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THE POST-GREEDY YEARS: THE STATE OF THE LEGAL NATION

By Susan G. Manch

Does it seem that associate salaries are the only thing anyone talks about anymore? The “Greedy” chat boards that celebrated then perpetuated the salary wars are filled with the latest figures and gossip about who got how much and what it all means. The legal media has been full of stories about each new raise and expert predictions of how these salaries will change firms and lawyers. And even the Wall Street Journal felt it necessary to weigh in with its opinions on the salary wars and the dire consequences that could be expected in their wake. With brand-spanking new associates being paid roughly what a Justice of the United States Supreme Court makes, you can understand everyone’s fascination. Raises as large as the ones we have seen in the past year deserve some press and any reasonable person can assume that they will have a significant impact on the profession. Lately, the economy has been behaving a bit bipolar, but it has not deterred firms from considering further increases. Weil Gotshal has already announced increased first-year salaries and bonuses totaling \$165,000. Brobeck, Phlegar & Harrison outdid them with a \$170,000 figure for their first-years, although they attached some hefty billable requirements to be met if you hope to make *that* number. In the end, while these numbers may be astounding to many, the story is not to be found in the figures. The “Greedy” Movement May Have Gotten All The Headlines, But the *real* story may be found by looking at what has actually happened to the legal profession, Post-Greedy.

The compensation skirmishes definitely caused a stir, but have not necessarily had the impact the experts thought they would have. Changes in the way law firms do business and manage their attorneys had been quietly underway since the downturn in the late 1980’s and early 1990’s. Much of what was happening was not obvious to those outside law firm life. So when Gunderson Dettmer Stough Villeneuve Franklin & Hachigian fired the first salvo of 2000, most of the predictions for law firms and the legal profession were some variation of the following a.) Firms would go down in flames, b.) Attorneys would have to work so hard to pay for the raises that they would all drop dead of exhaustion, and/or c.) The stratospheric salaries would spoil law students and junior associates so badly that they would be of no use to the profession in the future. To be sure, the salary wars *have* been the genesis for many firm management changes. But much of what was predicted has not come to pass and this is as good a time as any to assess the state of the legal nation Post-Greedy.

Going Down in Flames

It is true that there are firms that did not survive the turn of the century. Some by failing, others by merging out of existence, and others by joining up with other firms and changing their identities substantially. Whether the majority of these changes were wrought by the salary wars is a harder question to answer. The law firm marketplace had been evolving steadily. Though the demand for legal services reached new highs in the late 1990’s, the strategies to make money providing them became far more complex. The landscape today can be described as the land of big and bigger, global and totally global, and full-service and more full-service. Firms who couldn’t keep up financially or didn’t have a strong enough reputation to attract clients and recruits found the last two years very trying. The salary wars drew a clear line of demarcation that identified two tiers within the large firm scene--those who could raise salaries and those who couldn’t. These newly dubbed second-tier firms have not gone down in flames, but some may have lost stature and recruiting power in their markets in the short term. So one might conclude that this prediction was pretty accurate, but you actually have to look a bit further to get the full story.

Some of the highest spending firms seem immune to the flames and are more profitable than they were before the salary increases were even a glimmer in a Gunderson partner’s eye. Record size summer programs and entry-level hiring were hallmarks of a banner year for some of the top law firms. One of the primary reasons that some of these firms have been able flourish while others foundered is that they attended to the strategic development of their attorney management practices before they set compensation levels. In the final evaluation, traditional aspects of law firm life have indeed gone down in flames, but that which has survived appears to be stronger than it was before. On their best days, the elements that set apart successful Post-Greedy firms include these:

- They are not afraid of change, but follow only those trends that make sense for their firm, their clients, and their culture.
- They have a culture and they guard it vigorously.
- Attorneys want to work for them—both entry-level and experienced attorneys.
- They foster, support, and reward leadership within their ranks.
- They encourage all firm attorneys to understand the business of the firm, to anticipate and focus on the needs of clients, and to participate in ensuring the firm's continued success.

Exhausting the Firm's Most Valuable Resource

Smart people knew that there would be a trade off of money for hours, hence the predictions that firms would work their attorneys to death after the salary increases. There is no question that attorneys are working harder than ever before. Post-Greedy associates have experienced a new emphasis on productivity, either explicit or implicit, depending on the culture of the firm. Comparisons of the American Bar Association Young Lawyer's Career Satisfaction Surveys of 1995 and 2000 clearly quantify the changes. **In the 1995 results, only 21.6 % of respondents billed more than 2000 hours. In the 2000 version, 37% reported billing more than 2050 hours in the past year. If one were to consider only large New York firms, the numbers of associates billing more than 2050 would probably be much higher. Many New York firms created performance thresholds for bonuses that began at 2200 billed hours, paying the highest bonuses to those billing 2400 hours and above. The reported average hours billed at firms employing more than 251 attorneys increased from 1937 hours in 1999 to 1975 hours in 2000, according to the National Association for Law Placement (NALP) 2000 Directory of Legal Employers. For many firms, suggested average billables became required minimums.**

Again, it appears that some of what was predicted did happen, but the recognition of these effects caused many firms to take positive action to address the problem. One positive aspect of the emphasis on productivity is that junior attorneys are given a clear picture of the way in which they contribute to the profitability of the firm. Many firms have opened up their books to their associates for the first time, sharing important financial information and enlisting associate support for the firm's strategies to develop business and enhance profitability. This candid approach has been good for some firms, opening new channels of communication between partners and associates. As firms struggled with profitability issues, they inevitably took a hard look at staffing and made a number of creative changes. There are multiple career paths available to attorneys in most firms today. Staff attorneys, Counsel, non-equity partners, and part-time positions are providing firm attorneys with more career options. Fifty-one percent of the largest firms have staff attorneys and 81.8% have Counsel positions according to 2000 figures reported by NALP.

