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EFFECTIVELY STAFFING *Your* LAW FIRM

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14

Delegation Dynamics

By Cynthia Sharp

“Many hands make light work.”

—John Heywood

Let me take you back to the fall of 1984, when I started my own law practice after practicing in a BigLaw Firm for two years. I hired an inexperienced secretary, Christine, placed an ad in the Yellow Pages, hung out my proverbial shingle, and thought that I was completely set. Alas, obstacles stood in the way of the overnight success of which I so naively dreamed. Besides the fact that I was an inexperienced practitioner, I was also a novice entrepreneur and had not yet learned how to lead my small but mighty team.

One skill I developed during my two-year stint with BigLaw was how to dictate memos for the file. Naturally, this necessary tradition was adopted in my newly established firm. Imagine my surprise when Christine returned the first stack of memos transcribed from dictation, with these introductory lines:

In Ray Jones vs. Smith
In Ray Mary Johnson
In Ray Michael Felix
In Ray Doris Hale

When I broke the news to Christine that the correct spelling of the word is not R-A-Y but rather R-E, she exclaimed with bountiful astonishment: “Oh, I was wondering why you had all of these clients named Ray”!

At that moment, I realized just how much I had to learn about management and leadership and experienced firsthand the consequences that ensue when an assignment is given to someone not prepared for the task.

Over the years, I mastered fine points of the Internal Revenue Code and Medicaid regulations—which were obviously necessary if I was going to provide proper representation. Equally valuable were the learnings that directly related to business management and team development. Because without a strong staff, my vision could not be realized.

Leverage Your Skills and Talent

Most agree with the general concept that more work can be accomplished by a team than by an individual working alone. Most law firms have one or more employees or subcontractors in place whose purpose is to assist in carrying out the firm’s mission. Even those who do not hire full-time staff usually hire outside help at some juncture.

An effective leader focuses on the highest and best utilization of the organization’s most valuable resource—the talent pool. He or she is capable of leveraging his or her own talents by delegating projects and tasks to strong lawyers and support staff members.

Lawyers who have mastered delegation skills will find more time to devote to professional and business development as well as higher level legal matters or may even relax a bit more. Lawyers spending their time on tasks such as bookkeeping or filing are essentially working at the typical compensation level of those

support personnel. Did you really go to law school and pass the bar to spend your time on these jobs that are well below your skill level?

The reality is that most could benefit from a reminder of the elements involved in effective delegation. If you are carrying a crushing caseload or have projects on your agenda that you cannot seem to find the time to implement, learning how to involve other lawyers or staff from the beginning may help you pave the way for increased productivity and profitability overall. For example, if you typically wait until the last minute to answer interrogatories, you may benefit from assigning responsibility for the first draft to another professional—immediately upon receipt of the interrogatories.

This article outlines the fundamentals of the delegation process, explores the syndrome of “Delegation Reluctance,” identifies typical unproductive behaviors in this context, and ultimately challenges the reader to implement the suggestions that follow.

Setting the Stage

Lawyers and staff alike can most easily thrive in an office culture based on open communication and interchange. The most effective delegations take place in this type of atmosphere.

Readers who are employed by law firms or legal organizations with established human resources (HR) policies are fortunate because most of the suggestions set forth in this section are probably in place. However, many smaller offices do not have an HR professional on staff and consequently have undeveloped or long-forgotten formal policies and procedures. Most of us could also benefit from improving our communication skills in this context. The following simple foundational tools can provide structure and support for an atmosphere conducive to productive delegation and are applicable to law firms at large, as well as individual departments.

Organization Chart

A well-defined hierarchy removes uncertainty in the workplace regarding authority and accountability. An organization chart allows you to delineate teams with clear responsibilities, titles, and lines of authority. Even the smallest of “shops” (including solos) will benefit from this tool. It is particularly useful in clarifying chain of command when a change in staff occurs.

Staff Meetings

Regularly held staff meetings engage the team in advancing the organization’s objectives. Using a template agenda will assist you in conducting a structured and tightly run meeting, which will provide a forum for the following:

- Holding regular and open discussion of office procedures and issues.
- Discussing the status of pending cases and outstanding issues (if appropriate).
- Reviewing the status of projects to determine if timelines are being met.
- Identifying problems and creating solutions.
- Keeping a finger on the pulse of lawyer and staff morale.
- Celebrating team successes. Who doesn’t love recognition?

The meeting ends with a review of the action steps that must be taken before the next meeting in order to keep initiatives on track. Lawyers are so busy with the daily demands of practicing law that it can be difficult to engage in activities designed to improve the practice’s efficiency. Regular staff meetings serve as a platform for creating and implementation of such objectives. A team member with note-taking responsibility distributes the minutes as a reminder of individual responsibilities.

