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ANALYSIS



Young Litigators Are More Demanding Than Ever. Firm Leaders Can Either Adapt or Bleed Talent



"If you aren't going to provide opportunities for professional growth for your attorneys, you're going to lose them," Zarwin Baum DeVito Kaplan Schaer Toddy's managing partner Mitchell Kaplan said.



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Law Firm Management

By Max Mitchell and Aleeza Furman | May 11, 2023 at 01:30 AM



Litigators have always been an eager bunch, but market watchers say the emerging young litigation talent is more eager—and demanding—than ever.

Whether that means being more specific with their requests for insurance coverage or remote work policies, or being more insistent about developing their hands-on skills, their own client bases, or specific practice specialties, overall, the new cohort of litigators can be pushier and pickier, observers say.

And that trend is something firm leaders are increasingly recognizing as a force they must either adapt to, or face losing out on talent as a result.

"When I interview new attorneys, I get asked, 'What types of matters am I going to be handling?' Zarwin Baum DeVito Kaplan Schaer Toddy managing partner Mitchell Kaplan said. "In the past people just seemed to want a job. Now it's like, 'I got to find the job I want.'"

With attorneys in shorter supply than in previous generations, and the panoply of potential work arrangements increasing in the wake of the pandemic, it seems young lawyers now find themselves in a much better position to seek out the specific law firm environments and offerings that best suits them.

Major, Lindsey & Africa's Darin Morgan said that, when placing associates, questions can get as specific as whether a firm's insurance policy covers in vitro fertilization, or whether the attorney will still be entitled to end-of-year bonuses if they lateral midyear.

"We're seeing more than ever firms having to differentiate themselves in order to woo talent," Morgan said. "Firms are adjusting. ... Just the money itself is not going to do it."

The internet too, Morgan said, has helped arm potential laterals with in-depth information regarding the firms they're curious

about.

“That has really evened the playing field,” Morgan said. “Firms are doing a much better job than they used to at trying to recruit people as individuals.”

Recent surveys from Major Lindsey also indicate that younger attorneys are increasingly looking to go their own way.

One released [this month](#) said that Gen-Z lawyers are more adamant about work-life balance and finding work that aligns with their values, and are therefore less likely to enter Big Law. Another [survey](#) from March also found more than half of millennial respondents said they believed the current generation of leaders had “outstayed their effectiveness” and millennials were making changes for the better.

What that has boiled down to for many firm leaders is they’re finding that, if they can’t find ways to treat their young talent as individuals, they’re increasingly likely to lose them.

‘Run With the Cases’

Overall, consultants, firm leaders and market watchers agree there has been a change in the expectations of young litigators today.

“They generally want to know a purpose of why they’re doing things, and see that as something that is meaningful to them,” Vista Consulting’s Tim McKey said.

Or, as Lateral Link’s Jesse Hyde put it, “Prioritizing the opportunity to have more substantive responsibilities early on is a focus.”

And that sentiment holds true whether you’re talking about plaintiffs- or defense-side litigators.

Saltz Mongeluzzi & Bendesky’s Drew Duffy said that with older generations of the plaintiffs’ bar there was more of an accepted pecking order and a “put-in-your-time understanding,” but that’s changed.

“Our younger attorneys have what I call an acceptable and desirable level of impatience, meaning that they want to be the person that runs with the cases,” he said.

Feldman Shepherd Wohlgerlenter Tanner Weinstock Dodig’s Alan Feldman said he has seen that change in the plaintiffs bar as well.

“They don’t just want to be minor players that function around the edges of the case,” he said. “They want to have a pivotal role.”

On the defense side, observers and firm leaders reported seeing a similar trend where the more run-of-the-mill work, such as defending slip-and-falls and fender-benders, are often seen as less desirable, and younger attorneys have increasingly pushed to handle more meaningful cases.

Young lawyers have also increasingly eschewed the model of working exclusively under a rainmaker, and have sought to more directly develop their own clients and practice niches.

“What I’m seeing is more up-and-coming litigators are understanding that if they truly want to design the practice they want to have, they’ve got to step out and bring in business,” said Wayne Pollock, a former Dechert senior litigation associate, who founded the legal marketing firm Law Firm Editorial Service.

Whereas in decades past, young lawyers looked to generate business through cross-selling and grinding away for clients who’d been initially brought in by other rainmakers, young litigators today appear much more interested in taking over the controls in those relationships, Pollock said.

“They can go out and truly get the kinds of cases they want,” Pollock said. “And that meaning in the work can help the long hours and the stressful nature of the law go down easier.”

