
*Lawyers Risk Purchasing Group*

**Creating an Attorney Compensation Plan**

**That Will Build Firm Culture and Attract Top Talent**

Wednesday, September 27, 2023

12 Noon CST
(live webinar)

**Presenters
Brenda A. Barnes**

Owner, Unanchored Journey, LLC (Austin TX)
Co-author, *RESPECT: An Insight to Attorney Compensation Plans*

**Camille Stell**

President, Lawyers Mutual Consulting & Services (Cary NC)
Co-author, *RESPECT: An Insight to Attorney Compensation Plans*

**Introduction**

An Attorney Compensation Plan is critical to your law firm’s success.

A well-designed plan drives leadership, boosts performance, and helps you realize your practice goals. It attracts top legal talent – from new associates to lateral partners – and keeps them happy, so they will want to stay at your firm forever.

And it helps establish a firm culture that is equitable, ethical, and all-in.

Law firms that lack a fair and workable pay structure will not attract and retain blue-chip recruits. This leads to turnover, instability and talent drain – all of which impacts the quality and consistency of client service.

In this webinar, attendees will learn how to create a pay structure that’s right for their practice, whether they’re building a plan from scratch or updating their existing plan.

They will learn about compensation models from Eat-What-You-Kill to Lockstep Systems. They will receive current data on lawyer salaries and benefits, tips for dealing with the emotional aspects of compensation, and valuable checklists, templates and strategies. They will be instructed on their ethical obligations under the Rules of Professional Conduct.

The course will be taught by Brenda Barnes and Camille Stell, authors of *RESPECT: Insights in Law Firm Compensation*, and two of the country’s foremost experts on Attorney Compensation Plans.

1. **Ethical Framework**

**Rule of Professional Conduct 1.5(Fees)***(a) A lawyer shall not make an agreement for, charge, or collect an unreasonable fee or an unreasonable amount for expenses…*

*(e) A division of a fee between lawyers who are not in the same firm may be made only if: (1) the division is in proportion to the services performed by each lawyer or each lawyer assumes joint responsibility for the representation; (2) the client agrees to the arrangement, including the share each lawyer will receive, and the agreement is confirmed in writing; and (3) the total fee is reasonable.
(*[ABA Rule of Professional Conduct 1.5](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_1_5_fees/)*)*

**Rule of Professional Conduct 5.1 (Supervision)***(a) A partner in a law firm, and a lawyer who individually or together with other lawyers possesses comparable managerial authority in a law firm, shall make reasonable efforts to ensure that the firm has in effect measures giving reasonable assurance that all lawyers in the firm conform to the Rules of Professional Conduct.

Comment 2: “[L]awyers with managerial authority within a firm [must] make reasonable efforts to establish internal policies and procedures designed to provide reasonable assurance that all lawyers in the firm will conform to the Rules of Professional Conduct. Such policies and procedures include those designed to detect and resolve conflicts of interest, identify dates by which actions must be taken in pending matters, account for client funds and property and ensure that inexperienced lawyers are properly supervised.”*([ABA Rule of Professional Conduct 5.1](https://www.americanbar.org/groups/professional_responsibility/publications/model_rules_of_professional_conduct/rule_5_1_responsibilities_of_a_partner_or_supervisory_lawyer/))

1. **Compensation Drives Success**

“The one thing that drives most decisions in a law firm is compensation,” says law firm management consultant Brenda Barnes. “I have seen ill planned systems bust up firms, major partners leave firms, and the lack of transparency of the system leave associate attorneys anxious and in the dark.”

