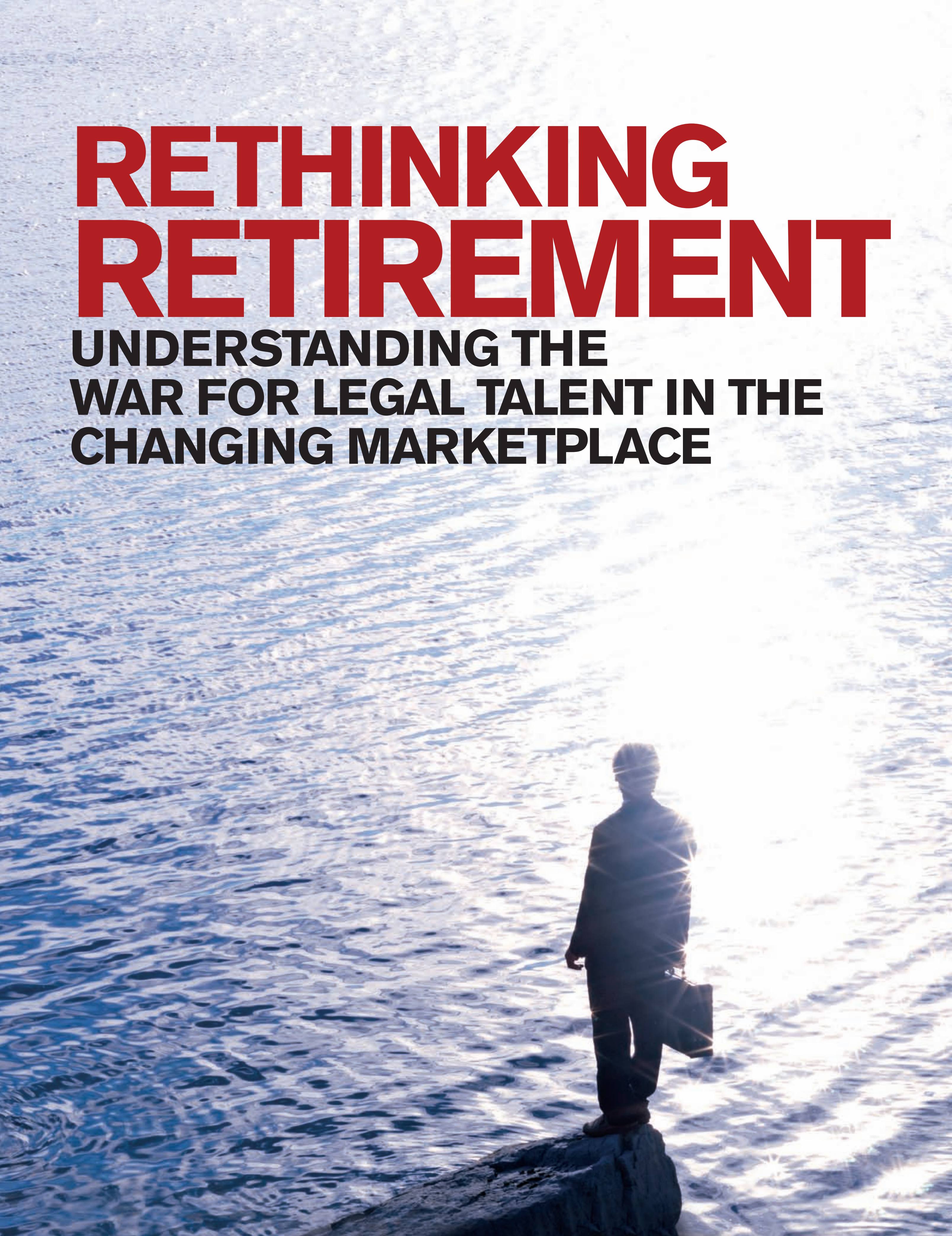
RETHINKING RETIREMENT

UNDERSTANDING THE WAR FOR LEGAL TALENT IN THE CHANGING MARKETPLACE



THE JOURNEY AHEAD

BY STEPHEN P. GALLAGHER

The aging of the workforce is something that the legal profession can no longer ignore. According to Census Bureau data, nearly a third of all Americans—76 million people—were born between 1946 and 1964. With the first of the baby boomers now entering their early 60s, the legal marketplace has no choice but to consider the effects of massive numbers of boomers leaving the profession in coming years.Over this same period of time, fewer talented young people are expected to enter the workforce. Demographic and economic projections suggest that the shortage of workers will start soon and grow significantly. And the Employment Policy Foundation, in testimony before the U.S. Senate, has estimated that 80 percent of the impending labor shortage will involve skills, not number of workers potentially available. The result: Within the next several years, the shift in age distribution will cause law firms to experience an unprecedented brain drain unless firm leaders take dramatic steps to find new approaches to attracting and retaining key people.

