



## Big-Firm Associates: Why They Go and How to Keep Them

Demoralized and dispirited big-firm associates are defecting in droves. Here's how law firms, and clients, can change that

Ben W. Heineman Jr. and David B. Wilkins  
Corporate Counsel  
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At the 250 largest law firms, the arrows are pointing up for many associate indicators. Summer internships are up. Incoming associate classes are up. Recruiting costs for both summer and first-year associates, in dollars and in partner time, are up. Salaries are up (\$160,000!). Bonuses are up (\$50,000!). Concierge services are up. Stress management services are up. Twenty-five percent of the 40,000 graduating law students today go to these 250 firms, by some estimates.

But for all this effort, one critical indicator is down. The larger law firms are reported to be losing 30, 40, 50 percent of associates after three to four

years -- with half to two-thirds of the defections due to associate, not firm, choice. Where do they go? Smaller firms, more competitive firms in the same city, firms in other cities, in-house, government, teaching, nonlegal jobs. The "After the JD" study of 4,000 graduates in the class of 2000 -- conducted jointly by the American Bar Foundation, Harvard Law School's Program on the Legal Profession and others -- indicates such churn.

The more important question is: Why do they go? Some associates just wanted to pay off law school debts and had no intention of staying. Others are balancing two careers and need to follow a spouse. Some are lured away by higher-paying jobs in banking, private equity or hedge funds. Or they don't want the Faustian bargain of higher pay for more billable hours and a job that skews the work-life balance too far toward work. Finally, some do not want to stay for the likely "no" four or five years hence at the entrance to equity partner Valhalla -- or don't view it as Valhalla at all.

But on the basis of many discussions with students, associates, partners and inside counsel, we believe that for a significant number, their first professional experience after at least seven years of higher education is too unprofessional and demoralizing. That disappointment is a major reason for leaving their firm. Here are some of the problems:

- Early in their careers, far too many associates are given a steady diet of drudge work: reviewing documents; reading e-mails; organizing schedules for transactions; researching small, tangential issues.
- Associates work on large teams and are not given individual responsibility of any consequence.
- Partners may not take time to communicate the overall issues and strategy in a large matter, but just send younger associates off to till a small part of the North 40. Too often the junior associates have to work for senior associates whose goal in life is their own advancement, not the well-being of their younger colleagues.
- Partners, who have huge workloads and unceasing pressures to produce, do not spend much time worrying about the professional development of young lawyers nor provide adequate mentoring, education and training.
- Firms may not communicate candidly about their finances, their business strategy and the partnership prospects for young lawyers, who are not treated as young professionals but viewed as generators of "rates x hours" for annual revenue models.
- Corporate clients are unwilling to take risks on young associates and unwilling to pay their rates, so associates may not have

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Big-firm associates, then, may be a lost generation: a cohort of junior lawyers whose initial professional experience is extremely unsatisfying, who are turned off by the traditional rite of passage in a large firm, and who are not developing as legal professionals in the broadest sense of that phrase.

Is this true for everyone, everywhere? Of course not. But is this a trend -- a significant difference from the practices of 20 or 30 years ago? The answer seems to be yes.

One cause of this trend, of course, is the inexorable transformation of larger law firms from collegial professional associations to huge business enterprises. Successful partners have to juggle many demands: handling big matters, wooing clients, cross-selling the firm, marketing their efforts through speeches and articles and international travel. With the free agency system that has evolved at the big firms, those partners who are focused on earning top dollar want to boost their billings to increase their compensation. To keep high performers, firms are driven to a preoccupation with profits per partner and leverage. (There is also the catch-22 of firms not investing in young people who they don't think will stay anyway.)

With multicity "partnerships," a sense of firm identity and community is difficult to develop and associates must depend on a strong identification with, and personal relationships within, a particular practice group. But this specialization may also narrow the vision and experience of young lawyers. Moreover, technology distances partners from young lawyers, due to the ubiquity of electronic communication, yet at the same time allows them to be in associates' faces 24/7.

Corporate clients also contribute to the problem. With internal pressures to stay on budget, they seek to minimize the billings by, and experiences of, young associates who, whatever their potential, have not yet demonstrated practical skills. This is especially so as associate salaries -- and hourly rates to recover those costs -- escalate to absurd heights, at least in Am Law 200 firms in big cities.

Senior corporate counsel are also so preoccupied with integrity education and training for the business executives, and business training for the young lawyers inside the company, that they have little sense of obligation to the professional development of young lawyers in their outside firms. (Heineman pleads guilty to that charge -- back when he was general counsel at General Electric Co.) Ironically, corporations are so busy that they do not hire entry-level lawyers or provide early career legal training for the ones that they use from firms -- they rely on firms to do that. But then companies hire away the senior associates or junior partners and bring them in-house. (Heineman pleaded guilty to that charge, too.)

