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Senior Associates Wonder: Should I Stay, or Should I Go?

By Lily Henning
Legal Times

The ad is brazen, almost taunting, targeting the wounded ego of the thwarted associate.

"So they promised to put you on the fast track, huh? That you'd make partner six years out of law school?" it reads. "Yeah, right. The last time someone made partner at your firm, Reagan was president."

At a time of year when partnership promotions are being announced and bonuses doled out, it's the kind of pitch that's bound to strike a nerve.

That's the point, according to Carl Reece, the Los Angeles-based legal recruiter behind the ad. Reece says that many of the passed-over senior associates he advises feel duped by their firms. "They're shell-shocked," Reece says, and still feel they "are the best of the best."

For Reece and dozens of other recruiters, this is high season, as a whole crop of senior associates who didn't make partner are mulling whether to take their bonuses and hit the road -- preferably for firms that offer either better hours or a real shot at the brass ring. But even for graduates of top-tier law schools who have toiled at the biggest or whitest shoe of firms, the opportunities can be surprisingly narrow.

Highly paid -- in the neighborhood of \$200,000 and \$300,000 a year -- and often without their own book of business, senior associates can be a tough sell, say a number of legal recruiters, who guide the lawyers through job searches that can take anywhere from three months to a year or more. For the associates the process takes patience, soul-searching and the ability to withstand some bruising of their self-esteem.

For many associates this is the first time they have squarely faced failure. Typically, they have graduated from elite colleges and law schools and landed their first jobs at premier firms. They might have had a half dozen or more job offers as newly minted lawyers but now have a handful -- or none.

The combination of a big salary, little free time and a desire to hold on to a prestige job can keep some associates from moving to smaller or less prominent firms where they would have a better shot at partnership.

"You're really pulling back against psychological inertia," says one eighth-year associate at a white-shoe New York firm who is searching for a new job and unsure whether he wants to move to another large firm.

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A sixth-year associate in the San Francisco office of a notoriously competitive international firm says he was surprised by the wariness with which firms have regarded him during his ongoing job search.

"I always thought that senior associates could pretty much write their ticket," says the associate, who has a young family and feels that he needs to maintain his \$200,000-plus income. "It's not the slam dunk that I thought it would be."

TOUGHER SELL

A common complaint among senior associates trying to leave their firms is that the criteria for making partner are ambiguous and the process secretive.

The West Coast associate says he was told recently that he would be pushed back a year, which is not unusual in firms with lockstep compensation based on seniority. But still, it's akin to being held back a year in school -- with the added pressure of compensation and professional reputation on the line.

The associate decided it was not worth staying to see whether he would make partner. But some of his friends are still grasping for the elusive golden ticket.

"Some want to play out this process as long as they can," he says. "But a lot of us are not necessarily sure we want to marry ourselves to a firm the way a partner does."

An additional problem is that other firms are often more cautious about hiring senior associates than they are about bringing in younger associates who come with less professional baggage and lower billing rates and salary.

"When you are moving as a junior lawyer, you're trying to correct something that you didn't get right when you got out of law school," says Sang Lee, a New York legal recruiter. "When they're older they have to negotiate more heavily for what they want." Recruiters say associates usually don't receive a higher salary when they move to a new firm, and bonuses are often smaller, initially.

Firms taking on cast-off senior associates typically take one to three years to evaluate them before considering them for equity or nonequity partnership, say recruiters. Firms are also now being more parsimonious in granting equity and a bit more liberal with the nonequity tier, says William Henderson, a professor at the University of Indiana School of Law, who has studied partnership at large firms.

Relative to the number of associates gunning for partnership, equity membership in a major firm is an increasingly exclusive club. For example, preliminary research done by the Harvard Business School shows that among lawyers 13 years out of law school, the number given a title other than partner rose about 25 percent between 1998 and 2004.

The economics behind such exclusivity are painfully simple. Senior associates are profit centers, and the partners need them to help finance their own generous draws. Big firms tend to bill clients between \$300 and \$400 an hour for senior associates, who also can supervise younger associates and manage projects and cases virtually unaided.

