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Taking the bull by the horns at smaller law firms

Many associates find that having fewer colleagues can impose greater responsibilities.

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UPON GRADUATION, NEWLY minted law students from schools throughout the nation generally agree on two things: First, they know precious little about what it actually takes to practice law; second, they want to become fully functional lawyers as soon as possible. Given these concerns and motivations, prospective associates often take the time in law firm interviews to ask about the scope of the firm's training program and the likelihood and pace of advancement. It should come as no surprise that the answers to these inquiries depend, among other things, on the size of the firm an applicant selects, the areas in which the firm practices and the culture of the firm itself.

Size does matter. A larger firm offers distinct advantages, including the possibility of more diverse practice areas, clients located both in the United States

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and abroad and branch offices in far-flung locations. But nothing comes without a price. If an attorney makes the (fair) assumption that much of the training a young lawyer receives will be on the job, then it is fair to conclude that the substance and pace of legal training will likely be different at a larger firm than at a relatively small or midsize firm. Although there are no hard-and-fast rules, cases handled by larger firms likely will be not staffed as they would be by smaller firms, simply because at smaller firms there are fewer bodies to go around.

At most small or even midsize firms, cases cannot be and are not heavily staffed. Three lawyers are not assigned to assist in the preparation of a typical motion; two or three lawyers will likely not be asked to prepare for the cross-examination of a single witness. At a busy, midsize firm, there is simply too much work around to hire young lawyers who take on few independent responsibilities for months or even years. New hires will likely have no choice but to take on more responsibilities faster compared with their big firm counterparts. This is true even of complex cases handled by smaller firms. For these reasons, the training process will be different at small and

midsize firms: It will perhaps be more accelerated. Small firm training tends to be more hands-on.

A firm's practice areas are also an important indicator of the type of training an attorney is likely to receive. To be sure, small firms do not necessarily mean "small" or "midsize" cases or clients, nor a lesser class of support or other resources. The scope of practice at a small firm can be just as diverse as at a larger one.

If an attorney wants to learn to be a litigator, however, he or she should try to find a firm whose lawyers actually try cases from time to time. To state the obvious, many disputes are settled before the parties get anywhere near a hearing room. As a result, there are litigators who wait years to get in front of a judge or jury. Because most firms of any size have Web sites, attorneys considering a particular firm should examine those sites. Check out the firm's litigation track record for the previous few years. Firms whose lawyers had great legal victories 10 or 15 years ago may be doing different things now. What is the most recent litigated case in which the firm participated? How many court decisions (win or lose) does it have under its belt in the past five years? If it is not many, then try to find out what has been going on. Has the industry in which the firm

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practices undergone substantial changes during the past few years? Are one or two large clients no longer there? Have heavy-hitter partners left the firm in recent years? If this firm is to become an attorney's future, it is well worth a little research.

Culture counts

Firm culture may also make a difference. For example, a founder of a small or midsize firm may be an organization composed of a group of "solo practitioners," each of whom has the skills to perform, on his or her own, most legal matters within the scope of the firm's general expertise. The goal may therefore be to develop associates who are able to handle cases on their own and land clients on their own. At such a firm, associates should expect to be taken to client meetings, association meetings and hearings early on.

At small or midsize firms, the attitude may prevail that a client is represented by "the firm," not by the specific partner who controls the work. In that kind of atmosphere, significant professional development opportunities become routine, especially for those associates who at the outset demonstrate good instincts, common sense and solid skills. The situation at larger firms may be different. An attorney interviewing at a firm should ask how many months or years elapse before junior lawyers participate in client meetings, take depositions or cross-examine witnesses. The answers may be surprising.

A busy small or midsize firm has a substantial incentive to bring associates up to speed quickly, and new associates at such firms should expect to be challenged. On the other hand, whether

large or small, each firm's significant client responsibilities help to ensure that associates are not left out on a limb. There should always be an appropriate level of senior oversight, regardless of the situation.

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cases, while smaller firms may not necessarily understaff them. With sufficient time and preparation (such as a moot court argument with other attorneys at one's own firm), young associates can hold their own against more senior attorneys. Associates at smaller firms will find that their early successes will be recognized and rewarded with more opportunity and responsibility.

Getting experience faster

Junior associates at smaller firms can also gain litigation experience—from the beginning stages of discovery to a resolution in court—during their first or second years. A junior associate at a smaller firm might begin completely inexperienced, but gradually wind up responsible for the bulk of the writing, research and tactical decision-making required by a case on a day-to-day basis. Having researched and drafted portions of the motions and briefs that are ultimately set for trial, the junior associate becomes the point-person for those issues and, consequently, a key member of the litigation team.

The adage "It's better to be lucky than good" also applies to the training of new associates. The course of a young

It is not unusual for a young associate at a small or midsize firm to wind up arguing a motion before a judge against big-firm attorneys with decades more experience. Big firms may tend to overstaff

lawyer's training may well be a matter of chance. An attorney who happens to arrive at a firm just as an important matter is getting off the ground and as a new associate is needed may well find this to be a great learning experience early in a career. At a smaller firm, for example, a new associate could start out as one half of a two-lawyer team handling a complaint proceeding set for hearing before a federal administrative agency. Over the next several years, there may be many related and succeeding matters, and the associate may learn nearly all of the ins and outs of administrative litigation. During the course of the associate's tenure at the smaller firm, he or she may be required to prepare and respond to discovery, draft prefiled testimony, argue procedural and discovery motions, cross-examine witnesses, draft trial and appellate briefs, argue before a federal appeals court and defend that court's decision against a request for a writ of certiorari to the U.S. Supreme Court.

Although luck is important, an attorney thinking about law firm training might do well to remember Branch Rickey's observation that "Luck is the residue of design." Mr. Rickey, general manager of the Brooklyn Dodgers back in their glory days, was responding to the the assertion that the team had been "lucky" to sign Jackie Robinson, the first black American to play modern major league baseball.

In other words, an attorney's luck with respect to training may improve if a firm puts the attorney in situations that are more likely to provide solid opportunities to grow as a lawyer and a person. A small or midsize firm routinely provides those opportunities to new lawyers.