

12-2001

An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements-Part One

Susan Saab Fortney

Maurice A. Deane School of Law at Hofstra University


Follow this and additional works at: https://scholarlycommons.law.hofstra.edu/faculty_scholarship

Recommended Citation

Susan Saab Fortney, *An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements-Part One*, 64 Tex. B.J. 1060 (2001)

Available at: https://scholarlycommons.law.hofstra.edu/faculty_scholarship/619

This Article is brought to you for free and open access by Scholarly Commons at Hofstra Law. It has been accepted for inclusion in Hofstra Law Faculty Scholarship by an authorized administrator of Scholarly Commons at Hofstra Law. For more information, please contact lawcls@hofstra.edu.



An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements

By Susan Saab Fortney

PART ONE

The second article in this two-part series will appear in the January 2002 issue of the *Bar Journal*.

If you ask attorneys in private practice to identify their biggest complaint related to law practice, most will probably respond with one word — billing. At the same time, clients are likely to identify billing as their most serious concern associated with obtaining legal service. The irony in clients and attorneys sharing frustration over hourly billing relates to the fact that the initial interest in hourly billing stemmed from attorneys' desire to maximize their earnings and clients' preference to pay only for the actual time expended on the client's behalf.¹

Since the 1960s, hourly billing evolved as the dominant billing method used by non-contingency fee attorneys. As hourly billing became more widespread, the number of billable hours expected of firm attorneys dramatically increased as billable hours clocked and business generated assumed greater importance in evaluating attorney contributions and

compensation. In the last two years the number of billable hours expected of associates increased along with the hikes in associate salaries.² To gauge the effects of increasing billable hour requirements, a mail survey of associates in Texas law firms (the Associate Survey) was sent to a random sample of 1,000 associates who (1) had been licensed for 10 or fewer years as of June 1999 and (2) who were identified on the State Bar of Texas membership files as working in private law firms with more than 10 attorneys. The questionnaire was designed to obtain objective data on billing practices, the effects of hourly billing pressure, and firm culture.

This article reports the empirical information from the survey. The second part, which will be included in the January 2002 issue, discusses what the data means and how it might be used to improve the outlook for attracting and retaining good associates.

Respondents' General Profile

The vast majority of respondents (92 percent) indicated that they were associates on the partnership track. The remaining respondents checked "staff attorney not on the partnership track" (3 percent), part-time attorney (1 percent), contract attorney (1 percent), and other (3 percent). The respondents' tenure with their firms ranged from 11 percent who had been with their firms for less than one year to 4 percent who had been with their firms for more than seven years. The median tenure was 32 months, and the median age of the respondents was 32 years old. The median income of the respondents was \$82,418.

The respondents worked in Texas firms of varying sizes. Exactly half of the respondents worked in firms with more than 100 attorneys (Large Firms), 27 percent worked in firms with 25-100 attorneys (Medium Firms) and 21 percent worked in firms with 11-24 attorneys (Small Firms).

Billing Pressure

Eighty-four percent of the respondents reported firm annual billable hour expectations for associates. Of that number, the mean annual billable expectation for associates was 1,961 and the median was 1,980 hours. The results indicated that the average minimum billing expectation generally increased with firm size. At the same time, a smaller percentage of Large Firms required more than 2,100 hours as compared to Medium Firms.

The income of respondents appears to be related to the number of hours billed. The mean number of hours reported billed increased as income increased. This suggests that pre-tax income, including bonuses, relates to the number of hours billed by associates. The study results do not support the commonly held belief that attorneys in the largest firms bill the

During the last 20 years, the pressure to work longer hours created a kind of "time famine" for attorneys. Commentators and practitioners both rail at the steady escalation in billable hour requirements. Because of the time commitment and other work pressures, many attorneys find it difficult to achieve a healthy balance between their work and personal lives. ... working 60, 70, or even 80 hours a weeks to produce 2,000 hours per year "leaves room for little else in the attorney's life." As a result, those things that give most people "joy and meaning — family, friends, hobbies, the arts, recreations, exercise — are absent from the attorney's life."

most hours. A cross tabulation between the number of hours that respondents reported billing and the size of respondents' law firms revealed that the average annual hours billed by those respondents in Medium Firms was 2,120, compared to 2,079 hours reported by respondents in Large Firms and 2,028 hours reported by respondents in Small Firms.

Time vs. Partnership

During the last 20 years, the pressure to work longer hours created a kind of "time famine" for attorneys. Commentators and practitioners both rail at the steady escalation in billable hour requirements.³ Because of the time commitment and other work pressures, many attorneys find it difficult to achieve a healthy balance between their work and personal lives. As explained by Professor Patrick J. Schlitz, working 60, 70, or even 80 hours a weeks to produce 2,000 hours per year "leaves room for little else in the attorney's life."⁴ As a result, those things that give most people "joy and meaning — family, friends, hobbies, the arts, recreations, exercise — are absent from the attorney's life."⁵ While the

general labor population also struggles with growing demands to balance work and personal life, the intense time pressures inherent to the legal profession magnify the problem for many attorneys.⁶

The survey results reveal that 66 percent of the respondents report that billable hour pressure had "taken a toll" on their personal lives. Predictably, the percentages reporting that billable hour pressure had taken a toll increased as billable hour requirements increased and as the number of hours worked increased.

When asked to describe how billable hours pressure had taken a toll on the respondent's personal life, 95 percent noted, "I have less time for my friends and family." Twenty-five percent reported: "I have more trouble sustaining an intimate relationship than I used to." Another 20 percent checked "other."⁷

These results suggest that a large percentage of respondents recognize that partners generally must commit more time than associates. One participant in another study described the dilemma: "It's like a pie-eating contest where the first prize is all the pie you can eat."⁸ Believing that

JURISCO

"Court surety service no other agent can match"

**CIVIL COURT BONDS
BY PHONE . . .
BY TOMORROW**

PROBATE ♦ INJUNCTION ♦ DISTRESS
APPEAL ♦ CURATORS ♦ ATTACHMENT
SEQUESTRATION ♦ CONSERVATORS
GARNISHMENT ♦ REPLEVIN
ALL OTHER STATE and FEDERAL
CIVIL COURT BONDS

☎ 1.800.274.2663

FAX: 1.800.587.4726

EMAIL: BONDINFO@JURISCO.COM
WWW.JURISCO.COM

"I am very pleased with Best Case. New employees are able to learn it quickly. The program produces a first-class application for relief."

