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Financial Challenges Facing the Legal Profession

The practice of law is vastly different from 20 years ago

Henry Sackler and Lori R. Sackler, New Jersey Law Journal

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A quick think back to some of the characters memorialized on TV's hit show "L.A. Law"—Arnie Beck, Grace Van Owen, Michael Kuzak—may help highlight just how much the legal profession has changed in the past three decades.

During its primetime slot from 1986 to 1994, "L.A. Law" depicted stylish attorneys feting wealthy clients and living lavishly. Does this portrayal of attorneys still ring true today? In our opinion, the practice of law, and the financial challenges faced by firms large and small, has changed dramatically since the day Rosalind Shays plunged to her death down an empty elevator shaft.

In an effort to better understand the evolution of the legal profession, we interviewed attorneys at leading law firms, asking about the global changes in the practice of law, particularly the financial hurdles lawyers now must overcome.

David Miranda, Immediate Past President of the New York Bar Association and a partner at Heslin Rothenberg Farley and Mesiti, pointed his finger in one direction: *the Internet*.

"Firms are changing their use of technology," he said. "It used to be that connection to the local community was the key to success; now you have to be found on the Internet, on top of the search. It's not enough to be experienced and have a great reputation. You have to be an SEO [search engine optimization] engineer."

"It's hard for the solo practitioner," Miranda continued. "There is more specialization taking place because the focus is more about doing something very well to separate oneself in the attorney world. The public is seeking specialization. You must set yourself apart online and in practice, because it's more competitive than 30 years ago."

• *What financial challenges face attorneys today?*

Patricia Staiano, of Hellring Lindeman Goldstein & Siegal, said, "Changing economic conditions challenge everyone, especially firms with larger clients."

"There's a lot of belt-tightening on the institutional client side, and that translates into how you handle clients, bill clients, staff cases. Clients want heightened, individualized attention; they're looking for more than cookie-cutter type representation."

According to Rory Greiss, a partner at Kaye Scholer, profitability is ever more challenging. "Clients are cost conscious—that's why they want a fixed fee or cap arrangement. They desire certainty," he said.

"There are major financial challenges for new lawyers buried in college debt," Miranda said. "Four years of college and three years of law school means debt the size of a mortgage."

According to the *New York Times*, significantly fewer students are applying to law schools for that reason: With annual tuition hovering between \$44,000 and \$54,000, many students are forgoing the degree, given the limited availability of jobs after graduation. Enrollment in 2014 sank nearly 30 percent, to roughly 38,000, compared to 52,488 applicants in 2010.

Greiss said, "We've consolidated internal operations to get a larger footprint. We've had to carve out a niche to be competitive. We practice in lower ratios of partners to associates to achieve cost-cutting goals. We may outsource on large-scale projects."

"At our firm we outsource photocopying and electronic data discovery," Miranda added.

Some firms opt to increase their ratio of lawyers to secretaries; lawyers now may type and prepare many of their own documents.

• *Do lawyers seek outside financial advice?*

Staiano said, "Unlike corporations, most lawyers don't have pension plans or stock options, so we have to do more investing, providing for the future. We attorneys have to do our planning now, and have to be proactive financially."

"Lawyers tend to be conservative in investments. They are not necessarily good at investing since it's not their area of expertise. Personally, my main goal is to preserve what I earned," said Miranda.

"We seek top investment advisors, financial advisors, and insurance people," added Lori Wolf, a partner at the law firm of Cole Schotz.

"Young attorneys generally seek retirement advice in two areas," Greiss said. "Based on their goals, they may blend life insurance and investments, consuming more during life but using life insurance as a device to leave assets to heirs. And, they seek asset allocation insights: they look to financial advisors, accountants, and estate attorneys."

• *Has hiring changed? Are there generational differences amongst lawyers?*

"We allow work offsite on a targeted basis, more with experienced people who can shift from part-time to full-time," Greiss said.

Staiano said, "We hire people who have had clerkships with judges or are several years out ... we ordinarily don't hire right out of school."

The next generation of attorneys seems to be carving out a new identity for itself. Anecdotally, there seems to be a definite cultural trend vis-à-vis young lawyers.

Staiano elaborated. "Some young lawyers are terrific. I hate to generalize, but there also are some who confuse aggression with talent. They think if they are louder and more aggressive they will succeed, when actually it's the opposite. Judges don't want acting out in the courtroom. This attitude among younger attorneys is not so much a lack of respect as it is a lack of understanding.

"If you are lucky you are mentored and if you are smart you mentor others," continued Staiano. "People who don't receive that attention are perhaps nervous, fearful, or inexperienced, and may try to cover that up with being loud or aggressive. I can't tell you how many times I've said to a young lawyer or adversary, 'Calm down, we are just talking.' At the end of the day we have a client to represent. Sometimes it's a pleasure, and sometimes it's challenging, but we are all doing the same thing."

• *How hard is it to get hired—and to make partner?*

Wolf said, "After 2008, there were not a lot of jobs, leaving firms reluctant to hire because of economics.

Weathering financial challenges means that a law firm's emphasis is now on rainmaking; the more rainmaking partners there are at the firm, the more money for that firm."

Ned Bassen, of Hughes Hubbard and Reed agreed. "For a lawyer to make partner these days, merit is no longer the *only* factor. There has to be a business reason to make partner—a business opportunity where a client likes the lawyer, or the lawyer can bring in new business."

He warned that it's not easy to transition a firm to the next generation by easing out aging partners without interrupting business. He sees "free movement" of attorneys that didn't occur 50 years ago.

"I don't think it is so much a fee problem as a firm going under for different factors—the firm takes in retired politicians, suffers bad management, loses a key client, or hires the wrong people," he said.

Greiss said, "Firm life is much more volatile than 15 to 20 years ago. Partners are moving more from firm to firm. We're hiring fewer associates than before the financial crisis, and making internal advancement more contingent on demonstrating the potential to bring in business."

One prominent class-action attorney, who asked not to be named, summed it up. "It takes longer to make it as a partner. After 2008, there was significant cutting back; many firms went under. Where partners once spent their whole career at a firm, now they are often recruited from another firm. For litigators, it is essential to choose the right case. The cost of business is rising, rents are high, and investment in technology is enormous."

• *Are there other, specific challenges facing lawyers today?*

"Only 22 percent of partners are women," Wolf said. "Numbers are rising, but slower than I'd like. However, if you are a female rainmaker and generate billable hours and origination, partners tend to listen. That's good news."

As personal CFOs for select lawyers, we see firsthand how the legal profession is morphing as a result of post-recession market economics, constantly evolving technology, and a drive for greater efficiencies.

While the decline in law school enrollment isn't ideal, it presents a unique opportunity: it's not only easier to get in, there are fewer new attorneys competing for the same jobs. It also means that law schools may become more diverse.

And while challenges can lessen the joy of practicing law, there always will be a demand for exceptional legal talent and a focus on niche marketing and specialization, providing ample opportunity for success and financial reward. •

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