

Associate Deferrals May Only Defer Firms' Problems

By Julie Zeveloff

Law360, New York (June 26, 2009) -- For law firms looking to cut costs and stave off overstaffing in a slow market, deferring the start dates for incoming associates may seem like a quick fix. But down the road, deferral programs could cause major woes for firms and new lawyers alike.

Already, a slew of top firms, including Schulte Roth & Zabel LLP, Proskauer Rose LLP and King & Spalding LLP have implemented mandatory deferrals, pushing back start dates for incoming associates by six months or more.

Others, including Cravath Swaine & Moore LLP, Sidley Austin LLP and Mayer Brown LLP have offered incoming first-years optional deferrals, often sweetening the deal with hefty stipends.

Like pay cuts and layoffs, delaying start dates for incoming classes can help struggling firms meet the bottom line. But instead of alleviating financial and staffing problems, such programs merely delay them, legal industry insiders told Law360.

Once deferred associates return, firms will face a major talent backlog — “one the world's largest plunger could not remove,” said Jerry Kowalski of legal consulting firm Kowalski & Associates.

“The profession just is not going to create that many new jobs,” Kowalski said. “It doesn't have enough jobs for all the lawyers out there currently.”

Adding to the problem is the growing number of newly minted attorneys; according to the American Bar Association, 43,588 J.D. or L.L.B. degrees were awarded in 2009, up from 40,000 just five years ago.

Moreover, there's little to indicate a future upswing in legal work that would merit increased hiring at the associate level. A new survey from Citi Private Bank indicated that even though managing partners expect the overall economy to stabilize in the next year, they still doubt their individual firms' ability to bounce back any time soon.

Even if the deferrals announced this spring ward off financial problems for firms, they are sure to create overstaffing issues for firms over the next 12 months, as yet another class of lawyers enters the work force.

Some firms will deal with the crush by rescinding offers and slashing associate salaries. Others will hand out far fewer offers to current summer associates, although such a move is sure to have a ripple effect on future graduating law school classes.

“Classes are doubling up on each other, and firms are more inclined to reduce their incoming classes,” said Deborah Epstein Henry, founder and president of legal consulting firm Flex-Time Lawyers LLC. “Law students are in a tough situation.”

Another major concern for firms is a training gap among deferred associates.

Even if associates are rehired at the end of the deferral period, they may be less professionally developed than their peers, said Karla R. Weathers, president of NexLegal Career Consulting.

“A lack of training will affect the work that is distributed to them by the partners,” Weathers said. “It can, in fact, make a difference in terms of the opportunities presented to them.”

Some deferred associates may pick up basic training in temporary positions at nonprofit organizations or government jobs, but those who cannot find legal work to tide them over may have a tough time

catching up once they start.

“What firms are at risk for is that they may send young lawyers off to different nonprofits, but they may not have the infrastructure to train those young lawyers once they return,” Henry said.

Some firms, including Howrey LLP and Drinker Biddle & Wreath LLP, have announced plans to implement comprehensive “apprenticeship” programs to ensure that all new associates are properly trained.

Howrey's two-year program, announced last week, will include extensive practical training and reduced billable hours, as well as a pay cut.

But such “apprenticeship” programs are still the exception, Henry said.

Firms offering deferral programs also face the challenge of maintaining a relationship with incoming associates who are on hiatus and ensuring a smooth transition once they return.

To deal with such issues, NexLegal has developed a deferral program specifically geared toward the class of 2009 that has piqued the interest of many top firms, Weathers said.

"The 'Class of 2009' deferral program came about as a result of huge demand from top-tier firms looking for ways to augment the efforts they already have in place to retain associates who are deferred and to ensure they are as ready as possible at the end of the deferral program,” Weathers said. “The purpose of the program is simply to ready the associate and keep the relationship between the associate and the firm as strong as possible.”

The program, a series of seminars, touches on topics from emotional transitioning and financial management to firm protocol, networking and time management, Weathers said.

Law firms may be working to make deferral programs look as attractive as possible to incoming associates, but any new hire with the opportunity to start on time would be wise to do so, industry experts agreed.

“A resume gap is frequently fatal to long-term employment,” Kowalski said. “In my judgment, it is simply unwise and very shortsighted to take the optional time off to do whatever it is that you might want to do rather than start work.”

A lawyer who is just starting out a career might not think about the effects of resumes gap right away, but they are sure to become problematic once that lawyer looks to make a lateral move, Kowalski said.

While a stint with the government or pro bono work may be more appealing to a potential employer than something outside the legal field, given the choice, firms would rather hire someone who started work immediately, Kowalski said.

Henry said the biggest problem for associates facing delayed start dates would be lost training opportunities.

For deferred associates, the biggest concern is “that they will eventually join a firm and they won't have the right skills, or there won't be a training process in place to fill in the gaps where those skills are lacking,” Henry said.

The best advice for a new lawyer entering the work force, Henry said, is to take charge of your own career.

“I think law students often enter the profession with the expectation that their career will be charted out for them,” Henry said. “It's really quite the opposite in the competitive legal market we are in, and in this economic downturn.”

All Content © 2003-2009, Portfolio Media, Inc.