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Why partnership is killing the legal profession

BY LEE WALLACE

A CLOSE FRIEND OF MINE was a mid-level associate at a well-respected, large Atlanta firm. When a seat came open in the Georgia legislature, she wanted to take a two-month leave of absence to run. The firm told her in no uncertain terms that if she wanted to remain an associate at that firm, she could not take the time to be in the legislature, much less take time off to run for it. My friend did not run, but nor was it long before she left the firm.

Fifty, maybe even thirty, years ago, that same firm would have been delighted to see one of its members interested in moving into one of the most powerful positions in the state. The senior lawyers in the firm would have encouraged all the young lawyers in the firm to look for ways to serve within the community.

Even aside from the benefits the community would receive, it made business sense: the young lawyers would get clients from among the people they met.

But the pyramid partnership system is killing our profession. Instead of groups of colleagues at various stages of growth and success, law firms have become divided into two increasingly hostile camps: partners

and associates. The change has destroyed collegiality and made work life less pleasant for everyone.

Even more problematically, the partnership pyramid system has created all the wrong incentives. The partners at the top make more money when associates work longer hours, and so the logical consequence is that billable hours rise.

Rising associates are now threats, instead of the future of the firm. Associates contribute profits to the firm, whereas partners take them. Associates are desirable; partners are not. As a result, training and mentoring have decreased to the point that the Bar and law firms are now trying to use forced programs to provide what used to be natural and intuitive.

Furthermore, law firms now are put in the position of needing to cull the lower ranks. To do that, initially law firms adopted an "up and out" system, in which associates worked seven to eight years, and then most were told they had to leave the firm. That system was so counter-productive business-wise, that it has been replaced, at least to some extent.

Now more lawyers can remain at the firm and be called partners, but some are "more equal" partners, and share in the equity of



Lee Wallace, GAWL President

the firm, whereas others are "less equal" and languish at the non-equity level.

Even more drastically, the community and the legal profession have suffered. As billable hours have risen and law firms have stopped encouraging their lawyers to take on community service, lawyers have disappeared from the boards of community projects. The community misses the energetic, bright young lawyers who once spearheaded the projects that benefit all of us.

See *Partnership*, page 2B

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Voluntary benefits provide options amid rising health care costs

BY STEPHANIE CROSSE

WOMEN REPRESENT 51 percent of the population in the United States and nearly 47 percent of the labor force.

As of 2006, there were an estimated 10.4 million privately-held firms in the United States in which women were half or majority owners. Women-owned businesses account for 70 percent of all new businesses opened over the past decade. They generate \$1.9 trillion in annual sales, employ 12.8 million people and spend an estimated \$546 billion annually on salaries and benefits.

Despite this growing financial success among women, the increasing cost of health care is a major concern for female consumers as they look for ways to balance routine expenses with the rising price of medical treatment. The apprehension of coping with mounting expenses is not limited to employees. Business owners also distress over how to handle rising costs, and search for options that will reduce their operating expenses. An overwhelming concern for women in both groups is the continuing spike in health care costs.

Voluntary insurance benefits offer two major advantages for businesses and their employees. First, adding voluntary benefits helps recruit and retain employees by bolstering benefit packages at little to no cost to the business. Second, voluntary benefits can provide added-value for businesses of all sizes from small companies with as few as three employees to large corporations with a huge workforce.

Voluntary benefits provide a cost-efficient way for employees to cope with rising health care costs while also presenting options for obtaining quality medical care and covering routine expenses in case of an untimely medical event.

Few American workers have the rec-

ommended three to six months of personal savings to cover living expenses in case of a rainy day. Making voluntary benefits available to employees is a great way to recruit top talent and also helps workers with financial planning, allowing them to better handle expenses incurred from an unexpected health emergency.

Voluntary benefits provide a cost-efficient way for employees to cope with rising health care costs while also presenting options for obtaining quality medical care and covering routine expenses in case of an untimely medical event.

Voluntary benefits are generally paid directly to the employee and can be used toward expenses like co-payments, mortgage, groceries, and car payments while employees are away from work recovering from an injury or illness. The policies are also portable, so employees can maintain the same benefits at the same premium if they change jobs.

