

OCS Weekly Bulletin

April 29, 2008

Fall OCI Dates/Deadlines & Career-Related Articles

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About OCS

The Office of Career Services (OCS) serves as a bridge between students, alumni and employers. The staff helps students and alumni to shape and realize their career goals. We also provide counseling, workshops and resources on judicial clerkships, international opportunities and non-law alternatives.

OCS is open Monday through Friday from 8 a.m. to 5 p.m. The office is located on the first floor in Room 143 in the Law School's office building on Nathan Abbott Way.

Fall OCI Dates/Deadlines

Tuesday, July 1	Bidding period begins
Friday, August 1	Bids/unavailable times due in Symplicity
Tuesday, August 5	Interview schedules available online
Tuesday, August 12	Resumes need to be uploaded to Symplicity by 5:00pm PST
Wednesday, August 20	Fall On-Campus Interviewing Program begins
Monday, September 1	No interviews (Labor Day)
Friday, September 5	Fall On-Campus Interviewing Program ends
Monday-Friday, September 15-19	Callback Week

As a reminder, the Fall OCI Packet is available on the OCS website here: [http://www.law.stanford.edu/experience/careers/ocs/students/#\(oci\)_on-campus_interviewing_program_](http://www.law.stanford.edu/experience/careers/ocs/students/#(oci)_on-campus_interviewing_program_). Please be sure to download this packet as it contains very important information about Fall OCI procedures.

To communicate with you over the summer, we have automatically added **ALL rising 2L students** to the Fall OCI listserve. Any 3Ls who plan to participate in OCI should manually ADD themselves to the listserve by going to: <https://mailman.stanford.edu/mailman/listinfo/law-cip-info>.

In addition to the Fall OCI listserve, we have another listserve for the purpose of sending you information and advertisements directly from participating employers. Typically, we don't receive a large volume of these e-mails from employers, so don't worry- your inbox won't be flooded with them. All rising 2Ls have been added to this listserve. Any interested 3Ls should manually add themselves by going to: <https://mailman.stanford.edu/mailman/listinfo/law-cip-adv>.

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Fall OCI Dates/Deadlines (cont.)

NOTE: You may unsubscribe to the Fall OCI Advertisement listserve at any time by going to:

<https://mailman.stanford.edu/mailman/listinfo/law-cip-adv>. However, please keep in mind that the e-mails sent to this listserve come directly from employers and may contain valuable “inside” information about the firm or organization. Therefore, we strongly recommend that you remain subscribed to this listserve.

Career-Related Articles

• **Ecosystem of Legal Services Is Evolving**..... Pages 2-4

The winds of change are howling around the legal industry. The ecosystem of legal services — that marketplace in which traditional firms, boutique firms, temp agencies and outsourcers vie for the work of corporate legal departments — is in the midst of a significant evolution. As general counsel, the buyers of legal services, continue to face increasing cost pressures, they are flexing their considerable muscle to fundamentally alter their relationships with these providers to extract greater value for each dollar spent.

• **New Firm Mantra: Cut, Redeploy**..... Pages 4-5

Dechert chairman Barton Winokur remembers the 1970s. “That was the longest decade in history. It lasted for 14 years,” he said. Or so it seemed. It was a time of rampant inflation, rocketing gas and food prices and a bloated trade deficit. Thirty-five years later, the economic picture is much the same and is requiring law firms like Winokur’s to reposition themselves for the downturn, however long it may last. The recent evaporation of structured finance deals and capital markets work in general has left Dechert and several big law firms with the dismal task of laying off lawyers. In Dechert’s case, once news of 13 associate layoffs hit earlier this year, the law firm quickly offered to redeploy the attorneys affected.

