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Ian Gallacher

Syracuse University College of Law, igallach@law.syr.edu

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From the Selected Works of Ian Gallacher

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"No Country For Old Men:" Junior Associates And The Real-World Practice Of Law

Ian Gallacher



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ESSAY

"NO COUNTRY FOR OLD MEN:"
JUNIOR ASSOCIATES AND THE REAL-WORLD PRACTICE OF LAW*

Ian Gallacher**

Every year, thousands of second year law students interview with large firms in the country's major cities in hopes of landing a summer associate position that will, the students hope, lead to a full-time job offer. That well-paying job with the big firm is the bait on the law school hook, and many students are willing to bite on the high tuition costs of law school for the prospect of a \$160,000¹ starting salary after three years of post-graduate

* The title is taken not from "No Country for Old Men," the 2007 movie directed by Joel and Ethan Coen, nor from the 2005 Cormac McCarthy novel on which the movie is based, but rather from the first line of "Sailing to Babylon," a 1928 poem by W. B. Yeats:

"That is no country for old men. The young
In one another's arms, birds in the trees
--Those dying generations -- at their song,
The salmon-falls, the mackerel-crowded seas,
Fish, flesh, or fowl, commend all summer long
Whatever is begotten, born, and dies.
Caught in that sensual music all neglect
Monuments of unageing intellect."

William Butler Yeats, *Sailing to Byzantium*, available at <http://www.online-literature.com/frost/781/>. Adjusting for the inevitable (for the times) sexist use of "men" instead of "people," Yeats's poem can be subverted by me to capture the idea that the life of a junior associate is one for young people. But those young people planning to be law firm associates would be well-advised not to neglect those monuments of unageing intellect known as law firm partners.

** Professor of Law and Director, Legal Communication and Research program, Syracuse University College of Law. Thanks to Dean Hannah Arterian for her support. Thanks also to the administrative assistants, secretaries, paralegals, associates and partners with whom I worked during my years in practice. As always, this is for Julie McKinstry.

¹ Any attempt to reduce salary or cost information into actual dollars is a fool's game, of course, since circumstances change all the time and what might look to be a good starting salary today could be a paltry figure or a king's ransom tomorrow. All I know is that at the time of writing, \$160,000 was "the norm at large law firms." Debra Cassens Weiss, *Median Starting Pay for Associates is No Longer in the Six Figures: Figure Drops 35% in Two Years*, ABA Journal (July 12, 2012), available at http://www.abajournal.com/news/article/median_starting_pay_for_associates_is_no_longer_in_the_six_figures_figure_d/?utm_source=maestro&utm_medium=email&utm_campaign=weekly_email

education. Speaking with some of my students, I get the sense that along with the glittering salary comes the glamor of big-city living, the allure of the intellectual stimulation of big-firm practice, and the all-around good feeling of "winning"² the law school game.³

I hate to be the bearer of bad news, but if those are your expectations of big firm practice, you will almost certainly be disappointed. While \$160,000 is an impressive-sounding number, it will not make you glamorous, smart, or happy. It will not make you a "winner," whatever that concept might mean for you. It will not even make you rich.

And before you start making that salary, you should understand what it costs the firm to pay it to you, and what the firm will expect from you in return for paying it to you. You doubtless understand that the firm you hope to work for has a billable hour expectation of you, and you might even know the number of hours you'll be expected to bill each year, but as law students you should have the sense that things are more complicated than a straight hours-to-dollars calculation, and you would be right.

This short essay is intended to give you at least a little more information than you might have at present. It makes many assumptions⁴, and it doesn't attempt accurately to describe any one firm or the life of any given associate. Rather, it gives you at least some of the jigsaw pieces and assumes that you'll fit them together to correspond to the picture of your

² Charlie Sheen notwithstanding, the notion of "winning" at something like law school has been around for a little longer than his recent attempts to coin the term might suggest.

³ Some, but by no means all. Many -- probably most -- are not looking to work in the big city big firms, but are instead looking to live and practice in smaller towns like Syracuse, where I teach, or are looking to work for the government, for prosecutors' or public defender offices, for public interest organizations, or as solo or small firm practitioners. While this article focuses on large firm practice, that should not be taken to mean I think that this is where most students are, or want to be, headed.

