

The Dollars and Sense of Utilization of Legal Assistants

In the upcoming months the Legal Assistant Division of the Utah State Bar will be contributing articles regarding utilization of legal assistants in a number of practice areas. Our goal is to assist the legal community in understanding the role we can play in all areas of the practice of law. In the December, 2002, issue of the Utah Bar Journal Marilu Peterson, Division Chair, provided the Utah State Bar Guidelines for the Utilization of Legal Assistants.

With that information available and the articles dealing with specific areas of law coming out, I wondered what I could say about the utilization of legal assistants that would catch the attention of practicing attorneys. So I contemplated the definitions of "utilization" and what it really means to the practicing attorney.

The American Heritage Dictionary of the English Language defines "utilize" as: "To put to use for a certain purpose."

That seems appropriate. Putting legal assistants to use for a certain purpose. But what is the purpose? The American Heritage Dictionary defines "purpose" as: "The object toward which one strives or for which something exists; goal; aim."

Even better. The purpose for which a law firm would utilize a legal assistant. Now we're getting closer.

The most important definition of proper utilization of a legal assistant may well be "A resource whereby attorneys increase their efficiency, productivity and bottom line." My definition. The purpose of a legal assistant when properly utilized could be, to a law firm, as simple as dollars and cents. Dollars and cents coming into your practice to bolster your bottom line.

The costs involved in utilizing a legal assistant are similar to those associated with associates- and the benefits have a similar upside. In models published in the ABA Section of Law Practice Management book "Leveraging with Legal Assistants: How to Maximize Team Performance, Improve Quality, and Boost Your Bottom Line",¹ the authors have demonstrated the financial benefits of billable hours generated by a team of attorney and legal assistant. Many of the examples also demonstrate a cost savings to the client. With their permission, I will use some of their examples to demonstrate how you can make this work in your own practice.

Additionally, several years ago Judge David Nuffer presented a CLE seminar entitled "Leveraging with Legal Assistants" and used a number of the ABA's models from Leveraging with Legal Assistants. And then in 2001 a presentation was made at the

Bar's Annual Convention in Sun Valley on utilization. It's clear this is not a new topic. But perhaps a reminder might be appropriate.

Legal assistants can make you money.

Legal assistants do substantive legal work that would otherwise be performed by the attorney. This is not to be confused with the practice of law; but rather doing those things that do not require the attorney do them personally. The ABA's definition of the role of a legal assistant is:

Legal assistant associates are persons, qualified through education, training, or work experience, who are employed or retained by a lawyer, law office, governmental agency, or other entity in a capacity or function which involves the performance, under the ultimate direction and supervision of an attorney, of specifically delegated substantive legal work, which work, for the most part, requires sufficient knowledge of legal concepts that, absent such assistant, the attorney would perform the task.

When you consider the types of work the legal assistant will be doing, you will realize that hours will be freed up that the attorney, who would otherwise be doing the work, will be able to use doing other tasks that only the attorney can perform. For example, the work that would be done by an attorney would include:

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Accepting a case

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Evaluating the case and charting its course

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Performing legal analysis

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Giving legal advice

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Formal judicial process (i.e., depositions, hearings, trials, etc.)

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Supervising the legal assistants

The work that would be performed by the legal assistant would include:

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Obtaining facts from the client

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Communicating information to and from the client

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Interviewing witnesses

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Performing limited legal research to assist the attorney with the legal analysis

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Obtaining documents (i.e., police reports, medical records, employment records, deeds, photographs, plans, probate records, weather records, etc.)

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Preparing summaries, chronologies, itemization of claims, drafts of pleadings, interrogatories and production requests and responses

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Preparing outlines for the attorney to use in deposing witnesses and in argument

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Indexing deposition transcripts and preparing summaries of the evidence

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Preparing exhibits and lists²

The separation of these tasks will allow the attorney to handle more cases and offer services to the client at a lower cost.

One of the attractions of utilizing legal assistants is the lower cost of legal services to your clients. The ABA "Leveraging" models demonstrate that clearly.

In our example, assume all the work is performed by the attorney at a rate of \$150

Example 1

Interview with Client 2 hr. \$ 300

Interview Two Witnesses 2 hr. 300

Gather information 2 hr. 300

Review Documents 2 hr. 300

Legal Research and Analysis 3 hr. 450

Draft Pleading 2 hr. 300

Trial Preparation 4 hr. 600

Trial 4 hr. 600

TOTAL 21 hr. \$3,150

The attorney invests 21 hours in the case and bills the client \$3,150.

Example 2

This is the same case with a substantial portion of the work being delegated to a legal assistant at \$60 an hour.