Whether a new entrepreneur recruiting your first employee or a seasoned businesswoman looking for ways to enhance benefit offerings, voluntary insurance products can help you manage health care costs while providing added-value for your workforce.

Stephanie Crosse is an attorney with Aflac and the President of GAWL's Columbus Chapter.

Partnership, from page 1B

By dint of the types of issues we handle, lawyers always have had more than their share of criticism, but it is very difficult to truly hate someone who is working diligently to make your community better. Now, for the first time, fewer lawyers are active in the community to dispel the myths and to defend the law itself.

The entire legal profession is suffering because of the pyramid partnership system. Money, whether in the form of partnership compensation or astronomical associate salaries, cannot fill the void that lawyers feel when they work in unpleasant

environments, in more sterile communities, with less community and family support, and in a society increasingly hostile to their profession.

Changing our profession will require some radical decisions: to cut hours, to sacrifice time to train and mentor lawyers, and to create law firm models that give incentives for training and community work. But we will all – top to bottom – benefit.

Lee Wallace is the President of GAWL and practices plaintiffs' personal injury and whistleblower law at the Wallace Law Firm, L.L.C. <http://www.thewallacelawfirm.com/>

SAVE THE DATE: THE ANNUAL DINNER IS MAY 8

JOIN YOUR FRIENDS IN GAWL for the Annual Dinner, a celebration of GAWL! The Annual Dinner and Meeting will be held at 103 West (103 West Paces Ferry Road, Atlanta, GA 30305). We will enjoy a networking/cocktail hour from 6 to 7 p.m. and a relaxed meal and awards ceremony from 7 to 9 p.m.

Recipients of GAWL's most prestigious awards, including the Kathleen Kessler award, will be announced. In addition, GAWL will be recognizing:

- The trailblazing women who have been practicing law for 35 years or more
- The inaugural class of GAWL's Leadership Academy
- The GAWL Foundation scholarship recipients

A shorter formal program this year means more time for networking, catching up with old friends, and celebrating one of GAWL's best years yet. Register now!

\$50 - GAWL Members; \$80 - Non-Members;

\$25 Members of the Judiciary and Public Interest Attorneys

Alternative billing: taking your practice beyond the billable hour

BY IRMA ESPINO

IT'S THAT TIME of the month: you've sent your bill out. It's just a matter of time before the phone rings, with your client on the other end asking, "How many more hours will it take to complete the case?"

Hourly billing is probably the most common method used by attorneys, but lawyers and firms did not always bill by the hour. For most of history, lawyers considered the difficulty of a matter and the results obtained when charging clients, and often sent bills marked "for services rendered."

The rise of billable hour can be traced back to the 1950's-60's as consultants promoted hourly billing to increase firm profits. The billable hour model was simple: to make more money, firms could increase hourly rates or hours worked. As it turns out, the model had a simple downside: a practice based on billable hours is one that ensures a ceiling on profits. No one can bill twenty four hours a day. Besides, few clients want to have a crucial motion drafted at the end of a fourteen hour day. In spite of how some people behave, human capacity for work is, in fact, limited.

The practical result of the billable model is an increase in the hourly rate and hours worked. The secondary effects that flow from it read like a list of what is wrong with the legal profession: lack of collegiality (since time spent chatting with colleagues is time not spent billing), fraudulent billing, intentionally stretching out the time it should take to finish a matter, unpredictable costs for clients, little time for friends, family or community service, and a system that rewards lawyers for quantity over quality.

I know many of you are thinking to yourself, "if the model is so flawed, why are we still using it?" The continued dominance of the billable hour boils down to fear of change. In spite of the negative impact on the profession and lawyers' personal well-being, simplicity, familiarity and fear serve as interlocking and reinforcing pressures against change.

To break out the billable hour model we,

lawyers as a profession, must remember that the most valuable product for sale is not time. The product for sale is our skill, expertise, innovation and service. Once we re-focus our perspective it is clear that many attractive alternatives exist. Flat fee, fixed-project based fees, contingency fee, and value/success based billing are among our options.

My favorite alternative is value billing. It makes sense to talk about fees in terms of value. In a value billing model, the lawyer and client determine the fee together, before the work is performed. Before you scoff at the notion, I am inclined to point out that even skyscrapers have a price. When you go out for a burger, or shop for a refrigerator, you're never told that no one know what the product will cost. In the case of much more complex transactions, such as building a skyscraper or an aircraft carrier, even though there are many factors out of the control of the builder, the parties still predict cost, or at least agree upon a methodology for establishing the likely cost in advance, plus a process for handling any unexpected changes.

