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## Has the Recession Forever Changed Large Law Firms?

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Believe it: The worst economic downturn since the Great Depression has hit law firms hard. Historically, the legal sector has weathered recessions better than many other sectors have, buoyed by the attendant surges in litigation and bankruptcy work. That's what's happened, for instance, amid the wave of corporate scandals -- the so-called Enron era -- that followed the bursting of the high-tech bubble. Not this time. Big firms are hurting, their profit margins squeezed by both sagging demand and record-high expenses. The result: the now familiar litany of mass layoffs, salary freezes and cuts, deferred start dates for first-year associates, and canceled or downsized summer programs.

Given all that, the \$160,000 question now is, what happens when the economy recovers? Will things go back to how they were?

The answer, according to law firm and law school leaders, is no. They say that the recession and events leading up to it have permanently changed the way business is done in the legal industry. The recent boom -- with its eye-popping billing rates of \$1,000 per hour, first-year associate salaries of \$160,000, and bloated ranks of junior associates -- is over. In its place, for now at least, is a new era in which law firms are expected to focus on being more cost-efficient. For the law student looking to join an Am Law 100 firm, that means smaller classes, more competition and lower pay.

The Am Law 100 itself is looking less monolithic these days. While some firms haven't dropped the \$160,000 starting salary, and won't, others, even the largest and most profitable, are set to forge a new path. At some firms, starting salaries, associate pay structures, training programs and promotion schemes are already starting to split from the pack. Those trends will continue postrecession, says James Leipold, the executive director of NALP. "Firms today are less worried about what their rivals are doing," he says. "I don't think everything is going to coalesce around a new normal."

To understand what's going on, it's worth going back in time. The past 17 years were a period of unprecedented prosperity for the industry. Toward the end of that era, law firm expenses -- driven by pricey real estate and rising associate salaries -- rose by an average of 10.1 percent each year from 2000 to 2007, according to the 2008 Annual Survey of Law Firm Financial Performance by Citi Private Bank.



Firms didn't mind writing the checks when demand -- measured by gross billable hours -- was exploding. But then demand began to dry up. On the transactional side, the falloff in work began with the unfolding of the credit market crisis at the start of 2008. On the litigation side, it's been building for a few years, with clients increasingly pushing for their firms to outsource work and manage matters better. A case that demanded eight lawyers a decade ago now may pull in half as many, because clients don't want to pay for associates to wade through documents, says Wally Martinez, managing partner of [Hunton & Williams](#). Instead, many clients generally want routine work handled by contract lawyers, he says.

Corporate counsel -- feeling internal pressure to cut costs -- are also getting stingier about paying for litigation that isn't "bet-the-company." And budget management software is helping in-house lawyers review bills and track matters more closely than ever before.

The recession has accelerated these trends, Leipold says. Desperate to stop hemorrhaging profits, law firms have resorted to layoffs -- according to *The American Lawyer*, the number stands at more than 2,900 associates since the start of 2008. Another sign of contraction in the industry: smaller summer classes. Among the 131 firms that responded to the *The American Lawyer's* [summer hiring survey](#), the average class size was 20 percent smaller this year than it was last year, dropping from about 58 to 45. And of those summers who have gotten offers from Am Law 100 firms, all but a handful are looking at delayed start dates.

Most firms have also cut back sharply on on-campus recruiting for next summer; at least nine firms, including [Morgan, Lewis & Bockius](#); [Pillsbury Winthrop Shaw Pittman](#); and [Milbank Tweed Hadley & McCloy](#), have canceled their 2010 summer programs in all or some offices. Many associates still working have seen their compensation frozen or cut, typically by about 10 percent, or from \$160,000 to \$145,000 for first-year associates in major cities. Even when the economy picks up, don't expect law firms to return anytime soon to prerecession associate staffing levels. The work that's been outsourced isn't coming back, Martinez says.

As for salaries, "Not everyone is going to retreat from \$160,000," Leipold says, adding that "over the long haul, attorney salaries will continue to drift upward." But in the short term, Leipold doesn't think the salary structure that firms had moved to before the recession is supportable: "Clients are saying they are paying too much, and in particular too much for the newest talent, who are not fully trained lawyers."

