

Business of Law

Worklaw Firms Will Do Well in 2017 if They Adapt

BNA Snapshot

- Worklaw firms likely will be busy
- Firms must adapt to market forces
- Salaries could increase for senior worklaw associates



By Gayle Cinquegrani

Most labor and employment law firms will be able to hold their own during 2017 despite uncertainty about federal labor policy, if they adapt to changing market forces, several legal consultants said.

“We think it will be at least a decent year for labor and employment, and for at least a few firms, it will be a good year,” Michael Rynowecer, president of BTI Consulting Group, told Bloomberg BNA Dec. 8.

Worklaw firms will be in demand because “there are so many unknowns” as Republicans prepare to take charge at the White House and in Congress. Some employer clients are confused about how to comply with regulations because interpretations keep changing. “They’re looking to law firms for risk management strategy,” Rynowecer said.

Litigation “continues to be busy,” particularly in midsize and boutique firms that practice labor and employment law, Charles Volkert, senior district president of Robert Half Legal, told Bloomberg BNA Dec. 13.

The focus of labor and employment law firms probably will change in the next few years, however, said Peter Zeughauser, chair of legal consulting firm Zeughauser Group. “I think Trump will focus on right-to-work laws,” he told Bloomberg BNA Dec. 8, forecasting a “resurgence in labor law practice as a result of legislative and regulatory efforts to enact right-to-work laws and the effort to diminish union strength.” The Republicans will push for union-weakening laws toward the end of 2017 and beginning of 2018, he said.

Renewed Prominence for Labor Law

As a result, “firms will be strengthening their labor practices as opposed to employment,” Zeughauser said, noting that labor law and employment law “are two distinct practices.” Labor activity diminished after President Ronald Reagan fired striking air traffic controllers in 1981, but now “lawyers who went over to the employment side when labor was dormant” will return to practicing labor law, Zeughauser said.

Regardless of the focus of their practice, law firms that embrace innovation are most likely to flourish. “The firms that are busiest are the ones that are thinking creatively about billing and other solutions for their clients,” such as use of technology and imaginative staffing arrangements, Volkert said.

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BTI’s Rynowecer said that labor and employment law practices will increase staff “on the front end,” such as “savvy partners who are confident dealing with clients.” Conversely, worklaw firms also are likely to continue hiring non-lawyers or part-time lawyers who aren’t on a partnership track to provide some services at a lower charge. This trend has been growing among all law

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firms for the past few years but has been “more pronounced in labor and employment because HR executives have tremendous experience in these regulatory areas” and can fill these positions, he said.

“We continue to see demand for contract lawyers and paralegals” to review documents in labor and employment matters, Volkert said. A worklaw case could involve thousands of e-mails, he said.

With regard to hiring, Rynowecer said he anticipates “a little bit of uptick in demand, especially in the boutiques” because they’re trying to “build out” their offices. Boutique firms that limit their practice to labor and employment law tend to have numerous offices, including in smaller cities, so they can be near their clients and keep abreast of state and local workplace laws, he said.

Demand for Senior Associates

“We’ve seen a spike in hiring for midsized and boutique law firms” in busy practice areas, including labor and employment, Volkert said. “We’re optimistic that the demand is going to continue to grow,” especially for lawyers with four to six years of experience, he said.

The consultants had mixed projections for salaries for worklaw attorneys. Zeughauser said he doubts labor and employment law firms will raise associate salaries and bonuses significantly in 2017. “Generally speaking, it’s a lower rate practice, and they don’t have as much room to maneuver.”

By contrast, Volkert thinks salaries “absolutely” will rise. Research conducted by Robert Half projects that average starting salaries will increase 4.6 percent at all law firms in 2017 and 3.8 percent for in-house lawyers. Associates with four to six years of experience at small to midsize law firms (those with 10 to 35 lawyers) can expect starting salaries to increase 6.9 percent in 2017, he said. Employers are making competitive offers to recruit attorneys with experience in busy practice areas, including labor and employment, Robert Half’s research shows.

Flexible Fee Arrangements

All the consultants stressed that law firms in general, and worklaw firms in particular, must be flexible with their billing practices. When corporate legal departments started bringing more work in-house, “labor and employment law firms were one of the first affected,” Zeughauser said. Many corporate general counsel offices decided to cut their legal bills by having their own staffers perform mundane worklaw tasks such as updating human resources manuals, he said.

Consequently, worklaw firms have had “more cost pressures sooner than the general practice firms,” Zeughauser said. Therefore, many already have innovative billing structures that they implemented when their business started to drop off.

At this point, almost all labor and employment practices have adopted alternatives to the traditional hourly fee, Rynowecer said, and fixed fees and unit price fees for discrete portions of work are “becoming increasingly popular.” Worklaw practice lends itself to fixed and unit price fees because many types of worklaw projects, such as revising internal personnel practices, entail “a very clearly defined set of processes,” he said.

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—Charles Volkert

“It is not uncommon for employers to negotiate” with their lawyers about billing, Sharon Quaintance, senior director at HBR Consulting, told Bloomberg BNA Dec. 9. Furthermore, some clients set metrics for their law firm, such as “a certain number of matters that they’re expected to settle,” she said. The electronic systems through which large corporations pay their bills usually require law firms to report on their progress before they receive payment.

Indeed, billing arrangements increasingly include a “success fee” that gives a law firm a premium if a case succeeds and discounts the client’s fee if the case fails, Volkert said.

Marketing Pays Off

The competition to land business and the squeeze on fees make marketing more important than ever. “Law firms are getting much more savvy at using social media—LinkedIn, Twitter, blogs,” Volkert said. “There continues to be a focus on thought

leadership discussions, podcasts, webinars.”

Rynowecer also said marketing from labor and employment law firms is becoming “more educationally oriented.” Webinars are particularly useful in marketing worklaw practices “because there are so many regulations,” he said. Law firms “invest a lot of money in content marketing and educating their clients, and it does pay off,” he said, noting that “several firms have gotten enormous new clients” through this method.

“The intense competitive pressure” is forcing labor and employment law firms “to become efficient in their service delivery model,” Quaintance said. Some of the larger worklaw firms are using efficiency experts and data analysts, and “you’re going to see more of that,” she said. “It could mean using non-attorneys to perform certain lower-level functions,” she said.

The need to streamline operations also is driving some firms to enhance their use of technology. “Some of the larger employment law firms have created tools that allow state-specific laws to be housed in a database” so there’s no need “to have associates or paralegals do research every time,” Quaintance said.

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