
HOW TO DEAL WITH UNDER-PERFORMING LAWYERS

The challenges of a shrinking and intensifying competitive legal marketplace demand that firms address under-performing lawyers quickly and decisively. Business development coaching has increasingly been adopted to help these lawyers get back on track. But, is the traditional model of business development coaching effective? And, if not, what's missing?

Others often perceive lawyers that struggle to build a client base as suffering from time management or motivational issues. As such, business development coaching services tend to focus on building better disciplines in the lawyer. While these issues may contribute to the problem, more often than not poor business development results have their roots in the makeup of the lawyer's practice and the conditions in the firm. I call these structural issues because they create impediments to building a practice that are so familiar that most lawyers fail to recognize them.

Diagnosing the cause of a lawyer's under performance can be a challenge. The attorney's practice area; their target clients; the breadth or depth of an attorney's knowledge; the firm culture and compensation system; the maturity of the attorney's practice; the lawyer's matter management skills; their billing rates and competitive position; and the lawyer's professional relationships are so varied and dynamic that no two lawyer's practices are truly similar.

There is a pervasive belief in law firms that lawyers are the best ones to understand their own business development challenges. As the thinking goes, no one understands his or her practice and clients as well as he or she does, so surely he or she knows what needs to be done to turn around a struggling practice. It's not true. Still, too often they are left to fend for themselves.

Lawyers struggle to bring in their own clients for a variety of reason. These reasons include a lack of marketing knowledge and skills; client development challenges; firm culture or compensation issues; competitive positioning problems, and challenges associated with the structure and focus of their practice. The idea that focusing on a lawyer's motivation, attitudes or time management without first determining whether the lawyer is burdened by structural issues in their practice is neither fair to the lawyer nor in the best interests of the firm.

To illustrate what I mean by 'structural issues', a senior partner came to me after having been unsuccessful working with three other business development coaches. On our introductory call, I reviewed his bio and quickly realized his problem. He listed experience in eight unrelated practice areas, published legal and business topics on an even broader variety of subjects, and featured as his most significant matters work that was more than 15 years old. His fear of missing out on potential work (by listing eight different practice areas in which he had some experience) confused his prospective clients about the area of the law in which he was truly an expert. No amount of nagging and cajoling would fix this structural issue in his practice.

A second example comes from a lawyer working in a small, 12 lawyer 'full service' law firm whose practice area required significant bench strength to effectively leverage the types and size of matters he said he handled. He wasn't getting this type of work because, surprise, platform matters to clients.

PRACTICE DEVELOPMENT OR BUSINESS DEVELOPMENT COACHING?



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In just about every lawyer I have worked with, low motivation and poor time management were rarely contributing factors. Their challenges, which these lawyers didn't understand at the outset, related to practice focus, practice maturity issues or practice transition challenges. These are all practice development issues. The traditional coaching model typically does not include a methodical process to evaluate the myriad of challenges that work against the lawyer's best efforts. But practice development coaching does.

To ensure the punishment fits the crime, law firms can develop a formal process to diagnose the underperformance of lawyers and pinpoint whether the low numbers result from behavioral or structural causes. Practice diagnostics can tease out the factors that inhibit growth and prioritize which issues to address for the greatest and fastest impact. A good system should assess the firm's compensation system, the financial and billing data for the lawyer and their practice group, the lawyer's practice specialty areas, the market opportunities for the practice, their client relationships, and their past business development and marketing activities. This examination paints a more accurate picture of the challenges and opportunities in a lawyer's practice. It puts aside the assumptions about motivation and time management and leaves them to the actual coaching process where those issues can be more accurately analyzed and addressed.

Practice analysis is an extra step in dealing with under-performing lawyers but it will ensure the best use of the firm's investment by directing resources to the true challenges and obstacles facing the lawyer. Practice analysis helps the attorney identify a coherent strategy and a working plan to move forward. What's more, it helps the firm better understand the challenges that lawyer faces and set more realistic expectations for how quickly that lawyer will be able to turn around their practice. As any seasoned sales professional will tell you, if the product is flawed the sales will be too.

As an industry, we focus too heavily on promotion and not enough on the packaging and positioning of our attorneys' individual practices- that is to say, we do not focus enough on practice development. Practice development analysis can help identify the structural challenges the lawyer faces. Only then can you begin to ascertain whether behavior, attitude or time management problems are also affecting the lawyer.

