

In the interest of The Client

High fees leading top attorneys to smaller-priced firms

BY CAROL SCHLIESINGER

Cecil Schenker spent the bulk of his career — 25 years — building up a clientele at the national law firm of Akin Gump Strauss Hauer & Feld LLP. When he started it was a regional Texas-based firm, which he helped expand, opening up an office in Los Angeles in 1998. His clientele came to include such notables as Goldie Hawn, her partner Kurt Russell and daughter Kate Hudson — as well as Bikram Yoga's founder Bikram Choudhury.

Despite his tenure, last June Schenker decided to jump ship and join Cox Smith, a regional firm with offices in San Antonio, Austin, Dallas, and McAllen.

Schenker's not alone among high-powered lawyers moving to smaller, regional firms.

Pressured by their clients to lower fees or wanting to eliminate the stress associated with national or international firms, more San Antonio lawyers are following a nationwide trend of moving to smaller firms or opening their own. More Fortune 500 companies are looking at regional firms for their legal needs, rather than tapping into mega national law firms to get high-quality expertise, often saving as much as 50 percent on outside counsel billing.

The volatility of outside counsel fees remains the top concern among general counsel, according to a recent survey by Altman Weil, a management consulting firm for legal organizations. Almost 75 percent of the participants reported implementing budget cuts in 2009 of 6 percent to 35 percent. The report revealed that more than half of the respondents propose to cut back on outside counsel expenses, making it the top source of budget cuts.

DuPont Company, the third largest chemical maker in the country, is the latest corporation to switch from a handful of national firms to a network of smaller firms, to cut their legal costs and maximize the value of services, according to a Bloomberg report on April 6.



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David Kinder (L) and Cecil Schenker left Akin Gump last year to join Cox Smith, which is headed by managing partner Jamie Smith (R).

Making the switch

When Schenker decided to leave, Akin Gump was emerging from its best year to date, Schenker says. Having expanded to both coasts, the firm was charging what Schenker terms "New-York-based fees." For Schenker, who likes to represent emerging growth companies, having

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Cecil Schenker
Cox Smith

to charge East Coast rates resulted in a loss of flexibility over who he could represent while hovering within the firm's rate structure, he says.

One month prior to Schenker's move, David Kinder, Will Liebmann and Thomas Sanders — three other Akin Gump attorneys — moved to Cox Smith for similar reasons. For Kinder, the

decision to move proved to be a positive experience, reducing his costs by 30 percent.

"I think my clients are really happy. We're able to deliver really good services at a cost effective price," Kinder says. "I haven't looked back and my clients haven't looked back."

In the past year, 12 attorneys joined Cox Smith from national firms, says Jamie Smith, managing director of Cox Smith, adding that he has seen the same pattern in other markets. The movement has meant more clients for Cox Smith.



King

"When clients get comfortable with a lawyer, it's natural that the client would want to follow them," Smith adds.

For its part, "Akin Gump is sensitive to the fact that its clients are operating under reduced legal budgets," says Sheila Turner, spokeswoman for the firm, adding that in 2009, the firm did not raise fees.

"Akin Gump's partner headcount in San Antonio has held steady for nearly a year," she

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says. "In the first half of 2008 five partners departed, deciding to either start their own firms (Schmoyer Reinhard LLP) or move their practices to a regional or local firm that they feel better fit their practice, and we are happy to then share appropriate opportunities." Shannon Schmoyer and Christine Reinhard started their firm in February 2008, just months after two other local women lawyers opened their own firm. Despite losing partners, Akin Gump reported an increase in profits of more than 16 percent for 2008.

Boutique attraction

When Jan King decided to leave the Texas-based Jackson Walker LLP to start her own firm in August 2007, the economic recession was not a factor. She just wanted to do it.

"When you have your own firm you set your own rates and control your costs...I could make decisions on the spot," King says.

Together with her business partner Eileen Sommer, King intentionally lowered her firm's fees when they opened their doors to offer clients a more affordable alternative to even the statewide firm they had been part of for years. The result: All their clients followed them.

