

# **Reinventing Work at Law Firms: Innovative Work/Life Programs as an Answer to the Economic Downturn**

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**Work/life balance programs  
and an economic downturn  
sound inconsistent  
but they could provide  
the answer.  
Here's how. . . .**



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## Economic Impact of Layoffs in the Down Market

1. Erosion of institutional knowledge
2. Loss of investment in talent
3. Retention risk of remaining lawyers
4. Low morale & productivity decline of remaining lawyers
5. Skills decline of laid off lawyers
6. Client frustration in lack of continuity of service
7. Client frustration to pay for new learning curve
8. Potential delayed resolution of legal matters
9. Increase in severance, outplacement and long term recruiting, training & replacement costs
10. Negative press & rumors alienate clients & legal talent



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Source: The Balance Beam, 2007-08

## Ways to Avoid Layoffs & Minimize Economic Impact

1. Get rid of billable hour & redesign firms
2. Use reduced hours in exchange
3. Face the **FACTS**
  - Keep the billable hour
  - Use multiple billable targets
  - Meet business needs
  - Meet demands of clients & colleagues
  - Improve lawyer productivity & satisfaction



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# Getting Rid of the Billable Hour & Redesigning Law Firms

- **Billable hour evils**
  - Penalizes productivity & efficiency
  - Creates temptations to pad hours
  - Negatively impacts collegiality
  - Discourages pro bono work
  - Provides no predictability of cost for client
  - Hinders associate training
  - Contributes to associate turnover in strong economic market
- **Billable hour impact**
  - Increased hourly rates & hourly demands are reaching a ceiling
  - Ethical implications – inconsistencies of client & lawyer interests
  - Clients demanding more value & showing less loyalty
- **Yet great risk of inaction**
  - Entrenched method from the 1950s
  - Method is simple
  - Puts a value on a service when it's hard to anticipate value
  - Has been profitable for law firms
  - Minimizes transaction costs for both sides
  - Fits with lawyers' risk aversion



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Source: ABA Billable Hours Report, 2001-02

# Reduced Hours & Alternative Options in Exchange for Layoffs

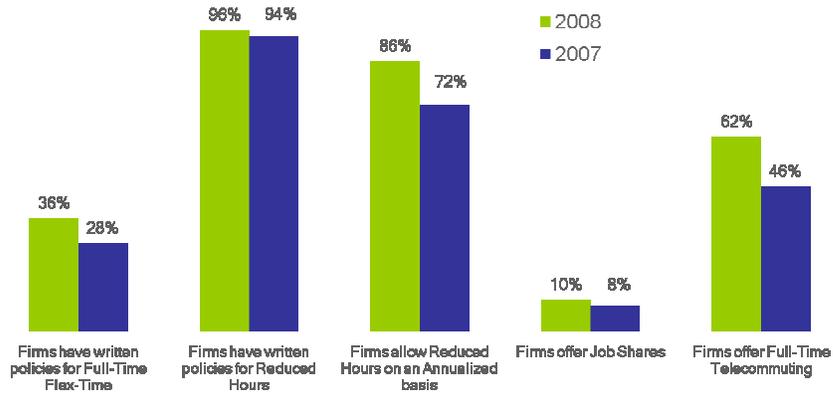
- **Reduced Hours & Alternative Options**
  - More reduced hours & reductions in pay
  - Unpaid vacations
  - Wage & hiring freezes
  - Delay raises, eliminate bonuses, cut salaries
  - Early retirement packages
  - Cut temporary staff
  - Reduce spending on marketing & travel
  - Encourage unpaid sabbaticals
  - Offer more telecommuting to save on energy costs
  - Pension cuts
  - Redeploy remaining lawyers to busier departments
  - Hire re-entry lawyers (on temp. or perm. basis) to fill talent gaps
- Risk that change is not large scale enough
- Risk that stigma & low usage will remain



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Source: WSJ, 12/15/08; NYT, 12/22/08

## Generous Access to Flexible Work



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Source: Best Law Firms for Women, 2008

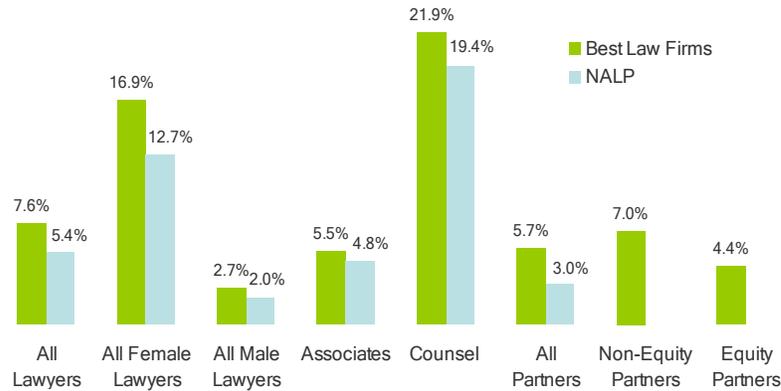
## Low Usage Rates for Flexible Work



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Source: Best Law Firms for Women, 2008

## Low Usage Rates for Reduced Hours



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Source: Best Law Firms for Women, 2008; NALP, 2007.

