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NEWS

Group Mentality: Lawyers Are Moving to New Firms En Masse

'Cherry-picking' is a merger byproduct that suggests attorneys' loyalty to firms is diminishing

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As the legal market undergoes a tectonic shift due to law firm megamergers, one of the reverberations is an apparent surge in the number of law firms picking off clusters of attorneys from rival practices.

Although the first quarter of the year routinely sees plenty of lawyer shuffling following financial results of the previous year, the abundance of recent law firm mergers -- up by 34 percent compared with 2003 -- appears to be creating unrest on a smaller scale as more groups of attorneys move to law firms that they hope will be a better fit.

But the cherry-picking strategy has its own set of challenges apart from those of wholesale mergers, and they relate not only to the firm that takes in the new group but also to the firm left behind.

"People are finding their way," said Orrick, Herrington & Sutcliffe chairman Ralph Baxter, adding that the legal market is "unsettled" because of recent mergers. Last week, Orrick announced that five attorneys from Heller Ehrman White & McAuliffe's venture law group were joining the firm.

"People are trying to get to the platform that matches what their ambitions are," Baxter said.

DIMINISHING LOYALTIES

Since the beginning of 2005, several firms have bulked up with groups of attorneys who have decided to find a new home. Dechert added 63 attorneys from Swidler Berlin of Washington.

Most of those lawyers practice white-collar defense and corporate investigations. Foley & Lardner brought in 38 lawyers to join its business law, litigation and intellectual property practices from



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Epstein, Becker & Green's Boston office.

Also, Arnold & Porter of Washington hired eight of Dorsey & Whitney's litigation and transactional lawyers to work in its New York office. And the breakup of Boston firm Testa, Hurwitz & Thibault scattered groups to Proskauer Rose, Bingham McCutchen, Goodwin Procter and elsewhere.

More cherry-picking is a result of general disquiet in the law firm market, where attorneys' loyalty to their firms is diminishing, said Jonathan Lindsey, managing partner at Major, Hagen & Africa, a recruiter.

Attorneys not only become smitten with firms that have recently merged or grown organically, but they also start to scrutinize their own firm's future in the changing market.

A few of those recent large-scale changes include the formation of DLA Piper Rudnick Gray Cary, with 2,700 lawyers; Pillsbury Winthrop's planned merger with Shaw Pittman of Washington, creating a 900-attorney practice; and last year's merger that formed Wilmer Cutler Pickering Hale and Dorr.

"Some attorneys have concluded that their firm likely will not exist in its present form in three to five years, and they think they might as well be at a firm of their choosing," Lindsey said.

Practices ripe for cherry-picking now are litigation, private equity and structured finance groups, Lindsey explained. Corporate investigation teams also are desirable. Other corporate practices, such as initial public offering groups and bankruptcy groups, although popular a few years ago, are unlikely to get lured away right now, he said.

Recruiters are involved in cherry-picking deals about half the time, said Orrick's Baxter, although that firm's recent arrangement with the former Heller Ehrman attorneys did not involve a recruiter. Recruiters may work for a firm searching for possible candidates or may work for an individual or group looking for a suitor.

And while cherry-picking is attractive to firms that want to add experienced lawyers in particular areas, it can be problematic. Difficulties with integration, territorialism and ill will at the firm left behind can plague the new arrangements.

Pittsburgh-based Buchanan Ingersoll is not a proponent of the cherry-picking approach. Last month, its six-partner construction industry practice moved to Newark, N.J.-based McCarter & English. Buchanan Ingersoll acquired the same group from Baer Marks & Upham four years ago.

Last week, Buchanan Ingersoll merged with all but two attorneys from Slotnick, Shapiro & Crocker. The 10 Slotnick lawyers join the firm's New York office to practice mainly white-collar defense.

For William O'Connell, Buchanan Ingersoll's managing shareholder, bringing in a boutique firm is preferable to cherry-picking groups of attorneys from larger firms because the acquirer has full access to the boutique's financials and can get a clear picture of how those attorneys are performing.

He said that having access to financial records avoids having to rely on attorneys looking for a new firm to provide that information. "The first wife knows something that second wife hasn't figured out yet," he said.

But if an attractive boutique is not available, O'Connell said he opts for recruiting no more than one or two laterals from the same firm. "It's a little less perilous," he said.

When key players depart, some firms take the opportunity to examine existing strategies. Michael Leroy, whose 24-attorney Chicago firm, Neal & Leroy, lost name partner Grady Murdock and two other partners last month to Morgan, Lewis & Bockius, said that Murdock's move, though "amicable," gave the remaining attorneys a chance to reflect.

"Things don't work for a reason," Leroy said. "It's really very fertile ground for focusing and re-evaluating the firm's sense of self."

With an emphasis on municipal, eminent domain and real estate transactions, Neal & Leroy focuses on work closely tied to the Chicago community, a strategy different from Morgan Lewis',

which has 18 domestic and international offices.

The greatest challenge for firms that bring in new groups is integration, said Lindsey, the recruiter. Firms should appoint a partner to take charge of the integration efforts and make it a priority, with a checklist of specific people responsible for different parts of the integration process, he said.

Lindsey added that firms successfully integrating groups from other firms make it possible for the new partners to spend a significant amount of their time on firm client matters and the rest on matters of those clients they brought in. Unhappy laterals routinely are those who have gone to firms where integration tasks were neglected, Lindsey said. He has conducted surveys over the years of lateral partners' satisfaction with their new firms and attributes much of their dissatisfaction to isolation from their new firm. He also sees a pattern.

"The firms that do the poorest job of integration basically give them a desk and say, 'Here's a copier. Tell us where you are at the end of the year,' " Lindsey said.

Adding to integration problems is that lawyers at the acquiring firm can be a skeptical bunch, especially if they are faced with a big group coming from another firm. They may want to protect their clients from what they view as "some knuckleheads" who have joined their practice, Lindsey said. He added that lawyers who don't know the new attorneys may be reluctant to introduce them to their clients out of a fear of being embarrassed by them.

Another difficulty is that cherry-picked groups, as opposed to attorneys brought in by full-scale mergers, may enjoy certain hot-shot status as specially selected groups, a perception that can leave veteran partners bristling. What's more, members of the incoming group may insulate themselves from the other attorneys by sticking with the people they know.

One of the first changes that Dechert made in anticipation of bringing in the 57 former Swidler Berlin attorneys to its New York office was to arrange attorneys by practice groups. That way, new partners were mixed in with existing partners. A kind of community "unpacking" occurred when the Swidler attorneys arrived as everyone, including support staff, settled into their new spaces. Grumbling from attorneys about the move to different offices was minimal, said long-time Dechert partner Thomas Munno.

Lunches, social events and joint projects are important for firms to initiate, but a big part of the integration effort also comes from the attorneys joining a new firm.

Jeffrey Lewis and four other attorneys earlier this month went to Epstein Becker from Holland & Knight. Part of Lewis' new job, he said, is convincing Epstein Becker attorneys that the firm made a good choice in hiring the group. "I want to persuade my new partners that I am a highly competent commercial litigator," he said. "The presumption is that I am able to do that, but it's like any other business, there's a certain amount of sales."

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