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A deep lateral market's new rules

Karen Sloan / Staff reporter
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A slow economy has at least one upside for law firms: The pool of potential lateral partners has deepened.

Recruiters and law firm leaders say the recent dissolution of several prominent law firms has flooded the lateral market with good attorneys in need of employment, and uncertain financial futures at a number of firms have prodded some well-established attorneys to consider their options elsewhere.

With more talent suddenly available — at bargain prices in certain cases — some firms are taking advantage of the down economy to bolster their partner ranks.

At the same time, firm leaders say they are being choosier than ever about whom they bring on board because they have more options, and because the slow economy demands that they be cautious in their decisions.

Lateral partners are in a better position than associates because few firms are currently in the market for additional associates, several recruiters said.

Still, the hiring scene still isn't as brisk as it was in recent economic boom times. Attorneys looking to make lateral moves after they collect their year-end financial incentives typically begin angling for positions in late fall and early winter. But recruiters say that it has been comparatively quiet this year in many markets.

"The market for partners hasn't slowed up as much [as for associates], but a lot of things seem to be going at a very slow pace," said Marina Sirras, a legal recruiter in New York. "Some firms are waiting until next year to make decisions."

More than ever, firms are focusing on lateral partners with hefty books of business who can help boost stagnating profits. Largely gone are the days when firms would take a chance on a promising partner with lots of potential but few clients.

"The book of business was important before, but now it's really important," said Stephen Seckler, a Boston-based recruiter with BCG Search. "The hiring that is being done is very specific, and the criteria are elevated. The bar is very, very high."

To have a serious shot at becoming an equity partner at a firm with $1 million per-partner profits, most candidates will need to show that they have annual business between $1.5 million and $2 million, said Mark Jungers, a recruiter at Major, Lindsey & Africa who works with high-end attorneys at Midwest law firms.

"Every firm wants their numbers to go up," he said.

Proof, not promises

Firms are looking for proof, not promises, that lateral partners can bring along a stable of clients. That can be a tricky matter for firms to determine, said Harvey Freishtat, chairman of McDermott Will & Emery.

"In some cases, the candidate's relationship with their clients will change if they leave their firm," Freishtat said. "We want to make sure their business is portable."

McDermott Will & Emery had a particularly busy hiring year in 2007, when it brought in 59 lateral partners.

Freishtat said the firm has been more "strategic and targeted" in its hiring of lateral partners this year, and is also trying to be more thorough in its candidate evaluations. Still, McDermott has recognized that the current market has created unique opportunities to pick up quality laterals.

Recruiters have noted that lateral moves are generally taking longer than they were a year ago, as firms spend more time weighing their options before committing to a new partner.

Instead of one or two meetings, some candidates are finding themselves in three or more meetings with prospective firms, and the process can stretch out for months.

Seckler likened the lateral market to the housing market, with law firms in the role of buyer. In a flush market, buyers may bid on a property after just one viewing. In a slow market, however, properties and lateral partners may languish for months before a buyer comes along.

The time line has been much shorter for law firms picking up partners from dissolving Heller Ehrman and Thelen, however. The collapse of those firms has created an unexpected wave of movement in the lateral market. A number of firms have gone on hiring sprees and scooped up entire offices and practice groups from Heller Ehrman and Thelen.

Los Angeles-based Sheppard, Mullin, Richter & Hampton did not expect to take on an unusually high number of lateral partners in 2008, but the opportunity to snag attorneys from Heller Ehrman has been too good to pass up, said Chairman Guy Halgren.

"We've actually been doing far more [lateral partner] hiring this year because there are a number of good attorneys who are looking for work right now," Halgren said. "It was opportunistic."

Sheppard Mullin has brought on 26 lateral partners thus far in 2008, compared to the 16 it hired in 2007, Halgren said. Close to half of the new partners — 12 — came from Heller Ehrman.

Jungers said that firms aren't scrutinizing potential laterals as closely amid the feeding frenzy over Thelen and Heller Ehrman, and that a significant number of those new partners will likely depart for other firms within two or three years. Just two days after Thelen's full partnership officially voted to dissolve, for example, Nixon Peabody announced it was bringing on 60 or more Thelen attorneys.

The flexibility of the current lateral partner market varies according to practice. Not surprisingly, recruiters report that demand is steady for partners in bankruptcy, restructuring and other practice areas that typically flourish in tough times.

"If you have bankruptcy business, everybody is going to want to talk to you," Seckler said.

Demand has waned for partners in real estate and structured finance, though some firms are trying to capitalize on the economic downturn in a counterintuitive way.

Instead of shedding partners in slow practice areas, some firms have decided to invest in them by stocking up on attorneys they would not have been able to attract in boom times, Jungers said. Those firms are betting that down practice areas will bounce back, and that they will be in a better position to cash in when they do.

Freishtat said McDermott has recently added partners in intellectual property and litigation, and is looking carefully at the possibility of investing in financial practice areas.

"Some of the best opportunities are in the financial areas right now," he said.

Jungers said that the tough economy has shone a spotlight on law firm performance, highlighting those that are struggling. That, in turn, has led more attorneys at troubled firms to test the lateral waters in search of greater job stability.

"We are seeing a lot of partners thinking about those issues," Jungers said. "No one wants to be at the next Heller Ehrman. Partners are evaluating where they are, and where they could go."

Conversely, the uncertainty of the economy has also led some attorneys who may otherwise consider a lateral move to hunker down at their current firms and wait out the financial storm.

"It's hard for a lot of people in law to contemplate a move. People in law tend to be risk-averse," Seckler said. "Add on top of that unsettling financial times, and you end up with more inertia."

Midtier advantage

Work has dried up at many firms that deal primarily in finance, and that's turning out to be good news for regional law firms and those with diverse practices. In the economic downturn, those firms are suddenly more appealing to attorneys looking for a financially healthy and stable workplace.

"Midtier regional firms are seeing a lot of opportunity to grab attorneys in groups," Jungers said.

Ford & Harrison, a Southern firm that has 179 attorneys, has seen its lateral options expand of late. Firm Chairman Lash Harrison said it has seen a rise in inquires from attorneys who are worried that their current firm is not on solid ground, attorneys who have been fired or asked to leave their firms, and in-house counsel whose companies are slashing legal budgets.

"There is significant opportunity to get people with proven track records and business because they are uncertain about where they are," Harrison said. "We have a plan to take advantage of that opportunity and hire more lateral partners [in 2009]."

But Harrison said the lateral vetting process has become tougher in the down economy, since his firm wants to ensure that it's picking up attorneys at "the top of the scale," and not attorneys who were forced out of their old firms.

Harrison has also noticed that the market value of some lateral candidates has dropped. "I've heard from recruiters who say, 'I have a partner who will go for an associate's salary. They just need to pay the mortgage,' " he said.