



109:Attorney Management Workshop

Gregory M. Allard
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Edward A. Morris
Vice President, Claims Litigation
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Faculty Biographies

Gregory M. Allard

Gregory M. Allard is vice president and general attorney of the Liberty Mutual Group in Boston, which has the fourth largest legal department in the United States. Mr. Allard has national responsibility for Liberty's 72 in-house law offices, staffed by 725 attorneys and 1600 total employees, who represent the company and its policyholders in litigation throughout the United States.

Mr. Allard is past national chair of ACC's Insurance Staff Counsel Committee, where he continues to serve as a member of the executive board.

He is also a member of the ABA, the New York State Bar Association, the Defense Research Institute, and the International Association of Defense Counsel. He has presented on numerous occasions for ACC, the ABA, and the Minority Corporate Counsel Association.


He received a BA from Seton Hall University, an MA from the University of Leicester in England, and is a graduate of the St. John's University School of Law.

Edward A. Morris

Edward A. Morris is vice president-claims litigation at Farmers Insurance Group of Companies. Mr. Morris became associated with Farmers as an attorney in the corporate law department. In 1981 he undertook a special version of Farmers' executive training program during which he worked as an agent, division agency manager, claims representative, branch claims supervisor, and branch claims manager in the Los Angeles and Simi regional offices. He later became special assistant to the president of Truck Underwriters Association. He was then appointed director-commercial claims, and elected vice president-administration. More recently, he became vice president-health care professional liability.

Mr. Morris is a member of the State Bar of California, Society of CPCU, ABA, Defense Research Institute, the executive committee of ACC's Insurance Staff Counsel Committee, Federation of Insurance & Corporate Counsel, International Association of Defense Counsel, Pacific Claims Executives Association, Insurers Technology Litigation Roundtable, and the board of directors of the Complex Insurance Claims Litigation Association.

Mr. Morris received a BA, cum laude, from Loyola University in Los Angeles and his JD from Southwestern University School of Law. He earned the Chartered Property and Casualty Underwriter (CPCU), Associate in Claims (AIC), and Graduate in Claims Administration (GCA) designations.




**Attorney Management
Workshop: Session 109**

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Management Succession

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A team, office or group which you supervise has enjoyed a stable, successful existence; it has been managed by a strong, long-term manager. The office also has several senior attorneys who have been with the office for a number of years. Morale is good, and the clients are happy with the office's work.

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The manager announces his resignation to pursue other interests. Two of the senior attorneys submit a written request to be considered for the position. You are not convinced, based on your initial review, that they have the attributes to manage the office. You know that they are well-liked and regarded by both the employees of the office, and by the office's clients, and that if one of them is not offered the position, the morale and work product of the office will be severely affected, and clients will be impacted.

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- How do you handle this situation?
- What specific steps do you take to minimize the disruption to the office and its work, while making the best management choice?

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After careful consideration, you decide to offer the position to one of the internal candidates.

- What are the challenges to such a move?
- What specific advice will you give to your new manager to help her with the transition?

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Managing Employee Turnover

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You have just taken over an office which has had unusually high turnover of both attorney and clerical staff. A review of the exit interviews does not provide any information to help you understand the problem. A little investigation reveals that you have an attorney position that services a particular court that is not pleasant and therefore hard to keep filled; that your company does not pay the same wages as an outside firm (although you do offer profit sharing, company cars, etc.) and the office manager has a tendency to micro manage.

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- What steps can you take to keep the position filled?
- How will you deal with the loss of employees to higher paying firms?
- How will you handle the micro manager?
- What are the leading causes of high employee turnover?
- What measures can you put into place to help prevent it?

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Performance Management

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Your team leader sends you an e-mail note saying that the performance of one of his paralegals has been consistently poor for the past 18 months: she is not focusing on her work, it is sloppy, she misses deadlines, and her writing skills are weak. The manager's note to you is sent from an off-site location. He recommends that the paralegal be immediately terminated. Since he is not at your location, he is pressing you for an immediate response by e-mail, giving written authority to proceed with termination.

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- What other facts do you need to know?
- How many performance problems do you have?
- How do you deal with each of them?
- ***What are the three most important elements in managing the performance of your attorneys and staff?***

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Behavior Management

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As to each of the examples, outline your approach for dealing with the situation.

