Why Attorneys with 5+ Years of Law Firm Experience Are in Serious Trouble (and Seven Steps They Need to Take to Save Their Legal Careers)

By A. Harrison Barnes

CONTENTS

ARTICLE, “WHY ATTORNEYS WITH 5+ YEARS OF LAW FIRM EXPERIENCE ARE IN SERIOUS TROUBLE (AND SEVEN STEPS THEY NEED TO TAKE TO SAVE THEIR LEGAL CAREERS)” pgs. 2–14

ADDITIONAL ARTICLE RESOURCES—ON THE BCG WEBSITE & ELSEWHERE pg. 15
Why Attorneys with 5+ Years of Law Firm Experience Are in Serious Trouble (and Seven Steps They Need to Take to Save Their Legal Careers)

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Summary
These seven choices are fundamental to attorneys and their careers. Each of them is evaluated in-depth in this article to ensure your career success.

When an attorney gets more than six or seven years of law firm experience and does not have a substantial amount of business – in all but the healthiest of law firms (i.e., law firms with a ton of business) – they become a liability, and their job is at risk. They face a number of choices, and among the most common are:

1. Go in-house.
2. Get business.
3. Find a healthy law firm.
4. Find an advocate inside the law firm with a ton of business.
5. Wait for a better economic environment.
6. Change firms and downgrade the quality of the firm they work for and/or start their own practice.
7. Stop practicing law completely.

These seven choices are so fundamental and important to attorneys and their careers that I will evaluate all of them below. I have been a legal recruiter the majority of my career, and most of what I do is related to helping attorneys make decisions when they do not have any business.

As a preliminary matter, I would like to answer the question: "How important is business?"
Few things are more important to your longevity and survival as an attorney as having business.

Let me tell you a couple of stories about how important business is.

I know one attorney who has been practicing approximately 20 years now. Since he was about six or seven years out of law school, he has consistently had about $1 to $3-million in business.

Like clockwork, he switches firms about every 12 to 18 months. He has worked for at least 15 firms. He is currently working for a law firm that is an AmLaw 100 firm. He has well-known substance abuse problems and a penchant...
for spending lots of free time with prostitutes. When he leaves firms, he generally pisses them off. He has enemies all around the city he works in and a horrible reputation for being a job hopper.

**NO ONE CARES.**

He can move firms whenever he wants to. His reputation, drinking during the day, doing coke binges at night, being seen with prostitutes – none of it matters!

**HE HAS BUSINESS!**

Law firms need business. A law firm cannot survive without business. It is what keeps the lights on, and it is what gives associates jobs and keeps the higher-ups employed.

Let me tell you another story about how important business is:

If a partner from a major, major law firm – Skadden, Gibson Dunn and so forth – wants to move firms, the first question they will be asked is: "How much business do you have?" (How much lawyers get paid is in direct relation to the amount of business they have.)

If the answer is "zero", then in all but the rarest cases, the conversation stops there; no matter your work experience, law firms need business production. I have seen partners from Skadden Arps, Sidley & Austin, Jones Day, Sherman & Sterling and more have careers that simply ended when the firm decided they no longer had a use for them (because they did not have any business). Whether someone who formerly gave them work left the firm, the firm lost a major client, or the firm restructured, the firm makes a decision to part ways with the partner.

Once that happens, the partner tries like mad to get into another law firm. I have placed tons of people like this (more on that later), but for most partners without business, there is a cold, cold reception and the odds of getting into a significant new law firm are almost zero for many of them; legal work experience alone garners little attention. No one is interested in partners without business for the most part – and partners know it.

I have even seen federal judges retire and try to return to law firms. Even they do not receive the warmest of receptions from law firms!

I've had partners inside of major law firms in major cities (with no business) making $500,000 a year banging down my door to make $175,000 in an in-house position in the middle of the Texas panhandle, in the swamps of Louisiana and so forth where they believe their careers will be safe. If you do not have a lot of business inside of a law firm, it is a very dangerous situation indeed.

