

NALP & The NALP Foundation Present
**A Roundtable on the Future of Lawyer Hiring,
Development and Advancement**

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Offices of Arnold & Porter LLP
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EXCERPTS FROM THE TRANSCRIPT

Presented here are excerpts from the longer transcript of the roundtable conversation. Some comments have been edited for readability, but no substantive changes have been made to any of the remarks of the panelists. Omissions and words that have been added to ease readability are clearly marked with ellipses and brackets. Audio and video footage from the roundtable is available on the NALP and NALP Foundation websites (www.nalp.org and www.nalpfoundation.org), and a copy of the complete and unedited text transcript is available upon request.

Roundtable Panelists:

- Jerry Biederman, Managing Partner, Neal, Gerber & Eisenberg LLP
- Joe Caldwell, Chair, Diversity Committee, Baker Botts LLP
- Howard Ellin, Global Chair, Hiring Committee, Skadden, Arps, Slate, Meagher & Flom LLP
- Michael Fitts, Dean, University of Pennsylvania Law School
- Heather Fratton, Associate Dean for Career Planning and Placement, University of Pennsylvania Law School
- William Henderson, Professor, University of Indiana Maurer School of Law
- Frederick Krebs, President, Association of Corporate Counsel
- Thomas Leatherbury, Firm Hiring Partner, Vinson & Elkins
- James Leopold, Executive Director, NALP, Moderator
- Wally Martinez, Managing Partner, Hunton & Williams LLP
- Thomas Milch, Chairman and CEO, Arnold & Porter LLP
- Susan Robinson, Associate Dean for Career Services, Stanford Law School
- LeaNora Ruffin, Assistant Dean, Career Development, Widener University School of Law, and 2009-2010 NALP President

- Carol Sprague, Director of Associate/Alumni Relations and Attorney Recruiting, Skadden, Arps, Slate, Meagher & Flom LLP, and 2009-2010 NALP President-Elect
- Caren Ulrich Stacy, Director of Professional Development, Arnold & Porter LLP
- David Van Zandt, Dean, Northwestern University School of Law
- Kellye Walker, Sr. VP and General Counsel, Diageo North America
- Mark Weber, Assistant Dean for Career Services, Harvard Law School
- Scott Westfahl, Director of Professional Development, Goodwin Procter LLP, and chair elect of the Professional Development Consortium

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TAMMY PATTERSON: Good afternoon, everyone. My name is Tammy Patterson and I am the president and CEO of the NALP Foundation. And on behalf of NALP and the NALP Foundation, I would like to welcome you to the Roundtable on the Future of Lawyer Hiring, Development, and Advancement. Our organizations are very excited to bring together this distinguished group of industry leaders made up of law firm partners, law school deans, in-house counsel, legal recruiting, training and counseling professionals, and scholars for a moderated panel discussion about a number of the crucial issues facing the industry today. Our topics will include the changing landscape of lawyer recruiting and hiring, lawyer training, professional development, and advancement.

I would like to begin our program by thanking all of our panelists for volunteering their time to participate in this very important event. NALP and the NALP Foundation are pleased and excited to have such a distinguished panel of industry leaders joining us today. And now I would like to introduce my colleague, Jim Leipold, the executive director of NALP who will moderate our discussion today.

PART 1: RECRUITING AND HIRING

JAMES LEIPOLD: Thank you, Tammy. Good afternoon and welcome. These are certainly exciting times and I'm looking forward to our conversation about what's happening in our industry right now. We had a chance to gather questions for our conversation this afternoon from NALP members, members of the Professional Development Consortium, and some of you who have contributed questions. Our first conversation this afternoon is going to focus on recruiting and hiring, and some of the changes that we're seeing in that end of the business.

Prior to this recession, some people in our industry had already begun to question the current recruiting model, and recently some people have suggested that the recruiting process should be moved to the spring of the second year of law school rather than having OCI, as we do now, in August and September after the first year. Many people seem to agree that in this economy at least, hiring a large group of summer associates who will not enter the full-time labor force for two years no longer seems to make such sense. It's clear that law firms of all sizes are taking a serious look at the way they recruit and hire entry-level associates, and are questioning whether the traditional model of on campus interviews and summer associate programs is still effective. I would be very interested in hearing your thoughts about how this system might or should change.

THOMAS MILCH: Hi, I'm Tom Milch from Arnold & Porter. I want to first of all welcome everyone here at Arnold & Porter ... I want to focus my response to this question on one element of it ... and explain ... what is the most important positive aspect of the status quo that I think has to survive going forward. For the last ... 35 years ... the model for hiring associates in summer programs really has not changed very much at all, and I think that to some extent, the answer to the question here depends on a trade-off that exists between short-term economics and ... long-term institutional concerns.

From a short-term economic standpoint, I do think that there are changes that are going on that will affect the number of people hired, and will make it more difficult in the job market for people coming out of law school. But I think ... the essential element of the model that has to continue to exist is the ability to ... introduce ourselves to lawyers early in their career in law school, or very shortly after law school, so that they can begin to understand who we are, what kind of firm we are.... And while I think there is an overall market trend ... toward having more senior lawyers with more varied careers going into private law firms and being successful, I think that it's a mistake to lose sight of the enormous role that's played by people who came in through the summer program, who came in early in their career.... I think that while there will be fewer lawyers hired directly from law school, there will be more pressure on compensation. There will probably be more emphasis placed on experiences outside of law school. I think we intend, no matter what, to be in the face of law students early in their career, so that we can continue to attract the very highest quality group because they are the next generation of leaders in our firm.... If there is any change that I think I would stress going forward, the change that I think I am most interested in is more opportunity for people in law school to see different types of careers in action....

THOMAS LEATHERBURY: Tom Leatherbury, Vinson & Elkins, located in Dallas. I was a summer associate at Vinson & Elkins and started my career somewhere else, and returned as a lateral partner. So I understand some of us just don't get it as quickly as others.... I certainly agree with ... part of what Tom Milch is saying. I don't see a drastic elimination of summer programs in large firms, but the timing of the program really troubles me and it troubles me this year particularly. And maybe that's simply a short-term economic phenomenon, but with shortened summer programs, with [most] interviewing taking place in August, we're at six

schools on August 17th, six schools on August 26th — the logistics of it ... are very difficult. You may still have offer decisions hanging out there, you haven't seen how many of your summer associates are going to get judicial clerkships, so you don't know what attrition or how many of them are going to be pushed off a year. To me ... it [makes] a lot of sense ... to try to move 2L recruiting to the spring. And I understand there are all sorts of institutional issues and university calendar issues and curricular issues to deal with, but law firms simply aren't good enough at estimating the numbers of lawyers that they need two and maybe three years out ... particularly in a down economy.

HOWARD ELLIN: ... I would start where this question began.... This is something that is independent of the current economic situation. The economic situation to me is the Rahm Emanuel line that no crisis should be wasted. And this is the opportunity to evaluate it because people [didn't have this conversation] when it was 2007 and we couldn't hire enough people. We're here today because that's changed.... I think the core of the problem is ... that you need to rethink how you get those people in the door who actually want to be at your firm, who actually want to be in this industry. If we think back to the issues we focused on two years ago, it was all about attrition, [career] satisfaction..., were they coming in to do the right things, did they actually know what they were doing? None of which we ever had the time to answer or address, but those were the agenda items then. I think what needs to be done is a holistic rethinking of how we get people in the door, what the law schools do with them and say to them, how we meet them, how we get them to their firms, how we train them, how we develop them to create broader career satisfaction, better opportunity.

And, Tom, we agree with you completely. [We have] to have those leaders available to us when the time comes. I think the question of changing the date — it's almost easy, but for the law school calendars. I mean, no rational person would hire their people two years in advance if they had a choice. It makes no sense. But we have the system we have.... Clearly getting it much closer to when the people are going to come to work would make a lot more sense. I think having the summer programs continues to be an enormous value.... So I think it's a holistic fix right from start to finish, what people think about the profession when they started law school, how the law schools place them, how we hire them, and then once they work at their firms, how we build and develop them in the future.

JAMES LEIPOLD: I would love to hear a little bit from the law school perspective about what people think of the current recruiting model and how it's working on your campuses.

DAVID VAN ZANDT: ... First of all, let me say that I think the profession itself has to undergo a fairly substantial change in the recruiting model, in keeping the good parts that we already have, but at the same time really being sure we're getting the right people in the door in the law firms because I don't think that's happening. It's a model now where you just go out and throw a wide net and pull in people. And I've long advocated that firms really need to look at their data — they need to analyze their data and ... identify the characteristics that they're looking for in their candidates, and actually go out and professionally recruit them and not do what we do now, which is a fairly amateur operation. I think it has a fairly low hit rate in terms

of both people who can do the work and people who want to be there at the firm. So I would advocate using some of the techniques, say, in the consulting industry. McKinsey does a great job picking consultants. I'm not sure the retention rate is that much different, but they get people in the door who have a good chance of doing quite well and who like being there.

One thing I think the firms do have to remember on the retention front is most law students see their career as a multi-job career, and ... it's not necessarily the fact that they see working in your firms as the pinnacle of their career. Some do, and you're challenged to try to pick that group out. So first, I would advocate that you look at some other recruiting models that really are more data driven, that are really looking at the kind of person who can succeed. The second thing ... is ... I fully agree we should move the recruitment period ... — either to the spring ... or at least the late winter of the second year. I agree the summer associate programs are great and they need to be changed some, but I think they're an excellent way of introducing students — and the firm to the students. But I do think we need to move the obstacles ... because in the past ... the law students had the upper hand, [and] they could sort of dictate. And I know a professor who will say I don't want kids leaving my class to go to call-backs or to go out and do an interview. We can work around it....

SUSAN ROBINSON: ... I agree that we could move to the spring. It's certainly not as desirable from a faculty standpoint because the truth of the matter is that while students are in the midst of recruiting, that's pretty much all they do. And so class work and the focus on classes tends to suffer during that period. So the initial move to a number of schools going into August was to get the bulk of the recruiting out of class time, so that students would then focus on class during the school year. And that kind of snowballed to the point where we all are. So I think moving it to the spring would give firms a better opportunity or give them more of a chance to assess their needs closer to when they need the associates. What it won't address is the other thing that people have mentioned around this table, which is having twelve on-campus interview dates in the same week — because whether it's happening in the fall before school starts or it's happening in the spring semester, all of the schools are going to want to be as early as possible. And so they're going to pile up into a small number of weeks. And that may eventually shake itself out, which I believe the fall would as well, in terms of what firms can do, how many places they can see at one time and going back to some schools and saying, sorry, we can't see you during that week. I think it would eventually shake itself out whether it's in the fall or during the winter. So I could see either of those systems working.

On the broader perspective, I think that in terms of retention, that law schools could do a much better job of helping their students figure out what it is they want to be doing. I think to a large extent, students don't really think about it as much as they could or should while they're in law school. They're more focused on getting their first job, getting some training, and then they're going to figure out what they want to do in their first job. I think a lot of them are at a point in their lives where they can figure out what they want to do to a greater extent while they're in law school. I don't think necessarily that's going to mean that they're going to go and

stay somewhere for ... the rest of their careers, but I do think law schools can do a better job of helping them do career assessments....

HEATHER FRATTONE: ... I want to follow up a little bit on what Susan was talking about in terms of law schools helping students assess in greater depth ... where they want to start their careers, where they see their careers in five years and ten years. And one of the things that we have been talking a lot about ... it's not just career services anymore. It's all ... of [the] administrative and student services of the law ... help[ing] create more self-awareness amongst our law students about what their skill sets are, what they aren't, where they want to develop additional skills, and how they can use their time in law school both from a curriculum standpoint as well as from an extracurricular standpoint.... So we're taking advantage of certain types of courses, clinical work, leadership opportunities in student groups while at school, and [helping students figure out] how to really be aware while they're doing those things about the skills they're developing, about what they like about those skills, where they're strong, and how they can look for a good employment fit based on what they learn during that three-year period of time.

