

Staffing Success: Finding and Keeping Great People

By Bill Jawitz



After a particularly frustrating day trying to ignore low-level quips about who misfiled that interrogatory and who took too long a break, Alan lays awake at 2:00 a.m. thinking to himself, “I’m trapped by my own creation. What have I done? We’re dropping the ball a whole lot more often than we ever used to. Why can’t they just do their jobs? Things were so much easier before! Maybe I should see if that lateral offer is still on the table from last year.”

Alan’s Journey

Alan became an attorney to get things done—to be influential in matters of high-stakes commerce and to make a real dif-

ference in the lives of his clients. He’s great at finding creative solutions to sticky problems, and he thrives on matching wits with opposing counsel. He loves his craft, and he feels fortunate that the ideals that motivated him to enter the field still energize him sixteen years out of law school. But at age forty-seven, he’s forced to admit that running his small firm is starting to compromise his overall well-being.

Clearly, Alan did *not* become an attorney out of a secret desire to become a human resources manager—yet here he is, having spent the last six years growing his practice to include one junior partner, a newbie associate, and a staff of seven, all of whom increasingly impact his profitability, reputation—and sanity—on a daily basis.

The Three Competencies

How is it that so many solo and small firm owners find themselves in Alan’s predicament? And what can they do about it? The answer to the first question can be found in the highly acclaimed book, *The E-Myth Revisited: Why Most Small Businesses Don’t Work and What To Do About It*. Author Michael Gerber argues that all successful businesses require a roughly even mix of technical, entrepreneurial, and managerial competence. (In our context, technical competence refers to the quality of the legal work product.) He further argues that sustained success requires that the three competencies be *systematic*. The reason eight out of ten small businesses stagnate or eventually fail is that they either never get the

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mix right or they don't build systems.

The book title refers to the author's claim that most businesses are not started by true entrepreneurs; that's the myth. Rather, they're started by technicians who experience what he calls "an entrepreneurial seizure." They're great at what they do. They love what they do. With the encouragement of friends and family, they often achieve an initial measure of success. But with that success comes the need to compete and innovate and market for new business—to be truly, systematically entrepreneurial. Then, to keep up with their initial success, they have to watch and manage cash flow and balance sheets—and they have to hire and manage other people. But, at heart, and by natural competence, they're still the technician, the expert at their craft. They're Alan.

Indeed, most law firms are still so steeped in the technician's culture of the legal work itself that the two other competencies don't receive sufficient attention until, inevitably, trouble strikes. Fortunately, though, things *are* changing. Spurred by the rapidly evolving and increasingly competitive legal marketplace, many firms are starting to build their entrepreneurial muscles. And with more and more support resources available, many firms are finally embracing strong practice *management* as critical to their success, and that includes systematic staffing practices.

The Personnel System Imperative

So what can Alan do about his situation? He needs to create and manage an effective *personnel system*. And you need to do the same. Properly executed, a personnel system will dramatically improve both your profitability and your sanity. Why? Because every single person in your firm, to one degree or another, either contributes to or detracts from:

- the quality of the work product,
- the client experience,
- the firm's external image,

- the firm's internal culture, and
- the firm's profitability.

The cost of poor personnel management—from re-training and delayed billing to declining morale and degraded client service/retention—is far higher than most law firm owners realize. It goes far beyond the cash outlay and lost time required to recover from a bad hire and extends all the way to a significantly increased risk of malpractice. Conversely, a firm comprised of talented and motivated employees working in concert easily stands out in the minds of clients and referral sources (and, generally, can command premium rates compared with its lower-performing competitors). The bottom line is that having the right people on the team all rowing in the same direction is critical to the current and long-term success of your firm.

The Four-Part System

There are four basic components in an effective personnel system:

1. The pre-hire process
2. The hiring process
3. Orientation and training
4. Performance appraisal and retention

Putting the System in Place

If starting your firm from scratch, you would ideally have all four stages in place prior to your very first hire. But relatively few of you will be in that position. Most readers would likely report a range of satisfaction with their current people. Many accept the rationale for such a system—they *know* that their firm could improve if their people improved. But, understandably, they'd rather suffer through law school again than, for example, face the prospect of implementing meaningful performance appraisals. A common question becomes, then, "When and how do I introduce such a system to my existing personnel?"

The most effective approach is to get the basics in place in advance of your next hire

(i.e., research, create, or purchase the forms and documents you'll eventually be using with everyone, such as interview checklists, job descriptions, performance indicators, self-appraisals, etc). Then, use the occasion of that next hire to inform your people that you're starting a new hiring and personnel system which will make the office a more effective—and yes, a more satisfying—place to work.

