

The Tall Poppy Syndrome and Origination Credit

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Law firms talk a good game about sophisticated management but often, just when a firm reaches the verge of running like a business, its culture gets in the way. Case in point is business origination: should it be measured, how should it be measured and what do we do with the data?

Almost 25% of U.S. and Canadian law firms don't keep track of lawyers responsible for business origination. That figure is 57% in Europe. With the surplus of lawyers in private practice and the aggressiveness of clients in managing legal fees, the generation of business and the filling of lawyer's empty plates is one of the biggest issues for most law firms around the world. Why then wouldn't firms be universally eager to keep track of which lawyers make it rain?

I believe the answer comes back to law firms' cultures. First, in many firms it is somehow unseemly to keep any statistic that would recognize one partner over another. In Australia they call it the "Tall Poppy Syndrome." That means that in a garden, if one flower grows taller and straighter than the other flowers, the gardener will cut that poppy back so all the flowers in the garden appear uniform.

In other firms, the partners can't come to agreement on the rules under which the statistics will be kept. In part this is due to the inherent cultural distrust that one partner may gain some advantage to which he or she is not entitled, and partners who are primarily working lawyers don't want to see the fruits of their labors going to the rainmakers.

But perhaps the most interesting cultural issue is how, after a firm decides to keep track of origination, it goes about doing it. In 88% of the U.S. firms that do keep track of origination, the credit has no expiration. That is, the lawyer who brings in the client gets credit forever – or at least until the lawyer dies or the client fires the firm. Actually, it's often worse than that. In many firms, upon the retirement or death of the originating lawyer, credit is assigned to some other lawyer as an inheritance that he or she enjoys for their natural life (even though they may have been in elementary school when the client first came to the firm).

It's time to stop blaming our culture for all the ridiculous things law firms do. Let's start with origination. If you are not keeping track of origination, start doing so. Even if your firm doesn't use it in compensation, it is important management information that you need to know. Undoubtedly your firm's computer system will accommodate it and will probably allow you to divide it over a number of lawyers to encourage team efforts. And why on earth would we allow origination to be perpetual? Even LeBron James doesn't get paid for three point shots he made five years ago. Put a sunset provision on origination with room for extension in cases of work in new practice areas. In fact, why not let origination scale back over a period of years to encourage institutionalization of clients?

Law firms' cultures are wonderful things that should be treasured and nourished. We should not allow them to be used as excuses to avoid rational, businesslike behavior.

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