

Successful Summers in 2008

How Summer Associates Can Receive Offers, Avoid Failure & Make Superior Career Choices

A SPECIAL REPORT FOR LAW STUDENTS

SPRING 2008

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More than 20,000 law students will join law firm summer programs this year. Most will end the summer a few pounds heavier and basically pleased with their experience. Some will be disappointed and fail. Others will be confused. But many will focus too much on 'getting an offer' and too little on using this summer to match professional dreams with market realities. The national economy appears to be entering a recession which may impact the level of hiring out of this year's summer programs. The wise law student will be vigilant.

This REPORT for students discusses • How to succeed (2-7) • Avoiding the most common causes of failure (8-12) • The avalanche in associate compensation (12-13) • Understanding the summer program from the firm's side of the table (14-15) and • Learning valuable lessons about yourself and where you fit in the profession (16-18).

I. HOW TO SUCCEED

Law school begins with learning what professors expect and how grading and exams work. Success in the summer begins with understanding what the firm wants and how to deliver it. In some respects it seems simple. Law firms deliver professional advice for a fee. The market for legal services is extremely competitive. Delivering quality, and value is critical every day. The fundamentals of practice — profitability, keeping and finding clients, providing stellar service — flow from vigilance about quality and value. This section discusses the important art of • understanding and managing assignments • juggling conflicting demands • accounting for your time • handling criticism • protecting the confidences of the firm and its clients • and using the firm's computer and voicemail systems with care.

MASTER YOUR ASSIGNMENTS

Mastering assignments begins with understanding what lawyers want. You are not in law school; this is not a contest where you are graded against other students. Clients want answers — not issue spotting. Sophisticated clients already know the issues. Clients want answers based on the facts and applicable law — not theory based on policy arguments, law review articles, cases from other states, dissenting opinions, or model statutes which have not been adopted.

Problems in summer programs often arise from misunderstood assignments. Common errors include • spending the wrong amount of time on a project • delivering the wrong type of work product • memoranda that speak with the voice of a law student rather than that of a lawyer and • inadequate or excessive legal research. Each is preventable.

If you do not enjoy research, call that truck driving school. If you do not have a natural curiosity about legal issues you are in the wrong profession. That means a rigorous, disciplined approach to defining problems and finding answers even if it means going through scores of cases, stacks of treatises, and hitting innumerable dead ends until you are satisfied.

Your assignment will be delivered by an attorney responsible for coordinating projects for summer associates or the attorney for whom the work will be done. Do not leave the office of the assigning lawyer without answers to these questions—

- 1** What kind of answer does the lawyer want — informal, oral, a short memo, or a more extensive report?
- 2** Does the assigning attorney want to discuss your conclusions?
- 3** What is the due date? Is a preliminary report or intermediate report required?
- 4** How much time should you spend? If more time is required, should you check back with the assigning attorney?
- 5** What files, memoranda, forms, or other material should you review?
- 6** Are there associates with whom you can speak as questions arise?
- 7** Should you look at the laws of one jurisdiction or do a more extensive survey?
- 8** Should you use LEXIS or WESTLAW?
- 9** Are there particular secondary sources the lawyer recommends — e.g., ALI, PLI treatises, local or state bar groups, or other specialized materials?

- 10 Who is the client and to what matter should your time be charged?
- 11 Are there any especially sensitive concerns - beyond the normal concerns of client confidentiality? Sometimes your work may be on an unannounced transaction, a case that has not yet been filed, or on a project that is for some other reason especially sensitive.

Listen and take notes. When you return to your office you may realize that • you forgot to ask a question • or that a fact or detail seems unclear. Review the materials you were given — but do not be bashful about seeking clarification. Many summer associates stumble because they misunderstood a key feature of an assignment and delivered a memoranda which answers the wrong question, applies the wrong governing law assumes incorrect facts, or gives the wrong level of detail. The partner is disappointed, the summer associate feels unfairly treated, and the firm or client may have a problem. All of this can be prevented — by seeking clarification.

Balance learning what you need to know versus bugging the assigning lawyer. Some summer associates come back with questions five times a day. This annoying habit suggests immaturity. At some point a rebuttable presumption of creeping Bozoism arises.

The assigning lawyer is a busy professional. Brown & Abramson opened its doors 73 years ago and somehow survived without you until last Monday. Every lawyer has conflicting client matters — documents to draft, letters to write, calls to return, meetings to attend, bills to prepare, and presentations to make. If your behavior suggests pestering, immaturity, or someone who just "doesn't get it," your summer is at risk.

Most projects will require a memorandum or other written work product. Understand the styles and formats for memoranda, complaints, briefs, opinion letters, etc. Your advisor, the summer program coordinator, and secretaries can help you. Many firms have extensive form files. Also, the assigning attorney may have preferences on how papers are prepared.

LEXIS AND WEST LAW

Firms have various billing arrangements with LEXIS and WESTLAW. Summer associates must understand firm preferences for • which service to use • how it is billed • and restrictions on its use for browsing, printing, and down-loading.

Arrangements with LEXIS and WESTLAW include • by the minute charges • bulk flat fees • blended arrangements • flat rates for certain research, but far higher rates for printing and specialized research. Within the same firm you may find that different practices apply for certain clients.

You grow accustomed to free computer research during law school. This clever marketing ploy makes enormous sense for West and Reed Elsevier and it occasionally leads summer associates astray when they join a firm which does not have unlimited or flat rate billing for on line services. Nothing makes assigning attorneys go ballistic more quickly than \$5,000 of uncollectible on-line research charges.

JUGGLING ASSIGNMENTS

One of the toughest challenges for young lawyers is managing their own workload. It is difficult to estimate the time that a project will take. Working for several partners simultaneously places a great burden on you.

You want to appear energetic and committed. But you do not want to take on so much work that any partner is left disappointed. If you decline to take on work and appear under-deployed or slothful, supervising lawyers may think you are lazy or not committed. It is a tough challenge with no easy way out. The best advice here is not the most pleasant: it is better to be 110 percent busy than it is to be 70 percent occupied.

In an era when productivity, value, and client service are critical, all professionals must learn this skill. Those who master juggling and are efficient about their own time often mature into lawyers who manage groups, departments, and client relationships. It is hard to be efficient during a summer program. There are CLE programs, lunches, administrative matters, and social

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distractions galore. You are trying to • develop personal relationships with peers, associates, and partners • find your way through the administrative intricacies of a new professional home. All of this makes it difficult to get your work done. Don't let the days drift away.

You must be an efficient self-starter and keep your eye on the firm's interests. If you succumb to the social agenda and all the distractions of the summer program you may find yourself in a hole. This does not mean you have to be a drone. It does mean that you have to maintain your focus. With apologies to Clint Eastwood and deference to HEARTBREAK RIDGE, summer associates must adapt, improvise and overcome.

Flexibility and adaptability are hallmarks of professionalism. Sometimes the shape of an assignment changes half way through the project. • You identify a legal issue that was not foreseen. • A group of cases turn on factual distinctions that require you to seek additional advice. • You hit an absolute dead end researching an issue. Do not fall into a black hole and disappear into the next galaxy. Go back to your assigning attorney and explain what you have done and the problem or wrinkle that has arisen. They may well steer you in another direction or be able to reconfigure or simplify the assignment. If you hit an explosive issue that was not identified, bring it to the attention of the assigning attorney as soon as possible. Do not wait three weeks to say "gee, I think we *may* have blown a filing deadline."

SPLIT SUMMERS

Many students divide their summer among two or more firms, a practice which appears desirable for students when making decisions during the fall of the second year. By the time the summer rolls around, the risks become clear. What seemed wrapped in Solomonic sensibility last Fall is risky — you want two firms to place complete faith in you even though your loyalty is divided. You split the summer — you assume the risk of failure. A less than sparkling performance is more likely to result in a 'no-offer' decision.