Before You Hire

Some firms consistently attract and retain good people. Their employment activity generally reflects growth, not churn. You can bet these firms:

- *Conduct Needs Assessments.* If in growth mode, they carefully examine what work needs to be done, at what level, how much of it, and how that work will impact the current structure and capacity of daily operations. By conducting such an assessment, these firms avoid the all-too-common mistake of hiring someone either above or below the proper number of hours, skill, experience, or compensation level. If replacing someone, firms can use the opportunity to ask the same questions and evaluate what's working well and what can be improved upon.
- *Have Accurate Job Descriptions.* Beyond enumerating standard duties, an effective job description includes specific expected outcomes and a discussion of the structural relationships into which the new hire will be placed (i.e., mutual accountabilities by title, not by named individuals). These more complete job descriptions thus immediately set the stage for effective performance appraisal and training.
- *Run the Numbers.* Firms that are consistently prosperous keep a close eye on their finances. With 75 percent of every fee dollar received typically going to salary and benefits, these firms pay close attention to the costs

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and profitability of their people. Savvy firm managers keep in mind the “Rule of Three,” which says that to help grow profits (and not just revenue), each timekeeper should generate revenue *at least three times their cost* (with one-third going for salary, one-third for benefits and overhead, and one-third for the bottom line). This formula lets them factor production and rate targets into salary offers. And speaking of salaries, SalaryExpert.com is an excellent resource for current, local administrative and paralegal salary ranges.

- *Establish/Upgrade the HR Infrastructure.* Whether you’re a solo or the owner/managing partner of a twenty-



many articles on how to write effective help wanted ads that make you stand out from the crowd and actually *attract* the best candidate. You should also develop relationships with reputable legal staffing and temp agencies. Though many attorneys resist this route, an experienced agent will save you money by reducing search hours and increasing the likelihood of finding a good match for the job. Temp-to-hire trial periods and amortized commissions that only trigger if you make a permanent offer are two additional reasons to consider the agency route. Personal networking among peers can also be effective, as can networking with local university and career institute

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lawyer firm, there are three levels of rationale for why this is critical. The first is fundamental Equal Employment Opportunity Commission compliance/risk management. The second is practical utility—implementing solid HR policies and procedures makes dealing with a (alas, inevitable) difficult situation much easier and it provides much-needed structure as you grow. Finally, it models professionalism and contributes to increased employee satisfaction (which leads to increased profitability).

Don’t worry; this *does not* need to be burdensome! But there are administrative basics you *must* have in place (such as personnel files, compensation and evaluation policies, etc). Fortunately, the American Bar Association has two excellent, affordable resources, both of which come with CDs that allow easy form customization and annual subscription-based updates (*Law Office Procedures Manual for Solos and Small Firms, Third Edition*, and the more comprehensive *Law Office Policy & Procedures Manual, Fourth Edition*). Consultants, many of whom specialize in working with law firms,

can also help focus and accelerate the creation or upgrade of your HR function.

Landing the Right People

Tales of woe abound in courthouse hallways and CLE gatherings from coast to coast as attorneys complain about how hard it is to find and keep good people. Indeed, it seems that not a week passes without a major business publication covering the “talent wars” being fought across every sector of the economy. Here’s how to dramatically increase the odds in your favor.

- *Cast the Widest, Best Net Possible.* If advertising, the key is to write an effective ad. Here’s the narrative section of an ad that recently worked wonders:

“Admin Assistant: Great job. Female lawyer needs right hand for sophisticated, fast-paced tax practice. Full time or nearly. Collegial atmosphere, beautiful office, your own fireplace. Outstanding organizational and communication skills a must. Typing like the wind is a plus. You will be acknowledged for good work and growth. Salary based on experience.”

A simple Google search will turn up

placement offices and state paralegal and legal administrator associations.