## Face the FACTS

- Keep the billable hour
- Get rid of terms “full-time” and “part-time”
- Example of inequity of terms in the same firm:
  - “full-time” litigator – 2300 hours
  - “full-time” trusts & estate lawyer – 1800 hours
  - “part-time” litigator – 1800 hours
  - “full-timers” in same dept. 500+ hour swings



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## Target Hours: “T” is the key to FACTS

- Target replaces “full-time” & “part-time”
- Target Hours provide framework for all
- Selecting multiple Target Hours



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## Determining Target Hours

- **Create multiple tracks of Target Hours**
  - 4 - 6 different sets of Target Hours and promotion rates
  - 1200, 1500, 1700, 1800, 2000, 2200
  - Set by whole firm or by department
  - Same process high or low Target Hours
  - For lower Targets, promotion may be delayed
- **Business & departmental needs control**



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## Determining Compensation

- Pre-set salary range
  - Set for each level of experience
  - Compensation adjusted based on Target Hours
- Individual compensation further assessed
  - Billable & non-billable Target Hours
  - Quality of work
  - Contribution to firm operation & community
  - Business generation, where appropriate
- Annual review – hours & compensation



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## After Determining Target Hours

- Four other prongs of FACTS:
  - About the way work gets done
  - Where, what, how & when
  - Optional work/life features



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## Four Prongs of FACTS Address Work/Life Parameters and Aspirations

- Four parameters of work/life
  - Nature of the practice & market
  - Venue/Place of employment
  - Home
  - You
- Five work/life aspirations
  - Predictability & control
  - Flexibility
  - Fewer hours
  - Being off call
  - Location



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## Fixed Hours: the “F” in FACTS

- FIXED
  - Temporary or permanent
  - Give up high quality & exciting work
  - Potentially give up opportunity for promotion
  - Gain more control & predictability
- Lawyers needs/desires may change
- Business needs & work availability control



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## Annualized Hours: the “A” in FACTS

- ANNUALIZED
  - Hours viewed over the year
  - Erratic 24/7 availability
  - High-intensity deals or matters
  - Followed by more frequent or longer reprieves
  - Target Hours can range from low to high
  - Can also be done for contract lawyers
- Most popular in corporate departments
- Track hours quarterly



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## Core Hours: the “C” in FACTS

- CORE
  - Blocks of key hours in some or all workdays
  - Regularly telecommute and/or work unconventional hours
  - Requesting attorney, department chair & supervising attorneys
  - Match schedule & location requests with firm & client demands
- Requires
  - Excellent communication
  - Flexibility
  - Availability for crises during non-Core Hours
- Formalizing avoids
  - Ad hoc treatment
  - Favoritism
  - Inevitable crises from secrecy



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## Shared Hours: the “S” in FACTS

- SHARED
  - Two attorneys share the same position
  - Each step into the other’s shoes, preset rotating basis
  - Attorneys absorb transition costs, where necessary
- Benefits
  - Predictability & control
  - High quality work
  - Five days of office coverage
  - Responsiveness & accessibility



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## Re-cap of FACTS

- F is for FIXED
  - Less high-profile work on a temporary or permanent basis
  - More predictable hours impacting likelihood of promotion
- A is for ANNUALIZED
  - Intense, high-profile work
  - Followed by longer reprieves
- C is for CORE
  - Designing work in blocks of hours
  - Around outside commitments & work demands
- T is for TARGET
  - Create multiple Target Hours of 4 – 6 billable tracks
  - Compensation adjusted to targets & promotion rates may be delayed
- S is for SHARED
  - Two lawyers work as a team
  - Staffed to step into each other’s shoes & create more predictability



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## Applying the FACTS: Firms with “T” - Multiple Targets

- 2009 Best Law Firms for Women findings
  - 26 out of 105 applicant firms reported multiple Target Hours
    - Eleven firms reported 2 Target Hours
    - Thirteen firms reported 3 or more Target Hours
    - Two did not report number of Target Hours
  - Target ranges from 1200 – 2200
  - Most popular ranges 1700, **1800**, 1900, 2000