The risk of not receiving a permanent offer is greater for students who split their summer. There is less time to • recover from a blown assignment or a bad review • establish relationships, understand a firm's practice and make a reasoned decision. But since you decided to split, here is how to minimize the risks. Understand that the risks of failure during a split summer are far greater in a soft economy. If for some reason a firm decides to pare down the percentage of offers extended, a summer

associate with divides their summer is at more risk than a summer associate who does not.

First, the burden is on you to perform above and beyond the call of duty throughout both halves of the summer.

Second, do good work and lots of it. The file for someone who spends only six weeks will be quite thin. If you are not energetic, you stand a good chance of having only 30 percent of the reviews and work product of those who work the entire summer. If you arrive mid-way through the summer, many lawyers are on vacation. Those who are not wish that they were. The firm is weary of the summer program and it is hard to find good assignments. In the dog days of August, these problems can be acute.

Third, assimilate in both halves of the summer. Do not ever say "This dinner is not nearly as much fun as the private room we had at Postrio before going to our black-tie backstage party with the original London cast of MAMA MIA. Poor form, Fabio. Very poor form — *especially since the original London cast doesn't tour!* Do not tell too many stories about your six weeks at Winslow & Homer because it will sound as if they are your first choice.

Fourth, if your significant other is back in city #1, do not bring luggage to the office on Friday before running to LAX to catch the shuttle to SFO. It shows a lack of commitment.

Fifth, scrupulously protect the confidences of the first firm. Do not tell tales out of school about its internal politics, events, or recruiting shenanigans no matter where they fall on the boundary of the attorney-client privilege.

Sixth, do not pout if you are not immediately embraced by the summer associates already in residence. All those people are not really staring at you and whispering as you head to the elevator. Or are they? You showed up six weeks late for summer camp. Log onto Netflix, order PARENT TRAP, and call me in the morning.

In some cities -notably Dallas and Houston - the split summer has been a fact of life for decades and summer associates often divide the summer into two, three, or more parts. But even in markets where split summers are the rule rather than the exception, a summer associate must take each firm seriously.

ACCOUNTING FOR TIME

Welcome to a profession where you are paid for your time. Clients pay for legal services by the hour. Recording your time accurately, comprehensively, and consistently is important to your firm, its clients, and your career. Developing this habit takes effort but it must be done. Record your time daily and turn it in daily. Most firms look closely at lawyer's time in assessing the productivity, profitability, and making decisions about compensation and promotion. Most firms will ask that you enter four types of information in a format like this

CLIENT	Intel
MATTER	Microsoft v. Intel
DETAIL	Draft outline for Jones deposition; Meet Chris Smith re preparation to take Jones deposition; Research privilege waiver and work product issues for V. Armstrong deposition
TIME	6.25 hours

Your advisor, recruiting coordinator, or secretary can teach you the details. But you are setting yourself up to meet with Dr. Kevorkian if you do not get in the habit of careful time keeping. If you do not record your time every day, you will lose track of what you have done. This will lead to • lost time • inaccurate chargeable hours • and incomplete descriptions of work performed. Your time charges must be sufficiently detailed to be understood by the billing attorney and the firm's client. A cryptic reference such as 'research' is not sufficient. Explain the nature and scope of the research —

Research and draft memorandum on Alabama standards for summary judgment in premises liability matters.

Likewise, if you meet with an attorney, the entry "meet with John" is inadequate. Instead your time entry should read

Meeting with John Smith re: summary judgment standards in securities fraud matters in 8th Circuit. Evaluate revisions to compulsory counterclaims against Republic Gypsum.

The time you record on June 2d, is shown on a computer print out generated in early July. It is reviewed by the billing partner, finalized, and sent to the client in later in July. Questions from the client will be received

during August or September — after you return to school. It is irritating and time-consuming to decipher and edit superficial time records two months afterwards. Time that cannot be explained cannot be collected.

Accuracy means recording the time you spend. It does not mean double thinking whether you should round up or down. Your hourly rate reflects the firm's assessment of your capability and efficiency. The billing partner will decide whether to write off, write down, or write up your time. Do not lose yourself in the weeds of second-guessing the basis of time based billing.

Don't become obsessed with hours — the profession attracts hard-working professionals. In a healthy economy, meeting the firm's chargeable hour target will take care of itself. Most firms understand that summer associate have substantial down time, time charged to firm or administrative matters. If you remain obsessed by the almighty chargeable hour, please ask for a copy of my 1996 report — *WORSHIPING FALSE PROFITS— HOW HOURS-BASED BILLING AND COMPENSATION KILLED THE GOOSE THAT LAID THE GOLDEN EGG.*

MANAGE YOUR TIME — LIFE ON A PROFESSIONAL'S CLOCK

One of the toughest problems is the change from student life to law firm life. The work habits of many students do not match well with the daily life of a firm. Law students work hard — your first year in law school may be the hardest interval. in your career. But, when join a law firm you follow the pulse and practice of the firm, its partners, and its clients. To begin with the self evident - most lawyers are at their desk at 8:30 a.m. (many far earlier). Set the student sleep cycle aside. You must be available throughout the normal hours of a law firm's work day - later in your life you'll earn the right to set your own schedule, but not this summer.

Use a diary system to track your appointments, projects, and time records. It doesn't matter if you use Outlook™, ACT™, or a Palm Pilot™ —what matters is that you track appointments, commitments, and chargeable time in a way that is accurate, current, and manageable. Review your social networking sites - inappropriate items on FaceBook or comparable sites will not be well received by employers. I'll save the debate about your 1st amendment rights for another day.

Time the production and delivery of your work product to match the availability of firm support services and the

time schedule of partners. Learn • what night and weekend services are available for word processing, copying, and other support areas • who you need to talk to in order to make these arrangements • and when you must call to make these arrangements. Having a good relationship with the night-time and weekend support staff can make or break your summer.

Learn the preferences and schedules of the people for whom you are working. Some are early birds. Some are night owls. Some prefer that drafts of documents be left on their desk chair. Others want drafts faxed to their home or e-mailed as an attached document. If you do not know, ask the assigning lawyer or their secretary. Do not be surprised if the schedule of the assigning lawyer changes without warning. They are juggling dozens of competing demands and their good faith intention to meet with you Wednesday at 10 a.m. may fall by the wayside if a client asks them to fly to San Francisco for a meeting.

HANDLING CRITICISM

During the summer you will receive criticism. Most firms give periodic evaluations. It is also possible that an assigning attorney will take time to offer you feedback on your work. The coin of feedback has two sides — praise and criticism. You learn more from the latter than from the former. If you are a solid citizen who is committed and enthusiastic you can learn great deal from constructive criticism. You must understand why it is given and what it means.

Criticism is usually well-intended. Firms want you to succeed — if you are bright, well-liked, and energetic — the natural human instinct takes over. The partners running the summer program want to run a successful program. Experienced lawyers love to find new lawyers who they can bring into their groups or teams. That, in one respect, is what the summer program is all about. Criticism is not delivered in the abstract. It is delivered • on the spot when you have made a mistake • at a quieter moment during the project when the assigning attorney has a moment to breathe or • during the regular review process.

Some lawyers are just unpleasant or angry people. Usually, however, the lawyer is angry about because your mistake disrupted his schedule, confused his client, screwed up an issue in a brief, or otherwise made his professional life unpleasant.

Depersonalize your reaction and learn from it. Contain your own hostility, rage, anger, and other

emotional reactions. Do not head to your office in tears, vent your emotions to other summer associates or storm off into professional oblivion. At the end of the day run five miles or bike around the lake. (For those of you in cities without a waterfront or bike paths, I'll await your call in 2008 about your next job.) Regain your focus and knock the next pitch out of the ballpark. Nothing distinguishes you faster than overcoming adversity — a trait common to all exceptional lawyers.

