



Managing Risk to Reputation: The Challenge of the Internet for Legal Recruiting

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¶ 1 "It takes twenty years to build a reputation and five minutes to destroy it."¹

I. INTRODUCTION

¶ 2 An underappreciated aspect of law firms' ability to maintain and attract profitable clientele is derived from their ability to recruit quality associates. In order to meet client demands and expectations, a firm must be able to deliver effectively the quality and level of service that clients demand. It is impossible for a firm to do so without having properly trained and capable associates to do the client's work.² As noted by one former associate at Shearman & Sterling, "banks don't care what the profits per partner are.... They care about quality associates you get in there because it's the associates who run the deals."³ Furthermore, the future of a law firm is in its human capital, and an inability to attract and retain legal talent may sap the energy of a firm in the long run. Essentially, a law firm is its people, and its viability is predicated on recruiting quality young lawyers.

¶ 3 It has long been understood that shifts in customer tastes can dramatically impact what it takes to remain competitive in a given market. This is equally true in the market for quality young associates, and there is an emerging change in student tastes that top law firms need to address. Over the past few years, students from top law schools have changed the criteria they employ for selecting the firm they will work for upon graduation. In the past, students usually selected firms based upon the quality of their practice and the relative general prestige of the firm. Although the quality of a firm's practice is still important, today's law school students also look at other criteria, such as associate quality of life and the firm's

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¹ See Marion Turner, *Reputation, Risk and Governance* (Housing Corp., Risk Management Topic Paper No. 6, 2004) (quoting Warren Buffett), *available at* [http://www.housingcorplibrary.org.uk/housingcorp.nsf/AllDocuments/91DC97E6B48CD12B80256E8300453ED1/\\$FILE/rtp6.pdf](http://www.housingcorplibrary.org.uk/housingcorp.nsf/AllDocuments/91DC97E6B48CD12B80256E8300453ED1/$FILE/rtp6.pdf).

² See David Barnard, *A Goal for Law Firm Management*, OF COUNSEL, Mar. 2003, at 11 (explaining the idea of the Blaqwell Circle and the importance of client management for law firm prosperity).

³ See Thomas Adcock, *Errant Summer Associate E-Mail is Sign of Changed Job Market*, N. Y. L. J., June 20, 2003, at 16.

commitment to diversity. Two important changes in the legal community have caused students to change the way they select law firms. First, most students no longer think it is possible to become a partner due to the small number of partners that most large law firms make each year. As a result, law students have adopted a short-term focus in considering which firm to join. Second, with the advent of the Internet and published guides, there is more information available to law students about law firms, including information about the quality of life at those firms. These two factors have independently and synergistically fueled law students' interest in law firms' reputations in factors other than mere prestige. Yet despite these changes in how law students select and evaluate firms, large law firms have not changed how they recruit students or manage new potential threats to their recruitment efforts.

- ¶ 4 This article will argue that the increased availability of information on law firms and changes in the way law students view and select firms will force law firms to adopt new strategies to manage crises that affect student recruiting. The current methods law firms use to combat negative publicity and negative images are inadequate. If law firms want to continue to attract quality students, they must follow the lead of large-scale corporations, who have more experience with reputational attacks, and employ professional public relations (PR) firms to help proactively safeguard their reputations and develop tactics for managing crises.

II. CHANGED LANDSCAPE IN LAW STUDENT RECRUITING

A. Traditional Model

- ¶ 5 The practice of law at major corporate firms ("MCF"), particularly the structure of advancement, has largely been modeled on the "Cravath system." As originally conceived, associates were to receive relatively modest salaries, with the prospect of a sharp spike in earnings for those associates who were invited to join the partnership, which would normally only be available after six to ten years at the firm.⁴ It would generally become apparent which associates had a chance of making partner by their fourth or fifth year, and ones who dead-end would typically leave their MCF for other legal career opportunities that typically offered lower compensation.⁵ A number of scholars have dubbed this winner-take-all system as a "promotion tournament," whereby a dwindling number of participants compete for limited but exceedingly lucrative positions.⁶
- ¶ 6 In its original conception, this system was able to function effectively based on a tacit agreement to pay the same entry-level salary, and not lure associates away from each other.⁷ Essentially, it was thought that young lawyers were going through an apprenticeship period under the tutelage of experienced partners, to whom they owed a marked degree of fidelity. The training that these associates would be receiving justified their low salaries, and it was something of a rite of passage. To compete for these young lawyers would be against the

⁴ ROBERT TAYLOR SWAINE, *THE CRAVATH FIRM SINCE 1906*, at 7 (1946) ("Every lawyer who enters the Cravath office has a right to aspire to find life career there – but only by attaining partnership."); MARC GALANTER & THOMAS PALAY, *TOURNAMENT OF LAWYERS: THE TRANSFORMATION OF THE BIG LAW FIRM* 23-24 (1991).

⁵ Neil Solomon, *Figuring the Odds of Making Partner in Today's Market* (July 16, 2002) (associates tend to take positions with less profitable firms after departing their first firm), at <http://www.law.com/jsp/article.jsp?id=1024078991844>.

⁶ See, e.g., Daphne Taras & A. Gesser, *How New Lawyers Use E-Voice to Drive Firm Compensation: The "Greedy Associates" Phenomenon*, 24 J. LAB. RES. 9 (2003); GALANTER & PALAY, *supra* note 4, at 103-105.

⁷ On this point Swaine notes:

Adoption by other City offices of the same principles on which the 'Cravath system' is based led, about 1910, to competitive bidding for the highest-ranking men of the leading law schools. This gave a few men inordinately high beginning salaries...The discrimination among the men just coming out of law school became unfair and made the initial salary offered too important a criterion in the choice of offices. Within a few years the evils of the practice were admitted by the offices... [and] it was abandoned after World War I, following a conference among the managing partners of the larger offices.

