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Economics 101: what determines financial health

CASH ON HAND FOOLS NO MAN

The firm’s financial health “depends on its ability to weather adverse economic conditions,” says **JAMES D. COTTERMAN**, a principal with the Newtown Square, PA-based legal management consulting firm Altman Weil. And right now, a lot of firms are “a bit beaten up.”

Yet survival and profit are to a great extent simply a matter of Economics 101, he says. Any business has to have capital and liquidity, and to that end the primary rules for a law firm are

- have a month of free cash available and
- don’t borrow more than the value of fixed assets.

Follow those “and everything will fall into place,” he says. Here are five specifics for getting there.

DON’T EMPTY THE CHECKBOOK

One of the most significant elements of financial success, Cotterman says, is the amount of cash held in reserve.

After all the bills are paid, the draws and salaries covered, and the retirement contributions made, there needs to be cash on hand.

How much? A rule of thumb is to have at least two

weeks of cash available to fund the operating expenses. But in the uncertain economy, his advice is to have a good bit more than that – one to two months’ coverage.

Many firms fail miserably there, he says. And often it’s because they finish up the year by emptying the accounts. They distribute the year-end balance to the partners, start the next year with zero cash, and plan to borrow their way out of whatever shortfalls appear during the first few months.

Today nobody can predict what the revenues are going to look like in the months ahead. And as to borrowing, “the bank needs to be the provider of capital as the last resort, not the first.”

It’s not difficult to maintain a sufficient amount of cash on hand, he says. Neither does it mean the partners have to get any less money. He gives the example
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A survey for you, please

Enclosed with this issue is *LOA*’s 20th annual reader survey.

Please take a moment to fill it out and also to add suggestions, wishes, comments, questions, or whatever you like. Every survey gets our personal attention.

And as always, if you have questions, feel free to call me at 404/367-1991. You can also e-mail me at billkimbro@ardmorepublishing.com.

Bill Kimbro, Editor

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On Better Communication

To use or not to use a comma

Where do commas go? And where don't they go?

Commas separate things so as to make them clear. But when they are used unnecessarily, they make a sentence bumpy and hard to read.

Here are the main places to use and not to use them.

- **Use one after an introductory phrase.** *In the heat of unbridled passion, he deleted the third paragraph.* The comma separates two thoughts – the one about the passion and the one about the paragraph – so they don't run together and confuse everybody.

On the other hand, don't use a comma if the phrase is just two or three words long. *In a passion he deleted the paragraph.* There's no break in the voice there. And there's no risk anybody will get confused reading the two thoughts together.

- **Use one in a compound sentence.** It goes in front of the conjunction. *The weather is sunny and warm today, but the wind is starting to kick up.*

But don't use one after the conjunction. In fact, never use one at all after *and* or *but* as in *It's warm today, but, the wind is kicking up.* It's not needed for clarity, and it makes the sentency bumpy.

And again, if the sentence is very short, leave the comma out. There's no need to put one in *It's sunny but the wind is kicking up.*

- **When a compound sentence has *however* or *therefore* in the middle, put a semicolon before the word and a comma after it.** *Patsy Cline was killed in a plane crash when she was only 30; however, she is one of the most acclaimed vocalists of the last century.*

- **Put commas around parenthetical or explanatory words.** *Henry VIII's second wife, the soon-to-lose-her-head Anne Boleyn, was the mother of Elizabeth I.*

- **Use one before *which*.** *The Eiffel Tower, which was built in 1889, is 1,063 feet tall.*

But don't put one before *that*. *The landmark that has become the global icon of France is the Eiffel Tower.*

- **Use commas around the name of the state.** *Elberton, GA, is the home of a monument often called "America's Stonehenge."*

- **Do the same with dates.** *It was on August 4, 1892, that Lizzie Borden hacked up her father and stepmother.*

- **The Oxford comma is a good thing. Use it.** That's the comma that comes before the last item in a list. It's also called the Harvard comma and the series comma. A good example of why it's a good thing is the rather well known book dedication *To my parents, Ayn Rand and God*. If ever an Oxford comma was needed, it's there. And because any written thing needs to be consistent throughout, if it's needed there, it ought to be used everywhere else. ❖

(continued from page 1)

of one firm that paid out 95% of the profit to the partners each year and kept the other 5% for capital. Then when it built up the cash on hand to a sufficient level, it distributed the 5%.

That was the routine. “The partners simply got accustomed to the fact that there would be a 5% capital holdback.”

AN INCOME HIGHER THAN THE DEBT

Another financial determining factor is the income-to-debt ratio.

Add together the collectible value of the unbilled time and the accounts receivable, and the amount should equal 9.5 times the amount of the total debt, Cotterman says – debt being measured as loans plus the capitalized obligations such as furnishings and computers.