Critical to efforts to win in the war for talent—which is only just beginning—will be facing the challenges presented by traditional retirement policies that define retirement in terms of removal or withdrawal. Nearly 80 percent of the baby boomers say they want to do some kind of work in retirement, according to Census Bureau estimates. So, instead of viewing retirement as an end-point in itself, law firms and their senior partners will be far better served by treating retirement as a series of developmental steps taken by individuals over an extended period of time. Put differently, retirement today needs to be seen as more a journey than a destination.

Now then, let's consider how firms might turn that concept into reality.

On-Ramps and Off-Ramps That Are Built to Suit

In their book *Workforce Crisis: How to Beat the Coming Shortage of Skills and Talent* (Harvard Business School, 2006), Ken Dychtwald and co-authors Tamara J. Erickson and Robert Morison recommend that employers look to "phasing" as a variation on the traditional retirement model. They define flexible retirement as an approach that encompasses flexible roles and work styles; attractive work assignments suited to one's experience and inclination; and reduced hours, flexible schedules and more control over one's time—before and after the point of "official retirement."

In other words, as the authors point out, given the increasing longevity, declining birth rates and disproportionate size of the baby boom generation now approaching retirement age, organizations must look at the workforce quite differently and adapt management practices accordingly.

Keeping those points in mind, let's next consider some research into a separate—but as you'll see, highly related—area in the war for talent.

Sylvia Ann Hewlett is an economist and the director of the Gender and Policy Program at Columbia University's School of International and Public Affairs. Her most recent book, *Off-Ramps and On-Ramps: Keeping Talented Women on the Road to Success* (Harvard Business School, 2007), contains a wealth of enlightening research showing how the old career model—particularly for women—just doesn't work. Hewlett reports that "fully 60 percent of highly qualified women have nonlinear careers. They take off-ramps and scenic routes and have a hard time conjuring up continuous, cumulative, lockstep employment—which is a necessary condition for success within the confines of the white male competitive model." For too many talented women, she writes, this model doesn't work, "which is why many companies find it difficult to

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A MANAGING PARTNER'S JOURNEY

COMING TO TERMS WITH CHANGE

In recent years I have worked with dozens of law firms in developing transition plans for senior partners. One of those firms is Syracuse-based Scolaro, Shulman, Cohen, Fetter & Burstein. Barry M. Shulman, one of the firm's founding partners and its only managing partner until recently, wanted assistance in developing a strategy for his transition away from the managing partner role—a role he served in for more than 25 years. Over the years he has dealt with multiple layers of transition planning and renewal. I asked him to share insights into both his own journey and that of his firm to help illustrate the stages.

—- Stephen Gallagher

A Partner's Three-Decade Evolution

BARRY SHULMAN: In 1978, when our firm was emergent, we employed 3 full-time people, including lawyers, as opposed to the more than 80 we have now. From the beginning, we sought to redefine ourselves continually. We strived to bring in the best lawyers, who merged their practices into ours, so that it resulted in a blended firm defined both by those aspects of the law in which we would provide services and those in which we wouldn't. We relocated our offices a couple of times and consistently tried, when we could afford it, to update technology. Later on, we couldn't afford *not* to, of course. It was into this mix that I was asked to be managing partner.

As managing partner in a firm like ours, I maintained a full practice while also trying to assemble a central staff. I was fortunate to find an office legal administrator who has helped me lead the firm through literally hundreds of transitions over the years. She not only understands technology and accounting at esoteric levels, she also understands people. No one, I found out, can manage growth alone.

