

**“The Case for Flexible and Reduced Hours: Making Work/Life Balance a Win/Win Economic Solution for Lawyers and Legal Employers”**

**Panel Discussion: The Law & Economics of Reduced/Compressed Work Weeks**

**Redefining Work: Exploring the Four-Day Work Week  
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Work/life balance programs and employer profitability sound inconsistent. But, work/life programs can provide a win/win economic solution for legal employers. Here's how . . . .



# Work/Life Challenges are Here to Stay

1. Attrition in good economic times & layoffs in down market
  - Long hours are an important factor in why lawyers leave
2. Globalization and technology
  - Expectation of immediate responsiveness & accessibility
3. Acute work/life challenges facing women attorneys
4. Generational shifts
  - Boomers (76 million born 1946–1964)
    - Comprise 70% of law firm partners
    - Challenging traditional retirement/succession planning
  - “Gen X” (46 million born 1965–1980)
    - Face work/life issues on both ends (aging parents & young children)
  - “Gen Y” (80 million born 1980–2000)
    - Different expectations in how they will work
    - Grassroots example: Building a Better Legal Profession
    - 2008 NYU Law Survey, male & female students’ biggest concern (72% of men & 76% of women were “very” or “extremely” worried about work/life balance)



# Negative Impact of Attrition and Layoffs

1. Erosion of institutional knowledge
2. Loss of investment in talent
3. Retention risk of remaining lawyers
4. Low morale & productivity decline of remaining lawyers
5. Skills decline of laid off lawyers
6. Client frustration in lack of continuity of service
7. Client frustration in paying for new learning curve
8. Potential delayed resolution of legal matters
9. Increase in severance, outplacement and long term recruiting, training & replacement costs
10. Negative press & rumors alienate clients & legal talent



# Economic Impact of Attrition or Layoffs

## Client Expenses

- A client estimates significant loss of continuity on outside counsel teams
  - Minimum in-house department loss of \$14,000 for each lawyer lost
    - Expenses for learning curve activities by replacement outside lawyer
    - Cost of time and capacity lost by in-house team to instill matter-specific institutional knowledge in the replacement lawyer
  - Additionally, non-economic frustration due to lack of continuity in service, delayed resolution of legal matters and erosion of institutional knowledge

## Law Firm Expenses

- Report of Lawyers Club of San Diego Balance Campaign, 2006: It costs 150%-200% of a departing employee's annual salary to recruit and train a replacement
- PAR, 2004: \$200,000 - \$500,000 is needed to replace a second-year associate

# Ways to Avoid Layoffs, Minimize Economic Impact & Address Work/Life Demands

1. Get rid of billable hour & redesign firms
2. Use reduced hours in exchange
3. Face the FACTS
  - Keep the billable hour
  - Use multiple billable hour targets
  - Meet business needs
  - Meet demands of clients & colleagues
  - Improve lawyer productivity & satisfaction



# Getting Rid of the Billable Hour & Redesigning Law Firms

- **Billable hour evils**
  - Penalizes productivity & efficiency
  - Creates temptations to pad hours
  - Negatively impacts collegiality
  - Discourages pro bono work
  - Provides no predictability of cost for client
  - Hinders associate training
  - Contributes to associate turnover in strong economic market
- **Billable hour impact**
  - Increased hourly rates & hourly demands are reaching a ceiling
  - Ethical implications – inconsistencies of client & lawyer interests
  - Clients demanding more value & showing less loyalty
- **Yet great risk of inaction**
  - Entrenched method from the 1950s
  - Method is simple
  - Puts a value on a service when it's hard to anticipate value
  - Has been profitable for law firms
  - Minimizes transaction costs for both sides
  - Fits with lawyers' risk aversion



# Reduced Hours & Alternative Options in Exchange for Layoffs

- Reduced Hours & Alternative Options
  - More reduced hours & reductions in pay
  - Unpaid vacations
  - Wage & hiring freezes
  - Delay raises, eliminate bonuses, cut salaries
  - Early retirement packages
  - Cut temporary staff
  - Reduce spending on marketing & travel
  - Encourage unpaid sabbaticals
  - Offer more telecommuting to save on energy costs
  - Pension cuts
  - Redeploy remaining lawyers to busier departments
  - Hire re-entry lawyers (on temp. or perm. basis) to fill talent gaps
- Risk that change is not large scale enough
- Risk that stigma & low usage will remain



# Face the FACTS

- Keep the billable hour
- Get rid of terms “full-time” and “part-time”
- Example of inequity of terms in the same firm:
  - “full-time” litigator – 2300 hours
  - “full-time” trusts & estate lawyer – 1800 hours
  - “part-time” litigator – 1800 hours
  - “full-timers” in same dept. 500+ hour swings



