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what IS AN associate WORTH?

HOW TO IDENTIFY VALUE AND GROW THE EARNING CAPABILITIES OF YOUR ATTORNEYS

BY ED POLL

Associates who understand how to grow a career can better assess the value they provide, and better reflect it in their performance. These are the associates that are profitable, and that every firm wants to keep.

The future of any associate in a law firm depends on whether the individual is committed to success, and on whether the firm provides the means to succeed. The responsibility is a shared one, but every associate should realize that keeping one's own job in today's business environment is a personal responsibility, not a firm one. The issues here relate directly to leverage – hiring and using associates as a cost-effective way to do billable work in a team setting while boosting partner profitability. Leverage is only effective when associates are effective and it is profitable for the firm to keep using them. While associates may not earn more than they cost the firm at the start of their careers, at some point that situation must change.

PROFITABILITY ECONOMICS

The economics of hiring of new law school graduates can no longer be taken for granted, given the time and expense of the process required to get them up to practice speed. Given the cost of recruiting and partner interview time before hiring, the reduced productivity of new associates as they get up to speed with the firm and its clients, and the cost of ongoing associate training, a new associate can cost well over $200,000 in the first two years of practice. Large-firm managing partners typically figure that it takes, on average, from three to five years to break even on this investment in a new lawyer.

Yet firms increasingly no longer have the option to take that kind of time. Rob Mattern, President of Mattern & Associates, LLC, a consulting firm that specializes in law firm economics, said that his company's most recent report, *The Economics of Running a Law Business*, shows that clients increasingly are dictating the terms of what they will pay for, including on-the-job associate education. As a result, Mattern notes, "Law firms are getting more aggressive in unbundling overhead costs, especially for support services, and needing to document what those costs are in order to have any chance of charging for them and recovering the cost incurred."

What should firms expect from their young lawyers to justify keeping them? The fundamental question in this regard is obvious: Is there enough work? In analyzing an associate's worth to the firm there is no formulaic expression that specifically depends on origination, billing or collection. To say that an attorney is worth the amount of profit due to billing or the amount of profit due to business brought in does not take into account the subjective factors that should be considered. For example, does the lawyer's combination of skill and attitude demonstrate potential for career growth beyond the immediate level of business? And skills mean both knowledge of the law and the ability to understand the business of law.

PROFITABILITY ANALYSIS

This latter point leads to analysis of the associate's profitability, which is something different from worth to the firm. All associates can determine their own personal balance sheet if they plug in the right numbers. This is what they need to know:

- Their total billable hours by month.
- How many hours the firm billed out for them.
- The percentage of write-offs the firm will take on their work. In larger firms, there may be a difference in the write-down percentage based on associate class (first year, second year, etc.).
- Their direct compensation expense – salary, bonus, pension and allowances.
- The indirect expenses they represent – overhead for physical space, insurance, education and more; if the firm lacks an accountant to provide this information, a general rule of thumb to use is one-third of gross revenue or billings.

With this information, associates can compute the net profit that they provide to the firm: **Billings - [Associate's Total Compensation + Direct and Indirect Expenses] = Net Profit**. The net is the profit available resulting from an associate's effort. No later than five years after hiring, associates should become net profit contributors. The associate's responsibility is to do the work assigned in the most effective and efficient way possible and in the shortest amount of time. Fulfilling this responsibility in a way that produces net profits for the firm is essential for an associate to grow a career at a given firm.

PROFITABILITY SHORTFALL

But what type of career will that be, in terms of the financial benefit that both the associate and the firm get from it? Not every player on an athletic team is expected to be a star; should every lawyer in a law firm expected to be a rainmaker? The question arises because not every associate who does good work can develop new work. And not every associate is capable of fitting the standard cost equation. Alexis Martin Neely is one example. Now the head of the innovative Family Wealth Planning Institute, Neely graduated first in her class from a major law school, clerked for a U.S. Circuit Court judge

Rob Mattern, President, Mattern & Associates

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and joined the estate planning practice of a prestigious white shoe firm. Yet within a few short years, she realized that the firm's profitability model could not allow her to continue there. "I went to law school with the idea that I was going to help my clients and be their trusted adviser. Yet in a big law firm, an estate planning practice is not a profit center, and my cost of being a lawyer in terms of my hourly rate simply did not allow me to provide the kind of service I hoped to." Neely felt she had no choice but to make the difficult decision to leave.