As a young managing partner, I quickly learned that growth is dynamic, and not always in a positive sense (with deaths, departures, additions, retirements and changing relationships). I realized early on that our ability to prosper depended on finding a way to rise above the daily frenzy. I used to tell people that, while we worked harder than many, our firm prided itself on our atmosphere of informal professionalism. As such, we attempted to listen rather than always speak, seeking to make collegiality between professional talent, attorneys and staff one of our hallmarks. We encourage those who might have made mistakes to tell us about them—without fear of retribution. We genuinely care for the people we work with. I've even terminated people who spoke in a hostile manner with staff. Many of the employees have been with the firm for over 25 years.

It wasn't long before I involved most partners in leadership and self-improvement projects. We held partner meetings every two weeks and turned to the younger partners in planning client development and substantive legal conferences. Annual retreats allowed us to be attentive to all levels of lawyer concern. Even partners performing annual associate reviews were instructed to listen as much as speak. Everyone had a share in making us a more responsive firm. I especially tried to involve partners in planning the firm's major events, such as tax and other seminars held throughout the year.

About four years ago, I started seeding the firm with the thought that it would be healthier into the future with newer, younger management. To my selfish enjoyment, this thought wasn't shared, almost at all, but I persevered. I understood that my successor would need to have a good understanding of how the firm works and what it takes to be successful. For me to step down as managing partner, we also needed someone whose practice would permit it. We're still small enough to need a managing partner who maintains a full-time practice. But this person would need administrative strengths; a sound understanding of balance sheets and accounting concepts; the ability to listen; and the ability to consult and make decisions as well. We also needed someone who would be comfortable working with and through transition.

It was then that we called on a transition coach, Stephen Gallagher (whom some of my partners knew through their work with the state bar), to help us develop a strategy for my transition away from my managing partner role and into a new role—which is still in the process of being defined.

As we worked through my new and continuing responsibilities, we knew we also had several other founding partners nearing what others have referred to as the traditional retirement age. Transition planning was a very hard topic to broach with each (when you're in good health, it's difficult to focus on retirement), but several of the younger partners saw transition planning as a pressing need. I understood that. In my case, I recognized that moving away from the role of managing partner would allow me to extend my earlier interests and client involvements. I found myself looking forward to this transition—I like to think of it as yet another growth step in my legal career.

Lessons Learned

STEPHEN P. GALLAGHER: In my experience with law firm transition projects, the atmosphere of interdependence and mutual respect among the generations in Barry Schulman's firm gives a firm a much better shot at coming up with a plan that will work for each of the individuals involved in leadership transitions, as well as the organization itself. Keep in mind that four other of the Scolaro Shulman founding partners are still actively involved in the practice but within a couple of years all four will have reached the age of 65. Schulman understood the transitions on the horizon so he was looking closely at establishing a process not just for himself but for dealing with future transitions as well.

I have found that firms that genuinely care for all their personnel are better prepared to help their pre-retirees through the transition period. However, firms must also recognize that once a senior lawyer begins winding down a long career in the law, he or she may need support to attain this new self. In a law firm setting, managing transition means helping people make the difficult process of coming to terms with change less painful or disruptive. Let's use Schulman's journey to clarify what is involved in the main stages of the transition period.

1. Letting go of certain aspects of what's past. Successful transitions start by letting go of the past. In Shulman's case, he was faced with handing the reins to a new person after 25 years as the firm's leader. Income may be affected. Certainly there is concern about a loss of intellectual challenge—although perhaps with other, new challenges on the horizon. One may also be facing the loss of a group of colleagues and friends; a regular place to go every morning; and changes to the familiar way one has structured one's time over many years. Firms need to encourage older leaders to be willing to test these assumptions, which Shulman was willing to do in publicly stepping down as managing partner of a firm that bears his name.

2. Assessing the present. To help senior lawyers through the "downshift" phase, firms may need to devote more time and resources to their senior lawyers. First, they will have to find out where the senior lawyers are with their own transition plans. This will require discussing where the lawyer is currently, so there's a basis for preparing to shift down from current client responsibilities and billable expectations. Shulman and his team were fortunate to be familiar with each of the partners' billable hours expectations for the coming year, since each partner estimated the number of hours as part of their budgeting process. As managing partner, Shulman met with every partner to help them develop individual strategies for the future while looking back at the previous year's performance.

