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Of Counsel 700 Survey …

As Economy Inches Forward, Enterprising Law Firms Enter New Markets

Here's another sign that the economy is beginning to ramp up, albeit slowly: Many of the nation's law firms opened new offices in the last year-plus, according to several sources, including data from the *2012-2013 Of Counsel 700 Annual Survey of the Nation's Largest Law Firms.*

Often the decision to branch out is client-driven; a law firm simply needs to have lawyers in close proximity to clients to better serve them. And sometimes it's because a market has demonstrated growth and a firm's leaders feel they can grab a piece of the economic pie if they have an office there, which seems to be the case for Covington & Burling's recent entry into Seoul.

The Washington-based international partnership, which also announced early this year its plans to open a Shanghai office, is one of several big-name firms that have either moved into the South Korean capital or plan to since the country's passage in 2011 of a free trade agreement with the United States. Chicago's McDermott Will & Emery, Cleveland's Squire Sanders, and the New York firms of Cleary Gottlieb Steen & Hamilton and Simpson Thacher & Bartlett are among those entering this dynamic financial market.

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Wolters Kluwer
Law & Business

Domestically, Nashville is another market that's beginning to flourish and is attracting outside law firms. For example, earlier this year South Carolina's Nelson Mullins Riley & Scarborough joined several other regional firms that have opened in Music City. Butler, Snow, O'Mara, Stevens & Cannada, based in Jackson, MS., recently established a branch in Nashville, and then in June "won the lottery" by adding 37 attorneys to that office, says Donald Clark, the firm's chairman.

The attorneys in several different practice areas let it be known that they wanted to leave Chattanooga's Miller & Martin, and many firms wooed them before Butler Snow scored its hiring coup. "Every firm in Nashville and several national firms sought out those attorneys," Clark says. "In this part of the country, everyone wants to be in Nashville because it's a growing business center in the South. Every firm around here wants to be there." (There's much more to come in this article about Butler Snow's impressive expansion and growth.)

Now this is not to say that the profession hasn't also seen firms pulling out of markets, a trend that emerged, of course, as the recession gripped the legal marketplace. Several firms reported to the *Of Counsel 700 Survey* that they have closed an office (or two), often as a way of cutting costs and dispensing with low-performing attorneys in unproductive outposts. (The *OC 700* is the profession's most extensive study of growth, or shrinkage, expansion, or contraction, and other aspects of the nation's top 700 partnerships. It also ranks firms by size and serves as a reference compendium for the profession.)

Portland's Bullivant Howser Bailey—a once-strong partnership that has recently suffered some significant and numerous defections—recently closed its offices in Las Vegas and Sacramento, although in recent weeks the firm seems to have righted the ship.

"In terms of strategy, we wanted to go back to the practices that we did best, which were limited to commercial and casualty litigation, business transactions for local communities where we were established and insurance coverage," says managing partner Beth Skillern, adding that at least in Las Vegas some of the attorneys there departed for other firms. "We didn't need some of the practices that had been active in Sacramento or Las Vegas. We didn't want to invest any more money in either market."

Among the other firms that reported recent closures are Phoenix's Gallagher & Kennedy, which shut down its Washington,

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DC branch; Chicago-based Clausen Miller, which closed its San Francisco branch; and Eckert Seamans Cherin & Mellott with headquarters in Pittsburgh, which moved out of its West Chester, PA outpost.

Carpe Diem in California

While the economic downturn forced many partnerships to hunker down, cancel plans to expand, and shrink its lawyer ranks, others saw the recession as the perfect time to enter a market. Consider the legal marketplace in Walnut Creek, an affluent suburb of San Francisco in the East Bay. For more than a decade the region had been thriving with real estate development booming. But like many cities the recession hit that micro-economy hard and several firms that had moved into "The Creek" shuttered their doors and left.

San Francisco's Hanson Bridgett did the opposite and in late summer 2011 opened an office there. "The national firms had retreated from Walnut Creek with the downturn in the economy, and the local firms didn't have the breadth of services that we thought the market needed," says the firm's managing partner Andrew Giacomini. "So we saw an opportunity to enter that market with our regional platform. We felt we were better suited to serve that market than the national firms, and in a better position to serve it than the local firms."

The firm has five lawyers in the office in various practice areas—corporate, real estate, litigation, and labor and employment—and another part-time attorney doing trusts and estates work. "We're leading with corporate and real estate over there," Giacomini says. "The center of gravity for real estate development in the region for more than a decade had been in Walnut Creek, until the market

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took a serious hit, which led to the retreat of several firms. We moved in and feel that real estate is a long-term play in the East Bay."

Another California partnership also expanded recently as the Irvine-based intellectual property firm of Knobbe, Martens, Olson, Bear opened in the Silicon Valley, primarily to serve clients in the biotechnology, medical-device, and high-tech industries. "We were traveling there almost every day to meet with those clients, with either lawyers flying up [from Southern California] or driving out from our San Francisco office," says managing partner Steven Nataupsky. "That's what has driven most of our expansion: When we have several clients in a city we like to have lawyers there on the ground to serve them."

