



ACHIEVING THE BALANCE BETWEEN BUSINESS AND PROFESSION

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“This isn’t what I went to law school for!”

“They didn’t teach this in law school!”

When I first joined the legal industry I heard the grumblings above on a daily basis. My employment background to that point included management in a variety of multi-corporate environments. I handled financial management, technology, human resources, and day-to-day operations. The management structure was very clear; I reported to the president directly. Other corporate officers were not involved with what I did. Aside from corporate officers, everyone else was subject to my authority, which was clearly defined. There was only one person who could override, approve or disapprove my work: the president.

I was part of the birth of a new profession: law office administrator. In fairness, it took a while for the actual title to come into play, and it was a bumpy ride to get there. In looking back, I think of that phase of law firm history as the equivalent of labor pains. It’s fair to say that the reality of my role in a law firm setting came as a surprise to both myself and my firm.

The tensions between business and profession which existed then still exist today. Large firms — back then a large firm was 50 – 100 lawyers — were already recognizing that they had to function in a more business-like fashion in order to thrive. Today this awareness exists in firms of any appreciable size, even in many solo firms. But that doesn’t necessarily mean that it happens in fact. Deciding to operate on a higher level on the business side is an intellectual decision. One which is often undone because the emotional self-fortitude to actually *make* the change is weak. Let’s explore the factors that continue to make this an uneasy balance.

Horizontal v vertical hierarchy.

Corporate environments have a clear vertical hierarchy. There are a multitude of levels through which one can advance. It is clear who manages at each

level. And each manager is clear about who manages them. People who are not management rarely try to step into this area unless it is about something that impacts them directly.

By contrast, law firms are uniquely horizontal hierarchies. Essentially there are three levels: (except for larger firms) owner, associate or other professionals, and non-lawyers. What distinguishes a law firm further is that at many firms, every owner is allowed to — or feels entitled to— take whatever role in management they want. Often this becomes ingrained in the firm’s culture.

On the positive side, owners tend to feel they are in an inclusive environment. They tend to more often feel properly recognized and valued, than at firms which have adopted a corporate model. A number of undesirable results go along with the positives.

1. **Us versus them.** It is widely recognized that a team approach works best in managing the client’s matters. These teams include people at each level of the firm. A typical team may include an owner, one or two associates, and staff members including a paralegal and legal assistant. When it comes to handling the client, everyone’s input is usually valued. That’s the ideal most firms strive to achieve.

However, the reality at many firms is that when it comes to day-to-day operations, or overall management, procedure and strategy, (e.g. on the business side), firms frequently have only two levels: professionals and non-professionals.

This mentality significantly impedes communications. Whereas corporate structures work to create channels of communications which permit valuable information to flow from the bottom up, law firm structures impede it. As a result, law firms create barriers to innovations in client service, document production, knowledge management, and more.

The sharp division also creates resentments. Non-professionals often feel devalued. They often develop an “I’m here for the paycheck” mentality as a result. Lawyers who detect that attitude fault the staff, which further widens the separation, without any clue that they are strong contributors to the mindset.



2. Probably most challenging is having owners acknowledge both intellectually and emotionally that a non-attorney professional manager must necessarily be included as “Us” to be successful. Lawyers have the toughest time wrapping their heads around this. I find that frequently owners have an easier time getting used to this — coming around — than non-owner lawyers. Often they present more lingering management challenges. Especially when owners don’t step up early and often to set it straight.
3. **Too many chefs in the kitchen.** You know exactly what this means, don’t you? How many of you have been at firms with frequent decision paralysis? Things get talked about . . .over . . . and over . . . and over; but nothing comes of it, because everyone is not of the same opinion. It results in little advancement, and lots of resentment.

Over time owners get disillusioned. Sometimes they start advocating change just for the sake of change. Recently one young partner summed up the motivation very clearly, “I have no intention of doing the same thing that’s been done the past 20 years for the next 20 years. At this point I just want to see change, and I’m going to push for any change I can get.” Other times they may just alienate themselves from the firm. They hunker down over their workload and cease trying to make or participate in any change initiatives.