Thus, if the receivables and unbilled time amount to \$10 million, the firm shouldn’t owe more than \$1 million to the bank. And in the current recession, it behooves a business to be even more conservative. A safe debt level on \$10 million today is no more than \$500,000 to \$600,000.

That’s a workable amount to pay back. And just as important, it makes for good credit, because if the firm needs to take out a loan, the bank wants to see a cushion between what the firm owes and what’s owed the firm.

The sad truth about getting a loan, he says, is that banks “will lend all the money a business doesn’t need,” but they tighten the purse strings when that same business really needs it.

A DEBT LOWER THAN THE ASSETS

Look too at the ratio of the debt to the fixed assets it covers.

The total debt should be no more than the value of the assets, Cotterman says. And less is better.

A simple rule: never borrow more than what’s needed.

Suppose that last year the firm wanted to spend \$500,000 on technology. It has a good credit history along with a good relationship with the bank and so was able to borrow more than it needed, say \$600,000.

But by now, the value of that equipment has dropped to maybe \$400,000, and if the firm wants another loan for something else, the bank “isn’t going to look at it too kindly.” Its first question is going to be “have you paid us back that \$100,000?”

Any bank wants to see a borrower put some of its own money into a purchase, he says. The firm would be far better off now had it borrowed only \$400,000 last year and covered the balance itself.

Be judicious with the borrowing, he says. “Some

firms borrow money to float costs to clients.” And then when there appears a real need for a loan, the money isn’t forthcoming.

REIN IN THE LINE OF CREDIT

And then there’s that line of credit.

It’s not for partner draws. Neither should it ever be the first source of working capital.

And don’t use it either for permanent financing, Cotterman says. If something is to be financed over five or 10 years, get a fixed-rate term loan. A line of credit can have variable rates, and it’s callable, whereas a term loan is difficult to call unless there’s a default.

Respect the purpose of a line of credit, which is to help the firm meet the extra expense humps that its annual revenues will cover but its working capital won’t. Those are things such as a huge insurance premium or salaries during a three-payroll month or the one-time growth expense of bringing in a lateral partner.

The line of credit makes it possible to smooth out the vagaries of the cash flow throughout the year, “and at the end of the year, banks like to see that all cleaned up.” Otherwise, they aren’t so pleased to renew it.

Banks also like to see “practical reasons” for using the line of credit. They want assurance that the firm isn’t getting into a situation where it drowns in unnecessary debt.

HONOR THY LOAN COVENANTS

Another financial concern is the firm’s track record with loans.

Banks are paying close attention to whether their customers breach the conditions or covenants of their loans, Cotterman says.

Those conditions vary depending on the borrower, but for a law firm there is often a requirement not to exceed a certain income-to-debt ratio. Also common is a requirement that the firm maintain a minimum number of attorneys. And the most obvious condition, of course, is that the principle and interest be paid on time.

Whatever the covenants are, keep a watchful eye on them, he cautions. Breach one, and the firm could get hit with a higher interest rate or have to pay some penalty. In severe situations, the bank may even call the loan.

He adds the obvious point that missing a payment is the worst of all possible breaches of contract. Technically, missing a payment “even by a tiny flash” is a default.

What if there is a breach?

Cotterman’s advice is to address it and address it

fast, no matter how minor the transgression.

Tell the bank what has happened, “and get out in front and show that the firm is monitoring it.” Prepare a presentation that explains the reason for the breach in the most positive way possible and that tells what plan the firm has set up to correct it. And then ask for a waiver.

Without that, the bank could well say “you are not in our parameters” and take negative action against the firm.

No matter what the infraction, he says, a breach of covenant draws attention to the firm, and no firm wants that. The bank may well start looking at the firm’s financials, and if they show that one or more of the other conditions isn’t being met, “it can be an ugly day of reckoning.” ❖

When firing a staffer, the big concern is safety – both physical and legal

Besides being unpleasant, firing a staffer is dangerous.

There are two concerns, says employment law attorney **DENISE I. MURPHY** of Rubin and Rudman in Boston.

Of first importance is the physical safety of the administrator and everybody else in the office.

Of second importance is legal safety. The administrator has to minimize the risk of a claim of wrongful termination, discrimination, or wage and hour violation. “There’s no need to buy a lawsuit.”

YOU’RE FIRED; WE’RE SUED

The first concern is how to set up the you’re-fired meeting, and there the concerns are invasion of privacy and protection of the office’s data.

To stand in the middle of the office and scream out “you’re fired!” is the same as talking about a personnel matter in public. It’s a privacy invasion. It discloses personnel record information, and most states do not allow that without written authorization.

The same can even hold true for saying within earshot of other people “come to my office at 5:00 p.m.” That’s a clear signal that things are going south, “and now everybody knows it.”

The best way to commence a firing meeting is to call the staffer on the phone and say “I’m in Room A. Can you come in here?”

