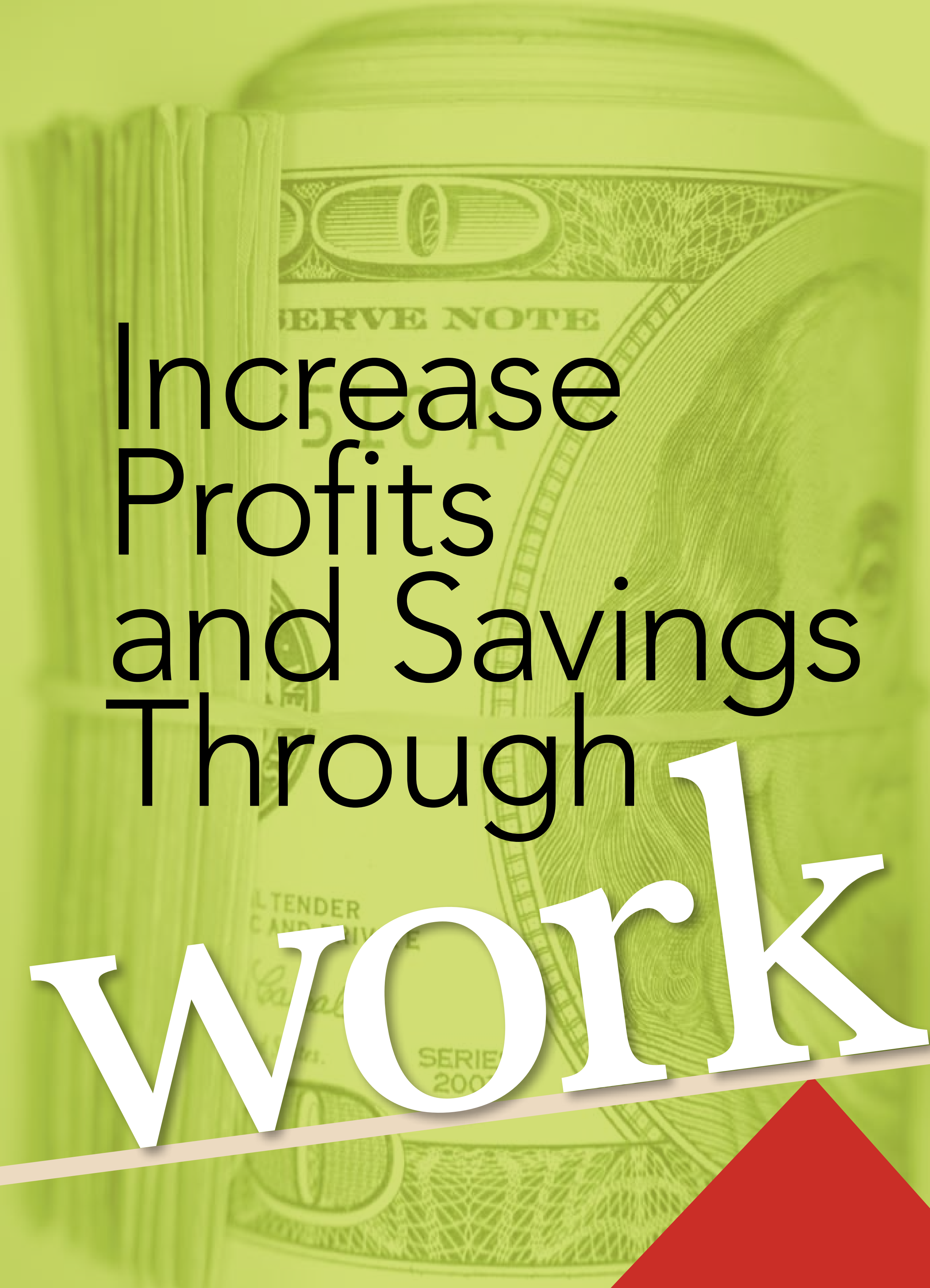
Increase Profits and Savings Through work



life BALANCE

BY: Darragh J. Davis, Deborah Epstein Henry, Rupa G. Singh and Elizabeth B. Daniels

The time is ripe to think creatively about the traditional law firm model in order to address the economic challenges facing both providers and consumers of legal services. At the forefront, the Association of Corporate Counsel (ACC) Value Challenge is shaping the discussion by keeping the focus on value for each constituency. With increased attention on value, some suggest that the success of law firms will be premised on the ability to reduce their dependence on the billable hour, offer alternative fee arrangements, rethink staffing of legal matters and institute merit-based associate compensation. Others believe that law firms of the future will not jettison their existing mechanisms and structures wholesale, but will show resourcefulness in leveraging them for much greater efficiency.

Regardless of whether the profession is facing a fundamental paradigm shift or simply recalibrating the acceptable cost of legal services, it will benefit from demonstrated, successful experimentation with innovative alternatives over time.[1] In this regard, corporate counsel and law firms might be surprised to find the value to be gained by taking a fresh look at an old concept — attorney work/life balance.

Launched in January 2009, Balanomics™ is an initiative that demonstrates a direct economic link between productivity, profitability and work/life balance in the legal profession.[2] In response to the call for economic solutions, Balanomics™ has uncovered the value of work/life balance[3] by focusing on two key insights. First, the loss of legal talent due to layoffs or attrition has severe economic and non-economic consequences for law firms and law departments. Improving attorney work/life balance addresses these consequences by minimizing attrition related to work/life conflict in a strong economy and increasing profitability as an alternative to layoffs during a downturn. Second, work/life imbalance narrows the pool of talented attorneys at a time when the profession most needs a diverse workforce, including those willing to trade some dollars for time. Data on gender demographics and generational trends shows that supporting work/life balance is consistent with — and integral to — the success of the legal profession.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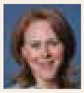
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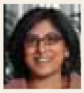
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Reduced Hours Instead of Layoffs Increase Profitability for Firms and Decrease Legal Expenses for Law Departments

To assess profitability in the legal profession, Balanomics™ undertook an economic analysis of the assumptions underlying the billable hour model and their impact on the bottom line of law firms and legal departments. Its findings provide promising results for both firms and their clients. Using the computer-based law firm model developed by the economic consulting firm NERA for the ACC Value Challenge,[4] the billable hour model can be leveraged to improve law firm profits in the long term. We then examined how increased profits for law firms translate into law department savings.