• **Supreme Court Justices Turn to Ex-Clerks for Unusual Role**..... Pages 5-6

Sidley Austin partner Jay Jorgensen is about to make his debut before the U.S. Supreme Court, following a little-known, rarely available pathway that has launched the high court appellate careers of several former Court clerks. Among them: John Roberts Jr., now chief justice, and Maureen Mahoney, who heads the appellate and constitutional practice at Latham & Watkins. Even more rare is the fact that Jorgensen won’t be the only lawyer arguing as an appointed counsel under these circumstances on Tuesday.

Ecosystem of Legal Services Is Evolving

Mehul Patel / Special to The National Law Journal

April 28, 2008

The winds of change are howling around the legal industry. The ecosystem of legal services — that marketplace in which traditional firms, boutique firms, temp agencies and outsourcers vie for the work of corporate legal departments — is in the midst of a significant evolution. As general counsel, the buyers of legal services, continue to face increasing cost pressures, they are flexing their considerable muscle to fundamentally alter their relationships with these providers to extract greater value for each dollar spent.

For a handful of the most successful traditional law firms, this environment brings an opportunity to adapt, differentiate, and garner the premium price-insensitive bet-the-company work that will drive growth in profits per equity partner. For most others, it will mean a new era of competition, both with other traditional firms and with a new category of firms that enter the market in response to the needs of corporate buyers. This evolution in the ecosystem of legal providers ultimately will align the industry more efficiently and more effectively with clients’ businesses and goals.

GCs face a significant challenge in today’s business environment. Their budgets are showing little or no growth as corporations manage their cost lines tightly. Meanwhile, law firm rates have been rising by an average of 5% to 6% a year. See Larry Bodine, “It’s Safe to Raise Rates by 5% to 6% for Corporate Clients,” LawMarketing Portal, Nov. 18, 2007, www.lawmarketing.com/pages/articles.-asp?Action=Article&ArticleID=696. A recent study by RSG Consulting found that rising fees and the cost of buying legal advice are the key concerns among clients, with more than half believing that the current growth is not sustainable. See Eversheds press release, “Top

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firms and clients deliver verdict on future of legal profession,” Feb. 19, 2008 (citing “Law Firm of the 21st Century” study carried out by RSG Consulting on behalf of Eversheds).

In response, relationships with outside counsel are starting to change. Corporations’ loyalty to their former “go-to” firms is waning. Today, corporate procurement departments, which typically don’t have long-term relationships with outside counsel, are increasingly involved in the selection of outside counsel. More work is being kept in-house, particularly transactions and regulatory work that require a high level of integration and alignment with the company’s business objectives, and only the most specialized or expert work is being sent to traditional firms.

Clients increasingly are realizing that work previously considered to be highly complex is becoming routine and can be handled more cost-effectively through use of internal resources, smaller firms or new-model firms that have entered the market. Companies will pay premiums only for the highest-risk, bet-the-company matters and are scrutinizing exactly what qualifies as that work. This shift in turn is creating greater demand for counsel who focus on “run the company” matters such as commercial contracts, licensing, U.S. Securities and Exchange Commission compliance, employment counseling, leases and even small mergers and acquisitions (M&A). For this kind of work, which in the long run typically represents substantially more hours of legal work than the bet-the-company matters, GCs have a variety of options. The choice among hiring in-house, using smaller or regional firms, or utilizing new-model firms involves a weighing of factors beyond just cost: How important is integration with the business? How much does flexibility matter? How does the ability to add capacity quickly play a role?

The firms that can’t compete for the bet-the-company work will need to understand where they deliver the greatest value and become laser-focused on exploiting those opportunities.

It’s not all good news for the law firms that still get the premium work. GCs are

not only redefining and reducing the big-ticket, bet-the-company work sent to such firms, but they also are applying pressure to those firms — via requests for proposals, volume discounts, blended rates, rate freezes, project pricing and the continued convergence trend — to provide the same results at a lower cost. For firms to continue to add value and deliver results for clients, they must be flexible and forward thinking in response to these trends or risk clients taking this work elsewhere. In the end, there is one common aspect that defines a positive inside-outside counsel relationship: the ability to form a real, mutually beneficial partnership.