At the other extreme is a firm which is ruled by a hopefully-benevolent dictator. At these firms there is really only one vote which counts. So decisions will be made only when he/she wants them to be. You go along, or get out. Or you can choose to suffer in silence and simmer in resentment, as many do, for 10, 20, or even 30 years or more. I’ve met too many during consulting assignments. What a shame. [Need to give this serious thought? Send a request to lawpractice@pabar.org for a copy of “Life is Too Short” (December 4, 2006 issue of The Pennsylvania Bar News)]

Neither extreme is desirable. A corporate model avoids each extreme.

4. **Where’d the rug go?** Anyone who has managed the business side of a law practice for any length of time — excluding solos — understands what it feels like to have the rug pulled out from under. Managers



(including managing partners) must have thick skins to withstand the criticism which comes from so many who would do it differently.

Non-lawyer managers are often pulled in many directions at once, by attorneys who believe they are all entitled to the same amount and priority use of limited management resources. Consequently many important matters are not quickly addressed.

And of course, when you're dealing with such high achieving individuals, everyone has a great idea, but rarely the same idea as anyone else. Every decision or action will be sharply examined and freely criticized.

Another impediment to good management is shouldering someone with responsibility without the requisite authority to do the job as it should be done. At every law firm I've managed in my career, without exception, I have had to wrestle for every ounce of authority I was given. Some firms struggled more fiercely than others to resist granting real authority. The simple truth is that they were not really ready to "give up" the management authority emotionally. They had assigned the responsibility intellectually, without challenging their fortitude to see it through.

One midsize firm I worked with lost its long-term managing partner on the day that last barb hit his back. It was one too many. Sadly, it was launched by way of a critical email one partner sent to everyone in response to something which should not have been important enough to criticize. He resigned immediately as managing partner, and could not be convinced to change his mind. A year later I read his announcement about joining a different firm as partner.

I want to be sure my personal opinion is painfully clear. Just because you have the *right* to disagree, it doesn't mean you *should* be disagreeable. Save disagreements for the really important issues.

Some attorneys believe they appear clever to others when they play the role of the Devil's Advocate. Some also like being the curmudgeon; one who would object to a sunny day in a charming, idiosyncratic way. Let me inform you straightaway if you're smiling about now, slyly and secretly admitting I've got your number . . . you are deluded! You are not clever or



charming. You are exhausting. You are an impediment to potential progress at your firm. Do everyone a favor and cut it out!

How does a firm become more business-like? The starting point is to determine what areas of management need to be handled more professionally. Define what that means and agree to it. Then stop and individually and collectively assess what you are ready to really delegate authority for, on an emotional level.

Small and smaller midsize firms frequently err by expecting too much in terms of management, especially when compared to their emotional commitment to let go. My advice is to scale back if the firm is not emotionally ready to transition authority. You don't have to employ an all-or-nothing strategy. That is too often doomed to fail. Just start with what you're sure about. Maybe you start by hiring a part-time person just to handle one or two areas.

Over time, if you hired right, you should start building a level of trust. That encourages you to grant further authority; and let go a little more, and micro-manage less. Then address another one or two key areas of management. And so on.

For a solo or small firm, there may never be a need for more than one person. And perhaps they don't have to have a degree or even a lot of experience. A smart person with limited experience, but possessing a willingness to learn, can certainly grow into a position over time, with the right guidance and support. If you can't or won't guide and support, you must expect to bring someone in who can instantly do it all. But expect to pay accordingly.

The ability to operate in a more business-like fashion will also depend on the firm's ability to create some business management-side organizational structure among owners. Professional or even efficient management cannot exist in a vacuous environment which has no methodology for reaching decisions, no formal channels of communications, nor division of responsibility for oversight and implementation.

Let me add to this thought that you need to find a way to include associates in the process. The first two or three years should be devoted to developing professional skills, organizational skills, and a client service mentality. By year four it's time to start stimulating the entrepreneurial instincts by introducing management concepts, and providing opportunities to participate in increasingly



meaningful ways. At the least, development of an individual marketing plan should be accomplished at this point.

I am often asked how one knows when it is time to hire a professional manager? What credentials should be required? How many hours are needed? There is a sweet spot where data and intuition meet to reveal answers. The necessary data includes

- Knowing how much attorney time is spent on firm management, and in what area of management, and doing what type of activity. The only way to figure that out is by diligently recording the non-billable time spent.
- Knowing how much of that time is spent on activity which could be delegated to a professional manager. The way to figure this out is by reviewing each activity to determine whether it might be delegated or not. A yes or no answer is required. Add up the hours spent on those activities which received a yes.
- Determining over time what additional management initiatives or business objectives the firm would like to achieve. Keep a list, and review it and discuss it regularly.

