

FOR LAW FIRMS
STRIVING FOR
EXCELLENCE

ESSENTIAL GUIDE TO **ASSOCIATE DEVELOPMENT**



www.performlaw.com

INTRODUCTION

Regardless of how the practice of law changes in the future, law firms will always need energy, experience, skill and wisdom. Forward thinking law firms realize that hiring and supporting bright young lawyers is a critical component of ensuring that the firm does not run out of energy and fall into decline. A strong attorney development program can further secure long-term successes.

These programs can be beneficial to both the associate and the firm. Firms that develop their leaders now will be better positioned to handle challenges in the future.

Developing an effective program needs planning and partner support. PerformLaw's eBook will review the essential components of an effective program including:

- Evaluation and feedback
- Practice planning
- Compensation
- Advanced criteria

Associate Development Concerns

The costs of training and mentoring is a valid concern, especially because clients will not pay for such expenses. Clients are not saying don't hire young people, but they are saying that they won't pay for them until real value is added. Smart firms will adjust their strategic plan and cost structure to allow for the inclusion of bright new minds.

CONTENTS

PART 1: **RECRUITING & HIRING**

- CRITERIA FOR RECRUITING EFFECTIVENESS PG. 5
- ROLE SPECIFIC HIRING CRITERIA PG. 7

PART 2: **TRAINING & EVALUATING**

- WORK ETHIC EXPECTATIONS PG. 11
- DATA DRIVEN FEEDBACK PG. 13
- ASSOCIATE TRAINING PG. 15
- ASSOCIATE VALUE PG. 16

PART 3: **COMPENSATING**

- COMPENSATION DEVELOPMENT SYSTEM PG. 21
- PRACTICE AREA FACTOR PG. 24
- BASE PAY AND BONUS COMPONENTS PG. 26
- PROFITABILITY FACTOR PG. 30
- ORIGINATIONS, TRAINING, LEVERAGING, RECRUITING FACTORS PG. 34

INFOGRAPHIC

PG. 42



PART 1

RECRUITING & HIRING

Want to develop your associate into stellar lawyers?
Start by hiring the right ones.

CRITERIA FOR RECRUITING EFFECTIVENESS



Law school and class rank are the most common objective criteria used when initially selecting associate. Other factors follow, but subjective factors rarely overcome school and class rank.

While the quality of law school and class rank are indicative of certain things about a potential hire, we see higher levels of success among firms that employ “role specific” hiring criteria aligned with client needs. For example, when hiring an associate for clients with a volume of similar and tightly managed cases, hiring criteria would include an ability to manage multiple priorities and a desire to work in a structured environment that values adherence to procedure.

Alternatively, when hiring for clients with complex issues requiring deep research and creative approaches to each case, firms would consider candidates possessing strong problem solving and writing skills. Associates with an ability to handle changing priorities and a less structured routine would have a higher value in this type environment.

Larger firms can employ higher numbers of candidates with the understanding that attrition is inevitable. In these instances, the best available talent is selected based on general criteria such as law school rank, grades and academic achievements. Continuing this approach requires a certain amount of attrition (few firms can grow at a pace to absorb 100% of new hires).

CRITERIA FOR RECRUITING EFFECTIVENESS

Small and mid-sized firms hire fewer associates and must achieve better hiring results and lower attrition rates. For example, a twenty-five lawyer firm that hires two associates per year at a 50% attrition rate will have the ability to grow by 20% every five years. Lateral hires are a separate consideration.

We recommend that firms expand their hiring criteria and interviewing process to include suitability for the contemplated role and ability to address client needs. We also recommend that firms analyze the attributes of their existing successful associates and those who have left for perceived better opportunities to assist in the development of a model associate platform.

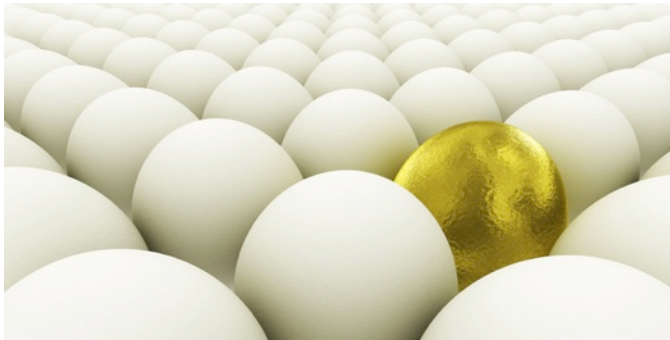
TOOLS	MEASUREMENTS
Role specific model associate criteria	<ul style="list-style-type: none">• Class standing,• Undergraduate degree,• Prior work history,• Potential to meet specific role,• Thorough interview process
Successful associate trend analysis	
Client specific criteria	

Finally, determining if former associates have been successful in competitor firms will provide an objective indication if a firm's compensation, evaluation and or developmental processes are competitive.

ROLE SPECIFIC HIRING CRITERIA

Define the Role. Then Hire the Associate.

Firms willing to invest time and effort into the hiring process are better able to choose the right candidates. Specifically, firms developing a role specific recruiting process are more likely to consider only high quality candidates who are a potential match for an open position. On the contrary, firms that typically hire based on likability and broad academic measurements are prone to a weakened hiring process. Hiring law firm associates based on suitability for a defined role requires the following process elements:



- **Understanding of available roles;**
- **Model associate criteria;**
- **Client preferences; and**
- **Informed interviewing process**

Role Definition

The first step in developing a hiring strategy is to seriously contemplate the attributes required to succeed in an available role. Roles are best developed with both partner and associate input.

Partners should consider internal factors (chemistry, partner work habits, and style) along with how a particular role impacts client service. Since associates know the daily realities of the job, associate input is also vital to the role definition process. Additionally, the inclusion of existing associates in the hiring process supports good morale and an increased willingness to train new lawyers.

It is important to remember that many associate candidates are just glad to have a chance at a paying job. Even if they are better suited for another role, their income need will force them to try to be what the position requires. This is why it is important for firms to define roles as specifically and realistically as possible.

Model associate criteria

Creating a model that indicates the attributes of successful associates is a valuable tool for selecting new hires. Personality, law school, grades and prior work experience are often the criteria applied to hiring new associates. Firms that carefully consider the attributes of existing successful associates are better prepared to choose candidates.

For example, let's assume that a firm measured several data points related to existing associates in similar roles. The model associate criteria might look as follows:

SAMPLE MODEL

Attribute	Most Preferred	Workable	Unworkable
Law school	School 1	School 2	School 3
Class rank	Top 25%	Top 40%	Bottom 25%
Prior experience	Banking/Finance	Accounting	No business
Undergrad degree	Finance/Econ/Accounting	Gen business	Liberal Arts
Personality	Adaptable	Adapt with effort	Rigid
Work hour flexibility	High	With notice	Strict schedule
Tolerance for complexity	High	Above average	Average/Below
Tolerance for ambiguity	High	High with effort	Low
Writing skills	Technical	Creative	Weak
Communication skills	Strong Verbal and Written	Strong Written	Weak
Feedback need	Low	Medium	High

There are several other data points that could be measured and some of these could be eliminated. Firms that do not have enough data to form a model would still benefit from the exercise of considering the most important attributes of the contemplated position.