The problem here is not the lawyer so much as it is the law firm model itself, which sees such lawyers as "clogging up the middle." They are good lawyers but not great profit generators. They are brought into the firm to provide leverage, doing work at much lower cost than the partners who billed out that work at the higher cost partner rate. But if the profitability dynamic does not support continuing their careers, they become disposable, and the firm loses its investment in them. Associates need to be more sensitive to the financial needs and business operation of the firm, yet they need help in doing so. Administrators who are familiar with the firm's financial information can make their firms stronger (and their own jobs more valuable) by helping associates truly grasp business realities. A good example is providing the information for associates to determine their own P&L to see and enhance their worth to the firm. Giving associates the tools to "do the math" is a role administrators are well positioned to perform.

PROFITABILITY STRATEGY

Using this knowledge to create action requires planning. Every law firm is a business, and a business that does not have a clear idea of overall goals and specific strategies for its most important asset – the young lawyers who are the future of the firm – likely does not have much of a future. An excellent acronym, SMART, describes what's required for an effective plan to grow the earnings development capabilities of associates:

- **S**pecific: The issue is not more billable hours by associates; it's what kind of billable work and what it contributes to the firm.
- **M**easurable: If the firm cannot measure the growth of associates by specific standards of billable time, training and client development effort, it will never know the associates' true profit generation potential.
- **A**chievable: Set near-term targets that are realistic and continually raise the bar.
- **R**easonable: Don't set associates up for failure with unreasonable income expectations or business development goals.
- **T**imely: Give associates an adequate timeframe that still imparts a sense of urgency.

A smart growth plan doesn't have to be complicated. It can be as fundamental as identifying two or three desired outcomes for the associate within a given time period, defining the behaviors necessary to achieve those outcomes, then giving the associate the means to achieve results.

For any associate, the future depends on whether the individual himself or herself is committed to success, and whether their firm provides the means to succeed. Defining "success" in relative terms such as "more revenue" or "better marketing" sets a subjective standard that is difficult to discuss, let alone achieve.

PROFITABILITY STEPS

The earlier associates begin taking specific steps in their smart growth plans, the sooner they can enhance their profit contributions. Firms should encourage associates to undertake fundamental business development activities apart from the work that partners assign to them. This can be as simple as communicating regularly with law school friends to develop referral sources. Or it can be a more organized effort, like getting associates out into the public eye by writing articles and attending lunch or bar association functions, particularly when these things are done with established older partners. Associates should also be encouraged to do blogging and other social media marketing, and to contribute to client news updates. But although social networking sites are becoming part of lawyers' marketing efforts, personal contact is the differentiating factor that gets a lawyer noticed, and is the cornerstone of marketing. To grow a career, irrespective of the size of the law firm, each associate must use such tools as these and establish the expertise necessary to get before prospects and convince those prospects to become clients. That is the path to profitable career growth, for both associate and firm.

Once associates look at their careers as a series of structured business and professional development targets, the dynamic changes. It's no longer a matter of guessing what the partners want them to do or wondering if the firm will retain them – it becomes a process of understanding what they ought to do and setting out to achieve it. Given that associates typically come to the firm with little or no exposure to this sort of thinking, the only way they will acquire it is building up confidence by doing. Targeting prospects who can provide desirable work that fits the firm's capabilities shows that an associate thinks like a partner. Associates who understand how to grow a career can better assess the value they provide, and better reflect it in their performance. These are the associates that are profitable, and that every firm wants to keep. ■

About the author

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identifying associates WHO HAVE PROFIT POTENTIAL

Erik M. Pelton is the founder of Erik M. Pelton & Associates PLLC. In his 12 years of practice starting and managing a small firm, he has hired and supervised numerous associate attorneys, and offers these benchmarks for how to identify associates who have the most profit potential:

- Personality and character are at least as important as experience and skills. Skills can be taught, but bad character or clashing personalities cannot be overcome.
- Look for associates who can develop their own "brand." Encourage them to participate in associations, chambers of commerce or other activities that are good for the firm and their professional development.
- Make certain associates don't need to be micro-managed. Delegate and provide support to them as needed, but be sure they have the capability to grow and to figure things out on their own.
- Avoid hiring associates with an entitlement mentality. When financial raises or bonuses are not available, they should understand why and accept it as business reality.
- Ensure that associates embrace two-way feedback. They should be receptive to constructive criticism and positive reinforcement, and able to provide self-assessment of their own progress.