Managing Partner 101
A Guide to Successful
Law Firm Leadership
Second Edition
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Preamble:
The Four Cornerstones of a Successful Law Firm

A law firm's success is not simply a function of its won-lose percentage on cases. Nor is a law firm's success merely a function of its profitability.

A firm can be successful at any size. Increased size may often result in higher profits; yet the increase in size may also diminish a firm's working atmosphere.

There are four cornerstones of a successful law firm. A firm must:

1. Provide its clients with quality legal product and service within its areas of expertise.
2. Provide its lawyers and staff with a healthy working environment.
3. Adhere to high standards of legal and business ethics.
4. Be financially sound.

Until a firm excels in all four areas, it cannot deem itself successful—simply put, three out of four does not cut it.

A firm that excels in quality product and service, as well as in a healthy working environment and profitability, is not successful if it falls short in its compliance with ethical standards. And ultimately, ethical corner cutting will hurt the firm in the other three categories.
“intangible infrastructure” is of much greater significance to defining a healthy work environment.

The intangible infrastructure of a firm consists of its policies, programs, and overall culture. To ensure that these components are coming together to form a healthy intangible infrastructure, four basic principles must be recognized.

1. Law firms and their personnel must understand that serving their clients is their most important duty; it is not to maximize profits. If a firm provides quality legal product and service, profits will follow. A firm’s overall culture should not be premised upon monetary considerations. It should be premised upon serving clients.

2. A firm must pay attention to the needs of its personnel, and this requires recognizing that lawyers and staff have lives beyond the firm. The expectations that a firm establishes for its partners, associates, and staff must respect the right of the individual to have and enjoy a personal life.

3. Every rule and regulation must have a supporting rationale, and the rule, as well as the rationale, must be understood by all personnel. The underlying rationale may be based upon a number of factors—quality service, ethical standards, common courtesy, or just plain common sense. Compliance with any rule will be enhanced if the firm’s personnel understand the basis for each and every rule.

4. People deserve to be treated with respect and dignity. Law firms are already sufficiently tiered so that junior partners, associates, paralegals, and secretaries do not need added reminders of their respective places. We are all human beings, and we are all working toward the same goal: to provide quality legal services to our clients.

Ethical Compliance

All lawyers are required to adhere to the Rules of Professional Conduct, which sets forth canons and rules in clear, explicit terms. To the extent that there is some gray area in interpreting the rules, there are numerous authorities—court decisions, administrative rulings, and published treatises—that provide significant guidance to the lawyer.

Equally important is a firm’s adherence to a high level of business ethics. While most law firms do a good job in ensuring that their lawyers comply with their legal ethical obligations, the bar’s overall adherence to high standards of business ethics is not as consistent. The legal ethical standards only go so far, and it is imperative that a lawyer practices sound business ethics if he or she is to properly serve the client.

Unlike the legal ethical standards, which are for the most part neatly published and annotated, business ethical standards are not always found in any one place. They may be best found in our internal sense of right and wrong.

For example, when a lawyer first meets with a prospective client, it is important that the lawyer not oversell what he or she can accomplish for that client. The legal ethical standards are silent on this issue. Unfortunately, there are lawyers who exaggerate what they can accomplish. In such a case, it is business ethics that must be invoked to ensure that a lawyer does not overpromise a prospective client.

In a similar instance, the legal ethical standards prohibit lawyers from charging “clearly excessive” fees, yet these standards do not adequately address the need, for instance, to comply with the client’s budgetary constraints. The legal ethical principles do not otherwise recognize that a bill may need to be discounted in fairness to a client, even when the charge is not clearly excessive. Once again, it is business ethics, and not legal ethics, that must be invoked.

Legal ethical standards set forth a series of definitive rules with respect to conflicts of interest. We know that, as a general rule, we cannot represent clients with adverse interests in a litigation or on opposite ends of a business transaction. Legal ethical standards do not address, however, the issue of representing business competitors in separate matters. Certainly it is commonplace for firms to represent more than one banking institution or insurance company on separate matters. Should a firm assume representation for two different business competitors if achieving a successful result for
—as honest lawyers and staff will not wish to remain over the long run.

A firm that places overly excessive demands upon its personnel may be practicing quality law—achieving substantial profitability and adhering to high ethical standards—but at a significant cost if the working atmosphere precludes lawyers and staff from properly enjoying a life outside the firm. How can a firm be successful if lawyers and staff are unhappy because of excessive job demands?

A firm that excels in a healthy work environment, ethical adherence, and profitability will not be successful if it cannot provide quality legal product and service. In the long run, the clients will go elsewhere, and so will the better lawyers and staff members.

And a firm that does well in terms of quality product and service, a healthy working atmosphere, and ethical compliance cannot be successful if it is not financially sound. The competitive forces are just too great to allow such a firm to attract and retain those lawyers and support staff required to maintain excellence in the other three areas.

Quality of Product/Quality of Service

The quality of a law firm’s product is a function of the lawyers’ and staff’s skills, expertise, diligence, and attention to detail. Lawyers are motivated, indeed required, to provide a high quality product to properly represent their clients’ needs. Judges and members of the bar review lawyers’ product, and product of poor quality will certainly not improve lawyers’ reputations. Although individual lawyers are already motivated to provide a quality product, a firm must adopt and enforce numerous internal procedures to ensure that it achieves quality.

A firm must make sure that its lawyers keep up with developments in their respective fields of law by attending continuing legal education programs and reading relevant publications. Because the law is so complex, it is also necessary to establish an expertise policy, so that certain lawyers are designated as experts in given areas of the law. To obtain designation as an expert, a lawyer must have a sufficient amount of experience in the practice area, keep up with area developments, and regularly attend department meetings.

To further promote high standards for quality product, a firm must also establish a system for properly training its more junior lawyers. This requires a substantial time commitment, often not properly billable, on the part of more senior lawyers. Quality product also depends upon the work of the support staff, who must be trained to produce quality work and made to understand why such quality work is important.

It is equally crucial to stress the quality of the law firm’s service to its clients. Quality of service is a function of communication, responsiveness, and timeliness. These abilities are unfortunately not sufficiently recognized at many firms. Yet what good is the beautifully drafted contract if it does not refer to a key issue, which the lawyer failed to learn from his or her client? And what good is the perfectly drafted prejudgment attachment motion if it is filed one day after another creditor has attached the same assets?

