



PROGRAM MATERIALS
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Lessons Learned From Our Very Own Law Firm Management Master

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- **Jessica Mazzeo, Esq. - Griesing Law LLC**

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5301 North Federal Highway, Suite 150, Boca Raton, FL 33487
Phone 561-241-1919

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Lessons Learned from a Law Firm Management Master

By: Francine Friedman Griesing, Esq. and Jessica L. Mazzeo, Esq.

Arizona | New Jersey | New York | Ohio | Pennsylvania

GRIESING LAW LLC
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P 215.618.3720 | F 215.814.9049 | griesinglaw.com



Agenda

- Introduction & Goals
- Four Principles of Law Firm Management
 - Perseverance, Entrepreneurship, Mentorship, Belongingness
 - Impact of ABA Model Rules
 - Preamble
 - Rules 1.1 Competence; 1.3 Diligence; 1.4 Communication
 - Rules 5.1-5.3 Supervisory Responsibilities; 5.5 Unauthorized Practice & Multijurisdictional Practice
 - Rules 7.1-7.3, 7.6 Communicating About Your Practice (advertising, solicitation, etc.)
 - Rule 8.4 Misconduct
- Practice Pointers

WHO
ARE
WE?



GRIESING LAW_{LLC}



Francine Friedman Griesing, Esq.

- Fran, founder of **Griesing Law, LLC**, a woman-owned and operated firm based in Philadelphia, has over 35 years of experience representing clients in business transactions, commercial litigation, employment matters, and ADR. She is a highly sought speaker and published author on legal and business ethics, having been recognized as a leading expert on discrimination, harassment and bullying in the law. Griesing is a co-founder of **Bossible**, a marketing consultancy that helps entrepreneurs, professionals, privately held businesses and diverse businesses build and execute marketing plans that amplify them as thought leaders in their industries. She is also a co-founder of **GriesingMazzeo Leadership, LLC**, an educational and training firm that helps clients improve their bottom line through effective strategies for enhancing diversity, inclusion, equity and elimination of bias across all constituencies. A graduate of the University of Pennsylvania Law School, she has received numerous accolades including receiving The Philadelphia Inquirer's Lifetime Achievement Award in Diversity and Inclusion.
- You can reach Fran at fgriesing@griesinglaw.com



Jessica L. Mazzeo, Esq.

- Jessica L. Mazzeo is a serial entrepreneur who operates three women owned businesses that she co-founded. **GriesingMazzeo Leadership, LLC** serves as an outsourced human resources department with an emphasis on cultural belonging as well as providing one-on-one professional development and coaching for individuals; **Bossible** is the go-to strategic partner for branding, marketing, and business development services. As Member and Chief Operating Officer of **Griesing Law**, a full service business law firm headquartered in Philadelphia, PA, Jessica focuses on overseeing and implementing all of the Firm's business operations while establishing policies that promote and retain the Firm's culture and strategic vision. Jessica counsels clients on overall employee issues and employment best practices and advises on legal strategies that align with business goals. A thought leader on diversity and inclusion, employee issues, business generation and overall business management, Jessica writes a quarterly column for *The Legal Intelligencer* and speaks around the country.
- You can reach Jessica at jmazzeo@griesinglaw.com





GRIESING LAW, LLC

LAW FIRM MANAGEMENT PRINCIPLES

The Four Principles of Law Firm Management

Principles that are often overlooked that distinguish the masters from the masses in running firms or legal departments:

- Perseverance
- Entrepreneurship
- Mentorship
- Belongingness



Interplay Between Ethical & Management Duties

- In exercising any of the principles of running a firm, managing partners and other internal leaders need to abide by their ethical duties and assure that their team does as well.
- These duties drive from multiple sources.
 - Rules of Professional Conduct in all jurisdictions in which the firm practices. Generally modelled on the ABA Model Rules.
 - Applicable Codes of Civility.
 - Rules of Court, forum, individual judges and other judicial officers.
 - Federal, state and local laws.
 - Client mandated Codes of Conduct for Providers.