⁴ Almost every number in this essay will be the product of assumption, which is a polite way of saying that I'm guessing. If you don't agree with my guesses, that's fine: I won't be insulted or hurt, since we probably don't know each other and since it's unlikely I'll ever learn that we disagree. But my assumptions -- alright, guesses -- are based on experience as both an associate and a partner at a mid-sized firm in a mid-sized American city (Baltimore), and on conversations I've had over the years with associates and partners in big city big firms. I stand by them.

prospective firm. It also assumes that you'll adjust the numbers to the contemporary reality facing you. However the pieces fit together, though, and whatever financial adjustments you make to better reflect your reality, the view likely won't be as appealing as it once was.

1. Theoretical and Actual Salary

The theoretical salary is easy: \$160,000. The actual salary is pretty easy as well: \$80,000. It's an approximation, of course, and not an entirely accurate one, but after all federal, state, and local taxes and other withholdings are taken out of your salary, you should assume to have a take-home amount of roughly half the stated number. Dividing this by twelve to give us your monthly take-home pay gives us \$6,666. Because I'm feeling generous, and because things are easier with round numbers, let's assume that your actual monthly take-home amount is \$7,000.

2. Costs

You'll have some fixed costs, so let's consider those now. The biggest monthly expense will likely be rent, and I'm going to charge you \$3,000 a month for that. That might seem like a lot, and you can certainly find somewhere to live that will cost you less,⁵ but there's a trade-off in distance away from the office, and that translates into travel time. We'll discuss travel time later, and you might decide that the extra time is worth it to you in order to afford a bigger or better apartment, but for now I'm budgeting you for a \$3,000 apartment. You can lower this cost by sharing an apartment with someone. I'm guessing, though, that many of you would like to be independent and have somewhere of your own. Whether or not that's financially realistic is up to you. For now, I'll stick with \$3,000 for rent.

⁵ At the time of writing, a studio apartment in Manhattan cost an average of \$2,000 and a one-bedroom apartment cost \$2,7000. Associated Press, *NYC Asking Developers to Test Tiny Apartments*, available at <http://online.wsj.com/article/AP332cf39a5fc3489186ebf49e4db0d283.html> (July 9, 2012). But that's just an average number, and as an associate at a prestigious law firm, you're likely going to want to live somewhere that's a little more livable than the average apartment in Manhattan.

I'm also budgeting you for \$1,000 in savings and \$1,000 in loan repayment each month. This isn't negotiable: you need to build up your savings as quickly as possible, and you need to pay down your law school debt, as well as any debt you're carrying from your undergraduate education, outstanding credit card debt, and any other debts you might have. While the financial cost of not paying off this debt as quickly as possible is calculable -- and the financial office at your law school will doubtless tell you how much your law school loans will cost you eventually -- the emotional cost of having this debt with you for decades to come is less tangible but no less significant. Your professional and life choices will be limited by your need to service this debt and you should try as hard as possible to get yourself out from underneath it as quickly as possible.

You're going to need around \$500 a month for food, and while you might scoff at this number, I'll suggest to you that you haven't looked at food prices in large cities recently. And I'm sorry, but you really can't live on Ramen noodles for the foreseeable future. I'm putting you down for \$300 for transportation costs as well. That might be a little high. For example, your firm might pay for a town-car service if you stay late at the office and you wouldn't be accountable for that cost. But I'll lay odds that the associates at your firm will tell you that lawyers try to avoid having the firm do that for you. It's a macho thing. And if you take cabs to avoid public transport late at night, the cost adds up fast.

Anyway, if the transport cost is a little high, we can make up for that by making an optimistically low estimate of \$200 a month in clothing expenses. This is for all expenses related to clothing, including dry cleaning, but still this is where I get the most eye-rolling from my students. "Who spends over \$2,000 a year on clothes," they say. "That's crazy talk."⁶

⁶ Of all the costs experienced by new associates I discuss in this essay, I often find that students find it hardest to accept that they will be spending as much as they will on clothing. This is especially true of the men. The only answer I have for them is that they apparently haven't priced a really good tie recently. And you need more than one tie.

Well, no, it really isn't. In fact, I'm only going with the \$200 number because I'm assuming you've already established a basic wardrobe and are just maintaining it at this point. Remember, you're working at a law firm that has a certain reputation to uphold. It expects its associates to dress the part. I'd budget around \$10,000 to get yourself up and running, and if your firm didn't give you a signing bonus to help defray the cost of new clothes, my \$200 a month is a ludicrous underestimate.