Finally, this type of analysis is beneficial when searching for macro clues to existing associate performance. If a firm is happy with associate performance, it may be possible to discover less obvious traits within the existing staff. The reverse may also be true for poor performing associate groups.

Client specific criteria

Private law firm clients generally do not tell law firms who to hire. Clients do, at times, recommend broad hiring preferences to law firms. For example, some clients have diversity requirements in their retention agreements with law firms. Bilingual speaking team members are often an advantage. Finally, some clients simply will not pay for first year lawyers. To the extent that a firm is able to identify client preferences, assuming they are not discriminatory, they should be taken into account when considering new hires.

Informed interviewing process

Having a clear understanding of the available roles and corresponding model associate criteria, firms are capable of developing a more informed interviewing process. Whether partners are responsible for identifying and vetting their hires, or it is a hiring partner or committee performing these duties, the process is much the same.

Hiring committees/partners having the benefit of role specific model associate criteria will have more recruiting effectiveness. Each phase of the hiring process from the initial job posting, to resume evaluation, to interviewing and selection will be enhanced by an informed approach.



When firms have a clear understanding of the available roles and corresponding model associate criteria, they are capable of developing a more informed interviewing process.

Define the role. Then make the hire.



PART 2

TRAINING & EVALUATING

For firms still committed to law school hiring...
rather than who still believe.





WORK ETHIC EXPECTATIONS

Associate Contributions: By the Hours

Setting expectations for associates is extremely useful in the developmental process and helps avoid burnout. If associates have an idea of the time commitment required to progress, they are more likely to fully engage.










Similar to runners training for a marathon, associates starting out too fast will burn out. Training must begin with shorter distances that become longer with increases in endurance. What initially seems daunting soon becomes tolerable. When law firms give their associates robust but doable work ethic expectations that increase over time, productivity and loyalty are enhanced. Law firms also benefit from building economic models based on long-term associate development.

Infographic (Following page)

The infographic on the following page provides a sample of a recommended process for setting work ethic expectations. All firms are different, and the indicated expectations would be modified to fit the role. *For example, a lawyer with a heavy publishing commitment may have a reduced billable goal or use time from other areas.*

LAW FIRM ASSOCIATE CONTRIBUTIONS: BY THE HOURS



CONTRIBUTION	COMMENT	EXPERIENCE YEARS			
		1-4	5-8	9-13	14 +
		Hours	Hours	Hours	Hours
 Scheduled Hours	Total hours needed to grow or maintain role in firm	2,200	2,300	2,400	2,400
 Billable	Needed to meet client demand (will vary by firm and practice type)	2,000	2,000	1,865	1,800
 Administrative	Time accounting, billing, and non billable overhead time (less than .5 hour per day)	100	125	180	200
 Skill Development	CLE and formal training (in addition to case specific training time written off)	25	25	30	30
 Marketing and Related	Direct marketing activities and inbound marketing support	30	50	100	180
 Bar, Professional, Civic	May also be a supplement to marketing and individual brand building	25	50	150	150
 Pro Bono	Professional responsibility depending on firm policy. Some firms count toward billable goals.	15	15	15	0
 Recruiting	Interviewing, On Campus, Clerk Programs, etc.	5	10	10	10
 Training Others	Practice area and skill specific training	0	25	50	30
TOTAL NON BILLABLE	Total Non Billable Investment	200	300	535	600
TOTAL HOURS CONTRIBUTED	Should equal Scheduled Hours	2,200	2,300	2,400	2,400



DATA DRIVEN FEEDBACK

Successful Firms Put The Right People In The Right Jobs

Law firms secure successful attorneys because their hiring decisions are based on suitability for a defined role. These firms hire the right people since they invest the time and effort to develop a clear understanding of the available roles and corresponding model associate criteria.

To continue on this successful track, firms must also monitor their associate's performance to ensure that each associate is progressing and thriving in their assigned role. If an associate is underperforming in his or her role, changes must be made.

There are several data-driven feedback opportunities that firms can use to monitor and evaluate associate performance. These tools are described on the following pages.

TOOL	DESCRIPTION
Realization Metrics	Realization rate trends may reveal inefficiencies that exceed training allowances. Several factors may affect associate average rates including inefficiency, unsuitability for the assigned role, training issues, partner inefficiency, client pressures and lack of supervision.
Profitability analysis	<p>Client profitability analysis at the timekeeper level is revealing. Higher profitability on certain matters and poor profitability on others, assuming similar rates, may be an indication of a role mismatch. Consistent analysis of these data will provide valuable insights for improving associate performance.</p> <p>* Click here to view a Sample Profitability Report.</p>
Progression rates	Steady progress, even if it is not as fast as desired, is workable. Some of our clients have developed benchmarks based on years of experience. These benchmarks often evolve into goals rather than hard measurements. For example, trial experience is often desirable at a certain point in an associate's career, and a firm may choose to assign an associate to files that have a high chance to go to trial. Associates who are not progressing in any appreciable way, even if they have all of the "will do" factors, are likely in the wrong role or an unworkable situation
Timeliness ratings	Timeliness is a revealing component of assessing whether an associate is in the right role. If level appropriate or routine assignments are consistently late, it is likely that work and the associate are a poor match.
Practice plan feedback	<p>Practice plans are essential tools for guiding associate development and ensuring a congruence of priorities among the firm and the associate. The feedback portion of the practice planning process is an important part of determining whether if an associate is fully engaged in their work.</p> <p>* Click here to view a Sample Practice Plan Report.</p>
Performance assessments	<p>Regardless of your beliefs about performance assessments generally, it is important to engage in a structured consideration of whether an associate is progressing in their current role. An engaged evaluation process will help determine if the trajectory of the relationship between the firm and the associate is growing, stagnant or declining.</p> <p>* Click here to view a Sample Performance Evaluation Report.</p>



ASSOCIATE TRAINING

When it comes to associate turnover or ineffectiveness, small to mid-sized firms operate on a razor-thin margin. Many firms have simply given up law school hiring as means to fill open positions or to meet future staffing needs.

More often, firms prefer to hire associate lawyers with experience. These law firms are betting that lateral associate hires come properly trained by their former employers. However, this is not always the case.


Contributing to the training reticence are associates who leave firms prematurely. Additionally, many clients are not willing to underwrite training costs, or in some instances, even let lawyers work on their cases. In our experience, all of these factors add up to a series of missed opportunities, accelerated law firm aging and diminished competitiveness.

For those firms who still believe it is worthwhile to invest in hiring directly from law school, we recommend a process that includes the following elements:

- **Formal training plan and budget;**
- **Training incentives;**
- **Structured access to trained lawyers;**
- **Mentoring program;**
- **Work assignments that are congruent with the training plan; and**
- **Structured evaluation and feedback system.**

Realistically, this is a lot of structure for small to mid-sized firms to employ. Measurable benefits, however, may be produced from at least considering the necessary elements of training lawyers and applying them on a conceptual level.

For those firms that are data driven and believe that there is value in training associates, we created the following Prezi just for you!

A graphic for a Prezi presentation titled "NAVIGATING ASSOCIATE TRAINING COSTS". The title is in large, bold, yellow capital letters. Below the title is a large, grey, right-pointing triangle with the word "Play" in white. The background is dark with some faint, circular, greenish-yellow patterns. There are also some small, circular icons with text inside, like "The Law" and "The Firm".