Preamble: A Lawyer's Responsibilities

**The Rules apply
and are most
important when
we have to make
tough decisions.**

- Preamble
 - [9] In the nature of law practice, however, conflicting responsibilities are encountered. Virtually all difficult ethical problems arise from conflict between a lawyer's responsibilities to clients, to the legal system and to the lawyer's own interest in remaining an upright ethical person while earning a satisfactory living. The Rules of Professional Conduct often prescribe terms for resolving such conflicts. Within the framework of these Rules, however, many difficult issues of professional discretion can arise. Such issues must be resolved through the exercise of sensitive professional and moral judgment guided by the basic principles underlying the Rules. ...

The First Principle: Perseverance

- Law firm leaders we juggle myriad responsibilities, often practice and management.
- Easy to focus solely on the bottom line and overlook relationships, planning for succession.
- Pushing forward without giving up despite unforeseen challenges.



Case Studies: Perseverance

- Firm IP practice partner announces departure, but IP associate is staying and several clients want the Firm to continue to handle their IP work.
- Firm moves into new office space, informs clients, contacts and courts of new address and order stationery, business cards. Two months later, the landlord starts renovations that force the firm to relocate due to noise. Highly disruptive to firm and its practice. Several lawyers fall behind on client work due to the disruption.
- Law firm manager is juggling many challenges during the unexpected pandemic closures and multiple client emails are not read or responded to for several times creating anxiety and frustration among clients.

Rule 1.1 Competence

- A lawyer shall provide competent representation to a client. Competent representation requires the legal knowledge, skill, thoroughness and preparation reasonably necessary for the representation.

Comments on Legal Knowledge and Skill

- Requisite knowledge and skill, feasibility of referral
- May not need special training
- Emergency – may give advice in area in which lawyer does not have skill ordinarily required where referral or consultation or association with another lawyer would be impracticable.

Rule 1.3 Diligence

A lawyer shall act with reasonable diligence and promptness in representing a client.

- Comments:

- [1] Pursue a matter despite “opposition, obstruction or personal inconvenience”
- [2] Workload controlled “each matter handled competently”
- [3] Unreasonably delay leads to client anxiety and loss of confidence in counsel
- [4] Must be clear when relationship is terminated
- [5] Death or disability – may require sole practitioners have a plan for a competent designee; prudent to have that regardless of size of firm

Rule 1.4 Communications

(a) A lawyer shall:

(1) **promptly inform the client** of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;

(2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;

(3) keep the client **reasonably informed** about the status of the matter;

(4) **promptly comply with reasonable requests for information**; and

(5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law.

Comment [4]: If prompt response not feasible, lawyer or staff acknowledge receipt and specify when response can be expected.

The Second Principle: Entrepreneurship

- Creativity allow us to expand our substantive practice areas to broader, more robust scope and to implement innovative protocols to handle matters more efficiently and economically
- Failing to take risks and adapt nimbly can result in being left behind
- Anticipate opportunities, which distinguishes you from those who follow the pack rather than trail blaze new paths



Photo by Brooke Lark on Unsplash

Case Studies: Entrepreneurship

- Firm is feeling increasing competition to attract more clients and generate more revenue. In its zest for new business, the firm adds fabricated testimonials and representative matters to its website and promotional materials.
- Firm offers referral fees to accountants if they refer clients to the firm.
- Some of the firm lawyers hold themselves as specialists in a specific area that usually requires additional credentials that they do not actually have.
- Firm partner leaves practice after being appointed to a judgeship. Former colleagues seek to be appointed as paid discovery master.

Rule 7.1 Communications Concerning a Lawyer's Services

A lawyer shall not make a false or misleading communication about the lawyer or the lawyer's services. A communication is false or misleading if it contains a material misrepresentation of fact or law, or omits a fact necessary to make the statement considered as a whole not materially misleading.

Comments

- [1] This Rule governs all communications about a lawyer's services, including advertising. Whatever means are used to make known a lawyer's services, statements about them must be truthful.
- [2] Misleading truthful statements are prohibited by this Rule. A truthful statement is misleading if it omits a fact necessary to make the lawyer's communication considered as a whole not materially misleading.