More than anything else, quality service requires a full understanding of the client’s needs in the context of the bigger picture. It is not enough for a lawyer to simply listen to what his or her client has to say. A lawyer must probe his or her client to review possible contingencies and alternatives. This communication process takes place at the outset of the representation, but does not stop there. Quality service requires regular and frequent communication with the client, as changes may take place in the legal and factual context of the case, and otherwise in response to the actions of opposing counsel.

Apart from communication, quality service requires responsiveness and timeliness. Sometimes it is not good enough to do your best when responding to such changes. Sometimes circumstances require the lawyer to do whatever it takes—obviously within the bounds of applicable ethical principles—to protect the client’s interests.

Working Atmosphere

Too many firms pay insufficient attention to the working atmosphere they provide for their personnel. A firm’s working environment is based in part upon tangible elements: the quality of the space, office layout, library, and computer and telecommunications systems. Although these elements are important, the firm’s
one could disadvantage the other? The legal ethical standards are also silent on this point. Business ethical standards should come into play and preclude a firm from taking on both representations.

One of management’s tasks is to make sure that the firm attracts honorable lawyers with high ethical standards. Another task of management is to inculcate a sense of commitment to high ethical standards among lawyers and staff. The message must be communicated and constantly reinforced: if something does not smell right, or if there is any doubt whatsoever, staff and lawyers must report the matter to the managing partner or partner charged with ethical compliance. Those in charge of handling ethical compliance must make it clear that there will be no repercussions whatsoever arising from such a report.

Financial Soundness

Published materials on law firm profitability abound. And there is certainly no lack of emphasis on profitability at most firms.

Yet the real issue is not profitability but rather the overall financial soundness of the firm. Obviously profitability is important, because poor profitability may hinder a firm’s efforts to attract and retain good people. Yet capital and debt structure, the partners’ individual responsibility for firm obligations, and the firm’s “functional stability” also define a firm’s financial soundness.

First, a few words about profitability. A firm’s profitability must be viewed on the “micro” level and not on the “macro” level. Statistical surveys of overall profitability, or even per partner profitability, are not terribly enlightening. For example, Firm A may have a higher per partner profit than Firm B, but Firm B’s lower figure might reflect the fact that it is doing a better job in promoting associates to partners, presumably a sign of financial health. If Firm A is maintaining a higher figure because it is not doing as good a job in promoting its associates, it can not be viewed as the more financially sound of the two.

Keep in mind that the overall profitability of a firm does not tell you what each partner is paid. If the distribution of profits is not equitable, the profitability realized by at least some partners is insufficient. Accordingly, a firm must review profitability on the micro level, which means considering the take-home compensation of each individual partner in the context of his or her contributions to the firm.

A financially sound firm has a capital and debt structure that does not cause its partners to lose sleep at night. The amount of the firm’s capital will depend upon its income and expense patterns but should be at least sufficient to cover the possibility of a prolonged dry spell. A firm’s debt per partner should not be excessive, and the guaranty obligations of individual partners should not be burdensome. A financially sound firm has assets with a liquidation value substantially in excess of debt obligations. A financially sound firm does not have inadequate levels of malpractice insurance or substantially unfunded retirement obligations.

By “functional stability,” I refer to a situation in which the firm does not rely unduly upon any one lawyer or any one client in terms of percentage of gross revenue. The functionally stable firm can afford to lose any one lawyer and any one client and still be fully viable. Obviously, it is more difficult for very small firms to survive the loss of a key partner, but partners of such firms have the ability to become closer to one another personally and professionally, the need to build trust among themselves.

In sum, the issue is not profitability on a macro level but overall financial soundness, measured by profitability on the micro level, the fairness of the division of profits, the adequacy of the firm’s capital, the low level of debt, the absence of onerous guaranty obligations, and the functional stability of the firm. Ultimately, it is a question of the collective peace of mind of the firm’s partners.

These four cornerstones are the reference points for the managing partner in his/her efforts to build the successful law firm. The chapters that follow are intended to provide a guide for the managing partner in undertaking this effort.
The Job Description

Managing partners spend a great deal of time defining and refining the job descriptions of their underlings—and this is important. Yet it is even more crucial to have a defined job description for the managing partner—and it is equally important that all partners agree on this job description. If there is no job description, the managing partner should create one and quickly obtain partnership approval thereof. The managing partner’s position is far too crucial to the firm’s well-being to allow for any confusion. Ideally, a managing partner’s job description is set forth in the firm’s partnership agreement, the constitution of the firm. Alternatively, there should be a partnership vote—reflected in the minutes of the firm—defining job responsibilities.

The managing partner’s job description should also be detailed in the firm’s employee handbook—if not in its entirety, at least in summary form—so that there is no confusion on the part of associates and staff as to the managing partner’s role. Although the nature and scope of the managing partner’s position will depend upon a firm’s size, traditions, and culture, the managing partner of any law firm should undertake the following responsibilities.
Developing and Implementing the Firm’s Strategic Plan

When developing a strategic or long-range plan, a firm’s managing partner must take the lead and obtain full partnership support for such a plan. The managing partner should also oversee the plan’s implementation and monitor the firm’s progress in achieving the goals of that plan. The managing partner should also work with individual partners and administrative directors to help them establish their own long-term goals in coordination with the firm’s goals. (The subjects of the strategic plan and goal-setting are discussed in Chapters 2 and 3.)

Managing the Firm

The managing partner serves as the firm’s chief executive officer. Although ultimate authority rests with the partner, the managing partner is responsible for the firm’s overall management. Such overall management encompasses the following responsibilities. The managing partner:

1. **Coordinates the firm’s practice among its practice groups.** The managing partner, in coordination with the chairs of practice groups, ensures that services are rendered in a professional, ethical, timely, and economic manner, and that the firm is providing the requisite support to the lawyers within each practice group. (This subject is addressed more comprehensively in Chapter 10.)

2. **Oversees the firm’s committees.** The managing partner oversees the work of the firm’s committees and coordinates the tasks to be performed and the timetable of the committees’ work with committee chairs. (See Chapter 9.)

3. **Supervises the firm’s administrative directors.** Essential to the proper functioning of a law firm are dedicated and talented administrative, financial, and human resource directors. The managing partner must meet regularly with these people to supervise and coordinate their work, and to be kept apprised of developments within the firm.