What can be done? Given sharp budget constraints, corporations are not going to pay fully loaded rates (salary, bonus, other costs, partner margin) to train green associates earning outside salaries. (They may look to more experienced contract lawyers in the United States or India to perform basic tasks for less.) But because they do need top-flight senior associates, because they want the firms to train young lawyers, and because they have an obligation to the profession, corporations can work with firms to pay reduced rates for junior lawyers. They can do this if, as discussed below, firms have a coherent program of professional development that gives young lawyers increasingly significant work on a systematic basis. The general counsel and senior partners can revise the running rules to open up lawyer-to-lawyer meetings or legal proceedings so that young associates can observe the process (even though the firm will still have to foot the bill as a training cost).

Corporations can also encourage firms to second third- or fourth-year associates to them for a year (and pay the costs, but not the profit margin). This can provide a tremendous learning experience for the young lawyer, help the corporation and provide ultimate benefit to the law firm, whether the young lawyer stays or returns to the company. (This has worked especially well for GE in Asia, where legal head count grew more slowly than the businesses.) Companies can help young associates understand the client and the context by working with firms to develop brief materials that explain both the fundamentals and strategy of the corporation and the outlines of a particular matter and its strategic importance.

To give young lawyers real practice experience, firms can also expand their pro bono work to a broad range of clients (nonprofits need tax or housing or "corporate" advice) and have a strong pro bono director who ensures that very young lawyers spend 20 percent to 30 percent of their time actually practicing, but with supervision. (This would be a natural extension of expanded law school clinical programs, which many graduates participated in.)

Firms can also second young associates to public sector agencies (e.g., the county prosecutor's office), where they can be paid by the firm but get far more hands-on experience than they would as twenty-first person on a multidistrict litigation team. They can promise students that they will have a law firm job after two or three years in the public interest world and not be penalized for starting with the firm "late" (indeed, such lawyers may be ahead of their peers in certain practical respects because of that experience).

Perhaps most importantly, firms could spend as much time on professional development as on marketing. This could involve creation of a competency model for different types of lawyers. Firms could also use training materials, planned experiences, measurable milestones and scheduled feedback sessions, including structured "space" for associates to talk candidly about careers -- inside the firm and outside -- without harming their future advancement. Firms might want to create a category of "training" hours that are separate from "recordable-billable" hours, so that partners are not penalized when recordable hours are not billed (or billed hours are not recovered because clients question the time that young associates are forced to record).

Ultimately, partners have to carve time out of their schedules to provide real communication, mentoring and professional development. Firm management and senior partners can appeal to partners' better nature to do a better job -- for the sake of the profession (but also for retention to the associate sweet spot of four to seven years with the firm). Measuring this dimension of practice (360-degree evaluations of partners or practice groups) and targeted compensation components (based on evaluations or on associates retained/lost) may be necessary, however, if firms are serious -- and are to be seen as serious by young lawyers. Some firms and some corporate clients are addressing this critical issue -- but far too few.

To be sure, associates, too, must take control of their destiny: do due diligence on partners; try to join hot but supportive practice

groups; negotiate for a certain percentage of hands-on pro bono work in the early years; and use initiative to find education, training and experience. And law schools must do a better job of teaching about professional trends and providing realistic and sophisticated early career guidance. (Wilkins pleads guilty to this failing.)

But the primary responsibility for professional development rests ultimately with big firms, which need explicit cooperation from their corporate clients. They must address the paradox of ever-higher associate compensation and ever-shorter tenure. The answer is not late-night dinners from The Palm on silver servers. It is a stimulating, mind-expanding experience at the beginning of their professional careers that treats associates as adults, gives them responsibility and, most of all, communicates the intellectual and practical excitement of confronting the significant issues that the best partners enjoy. This challenging culture of professional service, more than pure dollars, can help firms become employers of choice.

In the end, the answer is coherent, systematic, up-front law firm investment in young lawyer development programs within the firm, not fancier recruiting restaurants, to develop skilled, energized lawyers who can, and will, provide longer-term value to the firm -- and to the profession.

*Ben W. Heineman Jr., former GE senior vice president-general counsel, is currently distinguished senior fellow at Harvard Law School's Program on the Legal Profession and senior fellow at the Belfer Center for Science and International Affairs at Harvard's John F. Kennedy School of Government. He is also senior counsel to Wilmer Cutler Pickering Hale and Dorr. He writes occasional commentary for Corporate Counsel on developments in the law and the legal profession. David B. Wilkins is Kirkland & Ellis Professor of Law and director of the Program on the Legal Profession and Center on Lawyers and the Professional Services Industry at Harvard Law School.*

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