Rule 7.2 Communications Concerning a Lawyer's Services: Specific Rules

- (a) A lawyer may communicate information regarding the lawyer's services through any media.
- (b) [omitted]
- (c) A lawyer shall not state or imply that a lawyer is certified as a specialist in a particular field of law, unless:
 - (1) the lawyer has been certified as a specialist by an organization that has been approved by an appropriate authority of the state or the District of Columbia or a U.S. Territory or that has been accredited by the American Bar Association; and
 - (2) the name of the certifying organization is clearly identified in the communication.
- (d) Any communication made under this Rule must include the name and contact information of at least one lawyer or law firm responsible for its content.

Comment [8]: A lawyer also may agree to refer clients to another lawyer or a nonlawyer professional, in return for the undertaking of that person to refer clients or customers to the lawyer. Such reciprocal referral arrangements must not interfere with the lawyer's professional judgment as to making referrals or as to providing substantive legal services.

Rule 7.3 Solicitation of Clients

(a) “Solicitation” or “solicit” denotes a communication initiated by or on behalf of a lawyer or law firm that is directed to a specific person the lawyer knows or reasonably should know needs legal services in a particular matter and that offers to provide, or reasonably can be understood as offering to provide, legal services for that matter.

(b) A lawyer shall not solicit professional employment by live person-to-person contact when a significant motive for the lawyer’s doing so is the lawyer’s or law firm’s pecuniary gain, unless the contact is with a:

- (1) lawyer;
- (2) person who has a family, close personal, or prior business or professional relationship with the lawyer or law firm; or
- (3) person who routinely uses for business purposes the type of legal services offered by the lawyer.

(c) A lawyer shall not solicit professional employment even when not otherwise prohibited by paragraph (b), if:

- (1) the target of the solicitation has made known to the lawyer a desire not to be solicited by the lawyer; or
- (2) the solicitation involves coercion, duress or harassment.

(d) omitted.

(e) omitted.

Comments

[1] Paragraph (b) prohibits a lawyer from soliciting professional employment by live person-to-person contact when a significant motive for the lawyer’s doing so is the lawyer’s or the law firm’s pecuniary gain. ... [2] “Live person-to-person contact” means in-person, face-to-face, live telephone and other real-time visual or auditory person-to-person communications where the person is subject to a direct personal encounter without time for reflection.

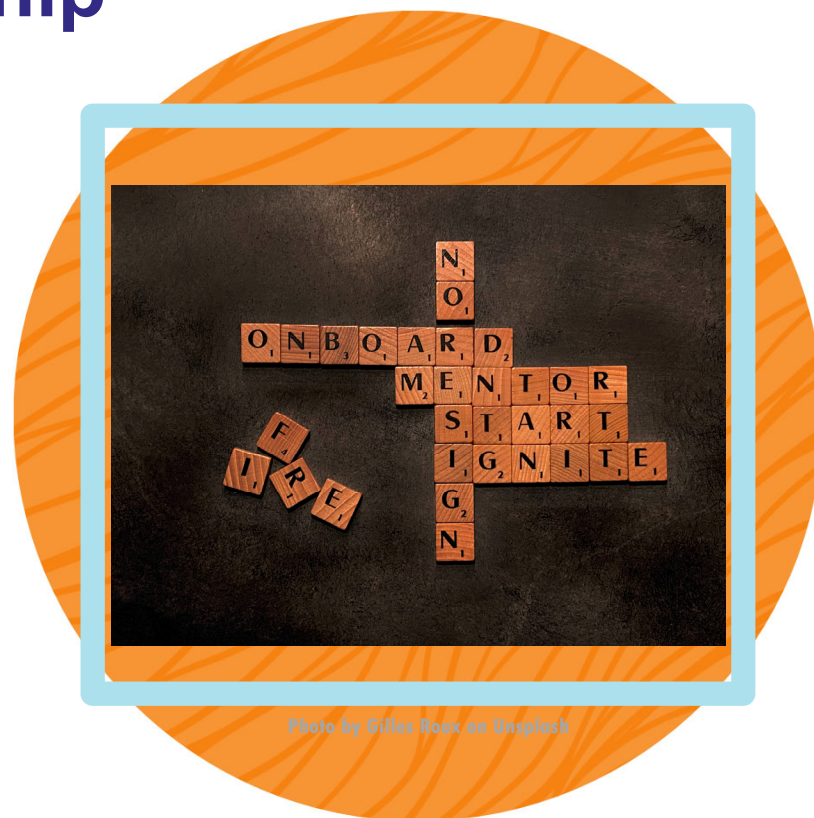
Rule 7.6 Political Contributions to Obtain Legal Engagements or Appointments by Judges