SWAINE, *supra* note 4, at 6.

honor of the profession, and it also would have injected an element of competition that was not compatible with the apprenticeship model.⁸

¶ 7 Over time the formal elements of the traditional model may have diminished, but it still persists, to large degree, based on the simple economics of law firm management. MCFs generally do best with a mix of partners and associates that allows for the maximum number of associates and the smallest number of partners that does not substantially affecting earnings.⁹ This is due to the simple fact that partners cannot bill sufficient hours to cover their earnings, which can exceed \$2 million a year at MCFs.¹⁰ The maximum a partner can expect to earn from clients is \$1 million, and thus adding partners has the economic effect of pushing down average partnership earnings.¹¹ Associates, who generally bill three times their salaries, are far more efficient for firms.¹² However, there are a number of limiting factors that constrain firms from increasing the ratio of associates to partners too dramatically. There is the practical problem that some partners cannot handle as high a number of associates underneath them as others, and asking them to take on too many might substantially impact the quality of the firm's work.¹³ A smaller partnership might also hurt the firm's ability to appease highly sophisticated corporate clients, or impede the firm in the competition for lucrative, complex business. Moreover, in terms of the promotion tournament conception, MCF partnerships cannot reduce the number of partners to a level at which it no longer makes economic sense for associates to compete. MCFs probably have an incentive to not even approach that level because the corresponding reduction in associate morale could have severe consequences for firm productivity. However, these factors only impact firms at the margins, and the firms with the highest revenue per partner are generally the ones that can sustain the highest leverage.¹⁴

¶ 8 MCFs remain nearly uniform in what they pay associates, with identical yearly salaries for a given year of associate seniority, and the majority of firms matching the early leaders in end-of-year bonuses.¹⁵ From an employee compensation perspective, consequently, it is extremely difficult to differentiate between large corporate law firms.

B. Changing Conditions

¶ 9 Corresponding to these economic incentives, it has become increasingly difficult to make partner at a MCF. Studies of firms in the 1950s demonstrated that between one in six and one in twelve associates eventually became partner.¹⁶ These odds have worsened markedly for associates, though it is hard to pinpoint with accuracy what they are now. One 2003

⁸ See GALANTER & PALAY, *supra* note 4, at 23 (explaining that part of the promotion to partnership model of advancement was a common understanding that there would not be lateral hiring).

⁹ "[I]t's in the interests of big firms to hire lots of associates and to make very few of them partners. The more associates there are, the more profits for the partners to split, and the fewer partners there are, the bigger each partner's share." Patrick J. Schiltz, *On Being a Happy, Healthy, and Ethical Member of an Unhappy, Unhealthy, and Unethical Profession*, 52 VAND. L. REV. 871, 901 (1999). See also GALANTER & PALAY, *supra* note 4, at 98-101 (explaining the economic structure of large firms).

¹⁰ See Schiltz, *supra* note 9, at 900 (relating the idea of leverage and how it factors into profits per partner).

¹¹ See *id.* at 900-01 ("Even a partner billing 2000 hours per year at \$500 per hour, 'both of which figures lie at the outer limits of physical and economic possibility,' would generate only \$1 million in revenue[.]").

¹² See *id.* (explaining the economics of large firms).

¹³ See GALANTER & PALAY, *supra* note 4, at 105 ("[T]he ability to monitor places real limits on the number of associates to whom a partner can lend capital[.]").

¹⁴ An analysis of the AmLaw 100 firm data shows that the most profitable firms are in general the ones with the highest associate-to-partner ratios. See Solomon, *supra* note 5; Schiltz, *supra* note 9, at 902 ("[G]enerally speaking, the bigger the firm, the more the leverage[.]").

¹⁵ See Taras & Gesser, *supra* note 6, at 12; Telephone Interview with Brian Dalton, Editor, Vault Guide to the Top 50 Law Firms (Nov. 11, 2004) (agreeing that large corporate law firms are nearly indistinguishable from a compensation perspective). The one exception is Wachtell, Lipton, which has much lower leverage than its contemporaries. Correspondingly, its compensation is better, and the opportunities to make partner are greater.

¹⁶ Taras & Gesser, *supra* note 6, at 13 (quoting GALANTER & PALAY, *supra* note 3, at 27).

estimate calculated the odds to be one in eighteen, though it admitted the number to be conservative.¹⁷ Taras and Gesser, based on conversations with MCF partners, place the probability as low as one in one hundred.¹⁸ This number seems greatly inflated, but the very fact that there is so little evidence of what a proper approximation would be is indicative that firms do not want to emphasize partnership possibilities as part of hiring. Furthermore, while there is some disparity within the odds of making partner at the different MCFs, these differences do not appear to be sufficiently variable to be significant. For example, as part of its recruiting virtually no MCF attempts to distinguish itself in terms of the opportunities for in-coming associates to make partner.¹⁹ One would expect to see this as part of a MCF's marketing to prospective associates if there were significant differences. If anything, in their marketing materials MCFs tend to deemphasize the chances of an incoming associate making partner by focusing on the career prospects for "alumni" who have left the firm.

¶ 10 It appears that the odds of becoming partner are so remote that advancement within a MCF risks becoming more of a lottery than a tournament. A single mistake over a period of years, a personality conflict with a partner, or even random chance could derail even the most gifted and driven young associates. With the chance of achieving partnership low, the question becomes whether law students still factor this long-term goal into their decision of which firm to choose. There is some anecdotal evidence that suggests that law students do not choose firms with the idea of eventually becoming partner.²⁰ Additionally, one of the few studies of how law students perceive promotion within elite law firms indicates that law students are aware of the difficulties involved with making partner. One study showed that students ranked ephemeral factors, such as Star Qualities, Playing Ball, and Linking up With Senior Mentors, much more highly than was anticipated in terms of what it takes to make partner. The authors of the study conclude that law students are more sophisticated than may have been realized about firm politics, and are increasingly aware that factors outside their control may determine promotion decisions.²¹

¶ 11 Taras and Gesser argue that the increasingly remote chance of making partner at MCFs has caused young associates to start concerning themselves to a greater degree with the short-term, and they believe this was the impetus for the 2001 jump in associate salaries.²² While this point is probably accurate, it is not clear that it had a lasting influence on the decision calculus of law students. The MCFs moved together in matching the salary increases made by West Coast firms, which would seem to further underscore that they are economically indistinguishable from the perspective of the law student. Instead, it is likely that this short-term focus is being reflected in quality of life concerns. The perception of decreased hours, a more tolerant work environment, or increased opportunities in certain practice groups may all be factors that influence a law student choosing between two very similar looking MCFs.²³ The bottom line for law students in recent years has become more complex such

¹⁷ See Anthony Lin, *Associates find ways to beat the odds*, N. Y. LAW., Jan. 27, 2003, at <http://www.nylawyer.com/news/03/01/012703a.html> (calculating the odds as one in eighteen, but admitting this was a conservative estimate).

¹⁸ Taras & Gesser, *supra* note 6, at 13

¹⁹ See Dalton, *supra* note 15, (explaining that almost no large law firms attempt to market themselves as being easier to make partner at than any other).