- *Use a Tough First-Cut Standard.* With résumés in the door (from whatever source), be picky about your first-cut criteria. Do not move forward with applicants whose materials contain errors, typos, or are incomplete. Period. You’re tempting fate if you do. Depending on the size of your pool, additional flags should include frequent job changes, hyperbole, and employment gaps (although this last flag by itself may have legitimate explanations). Create a chart listing those applicants who survive the first cut and the date their materials were received.
- *Interview the Top Candidates.* Ideally, you’ll be left with four to six applicants in whom you’ll invest face time. Prepare a written list of questions that probe their specific work experience, how they handle a variety of specific situations on the job, how they describe themselves at work, their strengths and weaknesses, and their professional aspirations, etc. Make sure to give them as complete a picture of the job as possible. Ask brief, open-ended rather than yes/no questions. Ask them what ques-

(Please see page 30)

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tions they have about the position (and note those who ask the best questions). To make sure you stay within EEOC regulations, do not ask questions about a candidate's personal life. Make sure to ask all interviewees the same questions and take copious notes. Immediately following the interview, rate each candidate on a scale of one to five in the following areas: experience, education, practical knowledge, communications ability, demeanor, and motivation.

- *Test Basic Skills.* After you've determined from the interview that you're still interested, let them know that you're inviting them back in to take a series of skill tests. For administrative, secretarial, and even many paralegal positions, it's important to test basic skills in typing, alphabetical and numerical filing, attention to detail, grammar, and proofreading. You can purchase these tests inexpensively in paper, CD-ROM, or Web-based formats. It's not uncommon to have candidates who are impressive on paper and in interviews but who turn out to be slow or error-prone once on the job.
- *Check References and Administer an Independent Job-Match Assessment.* Once you have a clear top candidate, check references. Don't skip this step—especially if you tend to hire “based on your gut.” Then, arrange to have the top contender(s) take a job-match assessment. Taken online in about an hour, assessments, such as those offered by Profiles International and the Omnia Group, are widely used to assess a candidate's *overall match* with the position. Both companies provide assessments geared specifically for administrative assistants, legal secretaries, paralegals and associate-level attorneys. Both yield reports that describe the candidate's *thinking style* (including verbal and numerical reasoning and learning preferences), *behavioral traits* (including those such as sociability, manageability, attitude, decisiveness, and objective judgment), and *interest profile* (enterprising, creative, people service, technical, etc.). Though very difficult to uncover in an interview, these characteristics powerfully influence the person's performance on the job. For



example, the bright, cheerful candidate with high sociability and low decisiveness scores may wind up spending too much time on the phone.

These assessments also suggest follow-up questions based on candidates' scores, which always provide valuable additional information for exploration. It's strongly advisable to use this kind of assessment when hiring associate attorneys as well. As with the skills tests, early awareness of the person's strengths and weaknesses is the key to a successful tenure. Keep in mind that these kinds of assessments, while extremely valuable, should represent no more than approximately one third of your overall selection criteria. Résumés, interviews, skills tests, and references make up the majority of your selection rationale.

- *Negotiate Salary.* In addition to checking SalaryExpert.com, call your colleagues and local staffing agencies to find out current ranges in your area. If you've gone through the complete process thoroughly and you've found a strong candidate, start in the middle of the range and be prepared to spend as much as you can afford to, commensurate with experience. Strong potential can sometimes be acquired on the cheap, but assuming a good match is indicated, always lean toward experience.

Starting—and Staying—on the Right Path

Congratulations! Your new employee is on board! Now what? Unfortunately, many great new hires are shown their desk and left to figure things out for themselves. Here's a checklist to ensure a smooth transition.

- *Assign a guide.* Depending on the size of your firm, it can be an existing staff member, the office manager/administrator, or it might be you. But someone needs to welcome the new hire and be his or her go-to person for questions.
- *Provide a checklist of general operational procedures and routines* covering everything from where to park to how to use the phone system.
- *Provide checklists for the most common specific job functions and tasks* (such as opening new matters, handling phone calls, filing particular types of documents, etc.).¹ Remember the *E-Myth* idea of systems? Imagine how your practice and your firm would be different if clear instructions were available to every new hire explaining exactly how your office handles each key procedure.
- *Provide a copy of your policies and procedures manual* with a form for the new hire to sign stating that they've read it, understood it, and agree to its provisions.
- *Schedule a ninety-day review.* Explain your policy that all new hires have a ninety-day “introductory” or “evaluation” period, and schedule in a performance review meeting for that ninety-day mark. Explain that together, you'll be assessing the hire's performance, looking for what's working well and what needs improvement.
- *Spend time with your new employee.* Obviously, this is a significant challenge for most attorneys. But the research is clear on the importance of one-on-one contact with the boss (or immediate supervisor). Check in on your new hire informally and often. Let them know you care about how they're doing. Encourage them to bring any

Assuming fair compensation, it's job satisfaction, not money, which leads to longevity. So how can you maximize job satisfaction among your staff? First, by communicating clearly and frequently about their performance and supporting their professional development, and second, by identifying their individual motivators.

concerns to their supervisor (the office manager in many cases) or to you.