Prezi Navigation Tips

- Click the image on the left to go to Prezi.
- Enable full screen (icon at bottom right of the Prezi window)
- Navigate through the Prezi using arrow keys or the spacebar.
- Click on any image to zoom in on its contents.

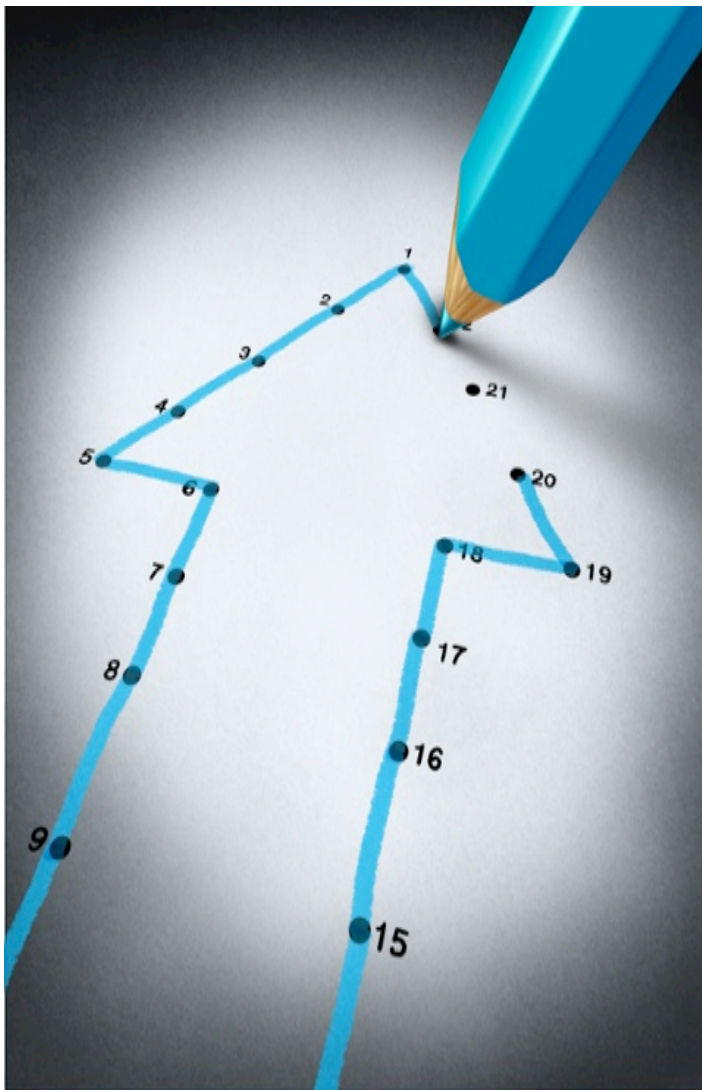
TIPS

ASSOCIATE VALUE

Expedite Associate Value by Setting Expectations

Expectations and consistency are reliant on one another. To effectively set attorney expectations, law firms should include a planning process, benchmarks, periodic reviews and a clear progression path. The focus of this post is the planning process.

A structured process (Practice Planning Process) that creates a balance between the firm's needs and the career goals of the attorney is ideal.



These plans are specific and are based on three essential concepts:

1. Shared vision of success;
2. Train associates to view their career strategically; and
3. Focus efforts according to commitment and potential.

Consider the excerpt from a sample practice plan on the following page.



PRACTICE PLANNING SYSTEM ANNUAL PRACTICE PLAN

1 Future Star

Plan Year: 2016

Bar, Professional and Civic

<u>ACTIVITY DESCRIPTION</u>	<u>HOURS</u>	<u>DOLLARS</u>	<u>COMMENTS</u>
Professional association participation	6	\$150	Your present role is as an associate focused on learning employment law. Understanding the issues that the firm's clients are concerned about will improve client service. Several attorneys are involved in HR organizations at different levels. Contact your peers for a recommendation.
Bar participation	20	\$250	Recommend participation in the local bar association. Benefits include: basic networking, community involvement, opportunities to meet members of the judiciary and become professionally involved. For help getting started, consult with More Experienced Lawyer A.
SUB-TOTAL	26	\$400	

Marketing

<u>ACTIVITY DESCRIPTION</u>	<u>HOURS</u>	<u>DOLLARS</u>	<u>COMMENTS</u>
Support inbound marketing efforts	104	\$0	Write a weekly blog post or contribution to larger content pieces in support of the employment law marketing plan. Consult the marketing plan and editorial calendar for the subject matter and scope guidance. The firm will benefit as the result of providing high-quality content for the benefit of clients and potential clients. You will benefit from building a profile from publishing and learning from the research.
SUB-TOTAL	104	\$0	
TIMEKEEPER TOTAL	130	\$400	

The example above focuses on the foundational aspects of a lawyer's career and would be relevant to a new attorney. Associates may choose to invest additional hours in their development as a lawyer or in the development of their practice.

Hours and dollars are both allocated during the planning process. The hours referenced in a practice plan are those a firm considers when setting a billable goal.

Creating billable expectations using this type of approach is indicated in the chart below. The levels of scheduled, billable and non-billable hours are all determined during the planning process. Scheduled hours, however, are provided as guidance for an associate to use when considering how much time to invest in their careers.



	MODEL SECTION					
	Associate 1	Associate 2	Associate 3	Income Partner 1	Equity Partner 1	Totals
Experience Level Years	A 1	A 2	A 3	IP 1	P1	
	<1	3	6	10	20+	
Schedule apportionment						
Scheduled hours-see below	2,200	2,300	2,400	2,400	2,400	11,700
FTE	1	1	1	1	1	5
Administrative hours	5%	5%	4%	4%	7%	5%
NB Case supervision	0%	0%	0%	1%	2%	0%
Assignment set up and training	0%	4%	7%	9%	3%	5%
Skill development - Internal training	17%	5%	2%	0%	0%	5%
Bar professional trade	1%	1%	1%	1%	1%	1%
Marketing (Including inbound)	1%	1%	1%	1%	2%	1%
New Practice area development	5%	2%	3%	3%	7%	4%
Pro bono	0%	0%	0%	0%	0%	0%
Recruiting	2%	1%	1%	1%	1%	1%
Sub-total non billable	31%	19%	20%	20%	22%	22%
Billable	69%	81%	80%	80%	78%	78%
Planned hours						
	A 1	A 2	A 3	IP 1	P1	Totals
Regular Hours	2,080	2,080	2,080	2,080	2,080	10,399
PTO (Vacation, Sick, Leave, etc.)	120	120	160	160	200	760
Holiday hours	80	80	80	80	80	400
Total personal hours	200	200	240	240	280	1,160
						-
Total Regular Hours	1,880	1,880	1,840	1,840	1,800	9,239
Personal Time Investment	320	420	560	560	600	2,461
Scheduled Hours	2,200	2,300	2,400	2,400	2,400	11,700
Administrative hours	104	104	104	104	157	573
NB Case supervision	-	-	-	13	39	52
Training - set up, train and review	-	94	180	213	64	550
Skill development - Internal training	375	116	59	-	-	550
CLE - External Training	26	26	26	26	26	130
Bar professional trade	26	26	26	26	52	156
Marketing (Including inbound)	104	46	66	79	171	465
New Practice area development	-	-	-	-	-	-
Pro bono	52	26	26	26	26	156
Recruiting	13	13	13	13	16	68
Sub-total non billable hours	700	450	500	500	550	2,700
Planned billable hours	1,500	1,850	1,900	1,900	1,850	9,000

Each person and each situation is different, but the firm will need certain levels of billable performance and non-billable contributions to ensure a growing and profitable relationship with the associate.

