A History of Legal Market Conditions and Attorney Lateral Hiring

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You're sitting in your office on a quiet random Tuesday afternoon when you receive a call from a partner in the Corporate Department. She says that they need two lateral associates - 'as soon as possible.' It goes without saying that the firm's usual Olympian standards must be adhered to. To determine what can be accomplished in a search you must ask a series of preliminary questions.

Who are our real competitors (in this practice area and in the eyes of candidates contemplating choosing your firm) - and are they active in the lateral market? How do we compare in the market place to our active competitors?
What is your competition in the lateral market at this time? A good search firm can give you a fairly complete picture of who else is seeking lawyers. An open ended dialogue with your key search firms about market trends and market conditions is critical to being able to assess the difficulty of a search and to determine the proper search method to employ.

All firms have 'issues' in terms of reputation, spin, and negative facts - understand how these may impact this search? Do we have "issues" in terms of turnover, recent exposure in the media, financial trends/facts/issues which may assist / limit us in lateral hiring?
Caution **- You must accept that high performing, spectacular, well-adjusted associates currently working for your leading competitors are highly unlikely to move to your firm. The best lawyers are content - and almost all lawyers are risk averse.**

Absent some truly compelling circumstances, spectacular associates at comparable firms are unlikely to move across the street. Understand that the assessments of potential lateral associates may not match your views of your relative strength in the community. As a recruiting professional one of your most important jobs is to manage the expectations of your department leaders - who may have unrealistic notions about the volume / quality / deliverability of candidates. Sometimes partners who have worked in one firm for a long time have decidedly unrealistic notions of what can be accomplished in partner and associate lateral hiring. When that partner is also the one who lets you know at the last possible moment that "we need 3 corporate lawyers ASAP" - you must work with them on what is realistic in terms of delivering exceptional candidates. Sometimes partners have unrealistic notions of the type of lateral who can - and must - be the target of a search. Since they were hired 10-15-20 or more years ago, their notion of the hiring patterns of your leading competitors may be seriously out of date. A good search firm will understand the actual hiring patterns of leading firms in the market in the relevant practice areas. The following factors are important to any assessment
Whether they admit it or not, law firms may announce one standard on grades and schools and apply another
Law firms apply different standards when hiring in different practice areas - the astute firm understands that it may not be able to be as selective in any area in which it is not as prominent in the legal community. Being stubborn on this issue can lead to a very disappointing search
Law firms should - and do - apply different standards for laterals than they do for entry-level associates. The associate with a spectacular deal or case roster - and who has had solid experience across the board may well be a superb lateral hire, even if they did not attend a famous national law school or finish in the top quarter of the class.

The legal profession is feeling the effects of international, national, and local economic trends and conditions. Opportunities, career paths, compensation, risk-reward analyses, and the pace of day to day life are changing faster than ever before. As the world becomes more connected - physically and electronically - lawyers are evolving and adapting in how, where, when (and why) they practice. With passion for all and loyalty toward no economic theory or political agenda, I'll open the debate with the following observations.

Leading law firms performed well in a soft economy. In a period when most basic industries, service industries, and professions are facing soft sales, sagging profits, and considerable uncertainty, most leading law firms saw increases in profits whether measured on a per partner or gross basis. Most mid-size and large law firms have shown a remarkable ability to raise their hourly rates during a flat economy.

Economic indicators are strong regionally and nationally. GDP and what the government calls "economic profits" are up strongly this year. The stock market is recovering. All of these are usually highly reliable leading indicators of an overall recovery. ***In an era when law firms manage head count with care - even a modest up-tick in the economy will have immediate and substantial effects on entry-level and lateral opportunities for graduates from leading schools.***

Some of the largest law firms in the world fail annually. The lessons from its Icarus-like ascent and decline are important for all students and lawyers to consider.

Oceans of toner and ink are squandered daily talking about the volatile and highly politicized issue of outsourcing of jobs. Politicians are reluctant to acknowledge the baseline fact: the economy is going through a transition as extensive and as important as the one which took place 100 years ago when Americans left the farms to move to the cities to work in the early industrial factories the late 19th and early 20th century. The dawn of union labor, the fabric of cities, the nature of urban life were all outcomes of this change in the deployment, training, and management of the labor force.

This nation has evolved into a service economy where unions are not nearly as strong, where many basic industries find that their products can be produced less expensively overseas and where the only hope for continued prosperity may be another reinvention and redeployment of our labor force into the higher value echelons of service industries and high technology industry. That change will come over decades and it will be accompanied by dislocation. But it will occur and no politician can stand in its path.

