From the Executive Director:

Truth or Dare: The New Employment Market

by James G. Leipold

Here’s a question for you: Given the dramatic changes in the entry-level legal employment market that we have lived through since 2009, how should we be describing employment prospects to prospective law school students?

It is a million dollar question. Actually, it is probably more like a $4 billion question. That is the figure that one journalist recently calculated as the amount of money that ABA-approved law schools collect in fees and tuition every year. And as law schools continue to sell the product that is an American legal education, the question about what kind of job market the roughly 40,000 annual graduates of U.S. law schools will face is an increasingly important one.

I have been surprised recently that a number of law schools, through their dean or their office of career services, have called on NALP generally and on me specifically to develop a more positive message about the entry-level job market. One request went so far as to urge me to describe the entry-level legal employment market as good. Ah, if wishing would only make it so.

NALP has not shied away from celebrating the strength of the entry-level legal employment market when it has been strong. See for instance the collection of NALP press release headlines from 2007 forward collected in the sidebar below. When the news is good, NALP has been the first to shout it from the mountain tops, and when the market weakens, NALP research is among the first to document that.

NALP Press Release Headlines

- “Fall Legal Recruiting: Firms Face More Competition in Summer Hiring” — March 2007
- “Salaries at Largest Firms Continue to Rise Rapidly” — September 2007
- “Market for New Law Graduates at Highest Level in 20 Years” — July 2008
- “Salaries at Largest Firms Up Again!” — August 2008
- “Salaries at Largest Firms Peak in 2009” — August 2009
- “Entry-Level Recruiting Volumes Plunge, Some Start Dates Deferred” — March 2010
- “Class of 2010 Graduates Faced Worst Job Market Since Mid-1990s: Longstanding Employment Patterns Interrupted” — June 2010
- “Class of 2010 Graduates Saddled with Falling Average Starting Salaries as Private Practice Jobs Erode” — July 2011
The truth is that no one knows what the entry-level legal employment market will look like for members of the Classes of 2016 and 2017, the graduating classes for those students who are just now taking the LSAT or thinking about applying to law school. But one thing we know for sure is that it will be different, and probably dramatically so, than it was for the Classes of 2006 and 2007. The strength of the NALP model for describing the legal employment market is that it is research-based. Historically, NALP has been able to describe with great precision what exactly the employment market for any given graduating class looked like nine months after graduation. So we know, for instance, that fewer than half of the members of the Class of 2011 found jobs in private practice, just over 65% of the class found jobs that required bar passage, and the median starting salary for the class fell 17% from that for the Class of 2009 (and the median private practice salary fell 35% from that of the Class of 2009). Taken together, those markers and others for the Class of 2011 describe the weakest entry-level job market that NALP has measured in nearly 40 years of doing this work.

We also know that the large law firm hiring model is different than it was before the recession, and is not likely ever going to look like it did in the last years before the economic collapse. That is because the business environment for large law firms has changed in significant ways that are likely to be permanent, or at least it has changed because of trends that are not likely to reverse themselves.

I recently had the good fortune to hear Jim Jones speak again, this time at the International Legal Technology Association conference here in DC. He identified three changes that he thinks mark a tipping point for the U.S. legal services market. The first is a shift from what had for countless years been a seller’s market to a buyer’s market for legal services. That means that most of the critical business decisions about the relationship between clients and their law firms that used to be made by law firms are now made by client corporations. According to Jones that shift in the balance of power is not likely to reverse itself even if the U.S. economy improves significantly.

The other two major developments are the disaggregation of legal services and the drift toward alternative fee arrangements. Where client corporations traditionally awarded work on an entire matter to a law firm, as a result of developments in technology and information science and the growth of sophisticated legal process outsourcers, as well as lessons learned from modern management science, clients are now breaking up legal matters and sending the different pieces to the lowest cost provider, meaning traditional law firms are left with only part of the work — and even then as much as 15% of that work (soon to be closer to 30% according to Jones) is alternative fee or fee-capped work.

This is a long way of saying that law firms have to manage costs more aggressively and find less expensive ways to deliver legal services, which, by the way, they are learning to do more and more effectively. But it means that they are not hiring large groups of summer associates and new law school graduates. Starting salaries of $160,000 accounted for just 14% of the reported salaries for the Class of 2011, compared with 25% of the reported salaries for the Class of 2009.

It is hard to come to grips with change of that magnitude. As I try to make sense of the words and actions of many of those involved in legal education and the legal profession generally, I am reminded of Kübler-Ross’s five stages of grief: denial, anger, bargaining, depression, and acceptance. My sense is that there are quite a few people in law schools, law firms, and other legal services settings around the country who have yet to reach acceptance.

So what is the truth? What do you tell law school prospects about the job market and their likely employment prospects? A good litmus test for you might be trying to figure out what you would tell your best friend’s daughter or son when they ask you if they should go to law school. This is what I say:

An American legal education is still among the very best graduate programs you can pursue. It is rigorous, and it is rewarding, and it is recognized
the world over as the gold standard in legal education. But, you should borrow as little as possible to get your law degree, and you should think about going to the school where you can be most highly ranked rather than to the school that is most highly ranked.

You should enroll in law school understanding that the legal employment market is undergoing a period of profound change, and there is likely to be some uncertainty surrounding the job market when you graduate. The traditional pathways to a legal career are changing, and it is a more entrepreneurial job market than it used to be.

It will be important to get practical experience while you are in law school, even if that means volunteering during your summers, and it may even mean volunteering for a period of time after you graduate. Increasingly law grads string several part-time or temporary jobs together until they land their first full-time job.

Finally, you should not count on getting a job at a big law firm that pays $160,000 a year, even if you are at the top of your class. Those jobs are an increasingly small part of the pie, and you are much more likely to make $45,000 to $60,000 when you graduate than you are $160,000. Still, a legal education can be a great pathway to a rewarding, challenging career, and can provide access to leadership opportunities throughout your life, whether they are in business, government, public service, or with a law firm.

It may not be a persuasive argument for a young person these days, but it has the virtue of being truthful, and that, I dare say, is the best that we can do.