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QA MIDSIZE LAW FIRMS

Harter Secrest & Emery: How a Midsize Upstate NY Law Firm Competes With Big Law

BY SUSAN DESANTIS

CRAIG WITTLIN, managing partner of Harter Secrest & Emery, which has 125 lawyers in upstate New York, spoke to the New York Law Journal about the advantages and challenges of being a midsize firm. This is part of an occasional series.

Q: How big is your firm, where is it located and what are its primary areas of practice and focus?

A: We are a firm of approximately 125 lawyers and 250 people. Our primary offices are in Buffalo and Rochester, with additional offices in Albany, with a focus on state-level lobbying efforts, New York City, and Corning, New York, which focuses on the Southern Tier of New York (communities such as Corning, Elmira, Ithaca and Watkins Glen, among others). We are a full-service practice, with significant practices in areas such as corporate, securities, private equity, venture capital, mergers and acquisitions, employee benefits and executive compensation, commercial litigation, government and internal investigations, immigration, environmental, intellectual property, real estate, trusts and estates, government affairs, higher education, health care, not-for-profit matters, labor, labor litigation and cybersecurity.

Q: Please explain your firm's governance structure and compensation model.

A: Our firm is managed by a managing partner reporting

Craig S. Wittlin

to a five-person (including the managing partner) management committee. Members of our management committee are elected to three-year terms with a two-term maximum. Our managing partner is elected to a three-year term without term limits. Our practices are led by practice group leaders. We have a five-person senior staff comprised of a chief financial officer, a general counsel, and directors of (i) human resources, (ii) legal recruiting and development, (iii) information technology, and (iv) business development and client services. We do not have a chief operating officer.

Our compensation model is "lockstep with accountability" under which our partners are compensated based upon their seniority in service to the firm rather than business development, personal productivity or other metrics. We have a single class of partnership (i.e., all of our partners are equity partners). One making partner up through the ranks starts at 100 compensation points and earns another 10 points each year until that person has 200 points. As such, those who have been partners for more than 10 years all make exactly the same amount, which amount is exactly twice what our first-year partners make. We bring in lateral partners at various, agreed-upon point levels, and with partnership approval of all partnership decisions. We believe this model strongly puts clients first and motivates partners to grow the firm and find opportunities for all practices.

Q: What do you view as the two biggest opportunities for your firm, and what are the two biggest threats?

A: I would identify our two biggest opportunities as: (i) geographic expansion of our clients and client opportunities, by using technology and a dynamic, entrepreneurial partnership to serve clients outside of our primary market areas of upstate and western New York. As technology has developed and our partnership has become more entrepreneurial, we have seen significant growth in clients in metro New York City, Chicago, Minneapolis, other larger U.S. cities and internationally. We believe we have an inherent pricing advantage in that regard, when competing with larger firms from larger cities, because of our significantly lower overhead, given our base of operations in Buffalo and Rochester.

From a hiring perspective, we have been very successful in attracting highly talented and experienced lateral associates to join us from Am Law 200 Firms. I see this continuing, based upon the sophistication and national scope of our practices, the real opportunities we offer for equity partnership and the tremendous cost of living advantages in upstate New York (where one can buy a beautiful four-bedroom house in a great school district, for $300,000). There is great opportunity available to us because of this hiring advantage.

Our biggest threats mirror those of other firms across the country: (i) our work is becoming more rate-sensitive, as work continues to become increasingly commoditized; (ii) demand is a challenge, as in-house legal departments seek to bring more work inside, and become less dependent on outside firms.

Q: After the recession hit, the prevailing theory was that midsize firms would start to see more work come their way from large clients who could no longer justify paying Big Law rates. What has been your experience?

A: Yes. We have grown our work with a number of large clients, both within and outside of our primary market areas.

Q: Are your clients pushing for more alternative fee arrangements, and, if so, what

types? Is your firm amenable to those requests?

A: Yes. We frequently quote services and perform work based on AFAs, of all varieties, ranging from fixed-fee arrangements, to success fees, and other risk-sharing mechanisms.

Q: There is much debate around how law firms can foster the next generation of legal talent. What advantages and disadvantages do midsize firms have in attracting and retaining young lawyers, particularly millennials?

A: I think we can provide more meaningful work at an early stage of development, and provide real, tangible opportunities for equity partnership in a way that Big Law cannot.

Q: Does your firm employ any nonlawyer professionals in high-level positions (e.g., COO, business development officer, chief strategy officer, etc.)? If so, why is it advantageous to have a nonlawyer in that role? If not, have you considered hiring any?

A: Yes. See my answer to item (2), above. We have a number of enormously talented people in leadership roles, who are nonlawyers. We allow experts to guide the firm in these crucial areas, freeing up lawyers to practice law.

Q: What, if any, technology advancements have you made in your firm in recent years? What are the challenges in implementing tech changes?

A: We have invested heavily in technology on a number of fronts. Some of those investments relate to facilitating an easier working experience for our lawyers through improved remote access capabilities. Others are more client-facing, to allow more real-time information sharing and collaboration with clients. Technology advancements always create implementation challenges, but as our lawyer ranks get younger, we more readily embrace technological change and advances.

Q: What would you say is the most innovative thing your firm has done recently, whether it be internal operations, how you work with clients, etc.?

A: We have implemented a software product in our litigation group that allows us to evaluate and use enormous amounts of data to evaluate cases, courts, venues, judges and adversaries. This allows us to provide better advice to clients on pending matters, and to pitch more effectively for new work.

Q: Does your firm have a succession plan in place? If so, what challenges do you face in trying to execute that plan? If you don't currently have a plan, is it an issue your firm is thinking about?

A: Within our practice groups, we have succession plans generally in place for major client relationships and substantive areas of the law. We do not have a formal succession plan in place with respect to firm leadership, and it is something we are focused on.

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