# Target Hours: “T” is the key to FACTS

- Target replaces “full-time” & “part-time”
- Target Hours provide framework for all
- Selecting Multiple Target Hours



# Determining **T**arget Hours

- **Create multiple tracks of **T**arget Hours**
  - 4 - 6 different sets of Target Hours and promotion rates
  - e.g., 1200, 1500, 1700, 1800, 2000, 2200
  - Set by whole firm or by department
  - Same process high or low Target Hours
  - For lower Targets, promotion may be delayed
- **Business & departmental needs control**



# Determining Compensation

## Lockstep Model

- Pre-set salary range
  - Set for each level of experience
  - Compensation adjusted based on Target Hours
- Individual compensation further assessed
  - Billable & non-billable Target Hours
  - Quality of work
  - Contribution to firm operation & community
  - Business generation, where appropriate

## Merit Based Model – core competencies applied

- Results
- Efficiency & productivity
- Quality of work
- Contribution to firm operation & community
- Business generation, where appropriate

## Annual review



# FACTS

## F is for FIXED

- Less high-profile work on a temporary or permanent basis
- More predictable hours impacting likelihood of promotion

## A is for ANNUALIZED

- Intense, high-profile work
- Followed by longer reprieves

## C is for CORE

- Designing work in blocks of hours
- Around outside commitments & work demands

## T is for TARGET

- Create multiple Target Hours of 4 – 6 billable tracks
- Compensation adjusted to targets & promotion rates may be delayed

## S is for SHARED

- Two lawyers work as a team
- Staffed to step into each other's shoes & create more predictability



# Applying the FACTS: Firms with “T” - Multiple Targets

- 2009 Best Law Firms for Women findings
  - 26% of 50 winning firms reported using Multiple Target Hours
    - Average target tracks offered was 5
    - Target ranges from 1500 – 2200
  - Most popular range 1800
  - Other popular ranges in order of frequency, 1700, 1900, 1600 & 2000





***Making the Economic Link Between Productivity,  
Profitability & Work/Life Balance***

- 1. Loss of legal talent due to attrition or layoffs has severe economic and non-economic consequences for law firms and law departments**
- 2. Improving work/life balance minimizes attrition in a strong market and increases profitability as a layoff alternative in a downturn**

**Founding Partners**

**PETCO Law Department**

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Association of Corporate Counsel, San Diego**

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## **Application of Association of Corporate Counsel (ACC) NERA Economic Model**

NERA economic model allows data input of 7 variables,  
calculating profits over 5 years

1. law firms' size and expected growth (including associate layoffs/attrition)\*
2. annual billable hours\*
3. billing rates
4. salaries\*
5. rate of recovery
6. recruiting costs
7. overhead costs

\*Only variables changed



## Three Profitability Reports

### **Profitability Report 1 – Layoff/Attrition Model:**

- Increase associate layoffs/attrition from 5% to 10%
- Overall firm profit range, \$491,198,232M in base year & \$755,502,987M in year 5
- Profit per partner range, \$1,158,486M in base year to \$1,519,312M in year 5

