

Business & Careers

Short term savings may mean long term losses

Do the math and reap the rewards of developing your firm's talent



Gary Mitchell
The Coach

When it comes to law firm fiscal management the current and most followed approach is “how much money can we make right now, today, this week, this year.”

It's unfortunate and short-sighted. It doesn't support the long term. It doesn't support grooming and developing your talent. Ironically, in your quest to “save” money, you're likely leaving tons of it on the boardroom table.

This column is written for a broad base of readers from solo practitioners right up to the big guys. I will focus on two areas where you should “do the math,” first in

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On Trac Coach

developing your people, and secondly in delegating down or to more appropriate people within the firm.

Development

Scenario one: I recently became aware of a firm that has offered one of their associates

the support of a coach when she returns from maternity leave. She will join the partnership when she returns and is

stressing out about it. She told me that she thought long and hard about not returning — that this would be the perfect exit time. The very fact that this firm is offering support made her decide to do everything in her power to make it work. How many lawyers have you lost to maternity leave?

The math: If they didn't dangle the carrot of partnership and offer her coaching to ensure she succeeds at the partner level, and she left the firm, they would be out of pocket anywhere from \$350,000 to \$500,000 (rough estimate). Add to that what the firm won't realize in profits when she does build her own book of business and brings in new clients.

Scenario two: In talking with one of my

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IN MEMORIAM

ROBERT HICKS Q.C., B.A., LL.B.
1917-2013

It is with great sorrow that we note the passing of our retired founding partner and friend, Robert (Bob) Hicks.

As Canada's first full-time management labour lawyer, Bob was a pioneer in the development of the practice of labour law, and a trusted advisor who always put the clients' interests first. Bob's leadership led to the founding of Hicks Morley in 1972 - leadership he provided throughout his career, and in all that he did. Bob was the firm's first Managing Partner, and in addition to his numerous corporate and philanthropic directorships, he advised Prime Ministers and Premiers alike. He will be remembered for his excellent judgment and his fair and honest principles. His legacy lives on in all the work we do at Hicks Morley.



HUMAN RESOURCES
LAW AND ADVOCACY

Business & Careers

Duties: Overstepping bounds can be costly mistake

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licensed to deliver legal services.

"We have a restricted area in which we can deliver legal services, such as *Highway Traffic Act* offences, liquor license infractions, appearing before boards and tribunals and summary conviction offenses if you're facing six months or less in jail," he says.

"It's like a lawyer with training wheels."

The duties of the two professions overlap in activities such as information-gathering interviews with clients, preparing and drafting documents and researching the issues of a case, he says.

"Law clerks can become indispensable to some lawyers in those roles. They can be the lawyer's right hand, but they're not able to give legal advice. Every duty that a law clerk would have working for a firm as an employee, I'm sure a paralegal would take on most of those duties as well," he says.

One major difference, however, involves liability insurance. Law clerks are employees of law firms; they can't go out and hang up a single and provide services. A paralegal, meanwhile, can set up

their own shop, get insurance and advocate on behalf of clients in their permitted areas.

It's important for lawyers to know the differences and boundaries between paralegals and law clerks because using one of them incorrectly can be costly, Ungerman says.

"There's a liability issue. If you had a clerk that exceeded his or her authority in giving advice when they're not licensed to, that could lead to a negligence claim against the firm. A paralegal could be negligent in their conduct as well but I think the greater fear is the clerk exceeding their authority," he says.

Even though law clerks aren't regulated by the Law Society of Upper Canada, they still have to follow the rules of professional conduct as if they were lawyers, says Cris Lam, a senior law clerk with Toronto-based Benmor Family Law Group, a three-lawyer boutique specializing in family law.

"If we do something really bad, the lawyer (we're working with) can be heavily disciplined by the Law Society. We would be reprimanded by the lawyer, not the

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We do more than just answer the phone and administration work. Clerk is the word that's misrepresented.

Cris Lam

Benmor Family Law Group

Law Society. My mistakes are a reflection of the lawyer and the firm itself," she says.

Clerks also need to be careful not to step outside their boundaries. For example, if they're asked a legal question and they answer it, it can raise a serious liability issue for their lawyer because the law clerk doesn't have insurance.

On the other hand, law clerks can manage the client, including one-on-one client meetings.