That’s safe all around.

Because the call is private, the office has legal pro-

tection. And because the meeting is immediate, there’s no time for the staffer to copy or damage any data, particularly the client information.

For additional technology safety, she adds, before making the call, bar the individual’s access to the computer. Then after the firing, tell the staffer that if there is personal information on the system, the office will send it.

THE SETTING AND THE SEATING

For the meeting itself, the most serious concern is physical safety. *You’re fired* is deeply disturbing to anybody, and employees respond in all sorts of ways. “Some cry, some yell, some get angry, and some don’t react at all.”

Thus the best setting for the meeting is a neutral one such as a conference room – with another person there as a witness and “an added measure of protection” should the staffer become violent.

Also important is the seating arrangement. Seat the fired staffer farthest away from the door. The administrator and witness should then sit closest to the door “so they can get to it first” if violence erupts.

BE HONEST ABOUT THE REASON

As for the conversation, be truthful. Lay out the real reason for the firing.

Don’t take the easy way out with “business is slow and we just don’t need you anymore.” If the staffer is in a protected class and if it’s obvious business hasn’t slowed down, in walks a claim of discrimination.

Suppose the reason for the firing is unacceptable grooming. It’s not necessary to be as brutally frank as “you’re a slob.” But don’t skirt the truth either.

Tell the staffer “as you know, we talked on (*dates*) when you came in inappropriately dressed, and I explained what appearance is required in the office. You have failed to meet that requirement, and we need to let you go effective immediately.”

Answer whatever reasonable questions the staffer asks, “but don’t get into excessive detail.” For example, if the response is “I didn’t realize you really meant it,” point out what was said earlier and stop there.

Keep the meeting short and say as little as possible. It’s also a good idea to document what was said and what happened at the meeting. But be aware “that the notes are discoverable.”

A PAYCHECK WITH NO PROMISES

Two legal points at this time: give the final paycheck at the meeting and don’t promise unemployment compensation.

As to the paycheck, Murphy says, except for on-

the-spot firings, most states require that the employer “provide it on the day of termination.”

The check also has to cover everything the employee is entitled to, and usually earned vacation pay is considered wages and therefore has to be included. To do otherwise is to violate wage and hour requirements, and if that happens, the firm can be liable for damages and attorney’s fees and even face criminal charges.

As to unemployment compensation, never say the employee can collect it.

Many managers do that, again to soften the blow. But whether an employee is eligible for it is not the employer’s decision but something the state determines.

If the manager promises it and it turns out the staffer isn’t eligible, “it looks like the firm lied. And people who have been lied to are people who sue.” And even if the claim is defensible, she notes, “the firm still has to spend a lot of money defending itself.”

The safest approach is to send the staffer a letter confirming the discussion and outlining what may be available, for example, “Because of the circumstances we discussed, you are terminated effective immediately. We have provided you with the final paycheck and we will send you information about COBRA and unemployment compensation (*and whatever else the office offers*).”

That doesn’t say the staffer is eligible for any of those benefits. It just says “here’s how to find out if you are.”

DON’T GET TOO COMPASSIONATE

Also important is to recognize the devastating effects a firing can have on an employee and show compassion, Murphy says.

Just don’t show too much of it.

Many managers turn to platitudes such as “we have enjoyed having you here” or “we value what you have done for us.”

Neither of those statements is true or the firing wouldn’t be taking place. And the danger is that the staffer’s thinking is going to turn to the lines of “If they liked what I’ve done, then why are they firing me? Is it because I’m (*female or old or whatever*)?”

The picture gets even worse if the administrator recognizes some hardship, and many administrators do just that. They make statements such as “we understand you just came back from open heart surgery” or “we know your spouse is out of work.”

What the staffer hears is “we know this is going to be extremely hard on you, but we’re going to terminate you anyway.”

That’s enough to make anybody angry and also enough to make anybody think thoughts of “it sounds

to me like they’re firing me because I took sick leave. I wonder if I have a claim.”

NO FREE SEVERANCE PAY

As to severance, Murphy’s advice is to offer it “only in exchange for a release” of claims against the office.

But be aware of the state and federal laws that apply. For example, an employee over age 40 has to be given time to consider any offer that includes a release plus even more time after accepting it to revoke it.

And to make sure the employee is aware of that, the employer needs to tell the person in writing to get legal advice before accepting the offer.

OUT THE DOOR WITH NO REENTRY

Another point of physical safety is protecting the office, particularly the data.

Every employer needs to have a standard rule that anyone who gets fired has to leave immediately.

Don’t allow anybody to go back to the work area for any reason. Either accompany the staffer back to the desk to pick up personal belongings or say that the firm will send them later.

And never allow anybody to come back after hours to pack up.