... I agree with Susan that from a logistics perspective, we could make spring recruiting work. There are obviously challenges with it. Business schools do it, so I suspect we could do it. There are weather issues, there are 1L issues ... It gives us a much [shorter] period of time to support students who want to work at a firm but aren't successful in terms of ... when recruiting happens and when the summer begins, but I do think that we would be able to, over a couple of years, probably, ... work that stuff out.

WILLIAM HENDERSON: This is William Henderson from the Maurer School of Law at Indiana University ... I just want to echo and build upon a couple of points made by Susan and Heather and David. [At] Indiana, we embedded into the first-year curriculum as part of our legal professions course a lot of the economics of the profession, so our students become better pickers. So to a certain extent, they choose to go into a practice environment where they're going to flourish, which I think in the long run helps the law firms.

A couple of things in terms of [an] alternative model ... Law firms have essentially been on autopilot for I would say several decades, maybe a half a century in terms of where they recruit. And the recruiting model is based upon a brand that's commingled with certain national law schools.... It's based upon the assumption that the only people that can work in large law firms are people who go to these Ivy League institutions [and] are at the top of their class, and we've got a supply and demand problem. And between 2005 and 2007, the demand for large law firms — [the] NLJ 250 spike went from 5,600 entry-level associates to 7,200. So we had 1,600 more entry-level large firm jobs that paid \$160,000. Great news for students, but the problem was that the firms ... wanted privileged people that went to the top 20 law schools.... And the assumption that underlies it is that only certain people can cut it in our firm. And historically, if you go back to the original Cravath model, the original Cravath model didn't find the best lawyers necessarily at privileged Ivy League institutions. There was a business reason for that. And the business reason is that to get a JD or an LLB from Harvard or Yale or Columbia, which

were the preferred providers, you had to actually get an undergraduate [degree].... You had general knowledge and training, which Paul Cravath thought was essential. When they gave the LSAT for the first time in 1948 — ... [if you look at] the scatter-plots for the LSAT for ... Harvard and Penn and Michigan and Berkeley ... — over half the class in some of these schools was below the 50th percentile. In other words, we started with just basically good people and we turned them into superior lawyers. And we have completely gotten away from that. Cravath made better lawyers faster. They didn't start with the smartest lawyers. They started with good competent lawyers of good character in the industry and they transformed them through their training programs. And somewhere over the last several decades, we have completely and totally gotten away from that.

So I'm going to frame my radical proposal as a return to the past. Let's take half of the people or more than half of the people that graduate from law schools, let's start with the assumption that they're good enough for our firms if we train them, and invest in them. And then we have to vet them to make sure they really want to be there. What happened ... between 2005 and 2007 is you took everybody who graduated from a national law school and over half of them had no interest in working in a corporate law firm. They just wanted to pay down their debt. So I think we have to expand the net of who we recruit, find out the people who really want to be there, and it needs to be data driven.... I guess my bottom-line reaction would be an apprenticeship model where you come in and you find people who really want to grow in your model and you separate the branding of the national law school [from] its original business purpose, which is just good, competent lawyers that want to grow, which I think we have no shortage of....

MARK WEBER: Mark Weber from Harvard. I'm starting my tenth year at Harvard, and the one issue that has not come up in my ten years in dealing with employers is moving [recruiting] into the spring. It's only because of this economy now that we're [asking] that question. And there [are] some obvious benefits to moving it to the spring. But ... here is what I heard more than anything. "Our summers were ruined. Please don't move to an early interview program." And we reluctantly have done so this fall. We're moving to an August interview program.

I guess what I would throw out to the group is if [fall recruitment were still] in October and employers had their summers restored ... would we be having this discussion? Because a lot of the issues don't really change [when] you move from a fall to a spring program. You still have issues of [whether] you are getting the right people.... So I'm wondering, do you make a modification and ... go back to creating a semblance of restoring the summers, giving students a chance to catch their breath, think about and reflect upon their summer experiences? That's what we've done at Harvard for the last 20 some odd years, and it's worked pretty well. We're doing what we think we need to be doing this year, but I saw huge advantages to having students come back, reflect upon their experiences, and gear up for the fall.

So the question becomes ... can [law firms] predict [their needs for new lawyers] that far in advance. Well ... maybe you do it in waves. Your firms are going to be more conservative if they come, and if there is more ... demand or a need, you come back. I cannot imagine any law

school telling an employer, we don't want you to come back and look at more of our students. So I guess I'm throwing something out in the middle ground — ... something to think about is getting back to giving everyone their summers back.

JAMES LEIPOLD: I want to go back just briefly to the supply and demand issue that Bill Henderson raised. We certainly have all seen a flip-flop in supply and demand in terms of associates. I'm wondering, after the recession, when we have some sort of recovery or return to normal, whether you think that law firms are going to return to a model where they're able to absorb large numbers of summer associates or whether we're going to end up with something that's fundamentally different, and the pipeline is going to look different.

WALLY MARTINEZ: Wally Martinez from Hunton & Williams. I'll address your "what is normal?" last, but in terms of entry-level hiring, this downturn in the [economy], this unpleasantness, whatever we want to call it, will cast a long shadow, and it's a shadow that we'll feel upon us in large law firms even after economic conditions improve somewhat. And I think there are some factors that will conspire to make law firm leaders much more conservative in terms of entry-level associate hiring for some years to come, so that when we return to growth, we'll have growth but at a normal rate. But what are some of these things? Some are business and some are psychological. You know, the sudden nature of this downturn, it was a high impact that really fell upon us like a ton of bricks in the fall. I mean, you could remember watching breathlessly as Congress is voting on the package, AIG is about to explode, Lehman disappears. We saw some inkling of this happening with Bear Stearns and all, but the shock to our system, our collective psyche, here was significant. That's whether you're a lawyer or you're in another profession. It's shocking. It's been a very deep downturn. It's been the deepest downturn any of us have seen, and it's been a long downturn. So that again, people will think about it over the long term. People will remember shocking events and act on them.

It's been particularly difficult in the large firm world. Why? Well, let's think about some of the things that drove this over the past ten years and what's happened. We've seen the disappearance of financial products and practices that fueled the bubble and that fueled the growth in many of our firms. It isn't just about asset-backed securities. It was about the free flow and easy flow of money. It's about financing sources, giving covenant-light loans, the loans that you have on your mortgage and on multibillion dollar transactions. Those practices are not going to be coming back any time soon. The American public, I think, is smarting, and we have the government much more active in the market right now. And then outside of the transactional practices, what have we all seen in the litigation practices? Sure our transactional practices have grown. Litigation has grown somewhat. But if you think back to ten years ago, the piece of litigation that ten years ago might have required eight lawyers — you know, senior partner, junior partner, and six associates, and of the six associates, two doing legal research and the other four getting deeply involved in discovery and wading through documents — that's gone. That's been outsourced. That's not coming back. So you're seeing a great de-leveraging in litigation. So I think what will happen is that once we get out of this downturn, I think the

shadow will be with us, and you will see growth, but it will not be growth anywhere near the type of growth we've seen over the past five to ten years.

It goes back then to this point of what is normal. I would posit that what we've seen over the past five years is not normal. We're not going through a blip. That was the blip. Let's look at what the world looks like, with what growth trends looked like prior to the dot-com bubble perhaps, prior to some of the growth we've seen recently with easy money and with some upward modification. That might be the growth trend that we're on in terms of hiring young talent.

JAMES LEIPOLD: I want to follow up on your comment about leverage. There has been a lot written lately that the leverage model is broken and that maybe it is a leverage model built on the blip that you've just described, and that going forward, what we may be looking at is a model other than a pyramid, sort of a diamond, where there are fewer junior and entry-level associates, more mid-level associates and then fewer senior associates or partners. If that's true, I wonder what that means for the way students finish school and enter the profession.

JERRY BIEDERMAN: Let me start by saying the interesting thing about this question is that ... we really don't know what kinds of business models law firms are going to adopt going forward in terms of their own structures, what kind of models they're going to adopt in terms of not just the delivery, but the pricing of their services, and how they're ultimately going to acquire the lawyers they need to feed the system that they've created. So I think clearly there is tremendous pressure from business to have more experienced lawyers work on their matters. What does experience mean? That's an interesting issue. Typically, general counsels, most of whom have come out of law firms, think of it the same way the law firms do. It's somebody who has been in practice with a big firm for two years, three years, four years. If firms really go to a diamond model, that's not going to be sustainable because there will be nobody on the bottom to feed up into this. So experience is going to have to mean something else if that's the prevailing model. It's either going to mean experience in law school, that is to say, a change in the law school curriculum, so that students really acquire more practical skill sets. Perhaps an apprenticeship program. It's hard to know. And what we're seeing now is a tremendous amount of experimentation in the legal community in terms of how to address these service delivery models and client expectations.

In terms of your immediate question, which is in fact what [should] a bunch of people coming out of law school do? They should do whatever they can to acquire as full a skill set as they can to ultimately position themselves with a firm and, if they [should be] thinking in those terms of attracting business from clients, so that they are an experienced lawyer. And that may mean some practical work experience, it may mean some kind of an internship. It's hard to know. Right now, we're in an economic situation where any kind of job is a little difficult to come by, so there aren't a tremendous number of opportunities.... But clearly the acquisition of some kind of practical legal experience, I think, is something that's going to be key in the future for students that don't go directly into the firms — and at least for the short to medium term, I think the expectation is that firms will be hiring less than they have historically.

FRED KREBS: I'm Fred Krebs, president of the Association of Corporate Counsel, based here in Washington, DC. My one perspective is I have a son who has just finished his 2L year with a lot of debt. But we'll set that aside.

What I would try to bring ... to this is a client perspective. My association is an association for in-house lawyers, and our members by and large are the people who purchase legal services.... And what I would say is the firms, and I think the firms by and large and the law schools understand this but I would emphasize it, and that is at least through recent times, the huge level of growing client dissatisfaction with ... the rising costs of legal services, the unpredictability of legal services. And part of that reaction, I think, was related to ... hearing and seeing the [starting] salaries and yet feeling that the lawyers that were receiving [them], these first-year associates, ... were not really able to provide any real value to the client. So ... see what appears to be, with many firms, a highly leveraged model and one that not only is highly leveraged but seems to encourage attrition and that ... at the end of four or five years, 50 or 60 percent of these people are gone. Now, there may be many reasons for this and it may not necessarily be the firm's fault, but from the client perspective ... they are looking at this and seeing this and thinking, if we ran our business in this way, and if 50 to 60 percent of our hires in any department were gone within three or four or five years, we would be looking at the managers and we would be saying, what is going on here? What are you doing? You're hiring the wrong people or you are not training them or working with them in the right way.

And so I think one of the challenges would be ... how one eliminates the attrition rates because again, from a client perspective, frequently as someone just begins to get the understanding of their business or you have people who are at a mid-level point, and then they move on and someone else is rotated through ... they don't mind paying once to get somebody educated, but I don't think they like the idea of paying continuously to educate people or to help them find out about their business, and to understand and to reach the point where they can be an individual attorney who is providing truly valuable service ... and valuable advice to the company.

JOE CALDWELL: I'm Joe Caldwell, from Baker Botts. It depends, to me, Jim, on what you mean by a diamond.... If you're describing a situation where it's narrower at the bottom and wider in the middle, I think that there is likely to be more to that because I think that as associates are entering firms and have less experience ... clients are demanding more experience and are not looking to see inexperienced counsel working on their cases. So I would agree with those views. I'm going to expand that a little to say that to the extent that clients are looking for more experience, it may be necessary for law firms to expand their source from beyond the law schools and to look to [outside] training operations. It's wonderful, as Jerry describes it, that law firms need to go back to a training kind of model. That would be wonderful. Billable hour demands [and] client demands make that extremely difficult for the more senior lawyers in a firm to be able to do, and while most would like to be good mentors, often it doesn't happen until late. So we have to look to other sources for training. Now, I express my bias for hiring litigators

because of my role of heading the DC office's litigation department. My own view is that it's good to have summer associates come to the firm, but you don't learn enough in that time frame about their abilities to be good litigators down the line. Fundamentally, they may have the qualities that you're looking for, but there are nuances that you need to be able to observe and distinguish before you can really say that this one will be superb in that category. So there are other locations such as government service. The U.S. attorney's office is a wonderful training ground....