In this model, the contributions of hours differ depending upon individual plans and experience levels. As a general rule, the development of practice plans for associates in years 1-5 is heavily influenced by the partners. After year 5, individual attorney goals and the firm's needs should be aligned. Reaching this point affords more latitude in plan development. Once full partnership is reached, the process usually becomes optional and is replaced with a marketing or strategic plan.

You may recall that we recently circulated a traditional hour's model that included more billable hours and less non-billable time investments. When comparing that model to the sample performance above, it is important to understand that every firm is different and the approach introduced in this post is more difficult for some firms to embrace. When employing a practice planning process that includes strategic investments of non-billable time, a long-term approach is necessary.

As more clients refuse to pay for associate training, this process seeks to generate associate value on an expedited basis.



PART 3

COMPENSATING

Does your firm want to stay around for a while?
A competent compensation system is a must.



COMPENSATION DEVELOPMENT SYSTEM



The topic of associate compensation typically generates many questions.

- *What should you do when market pay and associate contributions are not aligned?*
- *Is compensation an incentive after a certain point?*
- *Should associate base salary contain more base pay or more bonus?*
- *How do we manage profitability when clients tightly manage the use of associate time?*

The answers we give to these questions depend on client service needs and a firm's goals. And while every firm is different, there are best practices and a process for rewarding tangible contributions that any firm can use.

This article and ones that follow in Part 3: Compensating will review the components and processes to consider in developing an effective associate compensation system.

To start, consider the distinction between subjective and objective contributions shown on the following page. Distinguishing contributions that build long term value from those that contribute to profits (profit contributions) is the first step in creating the right incentives. Eventually, these distinguished categories should intersect, but they may also remain distinct.

COMPENSATION DEVELOPMENT SYSTEM

BUILDING LONG TERM VALUE	CONTRIBUTING TO PROFITS
SUBJECTIVE	OBJECTIVE
More salary emphasis	Less salary emphasis
Less bonus recognition	More bonus recognition
Equal advancement weight	Equal advancement weight
<i>Consider the subjective and objective factors indicated below to inform salary and bonus decisions</i>	
BUILDING LONG TERM VALUE	CONTRIBUTING TO PROFITS
Quality of professional work/ capability	Personal profitability
Client relations and service	Client profitability
Personal development	Profitability of others (leverage and supervision)
Business development competence	Recruitment of profitable lawyers
Training contributions	Training contributions
Professional recognition	
Firm reputation buildup	
	

As the chart indicates, building long-term value contributions are rewarded through salary and profit contributions through bonuses. When considering advancement, each is weighted equally.

It is our experience that many law firms weigh the objective profit contributions more than the qualitative/ long term value contributions listed in the lower half of the table. A firm's long-term performance, however, is more affected by qualitative factors, and we recommend balancing short and long-term priorities.

For example, building long term value may lead to higher bill rates, realization, and availability for a wider range of assignments. Alternatively, a lawyer who is assigned to a case requiring a large volume of repetitive functions may be contributing higher profit dollars now, but may not advance their marketable skill sets.

.

.

In a competitive legal market, properly incentivizing and compensating associates is essential to not only the retention of top attorneys but also to a firm's profitability and long-term viability.



PRACTICE AREA PAY

Should Pay Follow Practice Area?

Certain practice areas at law firms are clearly more profitable than others. Because of this, firms with a diverse practice mix will face more challenges in developing an associate compensation system. For instance:

How should a firm compensate same-year associates working in different practice areas with materially differing billing rates?

Most firms rarely consider billing rates when deciding how much to pay their associates. They focus solely on attorney's billable hours, making billing rates irrelevant to the compensation equation. We believe these firms need to refocus.

Law firms will benefit when they focus more on the profit an associate generates rather than their number of billable hours. Firms should consider an associate's billing rates and profits contributed for the following reasons:

- Associates who successfully work on higher paying client work will develop skill sets valued by these clients. As their career progresses, they are incented and will be positioned to develop work in these higher rate bands.

- Billable hours may differ among practice groups. For example, certain business practices may have less leverage and less individual billable hours. Usually, the rate differential will overcome the result of less production. Regardless, paying on profit contributed will account for any favorable or unfavorable differences.
- Firms that hire associates based on available roles must consider the economic realities attached to these positions. For example, insurance defense and estate planning will have separate economic models with billable hour and rate differences. Partners need the flexibility to align compensation with the competitive needs of their practice.
- Outlier practices (practices significantly different than the common practice in the firm) must pay their people at the market value for the services they offer. A firm with mostly lower rate practices is vulnerable to losing people doing higher rate work if they do not account for the market realities. This is particularly true when competitors are paying their attorneys based on the economics of that higher rate's practice.
- Paying based on billable hours may not be feasible in non-hourly billing practices.

Having worked in law firms for virtually my entire career, I can think of individual situations that don't fit into any of these scenarios. Recognizing that creating policy is an imperfect science, all compensation decisions must be accompanied by sound management judgment.



BASE PAY & BONUS COMPONENTS

Winning the Game of Associate Compensation

To remain competitive, law firms must attract, motivate and retain top performing associates. A well-designed associate compensation system is essential to championing this effort. While no system is perfect, a firm is most effective when its compensation structure is aligned with the firm's values and goals. The system should also be predictable, so that there is a clear connection between an associate's behavior and his or her compensation.

This article will discuss the components of a successful compensation system, including base pay and bonus pay. It will review ways in which your firm can approach these components in developing an associate compensation system.

Base

Base compensation varies by law firm and market. Many firms have a salary scale based mostly on experience. Economic factors are considered, and firm performance often influences base pay. Typically, firms set a base compensation and give associates annual pay increases. While associates on partnership track may have a higher earning ceiling, eventually salaries are capped, and additional income is earned through bonus.

Rate increases are difficult to achieve, and many clients have standard rates based on experience level. As a result, associate profit margins are difficult to maintain. Well-managed firms mitigate this effect through expedited training, which results in improved production and realization.

The two most common base compensation schemes we see include lower base/higher bonus and higher base/lower bonus. Both of these systems are workable, but each comes with its pros and cons. For example, lower base salaries require an aggressive bonus plan requiring firms to reserve cash to meet bonus payouts. Higher base salaries tend to marginalize bonuses and the performance that accompanies an extra pay incentive.

We recommend setting initial base salaries at market and increasing base salaries as additions to long-term value occur.

The tools that provide the data to make these assessments include:

- Practice plans;
- Performance assessments; and
- Profitability analysis.

Increasing base salary based on the thoughtful consideration of an associate's value to clients and the firm will incent the right factors.

Bonus

Subjective

A completely subjective bonus system is based on the opinions of the firm decision makers. This can lead to a process susceptible to a weighting based on political strength, likability, and perception. While billable hours and billing data may inform bonus awards, the actual meeting dynamics and current events (good/bad year, good/bad month, cash position, etc.) can play a disproportionate role.

Absent a reliance on objective factors, administering a subjective system should, at a minimum, employ a process of comparing final numbers for essentially equivalent results. A comparison to prior year awards for the same stated performance may also indicate inconsistencies.