"I'm very active on my files with my lawyer. The first person to answer (a client's) e-mail is probably the law clerk. We are case managers from the beginning to

the end. We're part of the (client) meetings," she says.

"We do more than just answer the phone and administration work. Clerk is the word that's misrepresented."

Paralegals, on the other hand, have their own rules of professional conduct and can feel the long arm of the law society in the event of any wrongdoings.

They can go to small claims court for cases under \$25,000, handle landlord and tenant issues, and tend to immigration and refugee board matters.

"That's a leg up on law clerks. They're in front of judges or justices of the peace. We don't see

(the inside of) a courtroom," Lam says.

The dilemma faced by many smaller Ontario firms is determining whether a paralegal or a law clerk best fits their needs and which one they should hire. D'Aversa says licensed paralegals are generally more expensive because firms will pay for their continuing legal education and licensing. There are no licensing requirements for a law clerk.

But Lam says if a small firm wants to branch out into a new area of law, it could make a lot of sense to hire a paralegal and pay them a lower salary than a lawyer would make while doing much of the same work.

"It's probably faster and more cost-effective that way," she says.

In the bigger picture, though, a lawyer is always going to need a law clerk, she says.

"It's like an extension of your right hand and the eyes in the back of your head. They know the file, they're there to manage your clients or to deal with an e-mail or documentation. It's like having an assistant but you work one-on-one with them," she says.

Money: Showing you care can help keep staff you developed

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marketing colleagues at a big firm in Toronto, she mentioned they had lost three associates this year. She also mentioned she thought that had the firm provided support to those associates, they might not have left. This is unfortunate and all too common to see one or more associates leave in the four-to-seven-year call range. I hear it all the time.

The math: Say it is three associates that leave. A conservative estimate would be that the firm is losing just shy of \$1 million. This estimate will vary depending on the size and location of your firm, but for the sake of this argument, we'll go with that.

Had the firm provided support by engaging a coach to help them develop "pennies on the dollar" compared to what they lost, they would have saved \$900,000 and change to keep all three associates, close to \$600,000 if two associates stayed and roughly over \$300,000 if just one associate stayed.

Sometimes it's just a matter of showing you care and investing in your staff that makes them want to stay. With the focus on building their own book of business, it's a matter of the firm's return on investment. Not just the investment in the coach, but for the first



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several years they were learning the ropes on your dime.

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In his book *Good to Great*, Jim Collins points to how the "great" companies following the dot-com bust went out and scooped up all the talent that had been laid off by the "not-so-great" companies. These companies knew the value of good people. They saw an opportunity.

Delegating

The second area I don't see a lot of arithmetic being used is in whether or not you should delegate down. And this part is equally as pertinent for solo and small firms as it is the big guys.

Scenario one: You are a senior partner at your firm. You routinely do all the work you bring in, including the small and trivial. You neglect to delegate that work down to an associate, paralegal, law clerk, or even to your assistant. And you wonder why you don't have time to get out there and generate new business?

The math: Take your hourly

rate and subtract the hourly rate of the person you should be delegating down to. Multiply that by the amount of hours you spend every week doing work they should be doing. Multiply that by 50. Add to that all the hours now freed up to bill more client work, and the new work you are able to generate because you have time for business development. What do you get? A lot of money.

Scenario two: You run your own solo practice or small firm. You bill out at \$325 an hour and yet you are still doing the admin work, the IT work, the file organizing and so on. You're getting pretty burned

out, needless to say, and you're too busy to get out there and generate more high level work for yourself and your associates.

The math: Add up all the hours in a week you spend on doing "non-billable" tasks. Take your assistant's wage and subtract it from yours and multiply that with the weekly hours. Then multiply that for the year. Add to that, by freeing up your time to bill more hours at your rate and getting out there and drumming up more business for your firm, this really is a no-brainer.

So you see how being short-sighted and apparently tight with your money, you actually come out losing more of it. I get you are a business and businesses are meant to make profits. But you aren't thinking like a business long term. By developing your people and by delegating tasks down to the appropriate people in your firm, you are saving, generating and keeping a lot of money.

Do the math. You actually cannot afford not to.

Gary Mitchell works with lawyers and law firms across Canada helping them to attract more clients and grow their practice/firm. He is the author of Raindance: The Business Development Guidebook for Lawyers, and can be reached at gary@ontraccoach.com or 604-669-5235.