

Navigating the Perfect Storm: Recruiting, Training and Retaining Lawyers

is published by Ark Group



UK/EUROPE OFFICE

Ark Group Ltd
Paulton House
8 Shepherdess Walk
London N1 7LB
United Kingdom
Tel +44 (0)20 7490 0049
Fax +44 (0)20 7324 2373
publishing@ark-group.com

NORTH AMERICA OFFICE

Ark Group USA
4408 N. Rockwood Drive
Suite 150
Peoria IL 61614
Tel +1 309 495 2853
Fax +1 309 495 2858
publishingna@ark-group.com

ASIA/PACIFIC OFFICE

Ark Group Australia Pty Ltd
Main Level
83 Walker Street
North Sydney NSW
Australia 2060
Tel +61 1300 550 662
Fax +61 1300 550 663
aga@arkgroupasia.com

Editor
Stephanie Ramasamy
sramasamy@ark-group.com

Head of content
Anna Shaw
ashaw@ark-group.com

Managing director
Jennifer Guy
jguy@ark-group.com

UK/Europe marketing enquiries
Robyn Macé
rmace@ark-group.com

US marketing enquiries
Daniel Smallwood
dsmallwood@ark-group.com

Asia/Pacific marketing enquiries
Steve Oesterreich
aga@arkgroupasia.com

ISBN: 978-1-907787-06-5 (hard copy)
978-1-907787-07-2 (PDF)

Copyright
The copyright of all material appearing within this publication is reserved by the author and Ark Conferences 2010. It may not be reproduced, duplicated or copied by any means without the prior written consent of the publisher.

ARK1445

Navigating the Perfect Storm: Recruiting, Training and Retaining Lawyers

JEROME KOWALSKI



Contents

Executive summary.....	V
About the author.....	VII
Acknowledgements	IX
Chapter 1: A review of the current challenges in the legal recruitment market	1
Are we in a perfect storm?.....	1
A new awareness of supply and demand	2
Early returns on the initial failure to adopt new recruiting strategies.....	4
Statistics don't always give a clear picture.....	5
The old new-grad lawyer path	6
Clients put their feet down.....	7
A return to the good times?	8
Law schools continue to churn	9
Chapter 2: The high-wire act of specialization and practice concentration	13
A look forward.....	15
The impact on law firms	16
Litigation: A growth area or not?	17
Bankruptcy and insolvency specialties	18
Intellectual property.....	19
Transactional work	19
Regulatory specialties	20
Cross-border work	21
Chapter 3: The impact of changing client billing demands.....	23
A brief history of hourly billing	23
The rise of alternative fee arrangements	25
The impact of the ACC's Value Index	26
Clients empowered by supply far exceeding demand	27
Making AFAs work for the firm	29
Chapter 4: Developing new skills for the new world	31
A new skill set is required: Project management	32
Convergence	32

20th century changes	34
21st century changes	35
Transparency	35
Chapter 5: Recruiting graduating law students	39
Whose fault is it that the legal profession is now in this pickle?.....	40
A review of the hiring process	42
How should the profession get out of this pickle?	44
The NALP-mandated hiring ritual.....	45
Alternatives to the current NALP system	46
Lessons learned in the medical profession.....	47
More meaningful summer programs.....	50
A new summer program model.....	51
Chapter 6: Training first and second year associates.....	55
Attributes of a thorough training program	55
The economics of training	56
Time for a new paradigm	57
Chapter 7: Examining the market for lateral associate recruitment	61
What do we do when the market improves?	61
Recruitment agencies: A changing landscape.....	62
The importance of due diligence.....	63
Outsourcing and staff lawyers.....	64
Chapter 8: Lateral partner recruiting and other strategic opportunities	67
Lateral partner recruiting	67
Targets of opportunity: Mature partners forced into retirement	70
Other targets of opportunity: Law firm combinations.....	73
New competitive advantages for mid-size law firms	74
Middle market firms edging in to major markets.....	75
Chapter 9: A new era of compensation systems	79
Associate compensation and utilization.....	79
Have we reached a turning point?	81
Tiered compensation systems	82
Chapter 10: Managing associate attrition and retention	85
Attrition	85
Retention.....	86
Conclusion.....	89
Index	91

Executive summary

WE HAVE just been through some exceedingly difficult times. The challenges the legal profession confronted in 2009 and 2010 have had profound ramifications. The coming years will demand additional changes, yet to emerge. Having effected the required changes, business will never be the same. Whether the 'Great Recession' is in fact over or we are simply in a slow recovery – or even looking at a double dip recession, the recent changes forebode a period of continued change and evolution.

This report addresses the run up to recent events which affected the profession and forced us to change, as well as the challenges that lie ahead.

Firms have gone through pain, stress and financial loss as the shifting market made demands on different practice areas. Client and practice concentration has been the bane of firms for many years. Recruiting and staffing for particular disciplines and training lawyers for those disciplines in the new world in which we find ourselves require dramatic new approaches.

Principle focuses addressed here are recruiting lawyers at every level, the training of those lawyers and the retention of those in whom firms have invested substantial time and energy. The market is flooded with high quality lawyers who were the victims of recent lay-offs and the waves of 45,000 new graduates entering the market each year.

