



ATTORNEY SEARCH

By Carey Bertolet

Law Firm Associates: Luxury on the Lateral Market

Just as the salary wars seemed to be winding down in New York, a new wave of associate compensation increases has struck the West Coast and Washington, DC. Nearly five months after Simpson Thacher raised the compensation of its New York first-year associates to \$160,000, large firms in some major cities are now matching these salaries.

Where will it end? It's hard to say. As the industry shifts through these massive changes in associate compensation, there is inevitable grumbling from partners, clients, and even the associates who are the beneficiaries of the increases. No matter what one's perspective is on the effects of these industry raises, one thing is true: as compared to a mere two years ago, associates have gotten more expensive. At the largest firms in New York, first-year (class of 2007) associates are now 20% more expensive than their 2005 counterparts were upon graduation.

Large law firm associates are today's newest luxury goods. To be clear, there are many good reasons associates are paid as well as they are. Generally speaking, associates entering large law firms have excelled academically. They have devoted countless hours to their performance throughout their graduate and undergraduate careers. They have often incurred debts reaching into the six-figure range to do so. Associates are frequently expected to be on call, eat dinner at the office, and keep their BlackBerrys at the ready. At New York's largest firms, even junior associates may be tasked with responding to questions and demands from some of the most powerful people in the corporate and banking worlds.

I will be the first one to tell you that I believe associates should believe their own hype. (In the interest of full disclosure, I was a law firm associate in a previous life, so I do have a bias.) I do believe that because the bar is so high for entry into law firm life and continued performance at a law firm requires a great deal of persistence, dedication, and intellect, associates deserve to be well compensated. In New York, even associates making \$160,000 may not have much discretionary income after paying Manhattan rent and student loan payments. Although I know some people would disagree with me, I tell associates, "You are worth your price tag."

I believe that today's brightest associates are the lawyer equivalent of the Mercedes-Benz. These are high-end lawyers who provide exceptional service and who have distinguished records. I define a luxury item as representing the portion of an industry that embodies excellence. Consumers of luxury items are willing to pay more because they understand that they get more. Rolex, Tiffany, Prada, and Ritz-Carlton are all brands that are associated with luxury, quality, and (of course) expense. But the metaphor must be understood in both directions. "Yes," I say to the large law firm associate, "there is good reason for the market to pay a premium for your services."

Now act like it.

The trap we see with some associates who understand their value in the market is that they believe it means the market will cater to them regardless of their behavior. The subtlety that some lawyers fail to appreciate is that even the most luxurious item in the marketplace must still compete to be successful. Even luxury items have to continually prove their value in a marketplace that historically favored them.

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Especially in the lateral process, we find there are lawyers who fail to recognize that, no matter how large a premium they are able to command, they still have competition. In this analogy, the “consumers” in the lateral market (partners and clients) want to feel good about acquiring their luxury items. The fact that a lawyer can command a premium rate and salary doesn’t mean he or she doesn’t have to compete. If Rolex watches stopped working, they would lose market share to other luxury brands (maybe even to Timex). It is important for associates not to confuse being a luxury item with having a monopoly over the marketplace.

One of the most common misperceptions in the lateral marketplace is that when firms seek a top-quality lateral associate, the entire interview process is designed to accommodate the needs and preferences of the associate. Even in a robust hiring environment, the lateral process exists for the mutual benefit of candidate and law firm. While it is absolutely incumbent upon law firms to be generous, responsive, and active recruiters, lawyers must also participate in the process with etiquette and flexibility.

Availability

Determining the best time for an interview can be challenging. It’s rarely easy for a lawyer to leave the office for an extended period of time—more so when his or her firm does not know that the associate is seeking a new position. It is just as challenging for law firms to assemble all of the lawyers in a particular department on a given day to thoughtfully consider a candidate.

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The challenges of setting aside enough time to carefully consider and interview for a new hire when the relevant players are all busy professionals can be daunting. Having said that, interviews happen every day. I am concerned when a lawyer tells me that the most time he or she can make available is 30 minutes at 7:30 p.m. on a Friday. I will always take lawyers at their word when they tell me their schedules are too crunched to provide meaningful flexibility to interviewing law firms.

But I insist that they take me at my word when I tell them, “*Your competition makes the time.*”

We see that a candidate’s inability to make himself or herself available can be a roadblock to success in the lateral market. It may be that the lawyer is unwilling to make as many trips into a single law firm as might be required (usually two or three). It may be that the lawyer is concerned about interviewing for as many hours as it might take (maybe three or four per firm). Usually when we see unavailability as a problem, it’s when a candidate only agrees to make himself or herself available for a very short period of time on one particular day and no others.

To be clear, we can often make it work. I am usually pleasantly surprised by the law firm-recruiting professionals who make very good things happen without a great deal of time. But it’s imperative that every candidate in the lateral market understand that his or her competition may be more flexible. What does that mean? It means they may be making themselves more available to a prospective new firm more quickly than you are. It means they may be perceived as being more enthusiastic, more interested. It may not mean anything, but are you willing to take the risk?

