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New Competition Requires Fundamental Readjustments

By Edge International

Compensating Practice Team Leaders…

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At Columbus, Ohio's Vorys, Sater, Seymour & Pease, reputedly one of the nation's more harmonious law firm partnerships, presiding partner Robert Werth acknowledges that, like many other firms, they've been suffering their share of practice area management problems. Werth, when we spoke to him, was unhappy because he's recently been obliged to step in and make work allocation adjustments–one lawyer was just dying from overload–that were clearly the job of the practice team leader.

The firm's overall solution is to develop more structured practice groups and pay more attention to whom we pick as leaders, according to Werth. Yet, while there's a lot of art in such a hopeful approach, it may also be possible to introduce a little science as well.

The fundamental issue continues to be a pandemic dearth of leadership among practice groups, and what managing partners candidly decry as a lack of accountability for team performance among appointed team heads. It's a problem that has merited recurrent editorial attention. Not only quality oversight, surveys in the past few years also underscore management's frustration with uncertain business development and client relations initiatives at the practice group level–the very level at which those initiatives ought to be most aggressively focused. (See, for example, the Of Counsel marketing survey of October 21, 1996.)

One possible solution was discussed at a recent conference sponsored by The Edge Group, the Edmonton, Alberta-based consulting firm (which markets a program called PracticeCoach® to address law firms' need for better team management). It involves a simple but potent elixir that's certainly been known in the past to solve a number of diverse business and management problems. It's called money.

Why not give more weight to measurable team performance when determining the compensation of team leaders? There was even a suggestion at the conference that group leaders could, ideally, be compensated totally on the basis of group performance. The very professional identity of a lawyer would then be transformed, from someone who happens to be the titular practice team leader to someone who utterly identifies with the objectives of that team, and whose personal fortunes rise and fall with its successes and failures.

Edge Group principal Patrick McKenna advises law firms to consider how the upper-tier accounting and consulting firms compensate their partners. McKenna, echoing commentary by consulting colleague David Maister (who worked with The Edge Group in developing PracticeCoach®), says the computers used by many creme de la creme multidisciplinary firms don't actually report team leaders' individual performance numbers. They're irrelevant for purposes of determining compensation.

The important data is group data. The same compensation criteria used to adjust annual draws for individual partners are simply shifted to a collective plane. A team member's draw goes up X percent because his or her individual billables rise Y percent when the entire group's billables rise Y percent.

Yet such group-based compensation does not have to be formulaic or anchored mainly to objective data. Quite to the contrary, predicating partner pay on the performance of other lawyers is most viable when compensation committees are allowed maximum flexibility. Billables and realization would still be important factors, but so would morale, perhaps, or clear-cut improvements in the reported results of client satisfaction audits.

Considering how far most law firms are from such group performance-based compensation, proponents don't advise or expect more than incremental pilot projects. Yet consultants like McKenna predict such programs would pay dividends with minimum risk. He suggests team leaders dedicate 300 hours or 500 hours–the equivalent of one day per week–to team management, with some sort of compensation adjustment based on the results.

One day per week hardly seems much for managers to devote to the thing they're supposed to be managing. Attach an average billing rate of $ 200 to those 500 hours and the total annual cost in dollars winds up around $ 100,000. Practice groups that can't make or save a lot more than that in one year via better quality oversight, or by servicing existing clients and

prospecting for new ones, are in big, big trouble no matter how you slice it.

The idea lends itself to experimental implementation because there are no intramural comparisons or competition involved. The compensation of team leaders is not affected by how other practice teams are doing. Their pay is based only on their own group's performance today measured against its performance six months or a year ago. So if an ERISA team leader is willing to be a guinea pig, why should the firm's securities or product liability heads object?

Skeptical managing partners like Werth, or Robert Giles at Seattle's Coie (who attended The Edge Group conference), worry that group performance-based pay would have a profit-centering effect, especially if the idea were taken to the extreme and team leaders were compensated solely on this basis. Profit-centering is something both Vorys, Sater and Perkins Coie have assiduously avoided among their practice groups as well as from office to office.

Yet the real effect may be the opposite. T&E leaders, say, would have less reason to worry about what their transactional or litigation counterparts are doing because they're the masters of their own economic fates. It's a best-of-both-worlds scenario, with intensified attention to the bottom line at the practice group level, but without insidious comparisons.

Law firms may have no choice in any event. There will come a point in the very foreseeable future when focused leadership at the practice team level becomes a matter of survival–and only in part because the ERISA group or the tax group at the law firm across the street is better managed. ERISA and tax happen to be convenient examples, since the accounting and other multidisciplinary firms that Maister talks about are knocking at the door right now, and they've already institutionalized the kind of group performance-based pay that makes for formidable practice group performance.

The trepidation among law firms over the entry of the Big-5 into legal services has thus far centered mostly on their critical mass and geographical breadth. Yet global full-service capability may not be the most disturbing threat. McKenna, citing Arthur Andersen, points out that they're simply better managed at the practice group level. Clients have other reasons besides convenience to retain them for legal work.

As of this writing, Arthur Andersen certainly seems a rather extraordinary case in point. There've been rumors that Andersen is talking merger with Wilde Sapte, one of London's biggest and best law firms. Informed sources now tell us those talks are indeed very serious. Consider the awesome merged entity that would be created, with law offices all over the world, and each one featuring practice teams carefully coached by top partners paid specifically to manage those teams as elite combat units on the global front.

Not that optimal practice group management is necessarily some arcane secret shared only among high priests of the professional services. The secret is instead simplicity and persistent common sense. McKenna names three group leader prototypes: the boss, the visionary, the role model. Each has strengths, but a fourth type he describes is the paragon. Just ask professionals to identify the most effective manager they ever had, and they'll usually talk about someone who was concerned, attentive, who found out what they needed and took steps to get it, who played to and exploited the strengths of the people they were managing. In other words, a coach.

