

Firms losing top talent to clients

In-House News:

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Problem more acute with tight market.

Law firms that have watched their attorneys move to in-house jobs with their clients traditionally have viewed such departures as an endorsement of their services and a way to re-enforce their connections with clients.

But with legal business strong and talent in high demand, law firms these days are not so eager to say goodbye to some of their best lawyers, who often take junior attorneys with them.

"Even if it's to a client, you still don't want to lose your top talent," said Kara Baysinger, a hiring partner in the San Francisco office of Sonnenschein Nath & Rosenthal.

As the 658-attorney firm has taken on more clients and gained prominence, Baysinger said, more in-house departments have lured away its attorneys, who take still more firm attorneys once they have settled into their new posts.

"Every top firm has that challenge," she said.

In the last few years, Sonnenschein has seen some of its big names take positions with clients, including Andrea Zopp, who joined Sara Lee Corp. and then moved to Sears, Roebuck and Co., and Brett Hart, who also went to Sara

Lee. Several Sonnenstrein attorneys followed their lead.

First, joining the ranks of in-house counsel with former firm co-workers is attractive to outside counsel attorneys, who often perceive in-house positions as offering more of a work/life balance, she said.

"It's much easier to make a pitch and have colleagues come on board when they see the advantages," she said. "There is less of a risk of making a leap when you know what to expect."

In addition, more clients are hiring their own help instead of outsourcing it to firms, she said, which has driven an increase in demand within corporate counsel departments.

Also, in-house positions may offer attorneys more "ownership" of their work than positions at firms, a factor particularly attractive to associates as attaining equity partnership status has become a longer and more demanding process.

Austin, Texas-based Brown McCarroll has experienced its own share of departures to clients. The firm was one of 10 this year that dropped off *The National Law Journal's* NLJ 250, an annual survey of the nation's largest law firms. Now with 155 lawyers, Brown McCarroll lost 28 attorneys in 2006.

Part of the decline was due to a tighter focus on the firm's key practice areas, said managing partner Robert Werner. But he also attributed some of the downturn to attorneys moving in-house with clients. For example, one partner went to client Freescale Semiconductor Corp., another became general counsel for the Texas Chemical Council and another joined Temple-Inland Inc.,

a packaging, real estate and financial services company in Austin. So far, at least, junior attorneys have not followed those lawyers to their new jobs, he said.

"It is difficult if you have to replace them," Werner said, adding that his firm has a recruiting advantage due to its desirable Austin location.

Despite the firm's losses, Werner remains philosophical.

"People should be doing what they're most interested in doing," he said. "They've got to make the appropriate career decision for themselves."

Determining how many attorneys leave their firms and accept in-house positions with clients is not easy. Neither NALP (formerly the National Association for Law Placement) nor the Association of Corporate Counsel track those moves. But it is clear that law department positions are becoming more numerous and more alluring to attorneys.

Base salaries for in-house attorneys last year climbed by 2.2% for the most junior attorneys to 9.5% among the most senior, according to a recent survey of 277 law departments by Altman Weil, a law firm consultancy.

Bonuses soared by as much as 71%. The median bonus for chief legal officers was \$132,000, and \$29,200 for senior law department attorneys.

In addition, while the cost of running a law department rose by 2.6% to about \$330,000 per lawyer, outside legal costs climbed by 5.5% to an average of about \$602,000 per lawyer. At the same time, internal hiring in law departments

increased by 19%, the survey found.

Apparently, there are plenty of attorneys yearning to fill those positions.

Law firm attrition has reached an all-time high, according to NALP. A staggering 78% of associates leave their firms by the time they are in their fifth year of practice, a 2005 NALP study showed. Some 19% of associates leave firms after their first year and 40% leave by the time they are in their third year of practice.

"What we hear over and over is a desire [among attorneys] to be part of building something," said Frederick Krebs, president of the Association of Corporate Counsel, adding that outside counsel often are called in "when things have broken down."

Some of the more notable moves in recent months from firms to their clients include James Sprayregen from Kirkland & Ellis to Goldman Sachs Group Inc.; Robert Osborne from Jenner & Block to General Motors Corp., and Kurt Wimmer from Covington & Burling to Gannett Co.

Although having top performers join clients is better than a defection to a competing firm, law firms should not overstate the advantages, said Mitchell Dolin, a partner at Covington & Burling in Washington.

After all, the firm has already won over the client before it hires the attorney to join its own ranks.

"The hiring of a general counsel is a really singular decision," he said. "It's more of a tribute to the individual and the skill set of the individual."

Dolin went on to say that attorneys who take jobs in-house with nonclients create a different benefit for the firm: Their move may lead to new business opportunities.

The direct approach?

It will take several months to see whether Sprayregen, Osborne and others who recently went in-house will decide to recruit other lawyers from their former firms, said Jon Lindsey, managing partner of the New York office of Major, Lindsey & Africa, an attorney recruiter. And there is little law firms can do to prevent a specific departure, he said, adding that he has not encountered no poaching agreements between outside counsel and their clients.

He suggests that law firms may want to try to take the direct approach with their clients.

"The firm might want to have a conversation that says, 'I know you'd rather pay by the year than by the hour, but we need good workers, too,' " he said.

But Lindsey also cautions firms to tread carefully. "You don't want to anger a client."

Keeping attorneys from following those who go in-house is part of Sonnenschein's total approach to fostering lawyer satisfaction, Baysinger said. Training, mentoring and providing meaningful assignments to younger attorneys, as well as "helping lawyers maximize their potential, all help to keep attorneys from straying," she said.

But some attrition is unavoidable. Our challenges are exactly the challenges that clients are having," she said.