CLIENT AND FIRM CONFIDENCES

Nothing is more sacred to the legal profession than the confidential relationship between lawyer and client. This goes far beyond what is required by the rules of professional conduct. Your personal rule should be very simple — do not talk about our firm's business, its clients, their problems or anything related to them outside the four walls of the firm. With anyone. At any time. It is that simple.

The greatest risks are casual social comments. Somewhere in the middle of a case of Heineken you pass along information about something of great sensitivity to a firm client. Equally risky are comments in restaurants, public places or cocktail parties that directly or indirectly reveal the business of the firm or its clients. The group at the next table may include three employees of the client, their banker or accountant, a competitor, or associates working for someone about to make a competing offer to buy your client. Trust me. They are there — perhaps not as nattily attired and lacking the Bombay Sapphire martini — but there nevertheless. It is not just legal advice or technically privileged information. It is anything about the client and their business. You risk immediate termination if you violate this rule.

Gossiping about firm politics, attorneys, finances, or other subjects is equally foolish. While it violates no disciplinary rule, you can be assured that the managing partners do not want the firm's business discussed at LIQUID, CLUB X, OR MARTINI MADNESS. I would be equally cautious about posting commentary on the internet about your summer employer, no matter how carefully you believe you have disguised your identity.

Do not copy, remove, download, or distribute written work product without the clear permission of the hiring partner *and* the partner for whom the work was done. While firm policies vary, most do not want their work product distributed outside the law firm, for any reason at any time. It really does not matter if you change all the client names. The firm's confidential work product includes

• memoranda you write during the summer • form files of pleadings and transactional documents —whether or not publicly filed • brochures and marketing proposals • and any and all information maintained on the firm’s network or databases (including, of course, lists of clients, contacts, or potential clients).

Distributing firm work product without permission jeopardizes your career. When you apply to the bar all previous employers must sign affidavits about your character and fitness. Your admission to the bar can be delayed or precluded if an employer reports that you do not treat confidential information with care. Driving the big rigs can be fun but your Mom does not expect your telephone number to be 1-800-18-WHEELS.

COMPUTERS & VOICEMAIL

Understand and follow all rules on access, use, privacy, security, and Internet access. Do not use the firm’s network or e-mail system for recreational or personal purposes. Even then, do not distribute jokes of whatever subject and taste you forward to friends during school. Do not sent around large “exe.” files, video clips, music, etc. It is not worth the candle to debate whether this is right or wrong or infringes on your 1st Amendment or privacy rights - if you “get into it” with the firm you lose. Game over (but thanks for playing).

For the summer, I’d skip the purportedly anonymous posts at legal blogs such as AboveTheLaw even if you’re posting from home. You can turn your vent on after you receive an offer.

Every where you walk in the electronic world you leave footprints. It will not advance your career one whit to have to defend your Internet habits during your exit interview. Everything sent or received on the firm network resides on back up tapes. Many networks have screening systems to flag when an attorney is using the firm network to • send or receive obscene or inappropriate messages • log on to Internet sites unrelated to the firm’s business. Are firms Orwellian? Nope. Are they trying to monitor your personal life? Nope, again. They are protecting the interests of the firm and its clients. In a world where almost anything can be discoverable, firms must be scrupulous about managing electronic communications and records.

Your Own E-Mail & ISP —Be equally cautious about logging on through the firm network to access your own E-mail or ISP. If you access Hotmail or Yahoo from the firm your ‘anonymous handle’ won’t protect you - every

keystroke from your desktop passes through the firm’s systems and filters and can be traced easily.

Voicemail —Be prudent with voice mail. • No funny greetings. • No forwarding messages which you think are funny to fleets of summer associates. • No playing with bugs on the firm’s phone system.

Security — Law firms are zealous about viruses, hackers, unauthorized access to the firms’ networks, and damage to the firm’s records. Follow the rules on copying disks, uploading or downloading files, shareware, use of laptops, macros, and all the rest. It goes without saying that you do not want to be the summer associate who loses a firm laptop or documents outside the office. For further detail, invest \$9 and watch *CHANGING LANES*.

Cutting Edge —Law firms are in the midst of an expensive technological revolution. Your firm may be ahead in some areas and behind the curve in others. Do not gripe if your desktop or laptop lacks the bells and whistles of your machine at home or the one “they have over at Brown & Williams.” The technological revolution is the most expensive change in the practice of law in the past fifty years (aside from attorney compensation). Firms struggle to stay current without incurring astronomical costs. The firm that is ahead of the curve today may well fall behind next year because firms cannot afford to constantly upgrade and change their equipment.

Electronic Habits — Do not assume that all lawyers love e-mail. Some lawyers do not use it at all. Others only use it from time to time. Take time to learn the preferences of the lawyers with whom you work. Some will be voice-mail junkies. Others will happily practice in a world where legal pads and pens suffice. If you bury someone in annoying e-mails or voice mails who lives on a different electronic planet you are likely to irritate them. Face-to-face visits with colleagues should not be a lost art and passive aggressive e-mails should not become an Olympic sport.

SOCIAL EVENTS

Summer associates are inundated by invitations to lunches, dinners, in-firm programs, and social activities outside the firm. Particularly in a summer when the economic outlook is uncertain, summer associates must act with care and discretion at firm sponsored social events. Last summer, during the peak of the boom, saw far too many examples of summer associate misconduct

at firm social events. Almost invariably the misconduct involved excessive late night drinking.

First, understand that the primary purpose of the events is a good faith effort by the firm to entertain summer associates and convince you to join the firm following graduation. It is not a secret effort to see how you behave in a social setting, whether you can order from a menu written in a foreign language, or how much beer you can consume at a Cubs game.

Second, how you behave at social events will be observed (and remembered). So a summer associate is always wise to behave with caution as if you were in the middle of a 12 week interview (because you are). It should go without saying that drinking to excess, being too loquacious and entertaining, or behaving in any way that becomes memorable is an obvious no-no.

Third, it is up to you to strike a balance during the summer. Your work comes first. Period. You do not want to be known as either the party animal or dullard of the summer program. You should be able to exercise some adult judgment about the appropriate balance.

Fourth, I have never seen a 'no offer decision' made because someone worked too hard, or was a bit less socially active than others in a summer program. But I do recall many situations where someone's conduct at social events was consistent with a generally poor performance during the summer and it became *one of many* ingredients in a no-offer decision.

Fifth, if you are invited to an event, R.S.V.P. promptly and don't change your mind at the last minute or simply no-show. Whether it's an event at a partner's home, a program being held to showcase a department, or a group heading to a baseball game, don't be one of those annoying summer associates who is a no-show.

Finally, relax, have fun, and learn about your colleagues and their lives outside the office. It is a valuable ingredient in the process of learning about the firm and how you fit in with your potential future colleagues.

II. WHY SOME SUMMER ASSOCIATES FAIL

This section outlines the most common causes of failure in summer programs. Failure in a summer program has substantial short and long-term implications for law students. Your options next Fall will be far more limited. Subsequent employers will inquire about your summer experience for years. If the mid-term reviews are weak,

or if you believe that your performance has been less than perfect the burden is on you to finish strong and doing excellent work for demanding lawyers. This will be particularly important this Summer because the market for 3L's this Fall will be tissue-thin.

WORDS FOR THE WISE: SKIP THE "AFTER PARTY." AND — NOTHING GOOD HAPPENS AFTER MIDNIGHT.