Adapting to survive

Despite the overwhelming call by clients for legal service providers to keep costs in check and in line with growth in client budgets, the RSG Consulting study cited earlier notes that many top law firm partners are not in sync with their clients. Just 21% of those partners surveyed noted the need to control costs or add value as a concern.

The increased focus by clients on cost-efficiencies and optimal distribution of work has led to the active re-evaluation of budgets and spending on outside counsel. A number of departments are hiring business planners, or even chief operating officers, to drive these initiatives, which, in turn, will lead to a restructuring of the relationships the client has with various outside legal providers. As clients become increasingly sophisticated at segmenting their work to identify the true bet-the-company, high-risk matters that require outside expertise, that work will flow to just a handful of firms that have the brand, experience, infrastructure and footprint to effectively handle such needs. While that work will continue to be premium-priced and clients will continue to be relatively price-insensitive, they won’t settle for anything less than the very best firms. As such, one can expect the law firm market to maintain its current segmentation whereby profit growth for the most profitable firms continues to outpace their

less-profitable peers.

As bet-the-company work is more tightly defined, it will continue to decline, triggering a shift throughout the rest of the legal ecosystem, resulting in greater demand for the “run the company” work. Law firms that cannot compete effectively for the most premium work will need to adapt to compete for this work. It will be a challenge because brand will not matter as much in this tier; the premium will be on value delivered. Work at this level will emphasize experience over expertise. While the work is technically complex — for instance, inbound technology licensing — it typically will not be high risk, bet-the-company work, like major patent litigation or public-public M&A. GCs will not pay crisis rates for noncrisis matters and will look to the most efficient way to meet the needs of their business for this work.

Traditional law firms will be at a disadvantage for this work with their current cost structure. Their high overhead will raise their pricing ceiling to a level that will make it difficult to compete with additional in-house hires. Moreover, GCs will place particular emphasis on integrative solutions, so that legal counsel is aligned with their business objectives.

Offshore entities

For the lowest tier of work, which requires the least amount of technical expertise and where the emphasis is on efficiency, GCs will no longer turn to their traditional firms, in-house hires or new-model firms. Instead, for document review and contracts administration, where cost efficiency and the ability to scale is at a premium, one can expect to see some work shift from traditional temp firms to offshore entities. India, in particular, is an attractive market for this work, since its lawyers are trained in the common law system, speak English and typically are paid one-fifth the salary of their counterparts in the United States.

The drive for cost effectiveness in this tier, where the work is the most commoditized, will lead to ferocious price compe-

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tion and a move away from traditional services pricing on a time-spent basis, to traditional product pricing on a per-unit basis. The shift from dollars-per-hour to dollars-per-contract, or whatever deliverable is required, will effectively shift the risk of inefficiency from the client to the provider, motivating the provider to function and price at the lowest marginal cost.

Not only will GCs become increasingly sophisticated at segmenting types of work and distributing it to the most effective and efficient provider, forcing providers throughout the ecosystem to respond by aligning more effectively with their clients, but we also can expect large matters themselves to be segmented, or “unbundled.” A client may want a name partner at a traditional, global firm to advise on a “poison pill” defense, and would be quite happy to pay the firm’s full rates, but does it makes sense to use first-year

associates from those firms to do document review at more than \$300 per hour if offshore resources are available at a fraction of the cost with the same quality?

This unbundling of the typical law firm pyramid for major matters could result in GCs paying partners for expert advice on M&A deals or major litigation; paying in-house lawyers, smaller firms or new-model firms to project-manage the process and draft the key documents or briefs (instead of senior associates); and paying offshore entities to do the diligence review (instead of junior associates and paralegals). The cost efficiencies would be significant at each level and should far outweigh the increased administrative costs of working with three or more providers as opposed to just one firm.

