The Emphasis on New Clients and Partner Compensation

There are as many variations of partner compensation plans as there are law firms. Most are well intended and targeted at rewarding those efforts that the firm values, or thinks it should value, most.

Many types of efforts are required for a law firm to be successful--getting new clients or work, providing high-quality client service, managing the firm and its practice groups, and developing new services or products, among others. While the firm needs all of these efforts, very few partners are capable of performing all of them equally well.

An effective compensation plan requires a delicate structural balance that values and appropriately rewards all efforts needed by the firm. Such a structure allows each partner to focus on and contribute her best skills to the best of her abilities. The net result for the firm is a well-rounded collection of contributions that covers all client-related and internal needs. However, when this equilibrium among rewarded efforts falls out of balance--when one specific effort becomes synonymous with "contribution" --than some partners are forced to ignore their most valuable contributive effort(s) to the firm and focus on one that they may be poorly suited to undertake. As a result, the firm suffers any number of unintended and unwanted consequences.

Origination (bringing new work into the firm) is an important and integral factor in any firm's prosperity and longevity. It is also the one factor most likely to be overemphasized when remunerating partners.

Getting New Work

For a handful of partners, originating work comes naturally. These "rainmakers" may be well- connected with the business community, widely recognized as experts in their fields, or just plain lucky. Whatever the reason, opportunities appear to find them, and they have a seemingly endless pipeline of opportunities.

For many partners, and, in particular, younger partners, originating clients is a challenging and sometimes personally daunting task. While their real value to the firm may be as a manager, thought leader, or technical specialist, such efforts typically are not as highly valued as originations. Furthermore, origination opportunities for these partners are often not plentiful and the pressure to create and close new ones is strong. Therefore, success may require the use of business generation tactics designed to create opportunities that would not exist otherwise as they compete with the natural rainmakers, and with each other, for new work. Unfortunately, these tactics may also benefit the individual partner over the firm.

Basic Dimensions

To create a new client opportunity, such tactics typically address one of the three basic dimensions of management--cost, quality, or time.
Cost: When dealing with a cost-conscious potential client, origination-focused partners typically employ the tactic of discounted billing rates or fixed fees. The firm will benefit, in theory, by expanding the opportunity into additional work - more volume at the discounted or fixed rate and/or new work at standard or premium rates--in the future.
Quality: In this context, quality does not refer to the legal capabilities of the service providers, whom we assume to be competent. Rather, quality refers to the nature of the work itself.
Most large clients have a full spectrum of service needs--from the high-value boardroom-level work that is entrenched with a few select firms to the lesser value, more fee-sensitive commodity-level work that is highly portable. Likewise, law firms should have an understanding of the types of work that fit their practice.

Portable commodity level work creates opportunities for origination-focused partners who typically employ

one of two tactics--leveraging the ego of the partnership (to add a recognizable client name to the firm's client list when the work doesn't fit the firm's practice), or reducing or fixing fees. The firm will benefit, in theory, by developing the initial foot in the door at the commodity level into the more strategic, less fee-sensitive work.
Time: Time is money, for both the client and the law firm. A client that is short on time creates opportunities for origination-focused partners who typically employ the tactic of over-committing the firm's capacity (assuming that the firm is operating at or near capacity--otherwise, this is a moot point). This tactic involves re-prioritization of existing work or overextension of resources, thereby risking current client relationships in order to meet aggressive and possibly unrealistic deadlines. The firm benefits, in theory, by impressing the client with unusual responsiveness and dedication that is rewarded with an expansion of the relationship in the future.
From the firm's perspective, the use of these tactics is generally acceptable as long as they support the firm's goals and they have a high likelihood of leading to associated **long-term opportunities**. These tactics become highly problematic and risky for the firm, however, when the individual's goals are placed ahead of the firm's because there is little likelihood that the long-term opportunities will develop.