To make matters worse, last year's recruiting season produced a very high yield. At the time, firms didn't understand the depth of the recession, says David Van Zandt, dean of [Northwestern Law School](#). As a result, their summer classes are much bigger than they need, he says. With far fewer spots to fill, firms have become choosier. "During the boom years, firms just needed bodies," he says. "Now they're looking for students who not only can draft briefs and review documents but can also work well with clients and other lawyers." Van Zandt says firms are also starting to look more closely at a candidate's basic project-management and communication skills. This means that students who try to tailor their abilities through class choices, internships and work experience can help to make themselves more attractive to prospective employers, he says.

Law firms are also starting to take a more rigorous approach to their end of the recruiting process. "We're seeing better-prepared interviewees, more senior people" coming on campus, says Bruce Elvin, director of career and professional development at [Duke University Law School](#).

As for the interview itself, it's no longer about whether you like the same sports teams, at least not at places like [Vinson & Elkins](#) and [McKenna Long & Aldridge](#). These firms are using behavioral interviewing techniques, in conjunction with law school rankings and grade point averages, to evaluate candidates. The idea behind behavioral interviewing -- used by consulting and other professional service firms for decades but fairly new to the legal industry -- is that the best predictor of future performance is past performance in specific situations. Interviewers are trained to ask questions such as "Tell me about a time when you had a setback and how you dealt with it," or "Give me an example of a time when you had to make a split-second decision." Vinson & Elkins hiring partner Thomas Leatherbury predicts that behavioral interviewing will be more common in the years to come. "It's much more substantive," he says.

Even in traditional interviews, Elvin says, law students can and should adopt a behavioral focus: "Students can benefit themselves by talking about challenges they've overcome, decisions they've made. It shows you are taking ownership."

Beyond making the right impression, students armed with certain skills will fare better than others, law school and law firm leaders say. The most sought-after students are those with a joint J.D./MBA degree, Van Zandt says. With four years of business and legal training, as well as an average of four years in the workforce, "these graduates have had no problem getting a job in this market," he says. (Northwestern actually prefers students who have gained work experience before entering law school.)

Students with specialized training can also tap into at least two hot practice areas: financial regulation and energy law. Sweeping changes in the first area mean that young lawyers who catch that wave, via jobs in or outside of government, will be well positioned for law firm jobs, says [Arnold & Porter](#) managing partner Thomas Milch. Energy law, propelled by climate change issues, is also booming -- good news for law students with a background in science,

he says.

Even students who don't land an offer in the current recruiting season need not despair. "Speed is not necessarily anyone's friend in this economic cycle," Vinson & Elkins's Leatherbury says. At least two firms -- [Orrick Herrington & Sutcliffe](#) and [DLA Piper](#) -- skipped the August recruiting season, and plan to visit campuses in November instead. Some firms may even come back in the spring for a second recruiting cycle if they decide to increase the number of summer associates they'd like to hire, Leatherbury says. But he doesn't anticipate any permanent shifts in the recruiting season, at least for now.

Leatherbury would actually like to see recruiting pushed back to later in the school year, given the difficulties of predicting hiring needs two years into the future. In April, Leatherbury drafted a plan asking law schools to delay on-campus recruiting, but he says the idea didn't go over so well. "The general reaction was that if Harvard moved, then everyone else would move," he says. Harvard Law School did move, but in the wrong direction, in Leatherbury's view. Its recruiting program, which had been in late September, now takes place at the end of August, along with those of most other top law schools.

Once in the door, depending on where they land, students may well face an entirely new approach to associate pay, training and advancement. A handful of early adopters are abandoning lockstep compensation, in which each associate class is paid the same base salary, in favor of performance-based pay programs, in which associates are promoted -- and their billing rates raised -- as they master a range of competencies and skills. The pioneer of performance-based pay, the firm that [Husch Blackwell Sanders](#) grew out of, has used it for close to a decade. Other recent converts include McKenna Long & Aldridge, which switched over in the fall of 2007, and [Howrey](#), which put the final touches on its new program in January 2009.

