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Deferred Law Firm Associates in Public Service Placements

By Steven Grumm

In a phenomenon driven by the economic recession, law firm associates whose 2009 start dates were deferred have taken temporary public-service placements in nonprofit and government law offices across the country. Reports of the associates' integration into the public interest community have been positive. And the associates have seized chances both to develop skills and gain perspective on challenges and opportunities in the public service arena. Now, as the law school Class of 2010 approaches graduation and the business cycle has shown signs of recovery, some public interest leaders, law firm pro bono managers, and other stakeholders are evaluating the phenomenon's overall impact. Further, some are considering whether a longer-term pro bono model could emerge from what was initially seen as a short-term occurrence born of unique circumstances.

Unexpectedly, the Recession Gives Rise to a New Pro Bono Model

The narrative is familiar to most in the legal community. Through 2008 and into 2009, deteriorating economic conditions resulted in less business for large law firms. Many large firms took significant hits as there was simply less work upon which to bill time. For several years prior, these firms had favorable economic winds at their backs, and the ranks of junior associates had grown through boosted recruitment efforts. With the sudden change in the business cycle, "Biglaw" firms realized that they would not have work for their large cohort of first-year associates. But, because the firms had invested thousands of dollars in recruitment efforts, and did not want to sever ties with all of their junior talent, law firms began looking for solutions.

Public interest and public sector law offices were faring even worse than large law firms in the recession. In the nonprofit community, some of the major funding streams – including vital Interest on Lawyers Trust Account (IOLTA) funding – decreased significantly. In New York State, for instance, trust account yields plummeted from \$32 million to \$8 million in one year. At the same time low-income client communities, battered by the recession, were seeking assistance from public interest law offices in greater numbers. The *Tennessean* reported last December that requests for assistance at the Legal Aid Society of Middle Tennessee had risen by an astonishing 83%. Public interest organizations were not able to afford staffing needs as demand for services rose. In local and state government, budget-tightening initiatives were putting the squeeze on legal departments. Layoffs and hiring freezes were part of the everyday realities in the nonprofit and government sectors.

In the beginning of 2009, many large law firms elected to defer the start dates for associates from several months to over a year. Some firms offered stipends in the range of \$50,000 to \$80,000 to associates deferred for longer periods, and many also encouraged the associates to seek volunteer public service placements. Some law firms directly facilitated public-service placements for deferred associates, while others left associates to find placements independently.

No one knew how this would play out. On the one hand, members of the public interest community voiced a valid concern about not having time or resources to efficiently integrate junior attorneys into their service-delivery

models. Yet, coordinating private-sector volunteers is something that public interest organizations do well, and the workloads they faced were overwhelming. Therefore, for a large number of organizations, it made sense to shore up client-service capacity by hosting deferred associates.

How Has it Played Out? Initial Reports are Positive

Starting last fall, deferred associates began public service placements with host organizations throughout the country. The placements have ranged in duration from three to four months to over a year. Inferences drawn from NALP research suggest that the number of associates in public service placements could be as high as 900 individuals out of the approximately 3,200 associates who were deferred nationwide.

Major legal markets are hosting the largest numbers of deferred associates. The *National Law Journal* reported last November that there were upwards of 140 deferred associates taking placements in New York City nonprofit and government offices. In the civil legal services community, the NYC Bar Association and the City Bar Justice Center launched the "Deferred Associate Law Extern Support Project" to train and monitor the progress of deferred associates. Chicago's legal services community welcomed 54 deferred associates from the Class of 2009. In California, the Public Interest Clearinghouse has counted at least 55 associates working with nonprofits throughout the state. Associates are also contributing in Philadelphia, Cleveland, and in other smaller markets.

In terms of associates' substantive contributions to their host organizations, reviews from all parties involved - the hosts, the law firms, and the associates themselves - are generally quite positive. Eric Angel, legal director of the Legal Aid Society for the District of Columbia, notes that:

"Legal Aid's four deferred associates have made a substantial difference in helping us provide free legal services to persons living in poverty in DC, helping us with client interviews, legal research and writing, administrative tasks, policy work, and even case-handling. They have brought enthusiasm, intelligence, and hard work to their practice. We are confident that they will return to their firms with a desire to remain engaged as long-term advocates for pro bono service."

Law firm managers, too, are excited that a pro bono collaboration emerged from the decisions to defer associates. Rene Kathawala, pro bono counsel at Orrick, Herrington & Sutcliffe, LLP, observes:

"In my discussions with our fellows who are working for public interest and government agencies, I have been struck by their enthusiasm and their ability to advance their client's interests at such an early point in their careers. The associates are gaining outstanding professional development opportunities that are just not readily available in the first year of a private law firm practice. Our firm has once again committed to a fellowship program for next year."

