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Big Law Dreams

Pam Jenoff

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BIG LAW DREAMS

*Pam Jenoff**

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“Down here, the big-league dreams of the players are still just far-off lights on the horizon.”¹

Upon graduation, law students continue to seek positions with large law firms in record numbers. Graduates are drawn to Big Law for the purported pluses of high compensation; interesting work; extensive training and resources; mobility and prestige. However, a closer examination of the present-day realities reveals that these beliefs may be outdated, overstated, or simply incorrect. Students who make their career choices based on such premises may find themselves trapped in ill-fitting and unsatisfying positions. Moreover, an unyielding focus on

* Clinical Professor – Rutgers School of Law. Deepest appreciation to Ruth Anne Robbins, Sarah Ricks, Carol Wallinger, Barbara Gotthelf, Rebekah Verona, and Genevieve Tung for their feedback and support.

1. Nicholas Mancusi, *This Is What Baseball Looks Like in the Lowliest Minor Leagues*, DAILY BEAST (May 19, 2013, 4:45 AM), <https://www.thedailybeast.com/this-is-what-baseball-looks-like-in-the-lowliest-minor-leagues>.

Big Law based on faulty assumptions may have costs and consequences for legal education and the provision of legal services.

This essay focuses on the factors contributing to the law student's unrelenting drive toward Big Law. It examines the underlying assumptions built into that drive and whether they are valid. It explores the cost to graduates, the profession and society if students follow these assumptions and pursue a career in Big Law without careful thought and reflection. Finally, it considers the alternatives to Big Law that might give students what they are really seeking. By understanding the assumptions that drive them toward Big Law, students can make more informed career decisions. Law school faculty and administrators can also provide better curricular and career guidance if they understand the allure and limitations of the Big Law dream.

INTRODUCTION

In the past few years, at least a half-dozen students have come into my office at Rutgers Law School where I teach to talk about how they can get jobs in “Big Law.” Some of these students do not have the grades or credentials to be contenders for jobs at large law firms. Others have come to me as early as the first semester of their 1L year, not having explored other law-career options but wholly convinced that Big Law is the only choice. One was so desperate that he devised a plan to offer to work for free at a major law firm, even though all of the other summer associates would be paid. These students have all been united in a singular conviction that Big Law is the correct – and only path – for them.

Yet, what do students really mean when they say they want to go to “Big Law”? It seems when students talk about “Big Law” they are actually talking about something beyond the sheer size of the firm. Is it the drive for excellence, for high compensation, or for certain types of work, training, or opportunities that holds such allure?

Students are drawn to Big Law for the purported pluses of high compensation, interesting work, extensive training and resources, mobility and prestige. However, a closer examination of the present-day realities reveals that these beliefs may be outdated, overstated, or simply incorrect. Students who make their career choices based on such premises may find themselves trapped in ill-fitting and unsatisfying positions. Moreover, an unyielding focus on Big Law based on faulty assumptions may have costs and consequences for legal education and the provision of legal services.

This essay focuses on the factors contributing to the unrelenting drive toward Big Law. It examines the underlying assumptions built into that drive and whether they are valid. It explores the cost to graduates, the profession, and society if students follow these assumptions and pursue a career in Big Law without really thinking it through. Finally, it considers alternatives to Big Law that might give students what they are really seeking.

By understanding the assumptions that drive them toward Big Law, students can make more informed career decisions. Law school faculty and administrators can also provide better curricular and career guidance if they understand the allure and limitations of the Big Law dream.

I. WHAT IS BIG LAW?

Any meaningful discussion of Big Law must begin with clarification of the term. Big Law is generally defined as the largest firms in the nation in terms of numbers of lawyers, such as the Am Law 100 and 200.² Others classify Big Law based on firm revenue.³ Regardless of the metrics, these are full-service firms with attorneys spread across numerous practice areas.⁴ They have multiple offices nationally, and in many cases, internationally.⁵

For much of the twentieth century, Big Law predominated the legal landscape in America.⁶

However, the past few decades have seen a shift, prompting large law firms to struggle with respect to their identity, role, profitability and business model.⁷ There have been myriad articles about the fates of

2. See David A. Grenardo, *Why Should I Become an Associate at a Large Law Firm? And If I Do, Then What Should I Expect and How Do I Succeed*, 41 RUTGERS L. REC. 65, 67 n.2 (2014).

3. See Ralph G. Wrobley, *WORK, LIFE AND THE HIGH CALLING OF THE LAW* 85 (2010).

4. *Id.*

5. *Id.*; Sally Kane, *Big Law What It Means and What It Matters*, BALANCE CAREERS, <https://www.thebalancecareers.com/biglaw-nickname-definition-2164198> (last updated Dec. 9, 2018).

6. MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 2 (1991).

7. See generally Andrew Ross Sorkin, *Big Law Steps Into Uncertain Times*, N.Y. TIMES (Sept. 24, 2012, 5:20 PM), <https://dealbook.nytimes.com/2012/09/24/big-law-steps-into-uncertain-times> (explaining Axiom Law's business model to cope with the changing times); Larry E. Ribstein, *The Death of Big Law*, 2010 WIS. L. REV. 749, 751-52 (2010) (discussing the pressures on big law firms to reduce size, scale advantage, decline hour billing, increase billing rates, etc.).

