

In This Issue

Critical Factor. Automation was always something of a recruitment draw for law school grads and young laterals but, today, new necessities like e-discovery management systems have become major associate retention factors as well. In fact, there may be a correlation between the computer literacy of current recruits who grew up on the Internet and NALP data showing attrition rates at all-time highs. The technologically smarter they get, the technologically dumber their employers look. **Page 1**

Weather Vane. While they may not want to call it “global warming,” Greenberg Traurig has launched a new “climate change” practice group that merits attention on a number of fronts. It’s an example of how a law firm stays a step ahead of client needs by anticipating federal regulation, assembling a multidisciplinary task force, and lobbying for clarity on what those inevitable regs will look like. Who can then be better positioned to do the compliance work once the regs are in force? . . . **Page 3**

Perennial Survivor. While pundits still predict the death of the mid-sized firm, John Sterling points out that the middle markets remain the primary growth sector of the U.S. economy—and that is precisely where these law firms live. Even as they grapple with persistent problems, especially on the recruitment front, they’re innovating new career paths for lawyers, effectively deploying client teams, and growing with local companies that the mega-firms cannot or will not service . . . **Page 5**

Big Winners. For some years now, the College of Law Practice Management has been encouraging and endorsing creative initiatives by firms around the world. Their annual InnovAction awards, for example, provide recognition to diverse legal service providers. Charles Coulter reviews the 2007 winners, which include one global, two regional, and one local firm that have taken conspicuous strides forward in *pro bono*, recruitment management, and client industry service **Page 9**

New Breed. Some law firms still resist strong leaders for fear of empowering not-so-benevolent dictators. But, as Robert Denney shows, while success in today’s marketplace requires centralized management, today’s kingpins are a different breed. Unlike first-generation law firm autocrats, they don’t make decisions in a vacuum. They’re skilled consensus-builders, sensitive listeners, and—in an era of massive growth—reliant on powerful lieutenants, both partners and non-lawyer businesspeople. **Page 11**

Innovators Abide. Remember all the legal work that used to be called “emerging company” practice? No need to think that it—or the lawyers who once defined Silicon Valley—have somehow become mere shadowgrams of past legend. Today, Perkins Coie partner Neil Nathanson personifies a breed of legal practitioner whose work is as innovative now as it was at the dawn of this century. Nor does it hurt that Nathanson actually knows something about computers! **Back Page**

Retention Realities . . .

To Curb Rising Associate Attrition Rates, Firms Must Stay Tech-Savvy

Even a casual observer of the legal profession knows this: Associate attrition is on the rise and constitutes one of if not *the* thorniest management problems in private practice.

For a variety of reasons, young attorneys simply aren’t staying with the law firms that hired

them out of law school. And with the departure of their associates, law firm partners see not only

Continued on page 2

talent walking out the door but also boatloads of money and countless hours of investment leaving. According to some estimates, it costs a firm more than a quarter-million dollars to replace a third-year associate who decides to leave.

The attrition rate for associates in 2005 was 78 percent for those who had worked at law firms for about five years, according to the National Association of Law Placement. That's up from 60 percent in 2000, which constitutes quite a jump in five years.

Chicago-area law firm consultant Jonathan Asperger speaks articulately about this disturbing trend. "The liquidity of the legal labor force is higher than ever," he says. "People flow from one place to another, and that flow tends to be unimpeded by loyalty or the bonds of

relationships because those characteristics are on the decline."

The labor force flow also seems to be unimpeded by money, as salaries for young attorneys continue to increase, hitting the \$165,000 mark earlier this year for first-year associates in most major markets. It's clear that law firms can't merely reach a little deeper into their profits and spend their way to associate-satisfaction.

Now, reporters in both the mainstream and legal press, legal profession bloggers, and law firm consultants have all written voluminously and extensively about the reasons associates walk, or to flip this around, the best ways to retain them.

Many law firms have invested a lot of time and money in implementing some very sophisticated associate retention efforts. They've instituted programs in legal training, mentoring, career coaching, networking, and business development. They've created more flexible work schedules and enhanced *pro bono* opportunities.

