

FROM: CREDIT SLIPS

# A LAWYER AND PARTNER, AND ALSO BANKRUPT . . .

FOR REASONS THAT HAVE NOTHING TO DO WITH  
BEING A NON-EQUITY PARTNER . . .

*Adam J. Levitin*<sup>†</sup>

It's all the rage these days to beat up on law school as a bad investment and to moan about the economic travails of the legal profession. There are some reasonable critiques that can be leveled at the shape of legal education and its costs and there are clearly important changes going on in the economics of the legal profession. But in a NY Times column, James Stewart has tried to connect these important issues with the sad story of the bankruptcy of Gregory Owens,<sup>1</sup> a former equity partner in Dewey LeBoeuf who is now a non-equity service partner at White & Case.

Owens has filed for bankruptcy and for Stewart, Owen's case is informative about "why law school applications are plunging and [why] there's widespread malaise in many big law firms". There's just one problem. Owen's case has no connection with either of these things. Owens' story is one of the expenses of divorce. It is not a tale of legal education debt. And it is only a story of the chang-

---

<sup>†</sup> Professor of Law, Georgetown University Law Center. Original at [www.creditslips.org/creditslips/2014/01/a-lawyer-and-partner-and-also-bankruptfor-reasons-that-have-nothing-to-do-with-being-a-non-equity-pa.html](http://www.creditslips.org/creditslips/2014/01/a-lawyer-and-partner-and-also-bankruptfor-reasons-that-have-nothing-to-do-with-being-a-non-equity-pa.html) (Jan. 24, 2014; vis. Mar. 4, 2014). © 2014 Adam J. Levitin.

<sup>1</sup> [www.nytimes.com/2014/01/25/business/partner-in-a-prestigious-law-firm-and-bankrupt.html?hpw&rref=business&\\_r=0](http://www.nytimes.com/2014/01/25/business/partner-in-a-prestigious-law-firm-and-bankrupt.html?hpw&rref=business&_r=0).

es in the legal economy to the extent that Owens' problem is that he's earning only \$375,000, not \$3.75 million. If Stewart weren't so eager to get his licks in on the law school economy, he might see that there's a very different story here.

I want to be clear: nothing I write here is meant to reflect a judgment of Mr. Owens. I do not normally comment on the finances of real individuals, in part because I know that there are so many complicated details that I am unlikely to know. I don't know Mr. Owens' circumstances beyond the Stewart article and a glance at Mr. Owens' chapter 7 petition. I also feel frankly uncomfortable discussing the finances of a real named individual on this blog. Had Stewart not cast Owens into the public light, I would not be commenting on him. Instead, my point is that the information that Stewart provides (and which one can get from Owens' bankruptcy petition<sup>2</sup>) does not support Stewart's story. Tell the story of the changes in the legal profession. Tell the story of the challenges facing legal education. But tell them properly. A more detailed analysis is below.

## (1) WHY IS OWEN HAVING TROUBLE MAKING ENDS MEET?

The simple answer is divorce, not legal education expenses or anything to do with the profitability of the legal profession.

Owen's pulling in about \$375k annually. That's not huge for NYC, but it's not nothing either. From a quick glance at Owens' budget as Stewart presents it, there are two big problems. The first is that Owen is paying \$10,517/month in child support. Divorce is expensive. But it has nothing to do with the profitability of the legal profession. Perhaps the child support decree was set at the peak of Owens' earnings a few years back when he was making \$500k/year. If so, there's a tenuous link to the fate of the legal profession – but the real issue isn't the income level on which the child support decree was based, but that there is a child support decree. Put another

---

<sup>2</sup> [www.scribd.com/doc/200129951/Gregory-Owens-Chapter-7-Bankruptcy-Petition](http://www.scribd.com/doc/200129951/Gregory-Owens-Chapter-7-Bankruptcy-Petition).

way, Owens' financial problem isn't that he's a non-equity partner. It's that he got divorced.

Relatedly, one might also question why Owens' transportation expenses are \$550/month. He lives in a city with amazing public transit options and can probably bill a client for a car service home most weekdays. My point isn't to nickel and dime his expenses, but to wonder whether some of Owens' transportation expenses might relate to visitation of his son. If so, that underscores the divorce expense problem.

