

LJNLAW JOURNAL
NEWSLETTERS

Marketing

The Law Firm[®]An *incisivemedia* publication

Volume 22, Number 8 • December 2008

CLIENT SPEAK

A Three-Way Street

Rewarding Lawyers for Client-Based Marketing and Business Development

By Allan Colman

Let's start with two propositions. Proposition One has to do with law firms. Proposition Two concerns in-house counsel.

Proposition One begins with the fairly evident reality that many law firms still haven't figured out how to compensate their lawyers. Some rely on overly formulaic approaches that often reward less productive partners; for example, when the formulas include business development/marketing credits heavily weighted toward "origination." Somebody's brother-in-law hires the firm, so Mr. Somebody gets a fatter payback than justified by his realization rate and the overall quality of his work.

Incentives shifted from the originating to the billing partner can equally demoralize lawyers who have made key contributions to new business development. Many law firms "overweight" both, simply because they're the most obvious things to measure.

Proposition One states that, to better encourage the kind of behavior that supports firm-wide growth, marketing and business development do need to be part of the compensation formula — but the incentives must be broad and flexible enough to reward a variety of indispensable behaviors.

Allan Colman is CEO of the Closers Group and a member of this newsletter's Board of Editors. Mr. Colman can be reached at 310-225-3904, acolman@closersgroup.com and www.closersgroup.com.

Such incentives are likewise in order for associates when they bring in business or otherwise do yeoman's service helping others secure new work.

Proposition Two is simpler, but no less important. It states that clients need reasons to hire a law firm and that there can also be incentives and rewards for them (as individuals) to do so.

So maybe we're on the edge of a Proposition Three: that lawyers who find ways to provide clients with incentives to hire the firm ought to be rewarded accordingly. The principle seems sound enough but, as usual, the devil is in the proverbial details. More on this point later.

WASTED RESOURCES

The disheartening reality is that so many lawyers actually do want to play aggressive marketing and business development roles. I can certainly attest to their frustrations because they frequently confide them to me. Indeed, there's a recurring litany:

Why should I join the business development training program when I will not see any rewards until I am an equity partner?

I have lots of contacts to pursue but the billing partners get all the financial credit.

During my annual performance review, not a single comment was made about the 100 hours I put in going to meetings, making contacts and follow-ups, and writing articles.

Our firm's lead-entry system includes my name. But somehow it disappears

when the new engagement announcements are made.

If I make a research request of the marketing or library departments, it winds up on the bottom of the list each time someone more senior asks for help.

I spent seven straight days writing and rewriting the proposal. Not only was I not invited to the presentation, but to this day I still don't know what the results were.

My secretary is willing to help me build and use a contact list. But with four of us sharing her time, it will never get finished.

Because the billing partner was too lazy to complete the receivables collections during the year, I lost two-thirds of my bonus. He lost nothing.

The bad news is that these problems typify so many law firm cultures. Sometimes only a focused effort by leadership — the managing partner who perceives inequities and intervenes to stop them — can redress the grievances. In those cases, it's all about art, not science.

The good news, though, is that, in other cases, some science is possible and festering problems can be solved by adopting better systems, especially reward and incentive systems.

BUT WHAT IS IT THAT MAKES THEM 'BETTER'?

Personal Best

There is a kind of "humanistic" sensibility, according to which compensation issues can only be fairly addressed by a committee of wise arbiters who

render subjective judgment on how Lawyer X or Lawyer Y contributed to the campaign that landed Client A or Client B. Freed from the straightjacket of arithmetical measurements, these sages translate their deeply felt impressions into judicious decisions on incentives and rewards.

Even if we assume that the evaluators are indeed fair in their intuitions, what yardsticks are they using? With the best intentions, without bias, and impervious to the blandishments of the originating and billing partners, they still cannot take full measure of anyone's contributions simply because the criteria for success were never written down. I don't care if they're all Albert Schweitzers. In the last analysis, they're just guessing.

Now imagine a system where every lawyer sets personal goals that are signed off on by those who make the final decisions on bonuses and other rewards. Such goals might include:

- I will publish five articles in the next year, two more than I did last year.
- I will join three important new professional groups, perhaps an ABA committee or the trade association of a client industry.
- I will be the point person on three RFPs. Last year I participated in RFPs but did not actually lead the effort on any.
- I will double the size of my CRM database.

And so forth ... Success or failure in each instance can be weighed against origination successes ("I introduced the firm to my brother-in-law's company ..."), or the lack thereof, as well as relevant billing totals. Even within this system, there is room for additional flexibility if, instead of writing five articles, the lawyer wrote only two, but managed to triple rather than double the CRM.

The system has the additional value of allowing for annual goal adjustments. For example: "I see I'm not as good at writing articles as I was at building my contacts, so my goals for the third year will focus more on the latter." Or: "Now that my contact

list has reached this level, I will work harder on publishing."

Professionals are thus judged for what they do best, they are rewarded for doing their best, they always have new goals ahead of them, and the firm benefits as expectations are met or exceeded, and areas for improvement identified.

It's a broadly practicable approach from which even first-year associates should not be excluded. At the individual level, there's no danger that those 100 hours of meetings, articles, etc. can now be ignored. At the firm-wide level, a pandemic business development culture begins to be fostered, as well as a new head start on recruitment and retention.

THE CRITICAL CONNECTION

Let's return to the three propositions defined above. By expanding, rather than reducing or eliminating areas for quantitative measurement, your firm is directly responsive to the issues implicit in Proposition One because you've broadened the options and opportunities for incentives across the entire marketing/business development spectrum.

With Propositions Two and Three, we can identify yet another intriguing criterion for rewarding your lawyers: "If clients need incentives to hire us, how many such clear-cut incentives have you provided? How many more do you aim to provide for the coming year?"

As a compensation and bonus category, "providing client incentives" represents a unique and powerful new standard for all professional service firms. As a category of activity, it could include:

Co-author articles with the client for the client's industry trades or association. Even as you reap the benefits of public collaboration with a client (merchandised at conferences, on your Web site, and via direct e-mail), you serve the client's personal professional goals.

As you learn more about the client's business, competition, new products, and services, you can identify areas for prophylactic service that clients can then claim as their own, rather than just something outside counsel sold them. Suddenly, you're not just their counsel.

You're their internal champion.

Involve the client in forums where he or she can directly interact with other companies in the same or different industries. The implicit message is that you're someone who can enrich his or her network and thus provide marketplace opportunities for the future.

Create opportunities for clients to speak to your firm or multi-firm gatherings about the inside/outside dynamic. On the one hand, it's personally gratifying to clients to know that outside counsel actually cares what they think. On the other hand, it's always an incentive for clients to deal with firms that are responsive to their ideal buyer/seller models.

Remember ... Clients have careers too. They need friends to advance those careers. Clients want to be thought leaders too. You reward them by providing opportunities to lead. In turn, your firm rewards you for rewarding them even as the firm itself reaps the dual benefits of empowered lawyers and committed clients.

Effective incentives reward both the giver and the recipient. Here, the client represents a third-party beneficiary. The reciprocal rewards are truly a three-way street.