Balanomics'™ Use of the NERA Economic Model Shows Increased Firm Profitability

The NERA economic model allows firms to input data about seven variables to calculate how each impacts profits over a five-year period:

1. law firms' size and expected growth (including associate layoffs/attrition);
2. annual billable hours;
3. billing rates;
4. salaries;
5. rate of recovery;
6. recruiting costs; and
7. overhead costs.

In using the model, we adopted some of NERA's original figures and modified others based on more recent, publicly available data, as the ACC Value Challenge encourages users to do. These updates were all the more important because the NERA economic model was developed more than a year before we first ran the model and the assumptions needed to be updated to reflect market changes during this time. To avoid influencing the results, Balanomics™ did not run the model first, and then update select variables. Instead, we were careful to *first* update all variable assumptions for which more current data was publicly available and *then* run the model. (All the figures and assumptions used are included in the appendix to this article.) In applying the model, we ran three "profitability reports" over a five-year period to evaluate the impact of associate layoffs/attrition on the one hand and reduced hours/reduced salaries on the other. By comparing a change in *only* the factors related to associate layoffs/attrition, billable hours and salaries, we found that long-term law firm profitability improves by instituting reduced hours and reduced salaries instead of decreasing associate headcount through either layoffs or attrition.

In the first report, we calculated profitability for a large law firm with the standard number of 1,364 timekeepers in the base year and 1,886 in year five. Here, associates are expected to bill 2,000 hours a year. Management relies on a 10 percent associate layoff or attrition rate to cut costs (see Layoff/Attrition Models). This resulted in an overall firm profit range of $491,198,232 in the base year to $755,502,987 in year five, and a profit per partner range of $1,158,486 in the base year to $1,519,312 in year five. (Note that the NERA model does not have a separate step for implementing layoffs versus attrition. Thus, we reasoned that attrition in a down market would remain low at five percent, and include unavoidable departures such as performance-based terminations or retirements instead of the voluntary departures that are more common during robust economic times. We then estimated a conservative five percent layoff rate based on reports of layoffs ranging from five to 10 percent at large law firms. Adding the five percent attrition rate and the conservative five percent layoff rate, we reached a 10 percent overall layoff/attrition rate.)

In the second report, we calculated profitability for the same size large law firm where management instead uses reduced hour options to cut costs (1,900 Reduced Hours/Reduced Salaries Model) with a marginal *five percent* associate layoff or attrition rate. We decreased associate billed hours to 1,900 per year and commensurately decreased associates' lockstep salaries by five percent (since the 100-hour reduction constitutes a five percent change). This resulted in a better long-term overall firm profit range of $483,016,707 in the base year to $800,676,115 in year five, and a profit per partner range of $1,139,190 in the base year to $1,582,401 in year five. (Again, because the NERA model does not have a separate step for implementing layoffs versus attrition, we reasoned that attrition in a down market would remain low at five percent and include the types of departures noted above. Instead of then increasing this rate to reflect layoffs, we kept it at five percent to test what would happen if a firm used reduced hour options as an alternative.)

In the third report, we calculated profitability for the same size large law firm, where management now uses an even greater reduction in hours and salaries to cut costs (see 1,800 Reduced Hours/Reduced Salaries Model), again with a marginal *five percent* associate layoff or attrition rate. We decreased associate billable hours to 1,800 per year and commensurately decreased associates' lockstep salaries by ten percent (since the 200-hour reduction constitutes a 10 percent change). This resulted in an overall firm profit range of $474,835,182 in the base year to $782,361,678 in year five, and a profit per partner range of $1,119,894 in the base year to $1,546,206 in year five. (Again, we reasoned that attrition in a down market would remain low at five percent and the firm would use even greater reduced hour options as an alternative to conducting layoffs.)

Thus, the three reports demonstrate that the most profitable approach for a law firm is under the 1,900 Reduced Hours/Reduced Salaries Model, with increased profitability over the Layoff/Attrition Model beginning in year two. The 1,800 Reduced Hours/Reduced Salaries Model is also more profitable than the Layoff/Attrition Model, with the improved profitability numbers beginning in year three.[5]

As Chart 1 demonstrates, *both* overall firm profits and profits per partner increase over the long term if firms use reduced hour/reduced salary options instead of conducting layoffs in a down market or allowing considerable attrition in a strong market.[6]

