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HOW CONSENSUS MANAGEMENT THREATENS PROFITABILITY

By Robert W. Denney

In the Corporate world it has long been recognized that there is a close correlation between a company's performance and the quality and structure of its management. Today, the same is true in law firms. *Management – both of the firm and of the practice – is the single most important factor in determining law firm profitability.*

Yet the issue of management has largely been absent in discussions about law firm profitability because, until recently, the committee or consensus forms of management had not hurt most firms. Now, however, firms of all sizes are faced with increased competition and increased client demands – and consensus management is ill-equipped to deal with the new environment. There are several reasons for this:

- **Inability to respond**. Committees, or the entire partnership, can take months to arrive at decisions on minor matters and are often unable to reach decisions on major ones. In today's environment, firms must be able to respond quickly to opportunities or changes in the market.
- **Poor decision-making**. Committee or consensus decisions are often watered-down compromises that the partners can finally agree on rather than what is best for the firm. Sometimes even one partner can prevent the right decision from being made because he or she puts their own interests ahead of those of the firm.
- **Failure to implement**. Even when important decisions are made in a timely manner, often nothing happens because no one is given the authority and budget to implement those decisions.
- **High opportunity costs**. Group decision-making is costly. For example: If 36 partners with average billing rates of $175/hour hold monthly partner meetings that last 4.0 hours, the annual opportunity cost is more than $320,000.

If however, management by committee or consensus is obsolete, what should replace it?

Some firms have found the answer: a managing partner with the authority of a corporate chief executive officer. In a mid-size or large firm, there should also be an executive committee with the authority of a corporate board of directors. The MP or XCOM should also be empowered to delegate certain areas, at their discretion, to other Committees or the firm administrator.

The key to granting this authority is first to identify the major issues the firm must address. This list will be long, It should include such areas as strategic planning, budgeting (both operating and capital), practice organization, client service, marketing, technology, mergers and admission of new partners.

Most of these issues should become the responsibility of firm management – either the managing partner or the executive committee – who must also be given the authority to make decisions without having to go back to the full partnership. Only a few issues, such as mergers and the admission of new partners, should be reserved for the full partnership. Failure to make this change will ultimately bring about the demise of the firm. That may not have been true in the past, but it is today – and will continue to be so.

What are the qualifications for a managing partner? The most qualified managing partners are skilled attorneys who are also astute in business and management. Above all, they are leaders who are able to define and articulate the firm's mission and goals, and then motivate the firm to attain them. Rainmakers and big producers often do not have these skills.

How much non-billable time is required?

- For the managing partner, the analogy of a three-way 30/70/100 light bulb is appropriate: small or mid-size firm: 30 percent; large firm: 70 percent; very large firm: 100 percent.
- Executive committee members: 10-20 percent.
- Practice group heads: 15-25 percent.
- Committee chairs: 10-20 percent.

How should managers be compensated? Accepting management responsibility is a considerable sacrifice in terms of both practice and potential income, particularly for the managing partner. Therefore, partners involved in management should be rewarded, both for the time they devote and for the results they produce, rather than penalized.

How do you measure management performance? There are only two important measurements:

- Accomplishment of stated objectives, qualitative as well as quantitative.
- Profitability Index – net income per equity partner divided by gross revenues per attorney. This should be at least 1.0.

To whom should management be accountable? Ultimately, to the partners. If there is an executive committee, the managing partner should be accountable to it, and the XCom should, in turn, be accountable to the partners. However, the partners should be able to remove the MP if results consistently fall short of objectives. Practice area heads and committee chairs should be accountable to the MP or the XCom.

The granting of management authority to a single partner or small group of partners will entail a change in some firms' cultures. But it will be a beneficial change if the partners recognize that the key to profitability – and therefore to their future income – is the structure and quality of the firm's management.