Big Law, from the rise of the mega-firm⁸ during the twentieth century to the near-disastrous effects of the economic downturn in 2008.⁹ Indeed, in recent years, numerous commentators have written about the demise of Big Law.^{10*} They have cited challenges of the economy, billing, and leverage as just a few of the reasons the firm model was less than viable for the future.¹¹ Some have predicted that economic pressures would mean the decline of the large law firm through stagnant growth, higher leverage, fewer partners, increased lateral movement, and slow hiring out of law schools.¹²

Despite these grim predictions, Big Law is alive and well.¹³ Some commentators suggest that Big Law has come back leaner, but even that is debatable.¹⁴ While new austerity measures, such as more cautious hiring and cost-control mechanisms, seem to be a permanent fixture in the new landscape of Big Law, firms themselves have not stopped growing.¹⁵ To the contrary, mergers of some large law firms have created mega-firms – global enterprises with attorneys numbering in the thousands.¹⁶

A comprehensive analysis of the current state of Big Law, which others have so aptly undertaken,¹⁷ is beyond the scope of this essay. However, there are certain premises regarding Big Law that must be established to analyze students' perceptions of Big Law versus reality.

8. See generally GALANTER & PALAY, *supra* note 6, at 4 (writing about the emergence of large firms).

9. Sorkin, *supra* note 7.

10. BENJAMIN H. BARTON, GLASS HALF FULL: DECLINE AND REBIRTH OF THE LEGAL PROFESSION (2015); Ron Friedman, *Is Big Law Having Its Kodak Moment?*, BLOOMBERG: BIG BUS. L. (Jan. 26, 2016), <https://biglawbusiness.com/is-big-law-having-its-kodak-moment/>.

11. *Id.*; Jennifer Smith, *Law Firms Face Fresh Backlash Over Fees*, WALL ST. J. (Oct. 22, 2012, 1:30 PM), <https://www.wsj.com/articles/SB10001424052970203400604578070611725856952> (“Clients started clamping down on legal fees more than a decade ago, and the approach gained popularity as the economy tanked.”).

12. BARTON, *supra*, note 10.

13. See generally Russell G Pearce & Eli Wald, *The Relational Infrastructure of Law Firm Culture and the Exaggerated Death of Big Law*, 42 HOFSTRA L. REV. 109, 141-42 (2013) (discussing that Big Law is not on the demise due to a relational perspective that allows firms with the resources the opportunity to maintain their economic growth); Stephen L. Carter, *A ‘Big Law’ Revolution? Not Likely*, BLOOMBERG: BLOOMBERG OPINION (Aug. 21, 2015, 9:00 AM), <https://www.bloomberg.com/view/articles/2015-08-21/a-big-law-revolution-not-likely>.

14. Sorkin, *supra*, note 7.

15. Pearce & Wald, *supra* note 13.

16. See Elizabeth Olson, *Law Firm Mergers Keep Pace with 2015’s Record*, N.Y. TIMES (July 6, 2016), <https://www.nytimes.com/2016/07/07/business/dealbook/law-firm-mergers-keep-pace-with-2015s-record.html>.

17. See, e.g., Marc Galanter & William Henderson, *The Elastic Tournament: A Second Transformation of the Big Law Firm*, 60 STAN. L. REV. 1867 (2008).

First, despite the rising and falling fortunes of Big Law in the past decade, large law firms remain a significant factor in the American legal landscape.¹⁸ Further, they remain a force in law school hiring. Indeed, about 36 percent of graduates accept employment with large law firms.¹⁹

Second, Big Law is not the same as a decade ago.²⁰ Firms are still suffering from the effects of last decade's recession and struggling to figure out what size is most economically viable with respect to hiring and leverage.²¹ Economic pressures and other factors such as globalization and technology²² have affected the way that large law firms operate²³ – and consequently the ways in which they recruit law school graduates.²⁴

II. GETTING INTO BIG LAW

The ways in which Big Law recruit associates is not surprising: Firms typically hire top of the class graduates from top-tier law schools and attract them with the highest salaries.²⁵ Firms have historically

18. See generally THOMAS S. CLAY & ERIC A. SEEGER, 2015 LAW FIRMS IN TRANSITION (Altman Weil ed., 2015).

19. Karen Sloan, *And No. 1 on This Year's Go-To Law School Is . . . ?*, LAW.COM (Mar. 7, 2019, 7:00 PM) <https://www.law.com/2019/03/07/and-no-1-on-this-years-go-to-law-school-is/>.

20. See generally Dimitra Kessenides, *Big Law Still Needs to Get a Lot Smaller*, BLOOMBERG (Nov. 13, 2013, 4:41 PM), <https://www.bloomberg.com/news/articles/2013-11-13/big-law-still-needs-to-get-a-lot-smaller>; Susan Kelly, *Big Law Under Cost Pressure*, CRAIN'S N.Y. BUS. (Nov. 3, 2013, 12:00 AM), <http://www.crainsnewyork.com/article/20131103/FINANCE/311039998/big-law-coming-under-cost-pressure> (“The structure of law firms is changing in that the highly leveraged model, four or five associates to a partner, is under pressure from clients as a result of the downturn.”).

21. See CLAY & SEEGER, *supra* note 18, at iii.

22. Another factor which has transformed law firms is the rise of e-discovery and the need to process large amounts of documents and data. Firms often outsource or subcontract this work to lower-paid attorneys. See Marc Galanter & Thomas Palay, *The Many Futures of the Big Law Firm*, 45 S.C. L. REV. 905, 922-23 (1994).