²⁰ See Mark L. Byers, *The New Associates: A Letter to Puzzled Partners*, FindLaw, <http://profdev.lp.findlaw.com/column/column19.html> (last visited April 30, 2005); See also Taras and Gesser, *supra* note 6, at 13 (law students are aware of the small chances of making partner and focus on immediate gains).

²¹ See David B. Wilkins & G. Mitu Gulati, *What Law Students Think They Know About Elite Law Firms: Preliminary Results of a Survey of Third Year Law Students*, 69 U.CIN. L. REV. 1213 (2001).

²² Taras & Gesser, *supra* note 6, at 13-14.

²³ Dalton, *supra* note 15 (explaining that part of the success of the Vault Guide is the strong law student interest in quality of life issues in law firms). There is also evidence from associate retention initiatives within firms that demonstrate an increased appreciation of lifestyle. According to one career services director, in reference to retention, "The new associate is seeking a balance between personal and professional life. Therefore, the retention of associates is becoming more complex than ever before. Firms need to review their recruiting strategies in order to ensure they are looking at candidates suitable for their "firm culture," review their hour requirements, and review their compensation package in order to ensure they are not lagging behind in this fast

that "perks and money alone are not enough and, until firms create cultures that care for people holistically, they will continue to lose talent to the companies that do."²⁴

C. The Spread of "Inside" Information

- ¶ 12 A reason that life-style issues have not been appreciated as a factor in law student decision-making is that traditionally information of this sort has been largely unavailable to law students. In an early 1980s guide to legal hiring, Arnold Kanter captures the types of resources that a typical law student could draw upon in choosing a firm:

So a look at firm resumes that are all alike, a twenty-minute interview at the law school, a half day at the firm, the latest scuttlebutt from *American Lawyer*, or other legal journals, and the report of the student's classmate, who either was disgruntled when he didn't receive an offer last summer or was treated with such kid gloves that he thinks the firm is like summer camp – all go into the hopper to assure that the student will be in a position to select the right job.²⁵

- ¶ 13 Most of this information came from the law firm itself, and very little of it went to the typical life of an associate. The information from legal journals was not indexed, so the most a law student could do would be to flip through old issues or check published data, like annual salaries. The law student may have been exposed to some rumors about firms, but these would have been spread through word of mouth and, as Kanter explained, would be limited in value. The law student would thus have almost no way to evaluate what the quality of life was at the firms he or she was contemplating, and could not factor it into their decision-making.

- ¶ 14 This situation began to change with the 1989 publication of the *Insider's Guide to Law Firms*. This book was conceived by Harvard law students who were frustrated by their inability to distinguish between large law firms.²⁶ The original edition provided information on 210 law firms obtained from interviews with 1,000 summer and junior associates.²⁷ While these interviews undoubtedly provided some useful insights into the quality of life at large firms, this was an insufficient sample size to get a realistic assessment of a given firm's culture. One reviewer of the original *Insider's Guide* noted on this point that:

Profiles of the firms are largely compilations of anecdotal evidence from "sources" who consist, predominately, of summer associates. These profiles are riddled with so many truisms, platitudes and inanities that they end up being largely self-parodistic.²⁸

- ¶ 15 While the quality of its data-gathering was addressed, to a degree, in later editions, it is still vulnerable to the criticism of being overly anecdotal. Similar publications, such as the *Vault Guide to the Top Fifty Law Firms*, focus on fewer firms and use in-depth surveys to garner information.²⁹ The *Vault Guide* also sends its review to the law firms prior to publication, and allows them great freedom in making edits. The editors permit firms to make direct changes to the text, with the exception of some number of criticisms that they are not allowed to alter. Brian Dalton, head editor of the *Vault Guide* explains that this is done to ensure the reliability of the information collected, but it also has practical result in a dilution

paced economy." Amy Delong, *Retaining Legal Talent*, 29 CAP. U. L. REV. 893, 896 (2002). This effect is also being reflected in how firms advertise themselves to law students. For example, firms have made family-friendly policies a major part of their recruiting materials in order to attract students for whom this is a priority. See Keith Cunningham, *Father Time: Flexible Work Arrangements and the Law Firm's Failure of the Family*, 53 STAN. L. REV. 967, 971-72 (2001).

²⁴ Maryanne Hedda & Charles Douglas, *Finding Right Talent for Firm Takes Strategy*, N. Y. L. J., Apr. 10, 2000, at S5.

²⁵ ARNOLD B. KANTER, KANTER ON HIRING: A LAWYER'S GUIDE TO LAWYER HIRING 5 (1983).

²⁶ See Thom Weidlich, *Help Wanted: The Inside Stories About Law Firms*, NAT'L L. J., Nov. 22, 1993, at A1.

²⁷ *Id.*, (explaining the methodology of the *Insider's Guide*).

²⁸ Marc Fleisher, *Insider's Guide to Law Firms*, NAT'L L. J., Dec. 28, 1993.

²⁹ Dalton, *supra* note 15, (explaining the large number of junior associate surveys that are analyzed as part of the Vault ranking system); Anna Snider, *Vault Reports' Second Guide to Firms Succeeds in Converting Nonbelievers*, NAT'L L. J., Aug. 2, 1999, at A1.

- of differences between the firms.³⁰ Each firm can emphasize their strengths, and can attempt to edit problematic sections in a way that minimizes their impact. The overall effect is that while any individual firm report looks informative, when viewed alongside one another there is little to distinguish between them.³¹
- ¶ 16 Despite the limitations of these publications, law student demand for them has been strong and is growing. The *Insider's Guide* is now in its sixth edition, and the *Vault Guide* has become sufficiently popular as to justify a new edition every year.³² Almost every law school now directs students to consult these guides when deciding on a firm, and a number of authors and specialist groups advise using them as research tools.³³ The popularity of these resources in spite of their shortcomings is indicative of the strength of law students' demand for information. Essentially, the *Vault Guide* and the *Insider's Guide* are not popular because of their intrinsic value, but because, "for top students, who have their choice between dozens of seemingly similarly indistinguishable firms, any information that allows them to eliminate choices is welcome."³⁴
- ¶ 17 The lack of tangible information in these types of publications is also the source of their danger to the recruiting efforts of a given MCF. In general, the differences between a good review and a merely acceptable review are so minor that how a firm is portrayed is unlikely to impact the general perception within the law student community. If one of the guides says that a firm does not really emphasize pro bono work, this is something that can be easily dealt with in the recruitment process. The advance copies provided mean that recruiting departments can adjust their advertising pitches to compensate. They can print materials that might emphasize recent pro bono work, or they could advise those conducting interviews with applicants to mention how important pro bono work is to the firm.³⁵ However, the same is not true of an embarrassing incident mentioned in one of the guides. Such an episode would stand out amongst the various reviews, and could leave a lasting impression on students who are trying to differentiate between MCFs.³⁶ Furthermore, the damage to a firm's recruiting efforts might be long-lasting. Dalton explains that if student surveys keep referring to the incident, he feels obligated to keep it in the guide. He also believes some of these incidents are strongly indicative of a given firm's culture, so he might decide for editorial reasons that he should keep allusions to it within the given firm's description. The result is that an episode which might have passed out of the public consciousness relatively quickly could become cemented into the *Vault Guide* for years.
- ¶ 18 The source for such an incident is unlikely to come from the student surveys and interviews that these publications conduct. They have a close working relationship with the MCFs, and would not want to risk damaging it on the basis of publishing an unsubstantiated rumor. However, the same would not be true of an incident that was public knowledge, and this is one of the reasons that the Internet is having such an influence on legal recruiting. Once such a rumor or incident has permeated the legal community, the *Insider's Guide* and the

