

Midsized Practices Luring Lawyers From Large Firms

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Leaders of midsized firms in New York say the combination of large law firms' high billing rates and restrictions on handling smaller matters has contributed to a strong lateral market for midsize practices.

Large firm partners exploring a move to smaller firms are reporting the difficulty of growing their practices with smaller and mid-market clients, according to leaders of firms with under 200 attorneys.

"We're getting the crème de la crème of lawyers from large firms who want a different practice, a different lifestyle, and a different business model," said Ronald Shechtman of 130-attorney Pryor Cashman. "Since the recession, we've never seen more qualified lateral candidates who have substantial practices."

Though midsize firms are cautious about whether lateral partners can transfer institutional clients, they are receptive to smaller books of business that larger firms may turn away.

There are large law firms who look at attorneys with a \$1 million book of business and do not deem that profitable enough, said Jay Fialkoff, managing partner of 90-attorney Moses & Singer. "Sometimes the level of business production of a partner is not sufficient for the large firm perspective, but it is something we can work with and develop."

Recruiters are taking notice.

"We're seeing a lot of partners making moves to firms more midsize or basically where there is rate flexibility," said Margie Grossberg, a legal recruiter and partner at Major Lindsey & Africa.

"They want rate flexibility that larger firms are often unable to provide," Grossberg said, who added that it can be challenging for a young partner to build a practice when billing rates reach \$1,000 an hour. "Now, with this economy, with clients becoming much more rate sensitive, I think that's accelerating."

Midsized Rate Model

"We've been getting plenty of knocks on our door," said David Scherl, managing partner and chairman of 90-attorney Morrison & Cohen, adding the firm is "very selective" and does not want to grow above 115 lawyers.

"Many of the partners may be very good business originators but they don't have massive books—they have respectable books of business and they're representing more middle-market clients," Scherl said.

He said his firm looks for candidates with a high skill set, a partner that works well with others and business typically between \$1 and \$5 million.

Lateral candidates have told Scherl that charging \$800 or \$900 an hour has put their practice under pressure. Morrison's rates range in the mid \$400s to the mid \$600s, he said.

Scherl said partners at large firms have expressed "a frustration because they have middle market clients who are demanding their attention," but the firm is pushing the matters down to younger associates who also have high billing rates. "That is a frequent and common lament of lateral partner candidates from large firms," he said.

Pryor Cashman attracts lawyers from larger firms who have been frustrated by rate structures that have inflated dramatically, because they're working with smaller or regional clients, said Shechtman.

Marc Hamroff, managing partner at the 60-attorney Garden City firm Moritt Hock & Hamroff, which opened a Manhattan office in 2011, noted, "We're seeing more lateral candidates in the last 18 months than we've seen in the last five to 10 years before that."

The attorneys are looking for a firm that is "more nimble, that can react to what their business model is and give them an entrepreneurial opportunity," Hamroff said.

There are "many partners at larger firms who believe their billing rates are adversely impacting their ability to grow their practice," said Scott Mollen, at 160-attorney Herrick Feinstein.

Mollen, who has represented transitioning lawyers, said partners commonly leave a firm because they feel under appreciated and therefore underpaid. Other reasons are conflicts that require a partner to give up a client matter, or the partner needs additional expertise not available at her current firm.

As larger firms continue to "right-size" and expand through mergers to be more competitive, "there are greater opportunities for small and midsize firms in terms of hiring people who are not a good fit for their current firms," Mollen said.

While many large firms focus only on significant books of business, there are exceptions.

Grossberg, the legal recruiter, said there are limited circumstances in which a large or prestigious firm may be willing to look at a candidate without a tremendous book of business, especially when the lateral is coming from a high-level government position or a top in-house position, or if the lateral provides a niche expertise in demand.

Lateral Caution

But firm leaders note that they never assume a lateral's business is as portable as she says it is.

Clients are consolidating their lists of approved law firms, and a lateral move to a firm not on the list is a riskier proposition, said Russ Haskin, director of consulting and services for Redwood Analytics at LexisNexis.

By way of example, Shechtman said Pryor Cashman previously hired a lateral partner from an Am Law 100 firm who had defended investment banks that were institutional clients at his former firm. The lateral believed his relationship with those clients was strong enough to move with him, but the clients didn't transfer.

Ultimately the lawyer left Pryor because the firm wasn't looking for a service partner without business, Shechtman said.

"The moral of the story is, laterals who tell you they have portable business that involves large financial institutional clients at large firms is something you should look at with an amber blinking light," Shechtman said. "Don't underestimate the ability of a large firm, its standing and influence with general counsel to hold work that might otherwise move."

Shechtman said the practice at Pryor is that the lateral will typically share the risk in her compensation if her projected portable business doesn't come with her.

If a lateral's clients are public companies with very large in-house legal staff, such as in corporate practices, "you have to be particularly attuned" to the company's approved lists of law firms, Hamroff said. "It's difficult to expand that list." Although companies routinely reevaluate their outside counsel, "longstanding relationships that clients have with firms...are oftentimes honored and valued," Hamroff said.

But if a lateral's clients are closely held businesses, or high net-worth families, such as in trusts and estates work, these clients may view their relationships being with individual lawyers, not the firms, Hamroff said.

He said it is not unexpected if 15 to 20 percent of a partner's business is lost when he or she changes firms. But business attrition could be less important than a new or increased level of expertise the lawyers bring to the firm, he said.

"You have to be very discerning on why they want to leave and what their expectations are for coming here," Hamroff said.

Fialkoff, of Moses & Singer, said there is a "healthy level of skepticism when we view a promised book of business" and the firm conducts due diligence, including looking at a lateral's history of business, type of business and how repetitive it is.

Evan Krinick, co-managing partner of 145-attorney Rivkin Radler, said his firm has "seen it both ways," where a lateral's expected business does not materialize, or where business that wasn't expected comes to the firm.

Mollen, however, said lateral moves are generally more disappointing than successful, and they often fail because the departing partner overstated relationships with clients or did not consider a client's ties to the former firm.

"Many clients, particularly large commercial clients, work with several partners at one firm, and merely because one partner leaves, that doesn't mean the client is prepared to move business to a new firm," said Mollen.

Other wrinkles in a lateral's transition from one firm to another involve confidentiality and ethics.

"Often confidentiality and ethical obligations preclude the departing partner from discussing the new firm" with clients before she has given notice to the current firm, Mollen said. "Therefore, potential issues may not be identified until late in the process."