What's more, a very prestigious New York firm recently provided an etiquette course to its partners, which, among other things, encouraged them to say "thank you" and "good job" to their associates. (While it's tempting to offer commentary on this politeness campaign, perhaps it's better to simply say, "enough said.")

Technology Matters

Law firm leaders also realize that investing in and applying the very latest technologies help keep associates happy, productive, and retained. This is increasingly important to today's young attorneys who have grown up with computers, the Internet, and other technologies. Law firms that drag their feet in the IT department tend to lose the confidence, and eventually the presence, of their best and brightest.

"You have to start with the proposition that this generation of associates is extremely tech-savvy," says Bruce McLean, chair of Washington-based Akin Gump Strauss Hauer & Feld. "A lack of cutting-edge technology is certainly a factor in the profession's increased attrition rates. If

Continued on page 15



© 2007 Aspen Publishers. All Rights Reserved.

OF COUNSEL (ISSN 0730-3815) is published monthly by Aspen Publishers, 76 Ninth Avenue, New York, NY 10011. 212-771-0600. Subscription rate, \$527 for one year; single issues cost \$63 (except **OF COUNSEL 700 ANNUAL SURVEY**). To subscribe, call 1-800-638-8437.

For customer service, call 1-800-234-1660. Address correspondence to **OF COUNSEL**, 76 Ninth Avenue, New York, NY 10011. Send address changes to **OF COUNSEL**, Aspen Publishers, Distribution Center, 7201 McKinney Circle, Frederick, MD 21704.

This material may not be used, published, broadcast, rewritten, copied, redistributed, or used to create any derivative works without prior written permission from the publisher. For information on how to obtain permission to reproduce content, please go to the Aspen Publishers website at www.aspenpublishers.com/permissions. For customized article reprints, please contact *Wright's Reprints* at 1-877-652-5295 or go to the *Wright's Reprints* website at www.wrightspreints.com.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is sold with the understanding that the publisher is not engaged in rendering legal, accounting, or other professional services. If legal advice or other professional assistance is required, the services of a competent professional person should be sought.

—From a *Declaration of Principles* jointly adopted by a committee of the American Bar Association and a Committee of Publishers and Associations.

www.aspenpublishers.com

Retention Strategy . . .

Continued from page 2

associates find themselves in a situation where the technology is routinely failing them, well, that could actually be *the* reason they make a move.”

While McLean says that Akin Gump prides itself on its use of the latest technologies, he also says that there have been times when leadership invested in upgrades after hearing internal grumbling. “The first people who told us our systems needed to be improved were not the 50-year-old partners,” he says. “It was the 25-year-old associates. They have a certain expectation of how well the technology is going to work, and if the firm doesn’t meet that expectation, you *will* hear from them.”

Indeed, associates do talk, and if a firm falls behind technologically, they do walk. “Lawyers discuss the kinds of projects that they get assigned to, the drudgery of those projects, and how newer technology could help do the job faster,” says Stephen Whetstone, the current vice president of Stratify, an electronic discovery service provider, and a former attorney at New York’s Skadden Arps and the now-defunct Boston firm Testa, Hurwitz & Thibault.

“I’ve heard lawyers say, ‘I left because of the old way my firm had of doing research,’” Whetstone says. “If firms don’t adopt new technology, they’ll drive young lawyers out. Associates expect more creative, more robust solutions for addressing the data explosion that we’re experiencing.”

E-discovery is clearly one of the latest technological advances that saves attorneys time, while keeping their interest. After all, it was only a few years ago that essentially all legal research was conducted by associates thumbing through mountains of paper documents, looking for the proverbial needle in the haystack that might help turn a case.

By and large, those associates hated this work. Consider the description of such research an associate noted in “Adventures in Lawyering,” on The Random Muse weblog, in 2004: “When

assigned to do document review, you are deposited into a gigantic conference room kept at an uncomfortably cold temperature and left alone with a hundred or so boxes of documents piled to the ceiling. With no real knowledge of the background of the case. And with instructions to go through all of the documents keeping an eye out for ‘anything that looks funny.’”