Now, as you're coming up that diamond, when you're talking about the top part and suggesting that there might be less need for partners, let's say equity partners, I would tend to doubt that because more often than not, it seems to me that clients are choosing lawyers as opposed to law firms. The law firms where those partners are give them credibility, give them resources, but more often than not, they're looking for lawyers. I think that the clients will still want that partner's input on their matters. To get away from losing the experience, it seems like firms will have to expand their locations for the more senior experienced people — to have more non-equity partners, to have more special counsel — as opposed to pushing that experience out the door for leverage purposes. If they are special counsel, if they are non-equity partners, it seems to me that the compensation package for those will be less than others and firms [can] survive in that [mode] by retaining the experience without paying exorbitant amounts for them. Not that they pay exorbitant amounts.

JERRY BIEDERMAN: I think that part of the issue is that there is an unresolved tension between what law firms perceive as value and what clients perceive as value.... You have the mid-level associate who starts to work on a matter for a client, does very well with it, and then the law firm is, well, look, we can't really let this person stay on this matter because she's now going to become a partner and her rate is going to go up and that's certainly not tenable for the client, so we'll put somebody new on — which creates Fred's problem. I think law firms really do have to find different paths for people through their firms, and it's partly addressing Fred's problem and partly really what David said [about] identifying lawyers at a relatively early stage in their career. What is it that they expect? What is it that they want for a career? Not just the assumption that all law firms make that they just want to become partners and everything will be great.

JAMES LEIPOLD: One of the things we've seen in this current economic cycle is that the biggest law firms have taken some of the biggest hits economically. And actually, the AM LAW 200 group seems to have survived more unscathed in some ways. There has been a lot of chatter about the fact that smaller firms in regional markets with a different client service model are thriving in this particular I wonder if there are lessons there for us that maybe indicate a little bit about the pathway forward.

THOMAS MILCH: I think that some, not all, some of the regional and smaller firms have done particularly well in this environment because they have outstanding lawyers who do things at reasonable prices. And to the extent there is a lesson, I think that's the lesson, and I think you need to look at it almost on a practice basis more than you do a law firm basis, and that is that

practices where the individuals in the practice are incredibly conscious of client service and showing that they're flexible and do reasonable pricing of what they do, the clients like it and they come back. But frankly, I think that's a lesson for big firms and small firms alike, and I think that you're seeing, with respect, for example, to attrition, we've had a lot less attrition in the last couple of years than we did before. The reality is that this recession has addressed some of Fred's issues, I think, because what it has done is it's allowed — it's compelled — clients, perhaps as a matter of taking opportunity and not letting it go to waste, to go to their law firms and say, in order for you to get our business, you're really going to have to step it up. And we're seeing more in the law firm world today by a huge order of magnitude than ever before in terms of alternative pricing arrangements — law firms taking the risk of predictability by agreeing to either capped or fixed fees, law firms trying to address blended rates in order to handle to some degree the problem of very high rates.

Large law firms and small law firms are seeking to adjust themselves more rapidly to what clients demand and trying to fit the model accurately, and I think that's a good development all the way around, and it's frankly a development that I welcome from the standpoint of the competitive marketplace. I think it will produce better results all the way around. And it's scary. It's a scary environment to try to practice in, but I think it's going in the right direction. And I think that that's the lesson I take more than anything else from the successes of the Am Law 200: stability pays off. Those firms are stable, they are flexible, and ... the practices that are doing well are practices that emphasize client service.

JAMES LEIPOLD: I want to turn to some of our law schools for a minute and talk about the question that if we are going to be having fewer of our graduates entering summer programs at the biggest firms with the very highest salaries — and we all know that as the cost of legal education continues to go up, the amount needed to borrow in order to go to law school continues to go up — is law school still going to be an attractive option? Are we going to be able to continue to sell it at the volume that we sell it in this country going forward?

MARK WEBER: Well, three points. Even in this economy, applications at Harvard are up and applications nationwide are up, so people still want to go to law school. And you don't see people saying, okay, I don't know if I'm going to get a job despite everything that we've seen, so I think that's pretty telling. The second thing I wanted to [say is that] the difference in tuition between your national, your top tier schools and your regional schools is really not that [great].... Yet the salaries ... depending on where you graduate from [are] completely different. So you're seeing [that] people are willing to pay for that education notwithstanding. And I think given that students are paying that high tuition and not all of them have that expectation to earn that top salary, that people are willing to pay it.... Some schools are going to do better during this time than others, but ... there is always room for good talent. [Third,] I think the issue that a lot of students struggle with [is that] they always think they're the one who is that talent and they're the one who is always going to get that [high-paying] job. So I think sometimes there has to be a reality check ... and I think some people really need to give it a whole lot of thought before they do make considerable investment in a legal education.

DAVID VAN ZANDT: I think it really depends on the price point that law schools are operating [at] and particularly at the median salaries coming out. I think for schools — for some of the schools around this table, Harvard or Stanford — ... the challenge is really for us to be able to differentiate our students from each other because there are going to be fewer jobs and it's going to be more competitive. It's a matter of market share and a competing market. That's why I think pre-law school work experience is extremely important. That's why we've looked at the various competencies that you have to have in addition to legal analysis to be successful throughout a career. And those are going to be much more important. I think it's going to force the schools at the top to focus on that a lot more.

For the schools below, say, the \$70,000 median salary, I think it's more critical than that because I think what's going to happen is you're already seeing in a number of schools their applications have declined because the students are saying, should we really go into a lot of debt to go to a place like this and not be sure that we're going to get a job? ... Everybody believes they're going to be in the top 10 percent but the cold reality is hitting home. We're actually seeing this a bit in the undergraduate programs as well right now. So I think we really do need [the regulators] to at least give more flexibility to the schools at those levels to be more creative to reduce the costs of the education.

WILLIAM HENDERSON: I agree with what David and Mark had to say that for some cadre of law schools, the connections and the education that you get is going to pay for itself over the long haul and their applications are up. On the one hand, David frames it that a school below that critical point is a pretty scary place. I look at it as a real [opportunity] to reinvent — to serve an undervalued market niche and really innovate to where you can really make the business case for your long-term survival. Some will prosper — ... a good proportion I think are going to fail.

I continue to be astonished by the information efficiencies that continue to support high levels of application to a law school where ... you really wonder if it's going to pay off long-term for these people. Law school is a wonderful luxury good, you get a wonderful education, you meet wonderful people, but it's not necessarily enhancing a lot of people's human capital at some points.

SCOTT WESTFAHL: I spent a number of years practicing law and then I spent six years at McKinsey running professional development in Washington. I'm now back at a law firm. From my perspective, in McKinsey words, there is a value proposition that I think law [schools] are missing in that the focus — and I hear a lot of increased awareness around the table that we need to make sure our students are more self-aware, place them in jobs where they're going to be happy — all the focus is on the first job, not later on. And there are no law schools that I know of who are providing significant support to their alumni. If you go to the business school model ... there are a number of programs happening all the time for alumni, helping them to connect, network, teach leadership skills, build career skills. They have incredible week-long career transition skills [programs] ... and I think it's a tremendous revenue generator, too. If you're providing that support for your alumni, they're going to be more grateful and they will contribute coming back.

JAMES LEIPOLD: If we are entering a world where we bring in smaller associate classes, is it going to change the profile of the kind of student law firms look for? We've been in an environment where law school name, GPA, and rank at the end of that first year was really important. Is that going to be true going forward?

CAROL SPRAGUE: Well, I don't think we're ever going to get away from that. I think that's so embedded. But I do see that with the smaller intern classes, the associates really have to hit the ground running. So besides having the basic legal education that they've gotten and good legal reasoning skills, they have to be self-starters, they have to have these practical skills. Dean Van Zandt mentioned something that I'm very in favor of — maybe a year of some other type of work experience before they go to law school. You can always tell associates who have had other work experience. Right away they have that common sense approach and they just are leap-years ahead of their class. I was putting together [a list of] what I thought my ideal associate would be.... You want an associate with the competence, the sophistication, and the intellectual curiosity that an elite law school education gives you, but also you want the scrappiness, the common sense, and the drive that a local law school education gives. And I think that's really the type of associate that most of us are going to want going forward.

JOE CALDWELL: I agree with Carol. We're probably unlikely to get far from where we are now. I would just favor expanding the source pool. And when we're looking for brand new associates who are a bit more mature professionally or otherwise than others, then I would favor looking to those who have spent a year somewhere, who have spent two years somewhere else that's valuable, if nothing else, to help them to mature and to desire the practice of law more so.

THOMAS LEATHERBURY: I would just add that I think outside the East Coast and particularly outside New York, there are people that question this assumption that hiring will go down dramatically because there is another way to achieve the diamond model that we talked about ... and that is to keep your entry-level class fairly constant — you know, don't do the yo-yo hiring, don't go way up when business is hot because who knows what it's going to be two years from now, and don't go way down when it's off and go up and down in the lateral market.... I completely agree about real-world experience, other experience, business experience, and expanding the pool. I think our problem is: how do you judge the experience? Just like in three years, how are you going to judge the actual experience of a third-year lawyer who graduated in 2009 and what they've been able to do in this economy?

JAMES LEIPOLD: That's a great transition. I want to turn our attention for a minute directly back to the economy and the current downturn. I've heard a number of people recently express concern that because of the dramatic nature of this constriction, that we're going to end up with a lost generation of lawyers, that from the classes of 2007 forward to 2011 or 2012, because of the layoffs, because of restricted and constricted hiring right now, that we're going to get to a point eight or nine years from now where the pool of people who have progressed through the firms and might be ready for partnership is going to be perhaps too small, perhaps not diverse enough, perhaps not the talent pool that we would want at that point.

THOMAS MILCH: ... My partners will tell you I'm a pretty regular worrier. But having said that, I don't buy the fundamental concern completely. I will say this. I think that — and I tell my partners this all the time — I think the bar for being successful in law firms is going up, has gone up, and is continuing to go up. And it's really important that people understand that that's not just a bar for associates. It's a bar for partners. There is no longer such a thing as tenure in the partnership in a major law firm anymore — and there was, and it doesn't exist anymore. And I happen to think that there is going to be less money in partnerships and that there is going to be more pressure to produce every year. And all of that is a reality that partners face. And I think for associates, there is going to be more emphasis not only on experience, which I totally agree with, before law school, but also on emotional intelligence. I think the ability to connect with clients, to provide service to clients, to be able to work well with other people — that is going to become a higher part or greater part of what law firms look at when they talk about promoting people.

But I happen to think that there is another side to that coin. First of all, at no time in history have law firms been more focused on diversity issues than they are today. In part, that's driven by clients. The clients are very focused on it. But in part, it's that law firms are actually implementing some of the things they've talked about for years. And I think we are headed toward a period of greater diversity throughout law firms, both gender diversity, racial diversity. I think ... you're going to see a period of great strides there. I'm very hopeful.

Secondly, there are a number of legal fields where work is going to sprout considerably. I happen to agree that litigation is, as Wally is pointing out, a tougher road now than ever before for big law firms, but the reality is we're going to have an entirely new world of financial regulation in this country and that will lead to huge changes in financial regulation and in the regulatory environment. And that means young lawyers who are going to catch onto that, learn it in the government, or learn it as young associates are going to be able to develop a practice around it. Climate change is going to need a lot of people in my own field in terms of leading to change. Energy law is going to change in many ways. So there are a number of ways where I think there will be very substantial opportunities for new legal work. So not only do I think that the opportunity will be expanded — there will be new areas — but I think there will be areas where new lawyers, younger lawyers are going to have a leg up, areas in science, related to science and math, where people with broader academic training and recent academic training are going to have a leg up. So I think it's a tough world for law firms, but I don't think ... that there is a lost generation ahead, and I think that over a longer period of time, for people who have strong skills, client skills, and strong people skills and still very, very strong experience and academic skills, there is a huge opportunity in the profession.