DEMANDING, HIGH MAINTENANCE JERKS

Welcome to Tough Love 101. Most summer associates who fail exhibit conspicuous behavioral flaws. Yes, some firms make mistakes, make poor decisions, and mis-treat summer associates. But in most cases, the fault lies with the summer associate. Some of my favorites (regrettably true stories, names omitted to protect the innocent) are the summer associates who

1. Said he had trouble keeping track of time and wondered if the firm could buy him a watch ---- on his then healthy salary of \$1,200 a week (perhaps a talking watch that says "time to get a new job" would have been better?);
2. Wondered why the firm would not charter a bus to visit a local amusement park — (why not just go on your own on the weekend?);
3. Would not carry books from the library to her own office and insisted that it be done by the messenger staff (her office was 100 feet away on the same floor as the library);
4. Declined an assignment to work on a cutting edge injunction matter because "he would have to cancel his tennis lesson;"
5. Decided he did not like what was offered at a firm sponsored informal cocktail party at a local restaurant and proceeded to order platters of shrimp (his nickname became *shrimp boat*);
6. Wore a concealed tape recorder to keep track of assignments and was offended when a senior partner was troubled by being taped without his consent;
7. Inflated his taxi receipts throughout the summer so that all 5 block walks became \$9 taxi rides;

8. Cried because of her perception that there was a “secret lunch program” when in fact her peers had snubbed her because she was “difficult;”
9. Did not complete her time records by the end of each month but found time throughout the summer to complain about compensation, office size, dress code and other requirements;
10. Complained about the food served at a partner’s home – which was actually cooked by the partner for the group;
11. Sent seriatim e-mails to a partner and was cranky that this partner did not live in the e-world - and thought it was ‘unreasonable’ that the partner wanted to meet in person rather than engage in an e-mail dialogue;
12. Complained about sharing an office with another summer associate - even though the complainer arrived in the middle of the summer when space was very tight and there was no other practical way to accommodate her ‘needs’;
13. Complained bitterly that the firm’s computer system was not as ‘fast,’ ‘versatile’ etc. as the firm where he had spent the first half of his summer;
14. Believed the firm was unreasonable in drawing negative conclusions about his tendency to drink too much at firm-sponsored functions;
15. Argued that the firm was ‘out of line’ to discipline associates for conducting alcohol-fueled chair-races in the hallways of a building with floor to ceiling windows at the end of all the hallways;
16. Complained that the custom, monogrammed, leather portfolios given to all summer associates were available only in black and not other ‘more fashionable’ colors;

The signals sent by such behavior are powerful indicators of how a summer associate will act in practice when they are working with clients. As a hiring partner, I viewed people like this as a substantial risk. It makes no sense to hire someone who will become an over arching demanding, needy jerk. One of the tragic ironies here is that those who behave like this – usually 5-10 percent of a given summer program don’t realize that what they are doing is wrong. In fact, many are proud of it and probably behave this way outside the office and expect the world to cater to their unusual needs.

When a hiring committee decides who receives an offer, it is rare that the question on the table is whether the student is ‘smart enough.’ Law firms do a good job of screening for raw brainpower. When a student’s future is decided the themes tossed around the table are more intangible – and bear on attitude, commitment, dedication, selflessness, team-spirit, intensity, etc.

To be sure, writing ability and analytical skills play a large role in a firm’s decision. But since most summer associates’ performance meet a firm’s standard - the question comes down to intangible factors. Is that fair? I believe it is — because clients evaluate lawyers every day - and their judgments reflect not only the advice delivered but the overall quality of the service provided.

GRIPERS & MALINGERERS

A bad attitude will torpedo otherwise capable summer associates. Magnificent writing skills, a powerful analytical mind, or tremendous speaking ability is not a license to be a jerk. Throughout the summer lawyers will observe how you relate to lawyers, staff, and clients.

Complaining just does not cut it — about your office, your view, your secretary, your seats at the Dodger game, and whether you had to work late on Friday. What may be perfectly acceptable grouching once you have a little time-in-grade as an experienced associate will be perceived as inappropriate. Unfair? Maybe. But you have not yet earned the right to complain.

We all react to first impressions. Think of the judgments made in everyday life based on initial impressions. A summer program is three months of first impressions stitched together into a corner of your career tapestry. If the initial impressions are of someone who complains, it will not help if the decision about giving you an offer is ‘close.’ And if your behavior is poor enough, you will be road-kill.

Throughout your career you will be judged by people’s perceptions about your behavior, your skills, and your conduct. That is natural in a professional organization that delivers 1:1 service about complex and sensitive problems. In ten years, you may attend meetings where promotion to partnership is discussed. You will learn that raw intellectual skill is not the first issue discussed. By then firms have sifted out those whose skills are not exemplary. Lawyers with low hours have left the battle.

The focus is on intangible qualities • how strong are the lawyer’s relationships with clients • will this lawyer

evolve into a substantial producer of business • will they become a nationally respected leader who can dazzle potential clients • how do they get along with clients, adversaries, and others • do they have the energy, enthusiasm and commitment to inspire and lead others.

Do not abuse the staff. Those who abuse secretaries, legal assistants, and staff are the ones who will abuse younger lawyers when they are older. Abuse includes high-handed behavior, and conduct which went out fifty years ago. Do not send your secretary to get you coffee. Answer your own phone. Say hello to everyone. Do not act in a way that would embarrass your grandmother. Heavy-handed treatment of the administrative staff will not escape the attention of the partners who run the summer program.

BLOWN DEADLINES & MISMANAGED ASSIGNMENTS

Another problem encountered by summer associates is the challenge presented by handling multiple assignments or meeting tough deadlines. Lawyers live in a world of deadlines — depositions that must be taken, briefs must be filed, statutes of limitation will run, deals must be closed, and client presentations must be made. Some deadlines change unexpectedly. Others are immutable. Before tackling any assignment you must understand the relevant deadlines. Apocryphal stories abound concerning lawyers who invent artificial deadlines to torment summer associates. Those stories are, by and large, baseless. The assigning partner is, in most cases, juggling several deals, cases, or client matters. Their work for Clients A, B, and C, may well impact their availability to review your work on matters for Client D.

They do not need to explain that to you and they probably will not. You may not be able to discern why a deadline is imposed. Indeed, it may seem arbitrary or irrational. For example you may be told to draft an answer for a complaint “by Friday” even though the deadline for filing the answer is not for three weeks. The assigning partner is not trying to take your brain for a test drive. Rather they may need to review the draft, furnish it to co-counsel, sent it to the client and juggle all of that around depositions they are taking across the country during the week when the answer is due.

Yes, some lawyers are terribly disorganized and some put their work first your work last. Some will wait until the last minute before giving you comments. That's the way of the world and you must learn to deal with it. You

will learn in practice that clients, judges, adversaries and others can turn your calendar topsy turvy without warning. The successful lawyer will learn early in her or his career to deal with interruptions, emergencies, and changing priorities. Once you settle in as a practicing lawyer and develop close personal relationships with partners and clients this fog will lift and it will be easier to handle.

Assigning lawyers may inadvertently underestimate the time it takes to research an issue and prepare a memorandum, What they estimate as a “5-10 hour” project may take much longer. They may have forgotten that what comes easily and automatically to them is a first-time exercise for you.

Partners often do not recall the steepness of the experience curve. It is just part of the experience. As you get into an assignment, if you foresee that the deadline is going to be a problem — call your advisor, the assigning attorney or assignment coordinator immediately. Work which is late, or which irritates or disrupts a partner often results in a senior partner marching down the office to visit the head of the summer program to say

Marsha Albright just doesn't get it. Where are you getting these students? • You know, back when I was hiring partner, we didn't have students like this. Young lawyers were different. I don't know why we even interview at X law school. • Why do we have to pay these kids so much? Whenever I want a summer associate I find out they're at some four hour lunch that I'm paying for.

You do not want to hear the rest of this monologue. This Metamucil Moment for the hiring partner is not good for your prospects.