4. **Meets with the associates and support staff of the firm.** The managing partner meets regularly with the firm’s associates and support staff to review workplace developments—including additions to personnel and changes of policy—and to answer questions and address concerns. (The firm’s treatment of these important groups of human resources is discussed in Chapters 13 and 14.)

5. **Promulgates and oversees compliance with firm policies and procedures.** A firm’s culture is substantially defined by the rationality of its policies and procedures, and the fairness with which they are enforced. The managing partner is responsible for the promulgation and enforcement of firm policies and procedures. (Chapter 11 addresses this area more comprehensively.)

6. **Monitors the firm’s financial performance.** The managing partner is responsible for monitoring the firm’s financial performance, both on the revenue side, including oversight of time posted, bills rendered, and accounts receivable, and on the expense side, including budgetary compliance and approval of non-budgeted expenses. The managing partner is also responsible for ensuring the overall financial soundness of the firm, by addressing the firm’s capital and debt structure, malpractice coverage, retirement obligations, and other long-term obligations.

7. **Ensures the firm’s compliance with ethical standards.** The managing partner is fluent in the applicable ethical standards and arranges for the training of lawyers and staff to ensure compliance with these standards. In this context, Rules 5.1, 5.2, and 5.3 of the ABA Model Rules of Professional Conduct have special significance. Adopted in virtually all jurisdictions, these rules stipulate that partners are responsible for lawyers and non-lawyers acting under their supervision. Partners must also make efforts to guarantee that the firm establishes measures that ensure that subordinates act in conformity with the Rules of Professional Conduct.
8. Oversees the hiring and orientation of new personnel: The managing partner is responsible for overseeing the firm’s recruitment, interviewing, and hiring practices, and orientation of new personnel.

9. Oversees the evaluation and professional development of personnel. The managing partner is responsible for overseeing the training, mentoring, and review of all personnel, and the professional development and promotion of individual lawyers and staff members. The managing partner is also responsible for supervising the termination of personnel.

10. Monitors the infrastructure of the firm. The managing partner is responsible for the efficient use and effective operation of the firm’s infrastructure, which includes its space, library, facilities, and telecommunication and computer systems.

11. Oversees the firm’s marketing program. The managing partner is responsible for supervising the firm’s marketing program, especially the external aspects of the program, such as newsletters, client seminars, Web page listings, and firm brochures.

12. Establishes the firm’s calendar. The managing partner is responsible for the firm’s annual calendar and establishes dates and deadlines for annual budgets and associate reviews and coordinates various meetings for the partners, practice groups, and committees, as well as firm functions and events.

13. Ensures compliance with legal obligations: The managing partner ensures that the firm is in full compliance with applicable federal, state, and local legal requirements.

Governing the Firm

The managing partner is responsible for the governance of the firm, including the following:

1. Convening and chairing partnership meetings. The managing partner convenes partners on a regular basis and presents

   for partnership consideration those matters reserved to the partners under the firm’s partnership agreement.

2. Reporting to the partners. The managing partner regularly reports to the partners in a manner that keeps them fully apprised of the functioning of the firm.

3. Mediating and adjudicating disputes between partners. The managing partner mediates and, if necessary, adjudicates disputes that arise between and among partners.

Representing the Firm

The managing partner acts as the firm’s representative, or ensures that an appropriate firm representative is present at important community and bar events.

Obviously one person cannot possibly perform all of these tasks, especially if that person is also a practicing lawyer serving clients. To be successful, the managing partner must coordinate with individual partners, practice heads, committee chairs, and administrative directors to ensure that all responsibilities are properly performed.

One person is ultimately responsible for the proper performance of each of the above tasks, and this person is the managing partner.
Any business or organization needs to have a strategic or long-term plan, and law firms are no different.

When a managing partner first assumes responsibility, there should be a full review and understanding of the firm's strategic plan. This plan may be outdated and require amendment, or there may be no plan at all. In the event that no plan exists, the managing partner should work with a small committee of partners to outline a plan for partnership review. Once there is consensus on an overall outline, the managing partner may then proceed to formalize the plan for ultimate approval by the partnership.

The strategic plan should:

1. Articulate a vision for the firm.
2. Appraise the present reality of the firm.
3. Set forth, in detail, how to transition from the present reality to the future aspiration.
Defining the Vision

It is critical that there be partnership consensus on a vision for the firm. A firm cannot succeed if its partners are working at cross-purposes. Thus, the managing partner must define the vision and then procure full partnership support. The vision for the firm might read as follows:

*Five years from now, our firm should be a first-rate, full service law firm of approximately X lawyers. We should be in a position where we are recognized in our legal and business community as a successful, reputable, aggressive firm on the rise, and where we are recognized, specifically by those who know us best, as the preeminent [mid]-sized firm in our city. We should provide high quality legal service to a diverse clientele. We should provide a healthy working atmosphere for and fair compensation to our lawyers and staff. We should attract talented persons to our ranks because of our working atmosphere, compensation structure, and reputation in the community. We should comply with the highest standards of legal and business ethics.*

While the full strategic plan is most likely a confidential document for the partners' eyes only, the vision for the firm is something that should be made known to the associates and staff members. Simply put, people work more productively when they understand how their jobs relate to the broader goals of the organization.

Appraising the Reality

Appraising a firm's present reality is a very delicate task, but improvement can only happen once you define what that reality is and what strengths and weaknesses exist.

A firm's reality is partially defined by numbers and statistics. These numbers might include the ratios of partners to associates in the firm's practice groups, the billable hours of partners and associates, the billings and collections of the lawyers, and the firm's realization rate of dollars collected to time charges posted. These numbers should also be compared to numbers from prior years and industry statistics of comparable firms.

Yet numbers alone cannot and should not define the full picture. An accurate appraisal of the present reality involves asking and answering a number of questions that are not defined in numerical terms.

- What is the quality of legal work being provided by each of our practice groups? Are we providing first-rate legal services for our clients? How do we compare with our competition?
- Do we provide a healthy working atmosphere for our lawyers and staff? Are we attracting high quality individuals to our firm? Are we retaining our best people? What is the morale level of our personnel?
- Are we financially stable? What would happen if we lost a key client or a key partner? Do our partners seem satisfied with their level of profitability in the firm and how that profit is divided among them?
- Are we satisfied with our ethical compliance? Do we treat our clients fairly? How are we viewed in the legal and business community?