When an attorney with a few million in business wants to move firms, the discussion with a new law firm is generally based on how much they will keep of what they bring in and work on. If they have $3,000,000 in

*"If you do not have a lot of business inside of a law firm, it is a very dangerous situation indeed."*
business, one firm may let them keep 30% of what they work on and 15% of what others work on. Another firm may allow them to keep 25% of what they work on and 15% of what others work on. Firms screw with these percentages and numbers all the time. The point you need to understand when asking, “How much does a lawyer make a year?” however, is that partners receive more money if they do the work themselves. This point is so fundamental to the practice of law and what happens to senior associates inside of law firms that I will illustrate it:

Two Partners with $1,000,000 in Business

Firm Compensation Model: You get 30% of what you work on and 15% of what others do.

• Partner "A" does all of his own work and makes $300,000
• Partner "B" does none of his own work and makes $150,000

This is grossly simplistic, but you can see that it is always in a partner's best interest to do their own work.

Their billing rates are competitive with partners in the firm. Just like young associates are judged by the number of hours they can bill (i.e., how much more revenue they generate than their salary), and how good they look on paper (i.e., schools, grades and so forth), partners are judged by how much business they have. Partners generally stay employed and are compensated based on the amount of business that they have and, most importantly, the amount of their own work that they do.

If you are a partner with no business or a senior associate with no business and your job is in danger, you generally have the following choices:

1. Go In-house.

Generally, attorneys go in-house because they have to. The best attorneys are generally not in-house. In-house attorneys are people who, for whatever reason, are having a difficult time playing the law firm game any longer.

I am not trying to be harsh or offensive by saying this, but it is true. Often the people...
going in-house are women who want more time with children (or to start families), people sick of the hours, attorneys without business and no future and people without the overall commitment needed to stay practicing law at a high level. These are all valid reasons to go in-house, and there is absolutely nothing wrong with not having what is required by large law firms. You can often have a much better life going in-house than working in a law firm, but you are no longer playing the game.

Is this always the case? No. I've seen attorneys go to work at hedge funds and make millions. I've worked with people who became the general counsels of major corporations. So, of course, going in-house is not always "giving up", but it is most of the time.

I talk to extremely talented attorneys all the time interested in going in-house. I was working with a fifth-year attorney recently who had over $1-million in business and had brought in a couple of major Las Vegas casinos as clients. He wanted to go in-house to some easy job. I asked him: "Are you kidding?" This guy is the perfect candidate for a law firm. He's barely 30 years old and already has a decent book of business in a major US law firm. I told him what I am going to tell you:

"Going in-house is like going to medical school, getting a job with one of the best hospitals in the country as a brain surgeon, and then deciding to give all this up to become a nurse in a small clinic."

In all honesty, that is generally what going in-house is all about. You have no pressure to generate business. You are not doing the most sophisticated legal work (law firms hired by the company are). You are not surrounded by people pushing to do the best possible legal work. You are not around the best attorneys. There is much less pressure and the work is never as sophisticated or demanding.

But do not take my word for it. I do not care if the person comes out of the legal department at Apple, Google, General Motors – or whatever. They could be the #2 or even the #1 person in these departments. When they lose their jobs (or quit), it is almost impossible to get large law firms interested in them. You would think the relationships and potential to bring in business mattered (they do, but not much). None of it matters. If someone goes in-house, the perception is that they have "given up" on what it takes to be a performer in a law firm, and that is it.

The law firm world is enormously competitive. I just sent a partner in New York with $4-million in business to Gibson Dunn. The firm called me and asked "What's his billing rate?" I told them it was $785 an hour.

They told me that was too low and hung up the phone...

This is a serious game. If you step off the track, it will be very difficult to ever get back on. It does happen (in intellectual property and real estate – if the market is really good) but it is rare.

But if you do not have any business, going in-house is a good option.
Get Business

If you do not have any business, the most logical path of action is to get some. That is all you need to do. Once you have business, you are suddenly in control of your career. Law firms will be interested in you, you can move when you want and where you want and you are operating your own little business servicing your clients and doling out your work to the partners and other associates.

**THIS IS THE WHOLE POINT OF BEING AN ATTORNEY. LEARN YOUR CRAFT, BE GOOD AT IT AND THEN GO GET CLIENTS.**

What does it say about the person if they do not have any business? It says a lot of things. Partners inside of large law firms with no business will tell you things like: "We only have institutional clients..." and so forth. That may be true, but it is not persuasive. The assumption is that if you are good, you will have business (regardless of the firm).