After decades of stasis, the legal industry is changing quickly. These changes are being driven by corporations run-

ning their legal departments in the same cost-conscious manner as the rest of their business, and have resulted in changes in legal strategy, execution and budgeting. As corporations continue to become more sophisticated in their approaches, law firms will be forced to respond to these changes and devise new approaches to meet their clients’ evolving needs. New entrants, both at the high-end (new-model firms) and low-end (outsourcing), will enter the market offering new solutions. Ultimately, the providers that prove the most nimble, flexible and opportunistic will position themselves to thrive.

Mehul Patel is executive vice president and general manager of Axiom, a new-model firm that changes the way attorneys and clients work together. He is based in the firm’s San Francisco office.

New Firm Mantra: Cut, Redeploy

Leigh Jones

The National Law Journal

April 21, 2008

Dechert Chairman Barton Winokur remembers the 1970s.

“That was the longest decade in history. It lasted for 14 years,” he said.

Or so it seemed.

It was a time of rampant inflation, rocketing gas and food prices and a bloated trade deficit. Thirty-five years later, the economic picture is much the same and is requiring law firms like Winokur’s to reposition themselves for the downturn, however long it may last.

“Change is a good thing,” he said.

The recent evaporation of structured finance deals and capital markets work in general has left Dechert and several big law firms with the dismal task of laying off lawyers. In Dechert’s case, once news of 13 associate layoffs hit earlier this year, the law firm quickly offered to redeploy the attorneys affected.

Though dramatic for the rapid turnaround, Dechert’s situation exemplifies a reshuffling under way in other big law

firms as they move lawyers out of faltering practice areas into those that are less vulnerable -- or even thriving -- during the economic slump.

An often cited area that is absorbing lawyers is bankruptcy. In 2007, bankruptcy filings rose 38 percent, according to the Administrative Office of the U.S. Courts. The number of filings in 2007 totaled 850,912, up from 617,660 in 2006. Filings involving business debt rose 44 percent compared with 2006, from 19,695 to 28,322.

Recent bankruptcies include big retailers such as Levitz Furniture, Sharper Image Corp. and Fortunoff, which some fear represent just the beginning of a surge in commercial bankruptcies.

A ‘CLUBBY’ PRACTICE

Bankruptcy practice can be a clubby one in which debtors, creditors and trustees often interact in case after case

before a relatively small pool of judges. Most redeployment of attorneys, however, is taking place at the associate level, said Bill Brennan, a consultant at Altman Weil. Making a shift at that level, as opposed to the partner level, is easier, since associates’ work generally is more routine, he said. Moreover, workout services for troubled companies, as opposed to strict bankruptcy practice, are widening the opportunities for law firms.

For several law firms, layoffs have been inevitable due to the subprime mortgage mess, especially if their ranks are glutted with fledgling practitioners who are costing them \$160,000 each in annual salary alone.

But the unsavory public relations consequences from those layoffs and the need for more associate help once the economy turns around have caused most firms to ride out the difficulties, Brennan said. Even if attorneys kept on board are only busy 75 percent of the time, “the result

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will be a long-term benefit," he said.

In the case of New York's Cadwalader, Wickersham & Taft, it is shifting attorneys to litigation, financial restructuring and general corporate work, said Gregory Markel, chairman of Cadwalader's litigation department and a member of its management committee.

Earlier this year, the 721-attorney firm had to lay off 35 associates, primarily from its mortgage-backed securities practice. Between 25 and 30 attorneys have permanently transferred all or most of their practices out of structured finance, global finance and real estate finance, Markel said, with another 20 taking temporary assignments in new areas.

A few other attorneys are spending small amounts of time on matters in new groups. Most of the attorneys are junior associates, he said, with "relatively few" senior associates involved.

The morale of associates, he said, was "interesting." He added, "Those who have switched think it's a good thing."

Because some of the firm's clients are experiencing slowdowns, the attorneys who have transitioned to new practice areas "realize it's good to have a legal job," he said.