A summer associate may discover half way into a project that it will take longer than projected. They then receive another assignment from another attorney. Then some administrative snafu complicates matters. What's the way out of this thicket? Be a professional who always knows your own schedule. Plan ahead. As far as possible. If it requires you to • burn the midnight oil • join the sunrise over the desk club on Saturday morning • or miss a baseball game just do it. It is not a matter of hysteria. It is not an effort to join the Seals or Rangers. It is about professional commitment. The partners for whom you work make similar sacrifices. If this doesn't match with your energy and commitment, get out now. But do not assume that there is any business or profession where

long hours are not essential to master your craft and serve your customers.

UNPROFESSIONAL ATTITUDE

Nothing wears more quickly on a practicing lawyer than a summer associate with a 'bad attitude.' I can hear some saying this is not fair. You are about to join a profession in which clients have choices. There are 900,000 lawyers in America and thousands of firms. Lawyers compete to find business, keep clients happy, deliver quality service, and deliver the right answer. Remember, if their efforts to compete succeed, they can afford to pay you. If not, well that's a story for another day.

A bad attitude can include late work, a perceived lack of interest in or commitment to a project, a casual air towards what are serious problems, or a singular unwillingness to roll up your sleeves and get a job done. The senior partner who manages client relationships spent years developing her skills and many nights doing work that wasn't necessarily as fascinating as arguing a \$500 million appeal in the Ninth Circuit. When a summer associate breezes through a program and appears uninterested in a project or delivers late or superficial work product, the supervising partner will notice, and their conclusion will be negative. The wise summer associate is timely, focused, interested, and committed to the work at hand.

POOR WRITING

Law schools cannot teach students to be excellent writers. While some new lawyers are excellent writers, excellence for most takes years of effort. Nothing puts you at peril more quickly than sloppy, unfocused, or error-filled writing. Some supervising lawyers are anal-retentive about writing. But that is not unfair in a world where clients pay a literal fortune for legal advice and have the right to expect perfection. If you wouldn't accept a sloppy paint job on your Saab, or a shoddy work on your condominium, why should clients tolerate sloppy prose? When drafting wills, merger agreements, opinion letters — a lost word, sloppy phrasing, or simple typo can cause a multi-million dollar headache. Lawyers who criticize sloppiness or carelessness are trying to teach you lessons which they learned years ago. Do not resent it.

Spell checking and grammar checking are not the guardians of perfection. Take the time to abide by the Mary Poppins Rule ("practically perfect in every way."). Sometimes the most conspicuous and embarrassing

errors survive spell check and grammar check — misspelling the name of the client, the partner, or the project are three favorites. Consider what happens to your written work product. First, it crosses the desk of the lawyer who assigned the project. Next, it will be read by another partner or two who work in that department. Finally, a copy is sent to the partner who runs the summer program. At the end of the summer writing can be the tie-breaker in determining whether you receive an offer.

SEX, ROMANCE & REALITY

I strongly recommend that you not date or have an intimate personal relationship during the summer with a partner, associate, summer associate or staff member. And, do not act in a way which could be viewed as inappropriate or harassing by others. If it is true love between you and someone else it can survive a quiet summer. At best summer romances of any kind can be distracting and messy. At worst, they can put your career at risk.

Proceed with caution. And in case you believe you can "keep it quiet" - you can't — there's nothing like the hint of secretive romance to get the gossip machine running at full tilt. Professional firms can be intense and gossip-filled environments. You do not need this additional element of distraction during your summer.

REPORTING SEXUAL HARASSMENT

If a lawyer or client tries to initiate a relationship, makes a pass, or takes an inappropriate interest in your career, you are in a difficult area. Politely decline. ***If the person "doesn't get it," immediately report their conduct to the recruiting coordinator or the partner in charge of the summer program.*** Hiring partners understand the explosiveness of these problems, will treat you with respect, and act on your behalf. Do not opinion shop with colleagues or try to remedy the situation by soliciting advice from associates.

Be candid, straightforward and accurate in what you say. These are difficult situations. Invariably the summer associate feels under tremendous pressure and fears they will be 'at risk' if they report untoward advances. We are all familiar with the complex questions presented by sexual harassment in the workplace. It's difficult to deal with it as the target. But to ignore the conduct is the wrong choice.

CASUAL FRIDAY

Casual Friday is a fact of life. What began as a sensible experiment during the recession is a national trend. Today, most law firms — from Wall Street to San Francisco to Atlanta to Chicago — are casual in one form or another — all the time, Fridays only, or summers only. Still it remains a challenge for summer associates to make the right choice.

It goes without saying that a summer associate should know and follow the firm's policy. It is equally clear that a summer associate who errs on the side of being conservative will never be faulted by partners for their choice. **Try to be conservatively unmemorable during the summer.** The last thing you want is for any partner to remember anything you wore. You are a professional, not a punch line. And yes, George and Virginia, partners notice and gossip about it.

What is the summer associate to do? Square your wardrobe with the expectations of your clients and invest in your future. What you wear to the Ace Hardware, the Last Chance Tortilla Factory, Double Latte Heaven, or the Empire Diner is not what you wear to Harris & Baldwin on Friday. It is as simple as that.

The problem is, by and large, not with our women colleagues. For reasons known to the denizens of Madison and Fifth Avenues, they invest more time, effort, and money in selecting, purchasing, and wearing casual clothing.

DRUGS, ALCOHOL AND BOVINE BEHAVIOR —

Every year, some students engage in remarkably stupid behavior that results in a firm saying 'no offer.' You will work in a fish bowl for 10-15 weeks. Your behavior will be observed by partners and others who make decisions about your future. Is this fair? That's really not the issue.

Partners are trying to assess how you will work in the culture of their law firm and how you will impress their clients. Partners react harshly to behavior which suggests that you will put the firm's reputation, its clients, or its profitability at risk.

Do not be stupid about drugs. No matter where you live, where you work, or what the law may provide, you are committing professional suicide if you use any form of drugs, at any time.

Do not abuse alcohol at firm events. Ever. This is not a fraternity. I do not care if three other people at a firm cocktail party have a blood alcohol level that is higher than their shoe size and their I.Q. put together. It is not funny. It is not appropriate. And it is not in your long-term professional interest to be one of the folks who lawyers talk about for years.

Even if your firm has the legendary 'frat boy' or 'hard partying' reputation, you are far wiser to err on the side of caution. Did you hear the one about the lawyer who drove the golf cart into the swimming pool at the summer outing? • How about the one about the lawyer who couldn't swim and dove fully clothed off the high dive board? • How about the summer associate who fell down getting out of the taxi after a four hour lunch and went face forward in front of the managing partner. True? Yep. Funny? Nope .

III. THE IMPACT OF THE COMPENSATION AVALANCHE ON STUDENTS AND LAWYERS

After a six year lull, starting salaries are on the move (again) rising in most major markets from coast to coast. The dramatic increases in associate compensation in 2000 and 2007 changed law firms expectations about associate performance, retention, and promotion.

1. Most firms have increased their client hour expectations from 1,900/2,000 to 2,100 or more. Some partners and associates hoard work or over work matters during soft economic times because of the pressure to meet firms' ambitious hours requirements.
2. Firms are tinkering with different approaches to compensation including two-tiered systems (where some associates work the 'old hours' and others are far better paid to work 200-300 hours more a year), hours-based bonuses, and other variations.
3. Firms have minimal tolerance for under-performing lawyers - associates or partners who might have been given a year or two to get back on track or redeem themselves from earlier mis steps will find far less tolerance - even in a boom economy.
4. Several firms are tinkering with partnership - adding a 1-2 years to the track(s), creating additional tiers of partners, raising capital contribution requirements, and making it far more difficult to progress from non-equity to equity partner.

5. Partner attrition is increasing. This will be hard to measure because it will be done quietly. Still it will not be surprising for firms to lose 5-8 percent of its partners in a year as a result - above and beyond normal retirement and departure patterns.
6. Some firms are reducing retirement ages and attempting to induce partners without business to retire earlier rather than later.
7. When a recession occurs most firms are far more willing to pare the ranks of under deployed associates. This can be a modest trim or a wholesale reduction in force. Under performing associates are at risk whenever the economy takes a cyclical turn for the worse.