Honestly answering these questions may become a very delicate undertaking. Yet a firm's present reality cannot be properly assessed unless these types of questions are genuinely answered. The managing partner must find a balance between candor and tact while formulating a plan to address these issues.

Transitioning from the Present Reality to the Future Aspiration

The bulk of the firm's strategic plan consists of a comprehensive and detailed series of steps defining how the firm should transition
from the present reality to the future aspiration. Among the topics that may be addressed are:

- Recruiting new legal talent.
- Strengthening existing departments.
- Creating new practice groups.
- Improving the firm’s mentoring and training of lawyers.
- Expanding to additional space.
- Hiring additional support personnel.
- Improving the firm’s information technology systems.
- Enhancing the firm’s marketing efforts.
- Setting higher goals for hours posted and bills rendered.
- Establishing more rigorous policies for accounts receivable.
- Enhancing the firm’s reputation in the greater business and legal communities.

The plan should set forth timetables for accomplishing the various tasks and assign responsibility to relevant lawyers, administrators, and committee and department chairs.

The managing partner should present the plan to the partnership for approval—it is crucial to reach a unanimous or near unanimous support for the plan. The managing partner should then work in conjunction with the various personnel and committees to implement the plan by monitoring the firm’s progress on at least a quarterly basis and reporting back to the partners on the firm’s progress.

Once the strategic plan for the firm is in place, the managing partner must work with individual staff and lawyers to define their own goals in a manner consistent with the overall goals of the firm. The confluence of individual achievements will help a firm realize its vision.

The establishment of goals by and for individuals is not an easy undertaking. If the goal is set in too lofty a manner, it will become apparent all too quickly that the goal is unreachable, resulting in discouragement and possibly abandonment. On the other hand, if the goals of individual partners are not set high enough, then there may be dissatisfaction on the part of the overall partnership at the end of the year.

Recognizing Differentials

All too often firms make the mistake of setting the same goals for all partners. Just as a good basketball team recognizes the need for role players—the playmaker, the scorer, the rebounder, the key defender—so, too, should a law firm recognize the need to ask
different partners to maximize different skills. Some partners are more natural at attracting business than others. Some partners are harder workers than others; others are better supervisors of associates. Goal-setting needs to recognize these differentials.

Differentials must also recognize the realities of an individual partner’s situation. A younger partner may have greater energy to post more hours than a senior partner. Yet this same younger partner may not have the as many business contacts and should not be expected to introduce as much work to the firm as a senior partner. And the partner whose home demands preclude him or her from devoting the number of hours worked by other partners should have a reasonable reduction in his or her goals—but should also have an appropriate adjustment in his or her compensation.

The One-on-One Setting of Goals

The managing partner should meet with each individual partner at the beginning of the year to review that partner’s performance during that past year and discuss goals for the coming one. The partner should be asked ahead of time to consider his or her numbers from the past year, and to think about areas for development and improvement in the coming one. Numbers alone do not tell the story—client demand is essential to good numbers, and practice proficiency is essential to attracting and retaining clients. Thus, the discussion should not only address numbers but numerous other concerns. The following outline includes some of the topics the managing partner and a partner should cover:

I. A partner’s numbers.
   A. Hours posted.
   B. Bills rendered.
   C. Cash receipts.
   D. Realization rates.
   E. Write-offs and discounts.

II. Achievements and disappointments in the partner’s practice.
   A. Successes and failures in the past year.
   B. Level of satisfaction with the partner’s own practice.

   C. Level of satisfaction with the firm’s support for the partner’s practice.

   III. Efforts to improve the partner’s practice skills.
         A. Continuing legal education reading and seminars.
         B. Bar section meetings.
         C. Developing new practice areas.
         D. Narrowing the focus of practice.
         E. Upgrading computer skills.

   IV. Practice development efforts.
         A. Targeting new work from existing clients.
         B. Targeting new clients.
         C. Involvement in trade group and industry meetings.
         D. Public exposure.

   V. Administrative contributions to the firm.
         A. Review of committee assignment.
         B. Contributions to practice group.
         C. Mentoring of associates.
         D. Attendance and participation at meetings.

   VI. Pro bono and community activities.

   These one-on-one discussions should also allow the individual partner to offer suggestions about the firm to the managing partner. The managing partner should welcome any such suggestions, and based upon these one-on-one discussions should have an increased awareness of issues to be addressed on a firm-wide basis. Ideally, the managing partner should be in a position to compile and share the goals of individual partners with all partners, which allows partners to learn more about one another’s practices. In addition, partners may discover potential synergies for referrals of work and joint marketing efforts.

   The managing partner should ensure that a system is established for similar one-on-one discussions to take place with all associates. The discussions should involve the managing partner, department chair, or mentor for the associate.

   The managing partner should also conduct one-on-one discussions with the firm’s key administrators at the beginning of the year to review each person’s performance over the past year and goals for the coming one. The managing partner should encourage
the administrator's suggestions for improvements within the firm and welcome those thoughts and ideas.

**Monitoring Performance**

*Setting goals becomes meaningless unless progress is monitored.* Monthly financial reports to partners should include comparisons of numerical goals to actual numbers, so that partners can see exactly where they stand in their own numbers and in relation to other partners. Peer pressure—although not necessarily verbalized—will influence those partners who falter in performance, and this is not a bad thing. When a partner is falling significantly behind, the issue is probably best addressed in a private meeting with the managing partner.

When partners are running ahead of their goals, it may be appropriate to correct their goals midyear to discourage these partners from resting on their laurels. Over the years my custom was to make such midyear corrections by increasing goals for those partners running ahead without making reductions for those running behind.

The *managing* partner also should create a system for monitoring associate and staff goals through department chairs, mentors, and supervisors. Associates should receive their current hours-posted figures for the month and year on a monthly basis. The *managing* partner, department chair, or mentor should approach any associate working considerably below goals for a particular month. The contact should be in a non-threatening manner to inquire whether a problem exists. Meetings with associates to monitor goals should otherwise occur on a quarterly or even semi-annual basis.

Ultimately, the managing partner should motivate individuals to establish goals and monitor their performance largely on their own initiative, in accordance with the standards and expectations already defined by the firm. Such self-evaluation can be a very valuable exercise.
The managing partner needs to invoke various techniques when leading the firm. Leadership by example is one such technique, and if done right, a most effective one. Individuals throughout the firm will look to the example set by the managing partner. The model that the managing partner sets takes on many different forms.

