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It Shouldn't Suck to be an Associate at a Law Firm, Part II

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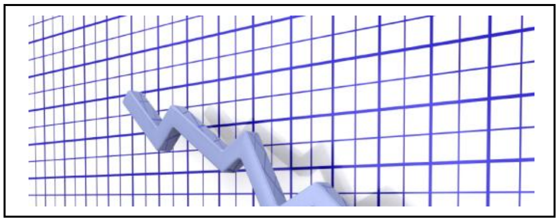
Today's *Wall Street Journal* features a piece entitled "Law Firm Keep Squeezing Associates," which will likely engender some great buzz on the blogosphere serving the law firm associate population and, in all likelihood, a yawn from law firm partners. This article comes on the heels of the second annual extravaganza, attendance for which is appropriately limited to but a few elites, entitled "The Annual Spring Bonuses Follies." In all events, I would suggest that perhaps law firm partners and law firm leadership ought to take a closer at some of the issues raised in the *Journal*.

The *Journal* generally addressed the well worn issue of fewer openings at BigLaw and fewer job prospects for recently graduated law students. Anecdotal evidence suggests hiring is down about 30% (a fact we also have observed as generally true). The *Journal* also mentioned the longer and rockier road to partnership.



But the big takeaway in the piece, a fact well already known to many of us, is that since the crash four years ago, associate compensation has been stagnant, while the average associate has seen an increase in his or her workload by 2.3% since 2007, which the *Journal* calculates to be approximately 50 additional hours a year. The new base "normal" appears to be approximately 1,650 hours a year, which the *Journal* Suggest amounts to about 37.5 hours a week; the *Journal* relies on the besieged NALP for arriving at this conclusion. Yale Law School last year did its own math and concluded that in order to bill 1,850 hours a year, an associate needed to spend at least 55 hours a week in the office, with three weeks of vacation and two weeks of vacation, sick days and holidays. Yale concludes that in order for an associate to bill in the 2,000 a year range, he or she will need to work for about 12 hours a day and three weekend days a month. And that does not accurately include time spent at departmental meetings, firm functions, commuting, serving on administrative committees, recruiting, *pro bono* work, griping about being overworked or otherwise shooting the breeze with colleagues, friends or family. The reality, as we all know, is that an honest time reporter needs to work in the seventy hour a week range.

But let's get back to that additional 50 hours a year squeezed out of associates since the onset of The Great Recession. Roughly translated, at an average of $300 an hour, associates have *each* contributed an extra $150,000 to their respective firm's bottom line, without their firm's incurring any incremental cost. A few firms, in an entirely short sighted fashion, in our opinion, have bestowed "Spring bonuses," generally topped out at $37,000, while the bulk of BigLaw firms have simply enhanced partner profitability.

The fact is that Spring bonuses have a Marie Antoinette quality about them, a sort of

noblesse oblige. As Steve Harper noted, law firms should do better. They do not enhance associate morale nor do they halt associate attrition. The temporal cure to associate attrition has been an abysmal job market. But, for those who are planning on checking out, all that many law firms have done is have associates defer packing their bags until the bonus check clears. Spring bonuses not quite as satisfying as yesterday's passing summer breezes, the recent autumnal foliage or Thanksgiving turkey. The breezes, foliage and turkey will likely return at their respective times and seasons; Spring bonuses, who knows? With law firm revenues rising last year at a sluggish 3% and expenses at 9%, law firms, under pressure to keep PPP at the highest levels and the bulk of AmLaw 100 firms having gotten along just fine without them, this chimera will likely evaporate.

Well then, what's the point? There are two: We all know that associates are law firms' most important profit centers. We also need to be reminded that keeping the young men and women toiling away productively at 60 hours a week, during their decade-long march to the brass ring, optimally requires them to have a high degree of job satisfaction, which has nothing to do with compensation or bonuses. For nearly a century, every study performed by every industrial psychologist and labor economist has consistently reported that when people identify the reasons they leave their jobs, they rate compensation at the very bottom of their lists.

Overwork ranks at about the same. We know how to keep associates satisfied and productive, but we largely continue to ignore long learned basic human resources principles.

So, let's take a look at the extra $150,000 per annum each associate is contributing to law firm revenue streams. Why not engage your associates in a dialogue as to what should be done to improve their lives. Some might suggest an increase in base compensation to help them amortize student loans (and if you hear that don't wince and worry what the neighbors might think), some might suggest rolling the work squeeze and laying off some of those collective additional 50 hours a year on a couple of new associates. After all, if you have 100 associates, you have effectively replaced two associates by having those remaining in the galleon just row harder. Exhausted oarsmen often collapse or jump ship. The golden chains of Spring bonuses won’t keep your associates tied to their oars. In fact, even The Great Recession and the burden of student debt do not necessarily keep them in the ship’s underbelly deprived of sunlight and overworked; one associate recently left his firm to open a bike shop, anther jumped ship to simply walk across the country.

The second point is quite simply, it still shouldn’t suck to be an associate at a law firm.

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