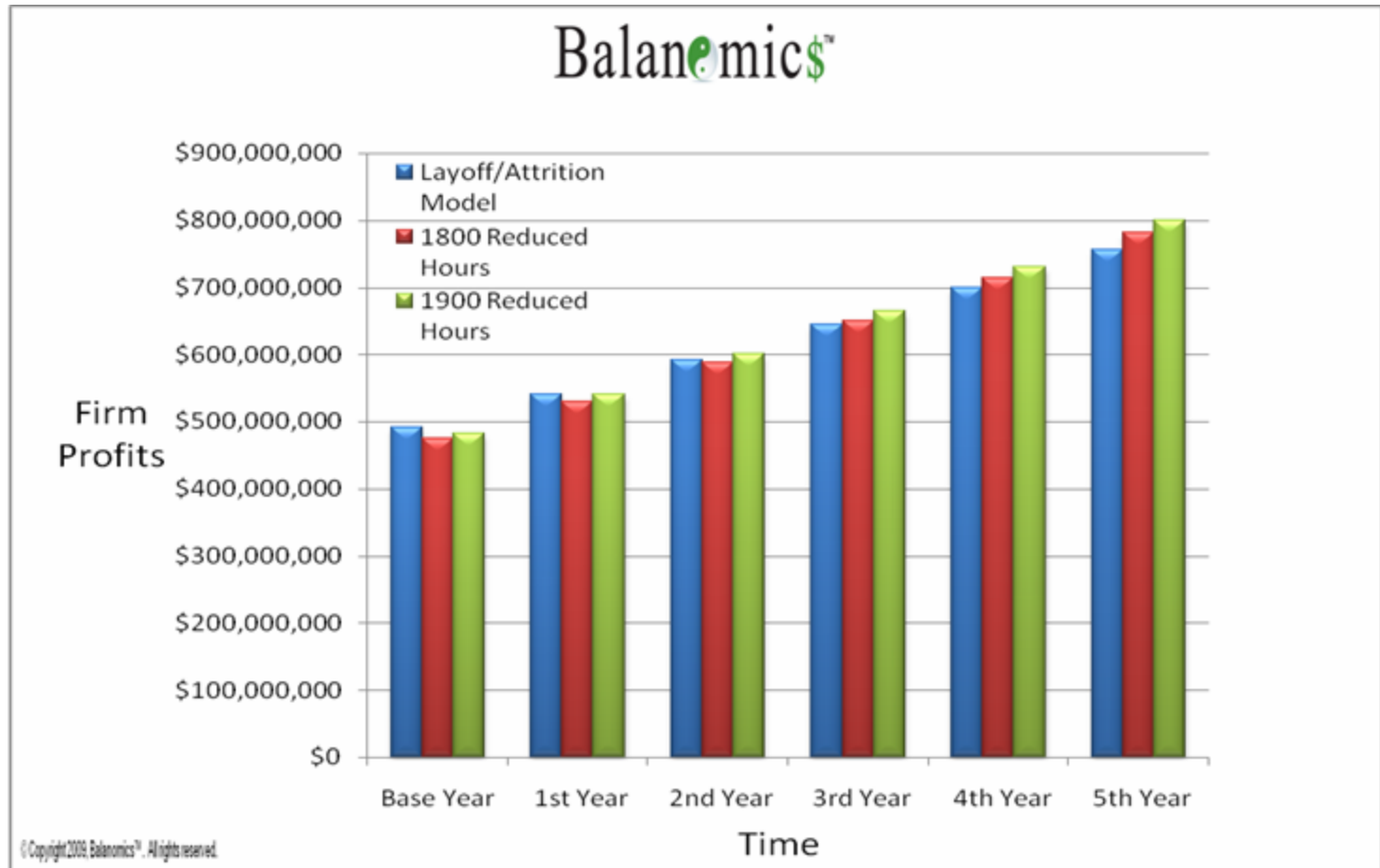
### **Profitability Report 2 -- 1900 Reduced Hours/Reduced Salaries Model:**

- Decrease associate billable hours from 2,000 to 1,900 per year and decrease associates' lockstep salaries by 5% (since 100 hour reduction is 5% change)
- Layoff/attrition rate remains at 5%
- Overall firm profit range, \$483,016,707M in base year to \$800,676,115M in year 5
- Profit per partner range, \$1,139,190M in base year to \$1,582,401M in year 5
- More profitable than Layoff/Attrition Model as of year 2
- \$45,173,128M more profitable in Overall Firm Profits, \$63,089 in Profits Per Partner as of Year 5