SUMMER ASSOCIATES IN THE BRAVE NEW WORLD

A vast majority of students and associates are principled, determined, and ambitious. They are not whiners, malingerers, manipulative, or unappreciative of the remarkable changes that rare taking place. Still, the most tiresome voices in the audience sometimes encourage even reasonable people to step over the boundary. My recommendations to summer associates (and partners and associates as well) —

1. Do good work and lots of it. This advice is always important, but it is critical when the pressure is greatest to perform.
2. The table of life is not an all-you- can-eat-buffet. A law firm is neither a catering company nor a personal trainer. You cannot have it all - great income, unlimited opportunity to make partner, reasonable hours, wonderful culture, and a bike rack in the basement. The lawyer must make choices – the firm is not your parent or fiduciary.
3. And do not assume that the 'green' light is now on to make silly or extreme demands during the summer, whether or not they are economic. You may find partners a bit more testy about economic issues. The sensible summer associate will maintain a profile lower than a snake's belly in a wagon rut (thanks, Jed) on these issues.
4. There is absolutely no up side to being an opinion leader, agitator, or rumor mongerer. No, you won't get fired but you will be remembered and perceived in a way that is not favorable. It does not mean you cannot chat with your colleagues but I wouldn't recommend that you lead the charge on why your firm must compete with firms around town or volunteer to collect data on other firms.
5. Focus on professional success and let the economic dance proceed without you for a while. Taking a tumble in the summer can be very disruptive - even in a boom economy - the 3L market is thinner than you may think. With the 'new math,' it will be very hard to access for summer associates who fail because they are 'high maintenance, difficult people.' Hiring partners and recruiting coordinators talk to each other. If you are "difficult," the word will go forth from this time and place faster than it did at JFK's inaugural.
6. Do not exaggerate your time. Beyond the ethical and moral issues, it sets you on the top of a career- long ski jump which you will not survive.
7. Engage in realistic long-term career planning - learn as much as you can about the path you are seeking to take - whether it is making partner, moving in house, moving to the business side, or going into government.
8. Understand that your window of lateral mobility is widest at the 2-4 year point. During a slow economy the window just slams shut. Game over.
9. Do not create a world of angels and devils where senior partners are evil, mendacious, or dense. Far from it, a vast majority of senior partners are careful, smart, professionals who have seen many ups and downs and are now struggling with how to adapt to the new math without impairing client relationships.
10. Don't become the conspicuous griper and malingerer who makes serial demands because you think you are driving the bus. When the bus stops during the recession, your ticket will be punched and you'll be dropped off first.
11. Take a long term view of finances. At some points in your career you will be overpaid. At some points you will be beneath your fair value. But over the long term, you will be amply rewarded.
12. Your firm may lead the parade today and follow the elephant truck tomorrow. That your firm is today's primo piatti does not mean that it will be in 2015. A firm that struggles today may zip by competitors in years to come.

13. Please remember to come to work. Silly as it sounds some summer associates will think that the new era of seamless electronic communication is a green light to just 'work from home.' As Richard Nixon used to say "you could do it. But it would be wrong."

IV. THE FIRM'S SIDE OF THE TABLE

This section examines the summer program from the firm's side of the table so you can understand how and why firms make decisions. The better your understanding of the firm and its business, the greater your likelihood of short and long-term success. Law firms want you to succeed. A vast majority of firms manage the size of their summer program carefully and a vast majority of students who perform up to the firm's standards will receive offers.

THE 2008 MARKET

The 2008 market is soft in many markets nationally. Why should a summer associate be concerned? **First**, you are protecting your own investment in a career which may last forty years. A mis-step in the summer of 2008 will not be fatal but it will limit your short and long-term options. **Second**, overconfidence can lead to sloppy work, late assignments, bad attitudes and otherwise shoddy performances. **Third**, receiving an offer of employment is only one part of the summer — this should be a three month period when you do some hard thinking about yourself, the profession, and the fit between the demands the profession and your personal goals and concerns.

HOW FIRMS ESTIMATE NEEDS

A firm's decision about offers of employment begins with an assessment of the firm's need. These projections are made beginning two years before a class arrives and are revised to reflect the changes in the firm's practice. Thus the number of lawyers a firm needs can vary depending on the regional and national economy, client demands in particular departments, attrition, lateral hiring of partners with business, and many other factors.

One of the toughest challenges for any hiring partner is to balance the level of hiring activity with the firm's needs. The hiring partner and recruiting staff work closely with department heads and firm management to balance the volume of new associates with the firm's needs.

A vast majority of mid-size and large firms hope to be able to extend offers to all qualified summer associates. Most firms do not want to create an environment where summer associates must compete for

a limited number of slots. In a healthy economy 85-95 percent of the second year summer associates are likely to receive permanent offers if the firm's summer program is well managed.

- To produce an entering class of X, a firm must make X+ 20-33 percent offers. Some offers will be declined as students head to other cities, choose other firms, select judicial clerkships, etc. Most firms estimate that 75 percent of their offers will be accepted.
- Having decided a hiring target, made a yield estimate, the hiring partner and the group running the summer program know the maximum number of offers that can be extended.

EVALUATIONS AND DECISIONS

Most firms use a committee review system to make decisions on offers. The process begins with the hiring partner confirming the hiring objectives of the firm. In most firms the hiring partner has an ongoing dialogue during the year with the management committee about hiring targets. And most firms try to err on the side of caution in building summer programs so that they will not be in the catastrophic situation of having too many summer associates.

A burgeoning file will exist on most summer associates including their written work from the summer, evaluations from lawyers, and the file developed when the student interviewed last Fall. In addition, many firms will ask you for your 2L grades. Please do not fall asleep at the switch this May. If a firm senses a weakness in a student which is confirmed by academic deterioration in your second year, it can damage your prospects for receiving an offer.

The file will be reviewed by the committee at meetings held toward the end of the summer. Some firms will make decisions on a rolling basis so that you will know their intentions before you leave. Others will wait until after all the summer associates leave to make decisions. More firms will take the former course in a strong economy where the competition for hiring is intense.

Decisions by hiring committees are usually the result of a consensus which builds over the course of the summer. • Very few decisions are put to a formal vote. • Few hiring partners veto the 'sense' of the committee. • A well-managed program has very few end of the summer surprises. The committee is well aware as the summer

progresses of the strengths and weaknesses of each student in the summer program.

FEEDBACK

Every summer associate wants to know how well they are doing. It is a natural human emotional need. Former Mayor (now television judge) Ed Koch used to call out to reporters "How am I doin'?" He had to wait four years for an answer. Your answer will come at the end of the summer. All feedback systems depend on structure, forms, follow through and a decidedly unreliable human element. Every spring, hiring partners and recruiting coordinators redesign reporting lines, meeting schedules, review forms, and many other ways to coerce their lawyers to put pen to paper and write reviews. As a hiring partner I tried systems, humor, cajoling, requests just short of Fed. R. Civ. P. 30 and 45, and sitting down in a lawyer's office and filibustering until they completed the darn form.

The top priority of lawyers is client service. All of the administrative 'stuff' of the law firm comes last. You will understand this better when you are working 50-60 hours a week for clients and your paper and electronic in-boxes are jammed with -- time reports, bills, advance sheets, conflict of interest reports, memos from the library about lost books, reminders about CLE programs that you are too tired to attend, etc. The summer associate evaluation form falls to the bottom of the stack.

That a lawyer is late filling out the form or is superficial in her comments does not mean that they do not care. It means that their life is jammed. A vast majority of them are well-intentioned and in a perfect world would provide more and detailed feedback.