Absent a reliance on objective factors, administering a subjective system should, at a minimum, employ a process of comparing final numbers for essentially equivalent results. A comparison to prior year awards for the same stated performance may also indicate inconsistencies.

Communicating the bonus criteria and ensuring that the recipients (or non-recipients) can connect their performance to their award is essential to incenting the right levels of performance. It is fine to award non-productivity related subjective bonuses (community activity; client satisfaction/feedback; pro bono service award, etc.) so long as there is a clear connection between the action and the compensation. Differing bonus amounts that are not explainable by apparent factors can create morale issues.

We believe a fair compensation system needs to be predictable and transparent. Therefore, data is inevitably needed, which incents a move toward an objective approach.

Objective

Among the objective bonus structures, compensating based on billable hours is the most prevalent. Standard bonus programs range from payment for each hour worked past a threshold to bonuses based on a percentage of salary at stated levels of production. Several other systems exist, but the awards still primarily tie to billable hours.

The key concerns raised with hours-based bonuses include realization and workload differences. Unless there are realization thresholds, associates may aggressively record time. Clients also realize this so may have issues with these types of bonus plans. Some clients have even evolved to using bill auditing services and tight rate controls. Workload differences may also present issues with an hours-based bonus system. Associate hours may be related to less obvious factors such as overstaffing or even training and supervision deficiencies.

The obvious benefit of rewarding based on billable hours is that it compensates for actual work and is predictable and transparent. Associates know the bonus parameters and can calculate their bonus as the year progresses. Popularity does not factor into the award. As with any formula based systems, final results should be reviewed for any potential gaming of the system.

We favor objectively incenting productivity. Further, we prefer to go beyond the billable hour to also consider the following factors in determining compensation:

- **profitability**
- **originations/ business development,**
- **training,**
- **leveraging and**
- **recruiting.**

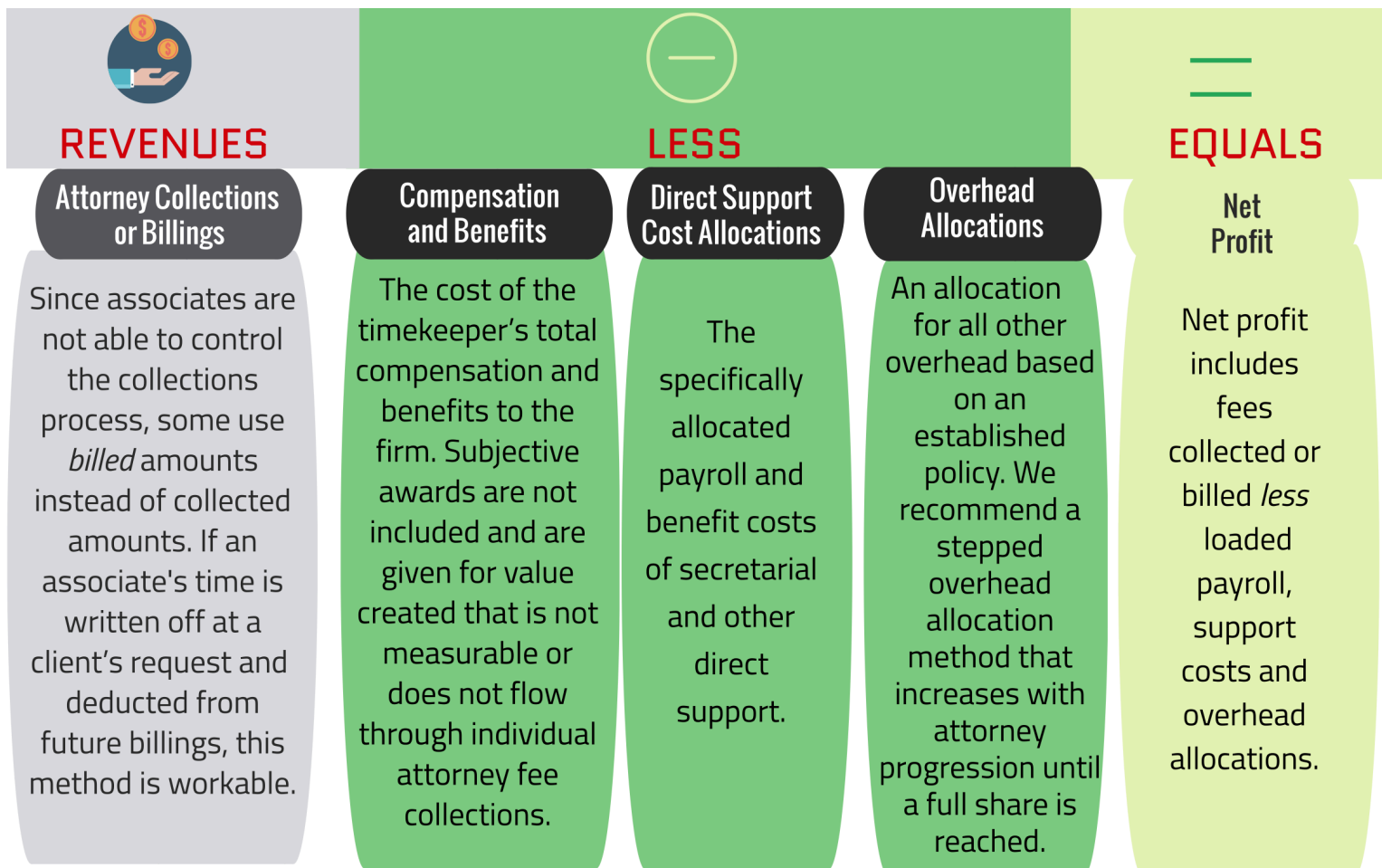


PROFITABILITY FACTOR

Compensating Based on Profitability

Compensating based on profitability ensures that a firm's bonuses are tied to created profits. While more difficult to accomplish, the results are often better. This article will discuss the components of a successful compensation.

Consider the following basic formula:



To help understand how compensating for profitability may work, consider the following timekeeper profitability report example.



TIMEKEEPER PROFITABILITY REPORT

Data Driven Law Firm, LLC

Associate 3

TIMEKEEPER COLLECTIONS

9

Timekeeper Number	Last Name	First Name	Client Number	Client Name	Amount Collected	Percent of Total	Average Rate	Hours Collected
9								
	3	Associate	200	XYZ Engineering	\$85,000.00	25.76%	\$195	435.90
	3	Associate	300	ABC Contracting	\$60,000.00	18.18%	\$195	307.69
	3	Associate	400	New Firm Construction	\$75,000.00	22.73%	\$200	375.00
	3	Associate	500	123 Services	\$45,000.00	13.64%	\$210	214.29
	3	Associate	600	456 Equipment	\$65,000.00	19.70%	\$190	342.11
Summary for 'Timekeeper Number' = 9 (5 detail records)								
Sum					\$330,000.00			1674.98

SECRETARIAL AND FILE CLERK ALLOCATION

Employee Receiving Allocation:	Employee Number	Last Name	PR Cost	Percent to Allocate	Salary to Allocate
A3					
	6	Secretary	\$67,580.00	33%	\$22,515.84
Summary for 'Employee Receiving Allocation' = A3 (1 detail record)					
Sum					\$22,515.84

