The *Sixth* in a Series of **Partner Compensation Structures**
"Eat What You Kill"
by Debra L. Bruce, JD, PCC

This is the 6th article in a series of 7 discussing structures that law firms tend to adopt for partner compensation.

Eat What You Kill (EWYK)

Description

Each lawyer's compensation is based on the revenues she generates. Usually there is some kind of formula that attempts to account for overhead, and then distributes all remaining profits to the lawyers based on their collections. In some systems a flat dollar amount is determined for overhead per lawyer, by dividing up the sum of fixed and predictable expenses, such as rent and shared staff salaries. Everything the lawyer bills and collects in excess of the fixed overhead figure gets paid to that lawyer after subtracting certain firm expenses directly associated with that lawyer such as business development expenses, retirement plan contributions, and salaries of staff or associates who work mostly for that attorney. In that model the firm is more akin to an office sharing arrangement than a partnership.

A variation of the EWYK model does provide for sharing of risk. The firm's profits are determined, and distributed in accordance with a formula that averages the collected revenues attributable to a partner over multiple years (usually two to four). The averaging slightly shaves off peaks in income, to provide support from partners on the upside of the seesaw to partners on the downside, during cyclical downturns or temporary crises. The income levels remain largely tied to billable hours produced, however.

When It Works Well

This system may be the only system that will work for fiercely independent, maverick or egocentric attorneys. It also rewards super high achievers. Even the lower achievers can benefit from this system because the high achievers tend to enhance the reputation and marketability of the whole firm and contribute to the financial stability of the firm with their high earnings.

This system is very common in small firms that have a low associate to partner ratio. In such firms, each lawyer basically keeps herself busy.

The EWYK system also works better than the lock step system in large firms with rock stars or lots of lateral partners. The rock stars who gravitate to this system may not share well, or may not recognize the value of less quantifiable contributions. The lateral partners don't have lengthy partner relationships in which trust has built up among partners. It does foster retention of the high producers. Where lawyers have difficulty resolving conflict within the firm, the formulaic system attempts to avoid conflict in the most dispute prone area.

It can work well in firms that have "young prodigy" partners whose revenue generation would quickly outpace their level even in a modified lock step arrangement.

When It Works Poorly

The pure EWYK system does not encourage cross-selling because intra-firm referrals aren't compensated. In a modified EWYK system, attorneys get origination credit for bringing in new business even if they don't actually work on it. Conflicts often develop, however, over who gets origination credit when multiple lawyers have contacts with the new client.

The EWYK system doesn't have a mechanism for punishing bad behavior by high revenue lawyers, and therefore tends to reward egocentric behavior. It also financially punishes lawyers who engage in behavior for the common good, such as training associates and attending to management of the firm, because there is no mechanism for compensating those behaviors.

Some firms try to address the management issues by including a stipend in the compensation of managing partners and practice group leaders. The culture of EWYK firms tends to devalue management activity, however, so managers rarely receive sufficient compensation, and must perennially defend what they do receive.

I have seen small firms self-destruct over the issue of compensation for management. In large EWYK firms, with revolving management teams, the managing partner whose term ends often cannot financially survive the return to full-time practice. After two to five years of neglecting client relationship activities or business development efforts in favor of tending to the needs of the firm, he takes a significant hit if he must eat only what he kills. Even a stipend during a two-year grace period that some firms offer when a managing partner returns to full-time practice, is not enough.

Summary

Every law firm compensation plan has its flaws. The plan chosen is largely determined by the culture of the firm. The plan will tend to reinforce the culture by attracting those who like the plan and running off those who don't. In the increasingly competitive legal market, law firms must be careful not to get so caught up in compensating productivity that they fail to reward behaviors that contribute to the longevity and sustainability of the firm, such as client care, associate training and mentoring, management and administration, talent retention, and strategic planning.

Next: Appendix A – Sample Modified Lockstep Language