23. REPORT OF THE NALP NEW CAREER MODELS TASK 1 (2013) [hereinafter NALP REPORT], https://www.nalp.org/uploads/NCMTF_Report_0313.pdf (noting the many challenges that face firms today, including “decreased demand for corporate legal services, fierce competition for new business, more competitive and creative pricing models, resistance from clients to paying for junior attorney work, increase in lower cost legal services providers and firms' continued need to maintain profitability.”).

24. Chris Mondics, *First Year Lawyer Salaries in Philly Hit 108k*, PHILA. INQ. (July 29, 2016, 3:32 PM), https://www.philly.com/philly/business/law/20160801_First_year_lawyer_salaries_hit_180k_in_Philly.html.

25. Ilana Kowarski, *Why Big Law Firms Care About Which Law School You Attend*, U.S. NEWS: EDUCATION (Aug. 1, 2018, 10:39 AM), <https://www.usnews.com/education/best-graduate-schools/top-law-schools/articles/2018-08-01/why-big-law-firms-care-about-which-law-school-you-attend>.

tended to prefer “homegrown” associates, *i.e.* those who were hired as summer associates and then made permanent offers, or those who were hired right out of law school.²⁶ Thus, there was generally an emphasis on recruiting summer and first-year associates. Lateral hires tended to be more sporadic and driven by practice area needs not met in the law school hiring market.

The economic recession of 2008 shook this hiring pattern.²⁷ Firms reduced or eliminated first-year classes.²⁸ Offers to summer associates, which had once been largely a given, were made sparingly or not at all.²⁹ Hearing the news, I called a colleague at my former firm and asked how the firm would manage without the pipeline of junior associates. He replied, “Let the smaller firms train them and then we can hire them laterally as second or third years.” Homegrown associates, those who start with a firm as first-year or even summer associates and remain throughout their careers, had gone from a valued part of the firm culture to a luxury many firms could no longer afford.³⁰

Law school hiring has rebounded somewhat in the past few years and firms are again hiring summer and entering classes, albeit in a more cautious manner.³¹ The pressures of the recession, however, linger across all aspects of legal hiring.³² Summer classes are smaller

26. See David Lait, *Homegrown or Not: Law Student Recruiting v. Lateral Hiring*, ABOVE THE L. (Apr. 25, 2013, 10:08 AM), <https://abovethelaw.com/2013/04/homegrown-or-not-law-student-recruiting-v-lateral-hiring/> (“For Biglaw, reliance on summer programs makes sense. Sprague said it would be impossible as a practical matter to hire 180 to 200 laterals a year, the rough size of Skadden’s incoming associate class, especially given the headhunter fees that would be involved (\$40,000 per placement). . . . [T]he summer program gives firms a ten-week look at the candidate, a chance to get to know the candidate’s personality and assess their work product.”).

27. See Andrew Soergel, *Hiring Outlook Bleak for New Law Grads*, U.S. NEWS & WORLD REP. (Aug. 18, 2016), <https://www.usnews.com/news/articles/2016-08-18/hiring-outlook-bleak-for-new-law-grads>.

28. See Staci Zertsky, *Rescission Watch: Which Biglaw Firm Is Pulling Offers?*, ABOVE THE L. (Aug. 11, 2017, 12:16 PM), <https://abovethelaw.com/2017/08/rescission-watch-which-biglaw-firm-is-pulling-offers/>; See generally Ellie Mystal, *Rescission Open Thread: Which Firms Are Pulling Offers?*, ABOVE THE L. (May 4, 2010, 6:19 PM), <https://abovethelaw.com/2010/05/rescission-open-thread-which-firms-are-pulling-offers/> (discussing how first year associates feel when offers are rescinded).

29. See Soergel, *supra* note 27.

30. *Id.*

31. Alicia Albertson, *More Law Grads Land Job As Market Slowly Rebounds*, NAT’L JURIST (Apr. 15, 2014, 9:31 AM), <http://www.nationaljurist.com/prelaw/more-law-grads-land-jobs-market-slowly-rebounds>.

32. These days legal employment is difficult for all law graduates. Indeed, in 2013 only 62.2% of all graduates had employment for which bar passage was required. See Samantha Robbins, *From Big Law to Legal Education: The Trickle Down Effect of the Recession*, 27 GEO. J. LEGAL ETHICS 841, 841 (2014).

and do not contain the opulent perks that were once the hallmarks of courting summer associates for permanent jobs.³³ Growth in firms is now the product of lateral hiring and mergers, rather than entry-level recruitment.³⁴ Consequently, law school graduates now find it more challenging to get into Big Law.³⁵

This more measured approach to hiring is undoubtedly felt most acutely by jobseekers who do not graduate from a top-tier law school.³⁶ Big Law typically recruits from top-tier firms and when going beyond there, only from the top ten percent of the class at other schools.³⁷ Getting hired at a large firm has always been challenging outside of the top tier schools and more so as entering first-year associate classes have shrunk, and competition has intensified.³⁸ Thus, students seeking Big Law jobs face an increasingly uphill battle.