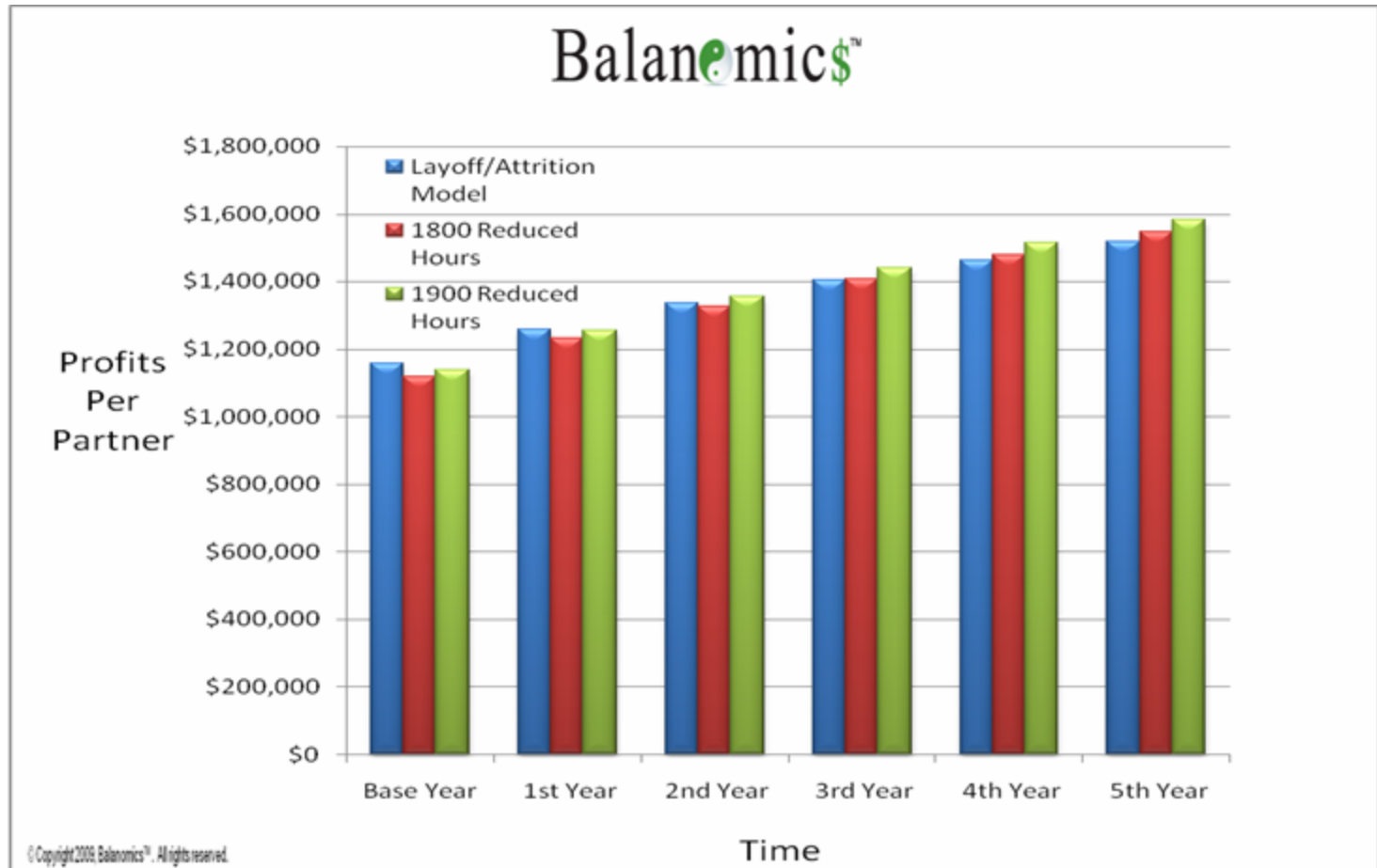
### **Profitability Report 3 – 1,800 Reduced Hours/Reduced Salaries Model:**

- Decrease associate billable hours from 2,000 to 1,800 per year and decrease associates' lockstep salaries by 10% (since 200 hour reduction is 10% change)
- Layoff/attrition rate remains at 5%
- Overall firm profit range, \$474,835,182M in base year to \$782,361,678M in year 5
- Profit per partner range, \$1,119,894M in base year to \$1,546,206M in year 5
- More profitable than Layoff/Attrition Model as of year 3
- \$26,858,691M more profitable in Overall Firm Profits, \$26,994 in Profits Per Partner as of Year 5

# Graph 1: Overall Firm Profits for Layoff/Attrition vs. Reduced Hours/Salary Models



## Graph 2: Profits Per Partner for Layoff/Attrition vs. Reduced Hours/Salary Models



# Firms Can Increase Firm Profits & Profits Per Partner by Applying Multiple Billable Hours

- In the NERA Model's parameters, Balanomics™ reduced hours across the board from 2,000 to 1,900 or 1,800 hours
- The same benefits accrue under a Multiple Billable Hours FACTS approach where associates bill 1,200 – 2,000 per year (as long as they average 1,800 or 1,900 annual hours per attorney)
- Firms should run the NERA Model with their own numbers to discover their own increased profits



# In Sum: The Business Case for Flexible & Reduced Hours

- Work/life challenges remain in strong & weak economic markets
- Attrition in a strong market & layoffs in a weak market trigger severe economic and non-economic consequences
- The negative consequences can be remedied by:
  - Getting rid of the billable hour & developing new law firm models
  - Encouraging increased reduced hours & other saving measures
  - Applying the FACTS Multiple Billable Hours approach
- Balanomics™ demonstrates that firms can increase their overall firm profits and profits per partner by decreasing hours and salaries and reducing layoffs/attrition
- Balanomics™ also demonstrates that increased earnings for firms translate into increased savings for law departments
- Applying the FACTS Multiple Billable Hours approach will create more profitable law firms, more savings for law departments and more balanced, productive and satisfied lawyers



For More Information



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For more information, to become a signatory or to contact founding partner representatives, please visit [www.balanomics.net](http://www.balanomics.net)

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