Chart 1 Profitability Report Scenarios

10% LAYOFF/ ATTRITION MODEL	BASE YEAR	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5
Layoff/Attrition Rate	10%	10%	10%	10%	10%	10%
Hours/Associate	2,000	2.000	2,000	2,000	2,000	2,000
Firm Profits	$491,198,232	$540,889,497	$592,423,120	$645,142,509	$699,425,635	$755,502,987
Profits Per Partner	$1,158,486	$1,257,883	$1,336,695	$1,403,033	$1,462,830	$1,519,312
1,900 REDUCED HOURS AND SALARIES MODEL	**BASE YEAR**	**YEAR 1**	**YEAR 2**	**YEAR 3**	**YEAR 4**	**YEAR 5**
Layoff/Attrition Rate	5%	5%	5%	5%	5%	5%
Hours/Associate	1,900	1,900	1,900	1,900	1,900	1,900
Firm Profits	$483,016,707	$540,006,195	$600,860,195	$664,457,594	$731,020,939	$800,676,115
Profits Per Partner	$1,139,190	$1,255,828	$1,353,899	$1,438,360	$1,513,705	$1,582,401
1,800 REDUCED HOURS AND SALARIES MODEL	**BASE YEAR**	**YEAR 1**	**YEAR 2**	**YEAR 3**	**YEAR 4**	**YEAR 5**
Layoff/Attrition Rate	5%	5%	5%	5%	5%	5%
Hours/Associate	1,800	1,800	1,800	1,800	1,800	1.800
Firm Profits	$474,835,182	$529,645,146	$588,445,168	$650,064,927	$714,670,281	$782,361,678
Profits Per Partner	$1,119,894	$1,231,733	$1,325,924	$1,407,204	$1,479,848	$1,546,206

Notably, Balanomics™ does not suggest a simplistic, one-size-fits-all reduced hours model to enhance profitability for all law firms or savings for all law departments. Rather, it provides evidence that a reduced hours model can enhance profitability and savings to encourage law departments and outside counsel to use their own variables to run the ACC model and include acceptable reduced hour assumptions, as a more profitable alternative to attorney layoffs or significant attrition.

The graphs below visually demonstrate the above findings — that profits, whether measured overall in the first graph or per partner in the second graph — increase over five years for firms that reduce associate billable hours and commensurately lower compensation instead of decreasing headcount through layoffs or attrition.

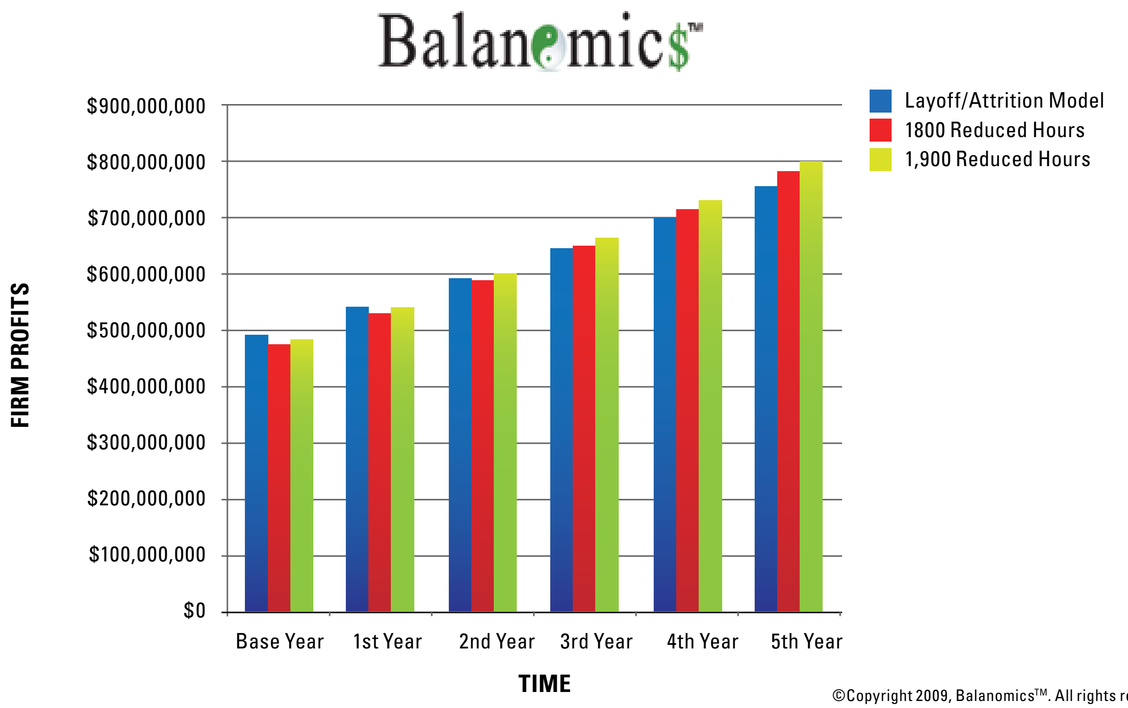
In fact, two UK firms have already decided to use reduced hours as a cost-saving measure,[7] leaving the impetus on US firms to also try such alternatives. Tania P. Shah, director of corporate social responsibility at Pillbury Winthrop Shaw Pittman LLP, agrees: "It has been said many times recently that in crisis, there is opportunity. Nowhere is this more true than in large law firms today. As firms evaluate all aspects of their business, we can really use this economic downturn to hone in on what is not working and try new ways of tackling these challenges that have been plaguing the industry for far too long. The work of Balanomics™ can help to share some of the most effective new approaches."

Increased Law Firm Profitability Translates into Law Department Savings

The next question that Balanomics™ considers is how improved law firm profitability through reduced hours and salaries translates into savings for legal departments. The starting point for this analysis is that it is generally in a legal department's self-interest to have its outside counsel better understand the factors that impact law firm profitability. Law departments have recognized this in commissioning NERA to develop the law firm profitability model for the ACC Value Challenge and encouraging firms to use the model to better manage their costs and maximize their efficiency. We show that firms can pass on significant savings to their clients by implementing the NERA model without sacrificing the quality of legal services.