III. THE ALLURE OF BIG LAW

While Big Law has seen changes to its recruiting strategy, the law school graduate's voracious appetite to join a large firm has remained unabated. As one commentator noted, "most students with sufficiently high class rank aspire to joining one of the Am. Law firms."³⁹

Can Big Law really be the best option for so many law students? The high rate of attrition of associates leaving firms in the first few years suggests not – and also suggests that many of the assumptions students make in choosing Big Law prove to be inaccurate or erroneous.⁴⁰ It is therefore vital to understand the perceptions students hold in making the Big Law choice.

33. See generally Karen Sloan, *Elite Firms Seem To Have Lost Their Appetites*, NAT'L L.J. (Feb. 27, 2012, 12:00 AM), <https://www.law.com/nationallawjournal/almID/1202543428334> ("With firms becoming ever more discriminating, the era of massive associate classes appears at an end.").

34. William D. Henderson, *From Big Law to Lean Law*, 3 INT'L REV. L. & ECON. 5, 8-9 (2014); Tammy Patterson, *Lateral Hiring Outpaces Entry Level Hiring*, NALP BULL. (June 2012).

35. See Soergel, *supra* note 27.

36. KOWARSKI, *supra* note 25.

37. Robbins, *supra* note 32, at 849.

38. CLAY & SEEGER, *supra* note 18, at 50 (noting that over sixty percent of firms responded that smaller first year classes will be a permanent trend going forward).

39. WROBLEY, *supra* note 3, at 86.

40. *Associate Retention*, CHAMBERS ASSOCIATE, <https://www.chambers-associate.com/law-firms/associate-satisfaction-surveys/associate-retention> (last visited May 30, 2019).

A. *Big Law Means Big Money*

The most obvious reason students seek out Big Law jobs is for big money. Undoubtedly, large law firms offer the highest average gross compensation.⁴¹ For example, the starting salary for associates at large firms in New York City is as high as \$160,000.⁴² Over half of the firms in New York now report \$180,000 as the first year starting salary.⁴³ Additionally, annual bonuses can start at \$50,000 or more.⁴⁴ For those who can tough it out and succeed, there is clearly even bigger money to be had in later years. For example, fifty firms had over one-million profits per partner in 2008.⁴⁵

B. *Big Law Means Best Options*

Some students seek out Big Law not only for compensation but also for the opportunities it can provide. These may take the form of either partnership at the firm or using firm experience as a springboard to other opportunities.

The first group consists of those who envision themselves on the lifelong path to partnership.⁴⁶ To these students, the firm itself is the opportunity. Others taking Big Law jobs after graduation may want to “cut their teeth” at a large law firm and use those credentials as a launch pad to other types of law practice, such as in-house, public interest, or the judiciary. There is a general perception that big firms bring more significant opportunity because the prestigious connections and work at a large firm make it easier for lawyers to transition into these other areas. Associates can develop relationships with a client and then go to work for that client.⁴⁷

41. *Salaries for New Lawyers: An Update on Who We Are and How We Got Here*, NALP BULL. (Aug. 2012), <https://www.nalp.org/august2012research>; See also Chris Mondics, *First Year Lawyer Salaries in Philly Hit 108k*, PHILA. INQ. (Aug. 1, 2016, 9:40 AM), http://www.philly.com/philly/business/law/20160801_First_year_lawyer_salaries_hit_180k_in_Phillly.html?arc404=true.

42. See Staci Zaretsky, *It's Almost July 1, But New York Firms Are Still Raising Salaries*, ABOVE L. (July 30, 2018, 12:12 PM), <https://abovethelaw.com/2018/06/its-almost-july-1-but-new-york-firms-are-still-raising-salaries/> (“The New York salary scale for Biglaw firms seems to be set at \$190,000 for entry-level attorneys . . .”).

43. *Id.*

44. See Grenardo, *supra* note 2, at 73 (noting that eighth-year associate bonuses in New York may be \$60,000).

45. WROBLEY, *supra* note 3, at 86.

46. Robbins, *supra* note 32, at 845.

47. Grenardo, *supra* note 2, at 75.

Lawyers seeking mobility have long perceived that it is essential to start at Big Law because the aforementioned mobility is a one-way street. Conventional wisdom has held that it was easier to go from a big firm to a small firm, but not vice versa.⁴⁸

Additionally, a change in type of practice is not the only mobility Big Law offers. Big firms also provide the most geographic diversity for graduates who anticipate wanting to relocate or to work remotely for other locations.⁴⁹

C. *Big Law Means Best Work*

There is a perception among many law students that working at a large firm will offer the best work. This attendant reality largely depends on how one defines “best.” For example, it is true that large firms will have Fortune 100 companies as clients and the work for which these companies are willing to pay tends to be sophisticated. Clients seek out Big Law for what scholars call “reputational bonding,” *e.g.*, they choose these firms because they have selected the most able lawyers who are perceived as best qualified to handle the most complicated work.⁵⁰ As one associate noted, “Working at big firms allowed me to work on high-stakes cases for prestigious clients.”⁵¹ Thus, if the best work means working on large matters for Fortune 500 companies, large firms provide that opportunity.

D. *Big Law Means Best Training*

Large firms have traditionally meant the best training. There are two types of training one might consider in this equation. The first is formal training. Firms are known for having extensive training programs for junior associates. For example, litigators might be given training on depositions, drafting discovery, etc. Associates also receive training in substantive areas of the law. This training may be conducted in-house or undertaken in outside courses. There is also on-the-job training: learning while drafting pleadings, taking depositions, etc. These opportunities tend to be more happenstance and situational and

48. *Id.* at 74.

