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

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Improving the quality of associates' lives and job satisfaction enhance a law firm's profitability. A user's guide for law firms.

At a recent cocktail party, I bumped in to an old friend, Murray. We exchanged pleasantries and small talk, and the conversation turned to the economy and business. Murray bemoaned the fact that his business was investing hundreds of thousands of dollars each year in income producing assets which should have useful lives of at least ten years and often should be providing his business millions of dollars in revenues over forty or fifty years. Yet, money was pouring out the door in vast amounts, as too many of these assets failed after only three or four years. "Why is that, Murray?" I asked. Murray told me that too many of his partners were ignoring the manufacturers' guides for utilizing these assets as soon as they were acquired, demanding more production from them than could be reasonably expected and the result was that they simply collapsed after three or four years.

Murray is the managing partner of a four hundred lawyer regional law firm.

In recent weeks, the media and the blogosphere were on virtual overload with stories about abusive conditions imposed on law firm associates and tales of law firm associates throwing in the towel and leaving large law firm practices en masse within three or four years of graduation, in spite of the fact that law firms have invested hundreds of thousands of dollars in recruiting and training these associates and these departures largely occur before law firms can obtain a reasonable return on their investments.

Among the recent pieces on the subject was a piece written by Mark Herrmann on March 17, 2011 in his regular Inside Straight column in Above the Law. Herrmann, a former BigLaw partner and currently in house head of litigation at Aon, catalogued in [“How to be a Crappy Partner”](#) the routine rudeness and incivilities which are too often visited on law firm associates and invited readers to report on their own experiences. More than eighty comments were posted with similar tales of torture and worse, as this piece was going to press.

Previously, Professor Steven Harper [wrote about the work-life balance](#) addressing the fact that demands by law firms that associates bill ginormous amounts of hours produce fatigue, inefficiency and poor judgment. Said Harper: “A fatigued mind is fuzzy, irrational, less efficient, and prone to error. Most clients paying for an attorney’s 3,000th billed hour in a year are getting very little for their money. Yet some lawyers do that year after year — and some clients encourage such behavior.” One would think (perhaps hope) that with the increased focus on [value billing and alternative fee arrangements](#), minimum annual billing requirements would have fallen by the wayside and [metrics measuring lawyers’ efficiency](#) would gain in popularity.

Serendipitously, the April 17, 2011 edition of *The New York Times Magazine* published a piece entitled [How Little Sleep Can You Get Away With?](#) In that piece, the *Times* described various scientific studies regarding the result of sleep deprivation. The conclusion is that people require seven to eight hours a night of sleep. In the absence of adequate sleep, cognitive performance deteriorates, incrementally, as sleep is deprived in greater amounts. Attention and judgment lapses as required sleep is deprived. Noted the *Times*: People who sleep less than seven hours a night are simply not “thinking as clearly” as they should be. Somebody who has been deprived of sleep for 24 hours straight is “the cognitive equivalent of being drunk.” (So much for boasting about pulling all nighters in the service of client needs.)

With that science well researched and understood, one would wonder why law firm risk managers do not monitor the sleep and rest that the firm’s lawyers get. After all, truckers, pilots and even hospital residents are required to have minimum rest time and document their rest time. Perhaps more surprisingly, in spite of [RFP’s that sometimes go to 100 pages](#), clients never inquire about what steps law firms take to assure that their lawyers are well rested, focused and alert. I have certainly never seen a firm pitch a client for business boasting about the fact that the firm’s lawyers are all well rested, focused and alert, minimizing the risk of malpractice and assuring the delivery of high quality work.

Harper also recently [called to task](#) a law firm managing partner for excoriating associates for failing to timely record their time and suggested that the appropriate remedy might be to

randomly select a wayward associate and simply fire him or her as an example. Harper's issue was the nature of the rant of the managing partner. Reminding associates about the need to timely record time may be appropriate, but as Harper said, this rant "morphed into a tirade that reveals pervasive equity partner hubris, especially among big law managers: He believes his own press releases."

Another recent piece was authored by Will Meyerhoffer, a former BigLaw associate, who gave up his BigLaw career early on and returned to school to obtain a degree in social work, with a plan to build a psycho therapy practice largely dedicated to a client base of law firm associates, helping them cope with the tribulations of BigLaw life. In his piece, "[Not Worth It](#)," Meyerhoffer posited the question as to whether it was worth opposing Mike Tyson in a boxing ring for \$3,000,000. No, he concluded it wasn't worth it. He concluded that no rational person would do so and went on to further opine that no rational person should work at a BigLaw firm either. Said Meyerhoffer: "No one would consider fighting Mike Tyson for ordinary money, either. And it's not worth it for \$3 million. Big law isn't even worth it for \$160k a year."

Meyerhoffer went on to catalogue the miseries of law firm associates: Sleep deprivation, partner greed, degradation of associates, partner's indifference to associates, the increasing elusiveness of being promoted to partner and the like. Said Meyerhoffer: "The bottom line: Mike Tyson will destroy you in the ring because that's what he does. He's a heavy-weight champion and they destroy people in the ring. A big law firm is just like Mike [Tyson]: it will destroy you because that's what it does."

Meyerhoffer's piece resulted in 67 comments (as this post is being written), most of which added individual tales of woe suffered by associates and derided those who tremulously suggested that life as a law firm associate was indeed worth it.

We add to this genre of literature a piece featured in the April 25 edition of *Canadian Business Magazine* entitled "[Losing their Briefs: Young lawyers once had big pay and big perks. Now they have big headaches. Law's golden age is over](#)." To make its point, the magazine featured the piece on its front cover with a banner headline entitled "[Why it sucks to be a lawyer](#)." This piece focused largely on the waves of layoffs we have seen in the last two years, the dwindling demand for young lawyers and the concomitant loss of job security among law firm associates.