Besides bankruptcy and workout practices, other areas expected to require additional help are litigation and corporate governance, according to a study released in March by Robert Half Legal. Of the 300 attorneys at large law firms responding to the survey, 25 percent expected more demand in bankruptcy and 24 percent said they anticipate an uptick in litigation work.

Some 17 percent said they will need more attorney manpower in ethics and corporate governance and 16 percent expect more work in intellectual property. Overall, 45 percent of the respondents said that they expected to hire more help, while 50 percent expected their firms to stay the same size.

Moving attorneys from troubled practice areas to healthier ones is "not easy, per se," said Charles Volkert, executive director of Robert Half Legal. But for firms that have needs in one practice while another is slumping, staffing up with associates who are known entities makes sense, he said.

Much of Thacher Proffitt & Wood's reconfiguring has involved partners, many of whose practices pertained to structured finance, said Jeffrey Murphy, a Thacher

Proffitt partner with a concentration in structured finance and financial services.

So far this year, the New York firm has offered severance packages to about 50 associates in its real estate and structured finance departments.

The firm recently established a distressed asset practice group. The strategy is to use some of the attorneys whose work dealt with complex structured finance deals to handle sale of, and investment in, distressed assets. Bankruptcy partner Hugh McDonald and structured finance partner Christopher Lewis are leading the group. When dealing with transitioning partners, a law firm cannot issue a directive for them to switch practices, Murphy said. "It's really a matter of whether people have the time and energy and they are interested in going after the work," he said.

There are "some jitters" among attorneys making the changes, but good lawyers can transfer their skills readily, Murphy said. A four- to six-month transition period is the longest it should take lawyers to acclimate to their new positions, he said.

Supreme Court Justices Turn to Ex-Clerks for Unusual Role

Tony Mauro

Legal Times

April 14, 2008

On Jan. 7, Jay Jorgensen took an unusual call from his former boss, Supreme Court Justice Samuel Alito Jr.

Alito's request: Would Jorgensen have time to argue a Supreme Court case in April -- a case Jorgensen had never heard of -- for free?

In *Greenlaw v. United States*, it seems the government had decided that it agreed with plaintiff Michael Greenlaw on the main sentencing-related issue in the case. So the Court needed someone else to argue against lawyers for Greenlaw, a Minneapolis drug dealer.

Jorgensen, a partner with Sidley Austin, eagerly agreed to the invitation, and on

Tuesday he will make his debut before the high court. In doing so, he follows a little-known and rarely available pathway that has launched the Supreme Court appellate careers of several former high court clerks. Among them: John Roberts Jr., now chief justice, and Maureen Mahoney, who heads the appellate and constitutional practice at Latham & Watkins.

Even more rare is the fact that Jorgensen won't be the only lawyer arguing as an appointed counsel under these circumstances on Tuesday. In a separate sentencing case called *Irizarry v. United States*, Catholic University law professor Peter "Bo" Rutledge, a former Clarence

Thomas clerk, will also be appearing as "amicus curiae in support of the judgment below," as the Court phrases it. This will also be Rutledge's first time before the Court.

"I've been talking to Bo. We're both honored and both scared," says Jorgensen. Rutledge declines comment.

These once-in-a-lifetime opportunities to argue before the Court arise when, as in *Greenlaw*, the respondent abandons the lower court decision that the petitioner is challenging. That scrambles the usual adversary nature of Supreme Court cases, because it means, in essence, that both sides think the lower court decision was

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wrong or should be vacated.

In that circumstance, which has not arisen for five years before this term, the Court appoints a lawyer -- almost always a former clerk -- to make the orphaned argument.

Why does the Court do this? As Justice Ruth Bader Ginsburg expressed it in a footnote in the 2003 case *Clay v. United States*, appointing a lawyer to defend the lower court judgment when no one else will "permits us to decide the case satisfied that the relevant issues have been fully aired."