49. Michael Hitt et al., *The Strategic Evolution of Large U.S. Law Firms*, 50 BUS. HORIZONS 1, 5 (2007).

50. BARTON, *supra* note 10, at 3.

51. Grenardo, *supra* note 2, at 69.

driven by the needs of the case and client, rather than a deliberate development path for the associate.⁵²

E. Big Law Means Most Prestige

There is another perceived, intangible benefit to Big Law— the prestige of working for “the best,” or obtaining employment in the most competitive position. Sometimes for competitive law students, joining a firm can seem like the only choice. As one commentator noted, “The types of people who go to law school seem to chase ‘the best’ like addicts. . . They want the best grade, the most prestigious workplace, the highest salary.”⁵³ For these students, the lure of Big Law can be powerful, and the prestige too shiny a brass ring to ignore.

IV. THE REALITY OF BIG LAW

Armed with these assumptions, law graduates head to Big Law in droves. However, key questions remain: Do the assumptions about Big Law remain valid in an age where the firms have undergone major restructuring and downsizing?⁵⁴ Were they ever valid in the first place? And even if the assumptions are true, does that mean that Big Law is the right choice for so many law school graduates?

A. The Money Myth

In debunking the money myth, it is important to understand that students seek big firm compensation for different reasons. Some students may have familial financial hardship. Others perceive it as necessary to repay student loans.⁵⁵ Finally there are those who are drawn to the lifestyle that it affords.⁵⁶

Thus, the first question to ask students who are drawn to Big Law for the high salary is whether such compensation is necessary or even desirable.⁵⁷ For some students with exceptional financial circum-

52. Sally Kane, *The Benefits of Working in a Large Firm* (2019), <https://www.thebalancecareers.com/large-law-firm-employment-2164674>.

53. Leigh McMullan Abramson, *The Only Job with an Industry Devoted to Helping People Quit*, ATLANTIC (Jul. 29, 2014), <https://www.theatlantic.com/business/archive/2014/07/the-only-job-with-an-industry-devoted-to-helping-people-quit/375199/>.

54. BARTON, *supra* note 10.

55. WROBLEY, *supra* note 3, at 87; Robbins, *supra* note 32, at 846.

56. Grenardo, *supra* note 2, at 71; Abramson, *supra* note 53.

57. See Douglas Quenqua, *Lawyers With Lowest Pay Report More Happiness*, N.Y. TIMES: WELL: BLOG (May 12, 2015, 2:42 PM), <https://well.blogs.nytimes.com/2015/05/12/law>

stances, a high-paying firm job may appear to be the best or only option. In other words, “Many may decide to forego preferred service work because of their high debt loads.”⁵⁸ However, for others who are worried about repaying loans, they may simply need to be informed that options such as loan forgiveness or a different payment schedule are available if they wish to consider public interest work.⁵⁹ For students who would prefer private sector work at a smaller firm, a longer loan repayment schedule might be helpful.

Beyond financial hardship, some students seek out the high compensation Big Law offers for lifestyle reasons. These students should be cautioned about “the golden handcuffs” – the perils of opting into a lifestyle they can only afford by remaining at the firm.⁶⁰

Even if students cannot be dissuaded from the appeal of big money, it is worth testing the assumption that Big Law pays more. It is true that if one is seeking to maximize gross compensation, Big Law is hard, if not impossible, to beat. However, if a lawyer values his or her time in terms of compensation paid for time/hours worked, it is not at all clear that Big Law pay is largest.

Students often overlook one of the most significant downsides of entering Big Law: the hours. While firms often tout available hours requirement of 2,000 hours and point out that this equates to just forty hours per week, the reality is that the 2,000 hours tends to be a floor and associates often work upward of 2,400 hours, billed in six-minute increments.⁶¹ Additionally, this does not account for the non-billable hours for training, client development and administrative work.⁶² This can increase work time by twenty percent or more.⁶³ Thus, 2,000 hours

yers-with-lowest-pay-report-more-happiness/; Kennon M. Sheldon & Lawrence S. Krieger, *Service Job Lawyers are Happier Than Money Job Lawyers, Despite Their Lower Income*, 9 J. POSITIVE PSYCH. 219 (2014) (“earning a high income may come with tradeoffs that should also be factored into people’s choices. . .people choosing work for extrinsic reasons, especially higher earnings, may suffer to an extent as a result of that choice.”)

58. Krieger & Sheldon, *supra* note 57.

59. NANCY LEVIT & DOUGLAS O. LINDER, *THE HAPPY LAWYER: MAKING A GOOD LIFE IN THE LAW* 136 (2010).

60. Grenardo, *supra* note 2, at 102; *See also* Abramson, *supra* note 53 (reporting that there is guilt in walking away from a firm that invested so much in an associate).

61. Ian Gallacher, *No Country for Old Men: Junior Associates and the Real World Practice of Law*, 13 LEG. COMM. & RHETORIC 193, 199-200 (2016); A.B.A., *AT THE BREAKING POINT: A NATIONAL CONFERENCE ON THE EMERGING CRISIS IN THE QUALITY OF LAWYERS’ HEALTH AND LIVES, ITS IMPACT ON LAW FIRMS AND CLIENT SERVICES* (1991) [hereinafter *Breaking Point*] (noting that 50 % of lawyers in private practice work 2400 hours per year or more).

