

LAW.COM

Welcome to the Law.com network. [Click here](#) to register and get started.

SIGN IN



# THE AM LAW DAILY

This Website 

*From The American Lawyer*

*An ALM Web site*

[HOME](#) [THE AM LAW DAILY](#) [LITIGATION DAILY](#) [ASIAN LAWYER](#) [SURVEYS & RANKINGS](#) [MAGAZINE](#) [LAWJOBS](#) [ADVERTISE](#) [SUBSCRIBE](#)     [RSS](#) 

Font Size:  

[Like](#)  [Tweet](#)  [Share](#)

...ual costs, that potential market-driven constraint disappears. When [Weil, Gotshal & Manges](#) submitted a \$430 million fee petition in the Lehman Brothers bankruptcy, it listed 40 partners with hourly rates of \$1,000 and some senior associates at \$800 to \$900 an hour.

**The Market Gone Awry**

Defenders of the current system argue that complicated restructuring matters call for talent and skill comparable to what's required to try a big case or guide a large transaction. After all, in 1978 Congress specifically made that determination in adopting a new compensation standard for bankruptcy lawyers. Today, the supporters of the status quo say, the market sets everybody's rates. That position would be more compelling if hourly rates for bankruptcy attorneys were the result of a well-functioning market, but they aren't.

If big law firms already competed on price in bankruptcy cases, they wouldn't fear the increased transparency measures that the U.S. Trustee proposed last summer. The Trustee wants firms to disclose whether they use a differential fee schedule—charging one rate for attorneys working on bankruptcy cases and a lower rate when the same attorneys work on other matters. [More than 100 big firms united in strenuous opposition to that idea.](#)

It's easy to see why they objected. Especially in recent years, paying clients have demanded discounts and alternative fee arrangements to reduce legal costs. In bankruptcy, it's not happening. Where else can firms charge more than \$400 an hour for first-year associates, as Weil sought for many such newbies working on the Lehman case?

Add the incentives for inefficiency and abuse that accompany the billable hour regime generally and the consequences become even more ironic: One of the most lucrative pockets of the profession reaps outside rewards from the carcasses of distressed enterprises (and those enterprises' creditors).

The entire system is uniquely vulnerable to creative innovation. Someday, it will arrive. Then again, for those currently reaping the greatest rewards, someday always seems to be somebody else's problem.

*Steven J. Harper is an adjunct professor at Northwestern University and author of the forthcoming book, The Lawyer Bubble: A Profession in Crisis (Basic Books, April 2, 2013). He recently retired as a partner at Kirkland & Ellis, after 30 years in private practice. His blog about the legal profession, The Belly of the Beast, can be found at <http://thebellyofthebeast.wordpress.com/>. A version of the column above was first published on The Belly of the Beast.*

Subscribe to The Am Law Daily

**You must be signed in to comment on an article**

Sign In or Subscribe

PREDICTABLE FOR CLIENTS.

THOMSON REUTERS

Click here for in-depth in-house news & information

CORPORATE COUNSEL

**TOP JOBS**

Trial Litigation Associate  
Mestel & Company  
Miami, Florida

**PARTNERS**  
New England Legal Search  
Boston, MA

**MORE JOBS**

**POST A JOB**

Advertisement



Advertisement

Need CLE?

CLECenter.com

**LAW.COM** Law.com Network [Welcome to the Law.com network. Click here to register and get started.](#)

[SIGN IN](#)

## THE RECORDER



**Herbalife Probate Litigation Embroils a Multitude of Law Firms**

**The Recorder Names Attorneys of the Year for 2012**

## ALM DAILY BUSINESS REVIEW.COM



**Fisher Island sues members for skipping dues**

**Gunster 2012 revenues rise to \$95M**

## New Jersey Law Journal



**Senate Confirms 15 New Judges For Trial Courts in Nine Counties**

**Using Pretrial Proofs To Convict of DWI Flouted Due Process Rights**

## Smart Litigator



**The Affordable State-Specific Case-Prep Solution**  
Available in NY, NJ and PA editions - research, draft and prepare even the most complex cases with ease.

## New York Law



**Lippman Lauds B Group's Nonprofit Approach to Bail Defenders**

**Panel Finds Polio Overstepped Boundaries Reverses Conviction**

[ABOUT THE AMERICAN LAWYER](#) | [HALL OF FAME](#) | [BOOKSTORE](#) | [TOP RATED LAWYERS®](#) | [SUBSCRIBE](#) | [CONTACT US](#) | [SITE MAP](#)

## the LAW.COM network

### LAW.COM

NewsWire  
Special Reports  
International News  
Lists, Surveys & Rankings  
Legal Blogs  
Site Map

### ALM NATIONAL

The American Lawyer  
The Am Law Litigation Daily  
Corporate Counsel  
Law Technology News  
The National Law Journal

### ALM REGIONAL

Connecticut Law Tribune  
Daily Business Review (FL)  
Delaware Law Weekly  
Daily Report (GA)  
The Legal Intelligencer (PA)  
New Jersey Law Journal  
New York Law Journal  
GC New York  
The Recorder (CA)  
Texas Lawyer  
The Asian Lawyer  
Focus Europe

### DIRECTORIES

ALM Experts  
LegalTech® Directory  
In-House Law Departments at the Top 500 Companies  
Top Rated Lawyers  
The American Lawyer Top Rated Lawyers  
The American Lawyer Legal Recruiter's Directory  
Corporate Counsel Top Rated Lawyers  
The National Law Journal Leadership Profiles  
National Directory of Minority Attorneys

### BOOKS & NEWSLETTERS

Best-Selling Books  
Publication E-Alerts  
Law Journal Newsletters  
LawCatalog Store  
Law Journal Press Online

### RESEARCH

ALM Legal Intelligence  
Court Reporters  
MA 3000  
Verdict Search  
ALM Experts  
Legal Dictionary  
Smart Litigator

### EVENTS & CONFERENCES

ALM Events  
LegalTech®  
Virtual LegalTech®  
Virtual Events  
Webinars & Online Events  
Insight Information

### REPRINTS

Reprints

### ONLINE CLE

CLE Center

### CAREER

Lawjobs

[About ALM](#) | [About Law.com](#) | [Customer Support](#) | [Reprints](#) | [Privacy Policy](#) | [Terms & Conditions](#) | [ALM User License Agreement](#)

