

Published in "*The Young Lawyer*," October, 2003.

The Emerging Role of Counsel

By Susan G. Manch

Developing lawyers in firms are confused about the impact the title "Counsel" may have on their careers. In the olden days of law firm life, there were partners and associates.

All partners were shareholders and all associates were aspiring partners. You might have found a small number of very senior attorneys holding the title, "Of Counsel," but they were generally *partners emeritus*, semi-retired from active duty. Today you will still find equity partners, associates, and Of Counsel in the traditional meanings of those titles, but you may also find Senior Counsel, Counsel, Senior Associates, and Staff Attorneys whose roles (and career paths) are not so easily defined.

Should I Want This Position?

If you're seeking a long-term career in private practice you'll want to understand these relatively new layers within the strata of law firm hierarchy.

"Counsel" titles present a murky picture —sometimes purposely so. Firms developed these positions to address the needs of increasingly experienced associate populations left over from the economic downturn of the late 1980's and early 1990's. Fewer partner slots were available in an uncertain economy, but the heavy hiring of the "go-go" 80's had left them with large classes of maturing associates. These were productive, and more importantly profitable, attorneys and firms needed to find a way to make them feel as though their hard work was rewarded without making them partners. Eight to ten year partner tracks had become the norm, but bestowing the Counsel title offered the carrot of

an elevation in title and prestige within the firm. The problem is that every firm classifies the career potential of the position differently and it's hard to know if the position is a stepping stone or terminal.

It is possible to ferret out the potential of this position in firms, but you have to do a bit of homework. You need to know who becomes Counsel in your firm (or in the firm you would like to join), and you need to do some sleuthing. Descriptions of Counsel roles and career potential in firms follow:

1. Counsel can be a stepping stone to equity partnership, awarded to associates who are considered top flight lawyers capable of building the requisite client base to merit shareholder status one day. The title is meant to help them begin to build business and gain the confidence of clients. Generally, firms who have adopted this approach are very open about it because it is both positive and clear cut. Your homework is as simple as seeing how many Counsel become partners each year and noting whether any associates make it to partner without having to go through the Counsel stage. If it is legitimate (meaning no one gets promoted without being Counsel) it is a great title if you truly long for partnership. It will carry weight inside and outside the firm.
2. Counsel can also be a way-station of a different sort. It can be a title reserved for those working reduced schedules, associates self-selecting to abandon the "partner track," or senior attorneys coming to firm from public service or corporations who have no business. Attorneys awarded this title may yet have the opportunity to become partners, but they will have to substantially change some aspect of their work schedule or revenue production. It is fairly simple to determine if this is a firm's approach if you are working

for the firm as you will know who these individuals are and can tell whether they fit these descriptions. If you don't want to make a run for partner—now or ever—this is a good position for you, and if you do you can take time away from the track when you need to, retaining the option to jump back in, when and if you are ready.

3. Counsel can also be a title awarded to senior associates to set them apart from those more junior and to acknowledge supervisory and project management responsibilities. In this case, Counsel are not necessarily all partner material. Rather, the title is meant to signify seniority and buttress authority with peers. The title might be automatically awarded to those with five years experience or more, which can be researched through the firm attorney biographies. Under these conditions, the title doesn't help you rise above the pack. It generally means there are a lot more Counsel with whom you are competing and while the title is nice, it will not result in partnership without a lot of additional hard work. You will have to make certain partners in your practice area are aware of your career aspirations.

4. Just to make it as difficult as possible, some firms award Counsel titles to those who fit in all of the three preceding categories, evidenced by the fact that you cannot find one label that fits for all those who carry the title. To make the title work for you under these conditions you have to have a strategic career plan.. If you aspire to partnership, you'll need to identify the attributes of those who are promoted and emulate them.

So Do I Want it or Don't I?

Definitions aside, the Counsel role is becoming more accepted and respected in the law firm world. As firms become savvier about profitability, the contributions of senior non-

partners clearly emerge as critical to a firm's financial well-being. And as long as the role makes sense in financial terms, it will have strength and power in the firm hierarchy. If you have a choice between Counsel at your firm and partnership elsewhere, the Counsel title is only the best choice in the most prestigious of firms. Under most other conditions, a promotion to Counsel should improve your standing in your own firm, and add value to your resume if you seek greener pastures.

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