

Best Practices for Managing Lawyers

By Barbara McQuade

Welcome to Best Practices, formerly the Trial Practice column. Readers of the column will continue to find guidance for how to effectively prepare for and conduct trials, but the title change reflects a broader scope of topics to come. Future articles will highlight best practices and ideals in all aspects of the law, including transactional work, law firm management, ethics and standard of care issues, and technology. This broader approach is intended to help lawyers as they face the increasing challenges of the twenty-first century. We are pleased to have Barbara McQuade, former U.S. attorney and 2017 recipient of the Frank J. Kelley Distinguished Public Service Award, launch this new vision for the column.

—Gerard V. Mantese and
Theresamarie Mantese, column editors

Legal organizations do many things wrong when managing lawyers.

Because the most important factor in being a successful manager is hiring good people, we are able to hide most of our mistakes. However, an effective manager can use strategies to empower lawyers to draw out the best in themselves.

When I was at the U.S. Attorney's Office, I had an unfair advantage in managing lawyers because we attracted highly motivated self-starters who required little supervision. Indeed, most law practices, whether in the

private or public sector, enjoy hardworking legal teams. For that reason, we undervalue the importance of managing lawyers. Nonetheless, I have found there are some best practices for managing lawyers to help them get the most out of their own talents. Because some of these best practices are counterintuitive, many law organizations make mistakes in their approach to managing lawyers.

The wrong manager

The first thing most law practices get wrong is choosing the manager. Oftentimes, the managing partner or the group supervisor is promoted because he or she is the best lawyer. But success in billing hours or cross-examining witnesses does not predict a lawyer's ability to get the most out of his or her colleagues. Just as the best players in the NBA don't always make the best coaches, the best lawyers don't always make the best managers. Managing is a skill that can be developed, just like practicing law, but it is a different skill. Managers should be lawyers who care deeply about the mission of the organization, can articulate a shared vision, and can motivate people to hold themselves and each other accountable.

Unequal is fair

The second thing most law offices get wrong is treating everyone in the organization the same. As lawyers, we are trained to demand equality and fairness, and we expect that the rules will be applied uniformly to everyone. This is a mistake. When it comes to managing lawyers, one size does not fit all. Some lawyers require substantial hand-holding and oversight of their work. But high performers are the opposite; get out of their way and give them the opportunity

to do their work, and they will usually come through for you. If you want to retain high performers, you must keep them fulfilled. In addition to meaningful work, high performers want a commensurate degree of autonomy. If high performers have earned your trust in their judgment, give them the discretion they need to remain satisfied in their work. Don't worry if other people complain that you are favoring some lawyers over others by giving them less supervision. If high performers earn that trust, don't let small minds derail you.

Mismatch mentors

Another error law offices make is in assigning mentors. They make the mistake of pairing mentors and new lawyers who are alike. Instead, newer lawyers should be matched with mentors who have different life experiences from their own. Pairing lawyers with different perspectives can help both the mentor and the protégé learn from each other. Some of my best mentors were people who were different from me. My first boss was of a different gender, age cohort, and religion from me, and I learned a tremendous amount from him. Another mentor was of a different race, gender, and age from me, and similarly, I gained more from that relationship than I might have from a woman of my own race and age. Relationships will naturally form within an organization among those who have characteristics in common, but lawyers with different backgrounds may never interact with each other in the absence of a formal mentoring assignment. People can learn more from those with different perspectives from their own.

Assigning mentors is particularly important for newer lawyers who are in the minority of the organization based on gender,

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race, religion, sexual orientation, or other characteristics. These individuals may not find other lawyers in the firm “like them” and feel they do not fit in. If we want to make our organizations more diverse, we need to focus not just on hiring but also on retention. Retaining these lawyers can be difficult if they do not feel a connection to their peers. Managers need to make an effort to ensure that lawyers who do not fit the traditional mold of the organization do not get overlooked when good work is being assigned or training opportunities are presented. These lawyers can benefit from a mentor with different life experiences.

Don't discard—repurpose

Law firms also make the mistake of asking lawyers to leave when they are less productive than others. Sometimes, a parting of the ways is necessary, but it comes at a cost to the organization. Rather than reflexively casting aside lawyers who are less productive, consider whether they can fill another important purpose in the organization.

Managers must first determine why performance is low. Was this lawyer always a low performer or is this a recent development? Do we know why performance is poor? Is there a personal issue that is temporary or have the lawyer's skills diminished? Was the lawyer never a high performer in the first place? The answer to those questions will inform how best to address the problem. If the lawyer's productivity problems are beyond repair, it may be time for him or her to leave. But if the lawyer was once productive and now works fewer hours or avoids the stress of litigation, consider whether he or she can add value to the organization in different ways. Can he serve as an effective mentor? Can she conduct training? Can he draft resource materials that could be beneficial to colleagues or clients? Not everyone can or wants to walk the tightrope of high-stakes litigation forever, but an experienced lawyer can still add great value to an organization. While compensation may need to be adjusted as a lawyer's role evolves, we should think carefully about how lawyers might contribute to our organizations before we cast them aside.

Women's work

Legal organizations also make mistakes by having old-fashioned expectations for childcare, branding as less serious those lawyers who take maternity leave or work part-time to care for children. This mindset was formed in an era when husbands worked and wives stayed home with children. With more women working as lawyers and nontraditional families with two moms or two dads, we need to rethink our attitudes about childcare. Men entering the workforce are now just as likely to want to spend quality time with their children as women. If law firms want to attract and retain top legal talent, we should stop shaming parents who invest time in their families. Instead, we need to find ways to help them achieve a healthy balance between work and family. Part-time and flexible schedules can be accomplished far more readily today than in the past as technology has enabled remote access to our work. I have found that highly motivated lawyers who work part-time are often more productive than their full-time counterparts. Good managers find ways to help their lawyers develop a satisfactory work-life plan.

