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Minders, Finders and Grinders: Towards a More Rational System of Law Firm Partner Compensation

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February, 2011**

[You can only beat the casino when you work together as a team](#)

When I was a young partner at [Finley Kumble](#), oh so many years ago, I was, among other things, a member of the firm's interdisciplinary entertainment law department. The group was headed by a well known and well regarded Los Angeles lawyer whom we shall here simply call Alan. Alan was a storied entertainment lawyer of many years' standing. His standing among Hollywood *cognoscenti* was celebrated when his surname was used as a punch line in a Mel Brooks film. In the nascent days of the creation of the law firm's entertainment group, Alan, along with firm management stitched together a rather convincing team, including some laterals with real standing in the entertainment world as well as home grown talent. We had capable movie, music and theatrical lawyers (pun definitely intended) and a credible client roster. One genus of client we initially lacked was a reputable motion picture production and distribution

company. Alan and some of the other wizened members of the group made the succinct point that we wouldn't be taken seriously in the entertainment industry unless we could tout the fact that we counted such a client in our roster. Finding such a client was a matter of utmost priority.

As events unfolded, I happened to meet the COO and CFO of just such a company, whom we shall call Art. Art's company filled our needs completely. I wined and dined Art, marketed my little heart out and Art ultimately agreed to retain us on a broad variety of matters and essentially engage us as primary outside counsel. I called Alan in LA and let him know that we scored big time. Alan seemed pleased but a bit uncharacteristically phlegmatic. He asked when we would start getting work from The Client and I told him that Art was coming over the next day with a variety of files. Alan said that he couldn't make it to New York for the meeting but that he would be in New York the day after to discuss it with me.

Art did come in the next day and delivered perhaps twenty different matters for us of all sorts to handle: corporate, litigation, tax, various movie deals and sundry music deals (The Client was best known for its record label).

Alan, ever cutting a dapper mien, dropped by my New York office the next day. He opened the buttons of his elegant double breasted Gernymn Street handmade double breasted suit jacket and plunked himself down on my sofa. "Well, Jerry, he said, "I see that you opened twenty new matters for The Client yesterday." Not a hint of congratulations or ebullience showed. "Yes, I did, Alan. This is just what we were looking for, isn't it Alan?" I asked.

Alan cupped his hands over his face and chin and glared at me for several minutes before speaking. "I see you listed yourself as originating partner." "Yes, Alan, I did. I found The Client, I wined and dined The Client and got The Client to sign the retainer agreement. I would think that makes me the originating partner. The New York managing partners seemed to think so since they congratulated me heartily and approved the new matters."

Alan glared at his handcrafted Oxfords for a couple of minutes and slowly reached in to his inside breast pocket and slipped out his elegant wallet. He reached into its folds and removed a yellowed old American Express receipt and held it up to me. "Do you know what this is?" he asked. I looked at it for a moment and said, "Yes, it seems to be a receipt for an expensive dinner you must have had a couple of years ago at The Palm."

Alan then went on to explain that his dinner guest was "C," the principal shareholder of The Client and that he had made a strong pitch for The Client's business at the time. "That." Alan said, "makes me The Originator. I saw him first and that makes it My Client."

"But Alan, when you asked him for the business he declined. I scored where you hadn't. That makes it My Client."

Alan wasn't persuaded. "Let me explain the facts of life to you, Jerry: Unless you go back and revise the new matter forms, I will not permit anybody in the Entertainment Department work on any matter for The Client." With that, Alan took his leave. I knew I could handle the litigated matters (which I ultimately did), but could not do justice (or probably fail to

perform malpractice) on the balance of the matters.

I rushed in to the office of the Chairman of the litigation department, of which I was a member and expressed my indignance. The litigation department head, named Alan as well, said this was truly an outrage and that my recourse was to take the matter up with the Executive Committee. I knew instantly what that meant: Both Alan's were on the Executive Committee. Litigator Alan (who had virtually no business but was an extremely capable lawyer, and was at one time the firm's unofficial ethicist) would make a strong case that Entertainment Lawyer Alan was behaving unethically and irresponsibly. Entertainment Al (with a huge book of business) would harrumph and argue his tenuous case. Regardless of the result, my carcass would be on the slaughterhouse floor, since his presence on the EC and any animosity that was engendered by my asking for my due would be repaid in kind by Entertainment Alan at that all important compensation fixing time. Knowing that you don't take a swipe at the king unless you know you will kill him, I tracked Entertainment Al down and negotiated a deal, under which I would receive about 20% of the origination credit and Entertainment Al the balance.

That incident and that ethos certainly explains why Finley Kumble died.

But, my purpose here is not to regale with war stories. Rather, it is to discuss rational compensation systems.

We are all too familiar with the Finder, Minder and Grinder system of compensation. In more genteel parlance, these are typically described as the "Originating Partner (the partner who lured the client in to the front door), the Responsible Partner (the partner who took primary responsibility for handling a particular matter) and the Working Partner (the partner who rolls up his or her sleeves and performs the work). The very simple fact is that substantially over-rewarding and over-compensating Finders can be fatal. Such a system creates and fosters the free agency model, which Professor Steve Harper [recently railed about](#); it does not advance the interests of the law firm as an institution. Indeed, even as I write this, while Howrey appears to be taking its last grasps of air, Sean Boland, Howrey's vice chairman responding to inquiries from [The Washington Post](#), lays blame on the firm's death to the fact that its big Finders quickly bailed out on the firm when they learned "they didn't get exactly what they wanted." That same *Post* article lays blame on a failure management and particularly a failure of management transparency. All of this seem to be true.