Legal departments can benefit in several ways from law firms' ability to minimize layoffs in a downturn and reduce

Graph 1: Overall Firm Profits for Layoff/Attrition vs. Reduced Hours/Salary Models



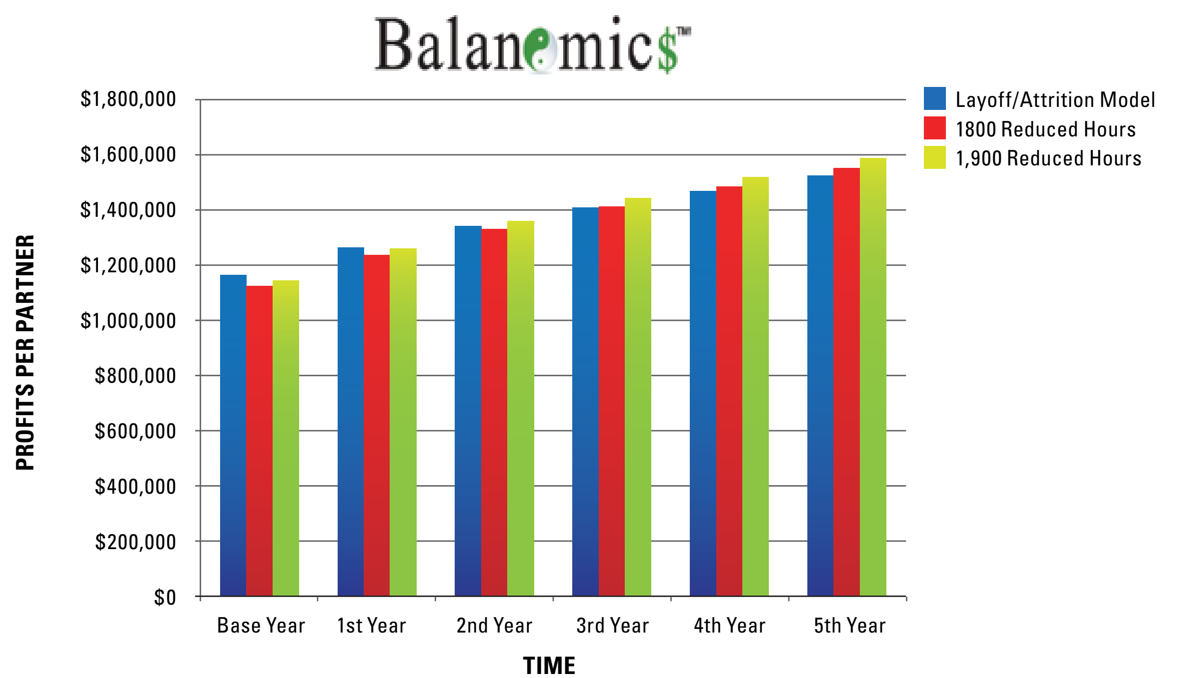
attrition in a strong economic climate because the loss of talented attorneys severely impacts both law firms and legal departments. When law firms see an increase in training and replacement costs and loss of investment in attorneys' development,[8] they inevitably pass these expenses on to clients. The clients then incur significant costs to pay for both the learning curve of the new lawyers and the in-house lawyers' time spent on training. At least one in-house department that has tracked this cost in lengthy litigation has permitted us to share it on an anonymous basis. It estimates a minimum in-house department loss of $14,000 for each lawyer lost from an outside counsel team. This economic loss includes a combination of the following:

1. the expense incurred for certain learning curve activities by the replacement outside lawyer that are not otherwise written off; and
2. the cost of time and capacity lost by the in-house team to personally instill matter-specific institutional knowledge in the replacement lawyer.

This is time that the in-house department typically must replace with additional hours purchased outside at law firm rates. Significantly, the firm creating the lost lawyer expense is less likely to be the one that the client employs to replace the in-house department's time in handling changes to the outside team.

Along with these economic costs, both firms and clients also face non-economic consequences when talented attorneys leave or are laid off. The disruption to client relationships, decline in productivity, low morale and alienation of future legal talent at law firms mirrors law departments' frustration due to lack of continuity in service, delayed resolution of legal matters, and erosion of institutional knowledge. As Nancy Gardner, executive vice president and general counsel of Thomson Reuters' Markets Division puts it: "When a lawyer working on one of our matters leaves a firm, we expect the firm to write off the new lawyer's time spent getting up to speed on the transaction. But this accommodation is typically dwarfed by the concomitant disruption to the transaction timetable and efficiency of bringing someone new on board." Through well-implemented reduced hours schedules and other work/life balance options, law firms can minimize disruptions, delays and lack of productivity to better attend to their clients' pressing matters expeditiously and effectively. Law firms can deliver high-level client service, responsiveness and accessibility to law departments by offering work/life

Graph 2: Profits Per Partner for Layoff/Attrition vs. Reduced Hours/Salary Models



balance solutions to their attorneys that emphasize work quality over face time. As clients have attested, as long as their outside counsel is responsive and accessible, they have no concerns working with reduced hour lawyers. Indeed, clients remark that, from their perspective, all law firm lawyers essentially work reduced hours because virtually no lawyers work exclusively for one client on one matter.[9]

Thus, implementing reduced hours and salaries instead of associate layoffs or high attrition at a firm can garner significant savings for legal departments without sacrificing either the high quality or the continuity of services.

Work/Life Balance Is Also Necessary to a Diverse and Growing Workforce

Beyond the above profitability issues, work/life balance is also important to expanding the diversity of talent in the legal profession and attracting future generations of lawyers. Given the economic downturn, many employers mistakenly believe that the work/life balance conundrum is no longer relevant because the war for talent is over and lawyers should feel lucky to have a job.[10] But the notion that the down economy will render work/life balance irrelevant is short-sighted and inaccurate. When the market improves, law firms and law departments will need to address the needs and demands of all talented lawyers to attract and retain them. This includes the following two constituents: women attorneys, who are disproportionately and acutely impacted by work/life conflict; and the younger generation of both male and female lawyers, who show no signs of abandoning their need for balance from employers. As the below analysis of gender demographics and generational trends shows, the profession must embrace work/life balance solutions for its longevity and success.

