



Journal

Developing Associates

“Shadowing” Program Provides Early Mentoring Opportunities

BY ARNOLD J. LEVINE AND EVE D. BIRNBAUM

In the fall of 1999, as plans were made for first-year associates at Proskauer Rose to receive training and mentoring, the firm introduced “shadowing time” as a way to address the economic issues that can effect the long-term viability of educational programs.

Four years later, associates have billed a total of more than 25,000 hours to “shadowing time,” and the concept has provided a method to measure the effectiveness of the program and encourage its continuation.

For partners, a key economic issue was the effect that the time young associates devoted to hands-on training would have on the “realization rate” used to assess the productivity of lawyers assigned to their cases, and ultimately to compute their own compensation. Rather than charge training time to the client matter, inevitably resulting in write-offs that would adversely affect the partners’ realization rates on billed time, the Proskauer executive committee created a separate billing number for shadowing time. This eliminated training time as a factor in the analysis of realization rates.

To further encourage partner participation, the executive committee determined that partners would also be evaluated



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on their commitment to associate training. The shadowing hours logged by associates under their direction thus provided an incentive to implement shadowing assignments. On a monthly basis, each department receives a report on shadowing time, and questions are raised when shadowing hours appear to be low.

For young associates, the issue was whether time spent on training and mentoring would reduce the number of billable hours used to determine their bonuses and their overall productivity ratings. The issue was addressed by a decision to mandate a goal of 200 hours of shadowing for each first-year associate, rather than simply “allow” them to log 200 hours on training and mentoring. In addition, they were told that shadowing time would count toward the productivity statistics used to determine their bonuses.

For clients, sensitive to the high cost of legal services, the concern would have been the expense to them of having new lawyers present primarily as observers. The response was a policy that advises clients they are not being billed for the time spent by young associates who accompany senior lawyers to depositions, negotiations, strategy sessions, corporate board meetings and the like. Over the longer term, experience has shown that the program may actually save clients money — during later stages of a case, the young associate, now familiar with the issues in the matter, is in a position to do research and perform other billable tasks that might otherwise have required work by a more senior associate, or even the partner assigned to the case, at a higher hourly rate.

What Qualifies as Shadowing?

The “shadowing” number can only be billed for time spent *in the shadow* of the senior attorney. The number cannot be billed for research or any time spent on other assignments that would typically be classified as “first-year work.”

To prevent that mis-classification, the managing partner or the department chair is notified ahead of time regarding the nature of the activity being assigned to the junior associate as a shadowing experience and the amount of time that will be billed. Attendance at meetings, conference calls, depositions, hearings, negotiations and client meetings all qualify. A sophisticated drafting project can also qualify so long as it involves the drafting of a document that the junior associate would otherwise not be asked to draft due to its level of sophistication, and provided that the drafting work is followed by careful review and supervision by the senior attorney.

In some departments, associates have been assigned to spend several hours shadowing specific senior attorneys on days designated by the senior attorney. The senior attorneys are likewise encouraged, and reminded on a regular basis, to be creative in looking for shadowing opportunities for the junior associates.

Proskauer’s chief operating partner Robert J. Kafin recalls: “In the beginning, we thought shadowing assignments would be limited to attendance at specifically scheduled meetings or

Editor’s Note

For almost two decades, large law firms have struggled to find effective ways to cope with the financial demands of modern practice and the need to train young associates.

The accompanying article was prepared at the request of the Journal to provide readers with information about a program containing features that might be a creative addition to the mix of options that firms consider in establishing and sustaining their training programs.

The Journal contemplates a larger article in a future issue that would provide an overall assessment of what associate training programs have accomplished in approximately the last 15 years, and what the future is likely to bring.

Managing partners and education directors at law firms are invited to contact the Journal via mail or e-mail with reports on their experiences and their view of the future.

Similarly, lawyers who have participated in these programs are invited to contact the Journal to describe their own experiences with these programs. Send your thoughts to: NYSBA, One Elk Street, Albany, NY 12207, Attn: Developing Associates, or by e-mail to journal@nysba.org.

events. In fine tuning the process, we have broadened the idea to encompass observing both the preparation and aftermath of a specific event and even spending full days with senior lawyers observing interactions with clients, adversaries and colleagues using all media of communications.”