- *Praise and correct specifically and quickly.* The research is clear here as well. Establishing a predictable approach to providing positive and negative feedback early on is critical. Let your new hire (and all your staff) know you're pleased with them by stating exactly what they did that demonstrated excellent behavior/performance. When you catch them in the act, acknowledge it. Likewise, when you need to correct them, do it immediately and specifically, focusing on the observable behavior that's problematic. Then, reinforce the corrected behavior with an acknowledgement the first time you observe it after the correction.

Growing and Keeping Them

OK. Assuming you've both sailed past the ninety-day evaluation period, you're now onto the work of building a profitable and mutually satisfying long-term relationship. For their book *Love 'Em or Lose 'Em: Getting Good People to Stay*,² authors Beverly Kaye and Sharon Jordan-Evans spent two years asking over 3,000 people from diverse roles and industries to reflect upon a time when they stayed with one organization for a substantial period and then to write down the top three to five reasons why. The most common reasons are listed below in order of popularity and frequency. The encouraging news? They're almost all within your influence. Ninety percent of respondents listed at least one of the first three items among their top three or four reasons. And notice where compensation shows up.

1. Career growth, learning, and development
2. Exciting and challenging work
3. Meaningful work—making a difference and a contribution
4. Great people
5. Being part of a team
6. Good boss

7. Recognition for work well-done
8. Fun on the job
9. Autonomy—sense of control over my work
10. Flexibility, including work hours and dress code
11. Fair pay and competitive benefits
12. Inspiring leadership
13. Pride in the organization—its mission and product quality
14. Great work environment
15. Location
16. Job security
17. Family-friendly
18. Cutting-edge technology

The point is clear. Assuming fair (i.e., competitive) compensation, it's job satisfaction, not money, which leads to longevity. So how can you maximize job satisfaction among your staff? First, by communicating clearly and frequently about their performance and supporting their professional development, and second, by identifying their individual motivators.

The Power of Performance Appraisals

Though woefully under-used, developmental performance appraisals are the single most effective tool to foster career growth. Essentially, performance standards spell out for the employee what "Excellent," "Good," "Needing Improvement," and "Unacceptable" performance looks like in major areas, such as interpersonal communication, efficiency, work product, and administrative tasks. Notice there's no "acceptable" in the previous sentence. If you accept performance that is less than good, you'll get that most insidious of cultural characteristics: mediocrity. Set the bar high, and then train and acknowledge performance at that high level.

For example, let's take a paralegal with eight years of experience who's new to your elder law/trusts and estates firm. Here are three of the many things you can address in

a performance appraisal:

- Document preparation (accuracy of data, names, revision updates, etc.)
- Presentation prep (correct order of documents, number of copies, organization of support materials, etc.)
- Demeanor during execution (tone, attentiveness, energy level, etc.)

Talk about each of these steps and explain what each element looks like when it is performed perfectly. Use the checklists you provided in the orientation period—and if you don't have those checklists, take this opportunity to create them together.

Another great topic for the performance appraisal is how the employee handles unexpected problems. What are the typical kinds of dilemmas that employee is likely to face? (For example, urgent requests for information from clients when you're unavailable or scheduling pressure from opposing counsel.) Again, talk these through, explaining exactly how to behave in these situations.

Once you've determined the areas you'll be covering in the appraisal, list them and give them to the employee as a self-appraisal to complete at least one week prior to your official meeting. Ask the employee to rate him/herself in each area using the "Excellent, Good, Needing Improvement, and Unacceptable" scale and to cite specific examples in each area. You'll quickly discover that people are tougher on themselves than you're likely to be and having them do this in advance paves the way for a more effective meeting.

Then, conduct your own appraisal of the employee using the same list and citing specific performance examples. By comparing them, you'll be able to set specific goals for improvement. Make sure these goals focus on measurable behaviors and outcomes (e.g., eliminating common spelling errors) and are put in writing. Finally, set a date three to six months later for an informal review. File a copy of their self-appraisal, your assessment, and the improvement goals with the review date in the employee's personnel file. Used this way, developmen-

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tal performance appraisals take the uncertainty, subjectivity, and fear out of the process and actually contribute to the employee's professional development (and thus, career satisfaction).

