

The Two-Tiered Associate Myth

The creation of permanent associates is about law firms figuring out that not everything they do is mission-critical, and changing their approach accordingly

By Jordan Furlong

Late last month, a *New York Times* article described how two law firms (Orrick and WilmerHale) have created so-called “permanent associate” positions that make much less money (around \$60,000 annually) and have no chance at partnership, but that require far fewer hours and come with no billing pressure.

The *Times* article, and much of the discussion around it, focused on the two-tier associate angle, highlighting the potential morale risks, detailing the benefits to the lawyers who take these jobs, and placing the whole affair in the context of an evolving post-recession workforce. But I think this coverage misses the more important point.

Two-tier associate tracks are nothing new. The “non-equity partner” of the 2000s is simply a shinier name for the same less-regarded position; one firm specifically uses the term “permanent associates.” Firms expect attrition to claim most associates in the first several years of their careers and ask only a handful of associates to stick around all the way to partnership.

The larger point here is that these “permanent associate” positions are not being offered in New York or Boston or San Francisco. They’re in Wheeling, West Virginia (Orrick) and Dayton, Ohio (WilmerHale), offices set up specifically to handle low-value work at much lower costs than the firms previously incurred in major urban centers.

These offices are now booming: Orrick’s Wheeling outpost has grown from 75 people to 350 in the last two years alone. Originally set up as purely back-office locations, these outsourcing centers are now adding

lawyers. The same thing is happening across the Atlantic: Herbert Smith and Allen & Overy have set up outsourced offices in Belfast, Northern Ireland, with A&O aiming to have 50 fee earners join 250 support staff by 2014.

Outsourcing, at its essence, is about assigning a given task within a system such that its value is aligned with the skill of the task's performer and the cost of the task's location. Traditionally, law firms have assumed that everyone who performs its tasks should be highly qualified, located centrally, and compensated accordingly. This assumption no longer holds, and these four firms are among the first to realize this fact and act on it.

Take a close look at what's happening here, but don't be misled: this isn't primarily about "two-tiered associates." This is about law firms figuring out that not everything they do is mission-critical, and changing their approach accordingly.

[Contact the author, Jordan Furlong](#)