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Midlevel Associates Survey: Firms Improve, but Complaints Continue

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Ben Johnson III, the managing partner of Alston & Bird, tells a story about being a young partner at the firm in the early 1970s.

He was sitting in on an interview between then-senior partner Philip Alston Jr. and a second-year law student. The student said, "It must be really exciting to practice law here."

Alston would have none of it: "No, it's not. Lawyers are paid to do things too tedious for anyone else to do."

Clearly, Alston's answer wasn't plucked from a recruiting handbook, but it was certainly an honest one. The life of an associate is fraught with uncertainty about the future, rarely exciting and subject to the whims of higher-ups.

"It's hard," Johnson says, "for the person who has spent three days straight trying to write a patent application to see that he is what makes innovation possible, or for someone reviewing documents to remember that they are part of a huge process that sees disputes resolved in a peaceful manner."

And that is the case even at a firm whose associates tend to be happier than most.

For two decades, *The American Lawyer* has surveyed midlevel associates about their attitudes on everything from pay to partners. During that time, the business of law has changed dramatically. Firms are much bigger, and the financial stakes are higher. But the striking thing about the midlevels survey is how little the scores have changed. The frustrations of 1986 are very similar to the ones experienced in 2006.

Granted, there have been major changes for associates, too. Partners say associates in 2006 receive far less individual mentoring than they did when they were midlevels. And more work is expected of associates in a shorter time.

"Matters were slower-paced, and so there was more time to do informal, one-on-one training," says Ropes & Gray Chairman R. Bradford Malt about his associate experience. "Now we do group training on a laptop around a conference table."

Those changes, however, have done little to budge the way that associates feel. The average overall associate satisfaction score was 3.7 in 1986. It's 3.78 in 2006. Regardless of generation, midlevels face the



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same questions at this point in their careers: Will they stay on to become partners? Do they enjoy working with clients? Are they prepared to make the sacrifices necessary for a successful legal career, especially when it comes to their personal lives?

"The fundamentals haven't changed. You're at a stage where you're making some key decisions and trying to figure out how career demands fit with the rest of your life," says J. Stephen Poor, chairman of Seyfarth Shaw.

Given those realities, the areas where firms have consistently had the most problems on the survey over the last two decades should come as no surprise: the partnership track, communication by the firm and workload. Sometimes associate comments on these issues sound like they were written with Billie Holiday singing in the background -- sad, frustrated or pained. As a Kirkland & Ellis associate commented in the survey this year: "You are asking too much of too few. No one should make the money you make on the backs of people working around the clock. Take fewer cases, hire more people." It's not a new lament. Consider this tune from an Akin Gump Strauss Hauer & Feld associate in 1986: "As [the firm] grows larger and makes more money, being an associate means I do not share in the increased profits ... but nonetheless do share in the tensions and changes caused by growth." God bless the child, indeed.

While it might be tempting to draw from this a picture of abject misery, the full story is a bit more nuanced. Mr. Alston notwithstanding, associates find their work engaging. This year the interest level in work was 4.04 on a 1-to-5 scale -- a score on par with other years. Their relationships with each other are good (4.23 this year and consistently above 4.0 over the last 20 years), and they like the amount of contact with clients they have (4.1 now and a near-perfect 4.7 back in 1986).

But firms have a long way to go if they're going to significantly improve scores for areas in which associates have consistently expressed displeasure. And if the past is any indication, they won't have an easy time of it.

The American Lawyer first surveyed midlevel satisfaction in the early 1980s and made the survey a regular event in 1986. In the 20 years since, associates have complained about one issue above all others: the road to partnership.

"It is enormously frustrating to hear nothing," complained one Vinson & Elkins associate in 1986. "Given the sweatshop hours, I have the distinct impression we are told nothing on purpose so that we will stay as cannon fodder as long as possible." This year, an associate at Andrews Kurth vented, "The partners can't even tell us what factors are considered in making partners. The process is a complete mystery, which doesn't seem to comport with our 'Straight Talk is Good Business' motto."

