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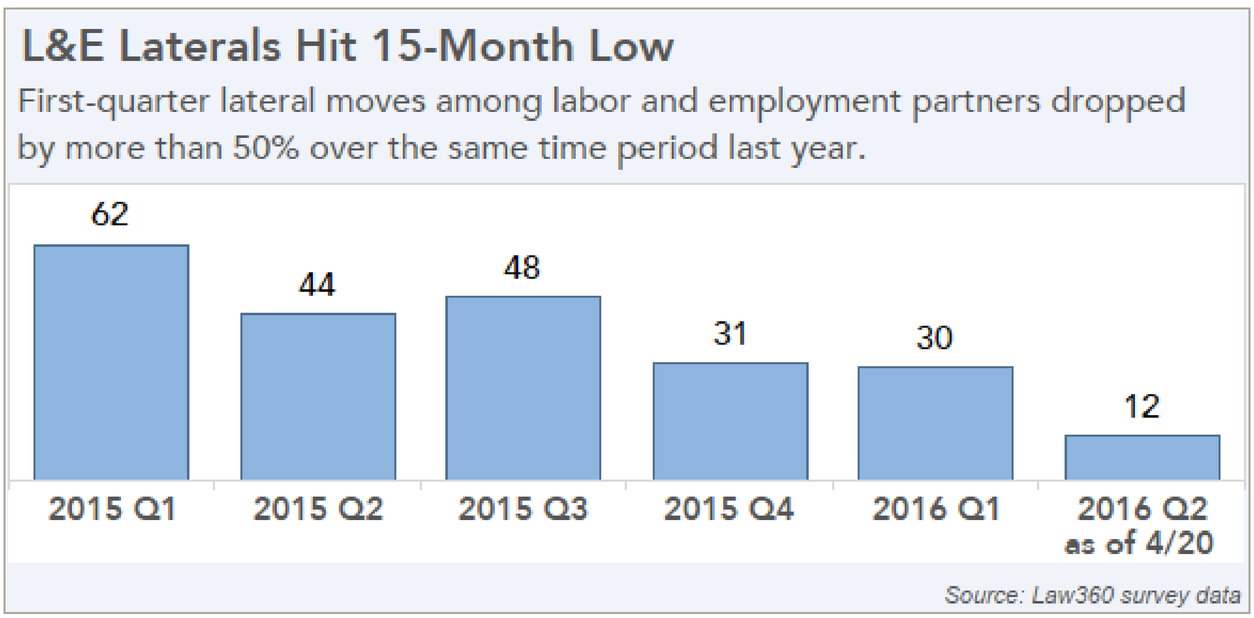
Lateral Opportunities Dry Up For Employment Lawyers

By **Aebra Coe**

Law360, New York (May 10, 2016, 4:32 PM ET) -- Fewer employment attorneys have changed firms in the first quarter of 2016 than in any other quarter over the past 15 months, as the demand for lawyers specializing in the practice area has slowed amid a strong economy, according to Law360 data and experts.

At least 30 labor and employment partners jumped ship in the first three months of the year, according to data collected by Law360, a more than 50 percent decline from the 62 lateral hires made across the practice group during the first quarter of 2015.

According to Gloria Sandrino, head of partner recruiting at Lateral Link, this downturn is "sort of expected" considering the brightening economy.



"Historically, when the economy goes up, labor and employment goes down. So, when the economy was down, there were lots of labor and employment opportunities for partners," Sandrino said, explaining that as the economy has picked up, those opportunities have dropped off somewhat.

"Even during the real down days of the economy a few years ago, there was a lot of labor and employment activity," she added. "It's one of those practices that you know, even if the economy goes down, you'll still have revenue from the group."

In addition to the largely expected dip in employment work and thus in employment laterals, Sandrino said that there is also a good deal of concern among law firms about low billing rates within labor practices.

Because of the fact that the practice tends to draw lower rates, she said, many big law firms opted to cut labor and employment partners during the recession and may not be bringing them back in the numbers that had been expected, based on the data.

According to data Law360 collected from the hiring announcements of the 200 largest U.S.-based law firms, 62 employment partners made lateral moves in the first quarter of 2015, while that number dropped to 44 in the second quarter, rose a bit to 48 in the third, fell to 31 at the end of 2015, and settled at 30 during the first three months of 2016.

Much of the movement was among the large, national employment firms, rather than at full service law firms — Jackson Lewis PC and Ogletree Deakins Nash Smoak & Stewart PC added the most labor and employment partners last quarter, with four and seven, respectively.

This makes sense, according to Ken Young, founder of Young Mayden Legal Search & Consulting, considering the trajectory of the practice area over the past 15 years.

Young was a labor partner at a BigLaw firm for many years until 2008, and he said the practice area has trended toward consolidation of attorneys in large national employment firms and labor boutiques and away from full-service law giants.

The 50 largest law firms "don't want small employment cases. The rates aren't high enough to support the high profits per partner," he said. "The biggest firms in the country with the highest revenues per lawyer and profits per partner are not trying to grow large employment law departments."

The exodus of labor practices away from the biggest general practice law firms in the country began around 15 years ago, when insurance companies began to become increasingly involved in employment litigation, Young said. Before that, labor was a higher-rate practice, but with the advent of insurance company involvement in litigation, rates were pushed down, and it became more of the commodity practice that it is today, he said.

The insurers were able to do that, he explained, because they were allowed to choose counsel for the companies they insured, and so they ultimately had more clout over the rates they paid for legal services.

The lower rates led to the stratification of the legal sector when it came to labor and employment work. BigLaw firms began focusing almost entirely on large, class action, bet-the-company matters, while employment boutiques continued to take on the run-of-the-mill cases. And at the same time a large number of labor partners left the largest law firms.

"So, there was a lot of lateral movement from employment groups from big firms to national labor employment law firms, but now that's all settled down somewhat," Young said.

And that is one of the major factors that has led to the decline in lateral movement over the past year, he said.

Despite the decline in lateral hiring, several recruiters said they see employment as a steady, dependable practice that isn't in danger of extinction among the full-service giants anytime soon.

"As we know, more and more firms these days are focused on profitability and their premium practices, and often view the L&E space as a 'commodities' practice that requires large overhead and yields lower profits," said Joshua Dull, managing director of Major Lindsey & Africa's Miami office. "On the other hand, those firms that are more focused on a strategy geared towards globalization and positioning themselves to service clients wherever they need legal advice, often want to ensure appropriate coverage in the practice area across the platform."

That may lead to a ramping up in the practice area, he said.

"Regardless of where a firm falls on this spectrum, usually a star lateral partner candidate with a solid, portable client roster and book of business will garner the attention of most firms," Dull said. "Those are the diamonds in the rough."

Methodology: Lateral data is based on partner hires announced by the 200 largest U.S.-based firms by domestic attorney headcount, including vereins with a U.S. member.

— Editing by Jeremy Barker and Ben Guilfoy.