

RULE OF LAW

Cut My Salary, Please!

By Cameron Stracher

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With the announcement that Sullivan & Cromwell will raise starting salaries for newly minted attorneys by \$20,000, to \$145,000 (plus bonus), a new arms race among law firms has broken out, the first since the dot com crash. Although it is difficult to believe that any 25-year-old is worth that much money, the salaries make a lot of economic sense for the firms. But they *don't* make sense for the young lawyers.

Corporate law firms are, essentially, giant pyramid schemes: The associates at the bottom funnel money to the partners at the top. At Sullivan & Cromwell, for example, according to the *American Lawyer*, the average partner earned \$2.35 million last year. A young lawyer who bills 2,200 hours at \$250 per hour generates \$550,000 for the firm, only \$145,000 of which pays his salary. The more the associates, the richer the partners (assuming there's enough work to keep them billing -- and, presumably, cooing). Thus, law firms have a vested interest in growing the base of the pyramid.

The competition for top law students, however, has intensified. Although firms have significantly increased in size, law school graduating classes have remained about the same. Investment banks have also stepped up their hiring, drawing talent from the same pool. As a result, there are many more buyers but the same number of sellers, increasing the price the sellers can command.

In addition, most associates know their chances of making partner at the big firms is less than 5%; thus, firms are paying them essentially to forgo the opportunity at partnership, in much the same way that professional football teams pay astronomical salaries to players whose careers last only four or five years. Once they depart for smaller firms or in-house jobs, they will not see their former salaries for years, if ever.

But what makes economic sense to the firms makes less sense for young lawyers. For one thing, each salary increase has been accompanied with a corresponding increase in billable minimums. When I started practicing, lawyers were expected to bill around 1,800 hours a year. These days, it's about 2,200. Those 400 extra billable hours translate to about 600 more hours at work, or approximately two to three more hours in the office each day. Even at 1,800 hours I worked until nine at night, and most weekends. At 2,200 hours, a lawyer might as well move a cot into his office.

Bonuses, salary increases and partnership chances are all tied to billable hours. Many law firms will not even grant a bonus unless an associate reaches a certain minimum, which used to be unheard of. Associates are paid more for their work, but not in proportion to the toll it has taken on their lives. In effect, the increase in billable hours has simply covered the rise in salaries. Even though most lawyers say they would prefer to work less and be paid less, associates are working longer to pay for their own raises. With the recent salary hike, they will be paying even more.

Meanwhile, the work itself has actually grown more dreary, if that is possible. Higher salaries have forced firms to look for new ways to increase revenues. One obvious

solution is to throw more lawyers on a case, and to be more aggressive about litigating and challenging small matters that might otherwise go uncontested. The result is that the youngest lawyers get the most trivial and unnecessary work. Law firms claim they staff matters "leanly," but that doesn't justify the huge increases in the costs of litigation (and deal-making), which can only partly be explained by increases in fees. Instead, firms are lawyering matters to death, and killing their associates in the process.

It didn't used to be this way. Before the merger and litigation mania of the 1980s, before lawyers realized they could turn themselves into investment bankers, before there were too many of us, being a lawyer was a job rather than a chore -- not necessarily 9-to-5, but not 9-to-9, seven days a week, either. Bonuses were smaller or nonexistent, partnership chances greater and salaries reasonable. Lawyers tended to stick around, rather than jump firms every few years, and that loyalty fostered an environment where achievement was more subjective, not reckoned in cold hard cash and billable hours. That all changed in 1986, when Cravath Swaine & Moore increased starting salaries by nearly 25% -- from \$53,000 to \$65,000. Since then, with a few breaks for air, we've been off to the races.

Rather than crowing about their newfound earning power, however, young associates should be trembling: Their lives are about to get much worse. Perhaps they don't understand there's no such thing as a free lunch (or dinner). Or maybe they *do* understand, but they're too caught up in the race to care. As Pete Cornell, the managing partner at Clifford Chance told me about the young lawyers who work for his firm: "These guys are competitive. They're competing against others in the organization, and they want to get ahead." As long as there are law firms willing to pay them to have no lives, they will take the money.

But I want to make a modest proposal, something that will improve the lives of young lawyers by forcing them to re-evaluate their priorities: Tomorrow, law firms should cut starting salaries by 50%. The first thing that will happen, I predict, is that associates will rise up in revolt and refuse to work as hard for half the pay. The second thing that will happen is that law firms will need to look for ways to make up the difference.

They might hire more lawyers, but given the limitations in the market it will be difficult for the top law firms to find enough adequate candidates. Instead, I imagine a world in which every single line in a contract suddenly does not become a source of argument, every single step in a case a matter for a motion. Without the manpower to fight over every bone, lawyers will have to focus on the meat. With no skyrocketing salaries, the minimum billable requirement will wither and die, its usefulness served. In this kinder, gentler world, lawyers will have more time to spend with their families, to pursue their other passions, and to focus on the substance of their cases.

Who knows, they might even find they enjoy their jobs.

Mr. Stracher is publisher of the New York Law School Law Review and the author of "Double Billing: A Young Lawyer's Tale of Greed, Sex, Lies, and the Pursuit of a Swivel Chair" (William Morrow, 1998).