³⁰ Dalton stresses that while firms are allowed to edit their descriptions, he still has the final say on editorial content. He sees himself as providing a public service to law students, and he explained that the input that law firms have on their descriptions is intended to make the *Vault Guide* as accurate as possible. Dalton, *supra* note 15.

³¹ Dalton admits that there are strong similarities between the different firms featured in the *Vault Guide*. However, he attributes this more to the actual similarities between large corporate law firms. Dalton, *supra* note 15.

³² There are also the American Lawyer Associate rankings. See Rosemarie Clancy, *How It's Done*, AM. LAWYER (Oct. 1, 2004), at <http://www.law.com/jsp/tal/PubArticleTAL.jsp?id=1095434454894>.

³³ See, e.g., Susan Mandel, *Finding the Family-Friendly Firm*, 89 A.B.A.J. 47, 48 (2003) (advocating the Vault Guide as a research tool).

³⁴ Taras & Gesser, *supra* note 6, at 21.

³⁵ MCFs often print recruitment material to offset perceived deficiencies and to enforce positive images. Interview with Karen Monroe, Associate Director of Career Services, Columbia Law School, in New York, N.Y. (Apr. 20, 2004).

³⁶ Dalton admits that an embarrassing episode mentioned in the *Vault Guide* would strongly impact that firm's legal recruiting. He also suggests that firms that have suffered such incidents attempt to negotiate with the Vault editorial staff to get them edited out. Dalton, *supra* note 15.

Vault Guide might feel compelled to include it as part of their firm description or risk impairing the perception of their research.

D. The Influence of the Internet

- ¶ 19 With the advent of the Internet in the early-to-mid 1990s, the process of learning about law firms and their reputations changed dramatically.³⁷ On-line anonymous message boards and on-line guides such as *greedyassociates.com*, *infirmation.com* and *vault.com* offer anyone with Internet access information, both accurate and inaccurate, about numerous law firms.³⁸ These websites provide information about current events and developments at law firms and allow posters and survey respondents to express and exchange their opinions about firms.³⁹ Through this exchange, these sites provide the "inside scoop" on law firm life. As noted in a *New York Journal* article, "chat rooms like *www.greedyassociates.com* and *www.infirmation.com* are providing the inside scoop about what it is really like to work at law firms today. Many firms need to address the fact that prospective candidates will react negatively if they perceive a gap between the information they glean from these sites and the firm's annual report or marketing materials."⁴⁰ Since many law students consult these sites when researching law firms and making the decisions of with which firms to interview, these sites can play a major role in determining the success or failure of a firm's recruiting efforts for a given year.⁴¹
- ¶ 20 Another reason that these websites can have such an influence is that the information they provide can be dispersed widely through email. The readership of a particular website might be quite small, but email provides a vehicle by which a properly compelling rumor or incident can be spread into the general legal community. Furthermore, an improperly worded internal email that is forwarded outside of the firm can also damage a firm's reputation, and might be a greater danger in that it may appear to be more objective or telling to the reader. The speed at which rumors spread is evident in a number of embarrassing incidents, the most recent of which was the widespread circulation of an email by the summer associate of a large MCF which detailed perks he had received. Instead of arriving at its intended destination, the summer associate had inadvertently copied an email, detailing his day, to 40 people at the firm, including 20 partners.⁴² Remarks and details of this email flew across the world and even landed in prestigious magazines and newspapers, such as *The New Yorker*, *The Washington Post*, and the *New York Law Journal*.⁴³ Although the notoriety of the email may have been in part due to its subject matter, involving perks bestowed upon summer associates, the speed at which it was spread is not unique.⁴⁴ Several

³⁷ See Wilkins & Gulati, *supra* note 21, at 1215.

³⁸ See Taras & Gesser, *supra* note 6, at 16 (discussing the way the Internet has revolutionized the way students learn about firms).

³⁹ See David Hechler, *Firm Lawyers Watchful, Wary*, NAT'L L. J., Sep. 17, 2001, at A1.

⁴⁰ Maryann G. Hedaa & Charles G. Douglas, *Finding Right Talent for Firm Takes Strategy*, N.Y.L.J., Apr. 10, 2000, at S5. See also Audrey Koscielniak, *Law Schools Offer Observations, Advice on Hiring, Retention*, N.Y.L.J., May 3, 1999, at T3 ("While a National Association of Law Placement (NALP) form, firm resume, web site or other employer-provided literature contains a substantial amount of information for a job seeker, it is only a baseline. In some cases, the information listed raises skepticism (is that the 'real' billable hours requirement?) and feeds a student's natural instinct to find the true story. Internet chat groups, legal newspapers and commercial enterprises (e.g., Vault Reports) are filling that need with varying degrees of accuracy."); Melanie Putnam, *The Internet Guide to Legal Career Resources*, INTERNET L. RES., Mar. 2002, at 3.

⁴¹ Taras & Gesser, *supra* note 6, at 21.

⁴² On June 2, 2003, Skadden summer associate, Jonas L. Blank, sent an off-handed email to a friend detailing a typical summer associate day. The text of the email: "I'm busy doing jack [expletive]...Went to a nice 2 hr sushi lunch today at Sushi Zen. Nice place. Spent the rest of the day typing emails and bull-[expletive]-ing with people. Unfortunately, I actually have work to do -- I'm on some corp. finance deal, under the global head of corp. finance, which means I should really peruse these materials and not be a [expletive]-up." *Blair Analogy Reaches Courtroom Far From NY*, WASH. POST, June 16, 2003, at E4.