ALLOCATED GENERAL OVERHEAD

9	3	Associate
Expense Type		Amount
Unallocated Timekeeper L-Comp		\$0.00
Administrative Payroll and Rel.		\$7,637.61
Facilities		\$15,699.54
Equipment and Practice Aids		\$2,545.87
Practice Development		\$7,213.30
General and Administrative		\$14,850.92
Other Income		<u>(\$1,697.25)</u>
Total Overhead		\$46,250.00

TIMEKEEPER PROFITABILITY

Total Collections	\$330,000
Secretarial/SFC Alloc.	\$22,516
Allocated Gen'l OH	\$46,250
TIMEKEEPER PROFITABILITY BEFORE COMPENSATION AND BENEFITS	\$261,234
Compensation and Benefits YTD:	\$111,600.00

PERIOD: January 1, 201X - December 31, 201X

If this were an actual performance result, a profit of \$149,634 would have been generated:

TOTAL COLLECTIONS	\$330,000
	<i>Less</i>
Secretarial / SFC Alloc	- \$ 22,516
Allocated Gen'l Overhead	- \$ 46,250
Compensation and Benefits	- \$111,600
<hr/>	
PROFIT	\$149,634

Awarding a bonus based on a percentage of the profit created would incent the right behaviors and ensure the firm is spending earned money effectively. Bonus rates typically depend on a firm's profit targets, the difficulty of the work, and client service factors.

Profitability Report Details to Note

- Notice the overhead allocation is \$46,250 and the secretarial allocation is \$22,516. Associates have little or no control over management overhead, but they may be able to impact secretarial overhead by supporting a sharing arrangement.
- This example indicates only 1,674 collected hours, which may be a problem in many firms. In this example, this associate and the firm are benefiting from good rates compared to salary and a low overhead allocation.
- If this sample firm is using a stepped overhead allocation system, management overhead will increase with progression and higher bill rates or more collected hours will be necessary to maintain profitability and bonus levels.

As the formula is based on collected monies, realization issues are incorporated into the result (see our earlier comments if the firm calculates profitability at the billed fee level). Base salary differences are also incorporated into the result. Attorneys having higher base salaries should have higher bill rates, productivity and realization rates.



PROFITABILITY BASED SYSTEM CONCERNS

One issue that arises in profitability based systems is that some associates may enjoy higher profitability because they are assigned to clients with higher bill rates. In these instances, an evaluation must be made if there is a corresponding skill or workload premium.

It is possible that an attorney assigned to a client with a lower bill rate is actually adding more long term marketable skill sets. This is a difficult situation to address and the solutions range from base salary differentials, differing bonus percentages to no intervention at all.

In firms where partners compensation is based on profit contributed, the cost differentials in a profitability bonus system are borne by the originating partners. Additionally, firms only have so many available roles, and associates must strategically weigh the benefits their existing role against their long term career aspirations.

Finally, bonuses based on contributed profits account for the intersection between increases in long term value and short term profit contributions. Associates enjoying higher base salaries must ultimately command some combination of higher bill rates, increased realization and or higher production.

ORIGINATIONS, TRAINING, LEVERAGING, RECRUITING FACTORS

The Uncharted Waters of Associate Compensation



Beyond the billable hour, there are additional ways in which associates can bring value to a firm. However, firms rarely consider these areas of value in developing their associate compensation plans.

Four of the more quantifiable, non-production ways that associates, depending upon their level, can add value include:

Originations

Training

Leveraging

Recruiting profitable lawyers

The following article will review these areas and how they can increase an associate's value to the firm. We will discuss how firms can measure and quantify an associate's performance in these areas for determining compensation.

Originations

Business origination value is evident. Associates who bring in clients create income. While associate business development is commendable, many questions arise when the subject of compensation is brought into the conversation.

- *Should the firm compensate associates for the clients they bring in?*
- *Should associates simply appreciate that client development will help them attain partnership admission?*

These are fair questions, especially since associates work on other lawyers' originations until they are self-supporting. Additionally, the marketing costs associated with obtaining a new client must be considered, especially since these costs are underwritten by the partners.




Among the firms that offer bonuses, we typically encounter rewards based on collected fees (5% or 10%). These firms believe that short-term business development bonuses will act as an incentive. A potential contradiction is that many these same firms are unwilling to reduce billable expectations for business development efforts or even successes.

Regardless of incentive programs, we recommend associates consider business development as a strategic component of their career development to be balanced with the other elements essential to increasing value as a lawyer (competence, training, leveraging, reputation, etc.)

We recommend associates consider business development as a strategic component of their career development. Balanced with other essential elements such as competence, training, leveraging and reputation, an associate will increase their value as a lawyer.

For firms inclined to compensate for business development, we prefer basing rewards on profitability contributed. If marketing costs are material, they can be netted against client profitability.

Consider the example below:

		Data Driven Law Firm, LLC										
		Client Net Income Report Including Standard Partner PR Costs										
		PERIOD: January 1, 201X - December 31, 201X										
INCOME PARTNER 1												
100	ABC Corp											
2500	Breach of Contract	Originating Attorney(OA) Percent: 100.00%										
-----Matter Totals-----							ORIGINATING ATTORNEY(OA) SHARE OF MATTER TOTALS					
WA Initials	Hours Relieved	Billed Amount	Payroll Cost- HR	Payroll Cost AMT	OH Cost HR	OH Cost AMT	Client Net Income	OA Share Fee Credits	OA Share Payroll Costs	OA Share Overhead Costs	OA Share Client Net Income	% Net Inc.
PL1	40	\$5,000	\$48.06	\$1,922	\$13.98	\$559	\$2,519	\$5,000	\$1,922	\$559	\$2,519	50.37%
IP 2	10	\$2,000	\$83.46	\$835	\$58.31	\$583	\$582	\$2,000	\$835	\$583	\$582	29.11%
EP	75	\$18,000	\$85.00	\$6,375	\$73.99	\$5,549	\$6,076	\$18,000	\$6,375	\$5,549	\$6,076	33.75%
A3	100	\$20,000	\$84.29	\$8,429	\$54.66	\$5,466	\$6,105	\$20,000	\$8,429	\$5,466	\$6,105	30.53%
A2	10	\$1,650	\$48.86	\$489	\$34.98	\$350	\$812	\$1,650	\$489	\$350	\$812	49.19%
A1	50	\$9,250	\$76.50	\$3,825	\$52.44	\$2,622	\$2,803	\$9,250	\$3,825	\$2,622	\$2,803	30.30%
Matter Total	285	\$55,900	\$76.75	\$21,874	\$53.09	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%
Client Total	285	\$55,900	\$71.03	\$21,874	\$48.06	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%
OA Totals	285	\$55,900	\$71.03	\$21,874	\$48.06	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%

Reviewing this sample result indicates a fully costed profit of \$18,896. If the firm were to pay a bonus of 10% of the gross collections, the bonus would be equivalent to 30% of the profitability ($(\$55,908 * 10\%) / \$18,896$), which would reduce the firm's profit margin to 23%. Depending upon the firm's acceptable margin ranges, a bonus of 10% of gross fees would likely not work. The range of bonus based on profit contributed would depend on acceptable margin ranges.

There may also be concerns about the role of other bonus award programs potentially compensating the same result twice. For example, a production bonus on timekeeper profitability would include the profitability indicated in client profitability. As long as those costs are included in the calculation of client profitability or accounted for in the award percentage, this is a minor concern. In some instances, the bonus award is applied to all time excluding the associate receiving the business development award.