Balanomics Statement of Support

Inspired by the Call to Action model, Balanomics™ is soliciting signatories from three constituents in the legal profession — in-house law departments, law firms and professional associations — to endorse work/life balance objectives outlined in "Statements of Support." Balanomics™ believes that the signatory process and the opportunity for all stakeholders to participate simultaneously will invigorate a national dialogue about the relationship between work/life conflict, loss of talented attorneys and economic profitability, and serve as a powerful impetus for change. Associations and others around the country are encouraged to provide and participate in educational programming around the issues that Balanomics™ raises and report back on lessons learned through our blog. There is no fee to become a signatory or participate. For more information and to download the signatory forms, please visit *www.balanomics.net.*

Work/Life Conflict Acutely Affects the Retention and Promotion of Talented Women

Laudable initiatives have made tremendous strides in improving the status of women and attorneys of color in the profession.[11] However, the diversity discussion has been relatively silent on work/life balance, an issue that most acutely impacts the retention and promotion of women attorneys.[12] The profession can only fully harness the talents of women lawyers by integrating the specific work/life challenges they face as part of the solution. Unfortunately, the numbers demonstrate that we have not been successful in retaining and promoting talented women lawyers.

Though women have comprised 40-50 percent of law school graduating classes for nearly 25 years, they comprise fewer than 16 percent of law firm equity partners nationally.[13] Additionally, lawyers of color have comprised 10-20 percent of law school graduating classes for nearly 25 years, but women of color account for about 11 percent of law firm associates and only 1.4 percent of equity partners.[14] Women's representation in other legal venues is similarly low. For example, among the Fortune 500 in 2008, only 85 companies had women as their general counsel. Of these women general counsel, 75 are white/Caucasian (non-Hispanic), six are African American, two are Hispanic, and one is Asian Pacific American.[15] Given the large number of women who have entered the profession for so long, it is not for lack of a "pipeline" that there is a dearth of women at the top.

Instead, the explanation lies elsewhere — that is, with work/life *im*balance, among other reasons. According to a 2007 MIT study, lack of work/life balance was the number one reason why women left law firms while remaining in the workforce.[16] Data on women who leave the profession for long periods to become full-time caregivers further shows that lack of work/life balance contributes significantly to departures of female attorneys. Indeed, a 2005 study found that nearly half of women lawyers — 42 percent — leave the profession independent of maternity leave and stay out for an average of three years. The same study found another 24 percent of women attorneys leave for six to nine years.[17] Work/life imbalance also notably affects why women are not promoted at the same rate as their male counterparts. In 2008, 5.6 percent of law firm lawyers worked reduced hours, with 74 percent of them being women.[18] In general, 65 percent of women lawyers with children work flexible or reduced hours at some point in their tenure at a firm and they are less likely to make partner than male counterparts who work traditional schedules.[19] In short, lack of work/life balance options relates directly to poor female attorney retention and promotion.

Work/Life Imbalance Also Alienates the Younger Generation of Lawyers

Work/life balance issues also affect the very future of the profession because Gen X and Gen Y lawyers are making them a greater priority. In 2001, 71 percent of male and female law school graduates with children reported work/life conflict. Among those without children, 62 percent of women and 56 percent of men reported work/life conflict.[20] With a growing national initiative launched in 2007 by two male students at Stanford Law School, Gen Y has raised the profile of its work/life balance concerns and pressured firms to improve their work/life balance policies.[21] In a 2008 survey, eight out of ten NYU law students confirmed their willingness to trade money for time by earning less in exchange for flexible or reduced hours. In fact, work/life balance was the biggest concern for both male and female law students in the survey, with 72 percent of men and 76 percent of women saying that they were "very" or "extremely" worried about integrating a successful career with a satisfying family life.[22] These Gen Y priorities are increasingly consistent for men of all generations, who cited work/life balance as one of the top three reasons for leaving firms in 2007.[23]

These trends show no signs of abating, even in the current weak economy, as the emerging professional generation has sound historical reasons to expect an economic recovery relatively early in their careers. Moreover, 70 percent of law firm partners are Baby Boomers, and despite delayed and phased retirement trends, their eventual retirement will result in a dearth of legal talent, with not enough Gen X law-

ACC Extras on…Work/Life Balance

Visit the ACC Value Challenge Webpage

- The ACC Value Challenge offers proven tools and tips to help you save time and money while increasing your value to senior management. According to Michael Roster, chair, ACC Value Challenge Steering Committee, "The ACC Value Challenge is based on the concept that firms can greatly improve the value of what they do, reduce their costs to corporate clients and still maintain strong profitability." Find out more about this exciting initiative at *www.acc.com/valuechallenge*.

ACC Docket

- *Recruiting, Retaining and Developing Top In-house Talent (July/Aug. 2009).* It's not a great time to be looking for a job or to be losing your company's legal talent. The strength of a law department is in its ability to assemble and keep strong attorneys. Learn how to build and maintain your legal dream team. *www.acc.com/docket/recruit&retain_jul09*
- *Living and Working in the Real World — And 10 Tips for Real Success (July/Aug. 2007).* Have you ever looked up and realized that a deadline you thought was so far off was fast approaching? Here, the author shares some of her experiences and offers a few suggestions for attaining that elusive work/life balance. *www.acc.com/docket/10tipsforsuccess_jul07*
- *Debunking the Work-Life Balance Myth: Is it Fact or Fiction? (July/Aug. 2007).* While a corporate legal department may not be the ideal environment to foster a balance between work and life is it even possible to achieve? *www.acc.com/work/life_myth_jul07*

