

Reprinted from
THE NATIONAL LAW JOURNAL
Monday December 23, 1991

CONQUERING 'DELEGATION PHOBIAS'

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Many senior lawyers find it difficult to delegate work to subordinates. And with the increased importance today of client development, those who have trouble delegating often run into a related problem: If senior lawyers do not begin to delegate some of their work, they won't have the time to focus on acquiring new clients and referral sources.

For many lawyers, there are fears and risks associated with delegation. Once these fears and risks are accepted and then reduced, attorneys are left with the question of how best to run the delegation process. The correct approach to effective delegation requires appropriate timing, techniques, rules and communication.

There are two kinds of delegation. One is *blind delegation* in which attorneys or "delegators" have people doing work for them, and the client doesn't know about it. The other is *disclosed delegation*, in which the client does know about delegation but may or may not actually meet the "delegatee."

All law firms have a certain level of blind delegation. Even the most demanding client may assume that basic tasks, such as gathering documents, filing with the courts and arranging for depositions, will be assigned to support staff.

But using blind delegation for more sophisticated work can leave a law firm open to problems. For one, the firm can be in danger of churning out work, instead of personalizing it. Another problem with blind delegation is that it often leaves the primary attorney with a fear that if clients knew or found out, they might object. (Still, some attorneys choose to live with that fear believing that possible disclosure of delegation is better than taking on more work than they can handle.)

But ideally, the fact that work is delegated should be disclosed to clients at the onset of the relationship. Many clients may express an interest in working exclusively with a particular lawyer. The structure of a law firm, however, is based on a basic division of labor in which attorneys at certain levels do certain work. The attorney, then, must explain to the client that the attorney's special skills, blended with the skills of others in the office, will provide the client with the best results at the best price.

To reassure clients, the primary attorney should explain the benefits of setting up a working team in which he or she delegates certain responsibilities to junior attorneys and support staff. For example, it will give the primary attorney more time to creatively apply expertise and guidance to the case. And other lawyers may be more efficient at their work because they are responsible for similar tasks on a regular basis. The client also will be billed at a lesser rate for

matters handled by a junior attorney, rather than being billed at the primary attorney's hourly rate.

Once the delegation is appropriately disclosed, the client should speak to, or meet with, the delegatee.

Eliminating Fears

Attorneys uncomfortable with delegation also may be concerned about having other attorneys interact with their clients. They feel there is a risk that the primary relationship will change as the client interacts with the person doing the work, and the client may become more dependent on that person. Some attorneys fear that if the delegatee leaves, the client will leave with that attorney.

To avoid this, the delegator should always maintain a high profile with the client. Disclosing the act of delegation only eliminates the delegator's responsibility to perform specific tasks; it does not eliminate the delegator's responsibility to communicate with the client.

Sometimes attorneys have an egocentric inability to delegate because they tend to think that nobody else could do the work. When pressed, these attorneys often admit that others can do the work equally well and that there is a control factor involved that makes it difficult for them to relinquish any of their workload.

If attorneys who are reluctant to delegate take the time to "test-run" the delegation process, they discover that they can apply quality control supervision and train someone to do the work to their standards.

Sometimes, however, the problem is not that the attorney isn't willing to delegate. Rather, he or she feels that there is no subordinate in the firm who has the ability to do the work. Part of this problem stems from the fact that not all senior lawyers know the associates at the firm. Some one-on-one lunches or dinners should be arranged between senior attorneys and subordinates in order to select suitable delegates.

An active system of delegation, preferably disclosed delegation, is desirable. But even some attorneys who have already reached that conclusion still struggle with an incomplete understanding of how best to delegate. There are some specific guidelines for effective delegation.

Procedural Guidelines

Delegatees should become involved in a case at its inception, just as clients should be informed of the delegatees' involvement from the initial conversation or meeting.