Superior team leadership at law firms thus supports an environment of both personal loyalty and maximum efficiency. It includes practical tips, leads on new clients or–one shrewd investment of time and effort that too few practice heads seem to make–simply accompanying team members on visits to their clients. More than satisfaction audits, these visits are reassuring shows of strength as clients see there's a managed infrastructure on their case, not just a lawyer or two.

Such leadership is sufficiently multi-dimensional to provide any number of diverse criteria upon which to base compensation. Diversity is indeed the key, especially as a response to the deep-seated reservations of managers like Werth, who emphasizes just how subjective the compensation system is at Vorys, Sater. Ditto Bob Giles at Perkins Coie, where a lot of time gets devoted to performance reviews as part of the compensation process–so much so, says Giles, that it's proven to be a real attraction in the lateral market.

These managers seem to assume that group performance-based pay schemes are naturally formulaic. If anything, though, more subjective standards inevitably predominate when compensation criteria are team-based. Morale is an obvious example. It's not a standard that can be measured like billables, yet it has to be considered a primary measure of the leader's effectiveness.

Group morale is indeed a more powerful factor for committees to weigh than, say, the mentoring that impacts the pay packages of individual partners While it's always advisable to take associate training into account when compensating partners, it's absolutely necessary to assess team morale when compensating team leaders. If nothing else, the stakes are higher, since a greater number of attorneys are involved.

Firms where subjectivism already drives compensation may thus be the ones culturally most comfortable with a system in which group leaders get paid according to how well their groups do. But what about the team leaders themselves? What drives them?

In a system where team leaders are compensated mainly or solely on the basis of team performance, you wouldn't have too many people wanting to do the job, according to Mary Ellen Scanlan, managing partner of Denver's Holland & Hart. She and Giles both doubt that outstanding practitioners or rainmakers would willingly jeopardize the money they'd earn based on their own proven excellence in order to take a chance on colleagues whose performances are much less within their control.

Even with the ablest leaders, Scanlan points out that problems still take time to solve. Why should group heads suffer any reduced compensation during the period of time it takes to fix these problems?

Again, though, these misgivings presuppose an objective, formulaic approach. At firms where subjective factors are heavily weighted, the indefatigable efforts of good managers to improve bad teams would be a powerful factor having a positive effect on total compensation. Salvaging moribund practice groups could also represent a challenge some enterprising lawyers might savor.

As McKenna sees it, there's real status to be achieved in management. The appeal of being a practice group leader no doubt compares to that of being a managing partner. Success as a team leader may be, in fact, a fast track to executive committee membership. The practice of law, adds McKenna, just isn't satisfying enough for some lawyers, and it's the identification with the group that fills the restless void. It's an entrepreneurial opportunity, to be sure, a chance to leave a legacy beyond the practitioner's roster of satisfied clients.

On the other hand, the more of a lure management is for such lawyers, the more self-defeating it would be for them to cast their lot with lower-profile practice groups. Giles warns of situations where excellent leadership [simply] cannot be seen, not even in the most sensitive and finely-tuned compensation system, if the group's disappointing performance continuously eclipses the leader's best efforts.

Lawyers with significant management potential are thus advised to deal from strength. Even if their efforts on behalf of a failing team do get justly compensated, they'll still languish in third or fourth or fifth place; they'll relinquish the chance to personally dominate their markets. As such, mediocre practice groups may just have to drag along with indifferent leaders who have no real incentive to be better leaders.

McKenna concedes that a number of cultural precedents need to be in place before firms can expect to induce, and compensate, the kind of practice group leadership they'll need to hold their own against the Arthur Andersens five years down the line (or sooner). There has to first be an insistent attitude among firm managers and potential practice team leaders that time spent on management is indeed intrinsically valuable and compensable. Second, the culture must be one where power accompanies responsibility. Don't make practice managers accountable for what they can't control. If firm management is going to base the team leader's compensation on practice group performance, then he or she must also have substantial input into who's on their teams.

From a logistical standpoint, empowering practice group leaders to staff their own practice groups results in ancillary strategic marketing benefits as well. If nothing else, this power in the hands of team leaders necessitates smaller teams. There could be 20 ERISA lawyers at the firm, but the designated group head may only want four or five of them in the group. You can't just fire the other 15, so the group has to be restructured, not simply as an ERISA practice, but as some ERISA sub-specialty, perhaps, or as an ERISA practice targeting a specific client industry. The internal need to strengthen and reward team leaders thus leads to a greater emphasis on niche marketing, which is itself a desirable goal in any event.

These niche teams have some fluidity with respect to other practice groups at the firm. In addition to the core group, there are also resource members, as McKenna refers to them; they contribute highly specialized expertise to client matters on an ad hoc basis. Mavericks, who will never be comfortable members of any team, are also darting seagulls, occasional participants in practice group matters whenever they have something to offer.

Yet the proverbial good fences also make good neighbors. McKenna, in fact, suggests a real need for exclusivity. It's one thing to tap lawyers from outside the group if client matters require their input. Yet practice teams are diminished when just anybody can join them; lawyers ought to have to work hard to get in. Not only does esprit de corp increase when there are entry requirements, but, just as team leaders must have the authority to approve who joins their teams, it's likewise important that members know they can be booted if need be.

Such exclusivity is subtle, adds McKenna. Blue-chip practice groups never openly proclaim it or vaunt it, but, in instance after instance where team leaders are effective, a team mystique, an aura of being something special, is nonetheless palpable. It has to be, if the best lawyers in town are supposed to take management seriously enough to do it for a living.