⁴³ See Adcock, *supra* note 3, at 11.

⁴⁴ Ben McGrath, *Oops, THE NEW YORKER* (June 2003), at http://www.newyorker.com/printable/?talk/030630ta_talk_mcgrath.

- such emails have flown across continents among email and internet utilizing professions.⁴⁵ This speed of information distribution adds to the changed environment in which law firms must manage their reputation.
- ¶ 21 Law firms have not proven adept at preventing the leak of embarrassing rumors, or in minimizing the damage to their reputation when such rumors have been spread. The source of such an incident is unlikely to come from the student surveys and interviews that these publications conduct. They have a close working relationship with the MCFs, and would not want to risk damaging it by publishing an unsubstantiated rumor. The same would not be true, however, of an incident that was public knowledge, and this is one of the reasons that the Internet is having such an influence on legal recruiting. Once such a story is written and permeates the legal community, the *Insider's Guide* and the *Vault Guide* might feel compelled to include it as part of their firm description or risk impairing the perception of their research.
- ¶ 22 A couple of examples are demonstrative of how rumors or embarrassing incidents can become fixtures in the *Vault Guide*. First, at one MCF's annual dinner in 2003 there was a song performed that included some disparaging ethnic stereotypes.⁴⁶ After an onslaught of criticism, the firm responded by conducting sensitivity training and cancelling the annual dinner.⁴⁷ Later that year, an email was circulated by a partner of the firm that included similar ethnic stereotyping, which was circulated broadly and even became the subject of a New York Law Journal article.⁴⁸ Not only did this incident tarnish the firm's reputation with students directly, but there is the potential for a lingering effect as it was still being referred to in the 2004 *Vault Guide*: "Minority associates can face tough going as well. . . . I wouldn't come here as a minority. Even if not a minority, it's pathetic that the firm let that song [referring to the 'embarrassing episode at the firm's 2003 dinner'] be used, and it's embarrassing and wrong."⁴⁹
- ¶ 23 Another MCF has felt continuing repercussions from the manner in which it conducted layoffs in 2001.⁵⁰ In an October 2001 firm-wide email, a senior partner announced the terminations in an attached memo that "couldn't be printed out, and couldn't be forwarded."⁵¹ Outside of the firm, management played down the extent of its layoffs, citing poor performance- based reviews as the reason why any particular associate was asked to leave.⁵² Internet message boards, however, revealed the extent of the layoff decision, along with its gaudy details.⁵³ The outrage on the message boards was overwhelming and was probably a reason that it received attention in several journals and newspapers.⁵⁴
- ¶ 24 While the layoffs would probably have had a significant negative influence on the firm's recruiting in and of themselves, the lasting impact has come from the manner in which they were conducted. When the layoffs were announced, the then managing partner remarked that he did not expect the firm's ability to attract quality law students to be affected because,

⁴⁵ Other such examples include, "Claire Swire," "Peter Chung," "Jacqueline Kim," and "Trevor Luxton." See Barbara Mikkelsen, *Summer intern at prestigious law firm sends embarrassing message to co-worker* (June 22, 2003), at <http://www.snopes.com/computer/internet/skadden.htm>.

⁴⁶ The skit, performed at the 2003 annual dinner, included Dewey Ballantine lawyers who "mocked stereotypical Asian accents to the Tune of 'Hello, Dolly,' singing that they were 'so solly' that the firm was closing its Hong Kong office." See Jonathan Glater, *Asian-Americans Take Offense at a Law Firm Memo*, N.Y. TIMES, Feb. 7, 2004, at C1.

⁴⁷ Anthony Lin, *Dewey Ballantine Makes Commitment to Sensitivity Training, Working for Diversity*, N.Y. LAW., Feb. 6, 2004, at 7.

⁴⁸ A Dewey Ballantine partner wrote a firm-wide email in response to a note seeking someone to adopt a puppy, "Don't let them to go a Chinese restaurant." See Glater, *supra* note 46.

⁴⁹ VAULT GUIDE TO THE TOP 100 LAW FIRMS 307 (Brook Moshan Gesser, ed., 2004).

⁵⁰ See Thom Weidlich, *After a Decade of Plenty, Fewer Jobs for Lawyers*, N.Y. TIMES, July 7, 2002, at 10-1.

⁵¹ Thomas Adcock, *Shearman Layoffs Came with Little Notice*, N. Y. L.J., Nov. 2, 2001, at 16.

⁵² See *id.*

⁵³ Message boards like greedyassociates.com and infirmation.com had hundreds of postings regarding the Shearman layoffs within months of the layoffs and continue to be threads of conversation even today.

⁵⁴ Adcock, *supra* note 51.

"our message is still strong and well-received on campuses."⁵⁵ An interview with a top 10 law school career counselor confirmed that the MCF did not change its recruiting strategy in any discernible way, including not reaching out to law firm career placement offices in an attempt to explain the layoffs.⁵⁶ It seems that the firm felt itself a sufficiently established MCF that the layoffs would have little impact on recruiting.

¶ 25 Partner confidence that the firm's reputation would insulate it from any serious recruiting impact was not borne out during its all-important summer associate recruiting season. Although it is difficult to obtain data or even assess the impact that the layoffs had on recruiting, it is clear from anecdotal evidence that they had a deleterious affect.⁵⁷ The message boards leading up to the 2002 summer associate recruiting season were littered with reasons not to choose that particular firm, as well as law students asking whether the layoffs should be a consideration. As the *New York Law Journal* concluded, "the lower number [of summer associates who took permanent offers] may also reflect in part difficulties...faced in recruiting since becoming the first top New York firm to announce large-scale layoffs last October. A number of Columbia students interviewed...said they were not interviewing with the firm for fear of being fired."⁵⁸ The opacity of the layoffs, the failure of the partnership to address these law students' concerns, combined with a disconnect between the official party line—performance-based layoffs—and the experiences being aired over message boards and discussed among the potential recruits clearly hurt its reputation among law students. The negative image persists today, cemented in the *Vault Guide* and message boards. In the 2004 *Vault Guide to the Top 100 Law Firms*, the firm is noted to "have a 'vener of gentility,' but 'an air of suspicion still pervades' in the 'difficult transition' after the 2001 layoffs."⁵⁹ It's "downers" list included, "[m]orale still low after 2001 layoffs."⁶⁰ The overall impact of the episode was best summed up by one anonymous poster on *greedyassociates.com*:

Note to . . . partners (we know you read this): why don't you get a real professional to handle your public relations? Do you endorse any of this? Do you realize that thousands of law students - your potential pool of star recruits - are observing your moves (or lack thereof) with increasing skepticism? You are losing credibility by the day and soon this tragic mess will spill into the financial press ...which your clients read.⁶¹

III. PUBLIC RELATIONS MANAGEMENT

A. Reputation

¶ 26 One of the most important assets that a law firm, or any business, has is its reputation.⁶² Reputation is an important business commodity because it represents one of the few resources that can provide a firm with sustainable competitive advantage. This is due to the

⁵⁵ Anthony Lin, *Shearman & Sterling Foresees 10 Percent Cutback in Associate Ranks*, N. Y. L. J., Oct. 29, 2001, available at <http://www.law.com/jsp/statearchive.jsp?type=Article&oldid=ZZZYDAI0F7C>.

