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Milbank's Big Bet

By William Henderson
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More than a hundred years ago, an ambitious business lawyer developed a new way to organize a law firm. The firm combined teams of specialized lawyers with an incentive structure that rewarded efficiency and high quality work. The coordination of skill and effort enabled the firm to handle large, complex legal matters and obtain excellent, cost-effective results.

The clients were very impressed by this service, so the work poured in. To take full advantage of high client demand, the firm needed more specialized, sophisticated lawyers who could manage and delegate work. Since no law school could fill this order, the ambitious business lawyer decided to build a highly technical training process into the day-to-day flow of client work. The training process was an enormous investment of time and money, but it also enabled the firm keep pace with its clients while improving the knowledge and skills of the firm's lawyers. Within a decade, some variation of this model—the "Cravath system", designed by Paul Cravath—was implemented by business law firms in virtually all major U.S. cities.

The model endured for so long because everyone– partners, junior lawyers and clients – was made better off. Although changing business conditions have placed this model under stress, its original logic provides valuable clues on how we might adapt.

Is the test of a great business model the ability to make all stakeholders better off? If so, Milbank Tweed's new initiative with Harvard University, dubbed Milbank@Harvard, may provide a blueprint for new, more sustainable law firm model.

As I make this claim, I can practically hear readers scoffing. "Milbank@Harvard is a PR manuever, a branding exercise between two elite institutions." Yet, when Milbank@Harvard is deconstructed and mapped onto the needs and desires of partners, junior lawyers and clients, it contains much of the same elegant business logic as the original Cravath system.

Perhaps the most striking parallel is the emphasis on *creating* better lawyers. Each year, Milbank will send its entire midlevel ranks -- roughly 150 lawyers three to seven years out of law school, 40 at a time -- to Harvard University for eight days of intensive business-oriented training. The curriculum is sequenced over four years to match the professional development needs of junior, midlevel and senior associates.

At a time when virtually all large law firms are cutting back on professional development budgets, the cost of Milbank@Harvard should convince readers of the sincerity of Milbank's initiative. Consider the following back-of-the envelope calculations:

- Tuition: $12,000 tuition per associate (an estimate based on typical executive education training) x 150 associates = $1.8 million annually.
- Travel and Lodging: $3,500 for travel and lodging x 150 associates = $525,000 annually.
- Lost billings: 8 hours per day x 8 days x $350/hour x 150 associates = $3.4 million.
- Total cost: roughly $5.8 million per year.

A lot of money. It comes to almost $50,000 for each of Milbank's 119 equity partners. But I believe that it is money well spent, that the program will allow the firm to grapple with four interconnected trends that any firm must conquer if it aspires to a marquee position in the market.

Trend 1. Tight Market for Lateral Associates

After the 2008 market crash, the number of entry level associates shrank by over 50%. The firms had less work, and clients were less willing to pay the full freight for first and second-year associates. One of the reasons partners tolerate first and second-year associates is that some of them become *midlevel* associates –and midlevels are an indispensible part of the law firm leverage model, particularly for the traditional Wall Street firms.

For the next several years, the laws of supply and demand are going to favor lawyers who entered practice during the 2008 to 2010 trough. Already, NALP is reporting that lateral movement among associates has increased a stunning 61% between 2009 and 2010. As I discuss in Trend

2, Milbank@Harvard gives the firm a valuable tool to attract and retain its share of talented midlevel associates.

Trend 2. Midlevel Associates Want More Business Training

Milbank has likely identified a retention sweet spot. According to the findings of *The After the JD Project,* which tracks the careers of 4,000 lawyers who passed the bar in 2000, over 60 percent of lawyers with two to seven years into practice “wish [they] had received more business training in law school.” The percentage increases to 74 percent for graduates working in firms of 250+ lawyers and 81 percent for those working in corporate legal departments.

Over its four year duration, Milbank@Harvard is the functional equivalent of an executive MBA degree from Harvard Business School. From the perspective of a midlevel associate, this course work fills an important professional development need.