- Frank Waltermire, Attorney, Lake Jackson, TX

BEST CASE[®] BANKRUPTCY

**TAKES THE TIME AND HASSLE OUT
OF PREPARING DEBTORS' FORMS.**

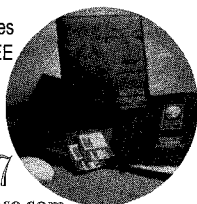
- Fast, Straightforward, and Easy to Use!
- Produces **Top Quality Forms**, Ready for Filing with the Court.
- Includes **Toll-Free Telephone Support** and **Free Updates** for One Full Year.
- We Accept Visa, MasterCard, American Express and Discover.
- **Order Today Risk-Free** - We Provide a 60-Day Unconditional Money-Back Guarantee!

Several software packages available including a FREE demonstration version.

CALL US TOLL-FREE
1.800.492.8037

www.bestcase.com

Best Case Solutions, Inc. • P.O. Box 32 • Evanston, IL 60204



law practice only gets more stressful, some associates may not even aspire to win the partnership trophy. Among the survey respondents, only 8 percent identified "full partner participation" as the professional goal they were most interested in attaining. Those associates who do not aspire to partnership may feel particularly dissatisfied about paying dues and making personal sacrifices as associates.

Dissatisfaction

A 1990 ABA Young Lawyers Division (YLD) study identified increases in hours worked and the resulting decrease in personal time as a major cause of attorney dissatisfaction.⁹ Ten years later, the levels of satisfaction found in the Associate Survey are very similar.¹⁰ In the Associate Survey, 32 percent of the respondents reported that they were "very satisfied" and 47 percent noted that they were "somewhat satisfied."¹¹ When asked to describe the morale among associates at their firms, 10 percent of the respondents indicated that morale was "excellent" and 43 percent checked "good."¹²

These results appear to conflict with reports and anecdotal information on widespread associate dissatisfaction and low morale.¹³ From a psychological standpoint, individual respondents may be engaging in a form of denial if they are indeed dissatisfied with their work, but refuse to admit it. Another possibility is that attorneys tend to complain about their work conditions. Still, the most obvious explanation for the reported high levels of satisfaction relates to the high salaries that large firm associates were receiving at the time of the survey.¹⁴ In the Associate Survey, no respondent making \$125,000 or more checked "very dissatisfied."

While high salaries may improve reported satisfaction levels, the

reports of high salaries may actually deepen the frustration of those associates who earn lower salaries. In the Associate Survey, the largest percentage of associates who reported that they were "very dissatisfied" were those respondents making less than \$50,000.

In analyzing the validity of the satisfaction/dissatisfaction responses, responses to other questions should be considered. Specifically, questions asking about interest in changing jobs and careers shed light on the relative satisfaction of the respondents. In response to the question, "Are you interested in changing employers during the next two years?" 39 percent of the respondents checked "yes." Of those respondents, 22 percent indicated that they were interested in a "non-legal job." Similarly, 26 percent noted they "strongly agree" or "somewhat agree" with the statement, "I wish that I had selected a profession other than the law."¹⁵ These results suggest that a percentage of those respondents reporting some level of satisfaction with their current firm would nonetheless like to change positions, or even careers.

Stress and Distress

The mere mention of billable hours to a firm associate might cause the attorney's blood pressure to rise. This image helps capture how billing pressure causes stress. In this context "stress" refers to "the experience in which physical or psychological demands trigger bodily or mental tension or reactions that disrupt a person's psychological or physiological equilibrium."¹⁶

Generally speaking, stress lowers the immune system, making a person more susceptible to illness.¹⁷ Stress contributes to heart disease, migraine headaches, and colitis.¹⁸ More common physical symptoms of unrelieved stress include nervousness, chest pains, stomach problems, and fatigue.¹⁹

From the standpoint of mental health, unrelieved stress can cause anxiety, inability to concentrate, shortened attention span, difficulty focusing on tasks, avoidance, and "burnout."²⁰ More serious effects include depression, anger, exhaustion, and chronic fatigue.²¹

When asked to describe how billable hours pressure has taken "a toll on your personal life" 18 percent of the respondents checked "I get sick more often than before I worked for the firm" and another 20 percent checked "other." Many of the descriptions portray associates whose lives are consumed with work and worry about billable work. The largest number related to the lack of balance including no time for exercise, vacations, hobbies, personal interests, or other non-work endeavors. The second largest number of descriptions referred to feelings of stress, anxiety, and unhappiness.

Fifteen percent of the respondents strongly agreed with the statements, "I feel stressed and fatigued most of the time." Another 36 percent noted that they "somewhat agree" with the statement.

Quality of Work

The quality of legal service suffers when stress results in an inability to concentrate, shortened attention span, difficulty in focusing on tasks, and avoidance.²² According to Dr. Isaiah Zimmerman, a Washington D.C. psychologist who specializes in counseling attorneys and judges, the "casual link between high levels of stress and lowered performance is well documented."²³ "It is reasonably safe to conclude that attorneys who have a poor response to stress, who fail to address the cause of their stress, will lower their level of performance and thus greatly increase the risk of committing error."²⁴ Thus, long work hours and stress increases the likelihood of professional malpractice and dis-

cipline,²⁵ especially in work environments in which junior attorneys' work is not properly supervised.

Short of professional misconduct, long work hours may undermine an attorney's ability to provide the quality of service that clients deserve. Professor Judith L. Maute contends, "lawyers who work in excess of 60 hours a week on a long-term basis may be physically present, but their minds cannot operate at peak efficiency.

They cannot produce good value for each hour of billable time."²⁶

The majority of the respondents in the Associate Survey recognize that long work hours can impair critical thinking. Twenty-two percent of the respondents "strongly agreed" with the statement, "Working long hours adversely affects my ability to think critically and creatively." Another 42 percent indicated that they somewhat agree with the statement.²⁷ Those

LIMITED PARTNERSHIP OUTFITS AND SERVICES

■ LP Outfits

Similar to our Corporate and LLC outfits with the same durable record books. Contents are prepared for Texas Limited Partnerships and customized for your client's partnership.