Power Dynamics

Leaders in the plaintiffs bar have largely welcomed the notion of having talent that is increasingly eager to drum up their own cases.

Firm leaders said they encourage the new dynamic, and that, while they must increasingly monitor the new talent to help ensure their goals are achievable, successful firms must strive to provide young litigators chances to shine and become invested in the firm’s operations.

“We have tried to promote these values of enhancing business while also taking care of your friends and family,” Feldman said.

However, sometimes things can get carried away.

One example can be seen in the ongoing [dispute](#) between personal injury firm Kline & Specter and its ex-associate Thomas Bosworth.

According to allegations that have arisen in a cluster of recently filed lawsuits against each other, Bosworth became so adept at finding new leads—largely through his social media presence—and so interested in taking the lead on those cases that the relationship between him and the firm eventually soured. Now both parties are suing each other, with the firm claiming Bosworth had in fact taken steps to set up his own practice using firm resources, and Bosworth claiming that the firm leaders were allegedly threatened by his ability to bring on new clients.

On the defense side, the new dynamic can also get tricky when those cases that are seen as less desirable are coming from the firm’s big, institutional clients, which firm leaders know they need to keep happy.

Increasingly some firm leaders are finding themselves caught between the need to staff up these so-called less desirable cases, and the need to keep the young attorneys from pushing back, or even lateraling to a new firm or practice area if they don’t like the work.

Generational Changes

Firm leaders chalk up some of these changes to inherent differences between the old and new generation, with the latter having a more socially and emotionally aware—and demanding—demeanor.

But, firm leaders also point to more concrete factors influencing these generational dynamics.

First off is the market. With fewer young lawyers entering the business these days, those who are entering the profession have more leverage to make demands.

“Since the pandemic, the job market has turned the negotiating power completely upside-down. A diligent, smart young attorney can almost write their own ticket today,” Kaplan said.

There is also a dearth of opportunities for young lawyers to get real trial experience, given the clients’ tightening budgets and the rising costs of litigation. So young lawyers are increasingly keen to jump at the chance to handle key depositions, cross-examinations, or to second-chair a trial.

Berger Montague managing partner Eric Cramer said changes in legal education could also be at play. For one thing, law students are spending more money than ever before. But more broadly, legal education has also become more collaborative and less hierarchical. Class sizes have shrunk, and there’s been more of an emphasis on legal clinics, where students can take an active role in things.

Cramer said it's not surprising if this mentality carries over after graduation.

"There's a new way of thinking in legal education," Cramer said. "It creates that expectation."

Another factor that could be at play is an increasing savviness about the market. After surviving both the Great Recession and the pandemic, many of today's up-and-coming attorneys know full well how fickle the market can be, which has made them more aware than ever that developing their own clients and their own niche practices are the best way to ensure you can stay afloat in the inevitable down times.

"You can't control the court. You can't control opposing counsel, but if you are out there bringing in business, you're going to be in a much more comfortable position when things get lean," Pollock said.

'It Can't Be All Drudgery'

Cramer said even his firm, which focuses on plaintiffs-side antitrust and consumer protection class actions, isn't immune from these dynamics. Even though just about all the work is "mission-driven," there is still the routine nuts of bolts of litigation, such as researching arcane issues, or responding to interrogatories, that needs to get done.

He said it's critical for firm leaders to not only do some of that work themselves to help create buy-in from the younger lawyers, but they also need to be proactive about finding mentoring and support opportunities to help keep the young, eager litigators engaged.

"It can't all be drudgery. It has to be good research projects, or the opportunity to lead meet and confirms, or to do discovery arguments," he said.

Those solutions are what defense-side firm leaders are leaning on as well.

"You are faced with a situation where a firm needs to overpay, or it better provide something to keep good productive attorneys. Work flexibility is at the top of the list these days, but also work/life balance, meaningful work assignments, real marketing and leadership opportunities, and an ultra- positive work culture are some of the things that young attorneys are seeking," Zarwin Baum's Kaplan said. "Recruiting is not just about the money anymore."

Kaplan said that, when bringing on new talent, he is upfront about the expectations, and can tweak his pitch, depending on who he is speaking to. If it's a young lawyer, he said, he can focus on all the experience and training the new lawyer can gain growing into substantive roles handling these cases. If it's a more experienced lawyer, he can focus on ways the work can build off their experience.

For Kaplan, it's key to keep a close on possible growth opportunities for young up and coming litigators.

"If you aren't going to provide opportunities for professional growth for your attorneys, you're going to lose them," Kaplan said.

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