Again, people react to firings with emotion. The extra time is time enough to get depressed or angry and maybe get high or maybe get drunk – or maybe pick up a weapon.

A SILENT DEPARTURE

The final question of firing is how to tell everybody else that the staffer is not coming back. And Murphy’s advice is to say no more than “Staffer A is no longer with us.”

Again, the issue is privacy invasion. Never tell anybody outside management the reason for the firing. To do so is to release personnel information without permission. ❖

By John Chase

This Month's Idea

Mandatory meetings = accountable attorneys

Memos have their place. But in a busy office they can get voluminous to the point that nobody reads them, says **SANTINA MALONE, CLM**, administrator of Drucker, Rutledge & Smith, a nine-attorney firm in The Woodlands, TX.

Malone's firm experienced that two years ago when it brought in several new associates. Like all newcomers, the new hires were a bit disconnected with what was going on, but all they were getting was memos "saying please do this and please do that."

More memos were going out to the entire firm covering countless other matters.

Everybody was inundated with memos, she says, and neither the attorneys nor the partners had time to read them all – much less remember them.

"We needed a concentrated hour once a month" to lay out all the information. So the firm set up a monthly meeting schedule with two twists. One is mandatory attendance. The other is an element that keeps the attorneys accountable for their own collections.

FIRST, THE NEW CLIENTS

The managing partner leads the meeting, and the first agenda item is new client matters.

The attorneys get a list of the matters that have come in during the month along with an outline of the type of work involved in each. If the work will require staffing adjustments, they decide on what changes to make. And if there are specific billing requirements, everybody is made aware of them.

NEXT, THE MONEY

After that come the past due accounts.

Malone prepares a receivables report showing the 60-, 90-, and 120-day aging brackets.

The managing partner goes over each matter on the list, and the partner in charge has to answer two big questions – why the account is overdue and what's being done to get it paid. And if it's obvious the client is not going to pay, the group evaluates the options of sending the matter to collections or planning a withdrawal strategy.

That ongoing review of the outstanding accounts

carries good benefit, Malone says. Besides keeping the firm from becoming obligated in a case that isn't going to get paid, "it holds the partners accountable for their receivables."

And the result has been an improvement in collections. Knowing they have to answer for uncollected accounts, the partners stay current on calling their clients and telling them "I have to answer to my partners about this tomorrow, so what can you tell me?"

Also, she says, the reviews make the associates aware of the financial responsibilities they will assume when they become partners.

TALKING ABOUT IT v. READING ABOUT IT

Next on the agenda are the general announcements, most of which would in the past have been sent out via memo.

The advantage of addressing them in a meeting, Malone says, is that the attorneys can ask questions and also come up with ideas on how to handle problems. Sometimes the issues are administrative such as secretarial changes needed to accommodate extra work. But other times the discussions are geared to "how can we do this better?"

PARTICIPATION RESPONSIBILITY

The last 30 minutes of the meeting also generates participation and awareness of responsibility to the firm.

It's a presentation. And the responsibility for it "gets passed around to different people in the office," Malone says.

The topics vary widely. An attorney who has attended a seminar might make a presentation on what was covered. Or an attorney might arrange for an outsider such as a Westlaw representative to discuss ways to make better use of the service. On one occasion, a paralegal made a presentation on how to use a new software. Or someone might lead a discussion on ways to bring in more business.

THE EVER SEEING EYE

With the ongoing and mandatory meetings, Malone says, the attorneys "stay on the edge of things." They are forced to look at the office's operations as well as the business picture, and as a result, the firm is always aware of where improvements need to be made and can be made.

Along with that, the associates get full exposure to the workings of the firm – a benefit not experienced in most other practices. They are aware of the business issues they will have to deal with as partners, they are involved in the decision making, and they have a sense of responsibility toward the firm. ❖

The best thing to do for the partners is set up a goal plan for the year

One of the most valuable services an administrator can provide is helping – and indeed sometimes motivating – the partners to set business goals and achieve them. And the best time to do that is now, during the first months of the year.

The job is much like a health check and healthy lifestyle plan, says **JAN FRIEDLUND HENDERSON** of RJH Consulting, a Jackson Hole, WY, law firm management consulting firm specializing in small to mid-size law firms.

It's a matter of reviewing what happened last year and devising ways to maintain what's good and improve what's not so good this year.

JUST WHAT DO THE PARTNERS WANT?

The job starts with information gathering, and that's done at a meeting with the partners.

Ask what their goals are. And if they don't have any, "be the catalyst to get them going."

Ask "what would you like to see this year?" They may want to increase the number of clients or set up a new practice area or improve the profit margin.

Whatever it is, respond with "What can I do as administrator to help you achieve that?"

Go for the specifics. Suppose they want to see a 5% increase in profit this year. Ask what they want done to achieve that. They might want to see staffing reductions. Or they might want a new marketing plan to bring in clients.

