# Redefining Legal Staffing: The Perils of Clinging to Old Ways

A LexisNexis® White Paper

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The landscape for traditional legal practices has undergone considerable erosion in recent years, erosion that makes progress and profitability for law firms, legal departments and individual lawyers incredibly challenging.

Firms that refuse to think in new ways, harboring the belief that someday all will return to "normal," likely will be left behind. Progressive firms and legal departments willing to discard old-school models will lead the way to renewed growth by changing to business plans that better manage their talent. Flexible staffing, expanding the hiring of non-partner-track associates, using contract lawyers and temporary or long-term temporary staffing are among the top strategies being used by firms across the country to achieve balance.

### When 'Traditional' Went Out the Window

Many will argue that the traditional business model has been in question for decades. True or not, the economic crisis of 2008 left no room for doubt. The days of highly compensated law firm partners supported by a team of partner-track associates who rise "lockstep" through the ranks, in large part, are no longer economically viable. Some law firms cling to that model. The reality is that, to survive, a law firm may have to operate more like a business.

Legal recruiter **Sharon Mahn**, principal owner of Mahn Consulting LLC, described a sort of chain reaction to the collapse of traditional law firm reign.

"There was a big correction in the market—many firms took their institutional clients for granted. Those corporate clients started struggling financially and getting tougher with their outside counsel, demanding discounts and more flexible billing rates. Firms today are operating more like a business than they have in the past. They have to be entrepreneurial, not only maintaining their existing client base but developing new clients as well."

This shift, she predicted, is permanent.

Before the recession, law firms set the rules, raising hourly rates 6 percent to 8 percent every year with little or no hesitation and hiring associates at unsustainable salaries. Today, the clients are in charge. They shop around. They consider not only alternative firms, but alternative types of legal service providers. Mahn said companies no longer go to the "safety firms"—the large, well-known firms. Companies shop for the individual lawyer, one that may have started their career at a large firm then made a lateral move to a smaller firm with more flexible billing rates. This new economic climate requires firms to be efficient, cost-effective and resourceful and to actually market their practice to prevail over competing firms.


### Slashed Salaries and Jobs

Among the first casualties in law firms' budget crises were salaries and hiring. According to the 2013 CounselLink® Enterprise Legal Management Trends Report, the average hourly rate for partners is growing, but at a much more modest 2.5 percent to 2.7 percent over the last three years. What's more, firms hold partners to higher standards for economic performance. Those who do not make the grade are cut. A Wells Fargo Private Bank's Legal Specialty Group survey of 120 law firms showed 15 percent intended to cut partners in the first quarter of 2013, which continues a three-year trend, as reported by *The Wall Street Journal*®. As for hiring, law firm recruiting and hiring in the fall of 2013 remained flat, for the fifth year in a row, according to the National Association for Law Placement (NALP).

The promise of a large-firm partnership with a big payout has gone by the wayside.

"Firms were overpaying partners with guarantees that they just couldn't meet," Mahn said. "It used to be a crap shoot when firms brought in partners. Now they are becoming much more sophisticated and savvy in their hiring."

Even though the economy is rebounding, and some areas of practice are seeing marked growth—real estate, antitrust/regulatory and business development to name a few—law firms continue to save and conserve, often only hiring through attrition.

### Staffing Trends

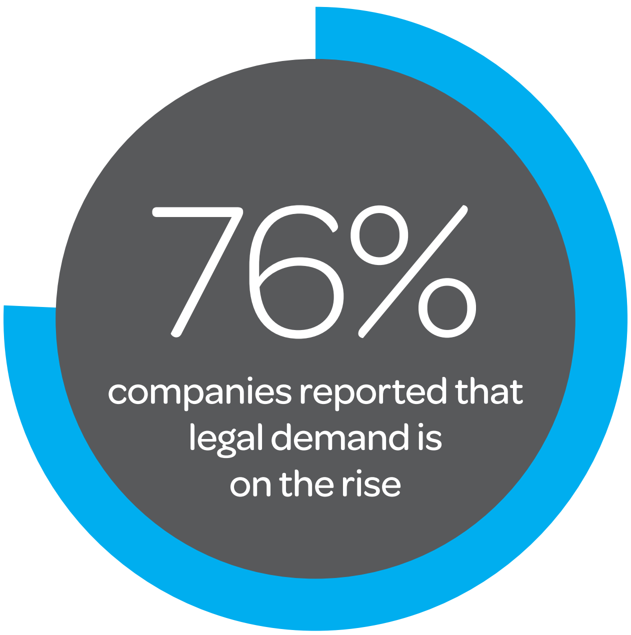
So, what do some trending models look like? Many law firms are turning to two-tiered partnerships—offering equity and non-equity positions. Non-equity partnerships offer the firm a place for soon-to-retire equity partners and senior associates who, for whatever reason, have not been made equity partners. Because non-equity partnerships garner a lower salary, they are better for the firm's bottom line. More than 65 percent of firms responding to Altman Weil 2013 Law Firms in Transition Survey reported a net increase in non-equity partners in 2012. Nearly 60 percent reported an increase in partner-track associates.