You'll have some other costs as well. I'm assuming you're going to have about \$100 for a smart phone plan, although your firm might pick that up. And you'll have about another \$100 for home internet and cable. You might not watch that much television, and if so you can make your own adjustment to the bottom line, but you're going to need internet access so you can do at least some work at home.

I'm also going to assume a standard \$500 in sundry monthly expenses. You might smoke, for example, or have a gym membership, or other standing costs. And even if you don't, you'll find you have somewhere around \$500 in standing costs that haven't already been budgeted here.

So where does that leave us? You had \$7,000 in take-home salary a month, and I figure you'll have \$6,700 in standing expenses, leaving \$300 a month -- \$75 a week -- in discretionary income.⁷ If you like to drink wine with dinner, or go out to eat every now and then, that \$75 a week will go very quickly. For entertainment -- going to a concert or a ball game, for example -- it's probably best to rely on tickets the firm gets. And the downside to that, of course, is that the firm knows when you're entertaining yourself instead of working.

⁷ It might be worth noting that if I hadn't rounded-up your take-home number from \$6,666 to \$7,000 a month, you would actually be in monthly deficit. You really will be living on the margins.

3. How Much You Cost the Firm

One thing new associates often forget is that they cost the firm for which they're working money. They understand that the firm pays their salary, but often they forget that there are other costs associated with them. Let's consider some of those now.

The firm has to pay your salary, so that's a \$160,000 cost to it. But the firm also pays benefits for you, and that's likely another \$60,000 or so. The firm also has to pay the salaries of the people you work with; the mailroom staff, secretaries, administrative staff, paralegals, and other workers who are necessary for the smooth functioning of a law firm, and the firm has to pay benefits for those workers as well. You likely share a secretary with at least one other person, so only half of that secretary's costs are accountable to you, and the firm's paralegals doubtless work with numerous other people, so only a percentage of their costs are your responsibility. All told, though, I'm going to assume that you cost your firm double your salary -- another \$160,000 -- in your benefits and the salaries and benefits for co-workers who are employed to help you do your job.

Just as with your apartment, the firm has to pay rent for your office, and while your office is (I hope) smaller than your apartment,⁸ the rental cost of Class-A office space is substantially greater than for residential space, so I'm going to assume that your firm pays around \$50,000 a year in rent for your office. The firm probably pays around another \$50,000, pro-rated for each lawyer in your office, for its library space and other non-recoverable research costs, a reason a lot of firms are doing away with physical libraries and turning that space into offices for people who bill clients for their work

⁸ Maybe not by much. The drive to create apartments of around 300 square feet appears to be picking up steam in New York. See, *NYC Asking Developers to Test Tiny Apartments*, *supra* n. 5. And New Yorkers have been living in very small spaces for some time now. See, e.g., Jessica Dailey, *5 Super-Efficient Tiny New York Apartments*, *Inhabit New York City*, available at <http://inhabitat.com/nyc/5-super-efficient-tiny-new-york-apartments/> (July 11, 2012).

(in the jargon of law office management, turning it from non-productive to productive space).

Your firm has other costs associated with you as well: probably around \$10,000 a year for furniture (both in your office and in the other spaces you occupy from time-to-time -- conference rooms, the library, and so on), \$10,000 in utilities, and \$20,000 in sundry costs (CLE meetings, refreshments, travel, and other unreimbursed expenses). So all-told, you probably cost your firm around \$520,000 a year.

Now, the sharp-eyed among you are doubtless ready to challenge some things. For one, I've included paralegal costs on your tab, but paralegals bill time. So, you might say, they shouldn't be financially accountable to associates. And there's something to that, but less than you might think. Paralegals are talented and hard-working people, without whom law firms could not do the things they do. But I'm going to assume that their billing rates aren't high enough to account for their costs, and that often their time is discounted by either the firm or the firm's clients. So while not all their cost is carried by the firm, some of it is, and that cost has to be spread over all the attorneys in the firm.