Program Materials

- *Billable Hour Alternatives (Jan. 2003).* Read this discussion of alternative ways to price and deliver legal services. Includes the ABA Commission on Billable Hours Report. *www.acc.com/billable_hour_alt_jan03*
- *Financial Services General Counsel Roundtable (Oct. 2008).* Find out how general counsel from leading financial service companies advise their corporations, manage regulatory risks, oversee the legal department, balance legal and business roles, and deal with outside counsel. *www.acc.com/gc_roundtable_oct08*

InfoPAKS℠

- *Recruiting and Retaining In-house Counsel (Aug. 2008).* This InfoPAK offers tips on how in-house counsel can successfully recruit, hire and manage employees. *www.acc.com/infopaks/recruite&retain_aug08*
- *The Value and Benefits of In-House Counsel (Jan. 2006).* The issue of whether to keep matters internal or outsource them to a law firm is not simple. This InfoPAK is intended to provide information on the value and benefit of using in-house counsel. *www.acc.com/infopaks/value_inhouse_jan06*

ACC has more material on this subject on our website. Visit *www.acc.com,* where you can browse our resources by practice area or use our search to find documents by keyword.

yers to fill the Boomers' shoes.[24] Additionally, as we emerge from the current economic downturn, legal employers will likely be more reluctant to use money alone to recruit and retain talent, making work/life balance that much more important for employers to distinguish themselves.

Thus, while uncovering the economic importance of work/life balance for firms and clients, Balanomics™ also highlights that supporting work/life balance is consistent with the profession's diversity priorities and necessary to ensure its success and longevity.

Leveraging the Benefits of Work/Life Balance for All

The conclusion that Balanomics™ draws from its analysis of economic, demographic and generational data is not that we need to target work/life balance solutions exclusively at large law firms or specifically for some constituents. Rather, embracing gender- and reason-neutral work/life balance solutions for all talented attorneys is necessary to improve law firm profitability and increase legal department savings. It is also necessary to prevent alienating those who have historically been disproportionately affected by work/life conflict, and attract those who are actively making work/life balance a greater priority. The key is to recognize the broader relevance of work/life balance to the productivity, profitability and professional satisfaction of all talented attorneys in the current and future workforce. In doing so, we can remove the stigmas and misperceptions of work/life bal-

Profitability Model: Here's the Bottom Line

Applying the NERA Economic Model, Balanomics™ Demonstrates that increasing reduced hours schedules is more profitable than conducting layoffs (or suffering significant attrition).

Below is Balanomics'™ step-by-step approach in using the NERA Economic Model, as well as a summary of the three profitability reports we ran. At each of the Model's seven steps (available at *www.acc.com/valuechallenge/resources/upload/calibrated-law-firm-profitability-growth-model.xls*), Balanomics™ either adopted the default assumptions in place for a large law firm or replaced them with more recent data. The three profitability reports we ran were for the following three models: (1) first, a model for a firm that maintains its 2,000 hour associate annual billable expectations but increases layoffs or attrition from five percent to ten percent to cut costs (Layoff/Attrition Model); (2) second, a model that maintains its layoff or attrition at the default rate of five percent and instead uses a five percent reduction in associate hours and salary to cut costs (1,900 Reduced Hours/Reduced Salaries Model); and (3) finally, a model that again maintains its layoff or attrition at the default rate of five percent and instead uses an even greater, ten percent reduction in associate hours and salary to cut costs (1,800 Reduced Hours/Reduced Salaries Model).

STEP 1 (Headcount and Layoffs/Attrition): The NERA proposed assumptions were used for total headcount of timekeepers — including paralegals, contract lawyers, of counsel, associates, and partners — over five years based on a large law firm model. Specifically, we started with the number of timekeepers ranging from 1,364 in the baseline year to 1,886 in year five. For the Layoff/Attrition Model, we increased the NERA assumption in associate layoff/attrition from five percent to ten percent (which resulted in timekeepers ranging from 1,364 in the baseline year to 1,719 in year five). Note that the NERA model does not have a separate step for implementing layoffs versus attrition. Thus, we reasoned that while attrition in a down market remains low at five percent, it is conservative to add an additional five percent layoff rate to reach a ten percent overall layoff/attrition rate. For the two Reduced Hours/Reduced Salaries Models, associate layoff/attrition was kept at the NERA assumption of five percent (because minimal attrition or performance-based terminations is unavoidable and possibly desirable).

STEP 2 (Billing Rates): Some NERA assumptions were adopted and others modified:

2A: Adopted 1st-year to 8th-year associate rates, from $220 to $450 per hour.

2B: Adopted 5th-tier to 1st-tier partner rates, from $600 to $980 per hour.

2C: Increased paralegal billing rates from $100 to $200 per hour.

2D: Increased of counsel billing rates from $150 to $400 per hour.[25]

2E: Increased contract lawyer billing rates from $170 to $200 per hour.

2F: Decreased anticipated annual increase in billing rates from seven percent to three percent.[26]

STEP 3 (Total Annual Hours Billed): For the Layoff/Attrition Model, all the NERA assumptions were adopted — that associates bill 2,000 hours; partners 1,800 hours; and of counsel, contract lawyers and paralegals 1,500 hours per year. For the 1,900 Reduced Hours/Reduced Salaries Model, only the assumption regarding associate annual billable hours was changed to 1,900 hours. For the 1,800 Reduced Hours/Reduced Salaries Model, only the assumption regarding associate annual billable hours was changed to 1,800 hours.

STEP 4 (Annual Recovery): Adopted assumption of 95 percent recovery rate of hours billed.

ance in the profession, and make it integral to delivering high-quality, value-driven legal services.

Have a comment on this article? Email editorinchief@acc.com.