Trend 3. Clients are Demanding More Value

If Milbank@Harvard provides midlevel lawyers with an important skill set, it is not unreasonable to think that the clients will notice. The most successful outside counsel are those who understand their clients’ business and are focused on achieving their business objectives. If a lawyer can’t read a balance sheet or understand the various methods of business finance, he or she is a less capable business advisor.

On-the-job mentoring by older lawyers may not be the best way for lawyers to learn what they need to know. Associates may learn more in an academic environment where they feel free to ask both technical and big picture questions. The eight-day training session also enables associates to engage in “reflective practice” (expanding one’s professional skills and knowledge base through reflection on prior work), which is a critical element of achieving technical mastery. Upon returning to the firm, the associates will see their clients’ problems with fresh eyes.

When your typical midlevel associate is better than your competitor’s, your client is more likely to pay the bill and give the firm more work. Although any return on investment is hard to calculate with precision, within a year to two, the enhanced good will of clients could be – by itself—a substantial multiple of the program’s annual $5.8 million price tag.

Trend 4. Shrinking Partnerships

Despite the skyrocketing pay, the career paths of large firm associates are a lot murkier than the used to be. Several decades ago, associates passed up for partner at a leading New York City firm could count on a high quality outplacement with a client or a regional firm. But well-trained lawyers are no longer in short supply, and virtually all middle-tier business firms in the larger markets have been gradually swallowed up in the geographic expansion of the Am Law 200.

With heightened competition and a revenue pie that is no longer growing, firms are carefully guarding the entry to equity partnership. Between 2008 and 2009, the number of equity partners in the Am Law 100 actually shrank by an average of one partner per firm (189 to 188). For Am Law 100 firms headquartered in New York City, the equity ranks shrank by an average of four partners (128 to 124).

Competitive pressures also are changing *who* becomes partner. To deal with flagging revenues, firms are drawn to the short-term fix of lateral partners with portable business. But in the medium to long-term, this approach undercuts the entire incentive structure for associates—years of loyalty, sterling work and tireless service, yet no guarantee of partnership or desirable outplacement prospects.

Similar to the original Cravath system, Milbank@Harvard has the potential to create an incentive structure that simultaneously advances the interests of clients, partners, and junior lawyers: (1) midlevel associates get high quality business training; (2) the clients get better service—so much so that Milbank could become the preferred recruiting grounds for high quality in-house talent; and (3) the enhanced outplacement reduces the pressure to grow the partnership while also improving relationships with major clients.

This trifecta of incentives is corroborated by other sources. According to data from *The After the JD Study*, graduates of Top 10 law schools—Milbank's target labor force—are the least satisfied with large law firm practice. This group is also the most likely to join an in-house legal department. For many elite law school graduates, an in-house legal position has become the new brass ring. If Milbank@Harvard is perceived to be the best path to that goal, then the firm's partnership will be well positioned to reap future business from a large alumni network of in-house lawyers.

Investing Money to Make Money

Fifty to sixty years ago, a lawyer training system was the core of virtually every firm that would later become part of the Am Law 200. This method of organization enabled the firms to "scale"—that is, to grow while simultaneously maintaining quality. Firms with this model were ideally positioned to profit from the post-War economic boom. By the end of twentieth century, many of these firms emerged as elite “brand” firms on either a regional or national level.

With so much prosperity for so many years, most of these firms have lost sight of the ingenuity and business logic that created the franchise. Today, it is hard to find a single law firm that claims to *create* great lawyers – instead they hire them, often laterally.

Yet, now that the demand for high-end legal services is flattening out, large firms are in the unfamiliar positions of fighting over market share. To prevail, law firms have to behave like other businesses—invest time and money today for a financial benefit in the future. Since law firms sell legal talent, a strategic investment in legal talent seems like a good place to start. Milbank@Harvard is evidence that at least one firm has figured this out.

William D. Henderson is professor of law and director of the Center on the Global Legal Profession at Indiana University's Maurer School of Law.