Likewise, in determining the value of legal services you must ask: What is it worth to your client to avoid expensive litigation? What is it worth to your client to operate a business free from worry about meeting legal deadlines and having compliance issues handled in a timely and accurate manner? How will we handle unexpected complications? By providing a value added service you transcend the role of just another service provider sending monthly invoices, and become an indispensable partner in your client's success. It is hard to quantify the value of well-crafted legal plan. But any client who has been through costly litigation should have an understanding of the value your legal expertise, innovation and service can bring.

Irma Espino is an associate with Cook, Youngelson & Wiggins, LLC. Her practices are focused on First Amendment litigation, alcoholic beverages and business law matters. Irma is admitted to practice in all courts in Georgia and federal court for the Northern District of Georgia. She is also an active member of the Atlanta Bar Association Council of Young Lawyers, Georgia Association of Women Lawyers and the Hispanic Chamber of Commerce Legislative Committee. Irma is also fluent in Spanish.



Irma Espino

A visit with old friends: female attorneys on the small screen

BY TRACEY LYNN MOORE

To her assistant - "Get me something in a waffle cone, eat it, and then e-mail me what it tasted like."

— Divorce lawyer Cooper, Notes from the Underbelly

CORBIN BERNSEN, JIMMY SMITS and Harry Hamilin as your co-workers; discovery limited to heated depositions that just happen to involve your crush as the opposing counsel; jury trials that begin and end within a half hour; apparent unlimited wardrobe budget because you are never seen in the same outfit twice; everyone gets off at 5 o'clock, goes to the local bar, listens to Vonda Shepard, and gets invited to sing on stageyep, that sounds like the lives of the female attorneys I know.

Ally McBeal

What is it about TV attorneys that are so fascinating to watch? How many Law and Orders are there now? JAG is on every night in syndication. TV Land (believe it or not) airs Night Court. Yet, how many of these shows depict only one female attorney in the bunch? Yes, I know, Ally McBeal. However, let's not forget that Calista Flockhart's alter-ego was on the cover of Time Magazine in 1998 under the heading "Is Feminism Dead?" Not exactly a boost for the female attorney being repre-

sented on the small screen.

Was she the epitome of a female attorney? "Of course not," you say as you sit there with your crackberry in one hand, Red Bull in the other, and wearing the same pants as yesterday because you can't get to the cleaners during open hours. You are busy, you are overworked, and you don't wear skirts that start 3 feet above the knee to court. While Ally and her legal acumen can scarcely compare to yours, what female attorneys on TV ever have? Will we ever get the female Matlock or Perry Mason? Or are we stuck forever with this dancing-baby counterpart?

Sex and the City

The NYC ladies who lunch became cover girls for Time as well when it juxtaposed their pictures to the question, "Who needs a Husband?" I always found this odd, as if the reporter had never watched the show. In fact, wasn't the whole point that they were happy that they were unhappy in love together?

Miranda, the smart one of the foursome, was a lawyer. We know that she went to Harvard Law School. We know this because she brought it up every other show. Because she yelled at her housekeeper when she moved her Harvard Law School mug. Miranda is an extreme example of a female attorney stereotype. Miranda was independent and intelligent

and had a short haircut and wore ill-fitting clothes so we would know she was serious. She was single and put her love life on the backburner while she scribbled on yellow legal pads on her dining room table and ate dinners of chocolate icing out of the tub. This was the gal to have on your side. And the culmination of all this hard work — she became a partner! The pinnacle was reached, she did it...and then got pregnant. Trying to balance the firm with the family wasn't easy, and ultimately Miranda was enveloped with guilt when she was home away from the office, and guilty when she was at the office away from home. By the time the show ended, the character became the embodiment of the internal struggle of dual roles that many attorneys face.

Notes from the Underbelly

First of all, this is not a great show. IF you have enough room on your TiVo, consider taping it for the rare occasion when American Idol or Dancing with the Stars isn't on. Rachel Harris' martini guzzling, relationship-adverse Cooper will never grace the cover of Time, but her sharp comedic timing is pure gold. As an attorney, she doesn't just say the things that we all think, but can't say; she says the things we would never think of, and never ever daring to say!