Training Contributions

Younger associates spend most of their time being trained and do not provide any real training to other associates. More experienced associates, however, may make tangible training contributions.

- Should associates be given training bonuses or should they view these efforts as payback for the training they received?
- Training creates real value and adds profit on an expedited basis.
- Would compensating senior associates incent them to train junior associates better?

We believe it would.

INCENTIVES FOR TRAINING ALLOCATION OF TRAINING PROFITS FOR BONUS CONSIDERATION							
	A1	A2	A3	IP1	EP	TC	PC
Associate 1	-	8,511	11,064	11,064	3,404	34,042	34,042
Associate 2	-	-	68,610	54,888	13,722	137,220	137,220
Associate 3	-	-	-	120,294	40,098	160,392	160,392
I-Partner 1	-	-	-	-	-	-	-
Partner	-	-	-	-	-	-	-
Total	-	8,511	79,674	186,246	57,224	331,654	331,654

ALLOCATION OF TRAINING PROFITS FOR BONUS CONSIDERATION							
Assumptions	A1	A2	A3	IP1	EP	TC	PC-B
Bonus %		5%	5%	5%	5%	5%	
Bonus Dollars		426	3,984	9,312	2,861	16,583	315,071

NOTES:

Training, in part, is responsible for the profits attributable to those receiving training. TC (Training Credits) are allocated based on % of training hours (effort) applied to profit created. A bonus based on profits created would provide real incentives for training and support the compensation of those providing training. Training bonuses would phase out as timekeepers mature. Partners would likely be ineligible if they benefit directly from the profits created. PC - B = Profits created less bonus. Bonus assumption in this example is 5% of profits created. Actual bonus may vary by firm.

Identifying training contributions using tracked training hours and applying them to profits created is a way to correlate training efforts with compensation directly. In this example, A2 was credited with 8,511 of A1's profitability and awarded a 5% bonus for these efforts. A3 was credited with \$11,064 of A1 Profit and 68,610 of A2's profit and awarded a bonus of \$3,984. The remaining training credits are calculated the same way. Actual bonus awards percentages may differ, but meaningful rewards get the best results.

Leveraging (managing and supporting the efficient workflow of others)

Although senior associates can help manage the work of junior associates and create profits, we believe that value added leveraging is something that will more likely occur at the income or junior partner levels. Maintaining personal production would be required to be eligible for this type of bonus.

There may be a blurring of the line between training and supervision, but the important point is to recognize these contributions and reward them adequately. For example, compensating for workload management may eliminate the need for a separate training bonus.

In firms that compensate based on contributed profit, a portion of these profits may be allocated to those participating in the management of the files. Again, we recommend paying on generated profit, but we have encountered bonus systems based on gross fees generated. For example, assume Equity Partner (EP) works on a matter with Income Partner (IP1). Further assume IP1 has materially participated in training and managing the associates and paralegals assigned to this file.

As an incentive, EP decides to award a bonus in the amount of 10% of the leverage profit on this matter to A3. In this instance, leverage profit would include profits on all timekeepers excluding EP and A3's time.

The following report is useful to calculating the bonus:



Data Driven Law Firm, LLC Client Net Income Report Including Standard Partner PR Costs PERIOD: January 1, 201X - December 31, 201X

Equity Partner

100 XYZ Engineering


2500 Breach of Contract

Originating Attorney(OA) Percent: 100.00%

-----Matter Totals-----							ORIGINATING ATTORNEY(OA) SHARE OF MATTER TOTALS					
WA Initials	Hours Relieved	Billed Amount	Payroll Cost- HR	Payroll Cost AMT	OH Cost HR	OH Cost AMT	Client Net Income	OA Share Fee Credits	OA Share Payroll Costs	OA Share Overhead Costs	OA Share Client Net Income	% Net Inc.
IP 2	10	\$2,000	\$83.46	\$835	\$54.55	\$545	\$620	\$2,000	\$835	\$545	\$620	30.99%
A2	10	\$1,650	\$48.86	\$489	\$33.14	\$331	\$830	\$1,650	\$489	\$331	\$830	50.30%
A1	50	\$9,250	\$76.50	\$3,825	\$49.68	\$2,484	\$2,941	\$9,250	\$3,825	\$2,484	\$2,941	31.79%
A3	100	\$20,000	\$84.29	\$8,429	\$50.99	\$5,099	\$6,472	\$20,000	\$8,429	\$5,099	\$6,472	32.36%
PL1	40	\$5,000	\$48.06	\$1,922	\$12.81	\$512	\$2,565	\$5,000	\$1,922	\$512	\$2,565	51.30%
EP	75	\$18,000	\$85.00	\$6,375	\$70.78	\$5,308	\$6,317	\$18,000	\$6,375	\$5,308	\$6,317	35.09%
Matter Total	285	\$55,900	\$76.75	\$21,874	\$50.11	\$14,281	\$19,745	\$55,900	\$21,874	\$14,281	\$19,745	35.32%
Client Total	285	\$55,900	\$71.03	\$21,874	\$45.32	\$14,281	\$19,745	\$55,900	\$21,874	\$14,281	\$19,745	35.32%
OA Totals	285	\$55,900	\$71.03	\$21,874	\$45.32	\$14,281	\$19,745	\$55,900	\$21,874	\$14,281	\$19,745	35.32%

For firms inclined to compensate for business development, we prefer basing rewards on profitability contributed. If marketing costs are material, they can be netted against client profitability.

Consider the example below:

		Data Driven Law Firm, LLC										
		Client Net Income Report Including Standard Partner PR Costs										
		PERIOD: January 1, 201X - December 31, 201X										
INCOME PARTNER 1												
100	ABC Corp											
2500	Breach of Contract	Originating Attorney(OA) Percent: 100.00%										
Matter Totals							ORIGINATING ATTORNEY(OA) SHARE OF MATTER TOTALS					
WA Initials	Hours Relieved	Billed Amount	Payroll Cost- HR	Payroll Cost AMT	OH Cost HR	OH Cost AMT	Client Net Income	OA Share Fee Credits	OA Share Payroll Costs	OA Share Overhead Costs	OA Share Client Net Income	% Net Inc.
PL1	40	\$5,000	\$48.06	\$1,922	\$13.98	\$559	\$2,519	\$5,000	\$1,922	\$559	\$2,519	50.37%
IP 2	10	\$2,000	\$83.46	\$835	\$58.31	\$583	\$582	\$2,000	\$835	\$583	\$582	29.11%
EP	75	\$18,000	\$85.00	\$6,375	\$73.99	\$5,549	\$6,076	\$18,000	\$6,375	\$5,549	\$6,076	33.75%
A3	100	\$20,000	\$84.29	\$8,429	\$54.66	\$5,466	\$6,105	\$20,000	\$8,429	\$5,466	\$6,105	30.53%
A2	10	\$1,650	\$48.86	\$489	\$34.98	\$350	\$812	\$1,650	\$489	\$350	\$812	49.19%
A1	50	\$9,250	\$76.50	\$3,825	\$52.44	\$2,622	\$2,803	\$9,250	\$3,825	\$2,622	\$2,803	30.30%
Matter Total	285	\$55,900	\$76.75	\$21,874	\$53.09	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%
Client Total	285	\$55,900	\$71.03	\$21,874	\$48.06	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%
OA Totals	285	\$55,900	\$71.03	\$21,874	\$48.06	\$15,129	\$18,896	\$55,900	\$21,874	\$15,129	\$18,896	33.80%

Reviewing this sample result indicates a fully costed profit of \$18,896. If the firm were to pay a bonus of 10% of the gross collections, the bonus would be equivalent to 30% of the profitability ($(\$55,908 * 10\%) / \$18,896$), which would reduce the firm's profit margin to 23%. Depending upon the firm's acceptable margin ranges, a bonus of 10% of gross fees would likely not work. The range of bonus based on profit contributed would depend on acceptable margin ranges.