Another objection to my cost-calculation is my failure to include some of the cost recovery methods available to law firms. Chief among those is the tax deduction a law firm can claim for many of the expenses I've listed here. And you can be sure that firms will avail themselves of every possible way of reducing their costs. But cost recovery has its own cost, and there's also a time lag between paying the cost and being able to recover it, and the time value of money is not inconsiderable. And while firms might be able to get some of the costs I've outlined here back in various ways, I've likely underestimated some of the other costs --especially the sundry costs --

substantially. So I'll make an adjustment and round the bottom line number down to \$500,000 a year, but that number's firm.⁹

4. How the Firm Makes That Money Back

It might be a bad moment to realize that you cost a firm around half a million dollars a year, but then you remember that the firm charges clients for the work you do, and you'll be doing a lot of work. So the question becomes, can the firm charge enough for you, and can you work enough, for you to become a profitable associate of the firm?

Maybe, but probably not. Certainly not in the first year of practice. To understand why that is, we have to think about hourly rates and how much you'll bill in a year, and we have to consider some intangibles as well.

The rate is tricky to set. Different clients will accept different rates for junior associates, so let's talk here of a blended rate -- one that takes into account all those variables -- of \$300 an hour. That's probably a low number these days, but it'll work for our present purposes. In any case, there's a sense in which this entire discussion is hypothetical, as we'll see later on.

As you know, different firms have different billable hour minimums. It used to be that the standard number was 1,800 billable hours a year, then that number crept up to 2,000 and recently, I've seen some firms indicating that they expected associates to work a minimum of 2,200 hours.

Let's take a moment now to consider what those numbers mean. A standard, old-fashioned but easily-understood work week is 9:00 am to 5:00 pm, Monday to Friday. That's eight hours a day, 40 hours a week; the standard work week. The difference between 1,800 and 2,000 hours a year is 200 hours, meaning that you to reach 2,000 hours you need to exceed the 1,800 hour benchmark by an additional five standard work weeks; a week more than a month of 9:00 am - 5:00 pm, Monday to Friday, work. That's a

⁹ This figure explains why firms want you to work so much. As you'll see in a moment, it isn't about trying to maximize profits for the partners, it's about minimizing the losses they'll suffer as a result of hiring you.

not inconsiderable amount of extra time. And in order to go from 1,800 to 2,200 hours, you take the 1,800 benchmark that was considered, not so long ago, as the appropriate amount of time for a hard-working junior associate to be working and exceed it by two and a half months. Never think -- not for a second -- that those additional minimum billable hour expectations don't have meaning.

Let's take a happy (or not so happy) medium and assume that you're expected to bill 2,000 hours, at \$300 per hour. If you meet that number, you'll bill out at \$600,000 per year. Congratulations! You're profitable. For the moment.

A closer look let's us see how this works. If you bill 2,000 per year, that means you bill 166.6 hours per month, or 41.6 hours per week.¹⁰ That means you're making \$49,980 per month for the firm, at a rate of \$300 per hour. Rounding that up for convenience, we get \$50,000, which means that you make back your \$500,000 cost to the firm after ten months, meaning that you're profitable for the two months of November and December.

One complication. Let's assume you get a bonus of \$25,000 if you bill more than your required 2,000. That seems a little generous these days, but we're living in a hypothetical world so why not be generous. That's good news for you, but means that you'll only become profitable half way through November, meaning that you bring in \$75,000 in profit in the last six weeks of the year.

Something about the last six weeks of the year, though, should give you some insight into why the picture is probably not as rosy as it appears.

¹⁰ We'll come back to these numbers in a little while.

5. The Reality of the Billable Hour

Thanksgiving, Christmas, and New Year. That's the something about the last six weeks of the year that should have occurred to you. There's also July 4, Labor Day, and Memorial Day -- seven days¹¹ of federal holidays that you likely won't be working. We should add in five days of vacation time and three sick days (or three days of vacation and five sick days, if you'd prefer) for a total of fifteen non-work days during the year.

If we use the standard 40 hour work week benchmark, that means you've lost 120 hours, or three weeks, of work time. In order to make that time up and meet your 2,000 hour minimum, you'll have to work longer hours during the week, or work some time on the weekend, or both. Forty hours per week for 52 weeks a year would have given you 2,080 hours, meaning you had some time to give. But after deductions for holidays, vacation, and sick time, you only have 1,960 hours so you have 40 hours (one standard week) to find.