■ The outfits include:

Record book (and slip case). Other books may be substituted, however they will have "Corporate Records" on front.

Seal and matching zipper pouch that fits on the record book rings.

20 bound certificates of units of Limited Partnership Interest numbered 1-20, with specimen and stubs. Signature title for "General Partner."

7-part mylar reinforced index.

50 sheets blank minute paper.

■ LP Services: Drafting and Filing

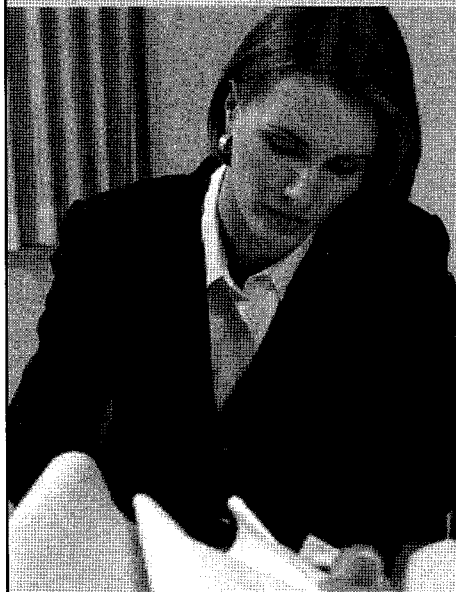
Drafting and Filing of Certificate of Limited Partnership, \$70. Or, if you prefer, we will file your draft for \$30. Either way, you will benefit from our Austin office's many years of Texas corporate services experience.

■ Limited Partnership Agreements Custom Tailored for Your Client.

Complete an extensive questionnaire and within 24 hrs. our paralegals will return a complete document with an electronic word-processing file using the DL Texas Limited Partnership Document Assembly Library, \$65.

Combination discount price if you use both of our drafting services. **Save \$15.**

Over a century of service to the legal community



LP Outfit Prices

Cat. No. 70LP	Black Beauty LP Outfit	\$59.00
Cat. No. 10LP	Ex Libris LP Outfit	\$71.50

**Call 800 252-3050
for more information or
visit our website at
www.blumberg.com**

BlumbergExcelsior®
Since 1887

814 San Jacinto Blvd. Suite 409

Austin TX 78701

800 252-3050

Fax: 512 478-0001

associates who take pride in doing quality work may feel particularly frustrated if they believe that they must work long hours to succeed at the firm, but fear that working long hours negatively affects their ability.

The Quantification Of Private Law Practice

Commentators and associates alike have bemoaned the trend in firms that emphasizes the quantity of billable hours over the quality of work performed. As described by Dean Anthony T. Kronman of Yale Law School:

The increased emphasis on hours billed as a criterion for measuring associate performance – which reflects in part the cultural devaluation of other attributes less directly connected to the external good of moneymaking and in part the administrative need for a uniform quantitative standard of evaluation in firms whose size makes more-qualitative criteria unworkable – has in turn propelled competition of associates more and more in this direction. Increasingly, associates at large firms themselves equate success – promotion and prestige – with hours billed.²⁸

In a work culture that focuses on minimum hour expectations, associates quickly learn that falling below the minimum risks job loss, while exceeding the minimum earns bonuses, promotion to partner, and an increased profit share percentage.²⁹

The results from the Associate Survey revealed that many firms do reward hours production, employing an incentive compensation system focusing associate evaluations on hours billed and collected. Thirty-two percent of the respondents noted that they strongly agreed with the statement, “My income and advancement within the firm are principally based on the number of hours that I bill and

collect.” Another 44 percent indicated that they “somewhat agree” with the statement. Comments also reflected the emphasis placed on hours billed. When asked about their firms’ annual billing requirement, four respondents volunteered that their firms based bonuses on billable hours recorded or collected. As noted by one respondent, basing bonuses 100 percent on billables may encourage attorneys to “pad” their time.

Interestingly, Professors David B. Wilkins and G. Mitu Gulati described this consequence in discussing the partners’ ability to monitor shirking by associates. They suggest that using hours to measure associates’ work creates an incentive for associates to inflate their hours, “to the extent that associates believe that partners view hours as a surrogate for quality.”³⁰ Moreover, “partners will generally find it difficult to detect” when associates pad their hours because of the difficulty in correlating the quality and quantity of work produced.³¹

Professor Lisa Lerman explains that associates who do not have enough work to legitimately bill the required number of hours, must choose: “(1) to do unnecessary work; (2) to lie about the number of hours worked; or (3) to fail to meet the firm minimum and reduce her chances of becoming a partner”³² or even keeping her job.

An unintended consequence of quantifying law practice may be an increase in personnel claims brought by disgruntled associates. Some claims may be based on the refusal to promote an associate. With quantitative evaluations of value, associates who have “numbers” comparable to promoted associates may allege discrimination. Emphasizing and rewarding objective accomplishments, such as billables, makes firms vulnerable to such complaints.

The Exodus Of Ethical Associates

Results from the Associate Survey reveal that a large number of respondents see the connection between pressure and ethical attorneys abandoning private law practice. The questionnaire asked the respondents to indicate their agreement/disagreement with the following statement, “Billing pressure causes ethical and competent attorneys to leave private law practice.” The largest percentage of the respondents (31 percent) neither agreed nor disagreed with the statement. Forty-six percent noted some level of agreement with the statement.³³ This may be the most disturbing survey result because it suggests that billing pressure may be causing firms to lose ethical associates and future leaders who uphold high ethical standards.

