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# Bye-Bye Big Firm — Is the exodus of lawyers from Big Law to small firms here to stay?

*By Dana Olsen*

Move over, Big Law. Small Law is in. And the trend has proven to be more than a temporary reaction to the 2008 financial meltdown. Four years later, corporate lawyers are flocking to small firms.

Some lawyers call it disaggregation, and it reflects a change in the way the legal industry operates. Small firms are flourishing because clients' demands have evolved over the years. Rather than relying on one firm and paying for a package of legal needs, clients are turning to different firms, and in some cases to legal support businesses, for different tasks. While the economic downturn certainly encouraged clients to search for more cost-effective legal representation, many clients had already come to think that they were throwing money away by sending all their work to big firms.

The key has been the unbundling of legal services. This allows legal departments to match specific tasks with the right service providers. Converts point to high-priced first-year associates as an example of the problem with big firms. Some clients unknowingly pay nearly the same hourly rate for these inexperienced lawyers to review documents and perform discovery as they pay for partners to, say, write briefs and hold settlement conferences. By contrast, small firms aren't saddled with the need to train armies of associates on the client's dime.

The unbundling of tasks has also permitted firms to tap new technology to perform time-consuming jobs. They now rely on software to help speed some of the most burdensome e-discovery jobs, like document production and review, rather than hit up clients with first-year associate rates.

Beth Anisman has watched the evolution over the past decade. She was a lawyer for Lehman Brothers Holding Inc. before the financial firm declared bankruptcy in 2008; then she became the chief operating officer for the legal department of Barclays Capital Inc. She spent years managing legal operations for the two financial powerhouses before she struck out on her own to found B&Co Consulting in New York, which advises corporate lawyers on how to manage their clients' needs. Much of her current work consists of advising corporate lawyers on which law firms and agencies to hire for which tasks.

Anisman advocates splitting up work and using small firms whenever possible. Before clients began breaking apart legal services, many would pay one brand-name law firm a huge fee to perform all legal duties. "Clients are smarter about how they manage their legal accounts," says Anisman. "They started to say to themselves, 'What did I just buy?' "

Consultant Peter Zeughauser has observed the same phenomenon from his perch in California. "I think big corporations are more careful about who they hire for what work," says the legal strategist, who founded Newport Beach–based Zeughauser Group in 1995. "They won't automatically hire big firms, which is what they used to do. They've become more sophisticated, which means they hire firms that are right for each individual matter.

"There's a lot of pressure from the general counsel's office on the lawyers in the department to keep costs down," Zeughauser continues. "For a lot of the day-to-day work that needs to be done, they're hiring small firms more and more."

That's the case at American International Group, Inc. Eric Kobrick, AIG's deputy general counsel, says he began hiring small firms to work for the insurance giant in 1997, the day he walked in the door. "The old structure—an hourly rate presented with no detail—has never been acceptable," Kobrick says. "Small firms, in general, are more flexible. They're able to use rate flexibility, and still provide excellent service."

But money isn't everything. In fact, some small firms take umbrage at the suggestion that what they offer is slashed rates. Kathryn Ellsworth, a former Dewey Ballantine partner who left the mammoth firm to cofound a 15-lawyer shop, says her firm's marginally cheaper pricing is one small part of the equation. "We do the same work [as big firms], and we pay our lawyers the same," says Ellsworth, who cofounded Grais & Ellsworth in 2007. "We don't want clients to hire us because we're cheaper; we want them to hire us because we're better."

Some companies that hired small firms to save money have found other benefits in making the move. Small firms rarely have to turn clients away because of conflicts, for instance. And they are more likely to provide personalized and specialized service.

Wanji Walcott has become a believer. Walcott, who is one of ten managing counsel for American Express Co., says the recession encouraged her to consider alternatives to the big-firm model. Small firms helped her follow her general counsel's edict: "Manage our budget." But she also found that they had special skills that matched her needs. She uses small firms to manage the legal areas she's in charge of: technology, e-commerce, and online and mobile payments.

One of the firms Walcott uses is Bortstein Legal Group. Larry Bortstein, another former Lehman Brothers lawyer who knows Anisman from the days before the behemoth bank collapsed, founded his namesake firm in 2008. After spending years as the global head of technology for Lehman Brothers, Bortstein says he knows what makes a good lawyer—and it isn't being part of a huge firm. Rather, it's doing quality legal work for a fair price.

Bortstein's firm consists of nine partners who focus solely on technology law. The group charges $395 per hour, a rate Bortstein says is 40–50 percent lower than that of his big-firm competitors. Clients receive the same level of expertise for a lower price, Bortstein says, because small law firms have a lower overhead, and the savings are passed to clients.

But the firm's appeal is more than economics. "There's more and more pressure on firms to be distinctive in the marketplace," notes consultant Zeughauser. "Lawyers are picking practice areas to be known for, and eventually that means they'll go to small firms as a platform to grow their practices." Even though Bortstein's firm is small, if it were an individual technology practice group within an Am Law 100 firm, it would be the largest of its kind.