It is easy to oversell the future opportunity of additional or better work. The reality is that future opportunities rarely occur. Clients tend to lock firms into their relative starting positions. Therefore, without strong oversight from practice management to evaluate the true future potential of the opportunity, to determine the type(s) of work to accept, and to monitor the use of the firm's resources, the firm may end up with nothing more than a transaction billed at a discount--and a partner who benefits personally from the origination credit.

Unfortunately, strong oversight from practice management is not prevalent in firms that overemphasize originations because a) management activities are typically not highly valued; b) if managers exist, they are influenced by the factors that drive the other counterproductive behaviors; c) the big originators typically end up running these firms; and d) there is significant resistance to practice management from the partners, who don't want to be hindered by the firm's strategy.

An additional problem is that many firms do not know how to properly determine the threshold of profitability for various types of work. As such, the discounted deal being offered may actually detract from the firm's profitability, rather than marginally contribute to it or at least break-even.

Impact on Client Service

Most origination-focused compensation systems include a mechanism or process for allocating some origination credits to other partners as "compensation" for their investment in an originator's client. If this mechanism is perceived as being fair and does not involve difficult internal negotiations with the originators, then all partners are motivated to work on others' matters and everyone, including the clients, benefit.

If the mechanism is not perceived as being fair, however, then one of two unintended behaviors will result. Either the firm will experience resistance from partners toward working on others' matters because proper credit is not forthcoming, or partners will hoard work without involving others who may reap too much benefit from their involvement. Both behaviors lead individual partners to work to their own personal capacity and for their own good rather than working for the collective good of the partnership.

The hoarding of work involves several troublesome behaviors--each of which is intended to limit the involvement of other partners. These behaviors include such questionable practices as:
performing work that is the practice specialty of another partner in the firm;
assigning partner-level work to senior associates;
limiting cross-selling opportunities and making the client a personal client rather than institutionalizing the relationship;
resisting practice management--which should discourage all of the preceding practices.

Neither the client nor the firm benefits from such practices--but the sad reality is that the originating partner can.

Net Impact to the Firm

The collective impact of a compensation system that overemphasizes originations builds over time as each symptom develops and then feeds into the next:
Evaporation of teamwork--as partners vie for new work against other law firms and each other while minimizing the sharing of work credits with others, the partnership tends to devolve into a collection of individual practitioners, thereby reducing the collective strength of the partnership.
Decline in the client base--absent a team environment, the firm loses opportunities to bring in the solid, large clients who expect to benefit from the full strength of the firm--not just the individual talent of their relationship partner. Therefore, growth comes from a larger number of smaller clients who tend to be more fee-sensitive than larger clients.
Conflicts may arise as the addition of smaller clients increases the risk that the firm may not be able to take on a future larger client opportunity, which further locks the client base into its self-perpetuating decline.
Decline in internal development can follow as partners compete for new work, they increasingly ignore internal investments such as recruiting, training, and mentoring associates, which fosters a further decline in the firm's current and future capabilities.
Economic erosion can follow from the unintended and unwanted consequences associated with over-emphasizing originations (e.g., discounted fees for marginal work, more smaller, fee sensitive-clients, work hoarding, a decline in the competitive capabilities of the firm) is substantial. Average profits per partner can be reduced 50 percent or more from the firm's potential profitability level.

Conclusion

Bringing new high-quality clients to the firm is worthy of significant recognition. Making it the featured contribution in the reward system for partners, however, can create an unbalanced environment that has many unwelcome consequences for the firm, forces some partners to use questionable (from the firm's perspective) selling tactics to be competitive within the system, and can ultimately lead the firm into a position of decline from which it cannot recover.

Can a firm overvalue originations and succeed? Of course, but it is not likely. A small boutique firm typically includes a collection of specialists with comparable skills and opportunities to originate. Also, small to mid-sized firms built largely through lateral hiring represents a collection of lawyers brought in with their own books of business, or originations within the context of the new firm. These firms typically reach a point where their compensation system limits their further growth potential, and a new system is required.

Can a firm change its system to a more balanced remuneration system? Of course, and many have already successfully done so. The partners in these firms appreciate their new, balanced compensation playing fields and the freedom to focus more on what they do best--which is often not originating work.