



ACCOUNTABILITY MUST BE CREATED

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The other day I responded to a member with a hotline question that comes up all too frequently. It concerned an attorney's — in this particular case a partner's — unwillingness to follow the processes and procedures of the firm. It could have been anything, but I will share that in this particular instance it was a lack of accurate timekeeping, failure to submit timesheets anywhere near deadline, and failure to bill clients in a timely fashion.

Are any readers surprised? Probably not. This is the most frequently cited lack of compliance. And it hasn't changed much in the decades I've served the legal industry. My response has been consistent for the better part of four decades: what are the consequences of non-compliance?

The issue of law firm compliance and accountability is covered at regular intervals in my articles. I talk about it during many different seminars. (PBA members can email a request for a copy of "Are You in Control of Your Actions?" 6/18/2018 PA Bar News); "You Can't Make Me – Why Law Firm Leadership Often Fails" 11/1/2011 PA Bar News; and/or "Managing Partner Burnout" 11/6/2006 PA Bar News for further insights.) Yet some days, I feel that I have made no headway in convincing attorneys that accountability is a necessary component of compliance.

You might think by now, with all the attention, and with the help of readily available and easy-to-use software tools, that we'd have conquered these most basic issues. But that isn't the case. And that's because most law firms have not purposefully created the necessary accountability.

You're all smart individuals. You all agree that you want to have a well-run successful firm. So you would expect that everyone will willingly comply with simple rules and procedures in place, not because you have to, but because you want to. Unfortunately, lawyers rarely take into account the personality characteristics (lawyer DNA, as I call it) which cause some of you to act in ways which are contrary to the compliance necessary to keep the firm functioning as smoothly and successfully as it should.

Autonomy is defined as the degree to which one may make significant decisions or take significant actions without the consent of others. But it goes deeper than that. Studies show that high levels of autonomy contribute directly to peak periods of happiness and high stress resistance. Autonomy provides a feeling of control over one's own life, a clear sense of identity and a sense that one's daily activities are leading to long and short-term goals.

Autonomous behavior produces the type of drug-induced feeling of well-being which is addictive. Our profession is only now starting to come to terms with the pervasiveness of substance and alcohol abuse. Not surprisingly, lawyers exhibit a tendency and need for autonomy at a level which greatly surpasses owners and managers in other industries.

Also not surprising is, that for many partners, their unacknowledged need for autonomy often drives them to make decisions and take actions that are actually harmful to their firms and often to their own practices. If you're driven by your need for autonomy, chances are that as a child your mother often criticized your behavior as "cutting off your nose to spite your face," and she was right. Within a law firm organization, a high degree of autonomy is achieved at the expense of accountability to one's partners.

Another strong personality characteristic unique to lawyers that also contributes to an inability to be led and managed includes problems with trust. Lawyers are selected, trained, and hired to be pessimistic and to spot flaws. It becomes challenging to separate behaviors which serve clients well from those exhibited in everyday law firm and personal life. The skepticism and low trust constantly impact dealings with one's own partners. Agreement and compromise becomes impossible when one is always focused on "the catch."

Lawyers are highly conflict-adverse. Perhaps that's because their practice is for the most part adversarial. Too much conflict every day: enough is enough. So we find that, on a personal level, lawyers will go to great lengths to avoid conflict. They will ignore or accede unacceptable performance or behavior on the part of their partners rather than confront or hold them accountable.

But the consequences of lack of accountability are undeniable. It is damaging to firm initiatives, client relations and service, and the ability to work collaboratively and be competitive in today's marketplace. It causes turnover and disengagement. It absolutely reduces profitability. It creates stress, sometimes so pervasive you can just about see it dripping down the walls at some firms.



If I have not made this last point clear, let me restate it in language you cannot deny. Most lawyers lack the intestinal fortitude to create accountability. It requires straight-forward unpleasant conversations. Holding such conversations often requires proper analysis and preparation of metrics to make criticism objective rather than subjective. Otherwise conversations can quickly degrade from unpleasant to outright hostile.

Accountability means creating consequences. By that I mean meaningful consequences. Think back on previous efforts you may have witnessed in the past to create accountability. In the hotline situation that prompted this article, I remember one of the first attempts to create accountability was to hold the paycheck until timesheets were handed in. The biggest offenders were often unaffected because they didn't need the check. Usually the result was their predictable reaction: picture a donkey sitting on its butt, pulling back on the reins from the hapless owner who can't get the stubborn beast to move one step.

Effective consequences can be created by impacting compensation, elevation/promotion, equity, participation in management or continued employment. And there's the catch. If you're not ready to impose consequences, you can and probably will talk until you're blue in the face, but compliance will continue to elude you. So before you even have a talk, be sure you know how far you're willing to go to create accountability. And make sure any agreement in place for owners permits such action.

Remember, no one is irreplaceable. Sometimes a firm becomes *more* profitable and successful when it ejects a problematic but successful rainmaker. A brilliant associate isn't worth much if he/she keeps failing to respond to client communications in a timely fashion. If you're at the end of your rope and are a PBA member, let's schedule a talk.

A version of this article originally appeared in the September 23, 2019 issue of the Pennsylvania Bar News.

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