Rationalization

For those attorneys who stay in private practice another deleterious effect of billing pressure is self-deception. Rather than admitting to themselves or to others that they are engaging in questionable billing practices, some associates may rationalize their conduct or delude themselves about client needs. Self-delusion occurs when attorneys’ self-interest in billing controls and attorneys convince themselves that more work is necessarily better for the client. In his book based on two billing studies, Professor William G. Ross contends that most over-billing is the result of self-deception rather than conscious fraud.³⁴ Professor Ross concludes: “Perhaps the greatest danger is that some attorneys have become so accustomed to rationalizing their liberal time recording techniques or their decisions to perform endless services for their clients regardless of cost that they may not even recognize that their actions are ethically questionable.”³⁵ The majority of

PROFESSIONAL RISK IS OUR SPECIALTY

LAWYERS PROFESSIONAL LIABILITY INSURANCE

COVERAGE

Supplementary Payments for Loss of Earnings While Attending Hearings, Trials, Arbitration and Mediation

Multiple Damages Assessed Under the Texas Deceptive Trade Practices Act

Up to \$20 Million in Limits of Liability

Reduced Deductibles for early Claim Resolution

Unlimited Extended Reporting Period Options

Worldwide Coverage

OPTIONAL FEATURES

Loss Only Deductibles

Multi-year Policy Forms

Coverage For Punitive Damages

Mutual Choice of Defense Counsel

Defense In Addition To Limits of Liability

Options To Manage the Aggregate Limit of Liability

THE PROFESSIONALS

Underwriting Team With Over 20 Years of Experience Lead by an Attorney

Individual Risk Underwriting Based On Merits of a Firm's Individual Practice

Quote and Bind Using Other Companies Application Coupled With Our Three-Page Application

Short form Renewal Application

OTHER COVERAGES

Notary Bonds

Fidelity Insurance

Lawyers Office Package

Directors & Officers Insurance

Employment Practices Liability Insurance

Miscellaneous Professional Liability Insurance



Our Companies Are Triple A Rated:

AAA (Extremely Strong) by Standard & Poor's for insurer financial strength

Aaa (Exceptional) by Moody's for financial strength

A++ (Superior) by A.M. Best for financial strength and ability to meet policy holder obligations

For more information, contact Deborah Ramos, Vice President, J.D., CPCU

ProTexn, Inc.

7557 Rambler Road, Suite 818 Dallas, Texas 75231-2303

800-441-9196 214-691-8984 fax 214-361-4302

www.protexn.com support@protexn.com

respondents in the billing survey recognize the risk of attorneys rationalizing questionable conduct. When asked to note their agreement/disagreement, 64 percent indicated that they agreed with the statement, "Attorneys tend to rationalize and justify questionable billing practices."³⁶ Only 10 percent disagreed with the statement.³⁷

Decline of Mentoring

Firm compensation systems that do not recognize and reward other contributions, such as management and supervision time, tend to discourage partners from devoting time to such activities. Attorneys face tremendous pressure to bill hours and generate business, making it difficult for them to devote time to "non revenue" producing endeavors such as training and supervision.³⁸ As described by Professor Patrick

Schlitz, the "pressure to bill hours—pressure to 'bill or be banished' is necessarily pressure not to mentor."³⁹ Similarly, the emphasis on business generation can undermine meaningful supervision because an "hour devoted to bringing in business is valued much more today than an hour devoted to mentoring a junior colleague."⁴⁰

The Associate Survey sought opinions on whether billing and business generation pressure on partners affected their willingness to serve as mentors and supervisors. The specific inquiry asked respondents to indicate their agreement/disagreement with the following statement: "Because of the pressure on partners to bill and generate business, partners in my firm do not provide the mentoring and training that I need and want." The percentages of respondents who agreed or disagreed with the state-

ment were approximately the same, with 43 percent indicating that they agreed and 42 percent indicating that they disagreed.⁴¹

Billable Hour Pressure and Attrition

Over the last five years, associate attrition has become a major concern of firm managers who are losing associates in droves. These managers understand the enormous tangible and intangible costs of attrition.⁴² The tangible or direct costs that can be quantified include compensation and benefits, agency fees, recruiting expenses, and signing bonuses.⁴³ With attorney turnover, the firm also loses revenue if one or more attorneys write off the time needed to get the replacement up to speed on a particular matter that the departed attorney handled.⁴⁴ Intangible or indirect costs include damaged client relations, bruised firm morale, time devoted to filling vacant positions, and the loss of talented attorneys. While intangible costs are difficult to quantify, studies have revealed that each incidence of attrition can cost up to \$200,000 (depending on geographic region, seniority, and other factors).⁴⁵

Firm managers interested in learning more about the causes of and solutions for attrition should consult the *Keeping the Keepers Report*, which was a comprehensive study of associate attrition. The report found that the decision of associates to leave a firm is most frequently affected by factors including the availability of mentoring and the "unspoken firm policy on the balance of law practice and life."⁴⁶

Overall, 39 percent of respondents in the Associate Survey reported that they were "interested in changing employers during the next two years." Among this group, the largest percentage (28 percent) indicated that hourly pressure was the factor most influential in causing them to change

COURT REPORTING



**Carlson
Reporting**
A Limited Liability Company

visit us at:

WWW.CARLSONREPORTING.COM

Tel: 713.896.1492

Fax: 713.896.3099

Toll Free: 866.896.1492

Email: depositions@carlsonreporting.com

Court Reporting
Legal Videography
Records Retrieval

Servicing:
AUSTIN, BEAUMONT,
CORPUS CHRISTI, DALLAS,
FORT WORTH, GALVESTON,
HOUSTON AND SAN ANTONIO.

It's the last month of your MCLE reporting period.

You're two hours shy.

Go online.

Even with a deadline like this, you can still earn the participatory credit you need.

Yes, *participatory* credit. Here's how:

Visit the State Bar's Professional Development web site, www.texasbarcle.com and click on **The Online Classroom**.

Choose from over 30 hours of audio recordings of recent CLE lectures and telephone seminars. View or download the materials that accompany most topics, listen to the lecture, and join in the sharing of comments and questions in the discussion area for that topic—all at your convenience.

(Because any materials you download are in digital form, they are word-searchable for easy reference and research.)

Most lecture packages feature 1–3 topics for a total of 2 or more credit hours; many include ethics credit. Charge to a major credit card.

At the web site you'll discover what computer equipment is required, how to download RealAudio (the necessary software), and how to access the lectures and materials.

Consider the benefits of The Online Classroom:

- Convenience—available anytime
- Accessibility—log on from anywhere
- No travel expenses to an out-of-town seminar
- Minimal time away from work
- Proven, knowledgeable faculty
- Accompanying materials for most topics

There's no more convenient way to get high-quality CLE while earning participatory credit.

Even if you don't have a deadline.

The Online Classroom

CLE LECTURES ON THE WEB

www.TexasBarCLE.com

jobs. Twenty-four percent listed "increased compensation" as the most influential factor in causing respondents to change jobs. Another 8 percent indicated that "enhanced training and supervision" was the most influential factor.

