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BigLaw Desperately Seeking Experienced Associates

By **Aebra Coe**

Law360, New York (August 11, 2016, 4:41 PM ET) -- The legal industry is facing a shortage of highly qualified midlevel associates, according to experts who blame the deficiency on a dearth of associate hiring after the 2008 financial crisis, and finds itself having to adjust to make up for the deficit.

As demand for legal services dried up after the economic collapse eight years ago, law firms reacted by hiring fewer associates. That means lawyers who began their careers during those sluggish economic years found themselves members of a smaller, leaner peer group.

Today, as those compact associate classes mature in their careers, the economy has picked up — and along with it demand for the work they are now qualified to do. The only problem, according to Michelle Fivel, a partner at Major Lindsey & Africa, is that there now aren’t nearly enough highly qualified associates, in the right practice areas, to meet law firms’ demands.

“The lateral market for associates is definitely very active right now,” Fivel said. “There is quite a bit of competition among firms for the top talent, particularly among this midlevel group” of attorneys three to five years out from the start of their legal careers.

While experts acknowledge that there is a general shortage of trained and skilled midlevel associates, they say some practice areas are hurting much more than others. According to several sources, transactional attorneys are in exceptionally high demand as the economy improves and pace of deals heats up.

Diane Rifkin, founder of legal recruiting firm Rifkin Consulting, said that based on her experiences recruiting lawyers through several economic cycles, one trend has consistently emerged: Transactional work is scarce when the economy is suffering.

“During such times [law firms] must operate leanly and, as a result, layoffs of transactional associates at all lateral levels occur in great numbers,” Rifkin said.

Barbara Mayden of Young Mayden Legal Search said it is a common mistake among law firms to focus solely on which practice areas, regions and industry groups are busy right now when making staffing decisions, creating shortages down the road when certain practice areas pick back up.

That is because law firms, very much a conservative crowd, tend to err on the side of understaffing in the face of uncertainty.

“Firms shouldn’t assume the worst, and shouldn’t assume the best,” Mayden said. “When deciding how many and what practice areas to hire for, firms should take into account how cyclical the law firm business is.”

That failure to plan for the future can become a liability, because, as Rifkin noted, displaced attorneys were then forced to find employment in nonlegal sectors, such as in academia, real estate brokerage or consulting.

“Unfortunately, when corporate and real estate demands return, these attorneys are no longer available — and often have no desire — to return to a law firm setting," she said.

To avoid that situation from repeating itself, firms can create more training opportunities in more practice areas for all associates, Mayden said, so that associates can move from one group to another with ease.

"Our advice to firms has been: Plan. Think. Maybe even, God forbid, hire associates and teach them more than one specialty — a pretty smart hedge," she said.

According to Rifkin, some law firms with diverse practices have recognized the fluctuating nature of the industry and kept good associates on board when demand was down by using them in other practice areas, thus retaining talent for when the market picked up again.

This strategy can alleviate the pressure when business picks back up and there is a need for more experienced attorneys, she said.

But, she said, if firms want to recruit laterally during good times they need to be able to demonstrate that they can offer consistent work, flexibility regarding lateral year and training, and long-term opportunity in order to distinguish themselves from the competition.

But those are not the only factors firms need to consider when pursuing this particular group of attorneys. The contingent of midlevel associates identified by recruiters as in demand right now are those who are three to five years out of law school, which means many of them are in their late 20s and early 30s. In other words, they are millennials.

Attracting this sought-after stratum of lawyers and creating a beefed-up fleet of trained and skilled midlevel associates necessarily means attracting this new generation of attorneys, according to Michael Di Gennaro, senior director at Lateral Link.

Firms quickly fell in line this June after Cravath Swaine & Moore LLP raised the benchmark for associate pay, pushing starting pay up to $180,000 for first-year lawyers. The pay raises were adopted widely as law firms worried about their ability to compete in the fight to attract the best young associates.

Providing competitive pay is one element of attracting talent, but "firms need to be a little more creative," Di Gennaro said.

"Compensation and bonuses are great, but I've also heard that, with this raise, billable hour expectations are being raised as well," he said. "When I talk to associates, they're not afraid of the hours, but they are looking for a way to have a family life outside the law firm."

That means law firms can demand impressive work from their millennial associates and long hours, but they need to make sure there is some flexibility in how those attorneys work, a departure from the mentality of older generations, the recruiter said.

Maybe one associate wants to work in New York two days a week but telecommute three days. Another may want to work from St. Louis all year long where rents are lower. And a third may work from the office all morning and afternoon but then work from home in the evening.

Some older partners and law firm leaders have been closed off to the demands for flexibility from younger associates, Di Gennaro said. And while being able to pick up a phone at short notice or respond to an email promptly is vital, being face to face with a client within 24 hours is usually not, he said.

"Many people are fully capable of functioning very well in geographies of their choice," he said. "They can put in solid hours and maintain work-life balance. It will be creative solutions like that that will maintain staff. Because there's only so much money that you can throw at folks."

--Editing by Patricia K. Cole and Brian Baresch.