* + There is no one-size-fits-all plan.
	+ A good compensation plan enhances firm stability.
	+ A good plan is fair, equitable, easy to understand, and in writing.
	+ Your compensation plan should be consistent with your brand and core values.
	+ Transparency is key.
	+ Communication is key.
	+ Compensation can include salary, benefits, intangibles and other factors appropriate to your practice.
	+ Compensation structures should be reviewed regularly.
	+ Existing compensation structures should be evaluated for fairness, historical bias and obsolescence. New plans should correct inequities.
	+ Firm partners should prepare individual compensation plans each year that outline their personal goals for firm administration, growth and business development and recap the prior year’s accomplishments.
	+ Encourage feedback.
	+ Require accountability.
		1. **15 Signs You Need a Compensation Plan**
	1. High turnover.
	2. Low morale.
	3. Zero responses to your “Associate Wanted” ad.
	4. Workplace negativity and stress.
	5. General sense that the firm is not well-managed.
	6. Unproductive partners are overpaid.
	7. Highly productive associates are underpaid.
	8. Managing partner says, “Compensation plan? I don’t need no stinkin’ compensation plan. I know what my people are worth, and I’ll pay them accordingly.”
	9. Your plan has not been reviewed or updated since 1977.
	10. No clear criteria for determining compensation.
	11. No clear criteria for promotions, advancements or incentives.
	12. Poor communication.
	13. Inconsistency, bias, favoritism.
	14. Firm is losing clients.
	15. Profits are declining.

Recommended reading: [The Successful Law Firm: New Approaches to Structure and Management](https://www.amazon.com/Successful-Law-Firm-Approaches-Management/dp/0150042892)*,* by Bradford Hildebrandt and Jack Kaufman.

* + 1. **Key Definitions**

**Equity partners.** Equity partners are law firm owners, and their pay is from their share of the firm’s profits in a given year. Some law firm formation includes shareholders rather than partners.

**Non-equity partners.** Non-equity partners are not owners, and they are not paid a salary. This is a distinction that is usually not visible outside the law firm.

**Equal partnerships.** This system is typically used by small law firms. The partners agree to share in the profits equally or equally within defined groups.

**Incentive-based systems.** In the 1940s, the Boston law firm Hale and Dorr is said to have created the first incentive-based compensation plan, The firm identified lawyers in three categories. Finder – The lawyer as rainmaker who brings in the client. Minder – The lawyer who is responsible for managing the client relationship. Grinder – The lawyer, often the associate, who is responsible for doing the client work.

**Eat-What-You-Kill.** This system is common in small law firms. These firms sometimes operate as a collective of solo lawyers who share common space and employees with each lawyer paying their share of the overhead cost.

**Lockstep Systems.** The Cravath System relied on recruiting the best law school graduates, training those associates by the best lawyers, and compensating them well. This was at a time when most law firm associates were only paid for work they brought to the law firm. Cravath’s idea resulted in law school graduates who became excellent lawyers and as they rose through the ranks, they would remain loyal to the firm that had invested in them. This system was adopted by most Biglaw firms.

**Modified Lockstep Systems**.Salaries are not capped by seniority, but merit contributions allow firms to offer top salaries.

**Source:** [RESPECT: An Insight to Attorney Compensation Plans](https://www.lawyersmutualnc.com/risk-management-resources/articles/respect-an-insight-to-attorney-compensation-plans-by-brenda-barnes-and-camille-stell)*,* by Brenda Barnes and Camille Stell *(with permission of the authors)*

* + 1. **How to Handle Business Originations**

“Businesses thrive only when they have sales – and lots of them. To increase top-line revenue, firms must continually generate new business. In professional service firms, sales, or business development, is generally referred to as Business Origination.

“Whether or not your firm tracks originated business or compensates attorneys for new business, it is vital to understand the importance of the top line. A healthy top line performance allows firms to consider strategic planning as opposed to focusing solely on attorney productivity.

“Deciding how to reward a partner for bringing in new business isn’t always straightforward. For example, what does it mean to originate business? Who gets the credit for a specific client or engagement? What about additional matters generated by other attorneys for the existing client? How long is it fair to compensate for this contribution: forever or through a certain period of time?