62. Patrick J. Schiltz, *On Being a Happy, Healthy and Ethical Member of an Unhappy, Unhealthy and Unethical Profession*, 52 VAND. L. REV. 871, 894 (1999).

63. WROBLEY, *supra* note 3, at 92.

really means much more.⁶⁴ An average associate may need to work upwards of sixty hours per week in order to meet billable hour requirements.⁶⁵ In addition to actual work time, there is an expectation that associates be available by email and phone twenty-four hours per day, seven days per week.⁶⁶

Thus, the compensation for time worked does not necessarily work out to be more at large firms because of higher overall salary. Moreover, every increase in compensation needs to be paid for somewhere: The clients are reluctant to pay more, and the partners are not going to take it out of their pockets. Therefore, billables will go up with the salary.⁶⁷ The raises are paid for by associates working more hours.⁶⁸ Indeed, I have heard associates groan upon hearing of another raise, opining that they would rather forego the extra money and not add more billable hours.

B. *The Mobility Myth*

As noted above, many students seek out Big Law for the opportunities they perceive it offers, either to advance to partner or to transition in-house or elsewhere. Both of these notions warrant further examination.

With respect to the partnership path, lifelong firm membership is no longer the norm.⁶⁹ Attorneys increasingly move among firms and with that comes decreasing expectations that one will stay at the firm where he or she first started practicing. Large law firms are hardly recession-proof, as evidenced by the fall of 2008 when firms stopped hiring or laid off associates.⁷⁰ Thus, firm positions no longer carry the long-term security as in the past.

Additionally, with respect to a partnership, the path is far less straightforward than it once was. Once, young associates joined firms with aspirations of partnership roughly a decade down the line. Those who left the firm to go in-house or to a smaller firm were deemed to have been failures. However, that model has changed. In the new

64. Schiltz, *supra* note 61.

65. *Id.* at 894.

66. See Grenardo, *supra* note 2, at 78.

67. Schiltz, *supra* note 62, at 898; Mondics, *supra* note 41.

68. Schiltz, *supra* note 62, at 898-99.

69. See Vanessa O'Connell, *Objection! Older Lawyers Resist Forced Retirement*, WALL STREET J. (Jul. 22, 2010, 12:01 AM), <https://www.wsj.com/articles/SB10001424052748704229004575371420213478264> (“[Firms] worry, as competition in the industry intensifies, that older partners may be less productive than younger ones.”).

70. Robbins, *supra* note 32, at 846.

economy, with its attendant profit challenges, firms are promoting fewer attorneys to partnership.⁷¹ Increasingly, mid-level associates are receiving the message that they will not make partner and are given the choice of accepting an alternative position, such as of-counsel, or seeking employment elsewhere. Being promoted to partner can take longer and for many associates, may not happen at all.⁷²

Finally, a partnership is no longer the destination it once was. A partnership is often two-tiered, with associates first promoted to non-equity partner for a number of years without a guarantee of being further elevated. Partners at large firms today face more pressure than ever with respect to rainmaking and profits.⁷³ Even those who have made partner risk being de-equitized or reduced to counsel if they are not bringing in enough business.⁷⁴

Looking at all of these trends, it seems that the upward mobility at large firms is not entirely clear. Students would do well to understand this from the outset.

Additionally, those who do not seek lifelong membership in Big Law, but see it as a springboard to other types of practice, may be overestimating the mobility it provides.⁷⁵ It is true that a number of Big Law attorneys, most at the mid-level associate point, will go in-house. Others will go into government work, or perhaps even the judiciary. But working at a large law firm prepares one primarily for large law firm work. Thus, associates seeking change often move from one firm to another in search of a better fit.

Another reason that Big Law does not provide unfettered mobility is specialization. Practices tend to specialize quickly, and opportunities that are a good match outside the firm may not be plentiful.⁷⁶ Working at a large law firm does not guarantee, but to the contrary seems to make more difficult, mobility among different practice areas in the law.

71. Victor Li, *Have We Reached the End of The Partnership Model?*, ABA J. (Aug. 1, 2015, 5:45 AM), http://www.abajournal.com/magazine/article/have_we_reached_the_end_of_the_partnership_model?icn=most_read.

72. *Id.*

73. See generally Andrew Stickler, *Non-Equity Partners: The Most Miserable Attorneys at Your Firm*, L. 360 (Aug. 17, 2015, 7:57 PM), <https://www.law360.com/articles/691856/non-equity-partners-the-most-miserable-attys-in-your-firm>.

74. Li, *supra* note 71.

75. Schiltz, *supra* note 62, at 932; Mondics, *supra* note 41.

76. Schiltz, *supra* note 62, at 929-930 ("If you got to a big firm, you will have to find a niche, and the bigger the firm, the smaller your niche is likely to be.").

C. *The Work Myth*

There is a common belief that Big Law offers the best work: sophisticated matters for large corporate clients. However, a number of other ways in which one can define “best” leave the large firm experience lacking. Indeed, there is plenty of scut work, document production, and due diligence to be done on large matters, and some associates will find themselves doing primarily that in the first few years.⁷⁷ There was one case at my old firm that caused so many associates to quit from its drudgery; it had been nicknamed the “trail of tears.” Moreover, if the best work means variety, students may be disappointed in how quickly associates become specialized into a particular area of work.