Manage the manager

Legal organizations often leave all management responsibilities to the manager or management team. But everyone has a role in effective management of a law practice. Even lawyers who are not the managing partner of the organization can help steer the organization to success. Lawyers can lead from wherever they are in the organization, managing those who are junior to them as well as “managing up” to senior colleagues. Junior members of a firm or agency have much to offer. For instance, they may be more tech savvy than their senior counterparts and able to make suggestions for improving the work product or efficiency of the organization through technology. Junior lawyers also may relate better to clients who are millennials. More recent law school graduates may have different ways to tackle problems that they can share with their mentors. Managers need to empower the more junior members to

exercise this knowledge without fear that they don't know their place. Managers can communicate to junior lawyers in words and action that their ideas are welcomed and rewarded.

Face off

Managers often make the mistake of focusing on their own work over communicating with their direct reports. When busy managers spend large parts of the day in court or at client meetings, it is understandable that when they are at the office, they want to attend to their work. I found that my desk had an almost magnetic pull on me to try to get my work done. A manager must resist this pull and get around to talk to the other lawyers to be an effective leader. How often have you heard managers say they have an open-door policy? That's not good enough. People will seldom walk through the door because they don't want to bother you. If, however, you walk around the office and see them, people will welcome the chance to talk to you.

At the U.S. Attorney's Office, I made a conscious effort to regularly walk around the halls of the various branches of our office, and every time I did, someone would say to me, “I didn't want to bother you, but as long as you're here . . .,” and would then ask a question, share some information, or express a concern. I heard about important things I never would have learned had I stayed in my office and waited for others to come to me. There is no substitute for face-to-face communication, and the manager must initiate it.

Meetings matter

One way to enhance communication is through in-person meetings. Many lawyers eschew meetings as a waste of time. But when planned and executed well, meetings can be a very effective way to communicate information, ensure an understanding of an organization's common purpose, and develop a sense of camaraderie. Meetings can be used to emphasize expectations—integrity, client service, or other priorities.

The structure, frequency, duration, and composition of meetings will vary depending

on the size and purpose of the organization, but good meetings have some things in common. First, each meeting should have an agenda, whether written or unwritten. Second, good meetings start on time, and the manager needs to keep the discussion focused so that it ends on time or earlier. Third, the manager must set a tone that encourages everyone to participate in the discussion.

At the U.S. Attorney's Office, we held regular sets of meetings for the full staff, the management team, and individual units with differing frequency. These meetings were used to share information, provide training, and build esprit de corps. In all of these meetings, we were able to emphasize our values: service to our community, teamwork, and a commitment to justice. Lawyers will necessarily spend a great deal of time working alone. A meeting with colleagues gets them out of their silos and helps them feel more invested in each other and the success of the organization.

Conclusion

Managing lawyers can be challenging work because most of us consider ourselves to be independent problem-solvers who don't need to be managed or supervised. But like a great athlete, a lawyer can achieve even higher levels of performance with a manager who takes time to understand unique talents and skills and provides what that lawyer needs to be even better. Avoiding these pitfalls can help a manager lead the lawyers to success. ■

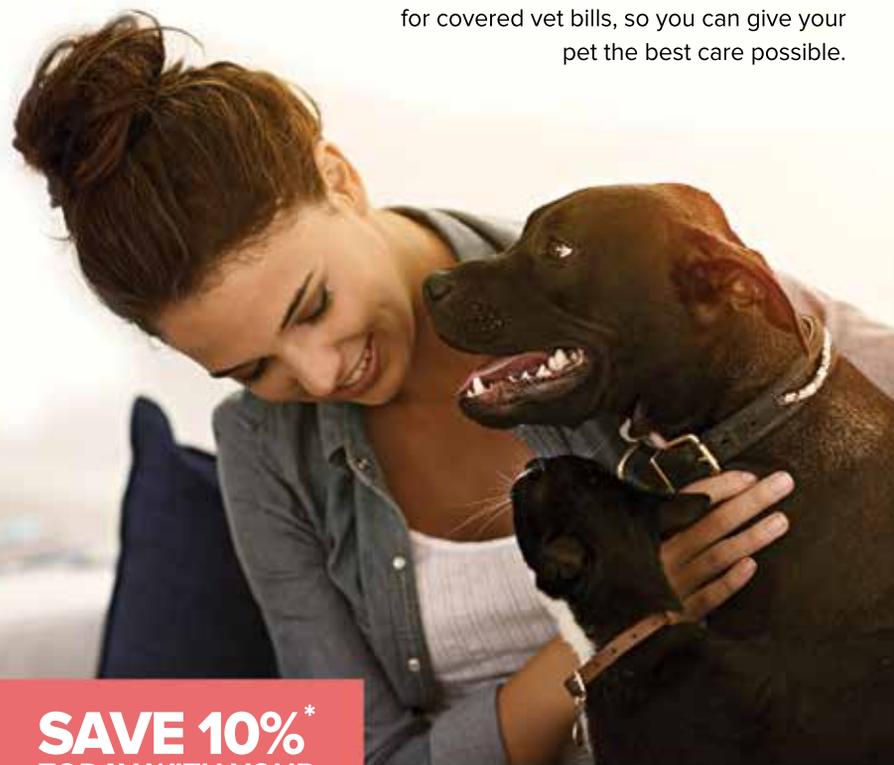


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