system should shape your firm's culture, rather than your culture shaping the compensation
- Compensation systems should be flexible. As your firm and the external environment change, so should the system.
- Ownership means putting your compensation at risk. Partners should realize that, as owners, their "compensation" is never guaranteed.
- Should be rewarded accordingly.
- Compensation should be tied to results. Efforts are important, but results count more.
- Owners need to be held accountable for their own actions, or the lack thereof.
- Compensation systems should measure multiple areas. A successful firm requires many different talents. It's like a sports team. Can you image a winning baseball team with all shortstops?
- Seniority means nothing when it comes to determining an individual's compensation. If that were the case, the oldest person in the firm would always make the most money.
- The system should be easy to understand and administer.
- The system should be retrospective. You want to pay the majority of the dollars at the end of the year, not throughout the year.
- Because compensation is a management tool, only firm leaders should set compensation- and no one else. Period.

What Should the System Achieve? Nine Goals

Every compensation system should have an endgame in sight. When you tie your system to achieving your firm's business success, you can aim for these nine goals:

1. Motivate partners to peak performance.
2. Modify partner behavior.
3. Retain the best partners and remove non-performers.

4. Attract desirable lateral hires.
5. Reward for results first and efforts second.
6. Drive business results and create value
7. Focus partners on their own results and compensation, not on that of other partners.
8. Promote associates to partner based on economic and not just professional criteria.
9. Create an equitable system over the long haul.

Where Do Current Compensation Systems Fall Short?

Few, if any, of the current compensation systems achieve the nine goals. Consider the common systems in turn.

Equal compensation. Frequently, small firms start with this system, which often works for a short period of time. It avoids partner conflicts around compensation in the beginning, or until one partner decides he or she is worth more than the others. Producers don't like this system because it ignores individual efforts. Since all partners share income equally, they should all be focused on making the pie larger. What happens, however, when a firm brings in a new partner? Does the junior partner also share equally?

Lock-step. Many firms have tried this approach, and many still use some modified version of it. It basically states that the longer you practice at the firm, the more valuable you become. Unfortunately, there is no correlation between value and tenure. This system encourages partners to retire on the job.

Pure formula. The attraction to this system has been its so-called objectivity. It is simple and easy to administer, and it can eliminate disagreements over pay (again, at least in the short term). The major problem is determining the "right" formula. One formula does not work for all partners in a firm. This approach causes partners to work the system to their personal benefit, not to the firm's benefit. It is also difficult to measure a partner's intangible contributions under this method.

Paper and pencil. Partners are given the total amount available for distribution in the coming year and are asked to allocate that amount among the firm's partners. In short, it gives each partner a say in the compensation of all the other partners. Firms that resist formulas may lean toward this approach. It usually works best in smaller firms. In larger groups, it is almost impossible for partners to evaluate the performances of one another.

One person decides. In those firms that function under the "benevolent dictator" system, the partners (for a variety of reasons) abdicate their input to one person in the firm. As long as this person keeps everyone happy, the system works. But no one ever really knows how his or her performance relates to pay.

Compensation committee. Most large firms have a compensation committee that determines partner compensation. A major question is: Who gets on the committee and why?

Shared overhead. This is not so much a compensation system as a pure economic business model. Overhead expenses are allocated to each partner, who essentially keeps what is left after

paying her or his portion of the overhead. It's not conducive to creating a real firm.

What's Involved in a Performance-Based System?

Although a performance-based compensation system can achieve the nine compensation goals, no system, in and of itself, will solve problems that management does not choose to address. Consequently, management must decide what is important for the firm to achieve. Then it must assign specific goals to each partner-goals that, when accomplished, move the firm closer to achieving its strategic focus. Along with the basics of billable hours and collections, firms are using multiple alternative criteria, such as the following:

- Client satisfaction
- Employee (staff and associate) satisfaction
- Reduction in A/R and WIP days outstanding
- Realization
- Hours managed
- Development of a new practice area or group
- Process improvement
- Marketing
- Pro bono work
- Client attrition
- Collaboration efforts
- New matter development
- Firm management

Add whatever criteria you want to the list to improve partner performance in your firm. Then, the next step is to create the individual partner's scorecard. Under this method, partners do not compete with each other but with themselves. A win for one is not a loss for another. Regardless of the individual partner's specific criteria, the total possible points that any partner can achieve are always the same.

How does the system work? Here's an example. Partner A has five criteria to be measured against; the total of the five will be weighted 100 percent. Partner B has three criteria; their total will be weighted 100 percent. The total possible points for each partner will be the same, let's say, 500. Each criterion is rated from 1 to 5. At the beginning of the year, each partner knows what is considered a 1, 2, 3, 4 or 5 rating. A rating of 3 means the partner did what was expected, while a 1 indicates total underperformance and a 5 far exceeds expectations. To see how it works, review the partners' ratings in [Figure 1](#).

Partners A and B earned a total of 710 points (280 + 430). Taken in percentages, that means Partner A earned 39 percent and Partner B earned 61 percent. If the available bonus pool for these two partners were \$125,000, Partner A would receive \$48,750 and Partner B would receive \$76,250. This would be in addition to their base compensation.

Now, because both partners' goals are set at the beginning of the year, each knows what they need to accomplish to earn their bonuses. They remain focused on the areas that have been

mutually identified.

This system takes time to develop and implement, but if you truly want to get your partners aligned with the strategic vision of the firm, this may be the best way to do it.

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Figure 1: Partner Scorecard

Partner A's Rating

<i>Criteria</i>	<i>Wgt.</i>	<i>Rate</i>	<i>Total Points</i>
1. Billable Hours	25%	2	50
2. Research	30%	3	90
3. Client Satisfaction	10%	1	10
4. Associate Training	25%	4	100
5. Pro Bono	10%	3	30
	100%		280

Partner B's Rating

<i>Criteria</i>	<i>Wgt.</i>	<i>Rate</i>	<i>Total Points</i>
1. Client Satisfaction	20%	3	60
2. Business Development	30%	4	120
3. Firm Management	50%	5	250
	100%		430