Firms generally design systems to provide feedback. A typical system calls for the recruiting coordinator or team assignment coordinator to send an evaluation form to the lawyers for whom you worked after an assignment is over. The form will have a series of boxes where various aspects of the assignment and your performance are evaluated on a scale. The bottom half of the page will have room for written comments. Most firms will also designate a lawyer in each department to speak with the partner who supervised your assignment to learn a bit more about your performance.

These forms are collected and reviewed and you will be given reviews either periodically during the summer or at the end of the summer. A partner on the hiring

committee or summer committee will be assigned to sit down with you and discuss your performance.

In a perfect world, every lawyer would talk to you about your work after every project concluded. That is not likely to happen. Most of us will have to listen to the voice of the firm — if our department keeps coming back to us with increasingly demanding and interesting assignments we're probably doing pretty well. If everyone else is busy and we're not, there is a problem.

While this summer is a unique interval at the beginning of your career, it is just another summer for the partner with whom you are working. If you understand feedback from the firm's point of view it will decrease your blood pressure and increase your enjoyment of the summer. If not, rent *A Few Good Men*, and listen to Nicholson's peroration on handling the truth. If you are still in a quandary, a "Code Red" can be arranged.

THE PERILS OF FORUM SHOPPING AND MOTIONS TO RECONSIDER

If you hit any tough issue or bump in the road - conflicting assignments, a mistake you've made of whatever nature, a confusing firm policy, criticism (unwarranted or justified), etc.— avoid the temptation to engage in serial complaints to anyone willing to listen. Follow the firm's guidelines. Generally the firm's recruiting director or coordinator, the partner in charge of the summer program, or the lawyer assigned as your advisor are the best starting points. Don't engage in forum shopping until you get an answer that you like or try to play one person in the firm against the other. Either tactic could be an Extinction Level Event.

WHY NOT TO INVOKE YOUR STATUTORY RIGHT TO SEE YOUR FILE

Did you know that most states offer you the right to review your employment file at any time? Yep. March right into the hiring partner's office and demand to see your file. There are sound reasons for such statutes. And there are even stronger reasons why exercising your rights is not wise. It makes you seem paranoid, controlling, immature, and unprofessional.

Does this make the process unfair? Hardly. For those of you who do not receive offers because your work was shoddy, and your attitude was poor you will find the reviews unenlightening. They will say in blunt unvarnished

language things that you do not believe and do not want to hear. You are highly unlikely to find a 'smoking gun' in the files —i.e., proof that everyone in the firm wanted to give you an offer but some conspirators reached out and struck you down.

V. BEYOND THE OFFER — ELEMENTS OF A PRODUCTIVE SUMMER

A student can and must evaluate the fit between themselves and the profession. Too often the summer zips by in a fog of assignments, reviews, baseball games, dinners at partners' homes, and cocktail parties.

You are making a very important decision. The law firm is not your fiduciary and your parents cannot make this choice for you. There is no automatic next or right step. Only you can decide about fit, temperament, tempo, and style of practice. At the end of the summer, the law student is likely to have a fairly enthusiastic feeling about the experience but only a fuzzy understanding of the core issues about what is an important career decision.

AN OFFER IS JUST THE BEGINNING

Succeeding in a summer program means more than receiving an offer of employment. While receiving an offer is probably the most important objective of a summer program, you have many more responsibilities. First is to understand the fit between you and the firm, you and a practice area, you and the city, and you and the profession. That you are able to receive an offer of employment does not validate the wisdom of your choice.

Far too many lawyers stumble through their first career choices and assume that an offer from the ABC firm suggests that this is the right long term career choice. Three years later they wonder why they made that choice and realize that their choice of firm, practice area and cities were a mistake.

You must be an active participant in shaping your career. This requires you to look outward to the firm and inward at yourself. It requires you to avoid the lemming-like behavior of many of your students who chase an offer without understanding the relationship between this summer and your career.

Begin with active observation and involvement in the firm you have chosen. Attend department meetings, CLE

programs, and any other opportunity you can find to see lawyers in action. This will allow you to understand whether what lawyers really do excites or satisfies you. Learn as much as you can about your firm. Read the firm newsletters, brochures, and puff pieces. Pay attention to media reports. Apply lawyerly skepticism without becoming a martini-swilling cynic about law and life.

Read the legal and business media that relate to your firm, its practice, and your city. For most lawyers that means you must read your local business and legal newspapers and the NEW YORK TIMES, THE WALL STREET JOURNAL, and leading monthly or weekly legal media such as the NATIONAL LAW JOURNAL, AMERICAN LAWYER, and LEGAL TIMES. Visit the news websites of the leading print and broadcast media and subscribe to their various news services. A lawyer with an active approach to career choices immerses herself in all the information one can readily find to provide a basis for a decision.

CHOOSING A CITY

For many students the second summer is one where an important geographic choice has to be made. You may be following a person with whom you are involved. You may have decided to experiment and look at a city before making a firm decision to come home.

If there is a geographic choice to be made, your summer will be busy. Certainly the firm will do its best to send to you restaurants, baseball games, dinners at lawyers' homes and many other social distractions. They will show you the best the city has to offer. Whether the issue is neighborhoods, schools, real estate values, cultural activities — take the time to find and participate in what is important to you. Do not be bashful about seeking advice from young associates about what's important to you.

CHOOSING A PRACTICE AREA

Many students enter a summer undecided about where they will concentrate their practice. Most firms will rotate you through a group of departments or at least give you a variety of assignments. This will give you a glimpse of life in these areas. It will not answer the question about how an area fits. The burden is on you to participate, observe, and absorb as you go through the summer.

You may discover that you do not have the hunger for the rough and tumble nature of litigation but that you enjoying the complex problem solving and drafting skills required by some areas of transactional work. You may see that the pace of practice in certain areas does not match your metabolism. Do not be afraid to listen to your own inner reactions. You are far better off making that assessment today rather than postponing it until you've lived 5-15 years of your adult life functioning but doing so unhappily.

Your associate advisors and other lawyers you meet can be quite helpful in letting you know more about the day to day reality of a lawyer's practice. Informal conversation in the hallway, in the evening, or at lunches not arranged by the firm can give you enormous insight into what really goes on in litigation or how deals or negotiated. etc. Do not put your choice on auto pilot.

As a now retired litigator I was baffled by law students who viewed litigation as the "C>:" prompt of the legal profession. If you do not like corporate and cannot understand tax, well let's go litigate. Then after a couple of years these lawyers walk from courthouses battered and bruised by an activity they do not like and they do not understand

Just because a practice area is trendy or hot does not mean that it will work as a long term career choice for you. Similarly, do not rush to corporate just because the market is hot. If you are not making a conscious informed choice about your summer, you are making a serious mistake.

I'm reminded of the student I met from a major national law school in the late 1980's who said he wanted to do "international environmental bankruptcy." I never figured out what that meant, but I've got a call into Al Gore's staff.

IF THE FIRM SAYS "NO OFFER"

At the end of the summer, some students will not receive offers. If you are hit by this truck, please read this section. First, your professional career is not over. Second, the profession is full of outstanding lawyers who hit a bump in the road early in their careers. Do not conceal, misstate or paper over the truth. Lying about receiving an offer will be detected and may lead to suspension from school or inability to be admitted. Concocting a story that you 'withdrew' your name from consideration has no credibility.

Face the bad news head on. That's something excellent lawyers must do every in their practice. Papering over the truth or being obtuse does nothing to advance your career.

Do not attempt to re-litigate the issue. The firm's decision is final. Running around seeking second opinions only makes you look immature and foolish. Try to learn why the decision was made. Most firms will give you a pretty clear explanation of why they made their decision. Summer associates fail because of • poor work habits • blowing important assignments for important clients / partners • attitude and behavioral problems • apparent lack of commitment to the firm, the city, or the firm's clients / practice • inability to respond to constructive criticism.

