

OCS Weekly Bulletin

January 13, 2009

Spring OCI Reminders & 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.

Spring OCI Reminders

Tuesday, January 13	Interview schedules available in Symplicity (we will announce when schedules are open)
Thursday, January 15	Resumes and unavailable times due in Symplicity by 5:00 pm
Tuesday, January 20	Deadline for canceling interviews (see Spring OCI packet for instructions)
Thursday, January 22 - Wednesday, January 28	Spring On-Campus Interviewing Program

The Spring OCI packet, along with Spring OCI dates and deadlines can be found online at:

[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_)

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The clients of the top litigation boutiques spotlighted by The American Lawyer say the firms typically deliver what they promise: They are nimble, efficient, flexible and smart. They're also often a lot less expensive than their big-firm competitors. Several boutiques even report that they turned away work in the last year. How many big firms can say the same?

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Each year, The National Law Journal recognizes the firms that have done the most to uphold the legal profession's responsibility to ensure that people's legal rights aren't contingent on their ability to pay. It is a subjective process, and we unfortunately lack the space to recognize all of the firms we admire. This year, we honor firms engaged in struggles that took on particular resonance in 2008: voting rights, same-sex marriage, refuge for Iraqis who endangered their lives by working with U.S. forces, and reparations for the remaining victims of the Nazis' "ghetto work" program.

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Would nervous associates jump at the opportunity to work reduced hours at reduced pay if it meant their law firms would forgo layoffs? Officials with the Project for Attorney Retention (PAR) and several legal consultants think so. They are recommending that law firms take a serious look at implementing reduced-hours programs as a way to manage through the flagging economy while protecting their reputations in legal circles.

- **Cravath's Presiding Partner: Time to Kill the Billable Hour**.....Pages 6-7

In an opinion piece in the current issue of Forbes magazine, Evan Chesler, the presiding partner at Cravath, Swaine & Moore, calls for the end of the billable hour. The essay is the latest entry in a growing conversation about the prospects for change in the way big firms do business. In an interview, Chesler said that he's been raising this issue with clients and in private talks for the last few years, but he notes that "there's a lot of inertia, a lot of 'the devil you know' in this area."

- **Kill the Billable Hour? A British Response**.....Page 7

Cravath, Swaine & Moore's presiding partner, Evan Chesler, argues in the latest issue of Forbes magazine that the billable hour must go. But in the U.K., lawyers and clients have never had the same obsession with hourly billing as their American peers. Over the last 20 years hourly rates have become the dominant currency there, but the tide slowly is turning -- and some British companies and firms are much further along in shifting away from the billable hour than their American counterparts.

Career-Related Articles

In the Slowed Economy, Young Lawyers are Giving Small Firms a Second Look

Rebecca U. Cho

Daily Journal

December 10, 2008

LOS ANGELES - A year and a half after taking on a complex business case, Robert Satterthwaite was elated by a trial judge's tentative ruling in July, awarding his client nearly \$13 million in compensatory damages.

Satterthwaite, an associate, had reason to be pleased. Two years earlier, he had been at a large firm assisting partners on major cases as a part of a team - far from taking the lead role in a case of the magnitude like the one he had just handled.

But, after moving to the 20-attorney Russ August & Kabat in Los Angeles, Satterthwaite immediately began trial work on a matter involving a failed investment project in Malibu. *Elyaszadeh v. Neman*, BC328019 (L.A. Super. Ct., filed January 2005).

"It's virtually unheard of at large firms where a [young] attorney is going to be lead counsel on a commercial litigation matter," said Satterthwaite, who moved to the firm after nearly four years with the 200-attorney Munger, Tolles & Olson. He said he moved seeking more direct responsibility over trials.

The trend is nothing new. Satterthwaite is one of many young attorneys who in recent years have made the transition from big to small firms motivated by a desire for small-firm perks, such as immediate trial experience and a better work-life balance.

What is new, however, is that with the down economy, associates are finding it more difficult to land big-firm jobs. As a result, young lawyers are re-evaluating their options in the smaller-firm market - and sometimes it's paying off.

