

THE AMERICAN LAWYER

SEPTEMBER 2009

www.americanlawyer.com

An incisivemedia publication

MANAGEMENT

By Ronit Dinovitzer
and Bryant Garth

Not That Into You

Why are associates so unhappy? The answer may lie not in the nature of their jobs, but in the associates themselves.

The current economic crisis threatens many leading corporate law firms. Layoffs are legion, profits are down, and new hiring is limited. What that situation obscures, however, is that there may be deeper problems, not just for particular law firms, but for the entire

structural model that sustains law firm recruitment and profitability.

The model depends on a tournament-style process: A large pool of well-credentialed associates start their careers in large law firms, work hard, and compete for a relatively small number of partnership positions. But the model also depends on the lure of the large corporate law firm. The lucrative salary, the prestige, and the doors the jobs are said to open all culminate in a yearly battle to obtain jobs at big firms.

Recently, cracks have appeared in that model. More and more, associates at large firms report that they are willing to trade their high salaries for fewer hours, pursuit of a better work/life balance, or what they see as better training and experience elsewhere. (For results of *The American Lawyer's* most recent midlevel job satisfaction survey, see americanlawyer.com/associates.)

Along with a team of scholars, we have been tracking the careers of a nationally representative sample of 5,000 lawyers who began practice in 2000. The study, which is based at the American Bar Foundation, is called After the JD (AJD). While the lawyers in this study work in a range of practice settings and sectors, we find that new lawyers working for firms of more than 250 lawyers are less satisfied with their jobs than their counterparts in smaller firms.

Two things puzzled us about this finding. First, it's not so clear why lawyers at large firms are dissatisfied. After all, they are earning generous sala-

ries and are generally on the fast track. Second, the big firms could make changes, such as lowering the billing requirements, so that their attorneys are not so miserable, but do not.

The AJD study sheds light on these questions. The data shows that there is a specific pattern to the dissatisfaction among young associates at large firms: It varies by law school attended. Graduates of the most selective schools are the least satisfied with their jobs at large firms, while graduates of less selective schools are relatively more satisfied. Among AJD respondents working at firms of more than 100 lawyers, only 26 percent of graduates of *U.S. News & World Report's* top ten law schools report extreme satisfaction with their decision to become a lawyer, compared to almost half (49 percent) of graduates from fourth-tier law schools. Similarly, 59 percent of top-ten law school graduates expressed the intention to leave their employer within two years, compared to just over a quarter of fourth-tier law school graduates.

So the looming predicament among young associates in large corporate law firms appears to be limited to those students graduating from the nation's most selective law schools. The irony is that this is precisely the demographic that big law firms typically vie to attract. Firms flock to the campuses of elite law schools in order to recruit these students, often bypassing lower-tier schools. The AJD data shows that after graduation, about two-thirds of top-ten law graduates were working in firms of over 100 lawyers, compared to 11 percent of third-

tier graduates, and 7 percent of fourth-tier graduates.

Why are elite law graduates dissatisfied with these jobs? Part of the answer is that graduates of elite law schools are groomed to expect success. As Robert Granfield found in his 1992 study of Harvard law students, this group of law students is inculcated with a sense of mutual eliteness that he called “collective eminence.” The AJD data shows that graduates of elite law schools come to the job market with different career expectations than graduates of

There is a specific pattern to the dissatisfaction among young associates at large firms—it varies by law school attended.

nonelite schools. Among other things, they are more likely to have considered careers in business consulting or investment banking. Thus it may be that the lucrative salaries offered by the large law firms are no consolation for the hours that they have to work. They know they have other options, and they have friends who are getting even richer with those other options.

Hard times for the investment banking industry may reduce the salary and bonus envy of elite law graduates, especially if unemployment is higher in the banking sector than the legal sector, but that won't solve the problem. This group of law graduates looks at its time in a large law firm as an apprenticeship for other options in law, business, or government. Interviews with lawyers in this group reveal that they do not want to work the long hours generally required at law firms, and they especially do not want to put in those hours patiently for ten years to compete for the partnership prize. They believe they can more quickly accumulate experience, contacts, and stature in other positions, and given the lives of the partners they observe, they do not think that partnership is much of a prize.

To these lawyers, the fast track means starting in a large law firm, but quickly moving on to a U.S. attorney's office, investment banking job, or in-house work. The attitude is partly generational, but it is also attitudinal: This is a relatively privileged group that expects to do well in life. For them, the corporate law firm apprenticeship is something to put on the resume and move on.

Students from less selective schools have a different disposition. They know they had to work harder simply to attain these positions, and they realize that their options are more limited. As elite students were considering consulting and investment banking as options, for example, lawyers from fourth-tier schools reported they considered starting their own businesses as an alternative career. While about three-quarters of top-ten school graduates received two or more job offers, only 40 percent of fourth-tier students received more than one offer.

Thus, for a segment of students from the lower echelons of the law school hierarchy, the large corporate law firm job is a coveted reward for hard work and is not to be squandered. These students did not simply graduate from lower-tier law schools; the AJD data show that they are also more likely to have come from families that were less economically privileged than those of the elite law graduates. (The median debt reported by graduates of third- and fourth-tier law schools, however, was only marginally lower than the debt load of graduates from the generally more expensive elite schools.) When

these less-privileged students become associates at large firms, therefore, it is not merely a job with a lucrative salary and prestige; it is an entree into a world from which they had been excluded.