"Our clients have been very pleased," King says.

Increasing competition from boutique firms, those with 50 attorneys or less, and the reality of most businesses' reduced legal budgets is compelling many large firms to face the dilemma of reducing fees.

"A good lawyer can provide its services without the large infrastructure of large firms," Sommer says.

With lower overhead costs, King and Sommer say they can operate from an efficient, leaner organization focused on quality service.

Many of the national law firms based in Texas understand that clients do not need to pay New York rates for solid legal services. But national firms based on the East or West Coasts are not as in touch with the Texas market, particularly in Austin and San Antonio, says Pat Tobin, managing partner at the San Antonio office of Jackson Walker. While it lost Sommer and King in 2007, Jackson Walker has added attorneys in the last year, about 20 percent of which have come from national firms.

"This trend has been accelerated by the recession, but I believe it will continue as clients and attorneys see it as a successful strategy," Tobin adds.

Big players adjust

Despite the challenges, national law firms with San Antonio offices are hard at work retooling operations and retaining relation-

ships with those who have left their firm and took clients with them.

The law firm of Bracewell & Giuliani LLP had four attorneys leave the San Antonio office in the past 12 months, according to managing partner Tullios Wells. Two of these attorneys were hired by their clients and two left to open their own firms. In some cases, attorneys continue working with Bracewell on clients they share in common.

"It's worked out great to partner together to better serve the client," Wells says. "You hate to see people leave because you have built relationships, but sometimes it works very well."

In the past year, he says he's referred as many as six clients to some of those smaller firms, particularly if he's believed they will be better served by the smaller boutique firm.

"It's not in our clients' best interest to be doing things that some of our friends in and around Texas can handle in a very efficient manner," Wells says.

Where Bracewell stands out, he says, is with the more sophisticated legal issues.

"If you're in real trouble ..., that's when you come to Bracewell," Wells says, adding that serious cases involving litigation, labor or intellectual property clients benefit from the global resources Bracewell has to offer. "It works well for Bracewell because we have the resources to handle more sophisticated litigation matters."

The departure of attorneys from Bracewell has not impacted the firm's bottom line, Wells says, adding that 2008 financials were the second best the firm has seen to date. Nevertheless, Bracewell attorneys are working aggressively to find other areas of service to balance any potential loss of income.

Kelli Borbon, an attorney with the firm, serves several clients in the healthcare field. Tailoring her work to her clients' specialized needs, Borbon became increasingly involved in the local health care scene, joining the Greater San Antonio Chamber's healthcare and biosciences committee, among other activities.

"It's important to understand clients' need beyond case law," Borbon says.

Pricing changes

There's always been a high concern on the part of clients about fees structures, says Lamont



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Bracewell and Giuliani's Kelli Borbon and managing partner Tullios Wells. Borbon has become increasingly involved in the health care arena.

Jefferson, administrative partner with Haynes and Boone LLP's San Antonio office. That concern is more pronounced today as competition is heightened and clients are aware that they have more options.

Although he has not seen attorneys leave the San Antonio office, he is aware of it happening in other firms that don't have the flexibility to accommodate their clients' budgetary needs. Haynes and Boone considers flexible fees structures on a case-by-case basis, he says, taking into consideration the hourly rate billed and what the overall cost will be to the client.

"It's become more important that we carefully examine and that we be receptive to any notion of alternative billing," Jefferson says.

Some of the pricing strategies employed by Haynes and Boone include flat fees for specific projects and using contingency rates based on the venture's outcome.

Yet less than 10 percent of most attorneys' legal fees come from alternative-fee arrangements, according to a recent survey by The Association of Corporate Counsel.

"I think the trend of really qualified lawyers leaving and departing large firms, coming to firms like ours, will continue," Cox Smith's Schenker says. "This is becoming so well publicized many businesses can't justify their decision to go with a national firm."



Jefferson

CAROL SCHLIESINGER is an editorial intern with the San Antonio Business Journal and a master's of journalism candidate at the University of Texas at Austin.