"People may be discovering smaller firms by necessity more than anything else," said Delia Swan, the founder of Swan Legal Search in Los Angeles. "But maybe this will educate young lawyers that there is this alternative."

According to West's Peer Monitor Index, which measures legal market conditions, associate hirings at firms, both big and small, are down 6 percent from last year, with the biggest factor confronting

the legal industry being the "swelling of unproductive associates" at law firms.

Last month, San Francisco's Orrick, Herrington & Sutcliffe laid off 40 lawyers and 35 staff members. Joining several other New York firms cutting costs, White & Case slashed 70 lawyers and 100 staff members from its ranks.

David Corwin, a legal recruiter with The Brunswick Group in Los Angeles, said the demand for his services has switched in recent months from associate to partner placements.

"With the economic downturn, law firms are more hesitant to expand their ranks," Corwin said. "There are fewer positions out there."

He said attorneys are becoming more open-minded to their job options. While he doesn't foresee a significant shift in the number of young attorneys jumping to small firms, he said with the supply of associates outweighing the demand, attorneys are becoming less picky in their job searches.

"At first, when attorneys tread into the waters of new firms, they're optimistic. Oftentimes, when they see how difficult it is to find a firm, they become more concerned," Corwin said. "With that increased concern, there's greater flexibility."

Some boutique firm associates, such as David A. Hatch at Hooper, Lundy & Bookman, are breathing a little easier than their big-firm counterparts.

"Hooper is not as affected by the ebbs and flows of the economy," said Hatch, who joined the 50-attorney firm after four years at Jones Day. "Being a health care firm, people have to get health care no matter what."

But small firms are not immune from the economic downturn and are not necessarily faring better than the big ones. Productivity at law firms nationwide is down 4.5 percent in the third quarter, according to West's Peer Monitor Index report. Those firms emphasizing corporate work or real estate, whether large or small, are suffering.

However, small firms, as a rule, tend

to be less vulnerable to market swings because they don't have major clients, which usually use big firms to handle huge financial matters.

"Smaller firms aren't quite as impacted at this point by the economy like some larger firms because they're not quite as involved in some major merger, M&A, banking financing schemes, or securitized loans," said Larry Russ, the managing partner of Russ August & Kabat. "With that particular multimillion dollar business drying up, larger firms tend to feel the heat."

Russ said as big firms and their associates become more realistic and open with each other, he is seeing an increase in lawyer referrals to his small firm directly from the big firms.

"I think associates who have mentors at various larger firms are being more honest about their long-term plans," Russ said. "Associates are being more realistic, but the interchange is going back and forth. Law firms are more honest about associates' prospects about becoming partner."

Top law school graduates also are facing fewer choices than years past and are considering smaller firms, Swan said. They are considering work in less competitive geographic markets, such as Bakersfield, Fresno and Sacramento.

Swan said she hopes young attorneys will benefit from exploring their options during the hard economic times.

"As the economy goes back, they may find they like it [where they are]," she said.

Career-Related Articles

Top Litigation Boutiques of the Year

The American Lawyer

January 5, 2009

On the day that Robbins, Russell, Englert, Orseck, Untereiner & Sauber opened its doors, name partner Lawrence Robbins took special note of a package of yellow Post-it Notes. Robbins and three of his fellow founders had left the safety and security of Mayer Brown partnerships to venture out on their own, and there had been a few misgivings. But as he stood in the supply room amid the new firm's pens, notepads and Post-its, Robbins thought to himself: "These are my yellow sticky notes. This is my firm." It was a feeling of ownership, he says, that he'd never had before.

Practicing at a litigation boutique is different from practicing at an Am Law 200 firm. To be clear: We are not referring to the quality of the boutiques' cases or the level of their advocacy. The firms we

considered for Best Litigation Boutique honors -- which ranged in size from 11 to 96 lawyers -- are involved in some of the highest-profile, highest-stake cases in the country, in both the civil and criminal arenas. Their clients are banks, accounting firms, airlines, energy companies, tobacco and pharmaceutical giants, hedge funds -- a list that any big firm might aspire to.