JAMES LEIPOLD: We're going to come back to diversity in a later segment in this conversation this afternoon. There are two questions I want to get to before we conclude this first segment of our conversation, and the first is picking up on one of the points that Tom Leatherbury was just talking about and that is lateral recruiting. We've been talking a lot about entry-level recruiting but actually in the run-up to the recession in the last four years, the lateral recruiting volume was higher than new lawyer recruiting, and yet we see there is a recent study

out from the NALP Foundation on attrition that shows homegrown lawyers, people who come in through a summer program, depart at lower levels — that you have a much higher failure rate on the merits for lateral hires. Given that, I wonder, as the leverage model is changing, how we integrate those two pieces and think about lateral recruiting and training and integration going forward.

CAREN STACY: I'm Caren Ulrich Stacy. I'm the Director for Professional Development for Arnold & Porter. I definitely think the model for hiring and training mid-levels to seniors has to change for two reasons. One is the increase in the unwanted attrition. We've all talked about attrition but there is some amount of healthy attrition that happens within our organization. So what I'm looking at is the unwanted attrition of the laterals who, in a lot of instances, are our sweet spot from a realization standpoint. So if we're bringing these laterals in and not treating them any different from an interviewing standpoint than we treat those younger associates going through OCI, that's shocking to me because your laterals are coming in with a certain amount of experience, quite frankly, that you should be testing in some way to see what they do and don't have. A lot of times firms assume if you're coming from elite firm A, you've gotten all the skills you need to have to go to elite firm B.... [But] if we're moving to a model of a merit-based system, you're no longer going to be able to slot mid-levels into their fifth year because they are a fifth year. You're going to have to slot them based on core competencies. And this goes to your question about how do you assess a third year.... I think you have to look at your model of core competence and say, as a third year, what does it take to be successful here and what are the experiences and the benchmarks that you should have had by now in order to be successful? And then you're making an educated decision as to whether or not you're willing to hire this person who has X skills or doesn't have Y skills....

The other thing that I think has to change is integration of our mid-levels. We focus so much on our first year and our new kids because they're new to the practice of law, but we forget that all of our law firms are different. And what it took to be successful in one law firm doesn't always translate to another law firm. And a lot of times we bring our laterals in, we care about them for the first couple of days, and then we say, fly free, good luck to you. But in reality, they need more help sometimes to get integrated because they haven't been raised through the summer program and they don't have the social connections.... They need to be integrated just like you would integrate a new [associate] coming in. So I honestly think two things have to change. We have to move to a professional recruiting model — David brought this up — where we're looking at our core competencies. And then doing behavioral interviewing based on those core competencies. And it's funny, McKinsey and corporations have been doing behavioral interviewing for thousands of years and we look at it and go, oh, no.... And then the other thing is just the integration and the training.

JAMES LEIPOLD: I guess the last elephant in the room that we haven't talked about is deferrals and the postponement of entry into the labor force of a large group of our recent law school graduates. We're going to have people joining law firms who have been out for a year, some of them practicing in the public sector, some of them vacationing in France, people

entering in a staggered fashion, perhaps several classes colliding and entering at the same time. How does that change the way we think about orientation and integration?

CAROL SPRAGUE: I actually think this deferral situation gives us a great opportunity to go into doing things like core competencies and setting up tracks instead of just class-on-class advancement. I know my peers at other firms who have gone through the deferral situation are talking about all this. It's opened up the dialogue. And I think things like the class-on-class advancement is really going to have to be revisited when everyone comes back in a year. You're going to have people who have gone off and had great experiences that will be applicable to being a lawyer. You're going to have people who are cooking in France, and you're going to have people who stayed and didn't get a good experience and people who stayed who did, and you're going to have people who come in who have absolutely no experience. We're going to have to figure out different ways of dealing with their training and how to adjust their system going forward.

SCOTT WESTFAHL: What I'm most excited about as Carol is saying is that it's breaking apart this whole lockstep forced march mentality. Every year we have this experience where there are 75 associates sitting in a room and I'm supposed to present to them on their professional development. This staggered start, this individualized experience analysis that we're going to have to go through because our clients, by the way, are forcing us to justify the value of our first years, so we've got to make sure they become economically viable faster, is going to force individual discussions. And also help us make clear to the students coming in that they own their own careers and they have to take responsibility. It's not just this lockstep forced march you're going to get automatically promoted year after year. That system is going to break down.... I also think that longer term, thinking about staggered starts as a different way to do things would be helpful because our associates have never integrated well into the work flow of the firm and we continually struggle to justify their value and we are not realizing their economic value very quickly because we can't put them to work. It takes six or eight months for us to put all of the first years to work every year and we're not smart enough to say, well, let's start some then, some then, some then, and figure it out.

FRED KREBS: Just again from a client perception ... two thoughts. One is it strikes me, and I've seen some publicity about this recently ... some firms have ... reduced the associates' salaries, but rather than defer, they take the opportunity for training and apprenticeship. Looking at it from the outside, my reaction ... is much more positive than it is if you just say the person goes away for a year and comes back.... There are client perceptions and they may be fair or not, but perceptions are reality for many people and so the concept of this rather than the deferral [is appealing]. I would emphasize the idea of using ... a reduced rate ... for training and for the opportunity to put people into situations where they can learn and increase their value. That's a deferral, but you're doing many of the things that have been talked about here. And that I think would be much more positive than a simple "Oh, come back in 2011 or 2010."

JAMES LEIPOLD: That's a perfect way to cue up our next segment, which will be on lawyer training, development and advancement. Why don't we take a 10-minute break and then we'll rejoin the conversation.

PART 2: LAWYER TRAINING, DEVELOPMENT & ADVANCEMENT

JAMES LEIPOLD: Welcome back. Thank you so much for the conversation so far and I'm looking forward to this next segment. We're going to turn our attention to lawyer training, development, and advancement. We've certainly previewed some of the issues in our initial conversation, and I want, first of all, to ask a quantitative question of some of the law firm folks. One of the biggest growth areas we've seen in law firm management over the last ten years has been the growth of lawyer training and professional development programs and staff. Going forward in this economic climate and afterwards, I'm wondering if law firms are going to be prepared to continue to support that level of training. Is that going to have to change?

WALLY MARTINEZ: In this downturn, we've seen a shrinking of the pie, right? I mean, we've seen not just a slow down of the amount of work, we've seen some of our best sources disappear or merge into one another. So what you have is a situation where you have roughly the same number of lawyers going after less work. So how do you win that competition? You win that competition by, at every level of your organization, having the best possible team on the field, the best trained team, the most practical team. So I think that what law firms will need to do during this downturn is focus even more intensely on associate training and development, but it has to be practical training. And I happen to think that the biggest change that we'll see is that what was driving a lot of this, a lot of the work that we did ... around professional development and associate training was [driven by] associate retention concerns. We provided training because we wanted them to stay with us and not go someplace else. I think what training and development will be driven by now — and we're seeing it in our own law firm — is client retention concerns. So the training that we're seeing now is [about] how we make these folks much more effective providers of practical legal services. How do we teach them that this is truly a service industry and that at every opportunity, they have to bear-hug those clients? There is no better influence on law firm behavior than wanting to retain clients, and that is going to ... inform the training and development, and I think we will have a ruthless focus on this area now. We need to.

CAREN STACY: I agree. I think obviously more time and money is going into training because it's being driven by a different motivator. It used to be "bring them in and retain them," and now it is "this is what our clients want," which is a good motivator. I think what's going to be different is when I started doing professional development, the focus was on training, formal classroom training, which for those of you in the learning industry you know that that's not where you get the most bang for your buck. That's not where people learn the best. It's experiential learning. It's hands on, getting your hands dirty. So whether it's true commercial work, making sure that the quantity, the quality, all of that is being monitored. Scott has an

excellent work assignment brokering system at Goodwin Procter. That's going to be necessary in all firms to make sure that our associates are getting the skill set that they need at the right levels and monitoring that they're getting those types of experiences. And if they're not getting the commercial work they need to gain the experiences, finding pro bono, finding externships, secondments, those types of things that will give them the experiential learning experience.

Now, the other thing I think is going to be huge is that we're going to have to hire professionals to run this. We're not going to be able to just depend on our law firm knowledge to put these types of training programs together ... similar to [the way] corporations have been doing it. The other thing that's going to have to happen is that the lawyers are going to then have to rely on the professionals to actually give ideas, to analyze, to strategize, and then to implement the programs in a way that's more advantageous for the firm and the client. So the two changes will be making it more an ecosystem of training and development, not just formal classroom training, and then hiring professionals that are coming in and that are helping you get a return on the investment and really looking at how you measure what the return is.

JAMES LEIPOLD: Certainly on the law school side, we've seen a burgeoning law student professional movement that's probably rooted in MacCrate, but following the recent Carnegie report, a number of law schools have moved more aggressively to focus on more clinical and practical skills, particularly in the third year, and I'm curious whether folks around the table think that law schools that can produce more practice-ready attorneys at graduation are going to find some advantage in the marketplace. And, if so, do we think there are going to be more widespread changes in this direction at law schools? There is a lot of experimentation going on right now. Do you think it's going to be the exception to the rule and, for the most part, the curriculum will stay as it has for so many years?

MICHAEL FITTS: I want to step back for a second and sort of give us the good news and the bad news here. When I graduated from law school, we had almost no skills training and I think when you went to law firms, there was really no professional skills training at all. And over the last 30 years, I think there has been a revolution on both sides of the equation in law firms and in professional training and in law schools that now have burgeoning clinical practice and also practice programs and the like. This is in part a response to additional resources, but it's also in response to the fact that we understand that this has to be part of the program. We are different than medical schools in that we're not integrated — that is, the medical schools have hospitals that they link up with and are part of the training program. That's an inefficiency for us. There are reasons why it doesn't exist. But to some extent, we're both struggling to try to find the proper allocation of educational resources between the two of us.

I think in terms of answering your question, Jim, we are going to go forward and we are going to see more skills training in law schools just because the market is [changing]. There is going to be a smaller pie and students are going to have to hit the ground running. But I also think it's important that the nature of that training also be evolving. And there have been references to this at various points [today]. It's not just the sort of more technical, clinical, oral advocacy or communication skills, but it's also softer skills, such as emotional intelligence,

relating to clients, leadership, management skills, all of these things, and I think they will be taught in ways that we're just now beginning to see.

And here, at Penn, we do a lot of things with the Wharton School where we mix business people with law students. We actually rely on them to teach management techniques, group building techniques. I think you'll see a lot more of that type of skills development in law schools. Now, whether I think at the top schools you're going to see the ability to move in all those directions across the board, part of your question is are we going to see changes at the lower end, that is, will law schools try and innovate in very sort of unique ways. And I know Bill has pushed at Indiana to do that. A two-year JD, which may lower cost, or at some schools that may rely much more on adjuncts or other people more connected to the profession to lower their cost, strike me as ways where you might see innovation at other law schools at the same time that they're able to lower their costs to lower tuitions. That to me strikes me as the one area where we might see changes in this situation, but I wouldn't overstate that. I think it is true that we're in a major change, but the new normal I don't think is going to be in a totally fundamental way different from a time when Tom Milch entered the profession.

LEANORA RUFFIN: I think that in order for this law student professional development exercise to become a movement, a couple of things need to happen. For one thing, I think there needs to be a little bit more communication between employers and law schools as to what is the nature of the professionalism you hope to see on the other end. When I first started talking about professionalism at my school, we were talking about what fork do you use. The conversation has evolved significantly, but depending on where you're getting into this exercise, you may still be talking about which fork to use. And that's going to be a problem moving forward. And so the schools that have picked up on that are way past forks and we are talking about emotional intelligence, and we are talking about what are your practical skills, and all of that working together, I think, will have the advantage.