But the hours and stress have taken a toll, and many firms recognize that the "dropping dead" prediction might come true if they are not careful. We already knew that associates were unhappy in the law firm environment, with record levels of attrition and widespread discontent. NALP reported that the percentage of law students who chose law firms as their first employer declined every year from 1989 to 1998. During that same period, the Law School Admissions Council reported that law school admission applications dropped by 30,000, as well. NALP shared associate feedback collected in studies they conducted as reported in Keeping the Keepers (1998), Perceptions of Partnership (1999), and Beyond the Bidding Wars (2000). We learned that they were leaving the profession in record numbers (regardless of salary), that they felt unsupported and undeveloped, and that they did not see a real future for themselves in the firms in which they were working. Many firms recognized that they had a problem and knew they had to do something to address it if they hoped to survive. In order to continue flourishing, they listened to their associates and took steps to ensure that they were offering them an environment in which they *could* flourish.

Forward-looking firms saw the need to develop a comprehensive approach to attorney management. Many firm leaders took a hard look at their approach to managing the attorney asset and found themselves wanting. Most needed to refine many or most aspects. Recruiting strategies and practices, the plan to train and develop attorneys, performance appraisal policies and systems, and paths to promotion all required attention. They recognized the need to create an environment in which actions that support associate development were valued and rewarded. Comprehensive management strategies put an emphasis on communicating expectations, setting developmental goals, and providing one-on-one assistance to each attorney to ensure he or she has the best chance to succeed. Strategies employed by these firms included the following:

- Creating a new position for a full-time professional to be responsible for the developing, administering, and managing the firm's attorney management policies and practices.
- Developing a strategic plan for recruitment and project staffing that includes broadening the career path options and opportunities available to firm attorneys.
- Designing mentoring programs linked to a comprehensive professional development effort.
- Updating and enhancing performance appraisal systems with core competencies, upward appraisal, team goal setting, and personal developmental planning.
- Providing a clear path to success and promotion in the firm by communicating expectations, supporting development, and rewarding success.

Spoiling a Whole Generation

Logging on to the Greedy chat boards does not make you feel better about the future of the legal profession, but the attitude in evidence there represents only a small fraction of a large and diverse population of attorneys. The majority of associates I meet in firms all over the country are smart and motivated to succeed, they know what they want and are not afraid to tell you about it, and they are willing to work hard to get what they want. To my mind, these are exactly the qualities they will need to be successful in private practice. You hear a lot about an attitude of entitlement. Yes, there is a bit of that. But what generation of talented, heavily recruited professionals isn't a bit cocky? Spoiled? No, I don't think so because I have never seen someone I consider spoiled work as hard or as well as these associates do. The reason many associates express their dissatisfaction with life in firms is that they want to make it better. They are not complaining for the sake of it, but rather they are asking firm leadership to hear their voices and make changes necessary to improve the environment for all firm members.

The biggest bone of contention remains the work vs. life issue. Associates (and not a few partners) want to find a way to make the work life they love compatible with the rest of their life activities. Some want to have children, some want their children to recognize them when they come home. Some want to spend time with spouses, some want time to *find* a significant other. Some want to pursue a hobby, some want to develop new interests. Whatever wish they might have, the legal nation is not the only profession grappling with the issue. Most highly educated and highly compensated professionals are working too many hours, sacrificing valued aspects of their lives to the pursuit of their careers. The good news is that changes in attorney management philosophies that have taken place in the past few years have created a more positive work environment for some firms. The salary raises have a positive impact because more money makes everything a little easier, but it is not the end-all and be-all solution. Other firm management strategies that firms have adopted to support work-life balance are as follows:

- Creating flexible work options, staffing patterns for assignments, and supporting multiple career paths (staff attorneys, counsel, non-equity partners).
- Giving "face time" absolutely no value.
- Not rewarding attorneys based on hours alone.
- Providing technology and hardware that allows attorneys to work where and when it is most convenient.
- Embracing a team-oriented work environment in which no one is an island, but rather the responsibility for matters is shared among individuals with complementary skills, experience, and availability.
- Providing support for individuals experiencing common life challenges such as caring for elderly parents, managing child care, or coping with illness.

So in the end, the profession has not gone down in flames, exhausted itself entirely, or become hopelessly spoiled. Rather, it appears that it may have actually benefitted from all the attention and concern that the salary wars focused upon it. As salaries once again inch upward, perhaps we can hope to see even greater innovations in the ways in which firms manage attorneys. General Electric may be laying off 70,000 employees and California may still be experiencing rolling blackouts, but the legal nation Post-Greedy is alive and well. With thoughtful management and an eye toward preserving their most valuable asset—the attorneys—they should continue to thrive.

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