A lawyer or law firm shall not accept a government legal engagement or an appointment by a judge if the lawyer or law firm makes a political contribution or solicits political contributions for the purpose of obtaining or being considered for that type of legal engagement or appointment.

Comment [6]: If a lawyer makes or solicits a political contribution under circumstances that constitute bribery or another crime, Rule 8.4(b) is implicated.

The Third Principle: Mentorship

- As leaders in the legal profession, it is hard to find time to take others under your wing, whether they are part of your team or outside
- Mentors often have as much to learn from their protégés as the reverse
- Always lead by example, provide guidance to many seeking to advance in the legal and business fields
- Mentorship is NOT a one way street



Case Studies: Mentorship

- Why is reciprocity important to both the mentor and the protégé?
- What can senior lawyers learn from junior colleagues?
- Lawyers at every level can benefit from:
 - Mentors
 - People who provide information, insights, and opportunities to help you advance your career
 - Sponsors
 - People who use their influence to help you advance your career
 - People who advocate on your behalf, support and defend you and open doors for you

Rule 5.1 Responsibilities of a Partner or a Supervisory Lawyer

Comments

[3] Measures may depend on the size of the firm and the experience of the lawyers.

[5] Direct/indirect responsibility depends on whether in charge of the matter.

[8] Each lawyer has personal duty to comply with the Rules.

- (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.
- (b) A lawyer having **direct supervisory authority** over another lawyer shall make **reasonable efforts to ensure** that the **other lawyer conforms to the Rules of Professional Conduct**.
- (c) A lawyer shall be **responsible for another lawyer's violation** of the Rules of Professional Conduct if:
 - (1) the lawyer **orders or, with knowledge of the specific conduct, ratifies** the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the other lawyer practices, or has direct supervisory authority over the other lawyer, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Rule 5.2 Responsibility of a Subordinate Lawyer

- (a) A lawyer is bound by the Rules of Professional Conduct notwithstanding that the lawyer acts at the direction of another person.
- (b) A subordinate lawyer does not violate the Rules of Professional Conduct if that lawyer acts in accordance with a supervisory lawyer's reasonable resolution of an arguable question of professional duty.

Following guidance of superior does *not* relieve junior lawyer of responsibility if subordinate knows the conduct is a violation.

Rule 5.3 Responsibilities Regarding NonLawyer Assistance

We must adapt our “reasonable efforts” to the circumstances, especially when team is working remotely.

With respect to a nonlawyer employed or retained by or associated with a lawyer:

- (a) a partner 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 the **person's conduct is compatible with the professional obligations** of the lawyer.
- (b) a lawyer having **direct supervisory authority** over the nonlawyer shall make **reasonable efforts** to ensure that the person's conduct is compatible with the professional obligations of the lawyer; and
- (c) a lawyer shall be responsible for conduct of such a person that would be a violation of the Rules of Professional Conduct if engaged in by a lawyer if:
 - (1) the lawyer orders or, with the knowledge of the specific conduct, ratifies the conduct involved; or
 - (2) the lawyer is a partner or has comparable managerial authority in the law firm in which the person is employed, or has direct supervisory authority over the person, and knows of the conduct at a time when its consequences can be avoided or mitigated but fails to take reasonable remedial action.