I do think that you're going to see a lot more schools pick it up, but I think you're only going to see a few schools that do it really very well because it takes a lot of resources.... So you have to look for other ways for students to get experience. The schools that have the model where all of their students are hired out of fall recruiting may be at a little bit of disadvantage [compared] to schools that have students who get [legal] experience throughout the school year, who take on part-time jobs, who [enroll in] extended division programs where they're working full time. So I think that is not necessarily true that just because you have maybe more resources and you're higher up in the ranking scale that you will come out on the top end of this discussion.

DAVID VAN ZANDT: You talked about being practice ready and that is something I hear about all the time, but I think it does depend in part on where your students are going. For some schools, they are going into the larger firms, in which event, I don't think larger firms want us — I've been told this — want us to be doing very technical skills or specialized skills. That's really something that's better done and has been done at the law firm level. What I think they want are some of the things Mike touched on which are really the management skills, teamwork, project

management, leadership skills, communication skills. It's not just legal writing and oral advocacy. Quantitative skills is a big one. And I think it's going to be incumbent on us to force that not just as a sort of add-on in the third year or something, but into the basic curriculum. In our accelerated JD, we actually do that. They have to demonstrate quantitative proficiency in accounting, finance. They do an organizational behavior course again taught by a business school person. That has to be right at the heart because that's a skill set. There may be, in different markets, schools that really would benefit from having students out there, particularly schools that put people into smaller firms or maybe more solo practice or into some government agencies where having even more of the technical skills is important. I like this idea of having people, through the course of the education, out there working in an actual environment like that.

SUSAN ROBINSON: What is very encouraging to me is how, in the last few years, how much more responsive I think both law schools and law firms have been on this issue. When I went to law school, if you were to mention to the faculty the idea that they would teach softer skills, they would have been — I think it's not exaggerating to say — appalled. The idea [was that] law schools were there to teach you how to do legal reasoning and if you were smart and sharp, all the rest was just easy stuff and you should have it. What I find incredibly encouraging is that both law schools and law firms are recognizing what we term as softer skills as being essential. And that didn't exist 15 to 20 years ago. No one really recognized it. You knew that there were rainmakers, but even the firms didn't recognize the importance of building those skill sets that make the rainmakers. They just thought you either had those skills or you didn't. And so I just find this an incredibly, just a great time period to know that both firms and law schools are really starting to take those skill sets seriously and thinking about who would be the best provider of those skill sets. And I agree with Dean Fitts that there is a little bit of tension about where is the best place to provide that. But the fact that we're even discussing it and taking it seriously when 10 to 15 years ago it would have just elicited an eye roll is, to me, fantastic.

MICHAEL FITTS: I want to talk about one other phenomenon, which is that we think very hard about what our students are going to be doing five, ten years down the line, and get them thinking about what they're going to be doing down the line. And a large, not insignificant number of them may well be working in what are not traditional law careers. And if you back up and ask yourself what type of education you want to provide for somebody who is thinking about that, it's going to include a lot of what we talked about, but there may be a lot more emphasis on the technical abilities, the softer skills, people who are going to go out maybe running investment banks or hospitals or moving in that direction. And I think we, and perhaps some other schools, have in a sense used a third year of law school through joint programs and softer ways through certificates to try and position people for those type of careers down the line. And I think that will accelerate as well.

JAMES LEIPOLD: I would love to hear more about one of the points that LeaNora raised, and that is what skill set employers would like to see in law students. I'm curious what some of the law firm and client representatives we have around the table think are the skill sets you would like to see? What are the hiring criteria that you might use to discern whether or not students

have those skills? What do you see missing? What is the gap when students arrive at your doorstep that you would like law schools to help plug?

KELLYE WALKER: Kellye Walker with Diageo North America. Before we get to the direct answer, I want to step back and invite us to think about a service continuum. We've got the academic perspective, we've got the law firm, I'll call it major employer perspective, and we've got the client perspective. And if we think about the law school's client ... being the major legal employers, and then the major legal employer's clients obviously being corporate clients in this setting, what is it that those corporate clients are looking for? And so I really want to invite us to think about it that way, first of all, and if we use that paradigm and understand that today's general counsel really is under a new, a more accountable value imperative where we really are, when we're sitting at tables next to our business colleagues having to justify the value that our costs are bringing to the table, and how ... it's valuable to the ultimate mission of our enterprise. Those are the things that general counsel and in-house counsel really are starting to be pressured to think about more and more regularly, much more so than we have in the past.... And one of the things that we're doing ... is thinking about all the services that we provide to our organizations, whether it's through our staffs or through the assistance of external counsel. [I think about it in terms] of a pyramid with the base of the pyramid being those tasks that are routine or commodity, the middle of that pyramid being those tasks that are important but not necessarily mission critical, and then the apex being those things that are absolutely strategic to the mission of the organization. And a billable hour in each segment of that pyramid is not equal to a billable hour. So a routine billable hour is not necessarily equal to a billable hour at the apex.

And so if we think about that work segmentation and that that's what's driving folks where I sit because that's what the board or the CEO is looking for ... then that helps us think about the law firm model that then goes to what we should be expecting from law students. And as you look at that — and I do, I must admit, get frustrated when I think about what value it is, and when I see a bill come through and, you know, I have to sign off on the bills and I spend a lot of time talking about this and trying to figure out how we can work together — ... I must say ... there is a natural tension ... in the traditional ... large law firm model and the profitability model because it's based on increased, almost lockstep hourly rates going up regardless of whether [the work is] the routine or the strategic.

I think law firms use profitability ... as a retention tool for the rainmakers and also as a recruiting tool for the lateral hiring markets. And so that's a tension. Law firms don't necessarily want to give up that profitability because it has obviously practical benefits for the firm. But my CEO and the people to whom I answer, they're not really concerned about law firm profitability. So when we think about the kinds of practical things that we want law students as we're coming through this service continuum to understand and to think about, the kind of things are the practical skills. I really like what you said, Bill, about talking about what the law firm model looks like. When I was in law school, I had no clue what ... law firm profitability and all the numbers ... looked like in a law firm.... I think that the law students will have to come to grips with if the firms do make the change, which I submit that they need to, [is the need to] really

price things differently based on where they are on the pyramid that I discussed, that every associate may not want to be a partner.... And so some associates will be happy to come in at a reduced salary, working on that routine work, and so really thinking about that and having those law students understand that.

And then the other thing, very practically, I think, [are] the initiatives that law schools can take in conjunction with this in making sure that those law students really are equipped with understanding how to gain experiential knowledge. We talked ... a little bit before [about] what experiential knowledge is, but the fact that I'm in a courtroom or holding someone's briefcase or the fact that I'm at a closing table doesn't teach me how to mine the information, mine the skills, that I need to gain from that experience. And so really, practically speaking, [it's about] equipping these students with how to be in a situation where they can mine what it is that they need, the skills and everything that they need to be able to utilize that experiential training, because I do think, to a point that Caren made earlier, that experiential training is absolutely critical. And bringing people to the table to have that kind of experiential training is going to be critical.

And the last point I'll make on this is understanding and helping the students understand that students ... are in fact responsible for their own careers, because for a long time, it was you went to school, you got a good school, you know, you ranked pretty well, you did well, and things were sort of spoon fed to you.... We all know about dim sum. The cart comes around and you can pick up what you want on the cart. But the fact is we need to think about if you are at Thanksgiving dinner with a big family and there is one turkey, you like wings, there are only two wings on a turkey, you've got to figure out where you're going to sit and how you're going to strategically get what it is you need. So we really have to train these students to think that way — I mean, think very strategically about what it is they want, but they can't think strategically about what it is they want if they don't know what's out there.

CAROL SPRAGUE: I agree with you on ownership. It's not only their own personal development but ownership of their work, of getting involved in a deal or a case. What I'm finding now is the students tend to come in, they do one project, and they go back to their office and sit and wait.

KELLYE WALKER: The dim sum. They're waiting for the cart to come around.

CAROL SPRAGUE: And waiting to be told how to go to the next step. The real successful people are the ones who come back again and again asking for more explanations. The initiative is something — I think it's the emotional intelligence that Dean Fitts mentioned. It's hard to teach, but it's the emotional intelligence of knowing where you have to get and wanting to be so involved in having that energy that people want to involve you and take you under their wing. And I think that's been missing over the past five years definitely. So I think students need to be told to take the initiative, to be the go-to person. You want to be that go-to associate, the person everybody wants on their team, and I think that's a difficult thing to explain, but it's very important. And also what we tell our associates is that we're a service provider. You are working

for a client, you know, you need to get things done efficiently and you are working for a client. Remember that. This isn't just about ... your development. It's about getting the client, making the client happy. And that's something I don't think they pick up for quite a while, unless maybe they come from a background where their parents were lawyers or clients at some point.

FRED KREBS: It strikes me in this conversation, and I agree very much with Kellye, when you talk about this continuum of the service model ..., at one end of the continuum of the model is value to the client. And value to the client is not defined by you or by the firm. Value to the client is defined by the client. And I think firms frequently forget that because they see either their overhead or they see ... the profit level that they wish to reach or they see all of the training that they have done and they see all their inputs. But it's not the inputs that at the bottom line make it for the client. It's the output that makes it for the client. And it's the output at what is a reasonable price. And I would emphasize again [the importance of] value.... Ultimately what I would say to the associate is that if you make the client happy, chances are in the long run, you're going to be happy because it will come to your benefit.

So what are some of these skill sets? I would emphasize the experiential learning [and] I would talk about communication. Communication is much more than being able to write a good letter. Communication involves as much listening as it does speaking. And I think too frequently lawyers tend to speak because they figure they have all the answers and they sometimes answer the question before they really understand what it is that the client needs.... There have been several terms for this. Some of it's strategic thinking, some of it's emotional intelligence, ownership. Some of it is [being] able to align and figure out what the client's interests are and what the client hopes to achieve. It's a problem-solving skill. The client isn't interested in legal issues. The client is interested in solving a problem or achieving a certain goal.... And then judgment. Well, how do you get judgment? You get judgment from experience.... I think you have to think there are multiple ways that you can get to these places, but it seems to me again so much of the focus in this discussion — and I think of it again as an observer from the client perspective — so much about the education, so much about the discussion is always on inputs. It's on activities. We've done all these things, therefore. And it shouldn't be on activities. It should be on outcomes.

JAMES LEIPOLD: There are a number of important ideas that have been raised and I want to have the time to jump into a couple of them in a little more detail. I would love to know in maybe more practical terms what folks think law schools and law firms working together could do to provide students with earlier exposure to the law firm business model, to the idea of law firm management as a business, to the importance of knowing clients, understanding their business, building relationships with them so that some of that skill building is done while students are still in school. Are there collaborative ways we might attack that?

MARK WEBER: I think a lot of schools are already doing a lot of this kind of work, which is a good thing. I mean, for example, what we've been really focusing on at Harvard is some of that experiential learning that Caren was talking about. And let me give you some examples. We ... brought in Keith Wetmore who is the chair of Morrison & Foerster to talk about his perspective

on what it's like to manage a law firm, and what is he thinking about on a day-to-day basis.... And it really put the students in that mind-set. We brought in blogger Bruce McEwen to talk about law firm economics and the business of law because we think that's really important. We brought in managing partners to talk about relationship building and networking and client development because we also recognize — again we were talking about the softer skills — those are the skill sets that are equally important for your success in a firm. We brought in experts on how to work a room, how to mingle, how do you work a room in a social setting, again, focusing on the softer skills. We really stayed away from a lot of ... the technical or teaching part, which is really more for the faculty side. But even in the school setting, schools are working on bringing in attorneys to talk about cases that they worked on. So I think there is that symbiotic relationship and I think the benefit of it is getting away from a lot of that lecture format. Students are actually — you know, when we're doing the how to work a room or we're doing a networking program — they're actually integrating with actual practitioners, they're learning more about law, and it serves two purposes. One, students are more educated, they're more informed about the business of law, but the second thing is the firm's got a vested interest, too, because it's a recruitment ... opportunity. It's a recruitment function so everybody is getting something out of it.