AIG's Kobrick says that in addition to price, he's always hired lawyers for the quality of their work. One of those attorneys is Peter Chaffetz, who did legal work for AIG when he was a partner at Clifford Chance. Chaffetz left to open Chaffetz Lindsey with five of his former partners in 2009. "I was very happy with the work he did for me at Clifford Chance," says Kobrick. And he was happy to continue working with Chaffetz after the move. "I pick lawyers as opposed to law firms," he explains. "The only reason I was using Clifford Chance was because of Peter Chaffetz, so when he left, I was inclined to use him."

Chaffetz Lindsey focuses solely on dispute resolution, and purposely steers clear of corporate, real estate, and tax law. Wendy Horn, founder of Liftoff Marketing and former chief marketing officer at McDermott, Will & Emery, says small-firm culture—and the relatively small and specialized caseload that comes with it—is an added benefit. "I analogize law firms to dog groomers," Horn says. "If I were choosing a dog groomer, I would choose one that specializes only in my breed."

If cost is the calling card that gets small firms in the door, the frequent conflicts that large firms run into help keep the welcome mat in place. "Conflicts of interest are a very real problem," says Anisman. "If you want to build your own practice, it's tough to do so in the confines of a big firm."

Bortstein, Ellsworth, and Cecilia Moss, a partner at Chaffetz Lindsey, all cited conflicts as one reason they started or joined small firms. Moss acknowledges Chaffetz Lindsey has turned away a few clients because of conflicts, but the number pales compared to the number that are conflicted out at a firm like Clifford Chance. AIG, for instance, is a huge international corporation. With Clifford Chance, Kobrick says, the conflicts were endless. But at Chaffetz Lindsey, it's much easier to monitor conflicts—something Kobrick says is a key consideration when he selects small firms as opposed to their big counterparts.

Cost and conflicts are practical concerns, but attorneys say another advantage of small firms is their ability to provide a personal touch. At Grais & Ellsworth, all of the partners strive to return clients' phone calls within 20 minutes—"even if they're little phone calls," says Ellsworth. That level of service differentiates them.

The Great Recession certainly played a role in this trend. As firms downsized, many lawyers were on the move—and not necessarily by choice. But as corporate clients have proved increasingly comfortable hiring small firms and providing them with a reliable stream of work, the new hires haven't been limited to castoffs.

Lawyers are leaving megafirms to hang their own shingles in greater numbers than before. According to the 2010 lateral report of *The American Lawyer* (a sibling of *Corporate Counsel*), 114 partners left Am Law 200 firms to start or join small practices from October 2008 through September 2009. That's up from 70 partners in the previous 12-month period.

At the same time, prominent lawyers eager to be their own bosses have joined the parade. Peter Chaffetz was the global head of litigation at Clifford Chance before cofounding Chaffetz Lindsey. Steven Molo was a senior litigator at Winston & Strawn and Shearman & Sterling before starting the litigation boutique MoloLamken. Andrew Sandler and Benjamin Klubes were financial services partners at Skadden, Arps, Slate, Meagher & Flom before they left to start BuckleySandler, now 90 lawyers strong. The list goes on.

The growth of small firms has also spawned a spurt in the legal support sector. Which, in turn, has made it easier than ever to get a small firm up and running. David DePietto is one businessman who has taken advantage of the opportunities. In 2008 he founded NexFirm, a business that began as a project to help launch a law firm in 30 days. Its specialty is back-office support. Firms hire the company to handle everything from information technology to business development to administration.

Bortstein was DePietto's first client. It was the piece of the business the lawyer was least comfortable with, and he was relieved to find a company that would lift the burden from his shoulders. He isn't surprised he's not alone. "Clients are demanding it," Bortstein says of back-office support, "so it's happening." NexFirm has doubled its business every year since it opened, DePietto says, and he doesn't see the growth slowing anytime soon.

For general counsel, each small firm represents another relatively inexpensive alternative to hiring huge ones. When Bortstein and Anisman worked at Lehman Bros., they both bought legal services. Bortstein says he was always searching for ways to cut the bill. Like many of his peers, he sent some legal work to India because there wasn't a happy medium between big firms and so-called offshoring. Now, corporate attorneys like Walcott and Kobrick can—and do—hire small firms to do the work that used to be overpriced or overseas.

As Anisman sees it, small firms are the future of the legal scene. "We can create a small ecosystem of excellent small firms," she says. "In a way, it works the same way as a big firm: Instead of referring a client to your partner down the hall, you're referring a client to another small firm that handles what they want."

Experts agree that big firms aren't going away. But small firms, and the attorneys who join them, are permanent fixtures on the legal scene, they say. Zeughauser sees them as part of the new normal, and they'll continue to be viable even as the economy gains strength.

"Large firms will continue to be successful," he says, "but I think they'll be composed of partners who can command very high rates." Economic pressures will force more and more partners out of Big Law, he says, and the small-firm trend will feed on that tectonic shift. "It's only going to grow," he predicts, "as time goes on."