Or, at least, you would in a perfect world. The world is imperfect, though, and the sad reality is that you can usually only bill about half the hours you actually work. Some of the lost time is understandable: you go to the restroom during the day, you eat lunch (even if you eat at your desk, you lose some time while you eat), you go to the kitchen to get something to drink, your secretary has a small birthday celebration at his work station -- the usual events of an office work day. Some additional time is lost attending CLE presentations, doing pro bono work on your own or for a partner,¹² and

¹¹ I'm counting the day after Thanksgiving as another holiday. Maybe I'm lazy, but everyone I know is lazy as well; typically, no work is done from the close of business on the Wednesday before Thanksgiving until the next Monday morning. Some people do work over the holiday, of course, but we're only talking about the typical work experience here.

¹² Many firms have a pro bono requirement, but a lot of those firms don't count the time you spend doing pro bono work against your billable hour minimum. If you work somewhere that allows you credit for some of that time, you're lucky. If you work somewhere where they give you one-for-one credit, you're very lucky. I've heard rumors of firms where partners gave associates pro bono projects, didn't give them credit for the time they'd spent doing those projects, but added the total time spent on those pro bono projects onto their own declaration of annual pro bono commitment. Welcome to the major leagues.

in other work-related, but not work-accountable, tasks.¹³ The rest of the lost time is harder to understand, but everyone has the same experience; in your first year of practice, at least, only about half of your time is billable.

Let's consider what that means for you. Working a standard week every week (except for the three weeks lost of holidays, vacations, and sick time), netted you 1,960 hours. If only half of that time is billable, you've billed 980 hours, meaning that you need to find another 1,020 billable hours, or -- to put it another way -- you'll need to work another 2,040 hours (1,020 x 2, to account for the worked time/billable time disparity). The bottom line is that in order to bill 2,000 hours, you'll need to work around 4,000 hours.

Now, this is an entirely different proposition. Finding 4,000 hours from 50 work weeks (sorry, I've taken one of your three weeks back; you see now why not many lawyers take vacations?) means you'll be working 80 hours a week. That comes to around 11.4 hours a day, seven days a week. I won't be so demanding though: if you'll give me 12 hours a day on Monday to Friday, and six hours a day on Saturday and Sunday, for fifty weeks out of the year, I'll accept that.¹⁴

You should recognize a couple of things. Working at this pace, you'll almost inevitably get sick. You'll be eating badly a lot of the time, operating under a lot of stress, working with other people who are getting sick in an environment where the air doesn't get exchanged as often as it should, not

¹³ Speech writing for a partner is often a favorite activity for junior associates. What could go wrong? If you do a bad job, your partner is dissatisfied with you for messing up, but if you take the time to do a good job, your partner is dissatisfied with you for not billing more time. This type of assignment comes close to being the law firm's version of Star Trek's no-win Kobayashi Maru test.

¹⁴ The pressure for associates to work such hours has led to the occasional use of the term "sweatshop" to describe the work environment at some law firms. Do yourself a favor and don't humiliate yourself by ever using that term in connection with your own work experience. You're being paid a remarkable amount of money -- more money than most Americans could dream of making in a year -- right out of school, and you're working in well-lit and comfortable offices at a job you chose to take. Sweatshops are places where women and children are forced to work at terrible jobs in appalling conditions for virtually nothing. To even think of applying the rhetoric of their situation for your working conditions is an insult to them and, at best, an embarrassment to you.

seeing the sun very often, and not getting enough sleep or exercise. You'll need to do as much as possible to stay as healthy as possible, but the three sick days I've given you in the course of the year, together with the seven holidays away from the office, probably won't be enough to keep you healthy. You'll need to work at a high level when you're not feeling your best. Be prepared for that.

Another thing you should realize is that all of these assumptions are made for a minimum billable expectation of 2,000 hours. If your firm expects you to bill a minimum of 2,200 hours, you'll need to find an additional 400 hours (200 billable = 400 worked hours) from somewhere.

And the last thing to keep in mind is that these are just minimums; floors, not ceilings. For every person just working to hit the benchmark, there are a couple of "gunners" who are looking to impress the partners by blowing past the minimum expectations. When you look at someone who is at the office when you get in the morning, is there when leave in the morning, and has probably been there all weekend as well, it gets very hard not to get caught up in the peer pressure of keeping up. How you react to those workaholic peers is up to you.