The primary attorney should keep near the phone a list of delegates and their expertise. When a client calls with an issue that can be delegated, the attorney can review the list and immediately decide which delegatee should handle the transaction. The delegator then should tell the client that another attorney will also be working on the project and have the delegatee join the conversation. This way, the delegatee will be made aware of all the details up front. If it is an initial meeting instead of a phone conversation, the delegatee should be brought in to participate immediately.

The delegator and delegates should prearrange some kind of calling system or phrase – such as “client on the line” – that alerts the delegatee to the necessity of joining the conversation, either in person or on the phone. During introductions, the delegator should cite the associate’s background and previous successes so that the client is assured that the firm’s best attorneys are working on this case.

When meeting with clients, delegating attorneys must be aware of small signals they can send that project either positive or negative messages about the associate. A dismissive tone of voice, a negative comment or hostile body language could unintentionally communicate emotional competitiveness, lack of faith in the associate or proprietary feelings about the client. Likewise, if the senior attorney makes no comment on, or only gives a minimal response to, an associate’s suggestion, this could reduce client confidence in the delegatee.

In fact, the senior attorney needs to clearly confirm the delegatee’s authority by commenting on good suggestions. If the delegatee makes a suggestion or statement with which the delegating attorney does not agree, the delegating attorney should then use some prearranged verbal cue that allows communication of this circumstance without putting the delegator in a position to undermine the delegatee’s authority. For example, the delegating attorney should say something to the delegatee such as: “Yes, that’s one of many important issues that deserves our further attention.”

Assuming Authority

The delegatee should be given a significant level of authority. Too often the delegatee is mentally positioned as a subordinate and, therefore, accepts the work in a way that minimizes his or her role in the relationship. In order to demonstrate the delegatee’s authority in assuming a task, the delegating attorney should turn files and paperwork over to the delegatee, preferably in the presence of the client. The delegatee should handle the paperwork as the matter proceeds.

To give the client a sense of security about the delegatee’s work, the delegatee needs to communicate both authority and involvement in the case by showing excitement and interest. The delegatee should be able to fire off questions, discuss options and set up future meetings.

But a delicate balance must be maintained so that the delegatee can take on responsibility without threatening the delegator’s authority. So when dealing with the client, the associate should make references to the delegator’s continuing involvement and supervision.

It is necessary for the delegating attorney to maintain consistent communication with the client through phone calls or occasional meetings. Not only is this an opportunity to guarantee that the senior attorney keeps a high profile with the client, but is also a chance to confirm that the delegator is supervising the delegatee.

Review Process

The delegator should set up a reporting system for the delegatee that includes deadlines and reviews. If possible, the attorneys should have a short follow-up meeting within hours after the work has been delegated to make sure that the junior attorney is headed in the right direction and that the reporting system is set up with realistic deadlines. The delegator should then deter-

mine what method of communication should be used in the reporting system. It is better to have a 30-second conversation than a stack of unread memos.

The delegating attorney should break the responsibilities into small steps and request an outline or a short-term plan of action. The delegator can then discover early on if the delegatee is going in the wrong direction, not going quickly enough or not grasping the whole picture.

There will, indeed, be a training period for both the delegator and the delegatee. If the delegator does see the delegatee proceeding in the wrong direction, it is important that he or she not take the job away. Instead, the delegator should correct the delegatee and provide additional supervision.

A delegating attorney also needs to allow delegates to do the job their own way. The best delegators supervise delegates for results, but let them apply their own creative problem solving skills and methods to the process. It is well worth an attorney's time to invest some patience during this training period.

The delegator must remember that delegates require some sort of acknowledgement. Besides financial rewards, people need the emotional reward of being congratulated for a job well done. It can be especially rewarding for the delegatee to be congratulated in front of others. A delegating attorney might wish to offer praise and rewards through lunches, dinners, gifts or personal notes.

Delegation, overall, serves two purposes – it allows senior attorneys to ease their workload and pursue client development, and it establishes a mentoring system for junior attorneys to gain the experience they need. In these increasingly unstable financial times, it makes sense for a law firm to engender loyalty in its associates.