⁵⁶ See Monroe, *supra* note 35.

⁵⁷ For example, even if the number of Harvard students in the summer associate class remained the same, the quality of those students may have deteriorated.

⁵⁸ Anthony Lin, *Firms Struggle with Managing Growth*, N. Y. L. J., Aug. 19, 2002, at 1. Further, two authors of this article had personal experiences interviewing with Shearman during that recruiting season and discussing other Columbia students' perceptions about Shearman. They feel that such a conclusion accurately reflects the mood of the students and the partnership's refusal to clearly address the layoffs during recruiting.

⁵⁹ VAULT GUIDE TO THE TOP 100 LAW FIRMS, *supra* note 49, at 175.

⁶⁰ *Id.* at 170.

⁶¹ Posting of Associate99 to <http://www.greedyassociates.com/messageboard/showthreaded.php?Cat=&Board=lawyer&Number=7587&page=&view=&sb=> (Oct. 29, 2001).

⁶² "Reputation is a collection of perceptions and beliefs, both past and present, which reside in the consciousness of an organization's stakeholders — its customers, suppliers, business partners, employees, investors, analysts, communities, regulators, governments, pressure groups, non-governmental organizations and the public at large." JENNY RAYNER, *MANAGING REPUTATIONAL RISK 1* (2003).

fact that a company's reputation is a non-tradable, non-substitutable, non-imitatable commodity that is also scarce.⁶³ Good reputations are scarce because they are essentially comparative, and as such a good reputation is generally an implicit comparison between a particular company and its rivals within the industry.⁶⁴ The result is that a good reputation represents "one of the most valuable, perishable, and often mismanaged assets" of a strong corporation.⁶⁵

- ¶ 27 A good reputation is particularly valuable to a law firm because it operates in a service industry, where there are fewer ways to lock-in competitive advantage relative to peers; as such reputation may be even more important to them than other types of business organizations. Law firms also have multiple reputations that they must develop and protect. With their clients, they need to protect and maintain their reputation for doing high-quality work and delivering results for their clients. With law students, potential associates, they must develop and maintain their reputations regarding multiple factors including: quality of life for associates at the firm, the firm's commitment to diversity, the firm's commitment to pro bono work, and the firm's compensation policies. Although it can take years for a firm to develop a good reputation amongst clients and potential associates, it can take only a short period of time for a firm's reputation to become tarnished or damaged.⁶⁶
- ¶ 28 Damage to a firm's reputation can come from any number of sources including its stakeholders.⁶⁷ The opinions and perceptions of stakeholders both inside and outside of the firm affect and determine the firm's reputation. A firm builds a good reputation when it responds to and meets the expectations of its stakeholders, and conversely, a firm damages or destroys its reputation when it fails to respond to or ignores the expectations of its stakeholders.⁶⁸ As prospective employees, law students are important stakeholders in law firms. Their perceptions and opinions of a firm's reputation play a major role in determining which firms they chose to interview with, which firms they will work for during the summer, and ultimately which firm's offer for full-time employment they will accept.⁶⁹ Thus, a law firm's reputation can greatly affect its success in recruiting the law students it wants to fill the firm's classes of associates. It is just as important for law firms to protect their reputation with law students as it is for them to protect their reputation with clients.

B. The Business Model

- ¶ 29 The reputational damage resulting from negative or false posting on websites is not limited to law firms; numerous corporations have had their reputations tarnished by negative postings on Internet message boards. The phenomenon has become so commonplace that it has been given a name, "cybersmear."⁷⁰ Starting in the late 1990s, numerous public corporations began to fall victim to cybersmears.⁷¹ In the archetypal cybersmear, a person hoping to damage a publicly traded company posts negative or false information on an

⁶³ See Suresh Kotha et al., *Reputation Building and Performance: An Empirical Analysis of the Top-50 Pure Internet Firms*, EUR. MGMT. J., Dec. 2001, at 572.

⁶⁴ See *id.*; Turner, *supra* note 1, at 2 ("Reputation is now often the single most valuable asset of a business, or the one that differentiates it from the rest.").

⁶⁵ Turner, *supra* note 1, at 2.

⁶⁶ See *id.* at 3-4 (detailing the manifold dangers of a reputational crisis).

⁶⁷ Stakeholders of a law firm include, for example, clients, partners, employees, potential employees (law students and lateral hires) and business partners. See *id.* at 3-4 (explaining the idea of stakeholders in terms of risk to reputation).

⁶⁸ RAYNER, *supra* note 62, at 2, 5.

⁶⁹ See Wilkins & Gulati, *supra* note 21, at 1214 (This article is based on extensive law student surveys).

⁷⁰ "Cybersmear" is a practice by which individuals post malicious messages about businesses in online forums, to manipulate the stock or hurt a company they have a grievance against." Jon Swartz, *Corporations Fight Internet 'Cybersmear'*, S.F. CHRON., April 13, 1999, at C1.

⁷¹ For a list of notable examples of cybersmears, see A.J. Cataldo & Larry Killough, *Is Your Firm Safe from Cybersmear?*, STRATEGIC FIN., Jan. 1, 2003, at 35.