Like attorneys at other firms known for an early adopter approach to technology, partners at Holland & Knight understand that associates sour quickly when placed in such research doldrums, whether the drudgery is caused by paper- or electronic-document searches.

“Young attorneys don’t go to law school because they want to spend their time staring at a computer screen looking at documents,” says H&K partner Martin Jaron, the co-chair of the firm’s electronic discovery group. “The trick is to use the best that the technology has to offer to make the e-discovery process as painless as possible, using the advantages that the technology can provide. At the same time, you need to make sure that it’s doing what you want it to do, that you’re finding the right documents.”

Jaron says that firms must, at the very least, meet a threshold of technological application, otherwise they may see attrition levels go up. He also adds that his firm far surpasses the minimum threshold.

In Minneapolis, David Potter, the chair of Oppenheimer Wolff & Donnelly, agrees and says that it’s also critical to involve associates in making decisions about which technologies to use. “I think that there’s a baseline that you have to meet,” Potter says. “It’s one of those things that if you don’t have, for example, a full-service PDA, associates might say, ‘What am I doing here?’ I’d argue that we excel in this by allowing our best associates, the leaders who are most familiar with technology, to choose which PDAs we should get and when we should upgrade them.”

Potter says the same is true when the firm expanded its litigation support by investing in an e-discovery system. “Because our associates do most of this work,” he says, “we felt it was important that they should determine what we get, which vendors to use, and what support personnel we use.”

To further that end, Oppenheimer has charged one of its associates, Bret Puls, with keeping the firm's business litigation group technologically up to date. "The interaction between retention and technology comes in at least being as good as the firm across the street," Puls says, "and, more importantly, in being able to meet our in-house peers' expectations."

Lifestyle Issues

High-tech law firms also enhance associates' satisfaction by allowing them to do work outside the office, something once considered a luxury but which is now routinely requested during the hiring process.

"In this day and age, where there's a lot of associate dissatisfaction, one of the things that they want is to be able to do work remotely, to take care of things outside the office," says Margie Grossberg, a partner and co-leader of the global associate practice group at Major, Lindsey & Africa, a New York-based legal recruitment firm. "Lifestyle has become a very big issue for associates."

Akin Gump's McLean says that he and his partners understand this and do what they can to accommodate associates. "Work-life balance is the most common reason that associates change law firms or go to work for clients or drop out of the profession," he says. "The effective use of technology can be very helpful to allow associates to be able to have flexibility in their personal lives."

Attorneys improve their personal lives when they're able to get work done quickly and efficiently, and, of course, technology helps in this regard. It also helps raise the stature of a law firm.

"If people know that their work products are going to get out efficiently and in a timely manner and that the systems are top-rate, then that helps create the perception that the firm is top-rate," says Michael Nannes, managing partner at Washington's Dickstein Shapiro. "It goes into the collective impression that you're creating about the firm."

How does Nannes know that technology means so much to attorneys or that Dickstein measures up well in the IT area? They've told him, he says: "We've had people who have come over laterally say, 'It's awesome the way you can put out work product.' Or, 'When I was at my old firm and I wanted to respond to an RFP [request for proposal], it took four or five days, and here you have the technology set up in such a way that we can respond in 24 or 36 hours.'"

Finally, there's another related element to technology and associate retention: letting others outside the firm use their own technology to perform some of the more mundane legal work. For years, law firms have engaged in outsourcing some of its administrative tasks, but recently more firms are hiring, at relatively low rates, contract attorneys to perform document review and other legal work instead of using their own associates at those high salaries.

"There's been a sea change in the arena of legal-process outsourcing," says consultant Asperger. "Five years ago people didn't talk much about outsourcing legal work. It was seen as a bit of an affront to the tradition of legal services. Now it's seen as inevitable, and the most progressive firms are doing it. It can save the client money, and it can free up an associate to do work that's more exciting and for which they're equipped. In the long run, that's got to help with retention." ■

—Steven T. Taylor