Reverse Shadowing

Some partners have gone a step further and provided “reverse shadowing”— the partner advises the client that the junior associate will be billing the time at the associate’s rate while the partner supervises but does not bill for his or her time. In one typical case, a labor associate who had spent shadow time on a case as a first-year associate was assigned during her second year to take a plaintiff deposition while the partner supervised.

Heather Pearson, one of the first to participate in the shadowing process, recalled how she was assigned to a discovery conference in federal court while the senior associate on the matter “reverse shadowed.” “We then went before Judge Gleason in the Eastern District in the same case to argue a summary judgment motion and the partner let me argue it. We won!” Describing how the system has worked for her, Pearson said: “Reverse shadowing is a transition from being an observer to putting what you see into practice. First, you watch the senior attorney do it, the senior attorney watches you do it, and then the next time you do it, you are well-equipped and confident to do it on your own.”

Practical Results

For associates, shadowing has “taken away the anxiety from spending time on a matter that would not otherwise be bill-

able, because the shadowing time counts toward productivity," in the words of Adam Siegartel, an early participant in the program. Others report that the priority treatment given to shadowing appears to have made partners feel more comfortable spending time with them because it is perceived as providing value to everyone.

Mentoring Relationships Partner-associate working relationships have developed which would have been unlikely without shadowing. As a first-year associate, Heather Pearson attended collective bargaining negotiations with a senior labor partner, beginning with the first negotiation session between a major hospital and the union committee and continuing through the mediation process and the ultimate resolution of the matter. "Because I attended all the collective bargaining sessions from the beginning and was privy to all our client strategy meetings," she recalls, "by the end of the process the partner felt comfortable asking me to cost out certain proposals that were ultimately offered to the other side."

When the matter was completed, the partner, now comfortable about having her work with him as a productive member of the team, asked her to work on the next collective bargaining matter.

Earlier Contributions by Associates Once associates have "shadowed" on a matter, they often become able to participate as team members whose work is billed to the client. Kristen Prohl, a corporate associate, attended a strategy meeting with a senior intellectual property partner and client to discuss the legal issues in a promotional project. After the discussions, Prohl drafted the contract between the client and the companies participating in the promotion. If she had not attended the meeting, she would not have been given the opportunity to draft the product and work directly with the client.

Clients have become comfortable relying on a junior associate who has become known to them. Sarah Deitch, assigned as a first-year associate to an initial public offering, recalled that by attending the meetings and strategy sessions from the beginning, she saw the evolution of the deal and later was able to work directly with the client. "At the beginning I attended the meetings and had nothing substantive to contribute, but I learned from listening. At a certain point in the progression of the deal, the client began to call me, and I became an active participant in the deal. The partner, too, became comfortable enough with my knowledge of the negotiation points to let me take a stab at drafting ancillary documents. Even the dreaded due diligence became an interesting exercise because I knew the context of my document review."

The Firm's Experience The corporate department co-chair, Steven Kirshenbaum, reports that shadowing has often led to

"more productive use of junior associates at a much earlier point in a transaction than would otherwise be the case. Once an associate has sat in on the strategy session or a drafting session, that associate is well-positioned to contribute in a more meaningful way to the transaction." Net-net, the associates become better trained and more productive and more confident at an earlier stage in their careers.

Bernard Plum, co-chair of the labor and employment department, notes: "Shadowing gives us an opportunity to create experiences for very junior associates that would not otherwise

happen in the modern law firm world. I had an associate shadow me to a negotiation in Boston. The associate got to see me and our clients doing things and interacting in a way that he might not otherwise have seen for several years; I got to see him in a context and role in which I almost never get to see first- or second-year associates."

Partners and associates interviewed for this article say that, in addition to the specific professional benefits, they have detected a subtle change in the culture

of training at the firm. Where senior attorneys once viewed junior associates as peripheral to the deal, they have now become accustomed to seeking their participation in the earliest stages of a matter. The result, they report, is a culture of learning, training and mentoring that provides a more fulfilling professional experience for all involved.

The Clients Sandra Crawshaw, a litigation partner, recalls that one shadowing assignment was to have an associate join her for an all-day court-ordered mediation in a highly complex case. Several client representatives were present, including the chief legal officer. "They were thrilled with the idea that they got two lawyers for the price of one, and that our firm was willing to train associates on our dime, not theirs. They acknowledged that our young associates probably got into court quicker with more experience than lawyers at other firms, and would ultimately represent a cost savings to them."

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