Ropes & Gray's Malt, who graduated from law school in 1978, remembers the feeling. He says he was preoccupied with thoughts of partnership when he was an associate and constantly looking out for career development opportunities and parsing what partners said about his potential. He says associates spent a lot of energy wishing that partners would communicate more clearly and frequently about their progress: "I bet associates 25 years from now will be saying the same thing, and I know I was saying it 25 years ago."

Malt says his firm is working hard to make sure it is communicating clearly. But "it's hard to find a time to communicate as much as we would like to," Malt admits. "As life gets more complicated and faster-paced, we will have to continue to focus on it." Ropes & Gray has its work cut out for it, however. It scored a 2.53 on the question of how well the firm communicates about what it takes to become a partner.

That score is low, but it's not too far afield of most other firms. During the last 20 years, associates have routinely scored firms in the 2.8-to-3.0 range on the question of whether firms are communicating about what it takes to make partner. (This year, the national average was 3.0. In 1986, it was 2.9.)

The issue is especially rankling because it is one of the things that associates have the least control over. For the average type-A lawyer, letting the chips fall where they may does not come easily. "We understand that it is frustrating" not to hear about partnership until many years have already been invested in the firm, says Rochelle Korman, managing partner at Patterson Belknap Webb & Tyler. "It's out of their hands, and they are right to hate it."

From Korman's perspective, however, communicating clearly about partnership chances is a tricky business. The ultimate decision on who makes it "is very dependent on firm economics." How many partners the firm can admit -- and in what practice areas -- isn't always easy to predict. "We can't give them a sense of partnership opportunities until they are fairly close to the time we could offer it," Korman says.

Associates say that partners are missing the point. They want clear lessons about how people have made it and what criteria set potential partners apart from the pack. Says one Jones Day associate: "Don't make the path to partnership so opaque to associates. Let us know what we need to do to make partner."

Of course, all of this presumes that associates still want to become partners. If there is a change between the associates of two decades ago and those of today, it's likely on this point. *The American Lawyer* didn't ask associates in 1986 whether they viewed the partnership as something they desired -- it was simply a given for most. As Keith Wetmore, chair of Morrison & Foerster and himself an associate in the 1980s, puts it, "Partnership used to look like a pretty good deal." In the survey then, the overwhelming majority of associates said they didn't envision leaving private practice in the next three years.

But *The American Lawyer* asked midlevels for the first time this year if they aspire to be like partners at their firms. On the survey, 5 is "strongly agree" and 1 is "strongly disagree." Associates on this question answered with an ambivalent 3.1. When asked whether making partner is important to you, associates scored the question a 3.24. (The score is on par with the 3.0 it got in 2000, when the question first appeared on the survey.) And since *The American Lawyer* started asking whether alternatives to the partnership track are important in 2003, the score on that question has risen slightly, from 3.4 to 3.68.

"Today, it is significantly harder to make partner, and it is harder to stay partner," Wetmore says. "It is a fast-moving treadmill, and you have to keep up the pace. The brass ring may not be quite so shiny."

The option for associates, of course, is to leave their firms, and many are choosing to do so. Fifty-five percent of the midlevels *The American Lawyer* surveyed this year say they don't necessarily expect to be working in a law firm in five years.

Doubts about the partnership track seem to go hand in hand with complaints about workload. The hours associates must devote to make partner have consistently been a trouble spot in the survey.

"My firm isn't trying to grind someone down, but the law firm lifestyle is intensive, and I'm not sure I see myself doing that," says one midlevel at Hunton & Williams. "I want a life much more in my control than that of a litigation partner." And an associate at Arnold & Porter agrees that her firm is "less draconian than most" when it comes to helping its lawyers strike a balance, but she still doesn't think she'll be able to stay once she becomes a parent. "There are two inevitable truths," she says. "It's normal to have a family, and you cannot, with a two-wage-earning couple, competently [be a parent] and work the hours of a full-time associate."

This year, when *The American Lawyer* asked associates if they would take a 25 percent pay cut in exchange for a 25 percent cut in the billable hours requirement, the average score was a 3.15, with 45 percent of respondents strongly agreeing with the idea.