6. The Myth of the Billable Hour

One thing that isn't up to you, though, is padding your time. You might feel a strong temptation to do this; to add hours on your timesheet that you didn't actually spend on a project. A memo took you four hours to write, why not write down six hours on your timesheet? After all, you were in the office during those hours, so shouldn't you get credit for the time you put in?

No. There are two very good reasons for this answer, one obvious and one less so. But both are compelling and should leave you in no doubt at all that you should never, ever, pad your time.

The obvious one first. Padding your time is fraud. It's a crime. If you're caught, the best thing that will happen to you is that you're fired. The worst is that you're fired, you lose your license to practice law (but not the debts; they never go away), you're prosecuted and convicted of a crime, you go to jail, and you lose the respect of all who know you, including your family and yourself. If you're not caught, padding your time is still unethical and if you engage in unethical behavior you'll get caught, now or later, doing something unethical, and then you'll have to deal with all of those best case/worst case consequences anyway. I hope this is clear. Never, ever pad your time.¹⁵

Now for the less obvious reason: padding your time is a bad idea because despite what they say, law firms don't really care about how much time you bill.

That's not strictly true, as I'll explain in a second, but it's true enough for our present purposes. And if you think about it, you can see why it would be true. An entry on a timesheet is just that; a number recording how much time you spent doing a task. The firm can't use that number to pay any bills, or to give the partners a portion of their annual draw of the firm's profits. The firm can only use that number to justify the bill it sends its clients every month, and only then after it's gone through a few adventures.

Let's assume that you wrote a memo on a legal issue related to a case on which you're working. You record, accurately, that you researched the issue for two hours and spent two hours writing the memo, for a total of four hours. As you recall, you're billing out at \$300, meaning that you've just earned \$1,200 for the firm. In theory.

¹⁵ In case you think this is one of those cases where I say one thing in order to secretly encourage you to think the complete opposite of what I'm saying -- rhetoricians would call this synchoreasis, with Mark Anthony's "Friends, Romans, countrymen, lend me your ears/I come to bury Caesar, not to praise him" speech being the most famous example -- I need to emphasize that I'm not. I really mean that you should never pad your time.

In fact, your time goes to a senior associate or partner (more often, these days, a paralegal or billing specialist) for review, where it's discovered that the client has specifically instructed that it will not pay for any legal research. That's not atypical, and while all lawyers realize that it's a fiction that lawyers should know the law because they went to law school, if the client is big enough, and if its work is important enough for the firm, the client can make demands like that. Many do. It's a way of cutting its costs, something even large corporations are doing constantly.

So your four hours is now cut down to two hours, or \$600, for billing purposes. The bill is drafted and goes to the responsible attorney for review. The attorney sees the two hours listed for the memo, looks at the memo, and concludes that it's really only worth \$300 of the client's money, so your two hours is cut to one on the final bill. And when the client reviews the bill prior to paying, someone in the client's general counsel's office decides that a memo like that is really only worth half an hour's time, so your time is cut again and the firm receives \$150 for work for which you (or the firm) legitimately could have been expected to have been paid \$1,200.

If the client cuts too much time -- especially if it cuts too much partner time -- the firm and the client might have words. If things get extreme, the firm could even sue the client for the unpaid fees, but imagine what that does to firm/client relations. And certainly no one is going to war because the client cut the time of a junior associate.

So this is why it's virtually impossible for you to become profitable to the firm. Even though you're doing your part, working hard, and diligently recording every tenth of an hour you worked on a matter,¹⁶ the firm likely

¹⁶ The general practice is for lawyers to bill their time in tenths of an hour, or six minute, increments. So if you dictate a short transmittal letter, sending a deposition transcript to a client, for example, and that task takes you 45 seconds, you would bill 0.1, or one six minute increment, for that letter. If the letter is more complicated, and takes you five and a half minutes to dictate, you would still write down 0.1 for that letter. If all this seems arcane and complicated, don't worry: the firm will doubtless spend a lot of time training you on how to fill out time sheets, including introducing you to the multiplicity of

won't recover more than a fraction of the time you recorded in actual payment which it can apply to its bottom line.

And it's the recoverable amount -- the actual money the firm got for the time you put in -- that the firm really cares about, not the theoretical "billable" time you recorded on your timesheet. Actually, what the firm cares about more than anything is the difference between your billables and recoverables. The partners will doubtless get a month-by-month printout of your billable time and your recoverables and eventually -- not in your first year: no one is cruel enough to assume that you'll get the hang of this right away -- they'll start to compare the two numbers.