“A book of business is the size of the client base that partners are responsible for managing and for which they receive credit in the firm’s partner compensation system. A book of business can either be originated (known as “finder” credit”) or inherited (known as “minder” credit). Many partner compensation systems pay attention to business origination as an important contribution to the success of the firm.

“Many firms generate new revenue from referrals made either by clients or other external sources such as law school classmates, friends or family. Typically, the sales process is shorter. But it still requires effort to close the sale. Many firms treat referrals the same as finder sales because it does take additional effort to close the sale.

Often the best and easiest new revenue is from the existing client base. For example, if your client has generated a litigation matter, are there other litigation matters that can be generated? Another example would be additional trademark work for a trademark client.

**Source:** [RESPECT: An Insight to Attorney Compensation Plans](https://www.lawyersmutualnc.com/risk-management-resources/articles/respect-an-insight-to-attorney-compensation-plans-by-brenda-barnes-and-camille-stell)*,* by Brenda Barnes and Camille Stell *(with permission of the authors)*

* + 1. **Compensation and Firm Culture**

Your firm’s culture will shape your compensation plan. In turn, your plan will deliver the culture you want to build.

All compensation methods share common characteristics, but each firm must create a customized plan consistent with its brand and core values. This requires knowing your people, knowing your processes, and knowing what your practice does well and not so well.

Compensation is never just about money.

This is especially true in small and midsize firms, where collaboration, collegiality, respect, praise and professionalism can mean as much as a pay raise.

**ABOUT THE SPEAKERS**

**Camille Stell** is President of Lawyers Mutual Consulting & Services. She is a frequent author and speaker on the topics of law firm compensation, retirement and succession planning, and law firm trends of the future.

Camille is a Fellow in the College of Law Practice Management. She also served on the North Carolina State Bar Regulatory Review Subcommittee and continues to serve as a member of the NC Pro Bono Resource Coordinators Network, the Advisory Group for the Duke Law Tech Lab, a member of the Wake Forest University Small Business Center Transition Forum, and as Chair of the Raleigh Chapter of the Legal Marketing Association.

Camille is co-author of two books written and published during the pandemic: *Designing a Succession Plan for your Law Practice: A Step-by-Step Guide for Preparing Your Firm for Maximum Value* and *RESPECT: An Insight to Attorney Compensation Plans*.

Camille@lawyersmutualconsulting.com

Direct Dial: 919.447.3354

**Brenda A. Barnes** is the founder and owner of Brenda Barnes legal consulting firm. She is a frequent author and speaker on the topics of budgeting and cash flow forecasting, law firm compensation, succession planning and law firm profitability.

Brenda is a graduate of the University of Texas at Austin in Accounting and has her MBA from Texas State University. She holds her CPA license. She is a legal and accounting professional with over 20+ years of experience working as a law firm administrator in Austin, Texas.

In 2008, Brenda created B2 Legal Management, LLC, an outsourced accounting resource for solo to mid-sized law firms across the United States. Brenda sold the business in 2022 and currently works as a legal consultant assisting law firms with profitability analysis, compensation system reform, and planning for Next Generation ownership.

Brenda is the co-author of *RESPECT: Insights in Law Firm Compensation.*

bbarnes@unanchoredjourney

Direct Dial: 512.563.3183

**ABOUT THE HOST**

**Jay Reeves, JD,** is the Risk Pro for Alta Pro Lawyers Risk Purchasing Group. He practiced law in South Carolina and North Carolina for nearly 40 years, concentrating in representing attorneys in ethics, licensing and disciplinary cases. He has given more than 250 presentations on legal ethics and professionalism to bar groups, law firms and law schools in the U.S. and Canada. He was Vice-President of Bar Cares of North Carolina and served on the NC Bar Association CLE advisory panel. He is founder and owner of Your Law Life LLC. He is author of the law column “Ask the Risk Man” and the book “The Most Powerful Attorney in the World.”

*Contact:*

jay@yourlawlife.com

Ph: 919-619-2441

www.yourlawlife.com

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