As for the associates, most indications are that they are reaping rewards, both in terms of skills development and exposure to the public interest practice arena. In January, the *New York Times*' "City Room" blog featured a post from Chris Reid, a deferred associate from Ropes & Gray, LLP, who is serving with the Legal Aid Society in NYC. Mr. Reid wrote of the "challenging and stimulating" nature of his work. About his new colleagues, he offered, "all attorneys ... at Legal Aid that I have met share an enormous commitment to the clients they are serving, and for the equal access to justice that they are fighting for."

In January, NALP, the Chicago Bar Foundation, and the Public Interest Law Initiative (PILI) convened a focus group of 11 deferred associates working in Chicago's legal services community. The tone of the discussion was quite positive, with several participants highlighting the opportunities they had to immediately use their advocacy skills in court, to cultivate problem-solving skills, and to interact with clients. Katie Walton, who is serving with Chicago Volunteer Legal Services while deferred from Latham & Watkins, LLP,

remarked on the value of seeing things from her clients' perspectives:

"Working with clients who are in poverty is the only way to understand the challenges they face in everyday life. No amount of newspaper articles on systemic poverty will offer the insight gained by directly advocating for our clients."

Notwithstanding the largely positive tone of the discussion, some focus group participants noted that the first couple of weeks were a little bumpy as they, their supervisors, and colleagues, learned how to best put their skills to use. Some participants felt the heat of a trial by fire as they were given immediate caseload responsibilities, while others had to seek out additional responsibilities in order to make more significant contributions.

While no one would argue that this interruption in the normal employment patterns has been all positive, and surely there have been a few mismatched deferral placements along the way, almost all observers have come to view these unforeseen events as having beneficial results for the attorneys, the firms, the public interest organizations and the clients.

The Road Forward: Evaluating Progress and Asking, "What's Next?"

The deferred associate phenomenon has held the attention of stakeholders in the public interest and pro bono communities for the past several months and enough time has now passed to begin formal data-gathering and analysis on its effectiveness. Stakeholders have begun to assess the phenomenon's scale, scope, and overall efficacy, and to consider the possibility of its continuation in some form, perhaps even after business at firms increases.

Here is a list of research currently available or under way:

- The New York City Bar and City Bar Justice Center released a [report](#) on the Deferred Associate Law Extern Support Project. The report explains how the Project was structured and offers insight on how the deferred associates' public service placements have progressed. Overall, the report suggests that deferral placements have been rewarding for the associates and their host organizations.
- NALP's recently released [Perspectives on Fall 2009 Law Student Recruiting](#) report contains data - provided by large law firms - on what kinds of work settings deferred, recent graduates are working in. Of deferred associates from large firms who are/were working in some capacity during their deferral periods, 45% are in public interest and 21% are in government.
- At the ABA, a group chaired by former president Mike Greco circulated an online survey to legal aid organizations in early January. At present, information has been gathered but it has yet to be analyzed and disseminated.
- The Pro Bono Institute surveyed public service host organization in early 2010 and is analyzing data as of this writing.

The deferred associate phenomenon will likely continue in 2010, although the number of deferred associates should be lower than in 2009. Despite the anticipated decrease, there may still be significant numbers of deferred associates taking public service placements. For example, Morgan Lewis & Bockius, LLP, which saw 64 deferred associates take placements in 2009, expects 26 to do so this year. At Orrick, 35 Class-of-2010 associates will take public service placements this year, whereas 45 did so last year. Interest in hosting deferred associates remains high within the public service legal community.

The addition of deferred associates within public interest legal organizations leads to an important question about the effect of deferral placements upon those law students who are on public service career paths. The public service job market has always been highly competitive. Because of the recent influx of deferred associates with independent funding, the prospect of a displacement of students on public service career tracks must be

considered. In 2009, this displacement effect was less of a concern because public service organizations were largely unable to hire new attorneys. In 2010, however, funding has stabilized somewhat, and law students who have invested time and money in public service careers are confronted with the reality that public interest organizations are still flush with deferred associates. To further complicate matters, there is speculation that some deferred associates in public service placements may decide to remain even after their deferral period passes. However, at this stage, there is simply not enough evidence to measure whether this will occur in any significant dimension.

Regardless of the peculiarity of its origins, and whatever its ultimate impact on the employment and pro bono landscapes may be, the short-term result of this phenomenon has been that deferred law firm associates have gained first-hand perspective on the importance of public service work that is likely to endure after they return to their law firms. For example, it is possible that deferred associates working in public interest organizations today will be tomorrow's public interest fundraisers and pro bono advocates. Most importantly, deferred associates increase the pool of lawyers supporting the work of government and fighting for access to justice for clients on society's margins. That is the brightest of silver linings.

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