All told, senior associates may generate between \$150,000 and \$300,000 a year in profits for their firms after overhead costs and salary.

"The short answer is that there are always more senior associates in a firm than there are spaces for partnership," says Martha Ann Sisson, a recruiter with Garrison & Sisson in Washington. "The reality is that it's just getting tougher to make partner."

But some prominent firms choose to be less leveraged, going with a lower ratio of associates to partners. One firm that has traditionally been liberal in promotion is Wiley, Rein & Fielding. The firm recently announced that out of five seventh-year associates, three were made partner. Of the two who didn't make the cut, one was named of counsel and the other will be reconsidered later this year.

Managing partner Richard Wiley says that as its associate classes have swelled, his firm has become increasingly aware of keeping associates informed of their chances at partnership. "What you don't want to do is get someone up to the seventh year and say, 'Oops, sorry,' " he says. Still, he is reluctant to tell senior associates to look elsewhere, because, as he puts it, "They certainly aren't losing money for the firm."

And because his firm promotes heavily from within its ranks, it is cautious in hiring laterals. "You can't keep bringing in senior-level associates without hurting the morale of the gang," Wiley says.

A VELVET COFFIN

Mary Mazzio is living the life many lawyers in the throes of evaluating their careers dream about.

After spending eight years as an associate, and briefly enjoying the fruits of partnership, the 44-year-old left firm life in 2000 to found an independent film-production company.

Mazzio says she was lucky to have been guided through the associate ranks by a senior partner at her old firm, Brown, Rudnick, Freed & Gesmer in Boston, but acknowledges that the attention was rare. Time spent counseling associates is not billable, and therefore, few partners are willing to do it, says Mazzio.

When she was a senior associate, Mazzio served on a Boston Bar Association task force that studied professional fulfillment among her peers. Chief among the responses was that the criteria required for partnership admission were unclear, training and mentoring were deficient and there were severely diminished opportunities for partnership.

The associates felt themselves to be "fungible providers of legal services and not valued members of a professional team," according to the study.

The study is now almost 10 years old, but Mazzio says that little has changed.

Younger associates pick up early on the limited paths to partnership, observing the experiences of older associates from a wary distance.

"If you're in it to win it [partnership], all of your energy as senior associate is going to that. You don't have time to look for another job," says Melissa Lafsky, who until last month blogged anonymously about her professional frustrations as Opinionista. Outed recently by the Web site Gawker, the second-year associate resigned from New York labor and employment firm Littler Mendelson. The Dartmouth and University of Virginia Law School grad now hopes to launch a writing career.

"The partners are not going to tell you you are not going to be considered," she says. "It's in their best interest to keep you in a state of anxiety, to keep you motivated by constant fear of failure."

Privately, recruiters agree that if partners keep senior associates gunning for partnership, they can expect well over 2,000 billable hours from them per year.

Mazzio's move and the one Lafsky is poised to make are the exception. The majority of senior associates are close to a decade out of law school, are starting families and are reliant on the financial security of a big-law-firm salary.

"Many of us went to law school in the first place because we're smart and risk-averse," says the blogging associate. "Sure we're paying off loans, but we're also in golden handcuffs. It's a sort of stasis."

THE SEARCHERS

The West Coast associate says that once he moves to a new firm, he will see if "partnership is in the cards" -- and if not, look for a job as an in-house counsel.

Many associates who don't want to continue working for a firm view corporate law departments as a panacea to the ills of life in big law firms.

"The idea is to not constantly be on call, to not be wedded to the BlackBerry, to not have to cancel vacations," says the West Coast associate. "That's the hope, the expectation."

The eighth-year New York associate, who has one toddler and another baby on the way, says he finds himself engaging in a lot of introspection lately, trying to gauge the relative importance of his time and his earning power.

When he recently asked about his partnership prospects, he says he got mixed feedback, nothing very direct or concrete. One confidante put his chances at 50/50.

"This is more a soul-searching thing than when I moved to a different firm a few years ago," he says. "It's a time to step back and say, 'Hey, is the law still what you want to do?'"