Most of these graduates from lower-tier schools will in fact leave the firms well before the partnership tournament begins in earnest. They too will use the resume value of the large corporate law firm. The difference is that this group starts with the notion that partnership is a status that they would like to be in a position to acquire. They hunger for a position that most of the elite graduates conclude at the outset is not worth the time and effort.

There will of course be exceptions. But the pattern that has emerged is of high attrition that comes disproportionately from the graduates of elite schools. This has serious implications for efforts to diversify law firm partnerships. Firms have long known that attrition tends to take minorities and women off the partnership track. They have made some small changes in their practices to try to stem these losses, but with little success; the basic model remains intact. Meanwhile, the challenge posed by elite graduates is more fundamental: The one group that has long been the staple of large law firm partnership ranks—elite white males—may no longer be interested in doing what it takes to get such positions.

Why worry about all of this during a recession, a time when firms are laying off associates and concentrating on simply paying the bills? An economic crisis is the best time to rethink models and approaches. The general restructuring that takes place in a changing economic landscape creates room for organizational innovation. We therefore offer some lessons from our findings.

The obvious point is to hire more law graduates from outside the elite law schools. Because of their backgrounds, they will be hungrier and more willing to make the sacrifices necessary to gain access to partnership. Firms whose identities are tied to elite schools will have some difficulty investing in this strategy, but even they should recognize that it gives them access to committed associates who are eager to work, along with lower costs because of decreased attrition.

Some may wonder about client reaction. Certainly some clients shop for law firms with elite credentials, but others look for a particular star within a firm or for an established brand name. In any event, most large firms have for some time been hiring relatively small numbers of graduates from less elite law schools. Increasing that number is not likely to have a major impact on the legal services market.

More fundamentally, law firms may have to rethink the structure that depends on making life relatively miserable for all associates. The current structure has three advantages. One is that it creates attrition without any need for the firm to act. Most lawyers will leave “voluntarily,” and only a few will have to be evaluated for partnership. Second, it keeps a large pool of law graduates coming to the firm because of the pay and the perceived prestige of the experience. Third, the long hours that the associates work feed profits.

A bold solution would be to radically improve the lifestyle of associates, encourage them to stay, and cope with the potential lower attrition by better mentorship and evaluation processes. But who pays for this? It would require firms to both reduce associate hours and increase the resources they devote to associate well-being.

Therefore, an improvement in lifestyle would have to come with

a reduction in associate pay. Partners often note that associates given the choice between high pay and lower pay with a lifestyle option opt for the higher pay. Indeed, AJD respondents from elite schools were more likely to choose salary over lifestyle in their choice of job. They know that prestige and credibility go with money, not with lifestyle.

But if large firms respond to the economic crisis by substantially reducing starting salaries, they will be able to more quickly right themselves financially, hire graduates willing to work for less pay, and perhaps even take a little pressure off partners who face the constant pressure of finding work for associates. If firms lower pay but keep the same misery and engineered attrition for associates, they will get a short-term profit boost. But if lower pay also means a better lifestyle, more instruction and responsibility, and better evaluation, firms can lay the groundwork for success well beyond the end of the current recession.

Our proposal would of course have other ramifications that are not easy to predict. There could be effects on billing rates and numbers of associates hired, for example. We are confident, however, that the overall impact on the lives of associates and partners would be to

counter what legal historian Robert Gordon, writing in 1988 about the initial move to high starting salaries, termed “one of the most antisocial acts of the bar in recent history.”

In short, the AJD data suggests two things. First, law firms are always going to need driven young lawyers who are committed to doing what it takes to make partner. We suggest that they are most likely to find these sorts of lawyers outside the elite law schools. Second, for associate recruitment and the partnership tournament generally, firms will someday have to confront the law firm lifestyle that creates such high attrition for

all lawyers, but especially for women, minorities, and—increasingly—graduates of elite schools. The current economic climate provides an opportunity to turn things around, and to transform a cut in associate pay into a long-term benefit for the legal profession.

The one group that has long been the staple of partnership ranks—elite white males—may no longer be interested.

Ronit Dinovitzer is an assistant professor of sociology at the University of Toronto and a faculty fellow at the American Bar Foundation. Bryant Garth is dean of the Southwestern Law School in Los Angeles. E-mail: ronit.dinovitzer@utoronto.ca; deansoffice@swlaw.edu.

Reprinted with permission from the September 2009 edition of THE AMERICAN LAWYER © 2009 Incisive US Properties, LLC. All rights reserved. Further duplication without permission is prohibited. For information, contact 877-257-3382 or reprints@alm.com. Visit www.almreprints.com. # 001-09-09-04

The American Bar Foundation is the nation’s leading research institute for the empirical study of law. An independent, nonprofit organization for more than fifty years, the ABF has advanced the understanding and improvement of law through research projects of unmatched scale and quality on the most pressing issues facing the legal system in the United States and the world.

For more information on the American Bar Foundation, please visit:

www.americanbarfoundation.org

ABF American Bar Foundation
EXPANDING KNOWLEDGE • ADVANCING JUSTICE