Offer to review those points along with all the other main elements of operations such as client satisfaction, overhead, attorney development, staffing, and so on to identify where improvements can be made and ought to be made.

And then offer to come back with a plan for achieving it all.

START WITH THE PROFIT MARGIN

Now it's time to see what's going on, both good and bad.

Henderson's advice is to evaluate individual categories, the first one being the profitability.

For most firms, she says, a profit level between 40% and 50% is not only good but "extraordinary." Anything below 30% is bordering on unacceptable.

But a good margin last year is not reason enough to assume the firm will stay at that level. Determine why it was good. There may have been a windfall from a

single client. If so, the question is whether that client will be on board again this year. Otherwise, the firm has to adjust its income expectations or figure out how to replace the business.

On the other hand, if the profit margin is not acceptable, that should be the top goal, with the solutions running to elements such as raising the rates, reducing staff, or venturing into a new more profitable area of law.

THE BILLS AND THE COLLECTIONS

Review too the billing and collections.

Bills should be going out within 30 days of the work, if not sooner, Henderson says. And the realization rate should be at least 95% of what's billed.

If the billing is slower or the rate lower than that, find out why. Those are areas to correct this year.

The client selection process may need filters to weed out a type of client who doesn't pay.

Or it may be that the attorneys are at fault. It's not uncommon for attorneys to sit on bills for several months.

But whatever the holdup, any delay is costly. Besides the fact that the cash flow is slowed down, the probability of a full collection decreases, because after 60 days, the chances of collecting the full amount diminish greatly.

SATISFIED OR DISSATISFIED?

Another area is client satisfaction. Unhappy clients don't pay fast and sometimes not at all.

An easy way to gauge satisfaction, Henderson says, is to look at the client retention. If key clients have left, find out why. Whatever irked those clients needs to be corrected.

She adds that while it's true some clients are one-timers, the firm should still be getting some repeat business by marketing its other services.

As to the points that affect satisfaction, beyond the quality of the legal services most are the personal ones – whether the attorneys and staff are polite, whether the client is greeted at the door, whether calls are returned promptly, whether the client is kept informed about the progress of matters. And the big one: whether the client thinks the charges accurately reflect the services.

THE TRAINING AND EDUCATION

Yet another point that warrants evaluation is professional development.

Did the attorneys meet their continuing education requirements? Are staff developing professionally? Are the associates advancing in their areas?

And on a personal level, is the administrator getting

continuing education to serve the firm better?

Some of the goals for the year may need to be to send people to more seminars or set up more in-house training.

STAFFING AND PERSONALITY MATCHES

And now for staff support.

To a great extent, the evaluation here comes from asking the individual attorneys if staff are supporting them to their satisfaction. Is the work getting done on time? Is it accurate?

Ask if they are pleased with the secretaries and assistants who are paired with them. Is there a personality fit? If Overbearing Attorney A can't work productively with Sensitive Secretary B, staffing changes need to be on this year's plan.

ETHICS TO EMBEZZLEMENT

Review the training in ethics and discrimination. The firm may need to provide more of it.

Another concern is how confidentiality is ensured. Cover the data protections. Also cover the confidentiality training staff receive.

And look too at whether there are adequate safeguards on how the money is handled so there's no opportunity for theft.

AND YES, SUCCESSION PLANNING

And an element that few administrators think of is succession planning, Henderson says.

Look around at who is approaching retirement age. Those people need to be mentoring others to replace them. That includes the senior secretaries and the senior paralegals. But it also includes the administrator who is planning to retire in the next year or two.

Tell the partners what retirements are coming up and "here is my plan to meet that issue over the years."

Henderson also recommends having the senior people who are approaching retirement draw up a best-practices handbook for their positions that outline their duties, the business contacts they have set up, the shortcuts they have learned about their jobs, and whatever procedures they have put together

NOW TO DRAW UP THE PLAN

With the review done, set out a plan in outline form. List the objectives the administrator believes are necessary and briefly tell how to achieve each one.

There can be a lot or just a few objectives, depending on the firm's needs and what the partners want.

But whatever they are – marketing, raising the realization rate, staffing, or whatever – be specific about

what the issue is, what the plan of action will be, and why it's necessary, for example, "Last year we had a 35% profit margin. This year we will try to take it to 40%. This is what we need to do to achieve that."

Name the person or people who can make each item happen and tell what each one will do.

For example, to increase the profit margin from 30% to 40%, the plan might be for the billing department to make calls on past due accounts, for the marketing department to search out former clients, and for the administrator to evaluate the staffing cuts.

Get as specific as possible, she says. If the plan is vague or lofty, nobody's going to do anything. "It's just going to become a dust collector."