Instead, where they diverge from the big firms is in their culture, a word worn to banality in the recruiting brochures of The Am Law 200. At litigation boutiques, culture is not a cliché. It's Gibbs & Bruns's lockstep compensation, Bredhoff & Kaiser's determination not to handle management-side labor work, Wallace King Domike & Reiskin's deep commitment to a diverse partnership. Would a big firm refuse to bill by the hour or hire

laterals? Bartlit Beck Herman Palenchar & Scott does. How about letting associates vote on whether to take a contingency-fee case, as Susman Godfrey does; or paying five-figure bonuses to staff members when the firm has a good year, which is Robbins, Russell's policy?

The clients of these firms told us that the boutiques, in the main, deliver what they promise: They are nimble, efficient, flexible and smart. They're also often a lot less expensive than their big-firm competitors -- a quality that clients now appreciate more than ever. Several boutiques even told us that they turned away work in the last year. How many big firms can say the same?

2008 NLJ Pro Bono Awards

National Law Journal

January 5, 2009

OVERVIEW

Each year, The National Law Journal recognizes the firms that have done the most to uphold the legal profession's responsibility to ensure that people's legal rights aren't contingent on their ability to pay. It is a subjective process, and we unfortunately lack the space to recognize all of the firms we admire. This year, we honor firms engaged in struggles that took on particular resonance in 2008: voting rights, same-sex marriage, refuge for Iraqis who endangered their lives by working with U.S. forces, and reparations for the remaining victims of the Nazis' "ghetto work" program.

THE WINNERS

Holland & Knight, Mayer Brown, Proskauer Rose

Eric Blinderman, international legal counsel to Proskauer Rose, had gone to Iraq in March 2004 as an associate general counsel for the Coalition Provisional Authority. Later, he served as chief legal counsel and associate deputy to the Regime Crimes

Liaison. In 2007, Blinderman's firm officially became a part of The List: Project to Resettle Iraqi Refugees, a nonprofit organization founded that year to help resettle Iraqis in danger because of their affiliation with the United States. Holland & Knight had already been collaborating with the project, and Mayer Brown signed on this year.

Manatt Phelps

When lawyers volunteered at a Los Angeles legal services agency to help Holocaust survivors complete applications for a German reparations fund, it was a good deed. But then the lawyers and the legal aid attorneys did something different. They created a national legal-assistance network that trained hundreds of volunteer attorneys to assist thousands of Holocaust survivors in 32 U.S. cities. Establishing the Holocaust Survivors Justice Network was not merely another good thing: It rewrote the pro bono playbook.

Pillsbury Winthrop

Firms nationwide were inspired by the

historic 2008 presidential election to devote pro bono time to protecting access to the voting booth. Lawyers went to court in several states on voter access issues, most frequently to prevent a voting reform law, the Help America Vote Act, from becoming a barrier to the ballot. The law required states to match voter rolls with another database, usually the registry of driver licenses, to create a more accurate list of voters

Howard Rice Nemerovski

Proposition 8 proponents are going to court to invalidate more than 18,000 marriages performed during the 4 1/2 months that same-sex marriage was legal in California. It's another stage of a hard, long slog for Bobbie J. Wilson, one of the Howard Rice Nemerovski Canady Falk & Rabkin attorneys who have been working on the issue ever since Valentine's Day 2004, when San Francisco Mayor Gavin Newsom declared that the state's existing ban on same-sex marriage was unconstitutional, and gay and lesbian couples flocked to the city to get hitched.

Career-Related Articles

Cost-Saving Option for Firms: Reduced Hours

Karen Sloan/National Law Journal

January 5, 2009

Would nervous associates jump at the opportunity to work reduced hours at reduced pay if it meant their law firms would forgo layoffs?

