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# 5 Ways To Deal With Underperforming Partners

By Nathan Hale

Law360, Miami -- The dilemma of an underperforming partner may raise a myriad of unwanted issues for a law firm, from a depressed bottom line to toxic internal politics, but with the right approach, firms can steer such attorneys back to the light and avoid an awkward or nasty breakup, experts say.

Agreeing on clear expectations from the outset is a valuable step to set an attorney on the path to high performance and can make it easier to react when they are not met, but managers should keep in mind that underperformance can result from many different causes and consider a variety of tools, such as training and coaching, honest discussion, or a redeployment of an attorney's personal skills, to try to fix the problem, experts told Law360.

"Lawyers have a natural inclination to be high-performing," said Deborah Knupp, who coaches lawyers and business executives as managing director at [Akina Corp.](#) "The first move is to diagnose what is happening and then deploy the right strategy."

While a partner's underperformance could stem from laziness or malicious intent, the root cause could also very well be something that is out of their control, such as shifts in a particular industry they service or other market variables that result in work drying up, experts said.

"Some of the reasons are no fault of the attorney involved and other reasons are related to choices the attorney is making or abilities or strengths they do or don't have," said Kent Zimmermann, a legal industry strategy adviser with the [Zeughauser Group](#).

For law firms, the problem of an underperforming partner often poses a more daunting challenge than what many other corporations face.

"You're basically asking a part owner to leave," Zimmermann said of the worst-case scenario.

Firms should not act too hastily — anyone can have a bad year — but neither should they shy away from confronting identified cases and allow them to fester, experts agreed.

"I think if someone is chronically underperforming over a multiyear period, you have to decide if you can be the kind of institution you want to be with that person," Zimmermann said, noting the demoralizing effect it can have on the high performers at the firm and the turnoff to those you are trying to attract.

It is also worth noting that while money can be a great incentive, cutting compensation will not always solve the problem. At many firms, partner pay is already linked to performance and a pay cut simply might not have any impact on the lagging partner's ability to turn things around.

Here are some methods that experts say they find to be most effective.

## Straight Talk

While several experts said they would not rush to sit an underperforming partner down to have a hard, honest discussion about his struggles, generally when they do take that step, it has proven to be effective. The meetings offer a multifaceted opportunity: to assess the situation, provide a push by stating clearly that expectations are not being met, and also potentially set the partner's mind to fixing the problem.

**“That's been a very motivating factor, to have a private conversation where you say, 'This is what we need from you, this is what you promised us, let's figure out a way to get you back to where you were,'”** said Abbey Kaplan, a founding partner at Florida-based law firm **Kluger Kaplan Silverman Katzen & Levine PL.**

**The dynamic tends to be more effective coming from a well-respected, more senior partner to a younger one than when it is from the same level, where ego can creep in, Kaplan said.**

**“It's got to come from somebody with more gray hairs,” Kaplan joked, adding: “When that person sits down and has a talk with you, it usually hits home.”**

Knupp said she often recommends these conversations in situations where there is a question of the will of the underperforming partners — where there may be signs that a lawyer is not trying, not raising her hand, not engaging and not hustling — and suggests asking the partner what she would be doing if she were highly productive.

“When you can get an unproductive person to discuss what it would look like, you can find ways to engage them,” Knupp said, adding: “Helping people to participate in their own rescue is really important.”

### **Find Focus**

A lack of focus in partners' practices is a common culprit behind cases of underperformance, Knupp said.

Helping struggling partners to focus on their individual strengths and interests can help them regain traction in their careers, she said.

“Figuring out how to employ the lawyer in a more specialized niche can go a long way to keeping the lawyer on track,” Knupp said.

“A person with focus can really home in on where there might be a lot of opportunity,” she added.

Knupp suggested looking for opportunities in new technologies and related issues, such as data privacy, where many organizations need help setting up policies or navigating breaches, or a more traditional area like changes in overtime law, which will require employers to conduct compliance audits.

**Similarly, Kaplan recalled hearing about an attorney who realized after securing a significant litigation win defending an insect extermination company that he had acquired a deep knowledge about the industry's chemical use and related product liability issues: He embraced the idea of focusing on those cases and enjoyed great success as the “bug doctor.”**

**“You'll be happier,” he said of taking this big fish in a little bowl approach. “And you'll be more**

**respected in the community because you're very good at it."**

### **Train and Coach**

Many underperforming partners have the desire to be a high performer but simply lack certain skills and know-how, usually in the area of business development and self-promotion, Knupp said.

"A lot of firms that hire us will have us teach fundamentals [on marketing tactics]," she said. "Often once they have the skills, their confidence rises, and that gives them clarity on how to sell themselves, whether that's inside their firms or outside of their firms."

But not everyone has the skills waiting to be brought out, and willingness is also a major factor that firms must assess before making an investment in hiring outside help, Zimmermann said. In some cases, he noted, firms will offer to split the cost with the partner, to make sure the lawyer has some skin in the game.

"Don't waste your money on the people who are unlikely to turn it around and don't want to be coached," Zimmermann said.

### **Redirect Skills**

Even partners with highly focused practices can run into dry spells, such as when bankruptcies diminish in good times, Zimmermann noted. Pointing to an example from recent years, he said product liability work has run into rate challenges under pressure from insurance companies averse to paying hefty attorneys' fees.

For those partners, coaching was not going to coax out a newfound ability to conjure up fresh work, but in some firms there was a recognition that many of the top product liability partners were excellent first-chair trial lawyers whose past performance was independent of the topic of the litigation, and they pivoted the talent to other matters, such as intellectual property or white collar cases, he said.

Similar redeployments may help other partners who are hardworking and well-intentioned but simply are struggling in their current fields, noted legal consultant Gary Klein of Klein Landau.

"A Harvard Law degree is a terrible thing to waste," he said, "and if a person is not functioning in a particular department, they might in other departments. There may be other things they can do within the firm."

A firm could also look to have partners whose billable hours have fallen off redeploy their time and capacity to research new business development, possibly leading to greater billable potential, Knupp said.

"You're keeping a lawyer highly engaged whether they are billing or not, and I think that's one of the most important things a firm can do," she said.

### **Ease the Exit**

Of course, not every underperforming partner is going to get on track with their current firm, no matter the

firm's efforts. Lawyers have different skills and personalities and drives, and firms have different levels of patience.

"Many people aren't cut out for Big Law life," Klein said. "Being really smart and having exceptional academic achievement does not give you immunity from life's problems. Period. And as other situations arise, it may be time to either retool or rethink what your career is."

But even when a firm decides to end the working relationship, that does not mean it cannot achieve a positive outcome for both parties.

After exploring all avenues, and in a humane way, practice group leaders and firm management should counsel the partner out of the firm, Zimmermann said.

If done right, it should really come as no surprise if it reaches that point, he said. Management should be able to say they made their expectations clear, the lawyer underperformed, and the firm worked with the lawyer but decided it cannot be the type of organization it wants to be with them there.

Sometimes the firm can help place the attorney in-house with a client, which might strengthen that relationship in the future, or it can discreetly afford the partner a period to stay on at the firm while seeking a new position.

"Ideally, you find a way that it's a win-win for everyone," Zimmermann said.