Among the survey respondents who indicated that they were interested in changing employers, the largest percentage (37 percent) checked "corporate counsel position" as the type of job they would prefer. Another 22 percent indicated they were interested in non-legal jobs. Taken together these results indicate that a majority of the respondents who are interested in changing are considering leaving private law practice.⁴⁷

Education, Ethics, And Pro Bono

The Associate Survey did reveal that billable hour pressure is causing many respondents to minimize the time they devote to educational programs and ethics training. Forty-two percent of the respondents indicated some level of agreement with the following statement: "Because of billable hour pressure, I minimize my participation in continuing legal education programs (CLE) and ethics training."⁴⁸

Similarly, the survey revealed that the emphasis on billable hours may result in pro bono and community service representing a smaller slice of the work day, depending on the firm policy on giving credit for these services. Twenty-seven percent of the associates noted that they "strongly agree" with the statement, "Because of billable hour pressure, I don't have time to participate in pro bono and public service activities" and 35 percent checked that they "somewhat agree" with the statement.⁴⁹

The deleterious effects of increased billable hour expectations trouble the involved attorneys and other

persons concerned about the delivery of quality legal services. Part II of this article will suggest steps that concerned attorneys and regulators can take to improve the quality of work performed for clients and the quality of life for firm attorneys.

Notes

1. An ABA study concluded that attorneys who use time records to formulate their attorney's fees made more money than those attorneys who did not. Stephen W. Jones & Melissa Beard Glover, *The Attack on Traditional Billing Practices*, 20 Ark. Little Rock L. J. 293, 293-94 (1998). Reportedly, corporate managers and members of the business community welcomed hourly billing because it enabled them to "correlate the 'product' that they were buying to the products that they themselves produced and sold." William G. Ross, *The Ethics of Hourly Billing by Attorneys*, 44 Rutgers L. Rev. 1, 11 n. 64 (1991).
2. As explained by a legal recruiter, as salaries continue to increase, firms face increased pressure to justify these higher expenses. Lauren Eaton Prescott, *The Verdict Is In on the Great Pay Hike*, Tex. Law, March 6, 2000, at 3.
3. "Most law firm managers contacted agreed that increasing hours and the resulting time pressures posed a serious profession but considered their own expectations to be reasonable ones." Nancy D. Holt, *Are Longer Hours Here to Stay?* A.B.A. J. Feb. 1993, at 62.
4. Patrick J. Schlitz, *Legal Ethics in Decline: The Elite Law Firm, the Elite Law School, and the Moral Formation of the Novice Attorney*, 83 Minn. L. Rev. 705, 725-26 (1998).
5. *Id.* at 726.
6. Ammee McKim, Comment, *The Lawyer Track: The Case for Humanizing the Career Within a Large Law Firm*, 55 Ohio St. L.J. 167 (1994).
7. The percentages on the ways that billable hour pressure had taken a toll exceed 100 percentage because respondents checked all items that applied.
8. NALP Foundation for Research and Education: *Keeping the Keepers: Strategies for Associate Retention in Times of Attrition* 106 (Jan. 1998) [Keeping the Keepers Report].
9. Deborah K. Holmes, *Learning from Corporate America: Addressing Dysfunction in the Large Law Firm*, 31 Gonz. L. Rev. 373, 398 (1995-96).
10. In the 1990 YLD survey 33 percent of the respondents indicated that they were "very satisfied" and 43 percent indicated that they were "somewhat satisfied." ABA Young Lawyers Division, *The State of the Legal Profession* 52 (1990).
11. In response the question that asked, "Overall, how satisfied are you with your current job?" 16 percent indicated "somewhat dissatisfied" and 5 percent marked "very dissatisfied."
12. Thirty-three percent of the respondents noted that morale among the associates at their firms was "average," 13 percent rated morale as "poor" and 2 percent rated morale as "very poor."
13. The results also do not show a statistically significant relationship between hours billed and job satisfaction or hours worked and job satisfaction.
14. A commentary on a 1999 Associate Quality of Life survey captured the impact of recent salary increases in stating that the "overall exuberance of the associates ... shows how far a few thousand dollars goes." Angela Ward, *The Money Talks, Large Quantities of Case Improve Associates' Quality of Life*, Tex. Law., Oct. 4, 1999, at 3.
15. This percentage breaks down to 8 percent who "strongly agree" with the statement and 18 percent who "somewhat agree" with the statement.
16. Leslie I. Messelman, *Maintaining Balance: Stress Management for Lawyers*, Colo. Law., Feb. 1996, at 13.
17. Arline Kaplan, *Implications of Stress, Psychosocial Factors on the Immune System*, Psychiatric Times, Oct. 1999 (visited Nov. 21, 2000) <http://www.mhsource.com/pt/p991059.html>.
18. James J. Alfini & Joseph N Van Vooren, *Is There a Solution to the Problem of Lawyer Stress? The Law School Perspective*, 10 J.L. & Health 61, 65 (1995-96) quoting Joan Myerson Shrager, *The Bottom Line on Lawyer Stress*, 13 Legal Econ. 22 (1987).
19. Christopher T. Borgeson & Elizabeth M. Link, *Stress Management: Minimizing the Risk of Malpractice - Is Stress Affecting Your Competency?* 2 NO. 3 Legal Malpractice Rep. 11, 12 (1991).
20. *Id.* at 12.
21. Messelman, *supra* note 16, at 14 (referring to signs or symptoms of stress).
22. Borgeson & Link, *supra* note 19, at 12.
23. *Id.*
24. *Id.*
25. In one such disciplinary case, the Supreme Court of Oregon attributed the

respondent-attorney's misconduct to "emotional difficulties." In re Conduct of Lowe, 642 P. 2d 1171, 1174 (Or. 1982). The respondent's psychiatrist testified that the respondent suffered from "burnt out syndrome." *Id.*

