

Associate's Percentage of Originated Work

Do you provide an incentive for associates such as a percentage of the collected work brought in?

Yes. I give 20% of Net fees. Obviously costs the client pays are excluded. If there is credit card processing fee this is deducted before the net fee is determined. Fees are calculated on quarterly basis and paid in the next pay check. I provide the associate with a spreadsheet showing the calculations.

Michelle Rozovics, Illinois

I would, too. I used to work sales. Sold \$1.5 million and earned \$40K. Had I been with another company, I'd have had \$150K. Happy to pay people for business they bring in.

Sincerely,
Dwayne Allen Thomas, New Jersey

Michelle and others, This may seem like a dumb question, but how do you determine who brought in the business? is there some metric that is agreed upon, for example, family members, friends, former colleagues, or clients who come into contact with the associate in there out of office activities? Is it just a question of who the caller asks for when they call the firm? Does this ever require some delicate negotiations or discussions when a client is brought in?

Chris Vaughn-Martel, Massachusetts

Every client who comes to the office is asked how they were referred to our office. If they say they met my associate at a networking function, etc., or otherwise know her, then that is her business. Usually (not always) she then works on the case, as well.

Occasionally, particularly on a small matter (like an initial consultation/one-off thing), if I think something is too small to bother with and I tell her it is in her realm if she can bring them in, I will tell her I will give her the credit if she can bring the client in, even though they did not contact the firm because of her. However, in that situation, I have almost nothing to do with the case, and she does the phone consult, the "selling" of our firm, the document review and the office consultation (this situation is usually, though not always, for foreclosure defense consultations and advising clients of their potential defenses).

Michelle J. Rozovics

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As per Michelle, "How did you hear about our office?" is a standard marketing question that I'm sure you've heard before. It's also a great way to track your marketing efforts so that you can see where your dollars are working.

Sincerely,
Dwayne Allen Thomas

Michelle -

Just curious how your 20% rule factors in base salary. I have often heard of the rule of 3's, being that 1/3 goes to the employee, 1/3 is for overhead/taxes, etc. and 1/3 is firm profit. So if you're paying the person a competitive base salary, than an additional 20% seems like it would add up to a lot more than a 1/3.

Are you factoring in that if you don't pay the 20% bonus, the work wouldn't come in, e.g., 80% of something is better than nothing. I'm of the school that as a loyal employee, they should be encouraging family and friends to come to the firm regardless and bonuses are discretionary depending upon the firm's cash flow each quarter.

To the collective, am I off base here?

Peter T. Clark, Massachusetts

Further you do not determine what is as a "competitive salary" based upon what your firm earns. Salary competitiveness is set by the market. Then you determine whether you can afford to pay it.

The purpose of paying profit sharing is to 1) make the employee invested in the success of your firm and 2) increase your bottom line gross earnings without increasing your salary expenses. If the associates raises your gross earnings for 2013 by \$10,000, and their salary of \$xx per year remains exactly the same, then it makes sense to reward them. You did not incur additional expenses for them to bring in that \$10k (assume no networking, lunching, Cle or other increase in overhead that you would not already have incurred) and you want to encourage them to expend the same effort trying to find similar clients in 2014. In this scenario, a net gain (pretax) of \$8k each year.

Wages are wages. Hours for time worked. Whether the employee works on this case or another they just see it as working for the wages. The employee will not give a darn about you or your business if you refuse to

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give them a share of what they bring in. They will question why they should put forth the effort when it gets them nothing (you can argue all day it keeps them employed but that is not how they will see it). As a result you will lose net income at the end of the year. And eventually you will lose the associate. Loyalty comes in many formats -- but unless you show your employees you appreciate their entrepreneurs spirit, they will not develop one.

Michelle J. Rozovics

I can tell you how not to do it, IMHO. I worked for a firm that was a sole proprietorship. Anything the owner touched in any way was always credited as his origination. We sublet from another firm. I was the only one in our firm who did any litigation. When the other firm asked me to co-counsel on a T&E matter - which clearly came to our firm solely because of me - all the credit in our compensation formula went to the owner since he had the lease with the other firm. Same for the other associate. The owner's hourly rate was always \$100/hr higher than the other associate, who had been there close to 10 years when I left and the other associate kept his \$50/hr higher than mine. So after seven years there, three in the formula, I could see that I was locked into my position.