When I was a second-year associate, I had plenty of business. I take whatever I do very seriously and people know it. I'm writing this article, for example, and take recruiting seriously. When I was a practicing attorney, I took that unbelievably seriously. I do the absolute best I can. I never give up. What sort of attorney would you want representing you?

If an attorney is like this and gets out socially and shows other people this side of him, then he will get business. People will always give work to people who take what they do incredibly seriously. You need to get out there and write about it, talk about it and be enthusiastic about it. You need to do this to get business.

I started out my career at **Quinn Emanuel**, a firm that had so much work it was unbelievable. They had some very gifted business generators there, and they actually were not interested in having their associates generate business. They had too much work as it was. They needed soldiers. There are very few firms like this. Because they had so much work and did not require people to generate business, they could demand their associates work incredible hours – 3,000+ per year to make partner.

I left to go to a firm where I thought my ability to generate business would be valued. It was a strategic and correct choice for me. I knew that the prospects of long-term survival in the legal market were not good for me if I was not in position to stand out by generating a lot of business. Business is the most important thing any attorney can do. If any firm tells you that you do not need business, **RUN FOR YOUR LIFE.** You need business everywhere. The only thing that a lack of business will get you is an insecure future where you are at the mercy of others.

Most of the partners I knew when I was at Quinn are no longer there. They are in smaller firms trying to make a living with no business. Many worked 3,000+ hours a year for decades but never brought in any business. The firm (like all firms eventually do) started chopping away at the compensation and security of the partners without business, and many left or were asked to leave. There is nothing wrong with this, and Quinn is a great firm. This is just how the legal industry works.
Firms will allow you to kill yourself doing lots of work for them as long as it suits them – but it never lasts forever. As long as you do not have business, law firms can basically pay you whatever they want (within reason).

I have received phone calls from partners in major American law firms making $120,000 a year. The firms pay them less than junior associates – because they can. I once saw a major law firm in Los Angeles offer a real estate partner $60,000 a year when real estate was very, very slow.

"Are you kidding?" I asked them.

"No, we are the only firm with any work. We can pay him whatever we want."

Business is incredibly important. If you do not have any business, you do not have any power. You cannot move firms. You cannot reliably forecast your future compensation. You can be pushed around.

When I was practicing law at Dewey Ballantine, there was a senior associate/counsel attorney in the office next to me making $200,000+ a year. He was living in a 600-square foot studio apartment with his wife across the street from the office. He would eat packaged noodles for lunch to save money.

"Why do you live like this?" I asked him.

"I've been doing this long enough to know that I could lose my job any day and not be able to find a new one," he said. "I do not have any business."

The only security that you are ever going to truly find comes from getting business.

How do you get business? There are a lot of ways to get business. Teaching you how to get business is really beyond the scope of this article; however, if you really want business, the surefire way to get business is to really, really want to get business. In order to really want business, you need to really want to be an attorney. If you really want to be an attorney, you are going to try your hardest to be the best at being an attorney. You will work harder and do everything possible to do what is expected of you and more.

This is overly simplistic, yet true. The people who want the most of something are the ones who get it.

I've run classes before to teach attorneys how to get business. The attorneys who paid the few thousand dollars I charged for these classes generally ended up getting business pretty quickly after they joined. I taught something in these classes: how to network, how to be seen as a giver in the market, how to be found by potential clients and more. But the real reason the attorneys who took these classes got business (and a lot of it) is because THEY WERE THE ONES WHO REALLY WANTED BUSINESS. They were willing to pay for a course and take the course. It is as simple as that.

Why do so many people from super prestigious schools become successful more often than not? It's not because something special is being taught in these schools. It is because they worked really hard and got into these super prestigious schools to begin with. They were already going to be successful
long before they got in. In fact, some of the most successful people – Harvard drop outs like Mark Zuckerberg and Bill Gates – were on such a fast upward trajectory that they exited the schools rather than be constrained by the time it takes to complete them.

Once you really want to get business, you will figure out ways to get business. You need to want business, and once you do, it will somehow miraculously start appearing.

**Find a Healthy Law Firm**

This is a large part of what I do for a living. I am very good at finding healthy law firms for associates and partners without business. It is (believe it or not) quite possible.

I do this all the time. When I started my career, one of my first placements was a securities partner (with no business) who had not worked in five years. I found him a job with a law firm in a smaller area that needed someone to be a personal securities attorney for a multi-billionaire client of theirs. This law firm had a longstanding relationship with this billionaire, and the situation worked out very well for everyone involved.

