

# Effective Practice Management – Assuring the Quality of Your Firm's Work

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No two law firms are identical; they differ in an almost infinite number of variables: size, culture, practice concentrations, clients, etc. All firms, however, share one interest in common, namely that all clients receive the highest standard of service, on every matter, at all times.

To make this a reality, all firms need to have in place effective systems of practice management, which in turn requires them to consider how best to supervise and oversee every lawyer's work product, on an ongoing basis. Creating the appropriate policies and procedures to maintain consistent and effective practice management has additional benefits for law firms. In addition to helping to ensure a uniformly high quality of work product, it inevitably reduces the risk of legal malpractice claims, and even of fee disputes.

By contrast, the failure to oversee the nature and quality of the work produced by each lawyer in a firm can have disastrous consequences. The legal media all too frequently contains stories regarding sanctions imposed on lawyers and law firms - situations which are avertable with proper oversight and firm management.

For example, a firm which permits its satellite offices to operate essentially unchecked and removed from firm headquarters is at risk because of the inability to manage or control what is being done in the firm's name. Likewise, a lawyer's conduct in litigation, if not supervised and monitored by other lawyers, can lead to sanctions for unchecked discovery and related litigation abuses, or even an adverse verdict for malicious prosecution. By looking the other way, and therefore emphasizing profits over effective oversight procedures, firms are at risk that the actions of a few may affect the entire firm.

## Primary Approach: Practice & Specialty "Teams"

While not practicable in every firm, the ideal system for effectively overseeing the quality of all work performed in a law firm involves breaking down the firm's practice groups into smaller "teams" or "groups."

- ❖ Where possible, teams should be at least eight to ten strong, and should involve lawyers with varying levels of experience, including paralegals, associates and partners.
- ❖ Since groups of lawyers, as well as individuals, can lose their independence if they are too closely bound to single clients, ideally firms should try to avoid team structure that is purely client based, and instead move towards specialty and practice based groups. (Obviously, within teams or practice groups, individual client matters can and should be assigned to small units within the practice team.)
- ❖ Where firms have multiple offices, firms should strive to structure teams to span different offices, so that work is regularly being reviewed based on shared expertise, and not based on the location of the lawyers who happen to be in day-to-day charge of the matter.
- ❖ All matters assigned to the team should be regularly reviewed at meetings of the whole team. The primary lawyers assigned to the matter should provide the team with regular reports at these meetings.
- ❖ Any pleadings, or equivalent substantive work product should also be reviewed by at least one team member in addition to those who drafted the document before being issued to clients or third parties.

There are a number of *benefits* associated with developing practice and specialty teams on this model. From the clients' perspective:

- a. They will receive the best practices of the firm, rather than of an individual lawyer;
- b. They will have access to multiple people within the firm who have familiarity with the case; and
- c. The regular review process should translate into faster results, because the review process is likely to promote progress.

From the perspective of the individual lawyers on a team, the regular meetings will provide an important and *continuous* form of training in all aspects of the team's practice specialty. In addition, firms that have adopted this approach have uniformly reported a general improvement in lawyer morale, because

of the way it promotes sharing of the burdens and stresses of law practice that would otherwise be borne by each lawyer individually, as is the norm in many firms. Another benefit of this approach is that lawyers' quality of life is improved, because it enables lawyers to take vacations and other personal time knowing that clients' needs will be appropriately and timely responded to by other members of the team.

From the law firm's perspective, the most important benefit of the team approach is the institutionalization of work – clients cease to be “mine” or “yours” and instead become “ours”. In particular, lateral hires (or lawyers who join through merger) and their clients are quickly assimilated into the firm. In addition, review of matters as they progress necessarily allows firms the opportunity to catch and correct errors before the client is harmed. Finally, the benefits to the clients described above are very likely to increase firm profits – since happy clients tend to pay their bills, to send additional work, and to refer new clients.

## 2 Avoiding “Solo Practitioners” Within Large Firms

One tangential but important issue that should be apparent from the discussion of the need for practice oversight is that there is an omnipresent risk whenever firms have only one expert practitioner in a given practice area.

In a large firm, a single lawyer in a single practice could easily get lost in the mix. A possible solution to this problem is what may be called the “Noah's Ark” policy, namely that there should always be at least 2 lawyers skilled in any practice area. Where possible, large firms may wish to consider shedding specialties where that level of staffing cannot be achieved profitably.

## 3 Alternative Approaches to Ensuring Adequate Lawyer Supervision

Some firms may conclude, for a variety of reasons, that a full-fledged team structure is not workable, or at least not workable in all parts of the firm. Even firms that reach this conclusion, however, can still strive for some of the benefits that flow from practice management and oversight. The following three approaches may be considered as alternative approaches to adequate lawyer supervision.

The first potential approach may be to establish a policy and practice structure that requires that all substantive work product (as opposed to minor tasks) to be reviewed by at least one pair of

knowledgeable eyes in addition to the lawyer – however senior – who is principally working on the matter. If all matters are regularly reviewed on an ongoing basis by a lawyer who is not the billing or responsible attorney on the matter, the client, the lawyer responsible for the handling of the matter, and the law firm can all receive at least some of the benefits of the team approach described above.

An objection to this approach which is sometimes voiced is that it is not “economic,” because clients will not pay for the review process. In our view, this response raises a fundamental question: if a client will not pay for what a firm deems an appropriate level of supervision, or if the “matter won't warrant the cost of such supervision,” then the firm should ask whether it should be taking on the matter at all. Only if firms are prepared to insist on some form of practice management and review for all significant matters can the important benefits of practice management be achieved.

A second approach is an update to a procedure that was traditional in many firms before their expansion made it seem anachronistic, namely regular firm – or, today, practice group, or office – meetings in which all lawyers attend and at which at least selected matters are reviewed. Although not as complete and comprehensive as the suggested primary approach, lawyers and firms can receive the benefits of group analysis and support, while those clients whose matters are reviewed in this way can all be certain to receive the firm's best work product.

A third alternative, which has fallen into disfavor, is the traditional peer review system. This procedure was almost invariably unpopular with lawyers, and therefore firms, because it tended to create a hostile environment. This feeling that it involved lawyers attacking each other's work derived from the backwards looking nature of the process. This kind of audit of files usually did little to provide constructive criticism to the lawyer being “reviewed”, and even less to assist and protect the clients on a going forwards basis. In contrast, the modern approaches described above are designed to focus on how current matters are and will be handled going forward, not to second guess earlier decisions in the representation.

## Conclusion

All firms need to consider how they can best develop and implement policies for effective practice management, including at least some level of ongoing oversight of the work product of each of their lawyers.