Ask if the partners who ran the summer program if they will, nevertheless, provide a favorable reference. This is a tough and complex area. This asks the firm to do something that is somewhat counter-intuitive. And, firms have concerns (excessive in my view) that providing a reference exposes them to risks. Obtaining a reference is critical. And, if the firm will not provide a favorable reference you still must be able to give the name of a partner with whom another employer may speak.

Perhaps the day will come when law firm X sues law firm Y for giving a bad reference about a summer associate. I suspect that when that day arises it will involve a summer associate whose behavior at both firms was atrocious, incompetent, or criminal — not just someone who did some substandard work for one or two partners.

When you are interviewed by other firms your description of your summer experience must be brief, direct, and not hostile. The following would be appropriate

I did not receive a permanent offer from Smith & Barrow. I did, however, work for a variety of partners would encourage you to call Amy Hamilton, one of the partners who ran the summer program in the corporate area. She is familiar with my work. Her direct dial number is on page 2 of my resume.

You may be pressed for 'the real reasons' or the 'real story.' If the firm explained, for example, that you did not receive an offer because of negative reviews from two partners, you should acknowledge his but try to put the best foot forward

My reviews were mixed. During the summer I worked for 13 attorneys, including six partners. I think Amy Hamilton is in the best position to

comment on the quality of my work and I encourage you to speak with her.

If the statistics are in your favor, it would not hurt to say "I understand that Smith & Barlow gave permanent offers to only 50 percent of the summer associates." But make certain your information is correct beforehand. Do not burn your bridges with angry, insolent, or immature reactions. Do not head back to campus and tar and feather your former firm. You look stupid — even your best friends will tire of your tales about all the jerks at Smith & Jones — and the word will get back to your firm.

RECOVERY AND REDEMPTION

If the news is bad develop a strategic plan to improve your marketability. I strongly recommend the following to 3L's and 2L's following a 'no offer' decision.

- Re apply yourself in the classroom. Your remaining semesters are now far more important — not only to your present job search but to your options 1-10 years down the road.
- Join a journal, write an article, win moot court, —do anything that demonstrates energy, writing ability, and intellectual excellence. Stay away from non-graded activities which are social or administrative — focus on activities that demonstrate brainpower and hard work.
- Build your references — get to know faculty members who can provide countervailing references. Re-evaluate your short term career objectives — there is no harm in not being able to join the most prestigious large law firm in a major city the day you graduate. In fact, a lot of the lateral hiring done by these firms at the 3-4 year level is of lawyers who began their careers in less famous mid-sized firms.
- Do not be unrealistic about cities. If you are targeting tight markets (Seattle, Boston, San Diego, Phoenix) what was difficult to begin with may well be impossible in the wake of a 'no offer' decision. Act like a trader: don't fight the tape.
- Stay away from non-law' courses. Employers look beyond GPA's to course selection in evaluating how you did in school.
- Do not take ungraded electives, soft-law seminars and all the rest. The courses may well have value and be interesting to boot. But they will not help you dig out of the 'no-offer' hole.

- Understand that you learned valuable life and career lessons early -- that you can recover, that the opinion of one employer does not ruin a promising career, and that bad facts can be overcome with candor, persuasion, and persistence.

TEN CLOSING COMMANDMENTS

More than 3,000 years ago Moses crafted the basic rules for human conduct on two stone tables using only a hammer and chisel. Today with oceans of toner and fleets of computers, it still makes sense to take the old fashioned approach. So, here are ten commandments for a successful summer.

- **Do excellent work and lots of it.**
- **Answer the question — don't just spot issues.**
- **Think, research, write, and speak with precision.**
- **Manage your workload and remember that "deadline" begins with *dead*.**
- **Leave brown nosing and gossiping to others.**
- **Protect firm and client confidences.**
- **Welcome criticism and learn from it.**
- **Don't be a poster child for boorish behavior.**
- **Bill your time daily - accurately and completely.**
- **Accept your employer's imperfections. Pray that they will overlook yours.**

Feel free to write or call with comments. I welcome suggestions about how to refine these materials — let me know if there are issues or areas that should be included next year. The long-term professional and economic rewards for those joining our profession remain substantial. Best wishes for success this summer.

Spring 2008

Frank Kimball

About Frank Kimball

Frank Kimball is the only former hiring partner of one of the largest national firms who provides search services, project consulting and training to leading law firms. He has interviewed, hired, placed, or counseled more than 9,500 law students and attorneys. Each year he meets 1:1 with more than 200 law students from leading schools who are considering joining the nation's leading law firms. Frank was a partner with McDermott, Will & Emery from 1986-1992, served for six years on the hiring committee, ran two summer programs, and was chair of the national hiring committee in 1990-1992. During eight years with Shearman & Sterling interviewed at a dozen law schools.

- ❑ Frank's firm has placed partners and associates with more than thirty firms including Baker & McKenzie, Bartlit Beck, Bell, Boyd & Lloyd, Chapman and Cutler, Eimer Stahl, Faegre & Benson, Foley & Lardner, Gardner Carton, Grippo & Elden, Howrey, Jenner & Block, Jones Day, Katten Muchin, Kirkland & Ellis, Latham & Watkins, Mayer Brown, McDermott, Will & Emery, McGuire Woods, Miller Canfield, Neal Gerber Eisenberg, Perkins Coie, Schiff Hardin, Seyfarth Shaw, Sidley Austin, Sonnenschein, Stein Ray & Harris, Vedder Price, and Winston & Strawn.
- ❑ He has trained hundreds of campus and office interviewers for more than a dozen AmLaw 200 firms including Shearman & Sterling, Paul Hastings, Akin Gump, Katten Muchin, Jenner & Block, Gardner Carton & Douglas (now Drinker Biddle), Arnold & Porter, and Neal Gerber Eisenberg. He interviewed on campus at more than two dozen law schools.
- ❑ 1977 Michigan graduate, Frank won the Campbell Moot Court Competition (with his brother George), was a Note & Comment Editor of the MICHIGAN JOURNAL OF LAW REFORM, and a Senior Writing Instructor. He graduated *magna cum laude* from UCLA, is a member of Phi Beta Kappa, and was Second Speaker at the 1973 National Debate Tournament. His views on hiring have been published in the NATIONAL LAW JOURNAL, CHICAGO DAILY LAW BULLETIN, ABA JOURNAL, CHICAGO LAWYER, THE AMERICAN LAWYER, LEGAL TIMES OF WASHINGTON, NEW JERSEY LAWYER, TEXAS LAWYER, and other media.
- ❑ A practicing litigator in two national firms, he argued appeals in takeover, shareholder derivative, class action, banking, tax, and probate cases and represented leading investment banks, commercial banks, offerors and targets in more than twenty contested takeovers and tender offers.
- ❑ Frank has presented more than 50 programs to more than 3,000 students at Chicago, Columbia, DePaul, Georgetown, Harvard, Illinois, Kent, Michigan, Northwestern, NYU, Virginia, and Washington & Lee. Frank has presented scores of programs for hiring and managing partners and placement professionals including seven NALP Annual Conferences, NALSC annual meetings, IOMA Seminars, and other programs for recruiting professionals in Chicago, Los Angeles, Philadelphia, and other markets.
- ❑ Diversity is a high priority for Kimball Professional Management. More than 55% of the lawyers placed are women. More than 13% are minorities. The firm has placed minority and openly gay partners and practice group leaders.
- ❑ Frank's family includes his wife Linda Listrom — another former hiring partner, Matthew (23- a 2L), Shannon (18 - a high school senior who runs the mile and cross country and plans to become a physician), and Sandy (at 13 still the fiercest golden retriever in captivity). A diehard Michigan football fan, Frank coaches 5th-6th grade football and spends August vacations on horseback in the Big Horn Mountains of Eastern Wyoming.