I’ve recently had some luck in markets where they are doing a lot of oil fracking. Law firms in the middle of nowhere are exploding with work being generated by the wealth from this.

A few months ago, I was talking with a solo practitioner in Detroit. He was a real estate attorney that had been running his own solo practice for about 20 years. He had a good education and had at one time worked in a large law firm. He needed a job and was hoping I might be able to find him something in Palm Beach.

"I called you because the Detroit real estate market is exploding right now," I told him. "Most of the major law firms there will take you seriously – even with no business. I understand the market, and there are so many openings there that it is clear to me they need people to do the work."

The solo practitioner was not hearing any of it. "I find that hard to believe. Plus, I see people from these firms around town. I would be embarrassed if they knew I did not have any business. I just would not want to put myself out there like that."

To my astonishment, I was 100% right about the direction of the market. I was speaking with one of the more prestigious firms in Detroit a few weeks later, and they said: "We do not care what kind of real estate attorney we hire. We just need someone with a lot of experience."

A few weeks after that, they hired another senior attorney from a small Detroit firm at $290,000 a year.

A good recruiter knows where the work is. At any point in time, some firms have a lot of work and others have very little work. **GETTING WORK IS VERY IMPORTANT.**

Work moves within firms in various cities and within various markets in response to all sorts of economic currents that only the best recruiters can see. There are economic currents moving through individual markets at
various points in time that determine where the work is.

For example, patent prosecution for electrical engineers and computer scientists is generally always active in the Bay Area. If you are a patent prosecutor and lose a job in another area of the country, the odds of finding employment in this market are very good.

Over the past several months, all sorts of openings for patent attorneys with life sciences backgrounds have opened up in New York City. There are new cancer drugs under development that large law firms there are also involved with, and there are a ton of openings in New York. Historically, openings for life science patent attorneys have been strong in San Diego and Orange County outside of Los Angeles. But now that market is strong in New York.

New York is generally a very difficult market to find work in because competition is so fierce. While going to a top law school carries a lot of weight in many markets, in a market like New York, it is less important than the firm you are currently at and where you have worked in the past.

In recessions, work often moves to smaller markets where legal work is cheaper. Instead of sending work to a large law firm in a major market, a company may send work to smaller firms in a smaller market to save money. Understanding these dynamics is important and is something that you need to do in order to protect your career.

I have seen certain markets such as Rochester, New York, experience seeming "economic Renaisssances" when major cities were having the opposite experience.

In recessions, corporate law often gets very, very slow, and there are few jobs. People sue more in recessions and litigation picks up; however, because law firms start relying on litigation for their profits in recessions, clients often realize the bills are very high and start settling lawsuits rather than bear the expense. Then litigation slows down (often dramatically) and litigation becomes a slow practice group.

When interest rates are low but look like they are about to go up, real estate often picks up steam and starts to get quite active as people begin refinancing properties before interest rates increase.

When economic activity and the legal market get very active, it generally begins on the coasts (in the Bay Area and New York) and then takes months to reach the Midwest and Texas. The same thing goes for economic slowdowns as well.

One market, Washington, DC, has never slowed down in the entire 15+ years I have been recruiting.

The fact is that at any point in time, work is moving within various markets (from large to midsized firms, from practice area to practice area) and from city to city.

If you are looking for a position, it is important to understand that just because you cannot find work in the market you are currently in does not mean there is no work available. The smartest thing you can often do is look in a new area, and you will discover the work.
A final point to understand is the nature of law firms as dynamic economic systems.

Law firms often start and grow because of some sort of visionary founder or leaders. These founders are able to see some way of getting business, or pleasing clients that others in the market do not see. All over the country, there are tens of thousands of law firms starting like this at the moment. What happens with these law firms is they typically grow in an aggressive fashion, making numerous mistakes along the way. (One law firm I knew grew so aggressively that it did not even notice that one of its "attorneys" had never graduated from law school or passed the bar despite having been there for six years. It finally noticed when he was up for partner and the firm was in the process of getting a quote for malpractice insurance for him.)

When a law firm is in a growth mode like this, it hires people recklessly and quickly. It is not carefully managed, and it often believes that growth and success will continue indefinitely. These firms will hire people without business who are senior because they are over-confident. They are great firms to get jobs in, and the best recruiters know how to find them.