Hours have ticked up over the years. In 1986, the average workweek was 41 to 50 hours (the survey only gave a range of hours then), and billable hours clocked in at around 40 hours per week. This year, associates reported an average workweek of 56 hours and billables of 45 hours.

What the numbers don't show is how the level of intensity has ratcheted up. Partners and associates alike say the work is faster-paced than ever. "Today, the pace is totally different," says Philip "Pete" Ruegger III, chair of Simpson Thacher & Bartlett. "You used to send a letter and wait for a reply or hand-deliver a memo and wait for a reply."

Malt of Ropes & Gray says that when he "was an associate, a partner would give me something to write, some time to do it and spend time after it was done discussing it with me before sending it on to the clients. So much of what we do now is almost instantaneous turnaround, so the associate isn't drafting that document, and there certainly isn't that pause for immediate feedback."

In the absence of daily interaction with partners, firms have tried hard to step up formal training.

A recent report by Thomson West and the Hildebrandt Institute shows that the largest U.S. firms spend \$1 billion a year on training and development programs. And Danilo DiPietro, group leader of Citigroup's Law Firm Group, estimates that firms invest 1 to 1.5 percent of their annual revenue on recruitment and retention of associates (or \$2.5 million to \$3.8 million for the average Am Law 200 firm).

That has helped firms maintain the status quo in their training and feedback scores on the survey. In 1986, associates gave their firms a 3.6 for training. The verdict on training from associates in 2006: 3.6. On the amount of feedback associates get on their work, scores have actually increased slightly over the years, from 3.3 in the 1980s and 1990s to 3.6 today.

When asked about the similarity in training scores over the years, firm managers expressed surprise. "I guarantee you that training is many multiples better, but the consumer here is many multiples more sophisticated, and the expectations keep going up," Ruegger says.

That may be so, but associates say they are frustrated over how often they have to forgo training to focus on billable hours. It doesn't do any good for firms to offer seminars with a leading expert on client networking if associates don't have time to go, they say. "One of the strengths of [my firm] is its training," says an associate at Wilmer Cutler Pickering Hale and Dorr. "But sometimes there isn't enough time to take advantage of it." A Gibson, Dunn & Crutcher midlevel associate adds, "Associates should get billable hours credit for high-quality, partner-approved training."

The associates also say there's a key difference in the style of mentoring that makes it less useful than it was 20 years ago. These aren't personal relationships that spring up naturally over time. Instead, partners are assigned to associates, and rapport may or may not develop. "I thought they would take more of an interest," says an associate at Kelley Drye & Warren. "But I was on two major cases last year, and my reviewers weren't even aware of the one I spent 30 percent of my time on."

In fact, despite all of the time and money that firms have spent on creating training and mentoring programs, about a third of associates surveyed said they don't have a mentor at their firms -- a number that has remained steady over the last few years.

Pepper Hamilton executive partner Robert Heideck acknowledges that the mentoring relationships are sometimes "forced pairings" and that they don't always work. "With the size of classes today, they need someone assigned to help them adjust to life at a large law firm immediately," he says.

Size, in fact, is a key factor in the training problem. The average head count at the largest 250 firms in the country has grown from 173 lawyers in 1985 to 467 in 2005. "Try to remember what it was like when you first started. You were probably in a much smaller environment and therefore had more partner contact ... and mentoring," a King & Spalding associate wrote when asked in the survey to "tell the managing partner of your firm just one thing."

One other issue shouldn't be ignored when considering two decades of associate comments about firm life. It's in the nature of lawyers to be critical. As Ben Johnson of Alston & Bird puts it: "Any good lawyer walks into a situation and says, 'What's wrong here?'" Twenty years from now, even if law firms somehow transformed themselves into an ideal work environment, associates would complain. "It's [dissatisfaction] not endemic to the human condition," says Johnson, "but endemic to the legal condition. That shouldn't change. That's who we are." Mr. Alston couldn't have said it better.

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