D. *The Training Myth*

A long-held belief corollary to the “best work” assumption is the perception that large law firms offer the best training. Indeed, firms once-prized “homegrown” associates – those who had begun with the firm directly out of law school, because the firm had trained those lawyers from the start.⁷⁸ Big Law once meant stellar training, in the form of in-house courses, participation in firm-sponsored training programs, on-the-job training and shadowing more senior attorneys.

However, it is unclear if firm training was ever as extensive as perceived. For example, a 1991 survey noted,

“While formal in-house training is more prevalent in the past, it is still not the norm. . . . Informal training, in the form of feedback or mentoring, is even less the norm. Many partners are so busy billing hours that they either do not have the time or have lost interest in making time to provide associates . . . with the substantive and career feedback that is vital to both the development of young careers and the future health of the law firm.”⁷⁹

Even if law firms have traditionally provided comprehensive training, it is unclear if that is still the case in light of present-day economic constraints.⁸⁰ First, as firms have downsized their entering classes, they have begun to rely on lateral hires already trained else-

77. Scott E. Walker, *What's it Like Working at a Major New York City Law Firm?* (2011), <https://walkercorporatelaw.com/lawyers/what's-it-like-working-at-a-major-new-york-city-law-firm/>.

78. William D. Henderson, *Talent Systems for Law Firms*, Articles by Maurer Faculty (2017), <https://pdfs.semanticscholar.org/7190/2ec3151b37e30500f923c1c314e8ebf61f46.pdf>.

79. BREAKING POINT, *supra* note 61, at 5.

80. Grenardo, *supra* note 2, at 72-73; WROBLEY, *supra* note 3, at 89.

where.⁸¹ Additionally, since training costs eat into both the time an associate can spend billing hours and into partner profits, both internal and external training programs have been scaled back.⁸²

Another key type of training, shadowing a partner or more senior associate at deposition or trial has also been cut back since the recession.⁸³ As clients have begun to scrutinize bills more closely, they may be unwilling to pay for a second associate on these types of matters. Finally, on-the-job training can vary widely. There may not be a breadth of experience and the work can be repetitive and specialized.⁸⁴ There is a question whether junior associates will get the types of experiences they seek.⁸⁵

E. The Prestige Myth

There is a perception among many law students that Big Law is the “brass ring” – hardest to obtain, most sought after. Thus, those who are competitive or high-achievers by nature may feel compelled to try and attain an offer. However, the alpha types who gravitate toward Big Law may be surprised to know that it is not the most competitive job; public sector positions, such as Assistant United States Attorney or positions with certain federal agencies, can be far harder to secure.⁸⁶

Moreover, students should be counseled against going for a job simply because it is hard to get without thinking about whether the position is the right fit. The satisfaction of securing a top position will mean little for the graduate’s happiness if the position is not right for him or her.

V. THE FALLACY OF BIG LAW: IS THE PROOF IN THE LEAVING?

If all of the promises of Big Law are overstated or simply false, then what does this mean for the students who choose it? One implica-

81. Henderson, *supra* note 78.

82. *Id.*

83. See generally Jim Hassett & Matt Hassett, *Legal Pricing in Transition: How Client Demands and Alternative Fees are Changing the Way That Law Firms Price Their Services*, LEGALBIZDEV (2012), <http://www.legalbizdev.com/files/LegalBizDevPricingWhitePaperX.pdf> (explaining the way law firms are being forced to rethink their approach to pricing their services in light of client demands).

84. Schiltz, *supra* note 61, at 927, 929.

85. WROBLEY, *supra* note 3, at 87.

86. Teresa Lo, *The Pros and Cons of Working as a Government Attorney*, Law Crossing, <http://www.lawcrossing.com/article/900049893/The-Pros-and-Cons-of-Working-as-a-Government-Attorney/>.

tion seems to be a higher level of dissatisfaction – or even unhappiness – than among peers. As one study noted, “[m]ore than two-thirds (68 percent) of attorneys who work in the public-sector report being satisfied with their career, the appreciation they receive, and their work-life balance. The least happy (although wealthiest) lawyers are those in large law firms, with only 44 percent reporting that they are satisfied.)”⁸⁷

One telling symptom of discontent is that while students flock to Big Law right out of law school, they flee in equal numbers shortly thereafter.⁸⁸ One study found that almost 80 percent of all associates had left the firm with which they started by the fifth year.⁸⁹ Associates at Big Law express the lowest satisfaction at work.⁹⁰ While further study is needed, the data seems to suggest that dissatisfaction with large law-firm life correlates closely with the high rate of attrition.⁹¹

VI. THE COST OF BIG LAW

Big Law is like a mirage off in the distance that proves elusive, and when actually reached, it is not the answer that it appeared to be. However, students who are unarmed with the realities underscoring Big Law persist in driving toward it in large numbers. This has costs and consequences for the graduates, legal education, and society as a whole.

First, students who erroneously drive toward Big Law may find themselves disappointed with the reality. There is a cost to the student in terms of unhappiness and quality of life.⁹² Lawyers at big firms tend to be dissatisfied with long hours.⁹³ They may also experience general unhappiness with the work.⁹⁴ Faced with such dissatisfaction, these lawyers may either remain in the position that is an ill-fit or

87. LEVIT & LINDER, *supra* note 59, at 9.

88. Abramson, *supra* note 53.

89. WROBLEY, *supra* note 3.

90. Schiltz, *supra* note 62, at 886. *See also* LEVIT & LINDER, *supra* note 59, at 162; Ronit Dinovitzer & Bryan G. Garth, *Lawyer Satisfaction in the Process of Structuring Legal Careers*, 41 L. & SOC'Y REV. 1, 12 (2007); Peter H. Huang & Rick Swedloff, *Authentic Happiness & Meaning at Law Firms*, 58 SYRACUSE L. REV. 335, 336 (2008).

