

Bucking Tradition: NewLaw And The Coming Millennials

By **Jill Dessalines** June 26, 2017, 6:48 PM EDT

Back when I was a young associate, before the advent of electricity, whenever a partner told an associate to jump, the only questions were how high, what's my hang time and where do you want me to land? If a partner "requested" that an associate devote the next 24 hours to a project (known as pulling an all-nighter), the only question was what's the client billing number?

For several years now, I've talked to beleaguered old-timers who bemoan the fact that young whippersnappers are no longer so eager to totally forego a life in order to serve their firm masters. I remember one friend relating the story of a conversation he had with a young associate where he assigned the associate a memo to write that would require him to stay at the office an extra couple of hours.

The associate informed him that he had plans for the evening and would be unable to comply. Puzzled at the response, the partner probed further. He wasn't a monster after all, he thought, and if, for example, the associate's family was in town for the day and he had made plans to spend time with them, that would have been an acceptable excuse, if only just barely. But no, the associate responded, he was getting together with friends to hang out and he wasn't available to work late that night. Totally flummoxed, the partner meekly walked away, questioning his sanity and the future prospects of the law firm structure.

That conversation was about nine or 10 years ago, and what was then anecdotal evidence of a trend has burgeoned into a movement that has been firmly established: many young associates are simply unwilling to devote the number of hours and the loss of control over their lives that the traditional law firm model requires.



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And now surveys are showing that work-life balance is ranking higher than compensation by millennials in law firms. Twelve hundred such associates were surveyed by Major Lindsey & Africa, and two-thirds said they would consider taking a job with fewer hours even if it meant less money; and they ranked the importance of work-life balance as 7.7 out of 10 in terms of importance to those surveyed.

Another survey, the Law Firm Flexibility Benchmarking Survey, asked 28 BigLaw firms about their flexible work policies and the degree to which their attorneys availed themselves of those programs. What they found was unsurprising when you consider that policies alone, without the backing of management to ensure that those taking advantage of them are not penalized, do not always accurately reflect firm culture.

Twenty-six of the 28 firms surveyed offered flexible work schedules, but only 8.8 percent of their attorneys worked on reduced hours. The survey concluded that attorneys feared that their careers would be adversely affected if they worked reduced hours — and that fear is well founded if you look at the “mommy track” penalty so many working mother attorneys face.

What these statistics should be telling law firms is that they will not be able to rely on the never-ending flood of associate candidates their business model demands as long as they require them to dedicate all day, most nights, every weekend and all holidays to firm business.

Particularly when there are alternatives to the grueling hours that, for the vast majority of associates, do not lead to partnership — a partnership that many millennial associates do not hold as dear as did their predecessors.

Those seemingly endless combinations of law businesses that have arisen in the last several years provide options to lawyers that didn't exist back in the bad old days. Multidisciplinary practices, virtual law firms, accordion companies that scale deployments to fit the project, contract attorney agencies, secondment firms and many other providers of legal services are all options today.

Without the reliable stream of associates to feed per partner profits and staff up assignments, the traditional law firm model is unsustainable for this among other

reasons. Coinciding with the diversion of young associates away from traditional law firms, another reason the current model must change is that corporate clients are demanding it, and corporate clients are the bread and butter and the meat and potatoes of most law firms' bottom line.

Corporate clients are continuing their push for less cost and more efficiency, and are increasingly using NewLaw service providers to achieve that goal — the very NewLaw models that are offering lawyers alternatives to the traditional law firm model.

In a study conducted by the University of California, Hastings College of Law entitled "Disruptive Innovation: New Models of Legal Practice," this conversion was aptly stated:

"The confluence of these two trends, the rise of NewLaw and the constant pressure being exerted by corporate clients, point to the need for law firms to revamp their structures and economic models."

BigLaw will be able to sustain its labor needs on the cache and reputation that accompany their big names, at least for several years to come. But small and midsize firms that have relied on lateral hiring of BigLaw refugees for their associate needs will feel the dearth of laterals as fewer come through the BigLaw revolving door and fewer still opt for the traditional law firm model.

While winnowing the traditional associate ranks is one of the necessary steps these firms will have to take to survive in tomorrow's economy, turning the tap from a flood to a trickle — unless they are prepared for the drought — will preclude these firms for competing with other, more agilely staffed firms.

Fast forward a few more years after the associate drought takes hold and you'll see the impact of fewer rainmakers coming through the pipe who would have ordinarily been developed from the associate-to-partner ranks.

So how can the small or midsize firm prepare for this sea change? Take a page from NewLaw. Do what legacy competitors have been doing since the beginning of time

— adopt the technologies and methodologies of your competitors’ newer, more cutting-edge business models. Revamp your employment relationships to match the needs of tomorrow’s leaders.

You could create different tiers of associates: one tier, and the largest segment, being the agile workforce that you can call upon to ramp up when necessary; and another tier, a small segment made up of those attorneys who have decided to seek positions in firm financial and administrative leadership.

Pay the agile workforce on the basis of hours worked, and compensate the partner track associates with a small salary to be augmented by periodic bonuses based on whatever metrics the firm chooses.

Allow the agile workforce to transition to partner track upon the fulfillment of whatever criteria your firm decides are important. Similarly, permit partner track associates to step off of the track, and permit them to step back on under the circumstances your firm deems appropriate.

Coordinate with other select firms that have workforces with the specialized skills you need to ramp up for particular assignments, which has the benefit from the workers’ standpoint of expanding their experience base while allowing the firm to access talent without overhead costs.

Reduce your real estate footprint, since most of your workforce will be performing their duties remotely. Pump up your use of technology — your millennial workforce will demand it. Reign in your overhead and align your profit models with those of your corporate clients. Reinvent yourselves.

Retooling your workforce is just one of the many major changes coming to law firms everywhere, so you may as well prepare today for the ascendance of tomorrow’s lawyers.

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