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MANAGEMENT

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Temporary Solutions

Temp lawyers can help firms handle big cases. But what to tell — and bill — clients?

Last year, a 125-lawyer Dallas-based firm was faced with the daunting task of reviewing the medical records of more than 100,000 claimants who had just reached settlements with the firm's biggest client.

Instantly, the firm managers knew they needed help. Unless they pulled associates off other cases, they were not going to be able to get the records reviewed in time. On the other hand, they recognized that if they hired additional attorneys and support staff, they would not be able to retain them after the project was completed. The project itself was not complicated, just very time consuming; the records had to be reviewed in order to complete a corresponding checklist.

Their answer: temporary help. The firm's management organized teams primarily made up of contract or project attorneys, paralegals and clerks. Partners and associates, who had worked on the cases and were familiar

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with them, led each team.

The plan was a success. The medical records were reviewed well before the deadline, and in the process, the firm added to its bottom line.

By bringing on additional billable staff, the firm was able to expand its revenue-generating capacity. The firm could bill the time generated by the project attorneys and staff, with a very manageable overhead expense. At the same time, the firm was charged only a fraction of this rate for the hours each project professional worked and did not have the traditional burden — payroll taxes and benefits — that comes with a full-time employee.

Almost three years ago, when the U.S. economy first showed signs of slipping into a recession, firms were structured in ways that did not allow them to respond effectively to the changing economy.

One option gaining popularity among law firms is organizing staff into specialized teams consisting of experienced, proficient, full-time and temporary legal professionals. These teams are uniquely configured to meet the needs of a specific case or project or for a component of a case, such as discovery. Project-based teams offer several advantages:

- Efficient use of resources. Many projects can be handled by bringing in specialized temporary legal professionals with appropriate skill sets and levels of experience, who are then supervised

by in-house staff. This allows the firm to integrate a major project into its caseload without overtaxing resources or failing to properly service other clients.

- Strategic composition. Supervising attorneys or team leaders can handpick professionals from internal firm staff — and from outside the firm — with the specific experience and skills they need. Once a project is under way, the team can be adjusted as needed by adding or removing people from the team.

- Economical approaches. Select professionals can be brought in as needed to fill specific roles on a project-based team. Their time can be limited to those parts of a case requiring their skill and expertise.

- Flexibility. By including temporary employees on the team, a smaller firm can take on a major litigation case it might otherwise have to forgo.

More Choices

Project-based staffing is not a new concept — law firms learned long ago that teams of legal professionals working together on the same case or project could help achieve greater productivity from available resources.

The fundamental difference today is that the teams are composed of a wider array of professionals and offer more flexibility. Outside specialists and professionals may come from litigation support organizations, other law firms serving as co-counsel and specialized legal staffing firms. A project-based team will usually include a balanced combination of attorneys, paralegals,

secretaries, clerks, coders, and other full-time and temporary professionals.

There are certain types of cases that can benefit from the use of project-based staffing, including:

- Large/lengthy multistate, multi-party litigation. As a case grows in size, the costs associated with it grow not proportionally but exponentially. Project teams composed of in-house personnel and supplemented with outside specialists as needed, as opposed to hiring large numbers of new full-time staff, can help regulate costs.

- Document-intensive cases. Even in smaller cases, the volume of paperwork and documents has exploded in recent years. All this paper must be reviewed, sorted and coded, so that a critical document or e-mail is not overlooked.

Rather than redirect internal staff from other cases, securing a number of project professionals to supplement a team of full-time employees can be a highly effective approach. Firms can also turn to outside litigation support companies that possess the latest and greatest technology to handle parts of this document organization.

Other projects that can benefit from the use of temporary lawyers include large transactions, contract reviews, bankruptcies and corporate governance.

Inevitable Questions

The use of this staffing strategy leads you to ask some inevitable questions, especially when it comes to project attorneys. How do you explain their use to your client? After all, if they are so highly qualified, why don't they have full-time jobs?

You must explain to your client that this is an outdated opinion. Many project attorneys today have the qualifications to work in any large firm, but have chosen temporary work for lifestyle reasons.

Some are not the primary earners in their family and prefer the flexibility; others may have just relocated to the area and are using project-based work to break into the local market. Additionally, you can remind your client these attorneys will be supervised by team leaders from the firm familiar with their case.

The American Bar Association recommends advising the client and obtaining client consent whenever a project attorney is performing independent work for a client without the close supervision of an attorney associated with the law firm.

However, where the project attorney is working under the direct supervision of a lawyer associated with the firm, disclosure is not ordinarily required.

What would be a reasonable rate to bill a client for work performed by a project attorney? To date, no ABA, state

or local bar opinion has directly addressed project attorney billing rates. Depending on the project attorney's background and level of experience, he or she could be billed out at rates comparable to that of an associate.

A good rule of thumb is that you can bill a project lawyer out for up to three times the rate you are paying. Specialized legal staffing firms usually charge firms a specific rate for each attorney, taking into account the lawyer's level of experience compared with your needs.

What about conflicts of interest? If these project attorneys are mercenaries working for every firm in town, how can a firm assure itself that there is no real or potential conflict of interest?

Conflict-of-interest issues must be resolved before the project attorney relationship begins. Both the hiring firm and the project attorney must determine whether there are any conflicts.

Hiring firms should maintain complete records showing the clients and matters worked on by each project attorney. The project attorney also needs to maintain a complete record of all cases handled and law firms served throughout his or her career.

The use of project-based staffing is an advanced and proven strategy to maximize personnel resources, allowing savvy law firms access to premier talent efficiently and economically. ■