I [previously addressed the critical need for a law firm to maintain a high level of job satisfaction for its own profitability](#). Nothing has changed to detract from this essential ingredient for law firm success. I also [separately addressed](#) the need for law firms to appropriately recognize and reward all of the lawyers who contribute to a law firm's success.

For people like Murray, who are charged with leadership roles in law firms, it is incumbent upon them to create a culture where it doesn't "suck" to be an associate. It is vital for the firms to insure that associates are indeed satisfied with their jobs. Most important, it is financially vital for the law firm to realize a fair return on the sizeable financial investments they

have made in their associates. I leave for last the plain civility that lawyers should exercise, as members of a profession of a higher calling. It is perhaps a sad commentary that the prolix Model Rules of Professional Conduct contains nary a word on the working relationship that lawyers should maintain with their subordinates, yet reams of ink are devoted to lawyers' relationships with clients, adversaries, the judiciary and the public.

The steps necessary to improve associate morale, job satisfaction and efficient productivity are simple, plain, logical and both business and professional imperatives:

- Treat associates the way you would expect to be treated. Yes, it's the old do unto others.
- Maintain an open and honest dialogue as to the firm and as to the associate's progress. Associates are important stakeholders in the firm's success and have every entitlement to be leveled with and to operate in an atmosphere of abundant transparency. BigLaw associates are smart and are motivated to succeed; they are not mushrooms, who can be left in the dark and fed gunk. What you don't tell associates will ultimately be exposed in the blogosphere.
- Always recall that every study ever done concerning why people change jobs always yields the same result: of all of the factors, compensation is among the lowest of possible factors. Among the highest: general job dissatisfaction, conflicts with supervisors; lack of opportunities for advancement; having little or no say in decisions that affect an employee; fear of termination; and boring, repetitive or overly routine work that doesn't tap in to an employee's potential. Managing partners and group practice leaders must be made to appreciate that these factors far exceed a large compensation base or a market driven bonus. In fact, the market driven bonus too often sends the wrong message: It is frequently read by an associate as an indication that the firm doesn't get it; it's not just about the money, it's about the general working conditions and the unnecessary stress created by the job. Indeed, we have all seen that the largest exoduses of associates always follow the payment of these bonuses.
- Maintain a genuine mentor program. Mentoring associates should be embedded in the fabric and culture of the law firm. It doesn't simply mean an occasional lunch. It means spending quality time with associates, providing real counseling and an always ready ear to lend to an associate, who needs some guidance. Quality mentoring should be a requirement of law firm partners, ranked up there with lawyering skills, marketing and sharing in management responsibility. Not every partner can adequately serve as a mentor, just as not every partner can be a successful marketer. But, those who can perform this important function should be recognized, their talents should be capitalized upon and they should be rewarded for the efforts exerted in this process.
- Identify as soon as possible those associates who may be in crisis. Be sensitive to early signs of disaffection, depression or anxiety. Arrange, through the mentor and the firm's HR function an early intervention program for these associates. Disaffection, depression and anxiety are contagious afflictions and should not be permitted to fester and infect others. These maladies also lead to drug dependence and worse.

- Grab the 3,000 hour biller by the collar and tell him “slow down there, fella.” He or she simply cannot continue at this pace without doing some serious damage to himself or herself and to the firm’s clients.
- Be realistic, pragmatic and thoughtful in fixing deadlines for work assignments. This means that when assigning work to associates, a factor that must always be considered is existing assignments already on the associate’s docket.
- Create a mechanism – whether through the mentor program or otherwise – in which associates can and, indeed, are encouraged, to report partner’s abuses and excesses without fear of retribution.
- Partners who toy with associates or otherwise engage in abusive conduct should be held personally accountable for their excesses. These excesses do and will continue to harm the firm financially.
- Demonstrate real concern about associates’ work/life balance.
- Rather than focusing on minimum annual hourly billing requirements, focus on whether associates are getting sufficient rest. It may be a great short term fanatical gain to have associates lumbering away at 2,500 plus hours, but it is a long term bust when a comma is misplaced, a date incorrectly noted, a key clause inartfully drawn, a case overlooked or a key citation omitted. The malpractice claim will be made against the partnership, not the associate. The client will take its business across the street. For want of a couple of hours of sleep, many millions of dollars will be lost. In monitoring associates’ hourly billing, the 3,000 hour biller shouldn’t be instinctively rewarded kudos; rather, a culture should exist in which a partner should sit down with the associate and counsel him or her on the need to take it a little easier and get some required rest.
- Encourage and reward leadership at every level in the [fashion championed by Google](#).
- Associates should be treated as important contributors to the success of the law firm: their contributions are vital to the law firm and its future. On the other side of that same coin, let’s always recall that the loss of well regarded and highly performing associates is financially punitive to the law firm and its clients. Yes, there are vast armies of unemployed and underemployed associates available to fill any vacancy. But the loss of a well regarded associate unnecessarily drains management time, depletes associate morale and the cost of ramping up a new associate is a completely unnecessary and avoidable expenditure.
- Let’s take a small page out of the experience of professional sports teams. They succeed because of the talents of the teams they field. Recognizing this, team owners deploy a pool of trainers and coaches to assure their continued success. Law firms should embed in their cultures that it is vital for the firms’ partners to serve these functions: trainers, coaches and boosters to assure and enhance the talents young stars bring to the game.