A final note: get the partners' agreement on every point. Don't take any action without their approval. For example, don't make staff cuts on the assumption that cuts are what they want. They may think their staff are stretched thin already, and staffing cuts may be the last thing they want to see. ❖

Here's how to ensure those very expensive new attorneys don't bolt

A law firm's product – or what it has to sell – is its people. And the people it will be selling in the future are today's associates.

The associate product needs protection, says **FRANK MICHAEL D'AMORE** of Attorney Career Catalysts, a Haverford, PA, consulting firm for legal recruiting and mergers.

The obvious reason is money. The average cost of recruiting an associate has been about \$50,000. Salary comes on top of that. So too do another three or even four years of time and money spent before the associate shows a profit.

What's more, new attorneys play an essential role in maintaining client relationships, because they're usually the ones who do much of the work the clients rely on.

Be proactive about keeping those associates happy and on board, he says. And do it with a first-year survey.

But not a standard survey. D'Amore recommends adding elements that rarely get asked.

TRAINING

Start by asking about the legal training the associate receives and to that add a question about the business development training the firm is providing. The latter won't be extensive, but the association should be get-

ting a good introduction to what the firm expects to see and the basics of how new clients are solicited.

Begin the questions with *Are you learning what you need to learn to improve your legal skills?* and *Have you had an opportunity to learn from the more senior attorneys?*

Then follow those with *Are you getting guidance on how to develop business relationships with clients?*

FEEDBACK

The first question here is whether the associate is getting feedback on the work from the partner in charge.

The second question is whether the feedback is useful. In other words, does the partner explain where and how the work needs to be improved?

And perhaps more important is a third question: *Do you get a second chance to redo your work when improvement is needed?*

Being able to correct mistakes is an essential education element. It's not enough to tell somebody what's wrong and stop there. To learn, people need an opportunity to correct their own mistakes.

Rarely do first-year associates get that chance.

QUALITY OF WORK

Ask if the work assignments are mundane or if they draw on the associate's intellectual skills and legal capabilities.

It's from here that the real satisfaction stories come, he says. Satisfaction is high when the assignments are useful and valuable and challenging.

No associate wants to spend time rifling through boxes of documents. The prize is "work that draws on the brain" such as helping with depositions and sitting in on strategy sessions. "That's the kind of work people like to get."

RECOGNITION

It takes more than compensation to keep people happy. They want recognition, particularly public recognition. Ask if the partners are giving what the attorney considers fair and proper recognition for the performance.

And people want more than a quiet thank-you. If an associate writes a motion for summary judgment that is granted and decides the case in the client's favor, the partner needs to let the rest of the firm know about it. For most people, "recognition is as important as money."

He adds that recognition can take any form. It can be a notice in the office newsletter or a lunch invitation or even a day off in appreciation for a stretch of hard work.

MENTORING

The questions to ask here are whether the associate has a mentor, if that mentor was actually assigned to

the associate, and whether the mentor is continuously available.

Then find out if the mentor is somebody who's cut out for the job. Ask if that the associate is getting instructive advice and constructive criticism. Ask too if the mentor is pleased to do the mentoring or acts like the job is a time infringement.

CLIENT EXPOSURE

"The more the client exposure, the higher the satisfaction level," D'Amore says.

Nobody wants to spend years in school only to be relegated to the back office. Ask if there is interaction with clients and if so, whether the interaction is face-to-face or only online or by telephone.

Also important: the associates need to know that the clients know who they are. When an associate is part of a deposition or strategy session with clients, the firm needs to introduce the attorney and explain how that attorney is participating in the work.

PEER GROUP

Rarely does a firm ask its associates how they feel about their peer group. But the firm needs to know and also needs to be proactive about providing good peer relationships, because without peer support, people aren't content.

New associates stick together, says D'Amore. They spend time commiserating. And they get support from one another. That interaction is necessary during the first few years.

If an associate is located away from peers of age and experience or doesn't get along with the others, the firm needs to push that attorney towards other people where interaction can occur.

THE FIRM'S REPUTATION

An attorney who is skeptical about the firm's reputation is an attorney who may be looking for a move.

Ask if the associate sees the firm as well respected, as a rising business, and as on par with other firms in the area.

COMPENSATION

Salary satisfaction is a necessity. Ask if the associate sees the pay as fair within the firm and fair as compared to firms of similar size.

A FUTURE WITH THE FIRM

Do the associates feel there is an opportunity for them to stay with the firm long term?

Find out the why of any negative responses, he says. This question hits at the heart of the effort to keep the associates on board. When people see a career opportunity, they stay around to reach it.

THE FIRM'S CULTURE

The work may be challenging, the pay may be great, and the mentoring may be superb. But if there's

not a match with the firm's culture, there can't be any lasting relationship.

Ask if the firm has the type of culture the associate wants to work in. Ask if the culture is consistent with the associate's values. And then put the question on a personal level and ask if the associate is comfortable interacting with the other attorneys in the firm.