Many firms turn to outsourcing work to temporary and contract attorneys when caseloads get heavy. They are not on the hook for attorney salaries during slower times and are able to cover the workload when it spikes. These temporary positions also serve as an excellent audition for permanent positions. Firms can calibrate whether the attorney's skills and personality fit before hiring them. According to the Altman Weil survey, 81.6 percent of respondent firms said they use part-time lawyers, and 76.5 percent said they used contract attorneys, up from 56.5 percent in 2012.

"Formerly, if you were a contract attorney, there was a perception that your career was derailed from the traditional law firm track," Mahn said. "Now, the stigma is gone. When the market crashed, a lot of highly credentialed lawyers were in the wrong place at the wrong time. Some even went to a top-tier law school. Now they are taking jobs as contract lawyers, and companies are getting quality work."

Firms also cut costs by hiring temporary support staff. This trend coincides with hiring practices in non-legal fields. A CareerBuilder.com survey of more than 2,000 hiring managers and human resource professionals showed that 42 percent plan to hire temporary and contract workers in 2014, with the intention for some of them to transition into full-time permanent staff, while only 24 percent expect to hire full-time, permanent employees.

The belt-tightening also has resulted in increased responsibilities for attorneys, paralegals and support staff. Not only must firms do more with less, they must find more economical ways to do unavoidable tasks. One way is to have less-skilled workers who are paid at a lower price point tackle them. Jobs that in the past could be done by associates are now handled by paralegals, and onward down the chain. Firms continually search for ways to use their existing staff more efficiently.




### Corporate Legal Departments

Legal departments are busier than ever, but they face similar economic constraints. So companies are always on the lookout for cost-cutting measures to reign in litigation expenses. According to the 2013 Hildebrandt Baker Robbins Law Department Survey, 76 percent of companies said that legal demand is on the rise, while 23 percent reported that it is static. Just 1 percent indicated a decrease. In an effort to control the costs of burgeoning litigation dockets, companies hire more temporary and staff attorneys. A July 2013 survey of Fortune 500® in-house counsel conducted by AlixPartners found 27 percent of companies reported an increase in the size of their in-house litigation department.

Like law firms, legal departments increasingly develop project-based models for hiring attorneys and legal staff. To save money, companies have turned away from long-time, trusted law firms, only relying on them in very limited situations, such as for courtroom work, and then only paying them a fraction of what they demand, according to Mahn.

This has spawned growth among legal service providers that offer companies temporary attorneys to handle short-term legal needs. Many legal departments find it more cost-effective and efficient to contract with these providers for temporary help than to expend resources handling the hiring and human resources tasks that go along with it. Some service providers even offer a temporary in-house team for companies that may not have sufficient legal work to justify a full-time legal department.

Some law firms take their cues from the legal service providers and offer their attorneys as temporary, full-time, in-house lawyers for a specific project or time period. These programs, known as “secondment” programs, offer companies and law firms tremendous economic and staffing flexibility.

Some companies even hire contractors to fill roles as acting or interim counsel, allowing them to tap the expertise of a seasoned attorney without creating a permanent post or paying high hourly rates for outside counsel. And still others manage litigation more effectively by designating an in-house litigation specialist to oversee services provided by outside law firms.

Smaller companies are not immune to the trends. Those that have never had legal departments and that have hired outside firms to fill their needs now tap independent contractors to work as in-house counsel. Again, this trend is being driven by perceived high law firm hourly rates.

## Impact on Hiring

These staffing trends have long-term implications for hiring. The Altman Weil 2012 Law Firms in Transition Survey of 238 firms found that 25 percent of firms slashed or discontinued hiring first-year associates during 2011, and 40 percent reduced their summer associate program. This is a continuing trend going back to the start of the recession. Starting salaries also have dropped, according to NALP. The median starting salary for 2011 law school graduates fell 5 percent from the 2010 level, representing a 17-percent decline since 2009.


"Lawyers need to bring in business," Mahn said. "That's what counts. Law firms are looking at their bottom line and asking, 'What can the lawyer bring to the table?' Lawyers need to bring in enough business to cover their overall compensation package and that of their team."

This translates to a buyer's market, in which only the cream of the crop find jobs. Firms have the luxury of carefully examining each position and candidate. Those who come from top-tier law schools or firms, or who bring a portfolio of business will rise to the top of the hiring list.

## Focusing on Clients

Turning to creative strategies such as outsourcing temporary attorneys and changing partnership tracks clearly targets firms' and companies' bottom lines. But they also influence client services and how clients view their attorneys. And without satisfied clients, all of the cost-cutting strategies will not a successful practice make. Clients demand their attorneys be efficient, rein in costs and be flexible, all while meeting their unique objectives. Many already have abandoned the need for a traditional law firm and tested the waters of creative legal staffing. Law firms who do not want to be shut out need to consider financial and client-centered factors when moving forward.

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