The Managing Partner as Practitioner

The managing partner must set the example for the standard of practice proficiency that the firm expects of its lawyers. As practitioner, the managing partner provides quality product and service for clients, actively participates in practice group discussions, and acts as a practice expertise resource within the firm. Such an example is also set by promptly returning phone calls, adhering to the firm’s docketing policy, and always acting in a highly professional manner.
The Managing Partner as Partner

The managing partner is a model for other partners in the firm. The managing partner has far less credibility when addressing hours posted and accounts receivable issues if he or she is falling short of hours-posted goals (presumably a reduced goal to recognize the time spent on management) or if his or her accounts receivable are not under control. The managing partner also sets the tone for other partners’ relationships with associates and staff. If the managing partner expects other partners to treat employees with dignity and respect, then the managing partner must take the lead in doing so. The managing partner should also attend all firm functions and events if partnership attendance and participation is to be promoted.

The Managing Partner as Mentor

The success of a law firm depends upon the professional development of its lawyers. Ideally, every assignment given to a junior lawyer should be viewed as an opportunity to teach. The supervising partner should take the time to frankly discuss what is expected of the lawyer and to review that lawyer’s work. This is a time-consuming and often non-billable effort, yet is fundamental to the growth of the law firm. The managing partner can and should set the example for partners and generously offer his or her time to supervising associates and serving as a mentor to one or more associates within the practice group.

The Managing Partner as a Follower of Firm Policy and Procedure

If the managing partner expects to effectively enforce firm policy and procedure, then he or she must religiously follow firm policy and procedure, which means everything from posting hours on a regular and timely basis to conforming with the firm’s casual attire policy. If the policy is one that the managing partner cannot adhere to, either the policy needs to be changed or the firm needs a new managing partner—others will not adhere if the managing partner is not in full compliance. Being conscientious of the firm’s appearance is also important. It should not be beneath a managing partner to stoop down to pick up the stray shred of paper in the corridor.

The Managing Partner as a Contributor to the Community

Lawyers have an obligation to serve the community. All types of needs exist in any community and there are all types of ways in which lawyers can serve. For example, a managing partner can take on pro bono assignments or assist community organizations and nonprofit entities.

Managing Partner as a Human Being

Law firms should encourage their lawyers to create a healthy balance between their professional and personal lives and to be honest, well-rounded, and interesting individuals. The managing partner should set an example by demonstrating high personal values, maintaining a healthy balance between his or her professional and personal lives, and interacting with personal and professional integrity.

If the managing partner sets the example in these six areas, he or she gains greater credibility when dealing with partners, associates, and staff and may also find his or her example replicated in the actions of others. The managing partner needs to understand that others are watching for the proper model to be defined.
Bringing About Change

As firms grow, they need to review whether their existing governing structures are working effectively. There may be tension between those partners of longer standing—who dominate firm governance and may be resistant to change—and newer partners—who may believe that they have little influence on the partnership’s decision-making and may have less respect for historical precedent. In this situation, the managing partner may need to convene representatives of different age and practice groups to review the firm’s decision-making apparatus.

Regardless of the form of governance, once an important decision is made, all the partners should understand the rationale for that decision. The firm should establish a confidential vehicle within the partnership for addressing dissenting views. There should be no tolerance for partners grousing about decisions to non-partners.

A law firm cannot succeed unless it has a governing structure that promotes good decision-making and that is accepted by the partners of the firm. The managing partner needs to assess whether effective decision-making is being promoted and whether there is partnership acceptance of the governance structure. If the answer to either of these questions is less than satisfactory, the managing partner must then work within the existing governing system of the firm to bring about change.
Virtually all law firms rely greatly on their associates, and it is disturbing that all too many firms fall short in their treatment of them. Associates are too often taken for granted. Whereas they should be viewed as important human resources, and potential building blocks for the firm’s future growth, associates are viewed as easily replaced commodities.

An associate has a legitimate right to each of the following, and it is in the firm’s interests to recognize these entitlements:

- A clear definition of the firm’s policies and practices for promotion to partnership.
- Delegation of responsibilities correlating to the associate’s experience and abilities.
- A mentor.
- Regular and ongoing supervision and training.
- A compensation package that recognizes the associate’s contributions to the firm.
- Annual reviews, including an associate’s right to know where he or she stands in terms of prospects for promotion.
The firm’s recognition that the associate has a right to a life outside the firm.

Definition of Policies and Practices Regarding Promotion

Firms are generally good about defining for associates what type of billable hours and quality of work is expected. A firm also owes associates a complete explanation of its policies and practices for promotion to partnership.

When it interviews and selects associates, a firm should consider not only the candidate’s potential to be a good associate, but also the candidate’s long-term potential for promotion to partnership. And the candidate should be considering not only what the experience at the firm will be as an associate, but also the longer-term picture.

It is certainly in the firm’s best interests to disclose its expectations for promotion to partnership to a candidate—since the ideal hire is someone who will not only be a good associate but a productive partner. The firm benefits when these issues are defined up front, so that an associate fully understands what is expected and can work toward those goals. Disclosure of this type is also the fair thing to do since an associate is entitled to such information.

If developing a high proficiency level in a given area of law is a prerequisite to partnership, as it should be, the firm should explain how an associate can develop his or her proficiency and how the firm will assist in the development. And if building an established clientele is a prerequisite to partnership, the firm should develop a marketing program and mentoring system to help the associate build such a clientele.

The firm that does not have a clear track record and established standards for promotion to partnership should formulate such criterion and be prepared to live up to those standards. It will discover that a clear definition of partnership promotion expectations and a track record consistent with those expectations will help it attract and retain the best associates over the long run.

Delegation of Responsibilities

An associate is entitled to a delegation of those responsibilities that best correlate with his or her experience and abilities. As an associate gains additional experience and improves in ability, he or she should receive an increase in responsibilities. Otherwise, there cannot be any real growth.

Clearly it is in the firm’s interests to ensure that its associates are receiving increased responsibilities. The firm’s long-term growth is dependent upon the continued growth and improvement of associates and the promotion to partnership of deserving associates.

A Mentor

The firm should establish a mentoring system that assigns an individual mentor to each associate. This mentor should be a partner within the associate’s practice group, should meet with the associate on a regular basis, and otherwise be available to discuss issues such as:

- Professional development issues.
- Workload issues.
- Problems with partners with whom the associate works.
- Complaints about the firm.
- Annual goals.