I think [that what] you need to be mindful of is [that] not everybody who goes to law school aspires to work at a law firm. So all of those discussions have to be ... brought into other avenues such as in government, in the public interest because some people, that's where their heart is so ... the law firm economics model is not going to be as relevant to them. And casting a wider net ... about the profession in general I think is really important, and I think all the schools spend a lot of time talking about the legal profession as well.

WILLIAM HENDERSON: Well, I think you phrased your question in a really useful way, at least from my perspective, because in terms of educating my students about the market ... law firms wouldn't be the first order of people we bring into the mix.... I would think alumni are basically the right people to do this. This year, for 200 entering students, we had 30 alumni come in either through videoconferencing, being interviewed by students, or practice setting forums, including lots of dinners with our students.... And I think this has been absolutely crucial because we bring in different practices, prosecutors, in-house lawyers, big firm lawyers, small firm lawyers, public interest, trial lawyers, plaintiff's side trial lawyers who never do on-campus interviews, and they begin to see how that world operates.... I think alumni are critical to educating the students on the economics and sociology of the profession in a practical way that allows them to hit the ground running.

I [also] think the law firms need to educate themselves about their future so they should come to the law schools and just hold focus groups. I would invite anybody who wants to come to Indiana to have a focus group. You'll see, A, you want to hire these people. They're incredibly bright and creative. And B, they've got a different value proposition. They will see your world quite differently than you see your world. And if you really want to adapt, there needs to be information flowing these two ways. My students need to understand your world view, but I

think that it would be in your best interest to understand my students' world view. So come to Indiana or Northwestern [or] any law school and hold some focus groups to see what the future bears for you. And these are people you want to hire. They're incredibly creative. They think in totally different ways than my generation, late baby boomers. And the last thing I'll mention is law firms can really help through snapping together our teaching methods and outcomes, so we can actually see how these soft skills add value. That's an empirical proposition. Law schools are uniquely situated to collect and analyze and share the data. We don't have products we want to sell out of it. We don't want to be in the consulting business, but we do have an interest in growing our students and having a life-time relationship, which is what Scott was talking about. We need to be able to arc out or show the arc of their careers and give them useful, meaningful life-long information. This is a long-term franchise of self-interest, but I think the law firms will bring great value partnering with us to help us measure the take-away from soft skills.

MICHAEL FITTS: When I was in law school, I think "alumnus" was like an endangered species. They were really kept at arm's length. And I think from what you've heard, that we all use almost every opportunity we can to bring in alumni to interact with students, whether it's with mentors, serving on panels, as adjuncts, co-teaching with faculty, every way in which they can in a sense give a sense to students about what skills they need and what their career looks like. And that would be in firms as well as government and otherwise.

Just a couple of things that we do that may be a little bit different. We have a mandatory pro bono program which requires our students to go out and perform over 70 hours of public service, and that's an incredible opportunity to put our students out there in law firms doing pro bono and in other contexts where I think they get a good idea of what's going on. The other thing we do, which I find is very useful, is we join classes with other parts of the university, and that typically can bring law students into contact with people who may be their clients in the future, in particular students from our business school ... and that way, they get to understand the mindset of people they may be interacting with and that may be a doctor or a businessman or somebody like that.

JAMES LEIPOLD: Kellye mentioned some of the price sensitivity and we've certainly seen in the press a lot of reporting that clients aren't willing to pay for these baby lawyers anymore. At the beginning of our conversation today we talked a little bit about this apprenticeship model that seems to be emerging in the market. We've got four firms out there on record saying they're bringing students in at a lower salary and doing some training. It varies from six months to an arc of two years. We've seen some firms trying to collaborate with clients more using secondments for some mid-level associates. I'm interested in having some time to talk a little bit more about some of the ways we can build awareness of the client service imperative earlier and also still provide the kinds of training that young lawyers need.

HOWARD ELLIN: The answer is that there are, I think, a lot of models out there where we can benefit from that. I think Kellye laid out an excellent way of thinking about this across this continuum, which tends to be very much disconnected and it often leads to some really tricky or difficult questions that nobody really wants to touch on, and this is where you get to apprentice

models and the others that we've been talking about. Mark wants to educate a lot of people to be marketable lawyers. That's going to be great. Should I hire them? Should Kellye pay for them? These are really hard questions that Mark doesn't want us to talk about, but that's the continuum when we sort of undress it right down to its bare essence. So what does this mean for everybody? ... I think [this] is really the challenge and it goes back to where we started in the dialogue. I think if you look out in the world, there are some really interesting [systems] out there that we don't talk about. We have in Germany the Referenda system, which is very interesting, where people are required to do not just law firm work but they must work in the government system, they must work in the pro bono organization. It's considered just a basic core part of their competency that they get those skills and those experiences. In Canada and England and Australia, they have I think what is the equivalent of this apprenticeship, the clerking systems where you're going to pay them less and they're going to get additional training and they're going to do other types of things. I think they're all very interesting systems. I don't know which is the right one, candidly, or if there is a particular right one, but it impresses me that they afford a better opportunity of matching up that continuum I was talking about to get from the education to the firm to the fine service side, the right kind of outcome with the right kind of people. Personally — and Carol talked about this — I happen to like the German one. It's horrible to say, but it's really interesting to say to people, you know, we want you to have a broader type of seasoning, we actually think of these things as in effect equivalents for you to consider your career, consider your development. You're going to have a place in each one of those to figure out what to do. That being said, there is an economic reality that underlies all this as well that's very difficult and very expensive when you have law students who owe a lot of money who are looking at trying to figure out ways to repay it. And I'm not sure exactly how we get there, but the apprentice model, the apprentice system, the clerks, they seem to create a better possibility for alignment.

SUSAN ROBINSON: I am really intrigued by the apprenticeship idea. I think it will address a lot of the issues that firms and students are facing. Clients particularly. So we're at a point now where clients only want to pay for mid-level associates but we need to get them to the point where they are mid-level and they have the experience. A big hurdle to that, though, is the \$160,000 salary. [What] if we were to bring in associates in an apprenticeship and pay them half that, even less than half that, and recognize that the first year or two of practice you're not adding a whole lot of value to the firm? The firm doesn't make money off of you in the first couple of years given the high salary that associates are paid. [What] if you bring [associates] in at a much lower level — maybe bring them in at a much lower level but part of the compensation package is like a loan repayment assistance program that a number of the schools have? Why not help them with their loans, recognize that you're going to be doing a substantial amount of training in the first couple of years, and then you lose a number of the attrition problems as well.... You're bringing them in, your clients are happy to have them participate because they're not paying them at all for that training, you're training these associates. You're going to weed through a number of those who decide they don't want to be there anymore, but you haven't invested the same amount of money in them. And then you have associates who are going to come through who will cycle through you anyway because they are looking to do something else down the line.

Those young attorneys get some great experience and training. It seems to me like an apprenticeship system of some sort would benefit most if not all of the players. The biggest hurdle is who is going to take that first step, right? What firm is going to jump off that apprenticeship cliff? But it just seems to me that it's a win, win, win all the way around.

KELLYE WALKER: I was glad Howard brought it up because regardless which of the European models you look at, they absolutely make sense. Part of the question was the notion that the press is saying that clients don't want to pay for brand new associates. That's not necessarily true. Clients want to pay commensurate with the value that they're seeing. And that's a very different concept. I'm happy to pay for it relative to the value that I'm receiving. And so the apprenticeship model actually helps to bring that to fruition where it actually makes economic sense because if we don't have brand new associates, you're exactly right, then who is going to become a mid-level associate? How is that going to grow? You know, senior partners who have all the answers don't just fall off the truck. They're grown from somewhere. So we need to have that notion. And I do think that you're exactly right...and we as clients have to do a better job of communicating whether it's a notion that we're actually willing to pay because we want to pay commensurate with the value, whether it's understanding how we look at the tasks that are performed on our behalf and what the value of that is to us. Somebody may be very happy to pay a thousand dollars an hour for a lawyer on a strategic question that's mission critical to the organization, right? So it's not just about the hourly rate. It's about what you're getting for that dollar. And we as clients have to do a much better job of communicating that to our outside counsel and brand new associates.... I remember when I started, an associate never went to a client meeting or he never talked to a client and you didn't get that exposure. But in fact, that kind of thing is very important. And understanding that associates are learning, even brand new associates are learning to think that way as they're developing these skills through an apprenticeship program at a lesser rate is very attractive, I think, to clients.

LEANORA RUFFIN: My thought was, for those of you who are a little bit scared about being the first to go out full blast with the apprenticeship model, I think from a law student perspective, this would be a fabulous idea from their perspective and what they value. What I see [students] saying is that they want feedback. They want to feel valued. They want to feel like what they're doing is important. And the apprenticeship program says I'm going to take the time to really invest in you. It's going to cost me some money, it's going to cost me a lot of time but your training, your development is worth it and it also aligns perfectly with our business schools. That kind of connectedness, if you get that to this generation of students, you will have a loyal associate for years and years. So I think it's a good marketing tool and something that should be considered not so much as a sacrifice but a way to really position yourself as an employer for this generation of students.

THOMAS LEATHERBURY: I think law schools this spring did an incredible job based on what I've seen this summer at heightening students' awareness of who the client is — who is your client when you go in. That may be the mid-level associate you do the work for, it may be the partner, but the difference in responsiveness and initiative is phenomenal. And I hope that's

one aspect of this economy that holds and sticks as we go forward. What struck me about the apprenticeship programs is it seems to me so very artificial to call it an apprenticeship. I guess for external purposes and internal purposes, you need a new name and you need a way to explain it to the clients and you need a way to explain it to your partners so they're not worried anymore about writing off first-year associate time, and so you've made it easier for them to involve them in more substantive things. But I think the idea is really good. It seems to me, as somebody said earlier ... it's very retro. When I started practice in 1979, if a big trial was going on at the courthouse, somebody would say, "You really need to take the afternoon and go see that trial because so and so's the defense lawyer and so and so's the prosecutor and you're going to get a good experience," and you did it. And the trade-off was ... you were being paid what you were being paid and you weren't being paid \$160,000 as a first-year associate. So I think it's a really positive development. I hope firms don't have to feel like they need to call it ... an apprenticeship or call it something different, but I hope that that's the movement that people are included in more substantive things and more experiential training and the law firm worries about the pricing and does the pricing a different way.

MICHAEL FITTS: I think this is complicated. Susan said, well, they'll pay them less but they're paying for their loans. Well, that's obviously adding on to the salary at that point. So the question is how much is that adding onto the salary? The other piece of this is, you know, there will be some firms who will say, we're going to reliably have a huge training program and we're going to invest in you and come to us and you're going to come out two years later in a better position. There will be other firms who will say, we're going to invest in you and provide support and we're going to pay you \$160,000 a year. And I think the complicated question here is will those firms — will that lead them to attract the better students? Maybe they'll be students who can hit the ground running. But we live in an environment where everybody is competing for students as well as looking at firms. And it's not clear to me how this strategy will play out. We will see, because I think there will be some.

MARK WEBER: I think it goes back to Howard's question. I think it is complicated, but Howard's question [was] who is going to pay for it. And I think right now, I think the apprentice model is a really interesting model, and I think you should commend the firms who are exploring that, but it feels to me the reason everyone thinks it's great is because they're not paying for it. The law schools aren't paying for it, the firms aren't [paying for it], and it's all being shouldered on the students or the recent grads.... You know, tuition has gone up over the last ten years. Everything else has gone up and their salaries are going down. So I think the concept is terrific.... I guess one question would be ... everyone is looking at it as an expense. Is it more like a capital expenditure where a firm is saying, you know what? We are going to move to an apprentice type model, but this is going to be a part of an investment and a cost of doing business. So I think this is all commendable and I think an interesting conversation, but right now, you know, the firms that have gone forward are doing this, a lot of the shouldering of the expenses is on the incoming associates.