What happens to all of these firms, though, is they either die when they get over-extended and cannot meet their obligations – or (in most cases), they become professionally managed and start instituting all sorts of procedures.

- They start requiring minimum amounts of business (which always increases).
- They have thorough performance reviews.
- They become much harder to get jobs in.
- They start having multiple tiers of partnership.

You get the idea. The point is that the more mature a firm gets, the less likely a firm is to hire people who fit outside the box of what it is used to looking for.

Recently, I was working with a very talented attorney from the Department of Justice who spent several years at a major firm and was about 10 years out of law school. He had worked directly with one of the top 3 or 4 most influential attorneys at the Justice Department. The attorney had graduated at the top of his class from Stanford Law School and had an incredible record in all respects.

I sent him to a major firm in Washington, DC, that did the sort of work this attorney did. I received a phone call from an administrator there: "I've been told to reject all attorneys with more than 6 years of experience and no business. That is our blanket policy and there are no exceptions."

I contacted a partner I knew at the firm. "I agree it is stupid not to talk to this guy," the partner told me, "but that's our policy."

More established firms are always going to be much more difficult to get into. An attorney needs to find a firm that is growing and has not "settled in" if they hope to get in to a new firm without business.
Find an Advocate Inside of (Your) Law Firm with a Lot of Business

The dumbest thing that any attorney inside of any law firm can do is not bust his ass doing work for partners with a lot of business inside of law firms. You should shine their shoes and walk their dog if they ask you to. People with a lot of business can actually make your entire career if you do good work for them.

A strong advocate (with a lot of business) is generally what a young attorney needs to make partner and stay a partner inside of a large law firm. I’ve seen more attorneys than I can count make partner due to a relationship with a partner with a lot of business. I have seen more attorneys than I can count not make partner and lose jobs due to an absence of these sorts of relationships.

The most important relationships you can have inside of law firms are with the partners that have business because these are the same people that the decision makers listen to and that the law firm wants to make happy. Law firms do not want to ever piss off partners with a lot of business if they can help it. They need their work and the money the partners generate. These are the people you need to work for, be loyal to and never piss off.

While I am not suggesting you become a sycophant who actually walks the dog of your boss, you do need to do good work and show a ton of respect. You should (at the very least) get in the office before them and leave after them. Never say negative things about them. Show them respect and work harder than they do.

You need to be seen as the first choice and the indispensable choice of partners with a lot of business. They should feel that you are 100% needed and that they cannot imagine life without you. If you do this, your career will always be safe. They will gingerly take you from firm to firm with them and make sure you survive (mostly) no matter what.

Your career is not about your ego. It is about surviving and learning enough to survive on your own. You should work for people with a lot of business because they will show you how they get a lot of business. By watching how they operate, you will pick up more than you even realize – from their mannerisms to ways of working with clients – and this will help you when you start trying to go after your own clients.

I know very well-compensated partners in their mid-60s that have been working for the same (now octogenarian) partners their entire careers. When you work for people with a lot of business, they will take pride in taking care of you and helping you.

Wait for a Healthy Economic Environment.

If you wait long enough, most markets will eventually improve. This is just how it works. Every market eventually improves.

If you are unhappy at your current firm, and do not have enough work and do not have any
business, if you wait long enough the economic environment will eventually improve. When the economic environment gets active enough, there will be work somewhere – maybe even in a better firm than you are at right now.

When a market gets "white hot", all of a sudden all sorts of attorneys who would not usually be marketable become marketable.

- In-house attorneys suddenly become marketable to law firms.
- Attorneys without business suddenly become marketable to law firms.
- Attorneys from fourth-tier law schools start getting jobs in major American law firms.

This happens in every hot market. If you wait long enough, you will become marketable when the market heats up.

Markets like tax, trust and estates, ERISA and others that are traditionally "VERY SLOW" in large law firms have recently HEATED UP and become very active. A senior ERISA attorney with 20+ years of experience is placeable in this market – as is an ERISA attorney from a fourth-tier law school. A year later, these practice areas may be on the skids and something else will take their place. The point is: If you wait long enough you will generally become marketable (even without business).