Lawyers with supervisory responsibility can also use this as a forum to keep updated on the progress of matters being handled by the department.

Standard Operating Procedure Manual

The investment made in developing a detailed standard operating procedure (SOP) manual will save countless hours in the long run. Having a set of written instructions on hand that documents routine or repetitive activities provides lawyers and staff alike with a valuable resource and can greatly promote efficiency. Training time is reduced, and everyone has ready access to information. The SOP can cover areas such as billing processes and instructions for equipment operation. Individual practice areas should develop their own practice manuals, which can be useful to both experienced and inexperienced practitioners.

Culture of Trust

Encourage your subordinates to report mistakes or ask questions without fear of unreasonable retribution. You can then remedy the error at the earliest possible time and hopefully turn it into a lesson learned. Obviously, disciplinary action may unfortunately be necessary if persistent or egregious errors are made by an employee.

The Fundamental Process

Delegation is simply the act of assigning responsibility for a task or project for which the delegator generally has ultimate accountability.

The most basic delegation involves assigning a task with the expectation that instructions will be followed precisely. If no authority is given and no latitude is allowed, professional growth

is neither expected nor sought. A manager can accomplish a successful delegation by being exceedingly clear as to the parameters of the task. Providing feedback is the second and most likely final step in this simple process:

Example of basic delegation: “Please leave for the bank at 2:00 p.m. and make this deposit. When you return to the office, give the deposit slip to the bookkeeper.”

Examples of feedback (depending on performance): “Thank you” or “Why didn’t you return to the office after you went to the bank?”

The more challenging delegations hold a person responsible for a specific outcome. The lawyer, paraprofessional, or other staff member’s knowledge and experience determine the extent of authority granted and breadth of freedom permitted with respect to choice of strategies and methods. An objective of this type of delegation is professional development of the employee.

The following process is designed to provide guidance and contribute to a successful delegation:

Clearly define the responsibility to be assigned and select the appropriate individual for the job.

Explain the importance and relevance of the assignment. Respect the subordinate lawyers’ and staff members’ respective roles as part of a cohesive team. Do not be surprised if he or she offers useful suggestions that improve the efficiency or ultimate outcome.

Outline with specificity the required results and clearly delineate how you will determine when the assignment has been successfully completed.

Be explicit regarding the level of authority you are granting. What decisions, judgments, and commitments can she make on her own?

Discuss the individual's capabilities. Introduce him or her to any training material, manuals, or prototypes that provide appropriate background and step-by-step instructions—particularly if the responsibility being assigned represents new territory. Other team members may be appropriate resources as well.

Agree to specific deadlines. When is the final project due? Set time frames for review of various phases of an ongoing project. Confirm with the employee that the time frames are realistic. Ask if he or she has other deadlines that would interfere with this project.

Confirm that your subordinate has a clear understanding of the previous points. Having her repeat the nature and scope of the assignment will help minimize misunderstandings and also reinforce commitment. The level of accountability must be made explicit.

Written confirmation of the desired outcome and time frames is desirable in most situations but obviously not necessary if the assignment will be completed immediately.

Support and Communicate—Be available for review and even encouragement. Junior lawyers may feel embarrassed or afraid to reveal their lack of knowledge about a subject or task. Reassure them that you are happy to answer any questions they might have.

Give Feedback—It is essential to let the person know how he or she fared with the assignment and whether your carefully outlined expectations were met. If not, you must review any shortfalls and explain how the outcome could have been improved. Immediate feedback is essential if you are in favor of promoting professional growth.

Mistakes—Sometimes a mishap occurs in the context of a delegation. Simply determine what went wrong and apply the lesson to create a better experience next time.

Discourage Upward Delegation—Be sensitive to an employee’s attempt to shift responsibility back to you or “upwardly delegate.” Offer guidance where needed but keep in mind the fine line between extending support and motivating a person to grow and learn.

Watch Out for Re-delegation—Be ever watchful of an employee who re-delegates tasks or pawns an assignment off onto a coworker because she does not want to do it. Believe me, it happens, and is not fair and is inefficient. Make sure your staff understands that your input is required before recruiting peers for assistance.

Delegation Reluctance

According to an English proverb, “Old habits die hard.”

Many lawyers have long subscribed to the “go-it-alone pioneer” mentality and spend (or waste) countless hours performing tasks appropriate for a capable subordinate lawyer or staff member. They suffer from Delegation Reluctance (DR) Syndrome and cite the following reasons for their working style:

Nobody can do it as well as I can—That the senior lawyer retains ultimate accountability for the project can be the basis for DR. The person may fear that a mistake will be made and can be heard to say: “If you want something done right, do it yourself.” Indeed, the transfer of a task does involve a degree of risk. However, a role of the senior lawyer is to teach, motivate, and provide feedback to junior lawyers and support staff in the context of an effective and responsible delegation. If the lack of confidence is well-founded because of prior unfavorable experience with the subordinate and additional past training has not proved beneficial, it may be time to review whether it is productive to retain the employee.