CAREN STACY: I actually want to take it off of the burden of the law schools and the law firms. I know that's shocking. But what about the bar organizations? The law society, the German method, we've been talking about these things.... There are 45 jurisdictions that require continuing legal education. None of them require the same credits or type of credits. Virginia is a perfect example. Get 12 credits. If you do divorce law just to get 12 credits, great, but it has nothing to do with your relative practice. So that's the thing. Why aren't the bar organizations taking some of the responsibility for helping with this continuum that Kellye brought up from law school, to getting [licensed], like becoming a solicitor, training to become solicitors. It's the two-year program. It's interesting because Utah, Georgia, and Nevada bar organizations have just gone to a new lawyer training program. It's essentially an apprenticeship just like the law society provides and it's scaring firms a little bit because they're obviously having to scurry to get these credits for their incoming associates. But I was so pleased to see those three bar organizations think about what these lawyers need and not put the onus completely or the burden completely on the law school or completely on the law firm. So just food for thought. I think the bar organizations should take some of the responsibility.

JAMES LEIPOLD: The apprenticeship conversation has been interesting. We clearly struck a nerve with this one. Before we conclude this section, I do want to have a little bit of time for the question of whether law firms are really going to be able to evolve into organizations that are more vertically integrated, that offer many different professional pathways through the law firm so that we don't have just partners and associates, but that like an accounting firm or other professional services firm, we might have more clearly identified career paths with different salaries, different billable hour expectations, different levels of responsibility. Is that a reasonable evolution or a necessary evolution for our industry right now or is that not realistic?

JERRY BIEDERMAN: I think law firms have to go there. And actually, many of them have started to go there already. It's both driven by client needs and by the law firm needs and to a certain extent by the needs of young lawyers. Not every lawyer really aspires to taking a position where he or she is going to be judged in part by how much business she's capable of attracting or how much trial experience or whatever. And people develop areas of comfort and they often want to stay in them and they're very valuable to firms in those capacities even if they don't embody all of the characteristics that law firms traditionally think of as being necessary to become a partner in a firm. So I think that we're going to see this on an increasing basis. And it's particularly going to play itself out, I think, as associate compensation begins to change. One of the consequences that firms will not like about moving away from the lockstep model is that it implies a certain amount of accountability to the associates. If you say to an associate, your ability to move to the next stage is dependent on your acquiring certain skills and behaviors and then you don't make the work experience available because it's not economically efficient to deploy the associate in that fashion, you've got an organizational problem, and it's relieved to a large extent if you have other paths for people to follow. But if the only path you have is an associate to partner or associate to out, it puts a lot of pressure within the firm, I think, particularly given the realities that we've heard today about what clients are demanding in terms of how you function.

HOWARD ELLIN: I think the answer is a clear yes. Not only is it going to happen, I think it is happening already. I think the emergence of the stories around recently announced programs around the apprenticeship barely begin to capture sort of what Tom was talking about. I think it's all going and I think what you'll find at the end is there are going to be firms that are well-established that will be able to manage the transition and they will be okay. And firms that are not going to be able to and they're going to look really very different at the end of day, if they're still around. The one caveat I would say is if we describe it as we become like the accounting firms, then no one will deal with us. We don't want that at the end of the day. We want something different, but I think it really will happen. I think it's necessary to meet all the objectives we've been talking about during this conversation, that the clients want, the lawyers who are incoming want it. I think you're finding the next generation leaders want it as well because they actually sort of grew up in a system — again this goes back to what Mike was saying that this isn't all that new — they grew up in a system where they felt a lot of pressures, a lot of frustrations, a lot of difficulties, felt like too many of their colleagues were not interested in the practice and interested in the profession and had aspirations for a very different type of system.

WILLIAM HENDERSON: The many students I've talked to at my school and other schools involved in other organizations I belong to or participate with, the existing model is just not something that holds great attraction to the next generation of lawyers. And the modal picture of what the next generation of lawyers [wants] is basically [a salary] a little over six figures, something that keeps me about 50 hours a week or less so I can attend to other aspects of my life. It may come as work/life balance but that's what their threshold is. And let me take predictable vacations every year.... And what I'm saying is I think there is tremendous opportunity for law firms to restructure work and make more money for the top rainmakers. They can make eight figures and you give that value proposition, give them innovative work where they're part of a team and growing as lawyers and they can be happy making \$200,000 [a year]. And you know what that job is? That's an in-house job ... and we see the elite law school graduates disproportionately gravitating to in-house positions. In-house is the new brass ring. And it's the work attributes of in-house, not the in-house per se, that make it so attractive. So that's the future in my opinion.

JAMES LEIPOLD: Let's take a short break and finish with our conversation about diversity.

PART 3: DIVERSITY

JAMES LEIPOLD: We are going to begin the third segment of our conversation this afternoon by turning again to diversity, a topic that we have already talked a lot about in passing but I want to take time to return to this issue. It's been a critical challenge for our industry for a long time and I'm concerned that the economic slow-down is going to have a temporary setback effect for us. When we were at NALP's Diversity Summit earlier this month, there was a great deal of concern that there was a disproportionate impact on women and minorities perhaps, not because

of discrimination but because the numbers are smaller to start with, and as you shrink your organization, by definition, you approach zero more quickly and representation is diluted. And so my question is, is this a valid concern? It's certainly the perception on the part of a lot of people in the industry right now and I would like to know if you think we're likely to come out at the other end of this economic interruption with law firms looking different than they did before, perhaps less diverse, and if so, are there things we can do to combat that both quantitatively on the numbers and also in terms of perception?

WILLIAM HENDERSON: Yes, first a couple of interesting empirical assumptions: if you look at all of the numbers together, we don't have very good news on diversity at the higher levels of the corporate law firm. But when you disaggregate it, you see pockets of tremendous success stories. You see substantial numbers of African-American partners in Washington [DC] and Atlanta, substantial numbers of Latino partners in the southwest and in Texas; you see Asian-American partners flourishing on the West Coast and you see nobody except for white males doing well in New York City. And really we have the opportunity I think to see what works and what doesn't work by a little bit more focused research.

I am really worried about the potential of the top of the profession thinning out the diverse ranks primarily because we have some evidence that a lot of non-equity partners or the non-equity partnership tier is disproportionately female and minority and this seems to be an area where firms are looking for ways to streamline their operations. We don't have hard evidence yet that firms are becoming less diverse as a result of the downturn, but I guess I would want to flip it on its head and say one thing on some new research done by Scott Page at the University of Michigan, an economist. I see diversity is an undervalued asset in most law firms.... I'm talking about diversity in the broadest sense — race, gender, age, ideology. But that's a pretty big tent of diversity. When you can get teams to work together and they trust each other and bond, you just get much better solutions and much more innovative ideas. Some in-house counsel have told me that they think that the secret sauce of their operations is the fact that they've collected a very diverse group of people to trust each other. So I think that there is a long way for law firms to go to where the idea is that the purpose of diversity is not so that you look good on your website or brochure. It's for productivity and innovation reasons. I'm very much interested in trying to prove that empirical point or have the data to back it up, but one of the places to look is [to] these pockets of large concentrations of diverse partnerships.... So we have success stories but in the aggregate, it doesn't look very encouraging. But we do have some starting points here. The glass is at least half full.

KELLYE WALKER: ...The question for me is not necessarily important just because the numbers are there, but it's what practice areas people are in. And as we think about that, if women and minorities are in practice areas that tend to be in that routine area, then that's going to cause the impact. So I think that from a client perspective and as a minority lawyer myself, one of the things that we should continue to focus on and ... we will see much more success in this area if we look at [is] top performance. What is it, those attributes of the people who are doing it and doing it well? There are clearly ... very successful minority lawyers across this

country, across corporations, across firms. Are they telling their stories? Are we having access to understand what it takes to be a top performer, what it is that they have done, what has been their road to success? And not that I have to mimic it, but that I understand it's there. And if you look, regardless of gender, race, or otherwise, oftentimes we talk about mentoring and that's not what I'm talking about. I'm talking about understanding someone's story. And sometimes we feel sort of buttoned up and I don't want to tell my story — I don't want to [reveal] that I almost failed at this thing or I took a bad step ... but we have to do that. And once we start focusing on top performance, and I'll make a radical statement and say if firms really — and I'm using firms generically — if firms really spend as much of their resources on helping associates of any variety understand the success stories, the personal journeys of those who actually are successful, as much money there as they spend on trying to adjust the environmental circumstance that attorneys operate in, I think we'll see much more success with diversity across the board.... It doesn't matter what the circumstance. If they've got those skills and they're thinking about what it takes for them to be successful, it may not be a perfect environment but they will rise to the occasion and become successful and become top performers. So I think if we sort of switch the focus a little bit, that these disproportionate numbers that are floating around, we'll see less of that and we will see more true success across the board.

JOE CALDWELL: To add to what Bill said earlier, it is true that there are pockets in the country geographically where we're seeing more minority and women partners. Not enormous numbers but some strides forward. My fear is with respect to the advancements that we as law firms have made in the last five years following the call to action, et cetera, that law firms making diversity a serious priority means that in many law firms, that success was achieved by lateral hiring. To the extent that there are reports that laterals are succeeding less than the homegrown associates, if you will, in many cases it's for precisely the reason that Caren Stacy said before, and that is that we are not necessarily doing a good job of integrating those lawyers into the law firm. It is still very much a sink or swim, and our effort and our energy is placed on identifying those with independence, and bringing them into the law firm but once they are there, then we say I'm sure this person has the wherewithal to succeed. The performance deficiency, if you will, often is not in abilities. It is in hours. And ... often it is that the partner may not be going to that individual to call on him or her to do the work so that that lawyer has fewer hours than their colleagues. And when firms are seeking to downsize in any respect, often those individuals are the low-hanging fruit, if you will, for the target and leaving the firm. So I'm very fearful of that.

Now, you asked what can be done. It has to be a conscious effort of the managing partner and the executive committee of the firm because if left to the responsibility of department chairs, department chairs have to manage their own individual departments. More often than not, their focus is on their numbers, is on their success, and diversity is important to them but may not get the same priority that it gets with the higher levels in the firm. So it requires then that when those individuals are looking to reduce their numbers, that the executive committee and the managing partner are both involved to say, well, is this having a negative impact on diversity? Yes, it is.

We need to reexamine. What are the factors that we're looking at so that it's a conscious effort of the firm to think about it?

JAMES LEIPOLD: There are some cynics out there who have said that diversity in this profession in particular was sort of a luxury in the boom times but that in this economic crisis, it will fall away as a core value, that both corporations and law firms can't afford to continue to make diversity the core value it has been. And I'm wondering, is that true? Are client demands likely to lessen in difficult economic circumstances?

FRED KREBS: Well, from a client perspective, I think you asked two or three questions. Is commitment a core value, is cost too great, and are client demands about diversity likely to lessen? My answer to that, based on what we hear, is no, no, and no. Certainly there is an issue. There is perception, problem, concern, that has been expressed. There is an issue, but what we hear from our members is that there remains a very strong commitment to diversity, that for the reasons that Bill alluded to ..., aside from being the right thing to do, it makes good business sense. It makes good business sense in dealing with customers, it makes good business sense when you're in front of a jury, it makes good business sense in getting good answers and good results. So I think ... that recognition of the importance of that is likely to continue and I suspect in many ways it may well increase.... So I would say that that commitment is likely to remain. I would say, however, that there is a problem or a potential problem, sort of the LIFO problem, last in, first out. I think that potentially exists. I think also there is a pipeline problem ... not so much from a commitment [standpoint] but a pipeline problem. We talked earlier about schools and the cost and the debt and does it make sense economically to go through and when you come out, are you burdened with \$100,000 or more of debt? And I think that to the extent that that disproportionately affects those who are in a lower socioeconomic category, that that's likely to have an impact on the diversity pipeline or a potential impact on the diversity pipeline.

