

Associates Versus Paralegals: The Shifting Balance Of Profitability

By D. Jeffrey Campbell, Managing Principal, Porzio, Bromberg & Newman; Chair, American Bar Association, Standing Committee on Legal Assistants, 2002-2003

Anyone who questions whether it makes sense to utilize paralegals in the practice of law should think back to January and February of 2000, when most of the major law firms in the country increased associate salaries by 20 to 40 percent. You couldn't pick up the legal press without seeing a story about skyrocketing associate salaries or the need for firms to match competitors' salary increases in order to attract and keep good associates. Even more galling were the statements by brash young associates, circulating in cyberspace, that if they didn't get top dollar at their current firms, they would leave.

The associate pay one-upsmanship of the large national and regional firms, which arguably could afford it, had an unfortunate "trickle down" effect throughout the legal marketplace. Mid-sized firms increased salaries in an attempt to maintain their competitive positions with larger firms. Small firms in turn raised their salaries to try to remain competitive with mid-sized ones. Although the salary differentials between large, mid-sized and small firms grew, associates across the range of firm sizes made more money, and law firm owners less.

Yet throughout the media feeding frenzy that accompanied the associate salary wars, I didn't see one article or hear one story about a law firm increasing paralegal salaries in order to compete for talent. In fact, paralegal compensation in most markets was virtually unaffected by the rush to pay young lawyers even higher, and more insupportable, salaries. That alone should be enough to cause firms to consider paralegals as an attractive alternative to associate attorneys.

As many law firms are now struggling through the compound effects of the economic downturn and increased associate compensation costs, it is an appropriate time to reflect on the economic advantages of paralegal utilization. As mentioned above, at large law firms, paralegal compensation increases have not kept pace with associate compensation increases, either in absolute or percentage terms. The following chart is illustrative:

	1991	1999	2001
Starting Associate Salary	\$70,000.00	\$90,000.00	\$115,000.00
Experienced Paralegal Salary	\$35,000.00	\$50,000.00	\$55,000.00
Differential	\$35,000.00	\$40,000.00	\$60,000.00

While one could certainly point to firms that have paid higher or lower salaries for starting associates or experienced paralegals, these numbers are reasonable approximations of the market over the past ten years. They demonstrate the significant increase in the gap between salaries of starting associates and experienced paralegals. This increase in the cost differential between associates and paralegals can only be overcome by a like increase in revenue differential, which is dependent on is proportionate increases in associate billing rates or average client billable hours.

However, the mature nature of the legal market has made it difficult to increase associate billing rates significantly. And the personal and social values of many of today's "Generation X" associates has made it equally difficult to increase the average number of client billable hours. Therefore, the relative profitability of associates to paralegals is not as favorable today as it has been in the past.

The cost differential in employing associates and paralegals is further illustrated by the disparity in the cost of turnover. The cost of losing and replacing a second- or third-year associate is generally estimated at approximately \$200,000. The cost of losing and replacing an experienced paralegal, on the other hand, is only roughly \$100,000. Thus, although paralegal turnover is expensive and should be minimized, it is only roughly half as expensive as associate turnover.

Minimizing costly turnover among firm personnel is one of the primary benefits of leveraging a law firm with paralegals. Paralegals are not subject to the same "up or out" model that governs associates. Paralegals will never become owners of the firm. Associate attorneys, especially the good ones, aspire and expect to become owners. Just when the firm has invested enough money in associates to make them competent, efficient practicing lawyers, they want to share in the profits. If the firm makes them owners, it has lost the leverage and the investment. If the firm doesn't make them owners, they leave, and the firm has still lost the leverage and the investment. This is a fundamental challenge to achieving long-term profitability through associates.

A second, but related, reason that makes it difficult to achieve long-term profitability through associates is that to do so requires the firm to grow continually. If a firm wants to utilize associates, those associates must be good lawyers. If they are not good lawyers, their legal work will not be satisfactory and the firm will either lose clients or fail to develop new ones. However, it is very difficult to hire and retain good associates if the firm does not hold out some hope for partnership. Therefore, if the firm wants to have good associates it must continually increase its client base, because to have good associates is to make new partners, which dictates that new work be found to leverage the new partners. In a mature legal market such as exists today, it is very difficult to develop an ever-increasing amount of legal work through the existing firm lawyers. Therefore, maintaining leverage and profitability solely through associates is very problematic as a long-term strategy.

Paralegals, on the other hand, never become owners. Systemic turnover is reduced because they do not suffer from the "up or out" syndrome. They can be trained over a relatively brief period of time and become reliable and steady long-term contributors to the bottom line. They never require new leverage to support themselves. They are the leverage that supports the firm.

In short, last year's radical increases in associate compensation, followed by this year's economic downturn, have effectively highlighted the benefits of employing paralegals to provide legal services. Paralegal profitability, relative to that of associates, has improved over the past several years and paralegals can provide stable long-term leverage in a way that associate attorneys never will. As employers and educators in the legal field, we ought to encourage the greater use of paralegals, not only for the oft-cited reasons of improved client service and reduced client costs, but also as a stabilizing factor in the economic life of the law firm.

Reprinted from the Fall 2001 issue of the ABA SCOLA Update