There may also be concerns about the role of other bonus award programs potentially compensating the same result twice. For example, a production bonus on timekeeper profitability would include the profitability indicated in client profitability. As long as those costs are included in the calculation of client profitability or accounted for in the award percentage, this is a minor concern. In some instances, the bonus award is applied to all time excluding the associate receiving the business development award.

In this instance, IP1's bonus would be calculated as follows::

Total Profits	\$19,745
Less:	
EP Profit	\$6,317
A3's Profit	\$6,472
Leverage profit (bonus base)	\$6,956
Bonus Percent	10%
Earned training and leverage bonus for this matter	\$696

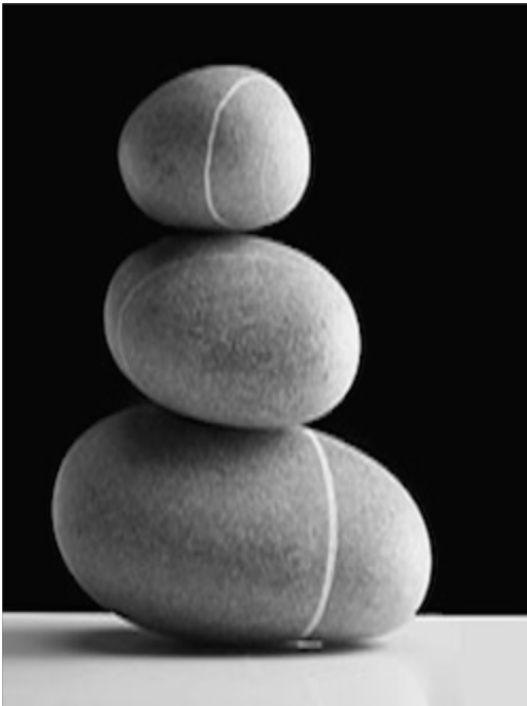
The bonus on this one file may seem small, but repeat this process 5 or 10 times and the incentive is real.

Recruiting

Recruiting compensation can range from a flat or scaled bonus for the initial hire to compensating based on the profitability of the recruit. Flat bonuses are most common. Avoiding headhunter fees is the most common justification for bonus plans. To the external world, lawyers that aggressively promote their firm send a strong positive about their environment.

The value added from recruiting a single attorney to fill a staffing need is reflected economically in timekeeper profitability. While a bonus based on individual profitability is feasible, it is simpler to establish set bonus amount and many firms are not comfortable sharing the elements of profitability at non-partner levels.

Encouraging organic recruiting has the added benefit of supporting longevity – attorneys who bring their peers to the firm are less likely to leave.



Recruiting laterals with business comes with a different set of economics and challenges. Firms that are not reaching their lateral recruiting goals, assuming their value proposition is adequate, may need to energize partners to recruit more aggressively. Additionally, non-partners and junior partners received no real benefit from attracting profitable laterals.

Senior partners, as a result of their ownership percentages, are more poised to enjoy the benefits of spreading fixed overhead among more attorneys. Most firms believe that it is incumbent upon general partners to recruit for the good of the firm.

While this is understandable, most partners do not actively recruit quality laterals. Instead, firms rely heavily on recruiters, who perform a necessary service, but organic recruits come with all of the intangible longevity benefits previously mentioned.

Firms that have quality profitability tools are in a position to create a profit based bonus pool to reward lateral recruiting.

A FIRM'S GUIDE TO ASSOCIATE DEVELOPMENT

RECRUITING & HIRING

*Want to develop your associates into stellar attorneys?
Start by hiring the right ones.*



RECRUITING CRITERIA

Firms should expand their hiring criteria beyond law school and class rank to include suitability for the contemplated role and ability to address client needs.
[Read More](#)



ROLE-SPECIFIC HIRING

Firms willing to invest time and effort into defining the roles needed for a specific position are more likely to hire the right candidates.
[Read More](#)

TRAINING & EVALUATING

For firms that are committed to law school hiring..... rather than who still believe.



WORK ETHIC EXPECTATIONS

Setting expectations for associates is extremely useful in the developmental process and helps avoid burnout. This article with infographic included provides a sample of a recommended process for setting work ethic expectations.
[Read More](#)



DATA-DRIVEN FEEDBACK

To ensure that each associate is progressing and in their assigned role, firms must monitor associate performance. Several data-driven feedback opportunities for firms to use in monitoring and evaluating performance are described in this article.
[Read More](#)



ASSOCIATE TRAINING

For those firms who still believe it is worthwhile to invest in hiring directly from law school, we recommend a process that includes the elements described in this article.
[Read More](#)



ASSOCIATE VALUE

As more clients refuse to pay for associate training, a structured planning process seeks to generate associate value on an expedited basis. This article describes how firms can implement this process.
[Read More](#)

COMPENSATING

*Does your firm want to stay around for a while?
A competent compensation system is a must.*



COMPENSATION SYSTEM DEVELOPMENT

In a competitive legal market, properly incentivizing and compensating associates is essential to not only the retention of top attorneys but also to a firm's profitability and long-term viability. This article reviews the components and processes to consider in developing an effective associate compensation system.
[Read More](#)



PRACTICE AREA FACTOR

This article discusses the question:
How should a firm compensate same-year associates working in different practice areas with materially differing billing rates?
[Read More](#)



BASE PAY AND BONUS COMPONENTS

This article will discuss the components of a successful compensation system, including base pay and bonus pay. It will review ways in which your firm can approach these components in developing an associate compensation system.
[Read More](#)



PROFITABILITY FACTOR

Compensating based on profitability ensures that a firm's bonuses are tied to created profits. Included in this article are formulas and reports to help understand how compensating for profitability may work.
[Read More](#)



ORIGINATIONS, TRAINING, LEVERAGING, RECRUITING FACTORS

When determining associate compensation, firms rarely go beyond the billable hour. This article will define four of the more quantifiable, non-production areas that firms can measure when determining associate pay including: originations, training, leveraging, recruiting profitable lawyers.
[Read More](#)



PerformLaw
Blog



Twitter



LinkedIn



www.performlaw.com

PerformLaw assists law firms in all aspects of developing Associate Development Programs including:

- Practice plan development and follow up
- Performance evaluation and coaching
- Marketing plan development and coaching
- Compensation analysis and market comparison
- Compensation and bonus formula design and administration
- Profitability analysis
- Individual performance improvement
- Progression criteria, policies and systems
- Remote staffing evaluation
- Issue/conflict resolution

If you are interested in learning more about how PerformLaw can help your firm, click below.

[CONTACT US](#)

Helping law firms become market aware and fiercely competitive.