Cooper calls the firm staffers "brown baggers," and laments during a blackout that she hates disasters because the sup-

port staff thinks they can come to work in jeans. "She's not all squished up and gross. Good work." Cooper says praising her friend's newborn baby. Oddly, under the insulting wit, she's likable. And while she is ridiculously larger than life — the attorney humor she provides is a lot spicier than the daily joke on your day-by-day tear-away calendar.

The L.A. Law Effect

Sure, there are other iconic female solicitors I missed. There is the chick from L.A. Law who used to play keyboard and wear a poncho. Dylan McDermott's wife and co-worker at The Practice. Murphy Brown joined Boston Legal. Let's not forget the loooooong list of female assistant district attorneys on Law & Order that look like gorgeous models and never seem to impress Jack McCoy.

So, the practice of law isn't what we see on TV. And yet, L.A. Law was the impetus when law school applications started to go through the roof in the 80s. The trend continues to this day. Dick Wolf and David E. Kelly should offer written apologies to all disillusioned attorneys. But in the meantime, let's thank them for some memorable, entertaining characters, and the promise of more to come.

Tracey Lynn Moore is the Managing Director of Operations at Hudson Legal and can be reached at 770-325-0694.

Atlanta Chapter hosts 12th Judicial Luncheon

GAWL'S ATLANTA CHAPTER hosted its 12th Annual Judicial Luncheon Honoring Women of the Metropolitan Judiciary on Friday, Oct. 26, 2007, at the Capital City Club in downtown Atlanta.

More than 135 attorneys and judges attended the luncheon, at which the Atlanta Chapter recognized the contributions and leadership of women jurists from the State, Superior, Federal, and appellate courts of Georgia. Cathy Cox, President of Young Harris College, gave opening remarks which invited the attendees to use the luncheon as an opportunity to discuss with the judges the obstacles and triumphs which had the greatest impacts on their careers.

At this luncheon, a 3L from John Marshall School of Law, learned firsthand the benefits of networking. Angel Jacobs, who also served as the John Marshall School of Law GAWL Chapter President, met practicing lawyers and judges in a rare setting that she called "sophisticated." Equally sophisticated was her response to the opportunity to be among

legal practitioners. "While the motivating speakers alone justified the cost of the event, more good fortune came my way. I was lucky enough to be sitting at a



Cathy Cox

table with two Judges. As a direct result of that interaction, I obtained an internship with one judge and the other judge kindly agreed to be the honoree for the John Marshall Chapter of GAWL's Fall reception!" Unsurprisingly, Angel strongly encourages other law students to attend such events.

The Atlanta Chapter thanks Wargo & French, which co-sponsored the luncheon, and attorneys Jeanine Gibbs and Julie Jared, who planned the event. The Judicial Luncheon is held in the fall by the Atlanta Chapter of GAWL.

*Joyce Gist Lewis
Casey Gilson P.C.
www.caseygilson.com*

The shockingly short history of women in State Bar Leadership

BY LEE WALLACE

THE BAR HAS EIGHT OFFICERS: five are elected statewide, and three are elected by the Younger Lawyers Division.

Number of women (ever) elected statewide as officers of the Bar: 1 (Linda Klein)

The Bar also has an executive committee, which consists of the eight officers of

the Bar, plus six circuit representatives.

Number of women (ever) elected to one of the circuit posts on the Executive Committee: 4 (Linda Klein, Nancy Whaley, Aasia Mustakeem, and Phyllis Holmen).

If we are going to change these numbers, we have to have women willing to run for office in the State Bar, and we have to be committed to helping them get there.

SWING INTO SPRING

A GAWL Members Appreciation Free Event

Ann Taylor Loft at Atlantic Station is hosting a fun spring event only for GAWL members.

The event will take place Saturday, April 19, from 10 a.m. to 1 p.m. and will only be at the Atlantic Station Ann Taylor Loft.

At this event, Ann Taylor Loft will provide GAWL members fantastic hors d'oeuvres, a 15% discount on all purchases, a 20% discount on purchases of \$100 or more, and honor any

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