3. Generating options for the future. Today it appears obvious that many senior lawyers need to approach retirement as a way of gaining renewed purpose in their lives. Pre-retirees may or may not be ready for something new—-something different, perhaps something novel, and certainly something interesting at deep personal levels. Shulman, who is remaining in his role as firm president for now, reports that he gives the new managing partner advice when asked, but he works hard not to get in his successor's way. Instead, he enjoys still having a full practice and still fulfilling charitable and civic roles. Other senior lawyers, of course, may want—or need—to reduce their responsibilities. It is important for the firm to help them generate options for this stage of their lives. LP

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attract and retain female talent, just when the need for the broadest talent pool is greater than ever."

Hewlett further points out this: "Despite the fact that women these days are highly credentialed (49 percent of law school graduates and 36 percent of business school graduates are female), they are not being promoted or advanced at a rate commensurate with their weight in the talent pool." Findings from the National Center for Educational Statistics show that more than half of all professional and graduate degrees are now awarded to women. And according to the U.S. Department of Education, the number of women with graduate and professional degrees is projected to grow by 16 percent over the next decade, while the number of men with these degrees is projected to grow by a mere 1.3 percent.

In her forward to Hewlett's book, Carolyn Buck Luce, who is chair of the Hidden Brain Drain Task Force (which represents 34 global corporations), shares this powerful quote from Patricia Fili-Krushel, executive vice president at Times Warner: "These women who leave or languish, are, in effect, the canaries in the coal mine, the first and most conspicuous of an outdated, dysfunctional career model." Fili-Krushel then enumerates some of the other casualties: "58-year-old baby boomers who don't want to retire but are no longer willing to put in 70-hour weeks; and 28-year-old Gen X and Y men who want to be better, more involved fathers than their dads were, and need flexible work."

Research clearly indicates that many men want flexibility: 49 percent want paid leave after periods of intense work—as do 61 percent of women—and 45 percent of men want to work flexibly within a full-time job. Generation X and Y in particular (men as well as women) find these options extremely appealing. Hewlett goes on to report that "the data shows that for young men ages 25 to 44, the ability to work flexibly tops their list of solutions."

So, you might ask, how does this discussion about the need to form more flexible strategies for attracting and retaining younger lawyers (of both genders) relate back to the need to form more flexible strategies for older partners?

Hewlett says that companies need to get in the business of offering serious forms of flexibility. Mary B. Cranston, senior partner of Pillsbury Winthrop Shaw Pittman, agrees. She further argues that any discussion of flexible retirement must include flexible work assignments for all employees. "One of the things firms have to do to retain their experienced lawyers is to help them customize their jobs," she says. She reports that to achieve that end, Pillsbury Winthrop has made significant strides in recent years in redesigning more flexible work schedules for everyone from recent hires to senior partners who are preparing to transition away from full-time practice. "Firms that fail to make this accommodation," she says, "will come to regret their one-size-fits-all approach."

In sum, this means rethinking both the on-ramps and the off-ramps for lawyers of all ages. The need for more flexible and accommodating work options affects not only those who are approaching traditional retirement, but younger women and men who don't fit inside the box or want to work within the traditional partnership pyramid. Approaching the coming shift in age demographics in all directions will mean a win-win in the talent war.

The Sunset Alternative: A Revised Strategy for Transition Planning

Law firms everywhere must focus on finding the balance to keep key people at every stage of development. This will include discussing how the years leading up to retirement should be a period of time when senior lawyers can experience new growth opportunities for themselves—and properly handled, this process should benefit the broader law firm community in many other ways. The senior lawyers that many law firms are now looking to sunset may be the untapped resources firms need to lead the talent pool of the future.

Today, we are facing a shortage, not a surplus of talented lawyers. Firms must begin to phase out "retirement" as we know it. As a replacement, firms need to explore how a staged reduction in work hours and responsibilities ahead of full retirement might work. The same must be said for young people entering the profession. No amount of money will be enough to keep talented young people from "jumping ship" unless firms begin to address their needs and concerns.

The fact is that most senior lawyers and pre-retirees are not looking to fade away. They want enriching endeavors. Certainly they want to leisure at times, and they naturally want to have fun. But contrary to the popular media view of retirement, the most important thing lawyers anticipating retirement are looking for is fulfillment, their own sense of purpose and meaning. The idea of a more flexible retirement option would allow not only partial retirement, so that senior lawyers can enjoy other pursuits, but also active retirement, wherein seniors can remain productively and socially engaged in the workplace. Going to more flexible retirement policies as well as more flexible work schedules for all lawyers will demonstrate a fundamental shift in the way lawyers of all ages live their lives. LP

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