The managing partner should establish a system to ensure that mentors meet regularly with associates and keep the managing partner advised of important developments. The managing partner should not hesitate to change mentor assignments if the mentor is not doing his or her job or if the relationship between the mentor and associate is less than satisfactory.

Another benefit of a good mentoring system is that it can great-
ly reduce the rate of associate turnover because the firm becomes better attuned to issues affecting associate morale.

Supervision and Training

Even the brightest associates cannot grow if they do not receive the requisite supervision and training. This is where even the best of firms fall short.

Proper supervision and training of associates requires time—time that is not necessarily billable to the client—and patience on the part of the partners. It is all too easy for partners, caught up in the demands of clients and the firm, to devote an insufficient amount of time to reviewing assignments with associates.

Nevertheless, the firm owes it to its associates to review every assignment on an individual basis. And frankly the firm owes it to its clients to ensure that the associate's work is competently done. If the firm is shortchanging its associates, it also risks shortchanging its clients.

Fair Compensation

In most cities, larger firms are competing for the best and brightest of associates. As a result, they offer quite generous compensation packages. The experience at midsized and smaller firms is much more varied. Many such firms are guided by what the larger firms are offering, since they are operating in the same general marketplace. Certain firms set their own standards, indifferent to the overall marketplace, and some may be taking advantage of their associates, plain and simple.

For reasons of fairness and dignity alone, a firm should not be able to treat associates unjustly and unfairly. Respect for associates' overall contributions to the firm needs to exist. It is definitely in the firm's best interests to fairly compensate its associates. An undercompensated associate will start to resent the firm over the long term, and the firm will only jeopardize its retention of better associates.

Annual Reviews

Firms should conduct a formal review of their associates on an annual basis, if not more. The review, based upon feedback by partners who have worked with that associate, should address his or her performance over the past year, goals for the coming one, and where things stand in the long-term picture for partnership promotion. Ideally, the review should be a dialog between the reviewing partner(s) and associate.

This review should include a constructive critique of the associate's performance by the partners. The associate should also be permitted to constructively critique the firm and encouraged to offer suggestions on how his or her experience at the firm can be improved. Firms need to recognize that it is not easy for associates to air their views. Associates have to be encouraged to speak up because it is only through a healthy two-way dialogue that both parties can understand each other. Not every suggestion or critique by the associate will be accepted by the firm, and partners should not feel duty bound to accept every suggestion. Yet the associate is entitled to a fair explanation of why something is not a good idea. Assuming that this explanation is based upon some semblance of rationality and principle, the associate will have a greater appreciation and respect for the firm's position.

It is essential that the firm is honest and candid with an associate during a review, especially on the issue of partnership prospects. All too often, firms give associates good reviews year after year, only to tell that associate in year seven that he or she will not become a partner. This is unfair to the associate. An associate performing below expectations should be so informed at the earliest possible time. The associate should be told what is required to improve, and that associate should then be given an opportunity to improve. If sufficient improvement is not made, and it becomes clear that partnership is not a realistic prospect, the associate must be told.

It is much easier for an associate to move on to another firm after two or three years than it is after seven or eight. To string along an associate is unfair. And again, it is in the firm's best in-
terest not to do so. If a firm wishes to attract and retain good associates over the long term, it must be fair to its present associates.

Recognition of Outside Life

It is all too easy for a firm to establish unreasonably high expectations for billable hours and to demand that its associates compete with one another in posting exorbitant hours. After all, the leveraging of associates can enhance partnership profitability.

Obviously client needs must be met, and if the midnight oil has to be burned to meet a deadline, then so be it. Yet associates are entitled to a personal life.

The question is one of degree and frequency. Individuals who choose to work in the legal profession, particularly at private firms, understand that from time to time they need to make sacrifices to properly serve their clients. If associates are constantly burning the midnight oil and working exorbitant hours, however, the firm needs to hire more associates—the firm can afford it.

Lawyers are recognizing the importance of prioritizing their lives, to not unduly sacrificing personal and family commitments to the demands of practice. Firms that are able to meet the needs of these lawyers will find that they are in a better position in the marketplace to attract and retain good people.

Treatment of Partners

It is a given that no two partners make identical contributions to a firm. And it is a given that no two partners of a firm have identical personalities. The greater the number of persons in the partnership, the greater the number of ways in which they will contribute, and the greater the types of personalities involved.

Perhaps the most challenging aspect of law firm management is to find an appropriate balance between the firm’s need for structure and the partner’s need to be treated individually. If the structure of the firm is too rigid, partners will not be sufficiently motivated to fully contribute. On the other hand, if partners are given too much autonomy, no one will know what the rules are, and disputes will inevitably arise.

Several key issues are involved in the treatment of partners. The common denominator is that each issue involves a balance between the needs of individual partners and the interests of the firm.

Compensation

Just as goals for individual partners must recognize their different contributions to the firm, so, too, must the partnership’s
compensation system. Again invoking a basketball analogy: scoring may be more valuable than rebounding; the player who both scores and plays defense is contributing more than the player who can just score. A law firm must establish individual goals for its partners, but if it wishes to properly motivate them, it cannot pay them all equally, or in some lockstep manner. Whether by way of formula or compensation committee, the different types of contributions made by individual partners must be differentially recognized.

What is important is that there be an overall rationality of the system, and a partnership consensus therefor. Many a firm has broken up over compensation issues. These break-ups typically result from a failure to achieve consensus ahead of time or a failure to anticipate unique situations.

Allow me to describe in very summary terms the formula we use in dividing partnership profits at our firm, a formula that has provided the right incentives and has contributed to our growth. Our profit is divided into four overall pools: production, delegation, turnover, and seniority.

Production, the largest pool, accounts for almost 60 percent of our overall profit and is defined as dollars collected for the partner's own time charges. In other words, we encourage our partners to work hard and to collect on their time. We use the numbers from the past three years to avoid the peaks and valleys of any given year, but we give greater weight to the present year. The partner receives a fraction of the production pool, where the numerator is his or her production during the current year and the two previous ones, and the denominator is the total production of all partners over the three-year period. We do not distinguish, for purposes of this pool, fees received from one's own clients versus fees received for one's time on other clients, because we do not want partners to favor their own clients over other clients of the firm.