The legal profession - from recruiting raw talent to finding clients is becoming a mature, brutally competitive industry where economic pressures come face to face with professional service imperatives. The legal profession in the early 21st century stands where the automobile industry stood in the early 1900's and where the computer industry stood in the early 1980's. In the early 1900's more than 70 companies manufactured automobiles in the United States. Several of the survivors consolidated into what is now known as General Motors. Ever heard of Cords, Studebakers, and Nash Ramblers? During the mid-1980's Zeos and AST briefly gave Dell a run for its money in the PC business. A similar evolutionary cycle is in progress in the legal profession. In this evolution one finds expansion, globalization, consolidation. Some firms expand; others contract. Once famous names disappear. Experimental expansion succeed for unexpected reasons while others destined for success stumble poorly and drift off into oblivion. Talent is bought and sold hourly and loyalty becomes tissue thin for this new generation of highly compensated **Grapes of Wrath** Tom Joads looking for the next camp fire, the next opportunity, and something resembling professional fulfillment and financial independence.

Today's best students at the best schools survey a horizon where the choices are far different than they were 30 years ago. The firm one joins today will be different tomorrow. As the chart above shows in all leading markets the 'homegrown' firms are now outnumbered by the 'national' firms who have entered the same territory. This competitive clutter creates considerable confusion for clients trying to sort the law firms marketing efforts. But for students it is even more challenging trying to 'brand' a firm - compare opportunities and make a choice.

The cacophony is almost a Tower of Babel with relentless drumbeats of marketing and sales efforts where students are faced with more opportunities than they can possibly comprehend. Lawyers can be a cynical and skeptical lot. They can be unsympathetic about the plight of students and recruits who seemingly are awash in cash can opportunity. For purposes of recruiting they may simply not be able to comprehend the view from your side of the fence.

The invasion of the national firms continues at an even faster pace - with existing offices growing substantially and new offices being opened frequently throughout the year. This trend is likely to

accelerate. An era of consolidation is underway in which ' large firms attract groups of partners from smaller firms ' national firms acquire far smaller local firms to establish or increase their local presence ' mid-size firms evaluate whether independence or merger is wise, possible, or unavoidable
Having learned the lesson of the recession of the early 1990's, most firms managed head count with a vengeance during the 2000-2003 and 2008 and 2009 recessions. This was painful to those who found options few and far between and those in soft practice areas who were asked to leave- but it presents great opportunities (for students and laterals) as the recovery evolves. Well-managed law firms watch their headcount as carefully as auto manufacturers watch inventories of steel - and as business improves (and voluntary attrition spikes) the need to replenish the associate stock will rise rapidly, as has always been the case during recoveries of the past 25 years.
Making partner continues to become tougher and less certain. The road to partner is longer today at most firms than it was 5-10 years ago. One-tier partnerships have virtually vanished among the leading law firms; and in two-tier firms promotion to equity partner is increasingly difficult. This is an inevitable consequence of the ' end of the boom explosion in compensation and ' the recession which followed.
Lateral hiring has awakened from its slumber. Activity in corporate is strong. Hiring in intellectual property, labor and employment, and some other areas did not fall during the recession and should continue during the recovery. Activity has been seen in many corporate practice groups nationally.
The increase in billable hour expectations / budgets / requirements 'stuck.' Associates in leading firms will never go back to the lazy hazy days of 1800-2000 hours a year. Those in the hunt for partner at leading firms will find themselves working 2200-2400 hours a year. The averages are lower but they disguise the reality: top lawyers in leading firms work harder than ever.
Associate compensation is basically unchanged - and not likely to move for 3-5 years. The post-2000 structure of high base, hours-driven bonus, etc. has been emulated by most leading firms. The net result - lawyers earn far more, they work harder, and the likelihood of promotion is lower.

In 1976, only five firms in the United States had any *office* with more than 200 lawyers - two in New York and three in Houston. In 1976 most firms had one dominant office and an outpost in Washington or perhaps one other city. Today multi city firms are a fact of life.

The five 200+ offices in 1976 were the New York offices of
Shearman & Sterling and White & Case; and,
The Houston offices of Baker & Botts, Vinson & Elkins, and Fulbright & Jaworski.

Today, many have ***several*** offices with more than 100 lawyers, e.g., Jones Day; Sidley & Austin; Latham & Watkins; Kirkland & Ellis; McDermott, Will & Emery. ***Today the number is in the hundreds of offices that have more than 200 lawyers, and more than 390 have more than 100 lawyers.***

The number of top graduates from leading schools is unchanged. This causes greater competition for law school graduates. Firms react to this competitive pressure by reaching deeper into the class at more law schools and increasing salaries to remain competitive with peer firms in other major markets. The quality of law school graduates has improved because of the widespread admissions of women and minorities.

One could debate endlessly whether the pool of students in 2014 is more talented than the pool of students in the mid 1970's. Today's law students are brighter and more capable than those from 30 years ago. This reflects increasing admissions of minorities and women and the growth in the number of students who attend colleges. While the level of law school applications has not risen enormously, the quality of the typical student at a top fifteen school is higher than it was twenty-five years ago. So, firms dip far deeper in the class but they do not as a result hire less qualified lawyers.
1967-1989 - The earlier increases in starting salaries nationally came in three waves' the Go-Go market of the late 1960's ' the 'stagflation' of the late 1970's, and ' the eight year expansion following the 1981 recession. During that period, starting salaries in most major law firms moved from $10,000 to $70,000 - an

average annual increase of 8.8 percent. Growth plateaued during the 1971-1973 wage price controls and the 1981-1983 recession. The boom of the late 1980's resembled the current boom - rapid growth, exploding starting salaries, expansion in new markets and new practice areas.

