Law360

October 22, 2009

By Elaine Meyer

Report Urges Firms To Cut Hours, Pay Instead Of Jobs

In a climate of layoffs, corporate firms should consider reducing attorneys' hours and salaries rather than cutting them entirely, according to a new report.

Balanomics, a group of attorneys from corporate legal offices and law firms, published the report in the November issue of the Association of Corporate Counsel Docket. The group said it hoped the recession would encourage legal departments to reduce attorneys' salaries and hours to avoid layoffs and encourage a better work-life balance in the process.

In the long term, reducing hours and salary is actually more profitable than layoffs for a firm because it avoids costs related to turnover, the group said in the report. Still, layoffs have often been corporate law's reflexive response to the economic downturn.

“There is so much stigma surrounding reduced hours. It's traditionally been perceived as an accommodation,” said Deborah Epstein Henry, one of the co-founding partners of Balanomics and founder and president of Flex-Time Lawyers LLC.

Balanomics' other partners are Darragh Davis, vice president and general counsel of Petco Animal Supplies Inc.'s law department; Rupa Singh, a partner at McKenna Long & Aldridge LLP; and Elizabeth B. Daniels, chief legal counsel at Simnsa Health Plan.

Using an economic model of law firm spending, Balanomics input earnings of a hypothetical firm that required associates to bill 2,000 hours a year and lost 10 percent of its attorneys to layoffs and attrition. They compared the data with that of a hypothetical firms where associates must bill 1,900 hours a year and lost 5 percent of attorneys, as well as a third hypothetical firm where associates must bill 1,800 hours a year and lost 5 percent of attorneys.

The group found that the two firms with the lower billable-hour requirements had greater profitability over a five-year period.

Those numbers makes sense, the group said, because law firms and their clients lose out more with layoffs as opposed to reduced hours — layoffs force firms to spend more on training and replacement costs for new attorneys. Law firms' corporate clients lose out, too, when the firms inevitably pass those costs on, the group said.

An anonymous in-house department told Balanomics that it estimated it loses $14,000 for each lawyer that leaves an outside counsel team, according to the report.

When talented attorneys are laid off, firms and clients also face “noneconomic consequences,” such as disruption to the client relationship, decrease in productivity and low morale, the report said.

Though a talent shortage may not be a concern in a down market, it should be, according to Balanomics.

“A lot of employers right now think that the war for talent is over, but when the market improves again, there's going to be a dearth of talent, and work-life balance is a very important way of attaining and retaining good talent,” Henry said.

Particularly, female attorneys and young lawyers are concerned about that balance, according to the report.

“Work-life imbalance” hits women the hardest and is the No. 1 reason women left law firms while remaining in the work force, according to a 2007 MIT study cited in the Balanomics report.

Although no major U.S. firms have instated reduced hours and salaries as a direct response to the economic downturn, two U.K. firms have, according to the Balanomics report.

One of those firms, Norton Rose LLP, has forced staff members and lawyers to work four days per week instead of five and take a pay cut, according to Legal Week. The firm plans to cut base salaries to 85 percent of the attorneys' current base pay, according to the report.

“When I talk to law firm management as a consultant, I repeatedly hear these days that everything's on the table, and if everything's on the table, this economic analysis should be,” Henry said.