You receive a telephone call from someone in another department of your organization telling you that one of your attorneys uses inappropriate language in the course of his business communications with them and others.

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A long term employee, always a steady, reliable performer, has been coming in late and has missed two appearances over the past six months. You have heard rumors of marital problems and suspect that he may have a substance abuse problem. However, you have never smelled any alcohol or seen any physical signs of drug use while he is at work.

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You receive an anonymous letter telling you that one of your attorneys is doing business outside of the office. She appears to be a practicing divorce attorney, making appearances on company time. You call her in to discuss and she tells you that she is doing a little pro bono work to help out women who cannot afford to get out of a bad marriage. Although your company has a pro bono program allowed only via a select list of Legal Services focused on aiding low income, homeless and battered women, it also has a "no outside business rule".

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A secretary reports to you that she works directly outside an attorney's office so she can hear him and another attorney talking about non-work related matters throughout the day. She does not know how they can get their work done and is resentful that she has to work and they can sit around all day and talk. Several days later she tells you that they are gossiping and discussing matters that she is uncomfortable hearing.

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Office Relationships

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One of the best and most valuable trial attorneys in your office comes to you stating that his secretary has to be fired. He tells you that she has violated their relationship of trust by telling his wife that he is having an affair with someone outside of the office. (The attorney's wife and the secretary are on the same committee at their church.) He tells you that he can no longer work with her and she cannot be trusted to work with anyone else in the office. The secretary is hard working and has no performance issues. He tells you: "It is her or me".

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- What other facts do you need to know before dealing with this situation?
- If you decide to proceed with an internal inquiry, what form does that take?
- Whom do you speak with?
- What are your management options?

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You have just taken over managing an office that was previously managed by another attorney in your company, who has taken a higher level position with the same company. You learn that one of the secretaries in the office is involved in an affair with a prominent attorney who is opposing counsel on a number of cases with your office, some of which have been settled over the last year or two.

You learn that the secretary revealed the relationship before she was hired by your predecessor.

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Your corporate policy does not specifically prohibit this type of relationship.

- Who is the first person you speak with?
- What questions do you ask?
- What ethical steps, if any, do you need to consider?
- What, if anything, do you disclose to your corporate clients?
- Regardless of your corporate guidelines, ***what are the key management rules for dealing with office relationships?***

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Morale, Morale, Morale

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Your office has been functioning well, obtaining good results and has been well rated. It comes as a surprise to you when your administrative manager asks for a meeting with you. She informs you that morale in the office is extremely poor and that she is afraid that people will soon start to resign and the work product will suffer.

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- What steps do you take, as a manager, to uncover what is causing the specific morale problem in your office?

- If morale in your office is strong, what steps can you take to make certain it remains that way?

- What are the *leading causes* of poor morale?

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The Managerial Trap

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A senior legal secretary asks to see you privately. She says that she has been bothered by a series of events in the office over several months, which she describes as “sexual harassment”. She has agonized over whether to bring this to your attention. Yesterday another event occurred which was the final straw. She is ready to speak with you, but under the circumstances she has to “insist that your conversation be kept entirely confidential”, because she is concerned about being labeled a “rat-fink” complainer, and does not want to deal with the negative repercussions which will undoubtedly arise.

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She states that if you cannot guarantee her confidentiality, she will not discuss the matter with you.

- What do you say to her?
- How do you handle this situation?
- What do you do if she refuses to talk with you?

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Workload Management

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The attorneys in your office are expected to have a caseload of 65-70 files. An attorney comes into your office with a cart containing 15 files. She tells you that she can no longer handle these files as her caseload is too high and she would be committing malpractice if forced to continue handling all of the files assigned to her. You undertake a review of the workload of each of the attorneys in the office and determine that one attorney shows 65 files on his list, but 10 of them should have been closed some time ago as they have been resolved.

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- How do you handle the first attorney?
- Specifically, how do you handle her comments and concerns about potential malpractice?
- What do you do about the second attorney?

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In the course of reviewing files in the office you come across a file that contains a response to an OSC for sanctions for failing to attend a status conference that the attorney has prepared and filed, without the use of her secretary or text processor. The response informs the court that the attorney was unable to make the appearance because she is overworked and does not have a capable secretary to properly calendar appearances. This is the first you have heard of any complaint or of any sanctions.