This is always an option. There are always jobs. If you are "cast out" of the high class because you do not have any money (i.e., portable business) then you need to go back to associating and working with people who will have you. They will likely not be as "classy" and have the same high-class habits (i.e., quality of work) or associate in the same high-class circles (i.e., work with important clients) but they will have work for you. You can always move up to a larger and better firm if you do well there.

I have seen numerous attorneys go to work in smaller firms and then move up back to the big leagues years later. It happens all the time. THE MOST IMPORTANT THING YOU CAN DO AS AN ATTORNEY IS TO STAY EMPLOYED AND KEEP GOING. Never give up.

You can also take contract work. Many attorneys spend their careers doing this – even after years of having worked in a major law firm as associates. You can often make a good living as a contract attorney.

Many attorneys also start their own law firms. This is very common.

First, most attorneys I know who have started
their own law firms after time in a larger law firm do not do that well at it. Why would they? They were let go from their existing firms due to a lack of business. How on earth do they expect to suddenly start getting business without the resources, name and support of a larger law firm? This is about as nonsensical as it gets. However, starting a law firm with a partner who can generate more business could lead to greater success.

If you want to start your own practice – and I know tons of attorneys who have done it successfully – you sure as hell better believe that some of the clients of your firm would come to you because (1) they like you, (2) they trust you, (3) they are dissatisfied with the law firm and (4) you are going to be a lot cheaper.

If you do not have that, at a minimum you must have a "niche" and have a business idea for your practice. All it takes is just one good idea. I have seen some attorneys become FABULOUSLY RICH with some good ideas about a certain type of lawsuit to file, or certain type of client to go after. It can be done and is quite common – but you need an idea.

Just hanging out a shingle is a very, very risky proposition when you are coming from a major law firm with nothing else to offer. It is very hard to get people to pay. It is very hard to get clients to come to you – and there are a myriad of issues you better be ready for. No one cares if you are a great brief writer, or went to Cornell Law School out in the real world. They have problems they need solved.

It is better to start and try your hand at your own firm, though, than to quit practicing law altogether.

You Can Stop Practicing Law Completely.

This is often a very good decision for many attorneys. Many attorneys were simply not meant to be practicing law. However, many attorneys were meant to be practicing law and should never even entertain this sort of decision.

There is no shortage of extremely talented attorneys who stopped practicing law and now have great careers in politics, public relations, sales, business and other pursuits. Often, because being an attorney is so demanding, these attorneys have far more illustrious and exciting careers than they ever would have had if they had remained practicing law. Also, consider how much a lawyer usually makes. If you can make more in a job outside of the legal profession, you should certainly consider it.

However, if you really enjoy practicing law, you need to get out there and get business to survive. Quitting something because you are not doing an important component of the job well does not make sense. Far too many attorneys quit at the stage of their careers when they have great experience – all because of a lack of business. How much lawyers make is highly dependent on bringing business in.

CONCLUSIONS

Business is fundamental to long-term survival as an attorney. If you do not have business you have several options. But to continue being an attorney, you need to have access
to work from somewhere. Without work, you cannot stay employed as an attorney.

When attorneys come to me that are senior and do not have any business, I try and be very clear with them about what they are up against. At this point in the game, I usually cannot get them business – or show them how – so I do what I do best, which is find law firms "on the way up" with a lot of work and, oftentimes, I start aggressively marketing the attorney in a variety of cities around the country (and sometimes the world).

The good news about all of this is that something always ends up opening up if enough time passes and the attorney is willing to look in enough markets. There are exceptions to this, of course. If you are in your 70s or late 60s, your odds will be severely diminished. If you have a bad attitude your odds are severely diminished. If you are not willing to work hard, your odds are severely diminished. If you have burned too many bridges, your odds are diminished.

However, in most cases, there is always something and everyone gets a job. The overriding message for attorneys – and one they often learn too late – is that you really, really need business.
Additional Article Resources

Please see the following articles for more information:

- How to Easily Determine the Best Attorneys and Law Firms: The Five Prestige Levels of Attorneys and Law Firms
- The Importance of and How to Find a Mentor
- Twelve Sexy Things You Can Do With a Law Degree That (1) May Make You Famous and (2) Do Not Require Practicing Law
- 60 Nontraditional Jobs You Can Do with a Law Degree and Should Strongly Consider Doing
- Top 10 Reasons Why Older Attorneys Have a More Difficult Time Getting Law Firm Jobs Law Firms