Let’s hearken back to this idea of associates as luxury goods. Even for the associates who deserve everything they get in compensation and more, it is still important to make the effort to show a firm that you are the luxury good that is right for it. I understand that a Mercedes-Benz is worth a high price tag. But would you buy a Mercedes if you were only allowed to test drive it for five minutes?

Documentation

Most firms require some sort of documentation to consider a candidate—obviously, a resume; usually, a transcript. (In New York, we always include a transcript.) Depending on the practice area, a writing sample may be required. Certainly, producing something as important as a resume takes time. Tracking down a copy of a law school transcript can be a pain. Redacting client names from a writing sample is also a time-consuming process.

Unfortunately, there is no opting out of this process. Even the shiniest and fanciest lawyer needs to participate in the process in a meaningful way. We are surprised to see as many resumes and writing samples with errors as we do. If you are going to be in the lateral market, you must take the care and time it deserves. Why? Because it matters. Because no credential overcomes the perception that a candidate has not paid attention to detail or is not interested enough in the process to supply the documents the firm needs to fully consider him or her.

As a brief side note, candidates frequently ask why a transcript is necessary at all, believing that substantive experience should carry the day, regardless of the grades they got six years ago in first-year torts. There are firms that do consider law school grades (yes, including first-year-torts grades from six years ago) to be excellent indicators of a lawyer's success in a law firm. For those that do not sit down and parse out specific grades, and many firms do not, it is still a part of the diligence process. One only needs to hear a single story about a firm that hired a lawyer without the appropriate diligence only to discover later that the "lawyer" never attended law school at all.

In any event, failure to take the time to assemble and produce the materials a firm needs to consider your candidacy is never good. Quite aside from frustrating those people who want to move the process along, it's a matter of competition. While your file sits on a shelf waiting for you to assemble the missing parts, a partner may be walking your competition's file down to the recruiting committee.

Travel

Relocating candidates have the added stress of arranging to be away from the office as well as traveling to get to the interview. Although it certainly varies from city to city, the general policy among New York firms is to not pay for a candidate's travel for the first round of interviews (generally called screening interviews). Law firms generally pay for or reimburse candidates for travel associated with their second and final rounds of interviews.

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There are obviously many issues to coordinate when interviewing for positions in a new city. Often, lawyers will try to arrange a couple of screening interviews to make the most of any one particular trip, if possible. But as difficult and time-consuming as the process is, your competition makes the time. I have seen candidates from overseas make themselves available to interview within a week or two of hearing back from a firm. I've seen candidates from New Jersey balk at making the trip over the Hudson River for a callback because it would be too time-consuming.

Again, the lesson is that your competition makes the time. But relocating candidates have an extra incentive to do everything to cooperate with the process. Part of the "package" in hiring a lateral associate is evaluating the commitment of that candidate to the geographic location. If you are able to show a law firm that you are so in love with New York (or Atlanta or Los Angeles...) that you would take any opportunity to fly into town, you will have reinforced your desire to live and work in the city. If you can't make it to the city within the next month, a law firm will ask whether you are really planning on living there.

I hate for candidates to spend their own money for travel, especially when they travel to interview with firms they don't ultimately join. However, if you are serious about relocation, it is a reasonable expense. If you are considering relocating, and the relocation makes good sense for you personally and professionally, a \$300 plane ticket is a sound investment. We do a great deal of relocation, and the majority of relocation candidates see it as such. Certainly, for those who spent more than \$100,000 on their law school educations, the proportional expense of an important lateral move pales in comparison.

Timing

Another roadblock to successful lateral interviewing we see is related to timing. Again, it seems to stem from the confusion between being a valuable luxury item and being the only luxury item out there. There are rare occasions when, after receiving and accepting an offer, a lawyer seeks to start a new position at some date far in the future. Every law firm understands that it takes time to give notice and relocate where applicable, but accepting an offer and hoping to join the firm in four months can be an unreasonable request.

Remember that while a luxury item is worth the money, it may not be worth the wait. Someone might pay \$500 for a pair of Manolo Blahniks. But would you spend \$500 for those shoes if you couldn't wear them for six months? Or would you walk down the street to look at the Jimmy Choos? As an associate, you are worth the law firm's investment. But you need to ask whether you are worth the wait. Does the firm need immediate help in its practice?

One thing that we suggest when there are timing issues is to include some transparency in the process. A firm is much more likely to understand a delay in start date if it understands where it's coming from. Do you need to study for a bar, or are you planning to get married in the next couple of months? The firm that understands your motivation may be more inclined to work with you.

In fact, transparency may be the best solution for many of the problems discussed above. A candidate who can explain where he or she is coming from is more likely to get the participation and cooperation than one who simply drops off the radar for weeks on end. We have been able to get extensions of time to decide on an offer, for example, when we could explain to the firm the circumstances requiring them. A failure to fully explain or engage has never carried favor. Remember that your relationship with a new firm begins before your official date of hire. What associate would want to start at a new firm and have anything less than enthusiasm on both sides?

We absolutely encourage associates to view themselves as being worth the salaries and compensation they command. It is often the most pedigreed and successful associates who understand that they define themselves as worthy of their accolades *in all of their* conduct, including their conduct as candidates in the lateral market. The true luxury brand is often just the same as the truly exceptional candidate—*always* trying to be better than the rest.

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