Try to guesstimate how many hours may be required on an on-going basis to address the items on the list. Then multiply by at least a factor of two. Why? Because most attorneys don't understand how complex most business areas are if managed properly. And project management . . . don't you just push a button for that? If I got 25¢ every time I heard that I'd be retired by now. And lastly, there are always so many things which *should* be done, but no one knows, so it doesn't even make the list at all.

If your counterparts at a firm of your size or slightly larger seem to be managing particularly well, ask how much management time they devote in that area.

With data and estimates in hand, it becomes a math equation. If the attorney(s) performing the management task(s) can devote recaptured time to



billable work, or recapture a portion of the time, it becomes quickly apparent whether it pays to hire someone to professionally manage. Most of the time the answer is so compelling after the analysis, that firms express regret for waiting so long. The realization that one could have been better managed long before, with a better bottom line, greater quality of life at the office, and a better work/life balance, can be shocking.

Once you know how to calculate when hiring is justified, and whether it's full-time or part-time, you can determine the skills required. Activities and responsibilities you've identified will define the skill-set required.

I always advise a firm to hire the best talent it can afford. However, don't assume that the inverse applies. You can't decide what you can afford and then settle on the best person you can find at that compensation level. Figure out the level and combination of skills needed first. Determine the compensation range that applies to that minimum level and combination. Go up from there based on what you can afford.

Let's make an analogy to buying a time & billing system. You know that the more requirements a firm has for bells and whistles, the costlier the software. I can recommend a package which records simple time entries and cost entries, and produces an hourly bill in a few formats. That's an inexpensive program, requiring perhaps a one-time investment of \$50 - \$100 per license.

A firm which requires the ability to record task codes, to take and apply retainers, to bill contingent and flat fee in addition to hourly, to bill electronically, and to produce a variety of management reports, will be much more expensive. It may require a one-time investment of \$500 - \$750 per license plus a monthly or annual support fee.

An international firm which must bill in multiple currencies, deal with multiple languages, conversion rates, and more, in addition to the previously mentioned requirements, may cost as much as \$1,500 per license, with multiple different licenses per user for various "modules", and a hefty monthly support fee on top.

So do you need someone who just gets the bills done, orders supplies, and tracks vacation, sick etc? Or do you need someone with a solid skill-set in numerous management areas such as HR, financial, and marketing? Do you need someone



who does all of the above but at the “C-Level” (corporate management) like a CEO, CIO, CMO, COO. The more skill-set bells and whistles, and accompanying credentials, the more you should expect to pay in compensation. Adjust your expectations accordingly.

I have an opinion to offer regarding credentials. If the firm is convinced it needs an MBA or JD to get the job done right, you get no argument. If you want to require your CFO to have a BS or BA in accounting, or a CPA, you get no argument. But if you require a 4-year degree just because you believe you will generally get a better candidate, I will argue the point. The fact is it's ok to prefer that degree, or ask for the degree. But don't dismiss out of hand people who apply with the demonstrated skill set. The degree is just a piece of paper, after all. There are plenty of people with degrees who are poor managers. There are probably just as many capable managers who don't have degrees. Pay attention to those that have a demonstrated track record.

Let me conclude by making one thing very clear. In general, I have found that a large number of firms are undermanaged and/or poorly managed. Not all large firms are exceptions to that statement. Not all financially successful firms are exceptions to that statement. Lawyers are universally smart people, but that doesn't mean they know how to properly manage the business aspects of a practice.

For a proper level of business management to occur, most firms of 5 or more attorneys should have a professional manager, who most usually is a non-lawyer. The greater the management responsibility, the more authority the manager should be provided.

When expectations require higher-level skills for strategic planning, sophisticated analysis, introducing new concepts evolving in the legal industry, an even higher level of manager is required. You should examine whether you need a CLM (certified legal manager), MBA, or other credentialed candidate. If so, then remember that this person should be accorded the regard bestowed upon owners, rather than staff. They will be more successful in their endeavors, which inures to the firm's benefit.

Lastly, the firm must come to the realization that management extremes as described previously aren't usually employed at successful firms which have satisfied lawyers who enjoy coming to work most days, and have a reasonable balance between home and work. Once you come to that realization, you can begin working toward the more successful corporate model of management.

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