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Source: Best Law Firms for Women, 2009

## Example of the “T” in FACTS Multiple Targets

- **Chapman & Cutler: two-track system**
  - Associates can opt for compensation tracks 1850 or 2000
  - Both tracks are partner eligible
- **FACTS is going a step further**
  - Create more Target Hour tracks (folding in reduced hours)
  - Eliminate “part-time” and “full-time”
  - For lower Target Hours, promotion may be delayed



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Source: The New York Times, 1/24/08

## Example of the “C” in FACTS Core Hours – the Future of Work

- **Greenberg Traurig, LLP**

- Re-thinking office design & purpose
- Miami new office, from 185,000 to 125,000 sq. ft.
  - Smaller office but designed for more lawyers
    - More communal spaces
  - Clients no longer visit except in conference centers
  - More visits to clients’ offices
  - Gen Y doesn’t value corner offices like Boomers
  - Increased interest in telecommuting (Core Hours)
  - Going green
    - Minimize commutes
    - Increased use of satellite offices



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Source: The Balance Beam, 2007-08

## Example of the “C”, “T” and “A” in FACTS

- **Cleary Gottlieb’s Telecommuting policy (Core)**

- 1 day a month, associates at firm up to 1 year
- 2 days a month, associates at firm more than 1 year

- **Cleary’s Flexible/Reduced Schedule policy**

- Lawyers at firm 2 years, forms of flexibility include
  - one day off weekly (lower Target)
  - breaks at end of deals/ certain months off yearly (Annualized)
  - work full-time & telecommute more (Core)



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Source: Above the Law, 2008

## Fear & Criticism of FACTS

- With lawyers working less, firm still has overhead costs
- Corporate culture threat
- Not enough profit producers
- Certain practice areas will not draw same talent
- “Mommy tracks” and “pink ghettos”
- Clients will not support work/life environment
- Collegiality impact of differing compensation
- Administration is too burdensome
- Lockstep compensation benefits associates
- Compensation penalty for lower hour tracks



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## Benefits of Multiple Billable Hour Targets in FACTS

- Lower Target Hours & proportional lower pay
  - Avoid layoffs & outplacement, severance & litigation costs
  - Avoid loss of institutional knowledge
  - Retain talent while minimizing excess pay
  - Avoid expenses to recruit & train new talent
  - Avoid uncertainty in hiring future talent
  - Engender loyalty
  - Improve morale & minimize burnout for all lawyers
  - Reduce client frustration & improve quality & continuity of service
  - Improve firm culture as a distinguishing feature
  - Minimize stigma with all in one & address intractable problem
  - Manage the same overhead or consider office redesign



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## Work/Life Benefits of FACTS

- Employ large scale response to downturn
- Easy means to raise or lower hours
- Respond to technology age & globalization
- Address generational shifts & issues
  - Boomers (76 million born 1946 – 1964)
    - Comprise 70% of law firm partners
    - Phased retirement & succession planning
  - “Gen Y” (80 million born 1980 – 2000)



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## Educating Lawyers on FACTS

- **Educate lawyers on new policy**
  - Firm meeting
  - Written policy
- **Disclose possible temporary nature**
- **Disclose preferred Target Hours**
- **Encourage lawyer proposals**
  - **Target Hours**
  - **How work will get done**
    - Without negatively impacting colleagues & clients



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## **Five ground rules for Implementation of FACTS**

- 1. Economic - not an accommodation**
- 2. Talent worth retaining & promoting**
- 3. Limits - business case & creativity**
- 4. Treating all the same, pro-rata**
- 5. Ten principles work in unison**



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## **Ten Principles for FACTS Success**

- 1. Written policy – uniformity, creativity & individuality**
- 2. Leadership**
- 3. Support & monitoring**
- 4. Mutual flexibility**
- 5. Ongoing communication**
- 6. Non-billable contribution**
- 7. Assignments & advancement**
- 8. Compensation**
- 9. Training**
- 10. Technology**



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## Keys to Reinventing Work & Facing the FACTS

- Guiding principles of business need & creativity
- Matching compensation with hours
- Bringing transparency & equity to billable hours
- Minimizing stigma – all in one system
- Increasing continuity & satisfaction for clients
- Capitalizing on flexibility of billable hour
  - Non-economic impact of affording more freedoms
  - Recognizing satisfaction in where & how lawyers work
- Giving firms a new framework in an old model
  - Panoply of options to choose piecemeal or adopt entirety



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## For More Information



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