Not enough time to delegate—The thinking is: “It will take more time to teach someone else how to do the task than to do it myself.” If the senior lawyer already possesses the requisite skill and knowledge to complete a one-time task, an investment in training does not make sense. However, teaching or documenting a repetitive task is a wise investment of time and effort.

Fear that employee will resent delegation—The lawyer does not want to impose and may fear that subordinates will resent being asked to take on certain types of tasks. For example, my friends were astonished that one of the receptionist’s jobs was to bring me and my clients coffee or other beverages during meetings.

I had no hesitation in passing downstream these types of tasks that I would otherwise have to handle personally. My employees were well-informed about my expectations during the interview process, understood the organization’s hierarchy, and willingly carried out assignments as they were given. An employee with an attitude problem who does not cooperate presents another set of concerns beyond the scope of this article.

Unclear as to whether they have authority to delegate—Reviewing the organizational chart and chatting with a lawyer’s own supervisor can clear up this mystery.

Problematic Delegation Styles

A lawyer who exhibits any of the following descriptive behaviors may want to take an inward look and consider whether a change in style could benefit the organization, coworkers, and self. While these firmly entrenched habits are not easy to change, awareness is the first step.

Procrastination. Procrastinators put off many tasks including delegation. The procrastinating lawyer's subordinates are frequently saddled with last minute "emergencies" because he hoards projects that could have been assigned long ago, which often makes him guilty of a dump and run, described later.

Micromanagement. The micromanager is often found looking over his secretary's shoulder—presumably to make sure the secretary is not misspelling any words while typing. He frequently listens to his secretary's phone conversations perhaps to make sure the correct message is conveyed to the client/adversary/vendor.

While reasonable oversight is a critical component of the delegation process, micromanagement is detrimental on many levels. Organizations that employ micromanagers are essentially paying for two people to be involved in a task that can be accomplished (at least in large part) by one person alone. Moreover, the confidence and morale of the person being over watched is undermined because the manager seemingly does not trust his or her judgment or ability to work independently. Equally troublesome, staff members are often deprived of experience necessary for professional development.

Dump and run. Victims of dump and run (D&R) drive-by delegations report the following scenarios:

1. They were not given a clue as to how the assignment fits into the big picture of the case;
2. They received vague and unclear instructions and perhaps a set of cryptic notes;
3. They did not understand what was expected;
4. They lacked the current skill set to complete the project;
5. They had no idea where to turn for guidance; and/or
6. The senior lawyer was unavailable as a resource for clarification, direction, or support.

Valuable time is wasted while the junior lawyer or staff member spins her wheels in frustration trying to figure out a task for which she lacks fundamental training. If there is a pressing deadline (and there usually is), the manager must either re-delegate the project as a rush job or do it herself. Of course, the ideal outcome would be for the manager to identify this as a learning opportunity, make use of available delegation strategies to train the staff member, and assign the staff to draft an SOP.

Sometimes, a D&R takes place because the senior lawyer herself does not have the capabilities to complete the project and moreover is unaware of the resources needed to produce a quality job. Instead of requesting help from her supervisors or working as part of a collaborative team with a staff member, she commits a D&R.

If D&R is part of your current style, many valuable resources and tools are available to assist you in forming new and productive habits.

Ethically Compliant Delegation

ABA Model Rule of Professional Conduct 5.1 sets forth Responsibilities of a Partner or Supervisory Lawyer, while MRPC 5.3 outlines Responsibilities Regarding a Nonlawyer Assistant (http://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_5_1_responsibilities_of_a_partner_or_supervisory_lawyer.html). It is recommended that you take this opportunity to review the text and comments of the corresponding ethics rules in your own state.

A number of reported opinions throughout the country involve scenarios under which a lawyer has entrusted outside entities to handle law firm marketing projects. Ultimate responsibility for violation of lawyer advertising rules has been imposed on the lawyer under the precept that ethical obligations cannot be delegated.

Get Started Today!

Skilled delegators stand to enjoy the benefits of a productive office. They are freed up for work activities that require the use of their highest and best capabilities. Furthermore, junior lawyers and staff members develop and are able to contribute more to the welfare of the law firm or legal organization.

What ideas did you pick up from this article that would make sense in your own law firm? With the right plan in place, your team can accomplish the required tasks and your organization will reap the rewards of progress and increased profitability.