Continued and escalating attacks on the citadel of hourly billing created the growth of value billing, alternative fee arrangements,

fixed fees and convergence. Clients are increasingly requiring their lawyers to assume some degree of risk in virtually every engagement. These new billing models and client demands, in turn, mandate the introduction of new disciplines to the profession, namely, project management, training lawyers in project management, client relationship managers and budgeting skills. There is an imperative to shift the focus from maximizing hours billed to efficiently delivering quality product within the budget fixed for each engagement.

The profession's historical method of recruiting law school students in the early fall following the conclusion of their first year of law school attendance for summer associate programs, with a view towards employing those students as full-time law firm associates two years after the initial recruitment process, requires impossible prescience of business demands and economic conditions. The result is that students are being recruited in the confines of a completely 'broken' system. This report describes some radical proposals for change initially proposed by important leaders of the profession and expands on these novel approaches.

In addition to looking at extant recruiting models adopted by law firms, the importance of associate retention and methods which should be employed for such retention are also discussed. Foreseeable issues are outlined which the profession will need to address as firms continue to hunker

down, recruit smaller numbers of graduates and then compete for a diminished pool of well trained lawyers.

With clients now purchasing legal services through the prism of corporate purchasing agents and price becoming a significantly more important factor than prior relationships or 'name branded' law firms, new opportunities for smaller and middle market firms are ballooning. The shifting dynamics of the current revolution within the profession also are creating new opportunities for such firms which should be further explored by them.

These shifting sands require a review of associate utilization and compensation methods, as well as increased reliance on outsourcing of legal work and escalating use of temporary staff lawyers. These issues are also addressed.

This report examines the pressing intermediate and long-term issues regarding hiring, training and retention of associates, the changing landscape of billing demanded by newly empowered clients, and new opportunities and pitfalls.

About the author

JEROME KOWALSKI, of Kowalski & Associates, is a leading law firm management consultant. Jerry graduated from Brooklyn College in 1972, where he majored in political science and served as the president of the Political Science Society. Upon graduation from college, Jerry attended New York Law School, from which he graduated in 1977 with honors. Following graduation from law school, Jerry became associated with the Wall Street law firm of Reavis & McGrath, which subsequently merged in to Fulbright & Jaworski, one of the 100 largest law firms in the United States. In 1979, he became associated with Finley, Kumble, Wagner, Heine & Underberg which, by 1983, was the second largest law firm in the world. Jerry was elected to the Finley Kumble partnership in 1982, becoming the youngest partner ever elected to that firm's partnership.

In 1982, Jerry was appointed to serve as the Chairman of Finley Kumble's Hiring Committee. That committee was then one of only three managerial committees of the firm. In his capacity as Chairman of the Hiring Committee, Jerry had supervisory authority over the hiring of over 100 lawyers a year throughout Finley Kumble's eight offices around the world. During that time, Jerry took an active role in the National Association for Legal Placement.

In 1984, Jerry was appointed to serve as a counsel to the Governor's Committee on Judicial Selection. In 1985, he was appointed to serve as a member of the Global Board of Overseers of Bar Ilan University, the largest university in Israel, and served on the committee which created that university's law school, the first post baccalaureate law school in Israel.

In 1987, Jerry joined the firm of Parker, Chapin, Flattau & Klimpl, a 150 lawyer New York based law firm, which subsequently merged with Troutman Sanders, one of the nation's 50 largest law firms.

While actively practicing law, Jerry was a member of the American Bar Association (Sections of Litigation and Law Firm Management), the New York State Bar Association and the Association of the Bar of the City of New York, where he served on the Committee on Lawyer Discipline.

In 1992, Jerry formed Kowalski & Associates (K&A), which provides management consulting, merger and acquisition services, advisory services regarding strategic planning, maximization of profitability, maximum utilization of professionals employed at law firms, compensation of associates and distribution of profits among partners and legal recruiting exclusively to law firms. K&A possesses unique in-depth knowledge of law firm economics, trends in the legal profession, management, alternative fee arrangements, compensation systems for partners and associates, and varying cultures at different firms. K&A works with its client in developing business plans and helps identify growth opportunities unique to each of its individual clients. The firm conducts focused searches for prospective merger or acquisition candidates, including branch offices, practice groups and individual candidates. K&A prepares detailed analyzes and profiles of prospective candidates, facilitates discussions and negotiations, and works with its clients in developing merger and integration plans.

Jerry is a frequent commentator in the media on issues affecting the legal profession and the author of various essays regarding the profession.

Jerry's blog is at www.kowalskiandassociatesblog.com and his firm's website is at www.kowalskiassociates.com. Jerry can be contacted at jkowalski@kowalskiassociates.com.

Acknowledgements

I ACKNOWLEDGE the great patience, good humor and encouragement of Anna Shaw and Jennifer Guy, my noble editors at Ark Group, who put up with both my stubborn resolve and sloth, as well as the wonderful caring assistance and support that I received from Sue Siesser and Harriet Seidman, both women of valor and beauty who consistently provided me with the tools necessary to keep my own boat afloat as I completed this undertaking. I hope I have added productively to the public discourse of the needs for change which lie ahead.

Dedication

For Bradley, Yael, Alyssa, Josh, Sara, Julie, Eytan, Charlie and Ariel for the nachas they have provided me.