

# Who Should Be Partner In a Post Recession Profession? Part 1: Earning a Seat at the Table

by James D. Cotterman

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Ten years ago I authored an article on the meaning of law firm partnership – *Making the Grade – What Does Law Firm Ownership Really Mean*. That article examined the characteristics necessary to be a fully contributing partner. This article revisits and updates those characteristics for a post recession profession.

The recent economic turmoil underscored the importance of a partner's demonstrated and sustained ability to develop business. It is the most important prerequisite for partnership. But in an increasingly competitive marketplace, with fewer seats at the table, a successful candidate for equity partnership must demonstrate a full complement of personal and professional skills and experience.

The profile of law firm lawyer ranks continues changing with growth in non-equity, income or similarly titled limited-ownership positions, as well as counsel and other lawyer positions. These positions started to take hold around the mid-1990s in the legal profession and have grown significantly since then. They served as a means to limit full partnership ranks and thus retain control and income. There is some evidence that law firms are looking more carefully at criteria for limited-ownership positions as more lawyers populate those ranks.

The entitlements and perks of ownership such as compensation, benefit packages, retirement income and withdrawal rights, governing through voting, management participation and the like are well known. This article is dedicated to what the partner must contribute to earn her/his seat at the table.

Law firm partnership carries certain responsibilities. First and foremost partners must generate business. A business development culture, accommodating different roles and styles, will permeate a successful firm. And full equity partners must contribute capital to prudently operate the firm and reinvest some earnings to provide for future success. The topics of business development and economic contribution will be addressed in depth in Part 2 of this article.

Ideally, all partners promote their firm, their colleagues and themselves. Partners elect individual partners who govern and oversee the enterprise. Some partners manage the firm or offices or practices. Partners serve their clients, and cultivate and nurture those relationships. Hopefully all partners will take up the mantles of teacher and coach to develop talent and build a successful team.

Equally important is an evaluation of each individual as a potential colleague and partner. How s/he treats staff, younger lawyers and clients is important to assessing character and cultural compatibility.

Many firms will also advocate a duty to stewardship – recognizing that partnership is a transitory role in which partners turn over the firm to future generations in better condition than when they accepted their partnership offers. To this end, the partners should address challenges, seize opportunities and pull together when misfortune occurs.

If a firm uses lock-step partner compensation (which some still do), then partnership evaluation is even more critically important. Current partners are making a career long bet on how an individual will develop and whether their development will merit their enhanced compensation over time. In fact, lock-step partner compensation firms tend to be more discerning about the promotion decision and tend to have smaller partnership ranks and greater leverage as their tournament to the top is a tougher hill to climb.

### **Path to Partnership**

The track to partnership is a decade-long endeavor or more. It is not simply about the passage of time, but the accumulation of experience, wisdom and skills. It is the process of translating book knowledge into counseling and advocacy skills. It requires networking to know and be known. Some individuals might achieve all this more quickly – and others may require more time. What is important is to invest sufficient time developing the right skills to be armed and ready to succeed in the role.

It is also common for lateral hires to come into a firm in a non-equity category to give the new lawyers and the hiring firm time to get acquainted before being eligible for equity consideration. A year or two is common for a senior lateral who has achieved partnership in her/his prior firm and two to three years for all other lateral hires in order to allow the partnership to assess possible promotion to equity status.

### **Work and Service Quality**

When I ask firm leadership if either clients or partners have expressed reservations about any partners working on their matters, I almost always get an unfortunate ‘yes’ in response. And how many partners can truly say they are acknowledged as a “short list” practitioner within their community and field of expertise?

Thus partners must define and hold each other accountable to a code of conduct that includes work and service quality. Partners are expected to have the ability, experience, knowledge and skill to work with most clients and handle most matters independently with minimal, if any, supervision. This does not mean lawyers should be generalists or that every lawyer and client combination will be the best of friends. But

there must be quality control over work product and service delivery and partners must be held accountable for what they do, or fail to do.

In considering a lawyer for partnership, each partner should ask the following questions regarding this individual's work and service delivery:

- Would I be comfortable with this individual's independent handling of a complex legal matter for a client?
- Would I hire this individual to represent me or a member of my immediate family?
- Would I recommend this individual to a friend?
- Would I trust this individual to independently manage the relationship with our most valued clients?
- Does the legal and business community think highly of this individual's advice and counsel?
- Is this individual regarded as a "good person"?

## Promotion and Marketing

Promotion and marketing is distinct from business development which will be discussed in Part 2. Promotion and marketing include writing, speaking, teaching, service on boards and in associations to raise the profile, image and brand awareness of the law firm and its partners in the broad communities in which they operate. In contrast, business development is the targeted client specific activities that lead directly to new business.

Here are some questions to ask in considering an individual's marketing performance and potential:

- Is this individual active in developing a network of contacts and establishing relationships in the community?
- Does she/he project an understanding of business and legal subject matter that demonstrates experience and expertise through writing and speaking?
- Does this person seek, hold and successfully handle positions in professional organizations related to her/his area of practice?
- Does this person seek, hold and successfully handle leadership positions in community (civic, charitable and religious) organizations?