NOTES

1 *See* Emily Heller, "General Counsel Pressuring Firms Amid Recession," *National Law Journal* (Mar. 30, 2009) (citing November 2008 Altman Weil survey of 115 general counsel on issues such as alternative fee arrangements); Jill Redhage, "Orrick Shakes Up Big-Firm Staffing Model," *Daily Journal* (Jul. 2, 2009) (discussing a few law firms' willingness to try changes to lockstep compensation and traditional staffing).

2 For more information, please visit *www.balanomics.net.*

3 Though this article focuses on reduced hours, work/life balance under Balanomics™ is broader. Indeed, it encompasses issues that pervade all lawyers' lifespan, whether they work a conventional schedule or not (including reasonable billable hours; regular vacations; full-time flexible schedules; reduced hours; parental leave; and transitions from, and re-entry into, the profession). Also, we use the term "reduced hours" rather than the misnomer "part-time." Reduced hour lawyers work a reduced number of days in the office or a reduced percentage of required billable hours compared to full-time lawyers. *See* Deborah Epstein Henry, "Prevailing Principles to Make Reduced Hour Schedules Succeed," *Diversity & the Bar* (Sept./Oct. 2007), *www.flextimelawyers.com/pdf/art9.pdf.*

4 The model is available on ACC's website: *http://www.acc.com/valuechallenge/resources/upload/calibrated-law-firm-profitability-growth-model.xls*.

5 In the two Reduced Hours/Reduced Salaries Models, hours were

STEP 5 (Salaries): Some NERA assumptions were adopted and others were modified:

5A: Adopted 1st-year to 8th-year associate salaries from $160K to $255K per year.

5B: Increased paralegal salaries from $50K to $75K per year.

5C: Increased of counsel salaries from $75K to $230K per year.[27]

5D: Increased contract lawyer salaries from $95K to $200K per year.

5E: Adopted five percent annual salary increase for paralegals, contract lawyers, and of counsel only, and not associates given raises implicit in lockstep compensation.

STEP 6 (Recruiting Costs): Adopted assumption of $400K 1st year associate recruiting costs.

STEP 7 (Overhead): Adopted assumption that other overhead costs (including rent, employee benefits, malpractice insurance, etc.) equal 33 percent of total law firm revenue.

Balanomics™ then ran the following three "profitability reports:"

Profitability Report – Layoff/Attrition Model: To calculate profitability for the Layoff/Attrition Model, the only change was to increase associate layoffs/attrition from five percent to ten percent. This resulted in an overall firm profit range of $491,198,232M in the base year to $755,502,987M profits in year five and a profit per partner range of $1,158,486 in the base year to $1,519,312 in year five.

Profitability Report – 1,900 Reduced Hours/Reduced Salaries Model: To calculate profitability for the 1,900 Reduced Hours/Reduced Salaries Model, the only factors changed were to decrease the associate billable hours from 2,000 per year to 1,900 per year and commensurately decrease associates' lockstep salaries by five percent (since the 100 hour reduction constitutes a five percent change). This resulted in an overall firm profit range of $483,016,707M in the base year to $800,676,115M in year five and a profit per partner range of $1,139,190 in the base year to $1,582,401 in year five.

Profitability Report – 1,800 Reduced Hours/Reduced Salaries Model: Finally, to calculate profitability for the 1,800 Reduced Hours/Reduced Salaries Model, the only factors changed were to decrease the associate billable hours from 2,000 per year to 1,800 per year and commensurately decrease associates' lockstep salaries by ten percent (since the 200 hour reduction constitutes a ten percent change). This resulted in a profit range of $474,835,182M in the base year to $782,361,678M in year five and a profit per partner range of $1,119,894 in the base year to $1,546,206 in year five.

Comparing these reports establishes that profitability *increases* over five years if law firms reduce associate hours and compensation rather than conduct layoffs or endure significant attrition. There are more significant gains after a five percent reduction in hours (from 2,000 hours to 1,900) and commensurate salary decreases, and slightly less dramatic gains after a ten percent reduction in hours (from 2,000 hours to 1,800) and commensurate salary decreases. Notably, either of the reduced hours/reduced salary options is better for *long term* law firm profitability (and therefore law department savings) than the layoff/attrition option. The 1,900 Reduced Hours/Reduced Salaries Model begins to be more profitable than the Layoff/Attrition Model in year two while the 1,800 Reduced Hours/Reduced Salaries Model begins to be more profitable than the Layoff/Attrition Model in year three.

reduced across the board from 2,000 to 1,900 or 1,800 as the only way to change hours in the NERA Model's parameters. But the above benefits would still accrue if associates billed different hours — ranging from say 1,200 to 2,000 a year depending on their practice area, market demands, client and personal needs, or other factors—as long as they average 1,800 or 1,900 annual hours per attorney. *See, e.g.,* Deborah Epstein Henry, "Face the FACTS: Implement a Multiple Billable Hours Approach to Address the Economic Downturn," *Yale Law Women Blog* (Mar. 24, 2009), *www.flextimelawyers.com/pdf/art15.pdf*.

6 Given varying state laws about shorter workweeks and exempt employees, employers should discuss any reduced hour plans with employment counsel. Jenni Field *et al.*, "Cut Short," *Daily Journal* (Jul. 1, 2009).

7 Claire Ruckin, "Firm Offers Lawyers Four-Day Week, Chance to Buy Extra Vacation," *New York Lawyer* (Jul. 13, 2009); Zach Lowe, "A Reduced Work Week: One Way to Avoid Layoffs," *The AmLaw Daily* (Mar. 13 2009), *http://amlawdaily.typepad.com/amlawdaily/2009/03/norton-rose.html*.