A second problem is that Owen is making a huge monthly contribution (\$5,900) to his retirement plan. Stewart characterizes it as a "mandatory" contribution. There's not enough detail to really understand what this means, but it's unlikely that Owens is required to participate in a 401(k). It's just that if he doesn't, he won't get an employer match. (I leave open the possibility that there is some requirement as part of his partnership agreement, but if so, that's not a generic problem of the economy of law firms. Instead, that's a problem with the particular partnership agreement Owens' signed.)

Note that between the child care and the mandatory retirement savings, that's nearly \$200,000 a year from Owens' \$375,000 pre-tax income. With another \$90,000 in taxes, he's got \$85,000 to spend on rent, transportation, food, insurance, etc. Manhattan's expensive, but based on my own finances as an associate supporting a family of three with education debt and significantly higher rent, I'm a bit surprised that this is strapping a single person who living in a not particularly fancy area. Remember that the median *household* income in the US is around \$51,000.

Critically, Owens is not paying any education debt. But for his divorce expenses, Owens would be doing pretty well. He might be spending a roughly equivalent amount on his child, but he might also be in a two-income household, which would really improve his financial picture. Nothing in Owens' story indicates that going to law school was his mistake or that his financial problem stems from being de-equitized.

## (2) WHY IS OWENS FILING FOR BANKRUPTCY?

Curiously, Stewart never tells us. People don't just file for bankruptcy because they're having trouble making ends meet. Most people in financial distress *don't* file for bankruptcy. Instead, people usually file for bankruptcy because something spurs them to act or because the dunning calls, etc. get too much and they have managed to save up for bankruptcy.<sup>3</sup> This filing cost Owens nearly \$5,000. He had to have a reason to spend that. Put another way, what is Owens hoping to gain from filing for bankruptcy?

As far as I can tell, the only thing that bankruptcy will help Owens with are his business debts relating to his liability in the Dewey LeBoeuf bankruptcy. There are no personal debts scheduled – no credit card debt, no back rent, no mortgage, no car payments, no student loans, no medical debt. (Because it's business debt, Owens isn't means tested out of Chapter 7 . . .) One can point to the Dewey debt as evidence of trouble with the BigLaw business model, but Dewey is one of a handful of big law firms to collapse. Most have not, in part because they have deequitized partners, deleveraged on associates, etc. But is Owens really the way to tell that story?

Owens doesn't seem to have any assets that his Dewey creditors are likely to be able to grab. At most, then it would seem he is protecting his wages from garnishment by his Dewey creditors, but there's no indication that his wages are being garnished yet. Critically, Owen is not going to be able to get out of most of his obligations, including his child support obligation. What this means is that if Owen gets a bankruptcy discharge, he will still have the very same financial problems he had when he filed: living expenses plus child support obligations that are greater than his income. All bankruptcy is likely to do is to prevent some additional claims on his income, but Owens' finances are still a problem.

---

<sup>3</sup> [papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1540216](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1540216).

(3) OWENS REDUCED INCOME HURTS,  
BUT HE'S STILL MAKING GOOD MONEY.

Obviously, if Owens were earning more, he'd be in a better position. And Stewart is right to point out the growth of the second-class citizens of non-equity partners (he could add to this the expansion of "counsel" positions and the lengthening of the associate track at many firms). But this doesn't really seem to be Owens' problem. Owens still has a job and one that pays quite well, even if it isn't paying him like a top equity partner. Only in a world of 1 percenters is \$375,000 annual income cause for pity. If the deal being offered to prospective law students was paying \$150,000 over three years to have a future annual income of \$375,000, law school would be a no-brainer decision for lots of people. The law school investment paying off doesn't depend on earning millions annually.

All of which is to say: James Stewart, what does Gregory Owens story actually have to do with plunging law school applications and malaise in big law firms?

*P.S. It occurs to me that my demotion to an "Occasional," is a form of de-equitization. Apparently I wasn't earning my keep on the Slips. //*