Officials with the Project for Attorney Retention (PAR) and several legal consultants think so. They are recommending that law firms take a serious look at implementing reduced-hours programs as a way to manage through the flagging economy while protecting their reputations in legal circles.

"I think if firms aren't thinking about such a program, they really should," said Charles Santangelo, a consultant with Hildebrandt International. "A number of firms are already talking about it, and it's happening for some paralegals. It may or may not work, but they should consider it."

The PAR — an initiative of the Center for WorkLife Law at University of California Hastings College of the Law in San Francisco — has long advocated for reduced hours as a way for law firms to retain attorneys, particularly women and minorities.

But PAR officials say the economic downturn has created an even stronger business argument for creativity and flexibility in attorney schedules.

A growing number of firms have laid off attorneys in recent months because they lack enough work to keep them busy.

The reduced-hours idea is fairly simple. Associates working reduced hours would see corresponding reductions in their compensation, which would help firms cut their costs without cutting associates loose, said PAR Research Director Linda Bray Chanow.

For example, if an associate making \$200,000 a year agreed to a 30% reduction in hours, the firm would save \$60,000 in compensation costs during the course of the year, Chanow said. If the law firm doesn't have enough work to keep everyone busy anyway, it wouldn't face staffing shortfalls because of the new hours structure, she said.

"I think the economy is giving law firms opportunities that [they] may have felt they didn't have before," said PAR Assistant Director Cynthia Thomas Calvert. "This is not an accommodation for mom-

mies. This is a business initiative."

Looking at all options

Linda Headley, a shareholder in the Houston office of San Francisco-based labor and employment firm Littler Mendelson, said that her firm has stayed busy in the economic downturn and hasn't had to consider attorney layoffs.

But she said she would advise firms facing layoffs to try a reduced-hours program as an alternative.

"If we were facing that situation, we would look at all our options to preserve talent. It's hard to get talented lawyers, and I think it's worth doing everything you can to salvage those relationships," she said.

It remains to be seen if the reduced-hours schedule idea will catch on with law firms.

Chanow said that the PAR does not have any statistics on the number of firms introducing reduced hours as a response to the economy, because the trend is fairly recent. She did say that a growing number of firms have contacted the PAR since this summer to ask about reduced hours and how such a program could be implemented.

Michael Nannes, chairman of Washington-based Dickstein Shapiro, said that although many firms establish and utilize flex-time programs to assist attorneys in accommodating changes in life circumstances, he doesn't foresee a wave of law firms looking to reduced hours solely as a cost-savings move.

The reality is that having associates work fewer hours doesn't provide the same level of savings as layoffs, said Nannes, who is also on PAR's advisory council.

For example, it costs a law firm less to have three associates working 2,000 hours than to have four associates working 1,500 hours because the law firm must pay for office space and benefits for that fourth, reduced-hours associate.

That added cost is eliminated in the layoff scenario. On the other hand, Nannes said, clients value continuity among attorneys, and reducing associate hours would

help protect the continuity that is disrupted by the layoff process.

Eyeing the rebound

The idea of rolling back hours instead of dumping associates has benefits that go beyond immediate cost savings, Chanow said.

When the economy rebounds and legal work picks up, the attorneys who remain at firms that laid off associates will find themselves stretched thin. Those firms will be forced back into the costly process of quickly hiring associates. Firms that have associates working on reduced-hours schedules, however, can simply reinstate full hours to meet the demands, Chanow said.

"This [economic downturn] is cyclical," she said. "What happens when you see a slight spike, and the remaining associates can't handle it?"

Reducing associate hours in lieu of layoffs will also help firms maintain ethnic diversity, since the junior attorneys being laid off tend to be the most diverse, she said.

Furthermore, firms that try to accommodate associates instead of cutting their jobs are likely to earn more loyalty and respect from employees and build up a solid reputation in the legal community, Santangelo of Hildebrandt said.

"What does it say about a firm's culture when it lays off associates in order to maintain profits per partner?" he said. "Those firms that make serious attempts to keep attorneys are going to see that loyalty returned."