SUPPORT

Lack of staff support can stymie any attorney, particularly new associates because they aren't in a position to demand more.

Ask about the satisfaction level in three areas: the administrative support, the marketing support, and the technical support.

Then go beyond that and ask if the partners provide support in developing new clients.

WORK-LIFE BALANCE

With so many attorneys looking for work and jobs so scarce, work-life balance "has been pushed aside a little," D'Amore says. Young attorneys are assuming the attitude of "I'm happy to have a job. I'll do what it takes."

But ask anyway: *Does the firm provide a healthy work-life balance?* The economy will recover, and when it does, the issue will resurface. ❖

What to say when a staffer is below par and how to say it

Perhaps the most difficult part of being a manager is the job of pointing out what a staffer is doing wrong.

No manager wants the confrontation of it. Yet if the matter is left alone, the performance only worsens.

Here's an outline of how to take on that most unpleasant job. It's explained by **JoAn MAJORS**, a Caldwell, TX, speaker on people skills. Majors is also author of *EncourageMentors: 16 Attitude Steps for Building Your Business, Family, and Future*.

THE MEET-ME-AT-5 THREAT

The right approach to tackling unacceptable performance begins at the beginning – in the way the manager sets up the meeting with the staffer.

About the worst thing to say is "I'd like to see you in my office at the end of the day." That doesn't give anybody "warm and fuzzy feelings," Majors says. "There's no positive energy exchanged." It tells the

staffer "you're in for it now," and it's enough to make anybody nervous. It's also enough to put that staffer on the defensive before the meeting ever starts.

Set the meeting with a softer tone. Make it more an invitation than a demand. For example, *I was going over your file and saw a few interesting things I'd like to discuss with you. Could we meet at the end of the day? Is there any time after 4:00 p.m. that's good for you?*

Or be even more direct with *Do you have time for me at the end of the day to talk about an issue that concerns me?*

Now the staffer has a role in setting the meeting and so comes in willing to participate in the discussion.

THE SURPRISE ATTACK

The meeting begins.

Don't make it a surprise attack by diving into the criticism. Start out with a compliment and give the staffer "something to hope for" in the discussion. Say something along the lines of *I appreciate that I can always count on you to do X or I really liked the way you handled X and Y.*

Then move to the coaching, but a good tactic, Majors says, is to ask permission to do so. That keeps the discussion from sounding like a reprimand.

Just say *May I point out some other things to you here?* Or take the approach of *I would like to have your permission to coach you on how to be friendly but professional. May I do so?*

The answer will always be yes. And now the staffer is on board. "It's not a finger-pointing thing. It's a hand-holding thing."

The staffer has been a decision maker in whether to talk about the issue, and both sides are ready to engage in a good conversation. The staffer doesn't see it as a meeting to correct a wrong but a meeting to make something even better.

NOT SORT OF AND NOT MAYBE

Now tell the truth about what needs to be improved.

And telling the truth requires something few managers are aware of, Majors says. Leave out the limiters, or the terms that diminish the significance of the issue.

Those are words such as *kind of, sort of, just a little, and maybe*, all of which tell the staffer the problem really isn't something to worry about.

Beware too the limiting statements such as *This isn't something you need to worry about right away or This may be something you need to work on or even You need to keep an eye on this.*

There's a significant problem or the meeting wouldn't be taking place. The staffer has a right to know

that it's significant and deserves an opportunity to correct it.

Two other rules about words also come into play here, Majors says.

One is don't speak in the first person plural, as in *We have a problem with your tardiness*. The word *we* says the manager is taking ownership of the problem, but it's not the manager's doing. It's the staffer who's late to work every day.

The other is don't end the conversation with statements designed to minimize the impact. Don't say *I know you have children to get to school in the morning* or *I know you've had a lot of work lately*. All that does is let the staffer off the hook.

Follow those two rules and the conversation is going to say what needs to be said. Majors gives this example: *Staffer A, there is a problem with your continued tardiness. I am concerned about it. And I believe you should be concerned about it too.*

Then be silent. Give the staffer 30 seconds to respond, and if the silence is uncomfortable, pretend to take notes.

Then if there's no response after the 30 seconds is up, prompt one. Ask the staffer *How do you feel about this?*

MY MOM PUT ON HER MAKEUP AT WORK

Everybody is innocent until proven guilty, Majors says. Don't assume the staffer is making the mistake purposefully or is even aware of it. Which means don't make accusatory statements such as *You've been tardy every day this month, and the reason seems to be a simple lack of respect.*

Give the staffer the benefit of the doubt. There could be a real and even a severe problem nobody knows about such as a car that has broken down or a dying spouse at home.

Or the staffer might be honestly confused about the work hours and not realize there is a problem.

It's also possible the staffer is just clueless about what's acceptable.