THE 1990-1993 RECESSION - The rampant inflation in associate salaries stopped during the 1990-1993 recession, which was by any measure the worst since the late 1940's. The bottom of the recession saw unprecedented cutbacks by major firms. Salaries for mid-level and senior associates moved glacially. Promotions to capital partner and income partner dropped as well. Capital partner earnings at most firms were static, on an average, per capita, or per unit basis. Layoffs of young associates were widespread in most major markets - only a few firms acknowledged that the recession had caused their business to fall off.

THE 1994-1995 RECOVERY - For law students and lawyers the recovery did not come until 1995. The recession made firms very cautious about increasing entry-level hiring. The primary effect of the recession was to change the way that firms managed their resources and people. The focus on the bottom line became relentless - this includes managing administrative costs, fringe benefits, head count, and compensation. Firms are far more rigorous about managing their own cash - and spurring partners to promptly collect all time that is recorded by lawyers.

Compensation for partners became more and more driven by chargeable hours and business production. For lawyers in private practice, long-term success requires that they either develop a specialty in a strong area or develop an independent client base. If this blunt fact is daunting, stay away from private practice. There will always be substantial opportunities for new associates and associates with 1-4 years of experience, but the need for lawyers at more senior levels drops like the proverbial stone unless they have a specialty or 'portable' business.

Years from now, as you consider your long- term professional options you will not have many choices unless you are remarkably gifted and experienced in a 'hot' area or if you have not begun to lay the groundwork towards developing client relationships and an independent base of business. To be sure, exceptions will exist. Some firms will always need 'service' partners who do not have business. But if you aspire to independence and success, you must keep your eye on the targets of specialization and business development.

THE 1996-2000 BOOM - The starting line for associates in leading large law firms rose from $73,000 to $125,000, a remarkable increase during a period of 2-3 percent inflation. This reflected ' the tightness of the market during the peak of a once-in-a-generation boom ' reaction to pressures from New York and California firms and ' a catch-up from the years of 1989-1996 when starting salaries were basically stagnant. In contrast to the 1970's and 1980's, when two or three New York firms initiated a round of increases in starting salary the changes in 2000 began in Northern California - ironically with some of the same firms who fired literally hundreds of young lawyers in 2001-2002. The next explosion in starting salaries will occur after several years of sustained economic growth. Don't hold your breath.

THE 2000-2003 RECESSION - This three year recession was unusual because of its causes, length, consequences, and conclusion. Risk-averse lawyers and law firms tend to recognize economic trends late in the game. It was no surprise that the massive explosion in lawyer compensation took place just as the bubble was about to burst. Amidst the manic moments of 1999, lawyers were leaving law firms in California to join internet-based startups and other speculative ventures. Others left practice to become investment bankers - an almost sure sign that the boom is about to implode. The consequences of the boom-to-bust cycle were severe because the compensation explosion caused an enormous and immediate distortion in law firm economics. Salaries for associates increased 50% or more overnight just as the boom was ending. Law firms found it difficult to pass along or absorb these increased costs as utilization and deal flow collapsed. The 9/11 attacks worsened an already severe recession. Lateral hiring stopped dead in is tracks for nearly a year in most law firms.

Law firms also slashed summer program and entry-level hiring. In markets such as New York and California hundreds of lawyers from the Classes of 1999-2001 and 2008-2009 who dreamed of a perpetual sunny day found their opportunities slashed. The Midwest felt the recession as well - and while law firms in Chicago did not have the waves of layoffs found in Northern California or in New York - the effects were nevertheless substantial.

The recession walked hand in hand with the other powerful force in the law firm world - consolidation and mergers. Mid-size law firms continue to be cherry picked by large local and national firms. Some boutiques are succumbing to the temptation to join a larger national firm in the hopes of finding higher profits, national clients, and that elusive but wonderful synergy that all businesses seek. For law students and young laterals consolidation + recession = confusion / stress. It is hard to analyze where a student or a young lawyer should invest their expectations because the rules of the game have changed substantially and permanently. The new economic pressures of high salaries and the new demands for productivity and profitability make life for new lawyers riskier and more challenging. It is a fair guess that the law firm one joins today will be substantially different 10 years from now.

THE 2008-2009 RECESSION - This was the most severe recession yet and set off what was arguably the slowest and most severe hiring slowdown in the legal profession ever. The effects of this continue to reverberate as law school class sizes shrink, some law schools close and legal blogs criticizing the legal profession and life as an attorney proliferate.