The second largest pool is delegation, which accounts for about 30 percent of profit and consists of all time charges billed and collected by the billing partner, other than his or her own time charges. The pool is intended to reward those who bring clients into the firm and retain good relations with those clients. The mechanics are similar to the production pool, with the use of a three-year average and the analogous fraction.

The turnover pool, consisting of about five percent of profit, rewards those partners who turn over clients and relinquish billing lawyer status to other lawyers. The intent is to encourage our more senior lawyers to help build the practices of our younger ones. We make computations based upon the fees collected for the clients turned over, and divide the pool accordingly.

The fourth and final pool is the seniority pool, consisting of about five percent of profit. An associate promoted to partner receives three seniority points. Each year after that, the partner receives one additional point, until year eighteen. At that time, we give one-half point for each additional year. Our theory is that every year the partners are working to improve the overall firm, and that new partners are benefiting from the contributions made to date by the preexisting partners.

Our formula encourages partners to work hard, to delegate work, to turn over clients, and to collect their bills. Seniority plays a role, but at our firm one does not become wealthy by simply growing old. We have, in fact, reduced the percentage allotted to the seniority pool on several occasions over the years. The formula is up for amendment every three years but not before then, unless there is an 80 percent vote. That way everyone knows what the rules are, and understands that the rules cannot be changed too easily, has proven to be important to the overall stability of our firm.

The one element that we do not include in our formula, and arguably should, is some discretionary factor to reward administrative contributions and the training of associates. We actually established a small discretionary pool in our formula a number of years ago to encourage partners to do these things but eliminated it when we found we were spending too much time and energy on how to divide five percent of the pie. We simply expect that all of our partners will contribute to firm administration and the training of associates in one way or another.

Acceptance of Representations/Contingent
Fee Cases

Partners desire autonomy when it comes to accepting particular cases and working in certain practice areas. At the same time, the
firm needs to enforce rules in these same areas. The firm is not prepared to take on every client. A balance must be found.

It is important for a firm’s partners to agree on the types of clients they will and will not take on and issues such as retainers and fee arrangements. It is particularly crucial to establish a policy for the acceptance of contingent fee cases. Firms need to review proposed contingent fee cases on an individual basis in the context of defined parameters. At our firm, a partner introducing a proposed contingent fee client must provide a written analysis that sets forth the likely amount of recovery—in light of the probability of demonstrating liability—and the value of the projected time charges. We typically do not accept a case that does not project an ultimate recovery—computed on a present value basis—in excess of our projected time charges. Firms also should consider the need for an appropriate balance between contingent fee work and traditional hourly work.

**Personal Conduct**

Partners have different personalities, but they do not practice in a vacuum. It is important for partners to feel that they are individuals yet their individuality should not interfere with the firm’s overall operation.

Too often, some partners tend to believe that the entire firm (or world) revolves around them. Such partners can destroy an otherwise good firm. The individuality of partners must be encouraged, but partners must also be reminded that they are also part of the entire firm.

Addressing issues of personal conduct must be done in a delicate manner. Whereas the partners as a whole can address the division of firm profits, the acceptance of clients, and issues of firm governance, the entire partnership should not deal with questions of personal excess. The managing partner must take on the responsibility of addressing personal issues with the partner in question in a confidential manner.

The managing partner cannot be reticent, even when the partner who is engaged in questionable conduct is a major rainmaker.

When there is excessive or abusive conduct, the partner’s rainmaking ability should be irrelevant. The entire firm may be held responsible for a partner’s abuses, such as sexual harassment or unethical billing practices. The managing partner cannot be an ostrich in this matter. The situation must be immediately addressed.

Ideally, the managing partner should resolve the matter with the abusing partner in private. He or she must explain why such conduct is unacceptable and puts the interests of the entire firm at stake. A counseling arrangement might be established. If the abuse continues, the managing partner may no longer be in a position to keep the matter confidential, and is obligated to bring it to the attention of a small group of additional partners. This group of partners, under the direction of the managing partner, might confront the abusive partner. They should make it clear that they are prepared to present the issue to the partnership as a whole and to vote out the partner in question unless the abusive behavior ceases.

Ultimately the managing partner must make all the partners understand that the firm is bigger and more important than any one of them. The firm’s overall viability and reputation leave no room for abusive or excessive behavior.

**Accounts Receivable**

Law firm partners make lousy bankers. When a partner allows a client to become too far extended in its bills, this partner is effectively asking the firm to loan money to the client so that it may pay its other bills. Rest assured that the client is meeting its payroll, paying its electric and rent bill, and probably most of its other creditors. The practical reality that the partner is lending the firm’s money to the client is exacerbated by the ethical rules that restrict a firm’s ability to charge interest.

Partners need to realize that accounts receivable are assets of the firm, not individual partners. Once this is accepted, the next thing they need to realize is that the partner may be the worst person to collect the receivable. A partner’s personal relationship with his or her client may get in the way of pressing for payment. A partner may also simply be too busy to attend to collections.
All firms must address special situations from time to time. The manner in which they address such situations is critical not only to the lawyers in question, but as an example to the rest of the firm. A firm that acts with sensitivity and understanding is more likely to successfully address a particular, individual case—and more likely to win the respect of its lawyers and support staff.

A firm should be prepared to face the following four types of special situations:

**The Under-Productive Lawyer**

There are many reasons why a lawyer may not be productive for a firm. Because there is no single explanation for a lack of productivity, there is no single solution. Each situation must be assessed on an individual basis, and only then can an appropriate solution to the problem be formulated.

In some cases, the under-productive lawyer is fully competent, with no shortage of work, but does not make the effort expected by the firm. In such cases, it is important for the managing
partner and/or department chair to consult with the lawyer on a confidential basis. If there are personal or family issues interfering with the lawyer’s efforts, the firm should show some understanding and offer its help. If, on the other hand, it is simply a matter of work ethic, the lawyer must be made to understand that he or she is hurting the firm by not contributing his or her due share and is setting the wrong example to others. The firm should establish a compensation formula that rewards a good work ethic so as not to cause resentment on the part of harder working partners.

Lack of production may also be explained by an absence of available work. The lawyer in question may be fully competent and have a very commendable work ethic, but there is simply not sufficient work to fill his or her plate. Obviously there should be a healthy discussion with the lawyer about potential marketing efforts. If marketing cannot provide a quick fix, the firm must determine how the lawyer might otherwise contribute. The firm should understand the potential demoralization of this lawyer and might consider giving the lawyer additional management assignments. The firm might also suggest that this lawyer take on pro bono assignments. Writing an article for publication, which helps to increase the exposure of the lawyer and the firm, might also be encouraged.