The Keys to Retention: Satisfaction and Motivation

There are two very simple and extremely valuable questions you should ask each of your employees around the six-month mark. You should ask these of your long-standing employees too.

1. What are the four or five things that really motivate you?
2. What four or five things could increase your satisfaction with this job?

Of course, how you frame this request is just as important as the questions themselves. You need to convey that you really want them to be honest. You won't necessarily be able to act on everything they come back with, but you will be following up with conversation about what you've learned. Look back at the *Love 'Em or Lose 'Em* list on page 31. Your employees, first and foremost, want to grow and learn, and do challenging, meaningful work in a collegial environment.

How, you may be asking, can opening the mail and answering the phones possibly be made meaningful? By explaining to the person doing those things how important their help is in keeping you organized and how their phone manner conveys a powerful impression that sets the tone for how the firm is perceived by the public. The point is to be aware that it's your responsibility to pay attention to your employees' desires for job satisfaction. If you have a professional development budget, you can ask your employees to research seminars or classes they'd like to attend, or resource books they'd like to purchase. On the personal side, the book *101 Ways to Reward Team Members for \$20 (Or Less!)* by Kevin Aguanno is a great resource. He points out that the very best motivator costs nothing: Stop and make it a point to say "thank you" (as opposed to calling it out on the fly) and include a brief explanation of why the action or behavior you're citing was helpful. It's amazing what this will do for your employee, your firm—as well as for you.

Raises and Bonuses

Fewer topics are more vexing to most non-HR professionals, but dealing with them is a normal and unavoidable reality of owning a law firm. Fortunately, there are excellent books and articles readily available through the ABA and on the Web addressing these topics (and all of the topics covered in this article). But here are the basics: Tie raises to the hire-date anniversary performance appraisal. That way you don't have to leave them all until the end of the year. Raises should be uniform and pegged to local compensation averages for employees who will be continuing in their current job description. Employees who take on additional or more complex functions should have their formal job descriptions and titles updated to reflect their changed status and have their compensation adjusted accordingly. Bonuses are trickier and should be given judiciously in one of three ways:

1. As reward for a very specific project executed superbly, above and beyond regular responsibilities.
2. As reward for achieving publicly known high-bar performance targets, such as bringing in a certain number of new clients or realizing fees to the firm of a certain amount. Bonus amounts must be communicated to everyone in the job class in advance.
3. As an equitably distributed share of some portion of firm profits. This can either be a year-end bonus, or a team-based version of method number two, where a group of employees works together to achieve a stated high-bar goal.

Probation and Termination

By implementing a systematic approach to staffing, you'll reduce occasions of having to discipline or fire an employee. However, when it's necessary, it is imperative that you document your actions and that the process is consistent with your policy manual. As referenced earlier, having dated, documented instances of problematic behavior and performance is critical to a successful intervention.

It's also imperative that you proceed carefully to determine whether the situation

can be corrected with proper support. Meet with the employee, review the specific problematic behavior/performance, explain why it is unacceptable, and negotiate mutually agreed-upon outcomes, measures of success, and strategies for remediation. Clearly state that the employee is now on probation and will be fired if the agreed-upon improvement does not occur. Make sure the employee is clear on what is being required. Set a near-term date (two weeks to a month) for a follow-up meeting. Document the conversation, including the specific outcomes, measures, and strategies, and provide a copy to the employee within twenty-four hours. This approach will often yield far more effective change than informal conversations or reviews that do not contain documented evidence or target outcomes, measures, and strategies. If termination is necessary, you'll be able to take that action far more decisively.

Alan's Journey Revisited

Alan's people were his most important asset, but as much as he wished they would manage themselves, they couldn't. He was just about to close his doors and let them all go when a colleague recommend the *E-Myth Revisited*. The light bulb went off and has burned brightly ever since. Two years later, two of his nine employees are gone, but the other seven remain happily on the job. Alan now selects and trains all of his staff carefully. He pays attention to their motivations and thoroughly enjoys working with his team. Approaching the personnel dimension of your firm in a systematic way requires vision and determination. But its rewards are worth the effort. Just ask Alan. **CL**

Bill Jawitz is president of Jawitz & Company, a consulting firm that helps lawyers and law firms improve business performance. Information about their Mastery Programs and other law firm management resources can be found at www.jawitz.com.

Notes

1. Attorney Robert Woodke published a "New Employee Orientation Checklist," available at the ABA Web site <http://www.abanet.org/generalpractice/compleat/w96wood.html>.
2. Berrett-Koehler, October 1999.