Retaining associates instead of laying them off also will help the firm in its recruiting efforts down the line, since potential hires are likely to note how the firm has treated attorneys in the past, Santangelo said.

But with so many firms resorting to layoffs lately, Nannes said cutting attorneys isn't likely to blemish a firm's reputation as deeply as in the past.

"Frankly, with what's going on today, I don't think that layoffs are quite so stigmatizing," he said.

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Cost-Saving Option for Firms: Reduced Hours

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Fighting the stigma

For all the benefits reduced-hours programs may bring to law firms, there are several potential problems with the idea.

First, clients may feel that they aren't getting as much value for their legal dollars if a larger number of associates rotates in and out of their matter because they are working reduced hours, said Douglas Richardson, a consultant with Altman Weil.

"There is the issue of, 'Am I paying to bring more associates up to speed as a result of their hours structure?'" Richardson said.

Secondly, convincing attorneys to work reduced hours may be the biggest challenge of such a program because of a perception that working less than a full schedule is a career killer.

That stigma is highlighted by the reality that nearly every law firm has a flex-time work policy on the books, but usage is generally low.

A 2008 survey by the National Association for Law Placement found that 5.6% of lawyers worked part-time, and 74% of those were women.

Calvert, the assistant director of PAR, said that the stigma associated with part-

time lawyers is a serious issue that needs to be addressed by any firm that initiates a reduced-hours program. "It would take a very frank conversation with associates to communicate that this isn't a career-ending move," Calvert said.

Make it mandatory?

One way to get around the reluctance of associates to work reduced hours is to make the program mandatory, said Richardson, the Altman Weil consultant. That would eliminate the concern among associates that their law firm is using such a program to weed out attorneys.

Firms could make reduced hours mandatory for associates working in slow practice areas, he said. But PAR is advocating for law firms to initiate voluntary programs.

Richardson said another way to make associates more comfortable with working reduced hours is for firms to lay out the criteria under which associates would return to full hours. If associates don't have a reasonable understanding when the firm will roll back reduced hours, they would likely be wary of participating.

Associates may also be more willing to accept reduced hours if equity partners

make it clear that they are sharing the pain by capping profit payouts.

Additionally, associates looking for more balance between work and life may not see reduced hours as a bad thing.

"A lot of associates have said privately that they would gladly take 15% off their income for 15% more free time," said Dickstein Shapiro managing partner Nannes. "But they don't say it openly, because they are afraid of looking less committed."

Of course, asking associates to work fewer hours may not be enough of a cost savings for firms that are facing deep shortfalls, said Headley, the Littler Mendelson shareholder. Headley said she would not recommend reducing associate hours more than 30%, because it would create too much of a financial hardship for the attorneys and could hurt morale.

"Does 20 or 30% do enough? If associate work is down 50%, [reducing hours and compensation] probably is not going to be enough to stem the tide," she said. "It depends on how bad the situation is. It may be too little, too late."

Cravath's Presiding Partner: Time to Kill the Billable Hour

Aric Press
01-07-2009

In an opinion piece in the current issue of *Forbes* magazine, Evan Chesler, the presiding partner at Cravath, Swaine & Moore calls for the end of the billable hour. "The billable hour makes no sense, not even for lawyers," Chesler, a prominent litigator, writes: "If you are successful and win a case early on, you put yourself out of work. If you get bogged down in a land war in Asia, you make more money. That is frankly nuts."

In his *Forbes* piece, Chesler analogized lawyers to building contractors. He wrote that when he hired Joe, the contractor, to renovate his kitchen (Joe, the plumber, evidently was booked on a cable television show), he and Joe decided on what the job was worth and agreed on a price. When Joe finished the work three

weeks ahead of schedule, Chesler paid him a bonus.

In an interview, Chesler says that he would prefer a system where a lawyer and client assess the value of the job, agree on a price, review progress quarterly and have a success fee for a victory or a favorable settlement. "Clients know when they've achieved a successful resolution," he says. "The point I'm trying to make is that at the start we should define what the goals are and what the value of the matter is to the client. We need to create an alignment of interests between the client and the lawyer."