The partners want to see a steadily-diminishing gap between your billable time and your recoverable amount. No one gets to a one-to-one mapping of billable and recoverables; there's always time lost in the billing cycle for everyone, even partners. They want to see high billables, of course; that's why I say it's not really true to say they don't care about how much time you bill -- you can't recover without billing, and the partners will use billable time as a proxy for some other things, like your willingness to work hard and your commitment to the life of a large firm lawyer. But in your second or third year, they'll also want to see that hard work begin to translate itself into productivity and profitability. If it doesn't, they'll likely fire you. You'll know when that time comes in your firm, because there will be all sorts of folklore about the harshness of the third, or fourth, or fifth, year associate review, and there will be many fewer senior associates than there are junior ones.

You can't worry about this. You have very little control over how much time is cut from your time by the firm or by the client, so you have very little control over the recoverable amount the firm receives for your work. All you

billing codes you need to use when recording time. Of course, the training time isn't billable, so it's time you'll need to make up in actual billable time in order to make your billable hours quota, which matters, even though it doesn't matter. There's something delightfully philosophical about the practice of law.

can do is work hard and well; if you bill a lot of time and the partners recognize that you're generating good work in that time, they'll be less inclined to cut your time and more inclined to fight for your time with the client. Even if they lose that battle, the partners will remember your good work when they're reviewing your time and recoverables and they'll think more favorably of you than they would if they remember mediocre or poor work from you.

7. "Time is the Fire in which we Burn"¹⁷

So what does all of this mean to you as you live your life as a practicing attorney? What do all these numbers and calculations mean to you personally? Well, they mean you're going to spend a lot of time at work. What that means is different to everyone, of course, but let's look at how much time we're talking about.

I said before I was looking for 12 hours a day, Monday to Friday, and six hours a day on Saturday and Sunday. Let's assume that you get to work around 9:30 -- and "get to work" means sitting at your desk, computer on, and ready to start billing: walking into the office building's front door at 9:30 doesn't count.¹⁸ That means you won't be leaving your desk until 9:30 pm. And you still have to get home.

¹⁷ If this article seems to have an inordinate amount of Star Trek references, I apologize. To those who are confirmed Star Trek fans, this line might be familiar as one uttered by the villain of one of the movies, *Star Trek Generations*. But that character, Dr. Talien Soren, played by Malcolm McDowell, is actually quoting from a poem: *Calmly We Walk Through This April's Day*, by Delmore Schwartz. And the quotation is incomplete. The fuller, and incomparably better, line is "Time is the school in which we learn/Time is the fire in which we burn." It's a great poem, and not too long or difficult to read. When you're stuck at your desk working on some piece of legal analysis, take five minutes and relax by reading one of the loveliest arrangements of words written by an American poet. You can find the poem at <http://www.poetryfoundation.org/poem/171344>.

¹⁸ Actually, this is probably a little early. My experience with many large city, large firm lawyers was that they didn't get into gear until about 10:00 am. But that wasn't true of all of them, and some were in and ready to work well before that, so I'm taking 9:30 as a compromise average time.

This is why it matters how much you pay in rent, because the more you pay for your living space, the closer you probably are to your office, thereby cutting down on travel time to and from work. Most large law firms are located in impossibly expensive locations, so your travel time won't be minimal, so I'm going to assume that you're willing to shell out the \$3,000 we budgeted for your apartment and that translates into a desk-to-door time of half an hour.¹⁹ That means you'll be leaving your apartment no later than 9:00 am, and getting home at 10:00 pm on Monday through Friday. You might come in a little later on Saturday and Sunday -- say 10:30 -- and that would mean you would leave home at 10:00 am and get home at 5:00 pm.

Staying with Monday to Friday, I'm going to assume that it takes you an hour from waking up to walking out the front door; it takes me longer, but you're young and I'm old. That means you're getting up no later than 8:00 am. In order to get the eight hours of sleep that's probably the minimum necessary for you to continue to function at a high level at work, you'll need to get to bed no later than midnight the night before, and that means you have two hours -- from 10:00 pm to midnight -- to spend awake in your apartment. On the weekends you have more: seven hours on Saturday and Sunday.