The point is simple: Yes, those (the Finders) who have a singular talent for bringing in business should be rewarded. But, those who cultivate the client relationships (the Minders and Grinders) must be adequately rewarded as well.

Equally invidious to a law firm is permitting a successful Finder to handpick his or her own crew of Minders and Grinders answerable primarily to the Finder. Permitting this structure simply creates a standalone silo, which, as we have seen so many times can simply move as a unit to the highest bidder.

The basic proposition is that while appropriately rewarding those with great marketing skills, we all must bear in mind that somebody needs to do the work and the work has to be of

superior quality for the client to stay with the firm. And those with superior legal skills need to be rewarded or they will leave. And when they do, smart clients, and most are very smart, will follow talent out the door, since they are largely indifferent as to the niceties of Finder/Minder/Grinder attributions. The client will ineluctably conclude that the departing Grinder knows the case or matters, does excellent work and it simply does not make any economic sense to leave the matter with the former firm simply because a smooth Finder hosted a wonderful evening at The Palm. Jason Anderman, former general counsel of Becton Dickson, lays out corporate [general counsel's views on this subject in very direct terms](#).

The unadorned fact is that the Finder/Minder/Grinder internal law firm classification is completely artificial and of almost no consequence. The real question that law firm management should be attuned to is whether a particular partner leaves, which clients will follow. You see, clients don't really care about who is the Finder, Minder, Grinder or even the Client Relationship partner. As one very prominent law firm leader articulated the question to me recently: "the real question is how to create an incentive program that leads to institutionalized clients that cannot walk out the door. A solid institutional client is working with so many practice groups it's impossible to follow just one partner out the door." The culture of the firm, in my view, needs to be one in which partners contributing to the team, to the institutionalization of clients, regardless of whether he or she is a Finder, Minder or Grinder receive the greater rewards. Those building silos or their own individual brands need to be disincentivized from doing so. The short term benefit of the burst of cash a lone star brings to the table needs to be weighed against the real harm that such a star's demands for more cash in his or her own pocket or declare himself or herself a free agent. As Steve Harper [said in a different post](#): "Behavior follows incentives...[and r]esist the deceptive simplicity of short-term metrics."

We so often hear the debate concerning the issue of whether a client hires a lawyer or a law firm. We should also entertain a similarly spirited discussion of whether a partner is building his or her own practice or that of the firm. There are those, like the lawyer Steve Harper wrote about who proudly advocates the notion that the client hires the law firm and therefore the successful partner is one who focuses on building his or her own practice. On the other side of the spectrum is a lawyer like [Randy Smith](#) of Crowell & Moring, who while having an outstanding reputation as an antitrust lawyer espouses the team and law firm approach in a completely self effacing manner. The distinction is simply one in which a lawyer speaks of "my clients" as opposed to "our clients." Randy and his firm (which happens to be a client of ours), believe singularly in the fact that the law firm can only succeed when the focus is on team building.

It takes a village to raise a child. It takes a village to build a law firm.

What then, is the construct of building a team and creating a relationship between law firm and client that devolves to the benefit of the firm?

We really should begin in the intake process. Once the successful Finder brings in a new matter, the lawyers assigned to work on the matter should be agreed upon by a collaborative process involving the practice group leader and the Finder. A situation should ideally not exist in which a litigator brings in a real estate matter and then designates himself or herself as both the

“Originating Partner” and the “Responsible Partner” (or Minder and Grinder in our *lingua franca*). More to the point, compensation systems should be geared to financially encourage partners to originate work and have others, experts in their fields, handle the work. And those who do the heavy lifting, the Minders and the Grinders, the Responsible Partner and the Working Partner should be equally financially incentivized for actually doing the work.

As we learned from Finley Kumble and others, you cannot build a financially successful law firm in which partners spend their time wining, dining and marketing, collecting large retainers and then picking up an additional fee at a closing, while there is little financial incentive for partners to actually do the work. At Finley Kumble, and at too many other firms still operating today, the first question a partner asks when he or she is asked to work on a particular matter is “Whose client is this?” That oxymoronic question should elicit a response that the client is one of the law firm’s clients. Instead, the client is attributed to a particular partner and the partner asked to do the work then quickly performs an algorithm, calculating whether working on a particular originating partner’s client will serve him or her well or whether performing this work will provide a trading chip for the working partner to cash in on the future when he or she brings in a piece of business that can best be handled by that that particular partner or members of his or her silo. After all, if the partner being asked to work on the matter cannot raise his or her profile by working on a matter originated by a king or if he or she cannot use the time devoted on the matter as a future bargaining chip, his or her time is better spent in the hunt for new clients.

Rather, the long term success of a law firm is predicated on the wide dispersal of work within a law firm, with matters being handled by those best suited for the matter, taking in to account the client’s needs and requirements. The incentive for the partner should be to bring in a new client and make that client a client of the law firm, with work being handled throughout the law firm.

It is difficult, but certainly not impossible, to make compensation decisions based primarily on a partner being a good citizen rather than simply a good originator. When the profit pie is sliced, the quality of a partner’s citizenship should be paramount. In a culture where too much emphasis is placed on origination, the quality of the working partners will necessarily decline and those partners who can leave with clients in tow will happily leave to join a higher bidder.

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