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### Book Review: Declining Prospects

By [Andy Dorchak](#). April 23rd, 2013

Michael H. Trotter. Declining Prospects: How Extraordinary Competition and Compensation are Changing America's Major Law Firms. North Charleston, SC: CreateSpace, 2012.

Michael H. Trotter. Profit and the Practice of Law: What's Happened to the Legal Profession. Athens, GA and London: Univ. of Georgia Press, 1997. (paperback edition, CreateSpace, 2012)

Stephen J. Harper. The Lawyer Bubble: A Profession in Crisis. New York: Basic Books, 2013.

Michael Trotter has lived the “big law” and entrepreneurial-law-firm life in Atlanta, Georgia since 1962. He provides well-sourced details about decades worth of billable hours and partner compensation at Atlanta and “big law” firms, based on personal information and published sources such as the [Am Law 200 list](#). He has taught law firm management as an adjunct professor at the Emory School of Law.

Trotter has been predicting the demise of big law since he wrote a brief ABA Journal article, [Associate Leveraging](#), in 1992. Mary Ann Altman's response to that article was that leverage that involves proper delegation of work is efficient. ([Leveraging Isn't the Problem](#))

In *Declining Prospects*, Mr. Trotter seems to acknowledge Altman's main points in her 1992 article: smaller firms are sometimes better; new associates' pay was too high (and climbing); and, most relevantly, that "...too many lawyers feel that they are somehow entitled to \$300,000, regardless of the true value of their services." (Altman, *Leveraging...*, p. 37) As Trotter wrote in *Profit and the Practice* in 1997, "few of us have the strength of character to practice living at \$125,000 when we are earning \$300,000." (p. 196) He acknowledged the public would not be sympathetic. Today, while possibly sympathizing with a law student who incurs six-figure debt in the hope of getting a big law job, the public would likely be shocked by the aforementioned Am Law 200 profit-per-partner and gross revenue numbers.

In *Declining Prospects*, Trotter provides charts for the rise in the size of law firms and their lawyer-employee leverage ratios from 1950-1990 (pp. 6-7), and he demonstrates the lack of correlation between size/leverage and profits-per-partner. (pp. 52-55) While very well-compensated, big law associates are often miserable, in part due to high billable-hours quotas. While there is a near-universal desire for better work-life balance at big law firms, Trotter contends that overhead costs and high partner profits at what he calls "business practice firms" precludes any meaningful change. An Am Law 200 law firm would have to cut associates' pay by about 36% (i.e. from \$140,000/year to \$90,000/year) in order to reduce the requirement for billable hours (often 2000 hours or more per year) by 10%. (pp. 64-65) Unpalatable alternatives would be to reduce partner profits or increase client fees.

## Technology

Technology plays an ever-increasing role in the commoditization of legal services. For examples, people now may choose to use self-help systems such as [legalzoom](#) to write a will or incorporate a business. Insourcing (to less expensive U.S. locations) and outsourcing (overseas) of "back-room" law firm jobs and some lawyer-provided services also arises. Computerized systems can help with the discovery process and

knowledge systems can archive a firm's work product for future re-use. Technology contributes to attorney dissatisfaction, placing the attorneys "on call" 24/7. Nonetheless, Trotter's "New Model" law firm embraces the efficient use of technology.

### Corporate Counsel

Trotter argues that the rise of corporate counsel does not bode well for big law. Corporate counsel are more numerous, more well-respected, and better-compensated than in the 1960s. Corporate counsel of larger firms can hire and train their own staff attorneys for many tasks, while selectively utilizing specialty law firms for specific, high-value projects. Corporate counsel usually are able to maintain a better work-life balance than big law attorneys, and they generally do not have to "sell" their services. Corporate counsel can also negotiate fee arrangements. For example, the Pfizer legal department created a "Legal Alliance" with 19 law firms, featuring annual budgets (rather than billable hours), increased collaboration between legal department counsel and outside counsel, and a fund for bonus payments and fee adjustments. (pp. 141-142)

### High Profits and "Free Agents"

A combination of very-high partner profits and the ability of "rainmakers" to take their clients to another firm creates the potential for large firms to fail. For example, Dewey & LeBoeuf went bankrupt in 2012, in part due to guaranteed payments made to partners lured away from other firms. Mr. Trotter thinks that the major factor of Dewey's demise was "intense competition among private practice law firms to provide the legal services required by major businesses." Other factors: "client resistance to increasing costs," growth of corporate legal departments, "commoditization of legal services," and technological change. (p. 222)

### New Model Law Firms

The solution? “New Model” law firms that feature “lower leverage, smaller size, lower overhead, and lower billing rates or other fee arrangements.” (p. 203) Partners take lower annual profits, and such firms target mid-range legal work: above commoditized legal services and below the most complex legal services that big law still dominate. (Legalzoom now offers its customers the opportunity to consult with an attorney, as well.)

### Book Publishing Commoditization

Trotter self published *Declining Prospects* with Amazon’s [CreateSpace](#). While the book offers many good statistics and explanations worthy of such an experienced lawyer, some customers may balk at paying about \$25 for a rather flimsy paperback book. (Albeit one printed in the United States). Stephen J. Harper’s book would be an alternative and more inexpensive option for those interested in an (overlapping) critical appraisal of both legal education and big law. *Declining Prospects* is a “great read” for people interested in big law firm operations (especially in Atlanta) and prospective law students who aspire to work at a big law firm one day. Big firm attorneys can afford the book, but may not have the time to read it. Thus, an important book such as *Declining Prospects* may lose some of its most appropriate audience. *Declining Prospects* re-summarizes and updates the now-dated content in *Profit and the Practice*. Thus, people who want relatively current information about the state of big law should consider buying *Declining Prospects* and *The Lawyer Bubble*.

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