HOW MUCH IS A GOOD LAWYER WORTH?

by S. Meyerowitz

How *should* law firms today compensate attorneys for bringing in new clients?

"It's the number one issue" in law firm growth and marketing today, says Kenneth L. Lowe, a San Diego management consultant who has worked with a variety of firms. "Nobody is going to go out and help develop a firm unless there's an incentive to do it—or at least no disincentive to do it."

At many firms, the money trees are taking new shapes: "Firms today are changing their compensation systems," says Susan Raridon, chairperson of the YLD Young Lawyer Economics Committee. "The change is from being based primarily on seniority, billing and business origination," says the Ardmore, Pennsylvania, lawyer. "That's good for young lawyers, because law schools don't teach those things."

How important are law firm marketing and compensation issues? Joseph D. O'Connor III, a young lawyer from Bloomington, Indiana, says he became "involved in the Young Lawyer Economics Committee to see what we should be doing in the area of compensation." As vice-chairperson of the YLD committee and a partner in his firm, O'Connor adds, "We want to start to determine how to properly give consideration to lawyers in our firm for office management time, rainmaking, and marketing."

Traditionally, neither marketing nor other activities not chargeable to clients have been important considerations in law firm compensation systems.

The three most traditional kinds of standard compensation programs, according to law firm consultant Robert W. Denney, are "lockstep systems, based on seniority; those based purely on billable hours, and formula systems, where partners are paid a percentage of the fees of the clients they bring in."

A "lockstep" system, strictly assigning compensation to partners on the basis of seniority, is disliked by many younger lawyers. Moreover, notes Ward Bower, a principal with Altman & Weil legal consultants, "there is a trend away from lockstep systems because they don't reward superstars."

Compensation based solely on billable hours doesn't offer incentives for lawyers to market their firm. "If you make the compensation decision based on the number of hours I bill and collect, I won't do marketing," Kenneth Lowe says. "Why should I? I'm not getting paid for it."

On the other hand, a compensation system using a formula weighted to new business brought in has an opposite effect—but that doesn't make it the best system.

The formula approach is the "most divisive compensation system," Lowe says. "It may work for a while, but you get an overemphasis on new business." He says that when partners "see big bucks for bringing in business, they will *all* try to be finders. They'll forget about keeping existing clients, training young lawyers, and ensuring quality controls."

Deborah J. Addis, vice president of Addis & Reed, Inc., a Boston management consulting firm, agrees: "While I advocate compensating for work being brought in, compensating solely on this is like having a salesman on commission. The danger is that the lawyer will bring in *any* client, even one who may not be appropriate to advance the greater interests of the firm."

How devastating can a system be that primarily promotes new business development? One hint may be evident from the recent breakup of the giant national firm of Finley, Kumble, Wagner, Heine, Underberg, Manley, Myerson & Casey. One theory about the firm's demise, says Altman & Weil's Ward Bower, is that the firm "wasn't able to withstand from an economic viewpoint the huge premiums it paid to people who brought clients in."

An increasing number of firms are revising their compensation structure to recognize and reward attorneys who help market the firm. The trend is real; "Those who say that this is crass and not professional are fast dropping into the minority," claims Robert Denney.

The growing tendency toward including marketing activities in compensation decisions is very good for young lawyers, says Susan Raridon, because it encourages attorneys to market. "This will help their law firms survive and prosper in a more competitive environment," she says. "Many young lawyers are in law firms where senior lawyers are saying, 'Why change?' But the young lawyers want to market because they see their future on the line."

One firm that recently altered its compensation system is Boston's Warner & Stackpole, and it did so with business development firmly in mind. Robert Cushman—whose title is Executive Director of the firm—says the changes were made to "insure that our ability to compete is maintained. Part of that is sensitizing people to the need to develop clients." Now, at Warner & Stackpole, "partners with higher levels of new business generation receive a greater percentage of the firm's earnings," Cushman says. The extent to which a partner engages in marketing activities is "one of nine factors that drives partner compensation." For junior lawyers in the firm, the amount of associate bonuses now reflects associate involvement in marketing.