

## **Combating Junior Lawyer Fallout — Part I**

Law360, New York (March 25, 2011) -- Now, more than ever, junior lawyers need to be trained with practical skills. With an increasingly competitive global market and clients demanding more of their outside counsel, lawyers need to not just be good thinkers — they need to know how to practically apply their skills from the outset. Yet the junior lawyer training model has changed and key stakeholders in the profession are no longer willing or able to assume the cost and responsibility for training junior lawyers. The result is Junior Lawyer Fallout.

Clients are the largest driver for change. Clients are unwilling to pay for junior law firm lawyers to be trained. Additionally, clients have become more sophisticated in recognizing that the work they assign to outside counsel can be disaggregated. Not all of their legal work needs to be performed by highly trained lawyers. Some work can be performed by other lawyers at lower rates, by nonlawyer professionals at traditional firms, or by outsourced companies in the United States or abroad.

In turn, the leveraged associate staffing model used by traditional firms, which typically relies on a billing ratio of at least three associates for every partner, is no longer being funded by the client. Thus, law firms are reluctant to incur the financial obligation to train junior lawyers due to the threat to the leveraged associate model, the shrinking demand for legal work, and the likelihood that most of the talent they train will walk out the door. As a result, most traditional firms are reducing the size of their incoming class of associates.

### **Who is Impacted by Junior Lawyer Fallout?**

Junior Lawyer Fallout is most significantly impacting the law school community, junior lawyers themselves, and the traditional law firm that historically generated significant revenue from lawyer billable hours. The problem starts in the law school community. Law schools fear that they will continue to produce graduates at expanding rates yet these graduates will no longer be placed at the same rates in secure jobs to develop their skills as practitioners.

In turn, poor law student placement will negatively impact a law school's ranking, which dictates its status among students and employers. Law students and junior lawyers fear they will not be able to pay back their law school loans or develop as lawyers. Law firms wonder who will be their future leaders. And they worry their profitability model will decline with the collapse of the leveraged associate model and the junior lawyer revenue stream significantly diminished.

But beyond these specific casualties, the broader legal profession pipeline will suffer. In-house legal departments have historically plucked well-trained law firm talent to be the future leaders of the in-house community and they may no longer have the same opportunities to do so. Also, new model law firms — including virtual firms and firms founded on alternative fee and secondment models — will no longer have the same ability to hire trained talent to perform in their environments.

But even if top talent continues to flee in-house and to new model firms, there will be depleted strength in law firm leadership. Thus, the profession as a whole needs to address the junior

lawyer training challenge and it may ultimately impact all constituents' bottom line.

### **How is the Junior Lawyer Training Gap being Addressed?**

An apprenticeship model is one approach to training the junior lawyer that has been implemented by a handful of firms in the United States, inspired by firms in Canada and the United Kingdom. An apprenticeship model provides structured training to incoming associates and increased exposure to senior lawyers from whom they can learn. Typically the model is accompanied by reduced billable hour targets and reduced salaries. Clients applaud the model because they are no longer absorbing the law firm lawyer's learning curve.

However, the model is costly, which is why only a handful of firms have adopted it. For example, at one firm, a managing partner estimated that the apprenticeship program would cost between \$3 million and \$4 million to implement, when calculating unbilled hours, time spent observing and training costs. While the managing partner argued that the firm would otherwise have spent this money on its associates, typically that spending would have occurred over seven years rather than two.

The apprenticeship model may be too costly and risky for most firms to undertake. The risk is that after a firm invests considerable sums of money in the entry level lawyers, the lawyers have no obligation to stay to give the firm a return on its investment. And, if apprenticeship model firms imposed a time commitment on lawyers (like some companies do that pay for employees' MBA degrees), the firms would be placing a burden on entry level lawyers that other firms would not. There are also concerns that more prestige may be associated with the higher-paying firms and questions remain about whether the apprenticeship model is better — there may be too much observing and not enough doing.

Another approach to filling the junior lawyer training gap is where in-house legal departments hire entry level talent and team-up with their outside law firms to train them. Hewlett-Packard is one such company piloting this concept. It typically hires lawyers with five to seven years of experience, but in 2009, it hired four third-year law students to begin work in 2010. The company put together a robust training program, partnering with firms in the Bay Area.

The thinking was that in-house legal departments spend a lot of time training their experienced talent to transition from risk avoidance to risk management. Instead, Hewlett-Packard figured it would be more cost effective to develop lawyers from the outset and enable them to directly apply their knowledge to the business. For the most part, other companies have not followed suit. Most legal departments are small and busier than ever and they do not have the time or devoted resources to train junior talent. Additionally, entry level lawyers may be less suited to do in-house legal work, as it often requires more business acumen and knowledge that an entry level lawyer typically has not developed.

Reforming the law school curriculum is one more approach to addressing the junior lawyer training gap — one that is being hotly debated in the profession. Recommendations from a report issued by the Carnegie Foundation for the Advancement of Teaching, among others, urge law schools to integrate practical training into the traditional law school analytical courses to better

prepare students for practice. Some believe law schools should focus more on teaching students effective communication, business management skills and financial principles to operate more effectively in business. Additionally, many believe that escalating law school tuition has created much of the burden for graduating law students and law school reform would require a reduced price tag.

Questions remain whether law schools are prepared to accept a new role of training law students, whether more practically based training would make law schools even more costly, whether law schools are best positioned to provide such training, and if so, what the best format is for doing so. Even if law schools were to accept a new direction for legal education, it would be a long time before a standardized curriculum could be developed to effectively transition the role and responsibility to law schools of training law students more practically, as well as analytically.

### **Conclusions and Remaining Questions**

Current attempts to resolve Junior Lawyer Fallout are ineffective. The apprenticeship model is too costly and risky for most firms to undertake. The in-house approach is not sustainable because most legal departments are too small and too busy and do not have the time or resources to assume the training responsibility. And, law schools are not positioned for training junior lawyers with more practical skills or to do so properly would be prohibitive.

The question remains — who is best suited to train junior lawyers? And how should they do it? In part two of this article (to be published in Law360 on April 4), I will offer recommendations. I advocate for law school curriculum reform to shorten class time and develop students' practical skills through public service internships. I also demonstrate the need for supplemental outsourced practical training. In the meantime, what do you think? Are the current proposed methods of training sufficient? Should we simply reduce the number of incoming lawyers and hope the training problem will go away? Are there other solutions you have to resolve Junior Lawyer Fallout?

--By Deborah Epstein Henry, Flex-Time Lawyers LLC

*This article is Part I of a two-part series. Part II will appear in Law360 on April 4, 2011.*

*Deborah Epstein Henry is the author of [Law & Reorder: Legal Industry Solutions for Restructure, Retention, Promotion & Work/Life Balance](#) (American Bar Association, 2010). She is president of Flex-Time Lawyers LLC, a national consulting firm she founded in the late 1990s. As a legal industry consultant, Henry advises clients on workplace restructuring, talent management, work/life balance and the retention and promotion of lawyers. For more information, please visit [www.lawandreorder.com](http://www.lawandreorder.com) and [www.fleximelawyers.com](http://www.fleximelawyers.com).*

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