Internet website to manipulate the price of the company's stock. Usually, the poster takes a position in the stock so that he can profit from changes in the company's stock price.⁷² One of the most spectacular cybersmears occurred when a phony press release about Emulex corporation caused its share price to plunge by 62 percent, resulting in a loss of \$2.5 billion in market capitalization.⁷³ Not all cybersmears are initiated for pecuniary gains; disgruntled former employees, rejected job applicants and competitors have conducted cybersmears with the hope of causing damage to the target company.⁷⁴ Companies that have fallen victim to cybersmears have suffered damaged reputations, loss of shareholder confidence, and bruised employee morale.⁷⁵

- ¶ 30 Non-pecuniary cybersmears of public companies are identical in nature and effect to the negative postings on law-related websites. In both cases, Internet postings are critical of the subject firm or company in a way that is intended to receive widespread publicity and have the effect of damaging the target's reputation. One minor difference, however, between the typical cybersmear aimed at a corporation and a cybersmear aimed at a law firm is that in some cases, the corporate cybersmear may involve the posting of false information such as a fake press release,⁷⁶ while law firm cybersmears usually involve the posting of rumors and critical opinions.⁷⁷ Although the content of the postings may differ, the impact is nearly identical.
- ¶ 31 In response to the threat of cybersmears, corporations have adopted different tactics to manage, defend, and protect themselves. Some corporate victims have filed lawsuits seeking to identify the posters of the cybersmear and hold them accountable for their actions, and "[t]he numbers of companies willing to sue to protect their good name and reputation is growing fast."⁷⁸ These suits, brought as libel actions against the poster of the cybersmear, have had mixed results; many of these cases have either been settled or dismissed.⁷⁹ Additionally, courts have generally been unwilling to grant injunctive relief, so consequently the best a company can hope for is to recover damages from the perpetrators.⁸⁰ This result is often unsatisfactory, because most of the perpetrators are essentially "judgment proof," meaning they generally do not have the financial means to compensate the company for the damage they have wrought to its reputation.⁸¹
- ¶ 32 The inability of victims of cybersmears to successfully pursue perpetrators suggests both that it may not be possible to deter such incidents, and that litigation may not be a viable long-term strategy. If deterrence were to work in this context, then companies would have to develop a reputation for aggressively and successfully pursuing those that besmirch their

⁷² See Desiree de Myer, *At Risk Online: Your Good Name*, ZDNET, Apr. 1, 2001, at 69.

⁷³ See Brian O'Keefe, *The Latest Investor Threat: Infobombs*, FORTUNE, Oct. 16, 2000, at 376 (explaining that the fake press release precipitated the fall in share value).

⁷⁴ See Cataldo & Killough, *supra* note 72, at 34; Michael Doan, *Businesses Fight Back Against 'Cybersmears'*, KIPLINGER BUS. FORECASTS, May 6, 2002.

⁷⁵ See John Hines, *Learning to Protect Your Company Against Cybersmear*, CHI. LAW., Feb., 2003, at 22 (relating the damage wrought by past cybersmears); Margo E.K. Reder & Christine Neylon O'Brien, *Corporate Cybersmear: Employers File John Doe Defamation Lawsuits Seeking the Identity of Anonymous Employee Internet Posters*, 8 MICH. TELECOMM. TECH. L. REV. 195 (2002), available at http://www.mtlr.org/voleight/RederOBrienver5TYPE_HTML.htm (explaining that in one example, the corresponding drop in stock price linked to disparaging remarks made in a Yahoo chat room).

⁷⁶ See, e.g., O'Keefe, *supra* note 73, at 376.

⁷⁷ See *infra* Part II.D.2 for examples.

⁷⁸ Blake Bell, *Dealing with the "Cybersmear": False Rumors Target Companies, Stocks*, N. Y. L. J., Apr. 19, 1999, at T3.

⁷⁹ See Michael S. Vogel, *Unmasking "John Doe" Defendants: The Case Against Excessive Hand-Wringing Over Legal Standards*, 83 OR. L. REV. 795 (2004) (discussing trends in cybersmear litigation efforts); Reid Skibell, *Cybercrimes & Misdemeanors: A Reevaluation of the Computer Fraud and Abuse Act*, 18 BERKELEY TECH. L.J. 942 (2003) (discussing the general difficulties of trying to recover these types of damages); Scott Wilson, *Corporate Criticism on the Internet: The Fine Line Between Anonymous Speech and Cybersmear*, 29 PEPP. L. REV. 533, 582-83 (2002).

⁸⁰ See Vogel, *supra* note 79, at 825-840 (discussing prior-restraint and the high level of protection afforded anonymous speech).

⁸¹ See Skibell, *supra* note 79 at 942.

reputations. There is no indication that a particular company could engage in such litigation enough times in order to develop such a reputation. It also may not be feasible for companies to expend resources litigating these types of cases if the chances of winning them are slight and the chances of any significant recovery minimal. Moreover, in some instances companies are not going to want to draw attention to the subject matter of the incidents, particularly if the information involved is more embarrassing than fraudulent. As this is often the case with Internet postings related to law firms, it is unlikely that litigation is going to be a realistic solution.

- ¶ 33 The corporations that are most frequently the subject of attacks on their reputations, large successful companies, have found that by working with professional public relations firms it is possible to develop tactics and strategies for responding to corporate cybersmears.⁸² In terms of prevention, recommendations by such professionals include: do not be taken by surprise, closely monitor websites on which people post about your company, maintain a strong organizational web presence to insure that there is no gap in the corporate communications program, and use the postings on websites as market research to identify issues the corporation needs to address.⁸³
- ¶ 34 In terms of containment, strategies are very much dependent on the context, though two approaches predominate. Companies can react with a "no comment" approach where they attempt to not turn a bad situation into a newsworthy item. In contrast, they can use a "headfirst" approach where they attempt to engage with the media in order to try and dispel the negative news.⁸⁴ In general, the second approach has proven to be more successful in dealing with cybersmears. Studies tend to show that active engagement in dealing with a negative reputation event shortens the time period in which the media report on it.⁸⁵ Additionally, acting proactively can function effectively to counter a false accusation. For example, for a number of years Tommy Hilfiger has been dealing with a false rumor that he appeared on Oprah Winfrey and said that he regretted that his clothes were so popular with minority consumers.⁸⁶ In response, Hilfiger has created a link within his company's website which links to a "truth site" which includes statements addressing the issue from Hilfiger, Winfrey, and the Anti-Defamation League.⁸⁷ Similarly, Proctor & Gamble decided to deal directly with rumors that its trademark is a Satanic symbol by creating a website which explains that in actuality it is a man-in-the-moon looking over a field of thirteen stars, designed to commemorate the original thirteen colonies.⁸⁸ While different situations call for different responses, public relations professionals strongly suggest that companies tend to be overly conservative relative to what they have found to be the optimal level of engagement in combating attacks on their reputations.⁸⁹

C. *The Need for Change in Law Firm's Responses to Negative Publicity*

- ¶ 35 A number of commentators have suggested that law firms are not sufficiently proactive in how they manage their reputations with law students. For example, the director of business development of one New York firm advocates monitoring Internet site and message boards

⁸² See Michael Goldstein, *Reputation of Large Companies Subject to Faster Smear Campaigns on the Internet*, N.Y. DAILY NEWS, Sept. 13, 2003 (explaining that large companies are the most frequent targets of cybersmears).