## Professional Development

Laws and regulations change. Political movements and public sentiment change. A lawyer's ability to provide advice and counsel is dependent on their understanding of the historical context of current laws and regulations, precedents from court rulings, legislative and regulatory initiatives and the depth and diversity of public sentiment. Further, the means by which we interact with and process knowledge changes at a

pace that seems to continually accelerate. To keep up with all of this requires dedication to life-long learning.

Concurrent with a personal need to continually learn is the obligation to continually teach, mentor and coach others. Career progression and team performance require this investment of time and energy.

How one approaches this and how well s/he performs can be gleaned by asking:

- Does this individual readily share information and work product with others?
- Does this individual assist others to succeed?
- How do other associates, paralegals and staff describe this individual's mentoring, coaching and teaching efforts?
- Does this individual embrace and learn new technology and management skills?
- Does this person seek substantive continuing legal and other education beyond minimum requirements?
- Is this individual a good teacher in that those taught are gaining insights, knowledge and skills?

## Personal Attributes

Someone once said to be successful surround yourself with people better and smarter than yourself. Law firms can become better by adopting that credo. A new partner should enhance the reputation and stature of the firm.

To seek individuals whose loyalty, maturity of judgment, honesty, industry, trustworthiness, cooperativeness and team orientation toward the firm are clearly demonstrated is not just a "Mom and apple pie" goal. These attributes speak of fundamental personal and organizational values. If the individual and the organization differ in this area, it is the organization that will suffer. Selecting the right people is possibly the most important decision partners will make for their firm. And partners set the standard that all others will follow. The following excerpts from Jim Collins' book *Good to Great*<sup>1</sup> illustrate this concept well.

"First Who—then What—Get the right people on the bus first, and the wrong people off the bus, then get the right people in the right seats, and then figure out what direction to drive the company."

"The right people will do the right things and deliver the best results regardless of the incentive system."

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<sup>1</sup> Jim Collins was on the faculty at the Stanford University Graduate School of Business. He is a co-author of *Built to Last* and is the author of *Good to Great*, the source of these quotes. Both of these books are important studies for any leader/manager.

“The data showed no pattern linking executive compensation to the process of going from good to great. It proves that it is not how you compensate your executives, it’s which executives you compensate in the first place.”

As the profession grapples with changing service delivery models the concept of teams and how teams function become critically important. The abilities to lead, participate collaboratively, passionately advocate and then embrace and implement the group’s decisions are different from the traditional sole advisor or supervisor roles more commonly found within law firms.

But let’s not forget the very personal passion a partner can have for her/his firm. Some say those partners identify so closely with their firm that their individual persona and the firm’s are intertwined. These partners stay and fight for their firm rather than follow an enticing offer to go to greener pastures during difficult times. They are willing to sacrifice much to preserve their firm and protect the livelihoods of their employees.

Key questions to ask are:

- Do I respect and trust this individual?
- Would I be proud to introduce this individual as my “partner”?
- Will this individual be loyal?
- Do this individual’s actions demonstrate a committed partner or a free agent who looks out primarily for her/himself?
- Will this individual be a co-owner or an employee with an owner’s title?
- Does this individual work well with others?
- Is s/he willing to take on different roles (lead, second chair, advisor and the like) as the situation requires?
- Does this individual accept criticism as a learning and improvement opportunity?
- Does this person share credit for successes and shoulder responsibility for failures?

## **Management Abilities**

All partners must manage in some way, even if it’s only managing client relationships and portfolios of work. Some will be asked to manage practice areas, departments and offices. A few will be tasked with firm-wide management duties including committee assignments. Each will be expected to carry out those roles in an effective and efficient manner:

In assessing management potential, ask:

- Is this individual an active listener?
- Is this individual perceived as fair, accessible, pragmatic?
- Does this individual use bad outcomes as learning experiences?
- Is this individual flexible?

- Is this individual curious and inquisitive?
- Is this individual respected?
- Does this individual read management literature and develop management competencies?
- Would I be willing to allow this individual a significant management role in a business I owned?

## In Summary

Fully contributing partners build and sustain a practice that is simultaneously independent of and connected to the firm. They delegate work and supervise those who do it. They cross-sell work to other practices and offices. They must manage client relationships and create opportunities for others to participate in those relationships. However necessary and important the external market and client facing roles are, they are not sufficient. Internal roles to govern, manage, teach and coach are equally important to a successful firm and define a fully contributing partner.

In Part 2 of this article, I will discuss the economic criteria for admission to full partnership in a law firm.

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## About the Author:

James D. Cotterman is a principal of Altman Weil, Inc., a legal management consultancy headquartered in Newtown Square (suburban Philadelphia), Pennsylvania. Contact Mr. Cotterman at 407-381-2426 or email [jdcotterman@altmanweil.com](mailto:jdcotterman@altmanweil.com).