26. Judith L. Maute, *Balanced Lives in a Stressful Profession: An Impossible Dream?* 21 Cap. U. L. Rev. 797, 814 (1992).
27. Of the remaining respondents, 12 percent indicated that they neither agreed nor disagreed, 17 percent indicated that they somewhat disagreed, and 6 percent "strongly disagreed."
28. Anthony T. Kronman, *The Lost Lawyer: Failing Ideals of the Legal Profession* 302 (1993).
29. Elena S. Boisvert, *Is the Legal Profession Violating State and Federal Consumer Protection Laws?* Prof. Law., Nov. 1997, at 1, 4.
30. David B. Wilkins & Mitu Gulati, *Reconciling the Tournament of Lawyers: Tracking, Seeding, and Information Control in the Internal Labor Markets of Elite Law Firms*, 84 Va. L. Rev. 1581, 1594 (1998).
31. *Id.* at 1594-69.
32. Lisa G. Lerman, *Lying to Clients*, 138 U. Pa. L. Rev. 659, 674 (1990).
33. Sixteen percent noted that they strongly agreed with the statement and 30 percent indicated that they somewhat agree with the statement that billing pressure causes ethical and competent attorneys to leave private law practice. Thirteen percent checked that they "somewhat disagree" with the statement and another 10 percent noted that they "strongly disagree."
34. William G. Ross, *The Honest Hour: The Ethics of Time-Based Billing by Attorneys* 63 (1996).
35. *Id.* at 261 (referring to one 1991 survey respondent who stated that he and most other attorneys who regularly bill more than 3,600 hours per year do not perform unnecessary work or exaggerate their hours).
36. The 64 percent includes 41 percent who "somewhat agree" and 23 percent who "strongly agree" with the statement.
37. Four percent checked "strongly disagree" and 6 percent checked "somewhat disagree."
38. Training and supervision become non-revenue producing activities when clients refuse to pay for time devoted to those activities. Schlitz *supra* note 4, at 743.
39. *Id.* at 740 (asserting that the "extraordinary pressure to bill hours is almost single handedly responsible for the death of mentoring").
40. *Id.* at 741.

41. This percentages break down to 18 percent who "strongly agree," 25 percent who "somewhat agree," 24 percent who "somewhat disagree," 18 percent who "strongly disagree" and 15 percent who neither agree nor disagree.
42. See, e.g., Michael Goldhaber, *Waging a War of Attrition*, Nat'l. L. J., Dec. 13, 1999, at A1 (quoting the manager of Akin, Gump, Strauss, Hauer & Feld L.L.P., who said, "high attrition is the single biggest-cost factor that can be averted").
43. Gerald L. Holt, *How to Keep Talent from Walking*, N.Y.L.J., Jan. 12, 1999, at 5.
44. William G. Johnson, *Seeing Red? Managing the Cost of Associate Attrition*, Law. Prac. Mgmt., May-June 1999, at 45.
45. *Id.*
46. Keeping the Keepers Report, *supra* note 10, at 14.
47. Timothy Harper, *The Best and Brightest, Bored and Burned Out*, 73 A.B.A. J. 28 (1987). Those who remain in stressful work situations may be those without job options and those who commit themselves to private law practice, possibly at the expense of their personal life.
48. The agreement/disagreement percentages break down as follows: 16 percent checked "strongly agree," 26 percent checked "somewhat agree," 23 percent noted "somewhat disagree," and 17 percent noted "strongly disagree." Eighteen percent checked that they "neither agree nor disagree."
49. Another 15 percent indicated that they "somewhat disagree" and 8 percent noted that they "strongly disagree." Fifteen percent indicated that they "neither agree nor disagree."

Susan Saab Fortney is a professor at Texas Tech University School of Law, where she teaches professional responsibility and ethics. Prof. Fortney wishes to thank Dr. Cynthia Spanhel and her staff at the State Bar Department of Research and Analysis for their valuable assistance in conducting the Associate Survey. A lengthy version of this article was originally published as *Soul for Sale: An Empirical Study of Associate Satisfaction, Law Firm Culture, and the Effects of Billable Hour Requirements*, 69 U.M.K.C. L. Rev. 239 (2000). © U.M.K.C. Law Review.

TRADEMARK & COPYRIGHT SEARCHES

TRADEMARK - Supply word and/or design plus goods or services.

SEARCH FEES:

COMBINED SEARCH - \$315
(U.S., State, Expanded Common Law and Internet)
TRADEMARK OFFICE - \$135
STATE TRADEMARK - \$140
EXPANDED COMMON LAW - \$165
DESIGNS - \$210 per International class
COPYRIGHT - \$180
PATENT SEARCH - \$450 (minimum)

INTERNATIONAL SEARCHING

DOCUMENT PREPARATION

(for attorneys only - applications, Section 8 & 15, Assignments, renewals.)

RESEARCH-(SEC - 10K's, ICC, FCC, COURT RECORDS, CONGRESS.)

APPROVED - Our services meet standards set for us by a D.C. Court of Appeals Committee.

Over 100 years total staff experience—not connected with the Federal Government.

GOVERNMENT LIAISON SERVICES, INC.

200 North Glebe Rd., Suite 321

Arlington, VA 22203

Phone: (703) 524-8200

FAX: (703) 525-8451

Major credit cards accepted.

TOLL FREE: 1-800-642-6564

WWW.TRADEMARKINFO.COM

Since 1957

Mediation & Arbitration TRAINING

by the

National Mediation Academy

Experienced professional instructors with years of teaching experience and thousands of cases as attorney mediators or arbitrators.

The mediation training uses the Harvard Law School Model and actual textbooks. Basic courses are taught Thursday-Sunday.

Civil and Commercial Class

Learn to **Mediate** Employment, Personal Injury, Insurance, Contract, Business, Civil Rights, and Commercial Disputes.

Family and Interpersonal Mediation Classes

Learn to mediate family, parent - child relationship, & interpersonal disputes.

Arbitration Classes

New State laws and U.S. Supreme Court Cases are expanding the use of arbitration. Spend a weekend & learn arbitration skills.

40 hrs. MCLE Credit - Basic Civil

40 hrs. MCLE Credit - Family

15.5 hrs. MCLE Credit - Arbitration

The National Mediation Academy, Inc.

6116 No. Central Expressway, Ste. 250

Dallas, TX 75206

Ph (214) 361-0810—(800) 685-0999

An Affiliate of National Mediation Arbitration, Inc.

Fax (214) 361-2343

http://www.national-mediation.com

ON THE MOVE

Send announcements about new jobs and promotions for publication in the *Texas Bar Journal* to: **On the Move, Texas Bar Journal**, P.O. Box 12487, Austin 78711-2487; fax to (512)463-3802; or email to tbj@texasbar.com.