⁸³ See Nicole Casarez, *Dealing with Cybersmear: How to Protect Your Organization from Online Defamation*, PUB. REL. Q., June 22, 2002, at 51.

⁸⁴ See K.C. Brown, *The Value of A Good Reputation*, CHIEF LEGAL EXECUTIVE, Spr. 2003, at 14 (explaining the two common approaches to dealing with negative reputation events).

⁸⁵ *Id.* ("A proactive approach resulted in a shorter period of negative coverage; when the organization was less forthcoming, coverage was considerably more protracted.")

⁸⁶ See Goldstein, *supra* note 82.

⁸⁷ *Id.*

⁸⁸ *Id.*

⁸⁹ See Brown, *supra* note 84, at 15.

and says, "Either embrace the comments or develop a platform to refute or put a different spin on them. Don't ignore them."⁹⁰ Although MCFs "don't like it because it's not positive that [the information on Vault.com's message boards] is out," experts "say that companies today need to realize the rules have changed when it comes to employees' sharing information" since employer's valuable reputation is at stake from "true or false, fair or unfair" information in these online postings.⁹¹ While there is little data on how law firms have responded to cybersmears and negative publicity, the available data suggests that law firms have generally adopted ad hoc and inconsistent approaches to the danger of cybersmears. In general, firms only occasionally use public relations professionals to manage public false or damaging information.⁹² Relations between the *Vault Guide* and law firms are also handled internally by law firms, and no firm employs public relations professionals in negotiating for better coverage.

- ¶ 36 Since law firms, like other businesses, rely on their reputations, they too should allocate resources to develop, protect, and maintain them. While many law firms have created marketing departments to develop and protect their reputations with clients, only a few firms pair their marketing departments with their recruiting departments to develop and protect the firm's reputation with law students.⁹³ Law firms have spent the bulk of their time and money on their reputations with clients. As prospective employees, law students are major stakeholders in law firms, and it is important that law firms make sure that their reputation remains in tact with law students. Additionally, with the increased role that Internet message boards play the recruitment process, law firms have found that their reputation with law students has become more volatile. Firms can go from being lauded to being criticized within a number of weeks or months.
- ¶ 37 Law firms have little experience in having their every decision scrutinized on Internet message boards by the public. The Internet has turned these close-knit partnerships into open organizations whose every move is watched and commented upon. As described in the examples above, their responses have been inadequate and have resulted in immediate and often-times long-term effects on recruiting.

IV. CONCLUSION

- ¶ 38 While it would seem that high profile instances of reputational damage would be a signal to law firms that they need to more seriously manage their perceptions with law students, this does not seem to be happening. For example, one of the most problematic types of damage to reputation, and the easiest to protect against, involves internal email memoranda that are forwarded broadly. However, highly visible past illustrations of how these memos can damage a firm's recruiting did not prevent one firm from issuing a May 2004 email memorandum on associate hours that has since been widely circulated.⁹⁴ Law firms still do

⁹⁰ Esther Gueft, *Recruiting A Specialty; Fusing Hiring and Marketing Makes Sense*, N.Y. L.J., Jan. 9, 2001, at 5.

⁹¹ Terrence Hackett, *Bad Vibes from the Sounding Board of the Corporately Oppressed*, CHI. TRIB., Mar. 14, 2004, at C19 (quoting Paul Woo, associate director of recruitment programs at the University of Chicago Law School).

⁹² Dawn M. Gertz & Jeanmarie Campbell, *Bringing Marketing, Recruiting Together*, N.Y.L.J., Apr. 9, 2001, at S9.

⁹³ See *id.*

⁹⁴ This email is not as problematic as the earlier examples cited, see *infra* Section II, but it has been widely circulated and clearly does not represent the type of demeanor that a firm wants to demonstrate to prospective employees. The relevant section relates that:

I don't mean to be an ogre, but I need you to pick up the slack. Each of you must try your best to bill AT LEAST 175 hours per month. *I want to see people in their offices at night and on weekends.* . . . If you turn down work, be prepared to explain to me why you did so if your monthly numbers for that month show that you billed less than 200 hours.

I try to treat all of you like adults. However, this is a business, and I need you to help us make money. If you do not wish to perform at the production level we require, please let me know and you can shift over to part-time work.

E-mail from David S. Kahn, Partner, Holland & Knight, to Holland & Knight's Washington, DC, Real Estate Associates (May 5, 2004, 12:57), available at http://eric_goldman.tripod.com/ethics/hollandknightletter.htm.

not appreciate that reputation is capital asset, albeit one that is easily imperiled. As a recent article succinctly reasoned:

[G]iven the reality that a firm can absorb only so many associates into its partnership each year, and that attrition is necessary and desirable, what is the incentive for partners to do anything about associate satisfaction, especially at the risk of losing some of the share of the partnership pie? It is another "R" that is at stake here: the firm's reputation. If the firm is known for being uncaring or hostile to its associates' needs... the firm's ability to recruit its first choice associates will suffer. Eventually, this will have a negative impact on the partner's remuneration.⁹⁵

- ¶ 39 Public corporations have more experience in dealing with the threat of reputational harm, given the danger to share prices from negative information. They have come to appreciate that their reputations must be carefully managed and protected, particularly from the threat of cybersmearing. MCFs can draw upon the lessons learned from outside the legal field and apply them to managing their own reputations. Given the importance of legal recruiting to the success of the MCFs, this means that they need to develop a comprehensive strategy for protecting themselves from embarrassing rumors or incidents that may impact the perception of quality of life at the firm. This strategy should probably involve the use of professional PR firms that corporations that face close public scrutiny have found valuable in protecting their own reputations. Law firms should also actively monitor on-line message boards and begin to appreciate the types of things that are posted about them. While not all posting should be responded to or even taken seriously, firms should develop a process by which they evaluate each attack on their reputation and determine what warrants a response or not. Furthermore, firms should not ignore negative postings, but instead should examine them to see if they might be indicative of serious internal problems, reputational or otherwise, that need to be investigated and addressed.

⁹⁵ Linda E. Laufer and Buff Levinson, *Three 'R's You Didn't Learn in School*, N.Y.L.J., Apr. 2004, at 14.