



IS IT TIME TO HIRE?

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I am frequently contacted on the Pennsylvania Bar Association “hot line” by solo and small firm practitioners who want to know when it is the right time to hire an associate, paralegal, or staff member. It is an issue with which many of you have already wrestled, and others of you will confront at some point. I hate to sound too much like an attorney, but usually the answer is “it depends.”

There are many factors which will play into making the correct decision regarding expansion. As I have said and written many times before, in the absence of good data it is hard to make wise decisions. Therefore, we must begin our analysis by looking at certain numbers.

Let’s think first about the prospect of hiring an associate or paralegal. There are numerous factors at play here. First, you need to understand that there are two distinct philosophies at work. The first viewpoint is that you should have sufficient work to fill the new person’s plate before they are hired.

Having work first and hiring later provides an assurance that the new employee will cover their overhead and contribute to the bottom line in very short order. This is usually the thinking for those who are operating close to the break-even mark, for those with an income which leaves a lot to be desired, and certainly for those who are highly risk-averse and take a conservative path regarding business management.

Many of you are already thinking about the down sides to this philosophy. It means that you must work much harder— effectively handling an increasing workload until it is roughly equal to that of an additional person— for an extended period in addition to the already heavy workload you’re carrying. Then on top of that, when the time is right you have to add additional time to actually find a new person, and get him or her up and running after you hire.

I wish I had a dime for every time an attorney has complained about the quality of the person they’ve hired, or about the turnover and chaos caused by hiring the “wrong” person. But when I ask about the hiring and mentoring process, I am told “I’m too busy to interview dozens of candidates”, or “I’m too busy to mentor.” The problem is that when you wait until you’re doing the work of two people, there’s little time for you to explore avenues which will provide relief. It’s a real “Catch-22.”

Another down side to this methodology of obtaining the work first and hiring later is that your malpractice risk increases quickly when you are overwhelmed with work. Unless you have excellent procedural systems in place, it is just too easy to make mistakes. Even the occurrence of lessened client communications, in the absence of any real “mistakes”, can and often does lead to a malpractice claim. And even if it doesn’t lead to an actual claim, you may find it hard to keep all your clients happy, and therefore retain them, as you struggle to handle the workload of two people.

The other philosophy at play is to locate and hire good talent, and then seek out the work to fill their plate. The advantages are that you can actually do a good job of hiring and mentoring when you are not already totally overwhelmed with work. And you will have the time to “market” the new capabilities because you can start delegating some of your work to free up available time.

When you hire first, you have the “horsepower” to seek out business you would not necessarily be able to approach on your own, from a service perspective. Oftentimes potential clients hold back, feeling that an attorney does not have sufficient resources to service their needs. So making the move to enhance your service capabilities can result in new business you would not otherwise get.

This method, however, is not for the risk-averse or highly conservative business managers. People who are comfortable in this mode must be motivated by pressure, willing to take risks, and be reasonably confident and optimistic about their business-generation skills. Clearly, the down side to this methodology of growth includes an increase in pressure and stress regarding business generation.

In addition, a firm which seeks to embrace this philosophy must be adequately capitalized. Don’t underestimate the capital needed, which many firms do. There is more of an investment to hiring than just the salary and benefit cost. There is lost time on your part reviewing resumes, interviewing, and later mentoring. Advertising, business cards, new letterhead, announcements, increased malpractice insurance premium, and increased travel, CLE and entertainment costs are just some of the additional expenses you may incur.

There is a false belief that an experienced attorney will start to generate revenues within sixty to ninety days. Well, while it’s true that time will be recorded and billed, and revenues will start to come into the door within about ninety days, it is *not* true that the new hire will present a total return on investment within that time. So while he or she may start to produce the required cash to pay on-going current expenses in about ninety days, that does not yet pay back the initial cash outlay required. My analysis at firm after firm has shown that even with a lateral partner who comes aboard with a significant book of business, it takes approximately six months to recover the capital outlay of that new hire. It will take longer for someone who has their plate filled gradually by you, or who is relatively inexperienced and therefore requires more mentoring time on your part, and probably greater write-downs of recorded time. So you must analyze your cash position to determine whether you can sustain the capital investment for the period of time necessary to recover it.



Let's get back to the point made at the beginning of the article, where I mentioned that there is certain data you need to make wise decisions. And this point particularly pertains to the decision of when it is time to hire non-attorney staff. You need to know how much time you're spending, and on what. Sometimes attorneys feel it is time to hire an associate because they are so overwhelmed with work. But a careful analysis may show that their hours are being spent on administrative details which could be better delegated to a bookkeeper or legal assistant. Or that their hours are in fact being spent on legal matters, but *not* of the type which could be delegated. We all know that clients will require a continuing personal touch on some things, and not on others. But if you don't know where your time is being spent, you can't perform this analysis.

Another area where it is important to put pen to paper is in determining the potential income from new business generation. Perhaps you have one or more potential clients who you firmly believe you can bring aboard if you have the additional legal talent to service their needs. Chart out what revenues you believe you'll be bringing aboard, and most importantly, at what rate, e.g. how much per month, starting when. Look at other potential growth factors, based on past history, and the current marketplace. Map out your best guess in terms of possible additional revenues. Be conservative, so you have wiggle room if things don't work out as you think. Now map out the investment cost for the new hire. Don't forget to look at all of your operating expenses — what will be the impact, if any, on rent, staffing, telephone, janitorial service, furniture, equipment needs and so forth. Then add in the cost of salary and benefits. Determine whether you can adequately capitalize the differential between outgo and income.

Invariably, lawyers ask me which methodology is "right." Well, there really is no right answer. But if you are not risk-averse, and have sufficient capital, I would certainly recommend the model of hiring *before* you are totally overwhelmed and trying to do the work of two people. Growing your practice takes time and effort. It's hard to find that time when you are spending every available moment servicing your current client base.

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