CENTRAL TEXAS

Joe P. Reynolds, formerly with Akin, Gump, Strauss, Hauer & Feld, L.L.P., and Lance J. Ramsey, formerly with Richie & Gueringer, P.C., have joined Gjerset & Lorenz, L.L.P., 4425 S. MoPac Expressway, Bldg. 2, Ste. 101, Austin 78735. **Patricio T.D. Barrera** has also joined the firm.

Scott Agthe has become a partner in Brown McCarroll, L.L.P., 111 Congress Ave., Ste. 1400, Austin 78701. **James Hines**, formerly ethics advisor and assistant general counsel to former Gov. George W. Bush, **Meredith Marks**, **S. Scott Shepherd**, and **Amy Stoeckl Ybarra** have become associates. **Darwin McKee** has become of counsel, and **Stephen W. Lemmon**, and **Patricia Baron Tomasco**, both formerly with Sheinfeld, Maley & Kay, P.C., have become of counsel to the firm.

Richard R. Corkill, formerly with Oeltjen, Schovajsa, Klesel & Corkill, L.L.P., has opened an office for the practice of law at 145 W. Travis St., La Grange 78945.

H. Lewis McReynolds, formerly with Locke Liddell & Sapp, L.L.P., has become a shareholder in Naman, Howell, Smith & Lee, 900 Washington, Ste. 700, Waco 76701.

Jamal K. Alsaffar has become an associate of The Sharp Firm, 3701 N. Lamar, Ste. 302, Austin 78705.

Robert Meisel has become a

real estate attorney in the Legal Division of the Texas Dept. of Housing and Community Affairs, P.O. Box 13941, 507 Sabine, Ste. 900, Austin 78711-3941.

R. Brent Harshman has become an assistant city attorney with Austin Energy, City of Austin, 721 Barton Springs Rd., Austin 78704.

Leslie W. Dippel has become an associate of Hilgers & Watkins, P.C., 98 San Jacinto Blvd., Ste. 1300, Austin 78701.

GULF COAST

Lawrence D. Elliott, formerly with Houston, Marek & Griffin, L.L.P., has opened an office for the practice of law at The Alkek Building, 118 N. Main St., Ste. F, Victoria 77902.

Linnie A. Freeman has opened an office for the practice of law at 3801 Kirby Dr., Ste. 604, Houston 77098.

Priscilla Walters, formerly a solo practitioner, has joined The Perdue Law Firm, 2727 Allen Parkway, Ste. 800, Houston 77019.

Mark Cohen, **Richard L. Gorman**, and **Jeffrey J. Putnam**, all formerly partners in Royston, Rayzor, Vickery & Williams, L.L.P., have formed Cohen, Gorman & Putnam, L.L.P., The Niels Esperson Bldg., 808 Travis St., Ste. 808, Houston 77002-5710.

Eugene F. "Chip" Cowell III has become a partner in Akin, Gump, Strauss, Hauer & Feld, L.L.P., 1900 Pennzoil Place, South Tower, 711 Louisiana St., Houston 77002. **Paul D. Inman**, formerly of counsel at Klein, Zelman, Rothermel & Dichter, L.L.P., has become senior counsel at the firm.

Joseph G. Epstein and **Roger Kelly Donaldson** have become shareholders in Winstead Sechrest & Minick, P.C., 910 Travis St., Ste. 2400, Houston 77002. **Jeffrey L. Wendt**, formerly chief corporate intellectual property counsel for Air Liquide S.A., Paris, has become of counsel to the firm.

Brady Edwards, formerly with Baker Botts, L.L.P., and **Anne Edwards**, formerly with Littler Mendelson, P.C., have formed Edwards & Edwards, 5847 San Felipe, Ste. 3900, Houston 77057.

Gary M. Alletag, **Edward L. Ripley**, and **Michael J. Pappert**, all formerly shareholders with Sheinfeld, Maley & Kay, P.C., have become partners in Baker & Hostetler, L.L.P., 1000 Louisiana, Ste. 2000, Houston 77002-5009.

Samer Al-Azem has become an associate of McGlinchey Stafford, P.L.L.C., 1001 McKinney, Houston 77002.

Roland B. Darby has opened an office for the practice of law at 330 Main St., Ste. 9, Sealy 77474, in addition to his office in Houston.

Marc Folladori has become a partner in Fulbright & Jaworski, L.L.P., 1000 Louisiana St., Ste. 4300, Houston 77002-5012.

Lawrence O'Donnell III has become executive vice president of Waste Management, Inc., 1001 Fanin St., Ste. 4000, Houston 77002. **David Steiner** has become senior vice president, general counsel, and corporate secretary of the company.

Charles B. "Brad" Frye and **Jim Lindeman** have formed Linde- man & Frye, P.C., 808 Travis, Ste. 1605, Houston 77002.

David Peden, Allison Snyder, and **Denise Nestel** have become partners in Porter & Hedges, L.L.P., 700 Louisiana, 35th Floor, Houston 77002-2764. **James "Brad" Whitus,** **William "Ben" Westcott, Robert F. Bell, Scott M. Brown, Ray Thomas Torgerson,** and **Brett A. Williams** have become associates, and **Susan Gregor Mathews** has become of counsel to the firm.

William A. Alexander, formerly founder and sole proprietor of W.A. Alexander & Associates, has become counsel to King & Spalding, 1100 Louisiana, Ste. 3300, Houston 77002-5219.

Scott P. Callahan, formerly an associate of Goforth Lewis, L.L.P., has formed the Law Office of Scott P. Callahan, P.C., 3120 Southwest Freeway, Ste. 650, Houston 77098.

Raymond L. Kalmans, formerly a partner with Neel, Hooper & Kalmans, P.C., has become a partner in Schlanger, Mills, Mayer & Silver, L.L.P., 109 North Post Oak Lane, Ste. 300, Houston 77024.

Robert Abdon has become an associate of Jenkins and Gilchrist, 1100 Louisiana, Ste. 1800, Houston 77002.

NORTH TEXAS

Michael Brito, formerly corporate counsel for EDS International Oper- ations in London, and **E. Lee Morris,** formerly with Sheinfeld, Maley & Kay, P.C., have become shareholders in Munsch Hardt Kopf & Harr, P.C., 4000 Fountain Place, 1445 Ross Ave., Dallas 75202-2790. **Heather J. Haase,** formerly an associate with Vinson & Elkins, L.L.P., has become a staff attorney, and **Michael J. Stewart,** formerly first vice president and assistant general counsel of Merrill Lynch, has become of counsel to the firm.