Rule 5.5 Unauthorized Practice of Law; Multijurisdictional Practice of Law

- Comments:

- ***Law Firms And Associations***

[1] A lawyer may practice law only in a jurisdiction in which the lawyer is authorized to practice. A lawyer may be admitted to practice law in a jurisdiction on a regular basis or may be authorized by court rule or order or by law to practice for a limited purpose or on a restricted basis. Paragraph (a) applies to unauthorized practice of law by a lawyer, whether through the lawyer's direct action or by the lawyer assisting another person. For example, a lawyer may not assist a person in practicing law in violation of the rules governing professional conduct in that person's jurisdiction.

- [2] The definition of the practice of law is established by law and varies from one jurisdiction to another. Whatever the definition, limiting the practice of law to members of the bar protects the public against rendition of legal services by unqualified persons. This Rule does not prohibit a lawyer from employing the services of paraprofessionals and delegating functions to them, so long as the lawyer supervises the delegated work and retains responsibility for their work. See Rule 5.3.

- [3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of the law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed pro se.

(a) A lawyer shall not practice law in a jurisdiction in violation of the regulation of the legal profession in that jurisdiction, or assist another in doing so.

The Fourth Principle: Belongingness

- Belongingness is the state or feeling of belonging to a particular group.
- Build a diverse team where each member is encouraged to reach their full potential
- Nurture newcomers by sponsoring them for leadership positions in professional and civic organizations where their talents can shine through and enhance their reputation and stature in the broader community
- Inspire others



Photo by Tim Mossholder on Unsplash



Case Study: Belongingness

- Litigation Department chair routinely goes to lunch with a limited number of associates where they dole out best assignments and other associates feel excluded.
- Office managing partner hosts a dinner party at their home for select lawyers in the office, and the only racially diverse associate is not invited.

Diversity, Inclusion, Elimination of Bias & More

Allyship is a lifelong process of building relationships based on trust, consistency, and accountability with marginalized individuals and/or groups of people.

- Diversity is simply a numbers game – anyone can hire diverse talent to increase their diversity statistics.
- Inclusion is getting invited to sit at the table where belongingness eliminates the feelings of being isolated and disrespected.
- Note: equality and equity are *not* the same thing.
- Everyone has bias – the goal is to recognize it and take the steps to consciously and authentically eliminate it.

Ethical Duties Under ABA Model Rule 8.4(g)

It is professional misconduct for a lawyer to:

(g) engage in conduct that the lawyer **knows or reasonably should know** is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status or socioeconomic status **in conduct related to the practice of law**. This paragraph does not limit the ability of a lawyer to accept, decline or withdraw from a representation in accordance with Rule 1.16. This paragraph does not preclude legitimate advice or advocacy consistent with these Rules.

Comment [3] Discrimination and harassment by lawyers in violation of paragraph (g) undermine confidence in the legal profession and the legal system. Such discrimination includes harmful verbal or physical conduct that manifests bias or prejudice towards others. Harassment includes sexual harassment and derogatory or demeaning verbal or physical conduct. Sexual harassment includes unwelcome sexual advances, requests for sexual favors, and other unwelcome verbal or physical conduct of a sexual nature. The substantive law of antidiscrimination and anti-harassment statutes and case law may guide application of paragraph (g).

PRACTICE POINTERS



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Practice Pointers for Success

- Even in challenging times, lawyers and law firm leaders are required to abide by the ethical rules. Continue to keep up with your deadlines and keep clients informed
- Private practice is a business, but typical business marketing must be done without overselling, exaggerating or improperly pursuing clients. Make sure your outreach is accurate and not overbearing.
- Lawyers and legal professionals at all levels are expected to follow the rules, but those in positions of authority or supervision are not only responsible for themselves. Even when working remotely, make sure you are monitoring what your team is doing.
- Be sensitive to how your words and actions may be perceived by others on your team. Maintaining a culture that is free of bias and is genuinely inclusive reduces risk of discrimination claims, enhances client service, and furthers the administration of justice.

**QUESTIONS
&
CONTACT
INFO**

Fran Griesing, Esq.
215.618.3721
fgriesing@griesinglaw.com

Jessica Mazzeo, Esq.
215.732.3922
jmazzeo@griesinglaw.com

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