91. *See generally* Albertson, *supra* note 31; Joan E. Mounteer, *Depression Among Lawyers*, 33 COLO. LAW. 35 (2004); Krieger & Sheldon, *supra* note 57, at 596 (noting that with the increasing firm size, lawyers reported more external motivation for their work and less autonomy satisfaction).

92. WROBLEY, *supra* note 3, at 96.

93. Schiltz, *supra* note 62, at 893.

94. *Id.* at 874 (noting that lawyers suffer from depression at more than 3.6 times rate of peers in other professions).

begin the arduous process of finding another position – easier said than done once a student has graduated and started working.

The over-emphasis on Big Law by students has potential consequences for legal education as well. Students who assume that Big Law is the only right path make choices in law school designed to get them to Big Law jobs. Thus, a student may choose certain courses (e.g., corporations, anti-trust, or securities regulation) over others, such as social justice classes, certain jobs over clinics or externships, and certain outside employment experiences with the hope of placing him or herself in the best position for Big Law. This may have the effect of skewing the resources in legal education in the direction of the private sector and away from other types of opportunities, such as clinic and *pro bono* work. There is also a cost to law schools in having their graduates leave jobs. Lawyers who stay in their professions longer are more engaged alumni and better lawyers.⁹⁵

Additionally, there is also a cost to the firms themselves in hiring new associates who are a poor fit for big-firm life. As one article noted, “Unhappy lawyers may loaf at work or otherwise be unproductive and may quit. Attrition of associates is costly to law firms, in terms of money, morale, reputation and time.”⁹⁶ Big Law should want the graduates who, armed with accurate information, actually want to be there.

Though it is beyond the scope of this essay, there is an important question as to what effect the unrelenting drive toward Big Law may have not only students but on society as a whole.⁹⁷ To the extent that assumptions about Big Law drive students away from the public interest and other types of work, this may also reduce the provision of legal services to low-income individuals and restrict access to justice.

CONCLUSION: FROM BIG LAW TO BIG TENT

The economic upheaval of the past decade and its consequences on firm-hiring provide an opportunity to rethink the law graduate’s choices beyond Big Law. One of the upsides of the recent economic turmoil, which this essay addressed in Part One, is that, with Big-Law-hiring less, graduates have had to get creative. Firm jobs are no longer the default – small-firm, solo practice and J.D. preferred (non-lawyer jobs for which the juris doctor degree is helpful but not required) are all

95. Huang & Swedloff, *supra* note 90, at 339.

96. *Id.* at 336.

97. *Id.* at 339 (noting that unhappy lawyers implicate a “temporary misallocation of human capital and scarce legal education resources”).

important career options for today's graduates.⁹⁸ Thus, Big Law should be framed as just one option under the Big Tent of career choices for law school graduates.

Students who remain focused on Big Law should understand that within a firm, partnership is no longer the only path or goal.⁹⁹ For some, a large law-firm position may be the starting point to move to the in-house, academia, or the public sector.¹⁰⁰ Students who aspire to move on would do well to identify that goal early in their firm careers so that they can seek assignments and networking opportunities that will permit them to bridge readily to other types of practice.

For those who remain at firms, there are more choices as well. Firms increasingly rely on counsel, contract attorneys, and others to do highly specialized work. Such positions may be better suited to a lawyer's needs and goals.¹⁰¹ Graduates need to recognize, however, that jobs which are better suited to personal goals and interests may come with lower salaries. As with the public interest work, such graduates should be counseled to manage lifestyle and student loan debt in ways that make alternative career paths financially viable.

Law schools should also examine the ways in which curriculum drives students to Big Law. As one commentator noted that "the curriculum of most law schools is not geared toward training students in the administrative, political and human skills they will need to enter public interest work."¹⁰² Law schools should ensure that their offerings in both traditional courses and experiential learning adequately reflect the full range of employment options available to students after graduation

The purpose of this essay is not to denigrate Big Law. Large law firms provide top-notch legal services and are the right choice for a good number of students. But by understanding the realities and limitations, students can appreciate that it is not the only path or one for which they should sacrifice their values and personal happiness, and it is not a failure if they wind up taking a different path. In other words, "Beyond learning to think and write like a lawyer, law schools and law firms can give their students and associates the information they need

98. See generally Albertson, *supra* note 31.

99. NALP REPORT, *supra* note 23, at 2.

100. See generally MP McQueen, *Here Come the Big Law Millennials*, AM. LAW. (Feb. 29, 2016 at 12:00 AM), <https://www.law.com/americanlawyer/almID/1202749825654/?slreturn=20180808184933>.

101. See generally CLAY & SEEGER, *supra* note 19, at 27 (noting that firms are using alternative strategies such as part time and staff lawyers).

102. LEVIT & LINDER, *supra* note 59.

to make themselves happier.”¹⁰³ Testing student assumptions about Big Law that underpin their drive to go there can result in a more comprehensive set of career goals, better decision-making, and increased long-term satisfaction.

103. Huang & Swedloff, *supra* note 90, at 339.