This is quite a pace to be setting, and remember that this isn't just for a month or so: this is pretty much the pace you should expect to maintain for several years at least,²⁰ and that it's just the minimum expected of you.

¹⁹ If you think about it, that's not very much time at all. Walking from your desk to the elevator, waiting for the elevator to come and to take you to the ground floor all takes time at one end, and getting to your apartment door from the front entrance of your building takes more time. If we assume five minutes to leave your office building and five minutes to get to your apartment at your apartment building, you only have twenty minutes of actual travel time. Waiting for a cab and riding for a short while, waiting and catching a subway train for a couple of stops, or walking several blocks, can easily take up that time. The cab might be faster, gaining you a few extra minutes, but it will cost more. Living this life, you quickly learn that cost/benefit analysis is not just a theoretical concept you discuss in torts class.

²⁰ It might or might not be encouraging to know that at most firms, the partners bill more time than the associates. So the billing expectations you're experiencing in your first year of practice usually are considered the floor, not the ceiling.

There's not much more time you'll be able to give the firm during the week -- maybe that two hours of time at home, but not much more because cutting into sleep will cause you to start breaking down -- physically and perhaps mentally -- fairly soon. So most extra work time will have to come out of the weekend home time in your schedule, and that can quickly turn your life into a work grind.

This can, in turn, lead quickly to problems. Many lawyers suffer from depression and substance abuse.²¹ And even a quick look at the most free time a lawyer working under these conditions can expect to have should lead to the conclusion that leading an active social or even family life will be difficult: not impossible, by any means, but all concerned will face challenges and will need to be sympathetic to the concerns of the others in the relationship.

CONCLUSION

So there it is. In the worst case, a large city, large law firm job can lead to a having a few personal hours a week in which to spend around \$75 and can also bring on, or exacerbate, health problems which can have serious long-term consequences. Not such a rosy picture.

And not necessarily an accurate one. Because despite what looks like a bleak and unappealing prospect, large city, large firm practice can be a wonderful way to spend your life. You surely expected to work hard when you signed up for law school, so the fact that you actually do have to work hard should come as no surprise to you. Not everyone spends as much time at work as I've described here, and some are able to keep more of their

²¹ These problems can start in law school. See, e.g., Lawrence S. Krieger, *Institutional Denial about the Dark Side of Law School, and Fresh Empirical Guidance for Constructively Breaking the Silence*, 52 J. LEGAL EDUC. 112 (2002); Ruth Ann McKinney, *Depression and Anxiety in Law Students: Are we Part of the Problem and Can we be Part of the Solution?* 8 LEG. WRITING 229 (2002); Nancy Soonpa, *Stress in Law Students: A Comparative Study of First-Year, Second-Year, and Third-Year Students*, 36 CONN. L. REV. 353 (2004). And the problems continue once law students reach practice. See, e.g., Andrew H. Benjamin et al., *The Prevalence of Depression, Alcohol Abuse, and Cocaine Abuse Among United States Lawyers*, 13 INT'L J. L. & PSYCHIATRY 233 (1990).

salaries than I'm assuming you will. And the work has tremendous compensations: if you get one of these jobs, you'll be working with some of the smartest and most able lawyers in the country -- in the world, really -- and you'll be engaged in complex, challenging legal matters that will require you to find intellectual and personal resources you might not have known you had. Work at these firms can be enormously rewarding -- intellectually, professionally, and personally -- and many people can't imagine practicing law in any other way.

So the message to take away from this is not that you should never consider applying for, or accepting, a large firm, large city job, but rather you should know what to expect from an associate position at a firm like that. And you should remember that you have options available to you that might -- might -- be more appealing: a position with a mid-sized firm in a smaller city might not give you a comparable salary, but the lower cost of living in that city might mean that your net take-home pay is not that much lower, and you might be expected to spend less time at the firm, meaning that you could better balance home and professional life.

In fact, there are no simple answers to any of this. You might not be a person for whom small-city life holds any appeal, or you might be a person who craves the stimulation of a large firm practice.²² As long as you know what you're getting into, and as long as you accept a position because it's the type of practice you're looking for, you'll be happy. And being happy is really the only way to "win" anything in life.

²² Don't think for a second, though, that there are no intellectual or professional challenges in mid-sized firm, small firm, or government practices. In fact, all law practice is constantly challenging and any job you find will likely keep you busy and stimulated. If the job stops being a challenge, you can always move.