Chesler says that he's been raising this issue with clients and in private talks for the last few years. Thus far, he says that

he has "just a few situations, in the single digits" with clients who have abandoned the billable hour. "There's a lot of inertia, a lot of 'the devil you know' in this area," he says.

Client fees have been an issue for Cravath recently. In December, when the firm announced it was cutting its associate bonuses to roughly half of the 2007 payments, Cravath made a point of announcing that its fees would be frozen in 2009. This was not completely helpful to corporate customers as the firm refused to publish its fee schedule. The only publicly available fee information from the firm was filed in mid-2008 as part of a long-running employment discrimination case. In that matter, a midcareer litigation

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Cravath's Presiding Partner: Time to Kill the Billable Hour

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partner posted his billable rate at \$875 an hour, a \$205 an hour increase since 2004.

Chesler's *Forbes* essay is the latest entry in a growing conversation about the prospects for change in the way big firms do business. (See, for example, Susan Beck's recent *Innovation Agenda* reports on *The Am Law Daily*, available here,

here, and here.)

The debate over the billable hour has ebbed and flowed over the decades. It has picked up recently, stimulated in part by an article in the August 2007 edition of the *ABA Journal*, "The Billable Hour Must Die," by the novelist Scott Turow, who is also a litigation partner at Sonnenschein

Nath & Rosenthal. Similarly, efforts aimed at promoting fixed fee and/or value billing arrangements have been discussed periodically, too.

This time it may be different: Talk is cheap, Evan Chesler isn't.

Cravath's Presiding Partner: Time to Kill the Billable Hour

Richard Lloyd

The American Lawyer

01-12-2009

As much as the legal sector experiences a change in momentum, such a change seems to be occurring now.

Last week, *The Am Law Daily* picked up on a piece penned by Cravath, Swaine & Moore's Evan Chesler in the latest issue of *Forbes* magazine, entitled "Time to Kill the Billable Hour." Cravath's presiding partner, in presenting an impassioned case for abandoning the practice of charging of clients by the hour, lent his voice to a growing debate.

In the United Kingdom, lawyers and clients have never had the same all-consuming obsession with hourly billing as their American peers. Still, over the last 20 years hourly rates have become the dominant currency here as well, and the tide slowly is turning -- some British companies and firms are much further along in making the change.

Last summer, our London-based sibling publication *Legal Week* broke the story that commercial TV network ITV asked its outside law firms to abandon the billable hour and instead adopt alterna-

tive billing arrangements. General counsel Andrew Garard, who joined the company in the fall of 2007 from the London office of Dewey & LeBoeuf, said he wanted ITV to become the first major U.K. company to abandon this form of billing, and he initiated a review of the company's outside legal providers.

By last November, Garard had finalized a list of approved outside counsel, a panel of nine firms, including Dewey, DLA Piper, Lovells, and Slaughter and May, that had committed to alternative billing methods. "None of the firms will bill us with reference to a measure of time on any matters," Garard told *Legal Week*.

So, what form does a bill to ITV take? For Slaughter and May, the company's call for a change meant business as usual. Slaughter and May has never billed clients by the hour, nor do partners and associates have any targets for hours worked. "At the end of a deal we sit down with a client and ask, 'How good a job do you think we've done?'" explains senior corporate partner Nigel Boardman, the relationship partner

for ITV.

Lovells commercial partner and ITV point man Peter Watts also throws some light on moving away from the chargeable hour: "You start with the proposition that the value of advice to clients reflects a combination of factors such as the complexity. Then it's relatively straightforward [to agree a price] if you have the right relationship with a client."

Watts adds that this is undoubtedly part of a growing trend. "My own is that over the next five years we'll see firms and in-house counsel looking at arrangements other than hourly rates although I don't think clients will completely abandon hours."

In abandoning the almighty billable hour, Chesler may want to look a little more closely at some examples across the pond.