Starting with something is one thing, but I'd suggest that it be reviewed over time so it doesn't turn into a disincentive to the associate who can see a thumb on the scale.

Deb Matthews, Virginia

These observations are correct. I had an experience in which ancient origination claims resulted in continuing over-payments to senior lawyers and questionable claims of originations. Origination based systems should provide for an phase out of the origination credit and recognition of development of new businesses from the current client. If origination systems are not fair, they can result in neglect of current clients.

Craig A. Stokes, Texas

I think it depends on the associate's and/or partners abilities and it based upon value to the firm. Origination is great, but if an associate is actually generating a half a million in revenue, I am certainly going to be more generous in credit than an associate that generated \$50,000 a year. If the associate brings a half million dollar client in and can't service that client without the firm's assistance entirely then the origination credit needs to be determined accordingly. It is an individual assessment and no a one size fits all.

Rinky S. Parwani, Flroida

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What I was waiting for in this sad story was the account of how you left and clients followed you, and how you raised your rates, and prospered wonderfully thereafter, while your inequitable former employer gnashed his teeth and stamped his feet and otherwise expressed impotent rage as his business declined. I hope that chapter (at least as to you) is in progress.

Max

L. Maxwell Taylor, Vermont

In contrast to some of the more recent comments on this thread, I think it can be a very good idea. However, as I think the comments indicate, the success or failure will likely depend on the individuals involved.

My first law job was as an associate in a small criminal defense firm. There, I got 40% of anything I originated. I set up the appointment with the PC, did all the work, and I got paid as soon as the money cleared. I thought then, and still believe, that this was a good incentive for me to generate revenue. My duties included covering case management conferences, docket sounds and the like. As any criminal defense attorney will tell you, if you are in a suit in the courthouse people will approach you and ask you questions. It motivated me to help make it rain -- I learned to seize the opportunity to sell our services instead of just being annoyed at the regular barrage of questions and the flippant responses I often hear by some attorneys who lack motivation.

I would do it in a heart beat if I were taking on a new associate. In fact, I had recently considered hiring a young criminal defense attorney to take over my traffic cases at a reasonable base salary and 40% of anything he took on above criminal traffic -- drug charges, felonies, vops, etc. However, I went in a different direction by hiring a disability legal assistant to help me stay afloat on that end. If I elect to grow, I still may do this in the future.

best regards,

J. Bart Countess, Florida

Max,

I am sorry that I have left you on the edge of your chair. I now have a busy practice where almost all of my clients and some of his moved with me from Maryland to Virginia. Considering that when I joined the firm as the third of three there were three or four old estates and when I left 7 years later there were 5-6 lawyers, the admin staff had doubled with two fulltime

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probate assistants, and probate matters (where I focused my efforts) generated a third of the firm's profits, there may have been a less than positive reaction to my departure. As for me now, I wake with a smile every single morning and I love coming to my office where as I write I see the colors of the sunset over the Potomac.

Have a wonderful weekend!

Deb Matthews

Living well is the best revenge. Good for you! :)

kwg

Kevin W. Grierson, Virginia

Besides, there is nothing that says that the employees will choose to originate matters or that the owner will choose not to originate matters. I think that losing business only becomes a concern if the owner is relying on his employees to bring in all the business.

That being said, I'd also include a declining scale for associates who left my firm, but their clients stayed with me. Maybe something like 10% year 1, 5% year 2, 2.5% year 3, 1% year 4, 0% thereafter...

Sincerely,
Dwayne Allen Thomas

My associates only get a percentage while they remain employees. The percentage is a portion of their compensation package. That ends when employment ends. After that if they want to earn, they must take the clients with them.

Michelle J. Rozovics

The 1/3 rule is typical in my experience.

Rick Bryan, New York