The most difficult situation to deal with is the lawyer whose underproduction is due to a lack of competence. The firm has a duty to its clients to ensure that competent practitioners are handling their matters. The firm cannot in good faith assign additional work to a less-than-competent lawyer, unless it is fully prepared to have a competent lawyer supervise the matter and discount this client’s bill.

To address the situation of the under-productive, less than competent lawyer, the firm must be prepared to evaluate whether this lawyer is capable of competent practice, either through additional training and experience or retooling in another specialty. If this lawyer has the potential, the firm should devote sufficient resources and time to permit his or her development. It is certainly in the firm’s best interests to work with this type of lawyer. If a lawyer simply does not have the tools to become competent, and there is no alternative way in which this lawyer can make a real contribution, the firm may have to part ways with this lawyer after allowing the lawyer sufficient time to find alternative employment.

The Lawyer Engaged in Substance Abuse

Substance abuse must be dealt with in a manner that is respectful of both the principles of the firm and the dignity of the individual. On the one hand, the firm has fiduciary responsibilities to its clients and expectations for its lawyers and staff. The substance abuse by one individual can threaten the firm’s ability to serve its clients and demand acceptable performance from the remainder of its lawyers and staff. On the other hand, the firm must view substance abuse as a disease, something that is now beyond the control of the abuser. And just as a firm should mercifully treat a lawyer suffering from cancer, so, too, should mercy be exhibited toward a substance abuser.

Respecting both the principles of the firm and the dignity of the individual requires a program that is both tough and fair. Such a program should consist of the following seven steps.

1. **Consulting with a professional organization.** In Massachusetts, the organization Lawyers Concerned About Lawyers offers experienced and sound assistance in dealing with substance abuse. Many states have similar organizations.

2. **Confronting the abusing lawyer, in consultation with the professional, in a discreet manner.** The lawyer is informed that the firm is aware of the problem and is told what he or she will be required to do to remain with the firm.

3. **Requiring the abusing lawyer to enroll in a treatment program.** In consultation with a professional, the firm must find an appropriate program for the treatment of the abusing lawyer’s problem, and the lawyer must be required to enroll in and complete the program. The progress of the lawyer should be monitored by the firm, but in a very confidential manner. The firm should be prepared to pay for the program, or at least to advance funds to ensure the lawyer’s participation.
4. Arranging for satisfactory compensation of the abusing lawyer. The firm must recognize the financial needs of the lawyer in question. This means either full compensation or a level of compensation sufficient enough to permit the lawyer to fully focus on treatment without worrying about supporting his or her family.

5. Arranging for client coverage. A lawyer who is abusing drugs or alcohol cannot properly serve his or her clients, and any firm permitting an abusing lawyer to represent clients is inviting trouble. The facts and circumstances of each situation will define how best to handle the matter. In some cases, the lawyer requires full-time treatment, and other lawyers must completely take over his or her clients. In other instances, the lawyer may be able to serve clients while undergoing treatment, but the firm should ensure that there is appropriate supervision of this lawyer’s work.

6. Requiring post-treatment testing or monitoring. Alcohol and drugs are highly addictive, and unfortunately, lawyers can successfully complete treatment programs but then relapse. Post-treatment testing or monitoring serves two important purposes. First, it is a constant reminder to the lawyer of the need to stay clean. And second, it provides the firm with the confidence that the lawyer is, in fact, staying clean.

7. Preparing for a relapse. The facts and circumstances of an individual case will define the firm’s response. In certain situations, the lawyer should be given a second chance to re-enroll in a program. In other situations, and almost certainly in situations involving a second relapse, the firm should be prepared to part ways with the lawyer. The firm should inform the lawyer from the start that it is prepared to let him or her go if there is a relapse, which should provide the lawyer with more of an incentive to stay clean.

When all is said and done, the firm must act humanely. Yet the firm must also be true to its principles if it is to serve its clients properly and set the right example for its lawyers and staff.

Ultimately, this means adopting and adhering to a rigid program, and being fully prepared to part ways with a lawyer if this program is not being followed. As the Good Book says, sometimes one must be cruel to be merciful.

The Lawyer Who Wishes to Slow Down

Lawyers are entitled to slow down without retiring altogether, and firms should be prepared to accommodate this desire. Lawyers should not have to choose between working full-time or withdrawing from the firm.

At our firm we have adopted a “semi-retirement” policy, which provides partners with the option to stay with the firm, but with a reduced set of demands and expectations. Under our policy, a partner may elect semi-retirement beginning as early as age sixty. The firm, in turn, has no right to compel semi-retirement.

Our semi-retired partner’s hour expectations are essentially cut in half and compensation is reduced, with compensation tied into the partner’s overall productivity and contribution to the firm. When the contribution falls below a certain level, the partner may lose his or her vote, but is still entitled to attend and participate in our partnership meetings.

Lawyers who wish to slow down can still make important contributions to their firms in financial terms: by training and mentoring younger lawyers and passing on sage advice at partnership meetings. If firms insist that their partners all bill X number of hours, and do not allow another option for this type of lawyer, they deprive themselves of potentially valuable resources.

Dealing with a Long-Term Illness

A firm must be prepared for the long-term illness of a lawyer or staff member and should establish long-term disability insurance for the financial protection of both the individual and the firm. Beyond the insurance issue, the managing partner must be prepared to deal with several important issues.
1. *The issue of confidentiality.* The individual has a right to preserve the confidentiality of his or her medical condition, and the firm must respect this right. There may be situations in which the managing partner will be asked to keep the matter confidential from other partners. The partners should be made to understand that they might make the same request if they were in that same position.

2. *The firm must ensure appropriate coverage of the work of the individual.* This is especially critical when the ill person is a partner with a major clientele. The managing partner should work closely with that ill partner to discuss coverage and determine, what, if any, continuing supervisory role that ill partner can play.

3. *The firm must exhibit respect and sensitivity during the reintegration of the individual as he or she is recovering.* The convalescence may be a prolonged one, precluding an immediate full-time return to the demands of practice. The managing partner must take the lead in reminding partners to understand that people do not choose to be sick and that recovery from a long-term illness can take a long time. The managing partner needs to monitor the situation, but malingerers are a rarity, and the individual should be given the benefit of the doubt.