Mark D. Dunn, formerly a manag- ing attorney with the Attorney Gen- eral's office, has joined E.N. Jackson and Associates, One Meadows

Bldg., 6700 N. Central Expressway, Dallas 75206.

Tamera H. Bennett, formerly of Decker, Jones, McMackin in Fort Worth, has formed the Bennett Law Office, PMB: 213, 2240 Morriss Rd., Ste. 110, Flower Mound 75028.

Andy Trusevich, formerly asso- ciate general counsel at Kitty Hawk, Inc., and **Harold Hunter,** formerly a shareholder in Jenkins and Gilchrist, P.C., have become of counsel to Quilling, Selander, Cum- miskey & Lownds, P.C., 2001 Bryan St., Ste. 1800, Dallas 75201. **Peter Moir,** formerly a partner in Baker Botts, P.C., has joined the firm.

Gene F. Stevens, formerly of

Free Report Shows Lawyers How to Get More Clients

Rancho Santa Margarita, CA— Why do some lawyers get rich while others struggle to pay their bills?

The answer, according to California lawyer David M. Ward, has nothing to do with talent, education, hard work, or even luck.

"The lawyers who make the big money are not necessarily better lawyers," Ward says. "They have simply learned how to market their services."

A successful sole practitioner who at one time struggled to attract clients, Ward credits his turnaround to a referral marketing system he

developed six years ago.

"I went from dead broke and drowning in debt to earning \$300,000 a year, practically overnight."

Ward says that while most lawyers depend on referrals, not one in 100 has a referral system.

"Without a system, referrals are unpredictable. You may get new business this month, you may not," he says, noting that a referral system can bring in a steady stream of new clients, month after month, year after year.

"It feels great to come to the office every day knowing the phone will ring and new business will

be on the line," he says.

Ward has taught his referral system to more than 2,500 lawyers worldwide, and says that any lawyer can learn how to get more referrals.

He has written a report, "**How To Get More Clients In A Month Than You Now Get All Year!**" which shows lawyers how to use this marketing system to get more clients, increase their income, and develop a successful law practice.

Texas lawyers can get a **FREE** copy of this report by calling **1-800-562-4627** (a 24-hour recorded message), or by visiting Ward's web site at **www.davidward.com**

ON THE MOVE

Ginsberg & Brusilow, P.C., has opened an office for the practice of law at 2010 Valley View Lane, Ste. 300, Dallas 75234.

John D. Sloan, Jr., and **Art Stewart** have become partners in Gardere Wynne Sewell, L.L.P., 3000 Thanksgiving Tower, 1601 Elm St., Dallas 75201.

Priscilla Dunkel, formerly a partner at Thompson & Knight P.C., has become a partner in Baker Botts L.L.P., 2001 Ross Ave., Dallas 75201-2980.

Chris D. Collins, formerly a judicial clerk for the 2nd Court of Appeals, and **James M. Warner**, formerly assistant district attorney with the Bexar County Criminal District Attorney's Office, have become associates of Barlow & Garsek, P.C., Landers Point Office Bldg., 3815 Lisbon St., Fort Worth 76107.

Gregory G. Jones, formerly with Laird & Jones, L.L.P., has opened an office for the practice of law at 611 S. Main, Ste. 300, Grapevine 76051.

Gary A. Armstrong, formerly in-house counsel with Citifinancial Credit Corp., and **Carron N. Arm-**

strong have opened Armstrong Law Firm, 8300 Douglas Ave., Ste. 800, Dallas 75225.

OUT OF STATE

Clint Howie has become an associate of McGlinchey Stafford, P.L.L.C., One American Place, 9th Floor, Baton Rouge, La. 70825.

Allison Hunnicutt Hauser has become a shareholder in Marks Gray, P.A., 1200 Riverplace Blvd., Ste. 800, Jacksonville, Fla. 32207.

Ray Van Dyke, formerly an IP shareholder in Jenkins & Gilchrist in Dallas, has become a partner in Dorsey & Whitney, L.L.P., 1001 Pennsylvania Ave., N.W., Ste. 300 South, Washington, D.C. 20004.

Michael C. Gridley, formerly with the Union Pacific Railroad Law Dept. in Houston, has opened an office for the practice of law at 424 Sherman Ave., Ste. 208, Coeur d'Alene, Idaho 83814.

SOUTH TEXAS

Mario A. Rodriguez, formerly a named partner in Garcia & Rodriguez, L.L.P., has opened The Rodriguez Law Firm, P.O. Box 5427, McAllen 78502-5427.

SOUTH CENTRAL

Stephen D. Navarro, formerly an associate of Lane, Gannon & Taliaferro, L.L.P., **James K. Jopling**, formerly an associate of Adami, Goldman & Shuffield, and **Marcella Algarra** have become associates of Brock & Person, P.C., Union Square Bldg., 10101 Reunion Place, Ste. 1000, San Antonio 78216-4157.

Mark V. Muller has joined Schwegman, Lundberg, Woessner & Kluth, P.A., 2618 Hopeton Dr., San Antonio 78230.

James M. "Jamie" Patterson, III has joined Bray and Chappell, Inc., 1250 N.E. Loop 410, Ste. 315, San Antonio 78209.

Ray Leach and **Craig L. White** have opened an office for the practice of law at 111 W. Olmos Dr., San Antonio 78212.

WEST TEXAS

Jorge Luis Rivas, Jr., formerly with the El Paso County District Attorney's Office, has become an associate of Robles, Bracken, Coffman & Hughes, L.L.P., 100 N. Stanton, Ste. 1310, El Paso 79901.

STATE BAR GRIEVANCE DEFENSE LEGAL MALPRACTICE

Over 25 Years Experience

WAYNE H. PARIS

Eight Greenway Plaza, Suite 818, Houston, Texas 77046
(713) 951-9100

Statewide Representation

No Merit - No Charge

MED Witness, Ltd.

medical expert testimony in medical malpractice, personal injury & disability claims

**Med Witness provides
quality medical experts in
any field of health care**

847-673-4422

MedWitness.com

We are in full compliance with the new Texas Case Law pursuant to section 13.01