Interview with Client
Attorney 2 hr. \$300
Legal Assistant 2 hr. 120

Interview Two Witnesses
Legal Assistant 2 hr. 120

Gather information
Legal Assistant 2 hr. 120

Review Documents
Legal Assistant 2 hr. 120

Legal Research and Analysis
Attorney 1 hr. 150
Legal Assistant 2 hr. 120

Draft Pleading
Legal Assistant 2 hr. 120

Trial Preparation
Attorney 1 hr. 150
Legal Assistant 3 hr. 180

Trial
Attorney 4 hr. 600
Legal Assistant 4 hr. 240

Total 27 hr. \$ 2,340

In this example the attorney invests 8 hours, the legal assistant 19; billing is \$2,340, saving the clients \$810.3

But perhaps as important, saving the attorney 13 hours of time on this case that could be used to work on another case- freeing up time for tasks that only the attorney can handle.

That example also demonstrates a significant involvement by the legal assistant in the case. By utilizing the legal assistant to the fullest extent, depending, of course, on experience and skill level, the attorney can significantly decrease the number of hours required on a given case. With a limited involvement by the legal assistant, the attorney's hours would be considerably higher. More extensive examples of this are

outlined in "Leveraging," but I won't take the time and space to outline them again here. Take my word for it. It will save your client money and the attorney valuable time to utilize a legal assistant.

In the arena of insurance defense, which is the area in which I have spent my professional time as a legal assistant, it is common for insurance carriers to indicate in their billing guidelines areas of responsibility based on the necessary skill level to accomplish a task from the attorney to the associate to the legal assistant and on to the secretarial/clerical skill level. Clients in other practice areas are also becoming aware of the divisions of responsibility that are available in most law firms. The task can be accomplished by the lowest cost denominator, not the highest.

To derive a financial benefit from the use of legal assistants, the work must be properly managed and adequately priced. An economic analysis of how legal assistants can generate profits for attorneys is necessary to determine how a legal assistant can be a financial asset in your firm. The elements to consider in that financial analysis include the following:

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Revenues from legal assistant hours

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Any increase in the attorney's hourly rate that is justified by shifting a larger portion of the work to a legal assistant with a lower rate

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The increase in the attorney's billable hours that results from moving nonbillable work from the attorney to the legal assistant⁴

The ABA model in "Leveraging" also recommends an analysis of the costs versus the revenues. Costs can be determined by allocating the same categories of expenses to legal assistants as are shared among the partners and associates. That allocation would be based on the makeup of the firm and requires making subjective judgments. Costs that can be specifically allocated include:

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Salary- The salary figure of each individual should be specifically allocated.

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Fringe benefits- The fringe benefit expense can be allocated by specific individual or can be broken down by category of time-keeper: partners, associates, and legal assistants.

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Secretarial support- Each individual can be charged with the specific expense of his or her secretary or portion thereof (includes salary and fringe benefits).

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Office space- Each individual can be charged with his or her pro rata share of the office space or it can be broken down by category of timekeeper: partners, associates, and legal assistants.

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Dues, meetings, and CLE- These expenses may be specifically allocated, depending on the firm's control of these items.

Other expense allocations will probably have to be estimated. For example:

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Supplies

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Library

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Administrative salaries

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Telephone, postage, copying, data processing

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Equipment

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Advertising, marketing and client development⁵

A test to determine if your legal assistant is of economic benefit to you is the "Rule of Three." This rather straight forward analysis simply says that the test of profitability is met if the revenues that are generated by the legal assistant equal three times the salary. For example:

Hourly Billable

Rate X Hours = Revenues : 3 = Salary

\$80 1,600 \$128,000 \$42,666

\$80 1,400 \$112,000 \$37,333

Though it is considered that by this time the "Rule of Three" may have suffered some erosion due to increasing law firm costs so that the equation may be more of a "Rule of Three and a Half", this model may help you determine how to set the firm's financial goals and costs.

Taking a serious look at the composition of your practice, your client base and your future plans for building and expanding your practice should include an analysis of the utilization of legal assistants in your practice. Consider these dollars and sense

issues of how to increase your profitability and efficiency in your practice. As legal assistants, we are of value- financial and otherwise- if we are utilized properly.

Footnotes

1. Expanding the Role of the Legal Assistant- Why Do It, Arthur G. Greene and Kathleen Williams-Fortin, Chapter 2, Leveraging with Legal Assistants: How to Maximize Team Performance, Improve Quality, and Boost Your Bottom Line, Arthur G. Greene, ed., ©1993 American Bar Association. All Rights Reserved. Reprinted by Permission.
2. Leveraging with Legal Assistants, Judge David Nuffer, Utah State Bar CLE, November, 1997
3. Expanding the Role of the Legal Assistant- Why Do It, Arthur G. Greene and Kathleen Williams-Fortin, Chapter 2, Leveraging with Legal Assistants: How to Maximize Team Performance, Improve Quality, and Boost Your Bottom Line, Arthur G. Greene, ed., ©1993 American Bar Association. All Rights Reserved. Reprinted by Permission.
4. Id., p. 11
5. Id, pp.11-12
6. Id, p. 13

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