In a sense, it is the truest form of *amicus curiae* or "friend-of-the-court" representation, because the appointed advocate has no client -- and does not get paid. But the intangible rewards for the lawyer are great, representing yet another way in which a Supreme Court clerkship can be a ticket to top-tier career opportunities.

LANDMARK APPOINTMENTS

Some appointed counsel have played major roles in landmark cases that have posed sticky political dilemmas for the executive branch.

Early in the Reagan administration, Justice Department officials decided they did not want to defend a lower court ruling that had upheld the IRS' rejection of tax-exempt status for schools and universities that discriminate on the basis of race. So the Court appointed famed civil rights attorney William Coleman Jr. -- also a former high court clerk -- to defend the decision in the 1983 case *Bob Jones University v. United States*. Coleman carried the day.

In the 2000 case *Dickerson v. United States*, a convicted bank robber challenged a controversial decision by the 4th U.S. Circuit Court of Appeals. The appeals court ruled that a long-ignored federal law trumped the famed *Miranda v. Arizona* de-

cision requiring police to inform arrestees of their right to remain silent.

But the Clinton administration did not want to defend the appeals court ruling, so the Court appointed Paul Cassell, a former Warren Burger clerk, to do so. Cassell, then a University of Utah law professor, had long espoused the view taken by the 4th Circuit. Cassell lost, but a year later, President George W. Bush appointed Cassell to a federal judgeship, which he has since resigned to return to the university.

In Jorgensen's upcoming case, the issue is whether a federal appellate judge can, on his or her own accord, increase a defendant's criminal sentence when the government has not asked the judge to do so. The 8th U.S. Circuit Court of Appeals said the appellate judge does have that power, and defendant Michael Greenlaw appealed. But the government told the Court it disagrees with the 8th Circuit too -- prompting Alito's call to Jorgensen.

Rutledge's case asks whether a judge must notify both sides before rendering a sentence that deviates from federal sentencing guidelines. The 11th U.S. Circuit Court of Appeals said there is no such requirement, but the government agrees with the defendant that notice should be given. Rutledge will defend the 11th Circuit decision.

By custom, the job of finding a lawyer in these circumstances falls to the justice who handles emergency appeals and other matters from the circuit where the case originates.

Alito is the circuit justice for Minnesota, where Greenlaw's drug trafficking conviction took place. Jorgensen clerked for Alito on the 3rd U.S. Circuit Court of Appeals, then for the late Chief Justice William Rehnquist, and again for Alito in his first year on the high court. Jorgensen was also active in the campaign for Alito's confirmation. Rutledge's former boss Thomas is circuit justice for Alabama,

where the *Irizarry* case originated.

THE ROBERTS TRACK

When Roberts, following up on Alito's invitation, called to tell Jorgensen the Court had approved his appointment, Roberts noted that he himself had snagged his first argument in similar fashion.

Roberts' debut at the Court podium came in *United States v. Halper* in 1989, a double jeopardy case in which the defendant had argued *pro se* in the lower courts. Nonlawyers don't argue before the high court, so Roberts, a former Rehnquist clerk then in private practice at Hogan & Hartson, was appointed to represent him. Roberts took it on *pro bono* -- and won.

Mahoney got a similar nod from Rehnquist in 1988, when he asked her to argue in *Mackey v. Lanier Collection Agency*, an employee benefit case. The respondent, a Georgia collection agency, decided its stake in the case was so small that it was not worth the cost of appearing to defend the lower court decision.

"The call came out of the blue," recalls Mahoney, who was at Latham at the time. "I felt that the way to be the Court's 'friend' was to defend the ruling as aggressively as I could."

Mahoney, a former Rehnquist clerk, said it makes sense that justices would seek out former clerks for these appointments. "We are people they know and have confidence in."

The appointment worked out well for Mahoney. She won the case, and not long after, she was named deputy solicitor general, a job she held until returning to Latham. Now she is often mentioned as a possible Supreme Court nominee. Mahoney says of her appointment, "It's a great way to get a start."