CAROL SPRAGUE: We've actually been seeing an increase ... our clients [have been] paying much more attention to diversity over the past year.... For us it's such a core value and we put so much effort over the past years in increasing our presence, initiatives, trying to ... increase the pipeline, that I just think it would be a tragedy to pull back. It would be [a] penny wise and dollar foolish kind of thing that so many firms do at certain times. I think one of the things that we really have to focus on is being very strategic in our recruiting.... If you have to cut back on schedules and you have to cut back on schools, you make sure you go to schools that have a highly diverse population of law students. I think it's those kinds of things that you're probably going to see increase and maybe cut back on a lot of the fluffy stuff that was going on for a little while, trips overseas and those kinds of things. But I think mentoring and recruiting and focusing on a lot of the city bar association programs are things that I don't see firms really stopping.

THOMAS LEATHERBURY: I agree completely with Carol. I mean, we're right in the middle of our self-identification survey ... and to me, part of our emphasis in follow-up there is there are increased client inquiries about different aspects of diversity, whether it's who is on my work, who is staffing my projects..., what are your recruiting numbers looking like, and that sort of thing. So I think that's increasing as it should. I think the business case is obviously still there for

diversity for some of the reasons already mentioned. The programs, the retreats, I think those may be casualties, some of those things that when you are looking to cut X out of your costs, you have to look everywhere. But I've always thought that the best diversity programs were really one lawyer at a time. I mean, it's the relationships. It's, as Kellye said, telling the stories. It's being conscious about how you put your teams together to work on a matter. And I think those things all come at a very low cost, and so I think we're in it to stay, as we should be.

WALLY MARTINEZ: I reject the notion that diversity would be a casualty. I wholly reject it and there are two principal reasons. One is the core value reason; the other one is the client reason. The core value reason is that because of the good work by some of the thought leaders in our profession around this issue, it has become a core value at, I think, every law firm, Am Law 100, that I'm aware of. We've discussed it in the partnership, money is invested behind it. It's become an important issue. In fact, I would put our profession up against the accounting profession, the investment banking, medical, any other profession in terms of investment and commitment around diversity. Clients. It's a business imperative to the client. Every meeting I attend with general counsel in a roundtable setting, they're talking about this issue and they're concerned about making certain that the diversity initiative remains at the front of the mind. So if it's a business imperative to our clients, whether or not someone thinks it's fluff, it's important to the law firm. And second of all, let's not kid ourselves. We are the diversity pipeline for these clients, these law firms. So they have a vested interest to keep diversity talent flowing in these major law firms so they can hire them away.

JAMES LEIPOLD: I want to turn to the issue that Fred raised. There has been some writing that some minority groups in our country in particular are more risk averse when it comes to debt than non-minority groups. And with this economic downturn and the uncertainty about return on investment and the continued need to borrow, is that going to have a disincentive in terms of the diversity pipeline?

DAVID VAN ZANDT: I think there are a couple of issues there. One is that I agree, there is some negative pressure given the way costs of law schools are going. I'm not sure if it's ... minority-based or just socioeconomic based — that is, people who don't start out with families with a lot of resources. They're doing this in college, too. They tend to steer away from the high-cost institutions. So I do think that is something that has nothing to do with the current recession. I think it's just sort of exacerbating that. Part of that, and it's the second point, part of that in terms of the pipeline I'm just looking at some numbers here and what is really striking is that for the minorities, if you compare the percentage in the U.S. population versus the percentage that have bachelor's degrees, it's quite shocking. There is a big gap.... So I think our real problem, the pipeline problem, is between birth and the bachelor's degree. We're known around the world for having primary and secondary school systems that are not as good as some other places. Our higher education is great but it's hard to get there unless you've been well-trained early on. I do think the law schools all focus on this when we do get applicants in the door.... It's a real recruitment process and we do provide financial aid, substantial financial aid when it's needed.

SUSAN ROBINSON: On the earlier point about diversity, seeing an issue with diversity given the current economic downturn, I actually wouldn't be surprised to see diversity percentages go up during the downturn because I think firms are going to decrease their hiring. But for the very points that Wally mentioned, I think their commitment to diversity remains high. So I think when they're going out and looking for a smaller summer class, I would not be surprised to see the diversity percentage numbers higher in those smaller classes because of it, which great. But our biggest problem is the pipeline. And there are a smaller number coming in, and I think the debt question and combined with this concern that there would be a job for them coming out will disproportionately impact minorities. And so I think law schools and law firms need to step up some of the things they're already doing, which [means] focusing a bit more not just on the people who are currently in our schools and those who are in our firms but recognizing the need to be involved in pipeline programs, reaching back to grade school, high school, college. There are a number of studies that show the earlier you get involved in the pipeline, the greater you increase, the wider, the bigger you make that pipeline. There are a number of great programs out there. We started one a year ago, the NALP/Street Law program that's trying to reach back, go to the high schools to get more students, minorities into college and beyond. So I see it being a greater responsibility of law schools and law firms to be involved in pipeline programs.

LEANORA RUFFIN: I guess when I went to law school, it very much felt like a world where people wanted me to be part of the profession. Back in the days when we still talked about affirmative action, right? Remember that word? There were real institutional mechanisms in place to make sure that the playing field was leveled and I picked up on that, and so I marched to law school like most of my classmates and signed those loan papers just as fast as anyone else. To me it just doesn't feel like that anymore. It feels like law school is really a class-based proposition. So you have to have a few shekels in your pocket to start with, right? To even have situated yourself in the right college, high school, elementary school, and going back into kindergarten. We know how much people are paying for kindergarten nowadays. So that I think is a complete shift in how we even talk about the pipeline.

So one thing that I think that should happen is despite all the talk about core values and how law firms and clients have diversity as a core value, I think it very much has to match up with the practical realities. The practical reality is if my mother and father are out of work, I'm not going to law school probably, right? If your mom and dad are having a bad day, then you're not thinking about that. You're thinking about what's the next meal. And for some of the diverse students that are considering going to college and let alone law school, that's the calculus that they're trying to figure out. So I would love to see lawyers who are talking about diversity in their firms and in their corporations get in on the front line and on the grassroots and look at what are the institutional problems and the institutional barriers and really be an advocate with policy makers and legislators on the behalf of diverse populations. And I think if you have that kind of movement, then we won't be talking about this problem next year and in the future because we will have effectively knocked down the barriers in a very real way and made it such that even in a downturn, everyone can feel like law school is something for them.

JAMES LEIPOLD: LeaNora and Susan have talked a little bit about the importance of pipeline programs. There are lots of innovative ways that law firms have been trying to increase and maintain a diverse work force over the years. Faced now with reduced resources, are there some creative solutions out there that folks are trying?

CAREN STACY: We talked about the pipeline but what I haven't heard us mention very much is the advancement and promotion of our minority population. And when I define diversity, I'm looking at our part-time lawyers, I'm looking at our LGBT lawyers, I'm looking at our racial minorities, looking at our women. And what I see when I talk to our minority associates is they say to me, I don't feel like I have a role model at the top who is going to champion me. And so unless we do a better job not only on the pipeline and from the recruiting standpoint, we've got to do a better job of developing and advancing our minority attorneys so that they do make it to the top and so they can ... reach back and help champion.

So there are three things that I've seen law firms do over the last five years that I'm excited about. You know, there is still outright discrimination in law firms. Sad but true. But I think there is a darker underbelly of unconscious bias that's really the bigger obstacle in law firms. It's [about whether] our minority attorneys are getting the work that they need and the opportunities that they need to advance. And so a lot of law firms are actually starting to talk about micro-inequities and the unconscious bias that does exist that's much, much deeper and harder to get at. So I'm thrilled about kind of that advancement.

The second thing is client-driven. We have gotten client surveys for years that said please tell me the percentage of your diverse population as it relates to X, Y, Z. We fill those out and we say X percentage of our population is women. But actually that's not the issue. The issue is what are those women doing? What matters are they working on and what opportunities and access do they have to advance and be promoted and either stay at the firm or move on? So one of the things that I've seen in the last two years [is that] I now get client surveys ... that ask, what does my team look like, and not just what does my team look like in a snapshot but over a period of time, and are you continuously as a law firm doing a better job of making sure we have diverse teams both in the pitches but in the work that gets done as well. Because we don't want to just see that the team is going to be diverse. We want proven statistics that show it.

And then the third thing, and I think Joe mentioned this, is the accountability of everybody in the law firm. It's not just the managing partner. It's not just the diversity director. It's the practice chairs, it's the hiring chairs, it's everybody taking responsibility for diversity and then being accountable for it. I know of two law firms that actually now have that as a segment of their partner compensation where it is very specifically asked, what have you done to advance diversity in this law firm, and then that is taken into consideration in terms of shares and gates and a number of other compensation matters. And I'm thrilled to see that because we used to just compensate rainmakers and now we're going to compensate people based on the talent and on the management of our talent including diversity, which I think is a huge step forward. So those are three of the main things that I'm seeing that are progressive.

JAMES LEIPOLD: We've talked a little bit in both of our earlier conversations about the fact that we're in the midst of a seeming transition from a lockstep to a more merit-based system of advancement and compensation and that's something that started before the slow-down but may have been accelerated by the slow-down. And there are people on both sides who have expressed the opinion that this is great for diversity and for women and minority attorneys, and others who are more skeptical and see some pitfalls and some peril. And I wondered if we could close by turning to that question.

SCOTT WESTFAHL: I love this topic because we have put ourselves at large law firms into a business model that is completely inflexible and is not taking account of a lot of the diversity considerations that we're worried about, including generational differences, which we haven't mentioned here yet. But the firms outside of the legal world that are moving towards lattice-based organizations and a lot more flexible talent management systems are doing much better on diversity.... There are big barriers.... You know, inertia is incredibly difficult and Caren and I struggle in our roles daily to make the smallest changes that in corporate America would be very easy to make. You know, when a law firm chairman says, look, we want to do something out of the box, the next question is, what's everybody else doing? Then there is the cultural barrier ... that talent management ... is considered soft. I challenge everyone in this room never to use that word again. Leadership is not a soft skill. Tell that to a Marine. It's a hard skill to learn. We shoot ourselves in the foot when we say that. The barrier to this, and [it has been] accelerating, and that [is] that the recruiting people tell us we can't do anything differently because we'll get killed on campus in hiring. Well, now that that's not a concern, and all of a sudden I'm optimistic that we can start thinking about getting rid of lockstep. The difficult thing is that it's very hard to do, we were talking at the break, to put in the evaluation systems, the feedback systems, the competency models to come up with a level-based advancement system takes a lot of work and at the same time that our budgets are being cut or we're not being allowed to have more staff to handle professional development issues, we're taking all of this on.

So it's very, very tricky. The benefits are so clear that I think we're eventually going to get through this and I'm hoping this crisis will result in progress. Clients especially are very accepting now of the idea that they'll pay for value and we can say that we advanced this associate based on achieved criteria rather than they got a year older and sat at this desk a year longer. That system was never good. Associates are pushing us to have more flexibility. They want to be able to have the kind of job that, Bill, as you were saying, where sometime in their life if they need to have a more flexible arrangement, that they're going to be able to have it. The lockstep advancement is so terrible. You're stigmatizing somebody so badly if you say, well, you're going to be held back a class if you take off time.... Our women's initiative has been looking hard at these issues because we're still looking at a situation where we're not cracking the barrier and everybody knows the big elephant in the room is that at certain times in the lives of a lot of our women associates [it] becomes too hard as they start families and they have to leave. The job is just too demanding and we're not flexible. We're not proactively offering a culture of flexibility. That's where the real need is here.

JAMES LEIPOLD: Well, if we really move this industry in that direction, accelerated by this economic downturn, that would be a silver lining for sure.

LEANORA RUFFIN: I think it's going to happen.

JAMES LEIPOLD: Any last words? Anyone feel like they haven't been heard? Thank you very for a very good conversation today.