LAW360® Pulse

Portfolio Media. Inc. | 111 West 19th Street, 5th floor | New York, NY 10011 | www.law360.com
Phone: +1 646 783 7100 | Fax: +1 646 783 7161 | customerservice@law360.com

Year's Surging Demand Leaves Mid-Law Flush But Scrambling

By **Emma Cueto**

Law360 (December 22, 2021, 1:19 PM EST) -- Mid-Law overall saw strong financial performance in 2021, benefiting from the increase in demand for legal work, but faced challenges as a hot legal talent market put pressure on many mid-size, regional and boutique firms, making recruiting more difficult and leaving them vulnerable to poaching from BigLaw.

Like their larger cousins, Mid-Law firms saw strong demand for work in 2021, with industry experts saying that corporate and transactional work were particularly active areas, but this demand also set off a scramble for talent that had a particular effect on Mid-Law, one that will presumably continue into 2022.

"Talent is more valuable than ever before," said John Remsen of The Remsen Group. "But they've been isolated, they don't feel as connected, perhaps. And when BigLaw comes a-callin', it can be hard to resist."

Overall, the legal industry had a great year in 2021, with rates, demand and realization all up across the board, including for the regional firms, boutiques and firms with 100 to 300 attorneys that occupy the Mid-Law segment of the market.

"There's positive growth in all the drives of revenue," said Joe Mendola of Wells Fargo Private Bank. "They're doing more work at a higher rate and collecting more of it — a good formula for success."

The largest firms did generally see greater increases than their smaller counterparts, he noted, but Mid-Law still had a very strong year.

Michael Rynowecer, president of BTI Consulting Group, said that the year in fact went so well, many mid-sized firms were not prepared for it.

"2021 ... has gone way better than most of their expectations," he said. "For most, business is not only robust, but it is demanding work, complex work, significant work to clients. It's really had an impact."

While the booming demand for work has benefited firms' bottom line, it has also left them scrambling to keep up, fueling a war for talent that puts particular pressure on Mid-Law firms, which lack the same resources as the bigger players to attract and retain lawyers and have found themselves increasingly vulnerable to poaching.

According to a report from Major Lindsey & Africa in October, demand for laterals at all seniority levels is up around the world; many observers told Law360 the volume and duration of the demand has been unprecedented during their careers. And as BigLaw has raised associate salaries, paid out special bonuses, grown its partnership classes, and tried out perks such as Peloton memberships, Mid-Law has struggled to stay competitive.

"In a normal cycle, associates and counsel — and in-house, too — are always willing to hear me out," said legal recruiter Bill Davis. "But now [when I'm asking about smaller and mid-size firms] it's hard to get a call returned. … They've really trailed in the talent wars."

According to Rynowecer, "They're feeling it more and certainly differently than the larger firms. The large firms are coming in to try to pick off talent out of the mid-size firms now, because that's where the talent is. … Mid-size firms don't typically have the processes in place to go out and start recruiting the way the larger firms do, so that puts them at a bit of a disadvantage."

And many mid-size and regional firms, noted Peter Zeughauser of the consultancy Zeughauser Group, are facing new pressure from BigLaw firms that have moved into secondary markets such as Salt Lake City — and with some firms reaching into secondary markets to recruit permanently remote attorneys. Many Mid-Law firms in those markets, he said, are not used to having to compete with top firms.

To compensate, Mid-Law has tried a number of different strategies. The most obvious is to try to keep pace with the salary increases, with several firms raising their associate pay, including Hanson Bridgett LLP, Robins Kaplan LLP and Benesch Friedlander Coplan & Aronoff LLP.

The dangers of this, noted Zeughauser, is that it can take "a big bite out of the bottom line," which impacts mid-size firms more acutely. It's also something that may have ripple effects down the line if demand falls again.

Davis also said that the increases Mid-Law firms can manage may not be enough. "There's limits to what they can do on the compensation front," he said. "My impression is that they've stepped up and done what they can."

Firms have also tried more creative approaches. Davis said he has seen firms introduce origination credits for associates or increase the percentage of existing origination credits. Senior legal recruiter Elaine Oh with The Foster Group said she has seen firms have success in laying out a clear path to partnership and focusing on the ways a smaller firm can support a candidate's career goals.

"I think that they do a good job when it comes to providing [candidates] more of a long-term home," she said.

Mid-size firms have also tried to expand their own candidate pool. Oh said she has seen firms get more open-minded about potential associates, willing to look at attorneys with less obviously applicable in-house experience or who come from law schools they would not normally recruit from.

Rynowecer said he has even seen firms bring in non-attorney professionals with experience in government or human resources or investigations work to handle some of the non-legal work that the firm needs. It can be a win-win, he said, with professionals appreciating the salaries law firms can offer and clients seeing it as innovative and providing a different perspective.

At insurance defense firm Tyson & Mendes LLP, the firm also recently rolled out an hourly program for experienced attorneys looking to do substantive work without the substantial hours that normally go along with that.

Managing partner Robert Tyson said that the firm has yet to hire anyone through the program, but said that it's part of the firm's overall effort to retain and attract talent. The firm has also added to its roster of training and professional development programs, is allowing attorneys to work remotely as much as they want, and is offering a $10,000 referral bonus to employees, among other strategies.

"We're preparing that it will be a tight talent market for the foreseeable future," Tyson said. "I think we're going to have to innovate."

The firm also pitches itself as an employee-centric place to work, Tyson said, emphasizing that it bucked the trend of layoffs in March 2020.

"We have never ever looked at our associates as fungible," Tyson said. "We have always intended to treat them as an asset to the firm."

Tyson is not alone in his assumption that the current market conditions — both the high demand for legal work and the hot talent market that has accompanied it — will likely continue into 2022.

"I don't see how it slows down," Davis said, saying that if anything he expects a renewed round of musical chairs in January as attorneys collect their bonuses before heading to new firms. Zeughauser said he has heard rumors firms are considering another round of salary increases, though he was not aware of specific details.

And while experts acknowledge the economy will slow eventually — and demand with it — for now there are no indications that is happening yet.

"Clients are not facing a mountain of discretionary issues; they're facing a mountain of 'have to deal with' issues," Rynowecer said.

For Mid-Law firms, the situation presents opportunities in the form of increased work, but it also will require many firms to continue to adapt their approach if they wish to remain competitive in the legal talent market. Or for some firms, begin adapting.

"There are some that are breaking out and running with it and embracing change and taking advantage of the opportunities that change represents," Remsen said. "But most firms are slow."

Firms that had a good year, he noted, might not feel the need to adjust their approach, something he felt would likely be a mistake in the long term. Not only are attorneys one of the two most important assets at a firm, alongside clients, but the expense of training and then losing new associates is huge.

Oh advised Mid-Law firms to focus on ways that they are distinct from BigLaw, such as lifestyle factors, and to give candidates a clear and individual picture of their future with the firm.

Rynowecer said that firms should try to avoid burning out associates and make sure that, if a firm couldn't afford to keep pace with the ever-increasing salaries, the firm made up for it in other ways, be that lifestyle, résumé-building opportunities, or more interesting and meaningful work.

Remsen offered that more than anything, firms should listen to their people about what they were looking for. He was "shocked," he said, to realize how many managing partners seemed to want to mandate that attorneys all return to the office full time, for instance, despite many of their attorneys preferring to work remotely.

"So many firms I work with want to remain self-governed, independent, mid-size firms — good talent base and good talent," he said. "But that doesn't come by hoping and praying."

--Editing by Alyssa Miller.