In one office, Majors says, the manager told a staffer "when I say I need you to be here at such and such a time, that means you need to be ready to go to work." And the staffer in all honesty came back with "Wow! I remember that my mom used to put on her makeup at work."

After stating the problem, watch the staffer's reaction.

If there's a look of surprise, ask *Has anyone ever told you this before?* And if the answer is no, respond with *I'm glad I asked you, because I know someone with your integrity wouldn't do this unless you didn't realize it was a problem.*

That says the manager believes in the staffer. At the same time, it raises the bar on the performance. The

staffer feels compelled to live up to the standard the manager has just set.

TURNING DREAMS INTO GOALS

End by getting the staffer to make a plan of action.

If the staffer has been participating in the conversation, ask *Based on our conversation today, how are we going to move forward?*

But if the staffer hasn't said much, make that *Based on our conversation today, how are you going to move forward?* That gets the person engaged in deciding on the solution, which is essential to accepting it.

Either way, once there's an acceptable solution, put it in writing, date it, sign it, have the staffer sign it, and put the statement in the employee's file.

And here's a surprise: it's the staffer who should write out the solution, not the administrator. Just say *Now I want you to write that up and date and sign it, and I'll sign it and put it in the file.* When that's done, the staffer "has spoken it, professed it, written it up, and signed it" and is now committed to it.

Write down dreams, Majors says "and they turn into goals." ❖

To get more productive, learn 'wastebasketry' and get rid of the paper

Want to be more productive?

Get rid of the paper.

That's the advice of **BARBARA HEMPHILL**, a productivity expert and speaker in Raleigh, NC. Hemphill is also author of *Taming the Paper Tiger*, a 1988 book that has become a sort of handbook on managing the paper build-up both at work and at home.

Getting rid of paper is the fastest way to increase productivity, she says, because paperless data is easy to organize and easy to find. It's also available in the office or out. And it's far safer from ID theft than paper is.

Here she outlines some easy ways to trade paper for productivity.

RECOGNIZE TRASH FOR WHAT IT IS

The first steps to paperless productivity is recognizing "what really makes a difference" versus what doesn't matter.

The paper sitting on the desk is an example. There's

a pile of it on just about everybody's desk, and what's in it is usually useless – things such as I-want-to-read-this-later articles, leftovers from projects, and a lot of trash.

Filing it all isn't the answer. "Most people spend time filing stuff they don't look at anyway."

Her advice is to look at each item and ask "Does this help me accomplish my work? Does it help me enjoy life? Do I need it to support who I am? Am I going to have to produce it later?"

If it doesn't help accomplish anything and if it's likely not going to be needed again, get rid of it.

Just as important as the desktop on the desk is the desktop on the computer.

The only things that should be there are the things that get used frequently, which means at least once a week.

Most of the other things "are very very temporary things" and copies of things that can either be put into folders or deleted.

People think they'll get more done if they have

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more information, Hemphill says, but rarely do they use the information. They just waste time collecting it.

A DAY FOR TRASHING THE TRASH

An amazingly successful approach her organization takes to make offices less paper intensive is to hold what she terms a "productive environment day" where the office gets rid of all the things "it can comfortably get rid of." The result is a cleaned-out environment where people can work more productively.

It's a day-long event that starts with breakfast and ends with prizes to whoever throws out the most paper or whoever finds the funniest thing or whatever.

People evaluate the work areas they are responsible for and throw out what isn't necessary for business.

Besides the useless paper, invariably a lot of obviously useless items show up such as toner for a copier the office doesn't have anymore. For those larger things, set up a white elephant table and at day's end decide whether to trash them or donate them somewhere.

Along with trash, valuables usually turn up, she says. Boxes of letterhead worth hundreds of dollars are often found stashed in a back corner. The same with boxes of pens and paper clips. All those things get reordered and paid for unnecessarily, because "people recreate things they can't find."

THE ART OF WASTEBASKETRY

To get productive, Hemphill's advice is to learn the art of wastebasketry, or the art of knowing when to throw things out.

Whenever there's doubt about an item, ask these seven questions:

Does this item require any action? If it doesn't, read it and then either file it or trash it.

Does this information exist somewhere else? If there's a copy on the computer or in another file, aim for the wastebasket.

Is this information still applicable? If it's outdated, it's trash. She gives the example of a review of a software that has a new version. Why keep it?

Are there specific circumstances where I'll use this? "Just in case" is not enough. And, she says, don't rely on a miscellaneous file. What goes in there gets forgotten and never retrieved.

Are there tax or legal implications? If so, the item probably needs to be kept. But Hemphill also points out that information kept past its required retention time can be subpoenaed, with negative results.

Does anybody else need this? If so, pass it along. If not, "wastebasket it."

What's the worst possible thing that could happen if I don't have this? If losing it won't create disaster, throw it out.