8 "The Unfinished Agenda: A Report on the Status of Women in the Legal Profession," *ABA Commission on Women in the Profession* at 19 (2001); Wendy Davis, "Associate Flight Leads to New Look at Pyramid," *New York Law Journal* at 1 (May 22, 2000).

9 Work Life Law, "Better on Balance? The Corporate Counsel Work/Life Report" at 51-52 (Dec. 2003).

10 Gina Passarella, "Work-Life Balance Scale Tipping in Work's Favor," *The Legal Intelligencer* (Nov. 3, 2008), *www.flextimelawyers.com/news/news55.pdf*.

11 In the last decade, the diversity dialogue has raised awareness about the need for diversity in the law; advanced the professional development of women and attorneys of color; and initiated a discussion about the benefits of diversity to the profession. Two key initiatives merit special acknowledgment. First, the chief legal officers of 500 companies signed the 1999 diversity manifesto issued by former BellSouth General Counsel Charles Morgan, "Diversity in the Workplace: A Statement of Principle." Second, general counsel reaffirmed this pledge in 2004, agreeing to hire firms based on their diversity performance through the initiative titled "A Call to Action" and spearheaded by former Sara Lee General Counsel Roderick Palmore. *See* Melanie Lasoff Levs, "Call to Action. Sara Lee's General Counsel: Making Diversity a Priority," *Diversity & the Bar* (Jan. 2005).

12 The Minority Corporate Counsel Association (MCCA) and Vault have developed a Law Firm Diversity Database that requests information on work/life balance options at firms as part of their diversity efforts. But misconceptions about work/life balance persist, requiring further comprehensive efforts to make it central to diversity.

13 American Bar Association, "First Year and Total J.D. Enrollment by Gender for 1947–2008," *www.abanet.org/legaled/statistics/charts/stats%20-%206.pdf*; The National Association of Women Lawyers ("NAWL") and The NAWL Foundation, "Report of the Third Annual National Survey on Retention and Promotion of Women in Law Firms," at 5 (Nov. 2008), *www.nawl.org/Assets/Documents/2008+Survey.pdf*.

14 American Bar Association, "First Year J.D. and Total J.D. Minority Enrollment for 1971–2007," *www.abanet.org/legaled/statistics/charts/stats%20-%208.pdf*; NAWL and The NAWL Foundation, "Report of the Third Annual National Survey on Retention and Promotion of Women in Law Firms," at 2-3 (Nov. 2008), *www.nawl.org/Assets/Documents/2008+survey.pdf*.

15 "MCCA's 2009 Survey of Fortune 500 Women General Counsel," *Diversity & the Bar* (Jul./Aug. 2009), *www.mcca.com/index.cfm?fuseaction=page.viewpage&pageid=1930* (the ethnicity of one general counsel could not be confirmed before the magazine went to press).

16 Mona Harrington & Helen Hsi, "Women Lawyers and Obstacles to Leadership. A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women and Men in Massachusetts Law Firms," at 12–13 (Spring 2007), *http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf*.

17 Sylvia Ann Hewlett, *et al.*, Center for Work-Life Policy, "The Hidden Brain Drain: Off-Ramps and On-Ramps in Women's Careers," *Harvard Business Review* at 81, 98, Ex. L1.11 (2005).

18 National Association of Law Placement, "Women Vastly Outnumber Men Among Part-Time Lawyers – Overall, Number of Lawyers Working Part-Time is Small, Rate Little Changed Over Time" (Dec. 18, 2008).

19 Mona Harrington & Helen Hsi, "Women Lawyers and Obstacles to Leadership. A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women And Men in Massachusetts Law Firms," at 26, 29 (Spring 2007), *http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf.*

20 Catalyst, "Women in Law: Making the Case Executive Summary" at 9-10 (2001) (noting that work/life balance was the number one reason why 45 percent of women law graduates chose their current employer while 34 percent of men reported work/life balance as a top three reason for selecting their current employer).

21 *See* Building a Better Legal Profession at *www.betterlegalprofession.org.*

22 Nancy Rankin *et al.*, "Seeking a Just Balance," *A Better Balance* at 3-4, 6 (June 2008), *http://abetterbalance.org/cms/index.php?option=com_docman&task=cat_view&gid=33&Itemid=99999999.*

23 Mona Harrington & Helen Hsi, "Women Lawyers and Obstacles to Leadership. A Report of MIT Workplace Center Surveys on Comparative Career Decisions and Attrition Rates of Women And Men in Massachusetts Law Firms," at 12-13 (Spring 2007), *http://web.mit.edu/workplacecenter/docs/law-report_4-07.pdf.*

24 Elizabeth Goldberg, "Law Firms Face Gray Area as Boomers Age," *The American Lawyer* (Dec. 10, 2007) (citing Hildebrandt Int'l), *http://www.law.com/jsp/article.jsp?id=1197021878240.* There are 76 million "baby boomers" born between 1946–1964, and only 46 million Generation "Xers" born 1965–1980. *See* BSG Concours, "Engaging Today's Young Employees (Preliminary Report)," at 5-14, 46 (2007). While the millennials or generation "Y" individuals born between 1980–2000 will be the largest consumer and employee group in United States history, at 80 million, they will not be old enough when the Baby Boomers retire to replace them. *Id.*

25 "2008 Law Firm Compensation, Billing Rate, and Benefits Survey," Conducted by RBZ, CPAs (demonstrating need for increase in contract lawyer, paralegal and of counsel billing rates).

26 Karen Sloan, "Law business index reports ugly first-quarter results," *National Law Journal* (May 11, 2009). *www.law.northwestern.edu/career/markettrends/2009/pr8urou5ri7s.pdf.*

27 "2008 Law Firm Compensation, Billing Rate, and Benefits Survey," conducted by RBZ, CPAs (demonstrating need for increase in contract lawyer, paralegal and of counsel salaries).