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- What approach do you take in dealing with this problem?
- What are the most important elements of managing the workload of a professional services group?

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Work Ethic Management

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It has come to your attention that one of your attorneys is rarely in the office. A check of the calendar reveals that she has many out of the office appointments, including meetings with internal and external clients, depositions, court appearances and site visits. You ask her secretary to call the office where she is covering a deposition and learn that she is not there. The secretary indicates there are other calendared events taking the attorney out of the office, which the secretary questions as legitimate.

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- What other avenues of inquiry would you make?
- What other facts would help you?
- What measures could you put into place which would help you manage these issues?

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A review of the weekly expense reports reveals that an attorney is consistently seeking to be reimbursed for parking expenses at a parking garage for which she has no receipts, something that is not common to any other attorney in your office. You check the calendar and see that there was no appearance on calendar for many of the days that she is claiming expense reimbursement.

- What do you need to know before you speak with her?

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Managing Key Skills

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There is a senior attorney in your office who consistently obtains outstanding results at trials, arbitrations and in mediations for the company. However, the internal client informs you that he does not return phone calls and never updates them with status reports. The attorney's response is that he "wasn't hired" for that; "he was hired to handle litigation, and it is on that basis that he should be judged."

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- How do you manage this situation?
- More importantly, *what steps can you take to prevent or minimize this situation from arising in your office(s)?*

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The Misrepresented Credentials

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You hire a paralegal based on her representation that she has a paralegal certificate from a well-respected school. Even though your corporate policy requires you to verify her credentials prior to hiring, for some reason that was not done. She is working out very well, the clients and staff like her, she writes winning motions and conducts thorough research. You later learn that she does not have a paralegal certificate at all. All other paralegals hired by your department have a certificate.

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- Should you terminate her?
- What other issues does this require you to deal with?

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Diversity Management

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You are looking to hire an attorney and have had many responses to your ad. The candidates come in for interviews and they are all experienced and capable but one stands out as exceptional. The issue is that the exceptional candidate has a hairstyle that is not traditional or commonplace in your community and you have concerns that your clients, and/or a jury may not react favorably to the attorney's style.

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- What is the first thing you need to review?
- Can/should you discuss this with the potential hire?

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For years your office has had a small statue that is passed from attorney to attorney recognizing a good trial result. You have a new attorney who sees it and is offended because he feels that it is ethnically/culturally inappropriate. No one else can see or understand what the problem is and they object to having to replace the longstanding award.

- What do you do about the statue, without affecting the smooth operations of the entire office?

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You are faced with a reduction in the number of matters being referred to your office and this requires a reduction in staff. You matrix the employees, comparing their performance based on specific, corporate approved criteria, and identify the three lowest performers to be laid off. All three are diverse employees, in an office where the remaining employees will be non-diverse.

- What do you do?

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Insurance Staff Counsel Specific Issues

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You are monitoring the trial of one of your attorneys and getting favorable daily reports. You get a phone call from the trial attorney telling you that the jury has come in with a verdict well in excess of the policy limits.

- You learn that the case could have been settled prior to trial at or under the policy limits.
- You hear that the attorney made a grave error during the trial.
- The attorney gets a great result, coming in far below the amount demanded or offered. This is expected of each attorney but you think that this result is remarkable and you think maybe he is deserving of some sort of bonus.

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One of your staff attorneys is representing a policyholder in a litigated matter for their insurance carrier employer. By e-mail, he forwards you a note from the Claims Department of the carrier which indicates that they have plans to settle the case, and “counsel should take no further action on the file.” Counsel states that the case, with or without discovery, will be ready for for trial in 6 months, and that there is a serious question as to whether the plaintiff’s injuries are causally related to the underlying accident.

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Counsel states that at the least it would be appropriate to conduct an independent medical exam (IME) of the plaintiff, and fears this may be waived if it is delayed. Counsel ends his note to you with this statement: “At this point I feel that the Claims people are interfering with the my independent professional judgment.”

- What management steps do you take to to handle the immediate issue of the case, and of the IME?
- How do you handle the ethical issue raised by counsel?

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