Knobbe Martens has been able to do well during the recession mostly because it does both patent prosecution and IP litigation. "During 2009, 10 and 11, even though patent filings decreased, the litigation side of the practice absolutely bloomed," Nataupsky says. "Companies in hard times really look at their market share to see if someone is infringing on their patents, trademarks, and copyrights. They may not fight [the infringers] if they're making money hand over fist. But if times are tight, they tend to want to protect their market share. So litigation was very strong at that time."

And as yet another indication that the economy is picking up, patent prosecutions are on the rise. "These days there's less litigation and more prosecution of patents," Nataupsky adds. "We're starting to see that switchover."

Expanding Reach and Ranks

The losses alluded to above at Portland's Bullivant translated into gains for other firms, including Portland-based Schwabe, Williamson & Wyatt, which was able to open a new office in Santa Rosa, CA, after an attorney left Bullivant; Schwabe also hired other attorneys away from its in-town competitor.

"We felt we could service clients doing business in the Bay Area from that storefront office in Santa Rosa; it's not a big fancy office," says Schwabe president David Bartz. "We think we can be cost-effective and productive. Principally, the attorney in that office helps us service clients who we are working for in Oregon and Washington."

The partnership also experienced some steady growth with a net gain of three attorneys over the last year or so for a total of 163 and, Bartz says, the firm grows and expands carefully while always on the lookout for talented lawyers. "Our strategic plan doesn't involve pins on a map or numbers on a chart," he says. "We're in the talent-relationship business and we're constantly looking for people who can add to what we're doing."

Another firm that grew also closed two offices. Chicago's Arnstein & Lehr increased its attorney count from 141 to 147 while shuttering its Boca Raton and Coral Gables, FL, offices. Both closures seem to have made sense as Boca never really was a full-fledged office and the Coral Gables' attorneys, who came over after a 2009 merger with Fieldstone Shear & Denberg, simply took their talents to South Beach. "Our original goal was to have them all incorporate into our Miami office," says firm chair Raymond Werner. "But there was a lease left for the Fieldstone firm and we kept that lease going until its natural termination this April. Then we expanded our Miami office and brought those attorneys there, and in fact have been adding more attorneys to that office."

In terms of the firm's growth in general, Werner puts it this way: "We feel we are home to folks who are either coming from smaller firms who are looking for a larger platform or coming from larger firms and looking for a little more freedom at setting rates. While we've increased our productivity and profitability greatly over the last six or so years, we're far from a sweatshop and the kind of environment that is said to exist in some of the larger firms."

A Southern Success Story

But as we head into the last quarter of 2012 perhaps no firm reflects a partnership on the rise with an expansive reach as much as 237-attorney Butler Snow, as alluded to above. In addition to its assertive strategy in Nashville, the firm has also continued on its path to become a regional juggernaut. In the last year-plus, Butler Snow has opened offices in Montgomery and Birmingham, AL, Baton Rouge, LA, Bay St. Louis, MS, and Ft. Washington, PA.

"A consultant told us that Butler Snow has a unique practice," chairman Clark says. "For a relatively small firm, we had a significant regional and, in some practices, national presence. We needed to diversify regionally and gain additional expertise to play at that level. So we'd establish new offices and they'd begin to grow."

Nor do many firms embody the prescient, seize-the-opportunity spirit and strategy as much as Butler Snow. "When we saw the recession coming, we knew that was an opportunity for us to grow and expand our practice rather than shrink and lay off people," Clark explains. "So we began to step up our growth efforts knowing that one day the recession would end. We knew that corporate legal departments would be looking for value without giving up expertise. And we thought they'd be looking for a certainty in their legal budgets, like everyone was doing during the depths of the recession."

Consequently, the firm formed a task force about five years ago to develop various alternative-fee models. The partnership then approved the new fee structures and allowed its attorneys to use the models without having to go through the firm-wide bureaucracy.

"Two or three years ago at our retreat in Miami, we devoted the whole thing to alternative fees and encouraged our attorneys to use them," Clark says. "We educated the whole firm. As a result, we expect that upwards of 40 percent of our total revenue will come from something other than the billable hour. We expect that number will be 65 percent by the end of 2014. So we are all about offering our clients this alternative."

The firm has grown from a total lawyer count of 151 in 2010 to 176 in 2011 to 191 when it reported its numbers to *Of Counsel* earlier this year to 237 this fall—growth that's subsidized by an increased workload and resultant boost in revenues. It helps that the firm's based in the South and that it fosters a collegial culture. "The cost of living is less and so we're able to offer corporate legal departments alternative fees that are better than what they can get from other firms," Clark says. "We can offer them value and certainty in their legal budgets and a high level of expertise with lawyers who work as a team."

It seems clients are happy with Butler Snow's approach. "Altman Weil [the Newton Square, PA-based consultancy] did a client satisfaction survey as part of our strategic plan," Clark adds. "They said the result we received was the second highest they'd ever seen in their surveys." ■

—Steven T. Taylor