In the last few months, Morgan, Lewis & Bockius; Orrick Herrington & Sutcliffe; DLA Piper; and [Sonnenschein Nath & Rosenthal](#) all announced plans to replace lockstep associate compensation with performance-based programs. Laura Saklad, Orrick's chief lawyer development officer, says the firm's new pay program "recognizes that not all associates advance at the same pace, tenure is not a proxy for advancing skill, and clients should not bear the cost of training associates. In the end, our goal is to deploy the right lawyer or professional for the right task at the right cost."

Expect many more firms to follow suit. Peter Sloan, a partner in the Kansas City, Mo., office of Husch Blackwell who wrote the bible of performance-based associate pay, "[From Lockstep to Levels, Classes to Competencies](#)," says firms like McKenna and Howrey are just "the tip of the iceberg." After years of being virtually ignored by his industry peers, Sloan sees a surge of interest in merit-based pay. In July he led an online seminar on the subject that was cosponsored by NALP and the [American Law Institute-American Bar Association](#). The seminar drew more than 200 attendees from law firms, law schools and consulting firms.

Sloan says he has also been "quietly contacted" by firms that are actively planning to switch to performance-based pay, and hears "rumors" that other firms are telling associates that they, too, are moving to such systems. "This economic climate sends a clear signal that business as usual may no longer be a viable strategy," Sloan says. "I think we are close to a tipping point, with more and more firms taking a hard look at how they manage associates. Many of those firms may move to a merit-based compensation system."

(Before you throw in your lot with a pay-for-performance firm, you should know that merit-based pay does not immunize associates against layoffs in a recession: So far this year, Husch Blackwell has laid off 41 associates.)

Pay-for-performance programs vary but typically feature four or five performance-based tracks or levels along which associates advance. Compensation, billing rates, and progress toward partnership are tied to levels of competencies, rather than hiring class. Associates can also expect mutually agreed-upon goals set in advance, quarterly feedback and supervising attorneys who have actually been trained in mentoring and feedback. Jennifer Queen, McKenna's chief recruitment and development officer, says that with a merit-based pay system, associates know in advance what they need to do to make it. "The secret to success isn't a secret anymore," Queen says. She says clients like performance-based programs too. For one, it's how they pay their professionals. Plus, they know they are getting their money's worth, since an associate's billing rate is tied directly to his or her performance level.

Despite the merit-based pay's advantages, even its fans expect many firms to stick with the tried-and-true, at least for now. Lockstep compensation is familiar and easy -- two big selling points. "Just because you're breathing and it's another year, you get promoted," says McKenna's Queen. By comparison, a merit-based system can be quite labor-intensive, since moving from one level to the next requires an in-depth performance review.

Look to Howrey for another upheaval in the once-predictable world of associate training and advancement. Starting this fall, [Howrey's first- and second-years will take part in a new apprenticeship program](#), going to classes, working on pro bono projects and shadowing partners at depositions, court appearances, client meetings and the like. The billable-hour requirement for participants has been cut from 1,950 to 700 hours. The program's final three months is a secondment, in which associates are embedded at client sites at a reduced billing rate. Despite a sharply lower starting salary of \$100,000 (plus a \$25,000 bonus earmarked, in most cases, for making student loan payments), Howrey partner Richard Ripley says all 23 associates who began in September signed on.

Will others follow suit? The program certainly has its appeal in a time when more and more clients refuse to let junior associates work on their matters. Ripley says "clients are thrilled with it, since we're giving our young associates the skills they need to bring value to our matters." Philadelphia's [Drinker Biddle & Reath](#) and Louisville, Ky.,'s [Frost Brown Todd](#) are also launching apprenticeship programs this fall.

Where does it leave today's law students? No question, they are headed into a job market sure to present significant challenges for some time to come. But these future lawyers may also be the first in years to have real choices, as even the largest firms begin to diverge on pay and promotions. As President Barack Obama's chief of staff, Rahm Emanuel, has said, a crisis presents opportunities "to do things you think you could not do before." Easy for him to say. He has a job.

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